

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,

Petitioner,

v.

ADAM ROBERT FILTHAUT,

Respondent.

Supreme Court Case

No. SC14-1056

The Florida Bar File

No. 2013-10,737 (13F)

**FLORIDA BAR'S OBJECTION TO RESPONDENT'S MOTION FOR  
STAY PENDING DISPOSITION OF CRIMINAL INVESTIGATION AND  
MOTION TO SEAL MOTION FOR STAY OF PROCEEDINGS PENDING  
DISPOSITION OF CRIMINAL INVESTIGATION**

COMES NOW, THE FLORIDA BAR, Complainant, and files this objection to Respondent's Motion for Stay Pending Disposition of Criminal Investigation, and Motion to Seal Motion for Stay of Proceedings Pending Disposition of Criminal Investigation and states as follows:

1. This proceeding is an attorney disciplinary proceeding pursuant to the Rules Regulating The Florida Bar and specifically Rule 3-7.6 (Procedures Before a Referee).

2. The Bar filed a formal complaint on June 2, 2014. The case was assigned to a referee on June 13, 2014. Respondent filed his motions to stay and seal on June 17, 2014.

3. Pursuant to Rule 3-7.6(h)(2) (Answer and Motions), the respondent shall answer the complaint within 20 days of service of a copy of the complaint and, as a part thereof, or by separate motion, the respondent may challenge only the sufficiency of the complaint and the jurisdiction of the forum. All other defenses shall be incorporated in the respondent's answer. Respondent's answer may invoke any proper privilege, immunity, or disability available to the respondent. Respondent has not filed an answer invoking any proper privileges, immunity, or disability; but rather filed a motion to stay and motion to seal the motion to stay.

4. Rule 3-7.6(j) of the Rules Regulating The Florida Bar recognizes that a respondent may properly invoke the Fifth Amendment privilege in a disciplinary proceeding. The matters raised by respondent in his motions are defenses to the complaint, rather than challenges regarding the sufficiency of the complaint or jurisdiction of the forum. The Bar has not asked or insisted that Respondent waive his Fifth Amendment privilege against self-incrimination.

5. A lawyer, just as any other person called as a witness in any proceeding, may properly invoke the Fifth Amendment privilege against self-incrimination if the answer to the question put to the lawyer has a tendency to incriminate him. *U.S.C.A. Const. Amend. 5.*

6. Rule 3-7.6(h)(5)(B) (After Appointment of Referee) states that all

pleadings, motions, notices, and orders filed after appointment of a referee shall be filed with the referee. Respondent therefore improperly filed his motions with this Court instead of the referee and the motions should be sent to the referee for consideration.

7. A disciplinary proceeding is neither civil nor criminal but is a quasi-judicial administrative proceeding. The Florida Rules of Civil Procedure apply except as otherwise provided in Rule 3-7.6.

8. The essence of state bar disciplinary proceedings is not a resolution regarding the alleged criminality of a person's acts, but rather a determination of the moral fitness of an attorney to continue in the practice of law. *State v. Rendina*, 467 So. 2d 736 (Fla. 4th DCA 1985).

9. The Bar's complaint charges Respondent with violating multiple Rules Regulating The Florida Bar, none of which allege that Respondent committed a criminal offense.

10. On or about June 4, 2014, this Court designated this case "high profile" because of the "significant public and media interest in this matter." It is in the best interest of the public for the case to proceed openly.

11. The disciplinary proceedings have been initiated to determine respondent's character and fitness, to determine whether there have been any ethical violations, and if so, the appropriate sanction.

WHEREFORE, the Florida Bar respectfully requests that the Court enter orders denying Respondent's Motion for Stay of Proceedings Pending Disposition of Criminal Investigation and Motion to Seal Motion for Stay of Proceedings Pending Disposition of Criminal Investigation or send the motions to the referee for consideration.

Respectfully submitted,



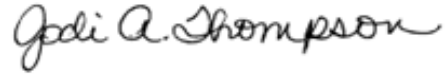
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### **CERTIFICATE OF SERVICE**

I hereby certify that the original hereof has been electronically filed with **John A. Tomasino, Clerk, Supreme Court of Florida**, via the e-filing portal; and copy has been furnished by regular U.S. Mail to the **Honorable William Douglas Baird, Referee**, at the Pinellas County Justice Center, 14250 49<sup>th</sup> Street North, Clearwater, Florida 33762; and copies have been provided by email to **Joseph A. Corsmeier, Esq., Counsel for Respondent**, at [jcorsmeier@jac-law.com](mailto:jcorsmeier@jac-law.com); and to **Gregory W. Kehoe, Esq., Counsel for Respondent**, at his primary email address of [kehoeg@gtlaw.com](mailto:kehoeg@gtlaw.com) and his secondary email addresses of [meyerp@gtlaw.com](mailto:meyerp@gtlaw.com), and [flservice@gtlaw.com](mailto:flservice@gtlaw.com); and to **Elliot H. Scherker, Esq., Counsel for Respondent**, at his primary email address of [scherkere@gtlaw.com](mailto:scherkere@gtlaw.com), and his secondary email address of [miamiappellateservice@gtlaw.com](mailto:miamiappellateservice@gtlaw.com); and to **Julissa Rodriguez, Esq., Counsel for Respondent**, at her primary email address of [rodriguezju@gtlaw.com](mailto:rodriguezju@gtlaw.com), and her secondary email address of

[miamiappellateservice@gtlaw.com](mailto:miamiappellateservice@gtlaw.com); and to **Stephanie L. Varela, Esq., Counsel for Respondent**, at her primary email address of [varelas@gtlaw.com](mailto:varelas@gtlaw.com), and to her secondary email address of [miamiappellateservice@gtlaw.com](mailto:miamiappellateservice@gtlaw.com); and to **Adria E. Quintela, Staff Counsel**, The Florida Bar, by email at [aquintel@flabar.org](mailto:aquintel@flabar.org), on this 30th day of June, 2014.



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Jodi Anderson Thompson, Bar Counsel