

IN THE SUPREME COURT OF FLORIDA

Supreme Court Case No.: SC19-1545

CATHERINE ELIZABETH CZYZ,

Respondent/Appellant,

vs.

THE FLORIDA BAR ASSOCIATION,

Complainant/Appellee.

_____ /

RESPONDENT'S/APPELLANT'S
AMENDED MOTION TO VACATE FINAL JUDGMENT
OF JANUARY 6, 2022

Respondent/Appellant, files this, her Amended Motion to Vacate Final Judgment based upon new evidence and/or fraud pursuant to Florida Rule of Civil Procedure 1.540, and states as follows:

1. This Honorable Court's issued an Order on January 6,

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2022, suspending her from the practice of law for two years in Florida and a payment of \$41, 708.45 plus pre-judgment interest to Erin Neitzelt the Final Judgment is attached hereto as Respondent/Appellant's Exhibit "A".

2. Respondent/Appellant recently discovered new evidence that shows that Sun Trust Bank, N.A. (currently Truist Financial Corporation) is/was the bank that opened and serviced Catherine Elizabeth Czyz and The Czyz Law Firm, P.A.'s Lawyers Trust Account, not PNC Financial Services Group, Inc. (PNC), attached as Respondent/Appellant's Exhibit "B" is a check from the Sun Trust Bank, N.A. IOTA/IOLTA account.

3. The Florida Bar Association presented a witness from the Florida Bar Association, named Mr. Jeeter, who falsely or mistakenly testified that Catherine Elizabeth Czyz and The Czyz Law Firm, P.A. had their IOTA/IOLTA account at PNC and that Respondent/Appellant did not produce any bank records from PNC for him to review showing that the account

was open at the time in question, *See* Final Hearing transcripts filed with the Court (RT).

4. The Florida Br Association did not call a witness from The Florida Bar Foundation to testify regarding the IOTA/IOLTA account, the company who keeps the records, *See* Respondent/Appellant's Exhibit "C".

5. Respondent/Appellant subpoenaed a PNC representative who testified that PNC did not find a IOTA/IOLTA account under The Czyz Law Firm, P.A.'s Tax ID number nor Catherine Elizabeth Czyz's social security number or Florida Bar number, *See* RT.

6. As such, Respondent/Appellant could not present IOTA/IOLTA bank records to the Florida Bar Association.

7. Based upon the belief that The Florida Bar Association And The Florida Bar Foundation had the correct information, they filed suit against PNC.

8. Upon sending a subpoena to The Florida Bar Foundation,

it was discovered that The Florida Bar Foundation did not have anyone testify at the Final Hearing, that it did not have the Sun Trust Bank, N.A. IOTA/IOLTA account connected to Catherine Elizabeth Czyz's Florida Bar Number and that it provided Mr. Jeeter with a batch of IOTA/IOLTA account numbers for three (3) attorneys, including Respondent/Appellant., attached as Respondent/Appellant's Exhibit "C" is the response to subpoena to The Florida Bar Foundation.

9. Furthermore, Judge Shenko, in *Czyz et al. v. Atwood, et al.*, 2022-CA 2396, held, as a matter of law, in an Order issued on January 3, 2023, in section 6. a., that the IOTA/IOLTA account was not with PNC (as the Florida Bar Association's witness testified) but with Sun Trust Bank, N.A., the Order is attached hereto as Respondent/Appellant's Exhibit "D".

10. As such, it was impossible for Respondent/Appellant to produce IOTA/IOLTA account from PNC at the Final Hearing and as a result the Referee's findings and punishment was

based upon false or mistaken evidence due to an egregious error or gross negligence of The Florida Bar Foundation and/or The Florida Bar Association.

11. New evidence of mistake is grounds for vacating the Final Judgment pursuant to Florida Rule of Civil Procedure 1.540.

12. Furthermore, the counsel for The Florida Bar Association misrepresented evidence during the Final Hearing and during the post-Final Hearing sentencing phase in order to attain the judgment of money and suspension against the Respondent/Appellant.

13. Ms. Hinson misrepresented that the Florida Bar Association's expert, Jason L. Gunter, Esq., testified that he couldn't remember when he spoke to his client, Erin Neitzelt, instead of his actual testimony where he admitted that he was speaking to her about their strategy against the Respondent/Appellant in January, 2017, while Catherine Elizabeth Czyz was actively representing Erin Neitzelt, and impeaching him by his prior testimony.

work as an attorney and did not represent clients in the two year period from the date of filing, other than representing herself and her law firm's claims against Erin Neitzelt, See RT and deposition of Jason L. Gunter, Esq. attached as Exhibit "G".

14. Ms. Hinson misrepresented Catherine Elizabeth Czyz's testimony, arguing to the Referee that she did not know how to plead a prima facie case of discrimination, rather than her actual testimony of refusing to recite 36 pages of the Complaint, as the question was harassing, and properly directing Ms. Hinson to review the pleading in evidence, See RT.

15. Ms. Hinson misrepresented to the Referee that Erin Neitzelt could not make a discrimination claim when Erin Neitzelt testified that she did have a case, and when Jason L. Gunter, Esq. could not answer why 100 women he represented for Sex discrimination had a case, but not Erin Neitzelt, See RT.

16. In May, 2017, upon receipt of the multi-page Florida Bar Complaint/Inquiry from Erin Neitzelt, The Florida Bar Association (TFB) conducted an investigation, where it made multiple mistakes, including but not limited to: not collecting the text messages from Erin Neitzelt's cell phone, as Erin Neitzelt requested TFB to do this in her Complaint/Inquiry (which would have provided information acquitting the Respondent/Appellant), attached hereto as Exhibit "E" is a copy of Erin Neitzelt's Complaint/Inquiry; not discovering how Erin Neitzelt attained the Respondent/Appellant's law firm's bank account information (Erin Neitzelt alleged to The Florida Bar Association that Respondent/Appellant did not have an IOTA account, nor an Escrow Account, and alleged that Respondent/Appellant was paying her bills from the account into which she deposited her payments, See Exhibit "E"), as Respondent/Appellant requested this to be done by TFB in her Response to the Complaint/Inquiry to assist her in the criminal investigation of Erin Neitzelt, See record evidence, and the letter from Judge Wubbenhorst regarding

The State of New Jersey v. Erin B. Neitzelt is attached hereto as Composite Exhibit “F”; not discovering the patent perjury and fraud committed by Erin Neitzelt in her verified Complaint/Inquiry and Reply, See record evidence; proceeding with charges on what TFB knew or should have known that Erin Neitzelt was a fraud, a woman who went to her grade school and high school, who attempted to hire Respondent/Appellant unsuccessfully on two prior occasions; not discovering that Scott E. Atwood, Esq., Jason L. Gunter, Esq. and Richard Akin, Esq. violated multiple ethics rules by assisting Erin Neitzelt, while she was actively represented by Respondent/Appellant, in a “strategy” to bring a Florida Bar Complaint and a subsequent redundant and frivolous legal malpractice action against Respondent/Appellant in Lee County Court; not dismissing the Complaint/Inquiry against Respondent/Appellant, and not bringing charges against Scott E. Atwood, Esq., Jason L. Gunter, Esq., and Richard Akin, Esq., See Jason L. Gunter, Esq.’s deposition attached hereto as Exhibit “G”, testimony of Scott E. Atwood, Esq. See RT, and deposition of Richard

Akin, Esq. attached hereto as Exhibit “H” and his testimony at the Final Hearing, *See* RT,

17. The mistakes made by TFB and/or The Florida Bar Foundation raised in Respondent/Appellant’s Motion to Vacate directly affected the findings and rulings made by the Referee as to her IOTA account proofs.

18. Furthermore, TFB violated the best evidence rule, Florida Statue 90.952, by not presenting document evidence of Respondent/Appellant having a PNC Bank IOTA account, and instead presenting hearsay evidence through testimony of Mr. Jeeter, a representative of TFB, not The Florida Bar Foundation, *See* Mr. Jeeter’s testimony in RT.

19. The ethical rules regulating a Florida lawyer’s conduct governs the conduct of the lawyer in his/her profession.

20. The ethical rules do not extend or mandate that the

lawyer must also perform the job duties of a bank's commercial account manager or an IOTA account manager of The Florida Bar Foundation.

21. Respondent/Appellant fulfilled her responsibilities by informing the commercial account manager at JP Morgan Chase Bank, N.A. (Chase) in Wheeling, WV that she was a Florida licensed attorney with a Florida law firm and that a client would be depositing money into the new account and that he would have to contact TFB/The Florida Bar Foundation to ensure that he had authority to open the out-of-state account and to ensure the appropriate account was opened, *See* testimony of Catherine E. Czyz in the RT.

22. The ethical rules cannot charge Respondent/Appellant with performing a bank employee's job duties or The Florida Bar Foundation employee's job duties or TFB employee's job duties.

23. Regardless of whether the Chase bank employee made a

mistake, the Florida Bar Foundation made a mistake, and/or TFB made a mistake in opening an IOTA account and attaching the appropriate IOTA account to Respondent/Appellant's Florida Bar Number and her law firm, or directing the deposits to be made into SunTrust Bank, these mistakes are shown to be made by these entities, and these mistakes directly affected the findings and holding of the Referee.

24. Furthermore, TFB made a mistake in its Complaint against Respondent/Appellant by alleging that she brought a Race discrimination claim for Erin Neitzelt as being "white", See TFB Complaint attached hereto as Exhibit "I".

25. The Complaint and Amended Complaint brought a Sex discrimination claim for Erin Neitzelt with an "and/or" National Origin claim, a claim that was discussed after the EEOC charge form was filed on behalf of Erin Neitzelt, See Complaint and Amended Complaint attached hereto as Composite Exhibit "J".

26. A National Origin claim is the ethnicity or country(s) of origin of one's ethnicity claim, not a Race claim, and Erin Neitzelt's ethnic origins of Ireland or northern Italy was discussed with her before the filing of the Complaint, excerpts of Erin Neitzelt's testimony is attached as Exhibit "P".

27. There was no evidence shown at the Final Hearing that Erin Neitzelt wanted a Race discrimination claim and TFB's allegations of "white" people discrimination in its Complaint against Respondent/Appellant was an egregious mistake that may give rise to gross negligence by TFB.

28. Furthermore, as TFB mistakenly alleged in its Complaint that Erin Neitzelt's discrimination case was a Race discrimination case for being "white", this confused the Referee, and as such, his findings were based on mistaken allegations.

29. Also, TFB conducted an investigation where it

made mistakes in collecting evidence and mistakes in not providing evidence to the police/authorities as requested by the Respondent/Appellant, *See* record file.

30. This negligent investigation by TFB resulted in charges and a Complaint filed against Respondent/Appellant, TFB litigated against Respondent/Appellant while she was treating for orthopedic injuries and undergoing spine surgery during the COVID pandemic, and Shanee L. Hinson, Esq., counsel for TFB, disputed her representation of this on the record, and forced Respondent/Appellant to show medical proof, thereby violating her HIPPA protections and violating her right to privacy.

31. TFB made a mistake by not discovering Erin Neitzelt mental health therapy records, not discovering that she had a second account on Respondent/Appellant's personal Facebook page for cyberstalking her (*See* Exhibit "N" Erin Neitzelt's secondary account named Aunt Sissy) after Erin Neitzelt herself blocked Catherine E. Czyz on her named page, and by

not discovering that Erin Neitzelt was conducting her own investigations and cyberstalking of Respondent/Appellant locating her homes, mortgages, businesses, and records, website links and various data published on the internet and doing the same to her husband, *See excerpts of Erin Neitzelt's deposition attached hereto as Exhibit "O"*, thereby endangering Respondent/Appellant and her family.

32. TFB also violated the Referee's Order of directing it to produce to Respondent/Appellant copies of the hearing transcripts, as it did not provide her with the transcripts of the arguments between Ms. Hinson on behalf of TFB and Mr. Kaiser on behalf of Respondent/Appellant, *See Judge Sniffen's Order in the record file*, therefore, Respondent/Appellant cannot show the misrepresentations of evidence made by TFB during the sentencing phase.

33. Erin Neitzelt wrote a check for payment that was returned for insufficient funds on or about August 27, 2016, and thereafter, on her own accord, she entered a Chase bank

with thousands of dollars in cash and attempted to make a payment, See deposit record attached as Exhibit “L”.

34. Erin Neitzelt was not allowed to make a cash payment at the bank, as cash payments violates its money laundering policy.

35. This incident in August, 2016, however, was part of Erin Neitzelt’s “strategy” with Mr. Atwood and Mr. Gunter to make an allegation against Respondent/Appellant to TFB of her wanting cash payments from Erin Neitzelt, See RT and deposition of Jason L. Gunter, Esq., Exhibit “G”.

36. Respondent/Appellant testified that Chase Bank correctly accounted for Erin Neitzelt’s bill payments, and it did, however, Erin Neitzelt’s attorney, Scott E. Atwood, Esq., TFB attorneys and the Referee made a mathematical error in adding the payments and/or they omitted the payment listed on page 2 of the bank statement, See Exhibit “L”.

37. The amount paid by Erin Neitzelt was still less than the

amount she would have been able to statutorily collect for attorney's fees and it was also less than the exaggerated amounts Erin Neitzelt claimed in verified documents and testimony.

38. Pursuant to the retainer agreement, Erin Neitzelt had thirty days to object to the billing, and pursuant to the contingency fee agreement she had fifteen days to object, *See* record evidence.

39. The last payment made by Erin Neitzelt under the retainer agreement was made in the end of December, 2016, in an amount over ten thousand dollars, and this payment was made after she met with attorneys who told her Respondent/Appellant was committing legal malpractice by representing her against Lee County Schools, *See* RT.

40. As the judgment was awarded on a mathematic error or mistake by the Referee, it should be vacated, but it should be vacated in Respondent/Appellant's favor as the payments were

made as part of a fraud strategy, *See* RT and Exhibits attached.

41. The evidence showed that Erin Neitzelt gave Respondent/Appellant false or mistaken evidence against Rachel Gould and Lee County Schools.

42. These mistakes made by Erin Neitzelt were beyond Respondent/Appellant's control.

43. The mistakes made by TFB and The Florida Bar Foundation were beyond the control of Respondent/Appellant.

44. TFB made a mistake by filing against Respondent/Appellant in Leon County and by trying the case in Manatee County, when Respondent/Appellant's practice was located at 777 S. Flagler Drive, Suite 800, West Tower, West Palm Beach, Florida 33401, Palm Beach County, Florida, at the time in question, and as such, there was not personal jurisdiction or subject matter jurisdiction over the case.

45. The mistakes made by the business entities and/or non-

parties are not regulated by the rules governing the Florida Bar Association.

46. The Referee made a mistake by not ordering the parties to file witness and exhibit lists, as Respondent/Appellant did not get to call Margaret Walters and Rachel Gould as witnesses or submit the depositions as evidence, the deposition of Rachel Gould is attached hereto as Exhibit "M" and the deposition of Margaret Walters is attached hereto as Exhibit "N".

47. The findings and rulings made by the Referee that Respondent owes Erin Neitzelt \$41, 708.45 was based upon false, fraudulent, incomplete, omitted, misrepresented and/or mistaken evidence presented by TFB, as as such, the Final Judgment/Order issued on January 6, 2022 must be vacated.

48. Furthermore, Erin Neitzelt filed a Complaint alleging the same claims in Lee County Circuit Court, but alleging an inflated amount of sixty-seven thousand sixty-five dollars and

twenty-three cents (\$67,065.23) in bill payments, *See* Composite Exhibit “O”.

49. Erin Neitzelt was awarded two default judgments in Lee County Circuit Court on these same claims for the same amount as the Referee awarded her against Respondent/Appellant, and therefore, the Final Judgment/Order issued on January 6, 2021 must be vacated, attached as Respondent/Appellant’s Composite Exhibit “P” is a true and accurate copy of the Complaint, Amended Complaint and Orders of Judge Shenko from January 9, 2023 and issued on January 26, 2023, in *Neitzelt v. Czyz et al.*, 2018 CA 1244.

50. Lastly, TFB sent an email to multiple legal publishers requesting them to publish that Respondent/Appellant was suspended for two years for not having a trust account and for bringing a National Origin claim, which is a mistaken representation of the findings, a true and accurate copy of the

email is attached hereto as Respondent/Appellant's Exhibit
"V".

WHEREFORE, the Respondent/Appellant requests
this Honorable Court to issue an Order vacating the Final
Judgment and 1. Immediately re-instating Catherine Elizabeth
Czyz to practice law in Florida, 2. Erin Neitzelt takes nothing,
3. Expunging Catherine Elizabeth Czyz's record of Erin
Neitzelt's Complaint/Inquiry, 4. Awarding monetary damages,
5. and directing TFB to issue an email to the legal publishing
companies to retract the articles written about her, any other
relief this Honorable Court feels is just and proper.

RESPECTFULLY SUBMITTED,

/s/ Catherine E. Czyz

Catherine E. Czyz

Pro Se

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I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-courts on January 29, 2023 to:

Shanee L. Hinson, Esq. and

Tiffany Roddenberry, Esq. and

Kevin Cox, Esq. and/or the attorneys listed as counsel of record at this time.

By: ___/s/ *Catherine E. Czyz*_____

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