

In the Supreme Court of Florida

IN RE: AMENDMENTS TO THE
RULES REGULATING THE
FLORIDA BAR – CHAPTER 23
REGISTERED ONLINE SERVICE
PROVIDER PROGRAM.

CASE NO. SC19-2077

**MOTION TO STRIKE “THE FLORIDA BAR’S MOTION FOR LEAVE TO
RESPOND AND RESPONSE TO COMMENTS” AS UNAUTHORIZED**

Louis Arslanian, an attorney having filed Comments to the Propose Rule Change to Chapter 23 regarding Online Service Provider Program, hereby files this Motion to Strike “The Florida Bar’s Motion for Leave to Respond and Response to Comments” as Unauthorized, and as grounds states:

1. Per the Notice to the Proposed Rule Change, the matter is governed by Rule 1-12.1, Rules Regulation The Florida Bar. The October 17, 2019 Notice stated, in pertinent part, that:

Members who desire to comment on these proposed amendments may do so within 30 days of the filing of the Bar’s petition. Comments must be filed directly with the clerk of the Supreme Court of Florida, and a copy must be served on the executive director of The Florida Bar. Rule 1-12.1, Rules Regulating The Florida Bar, governs these proceedings.

2. Subpart (g) of the this Rule expressly provides for Comments, such as those provided by the undersigned and others, but not for replies of any kind:

(g) Notice of Intent to File Petition. Notice of intent to file a petition to amend these Rules Regulating The Florida Bar will be published in The Florida Bar *News* and on The Florida Bar website at least 30 days before the

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filing of the petition. The notice will identify the rule(s) to be amended, state in general terms the nature of the proposed amendments, state the date the petition will be filed, and state that any comments or objections must be filed within 30 days of filing the petition. The full text of the proposed amendment(s) will be published on The Florida Bar website. A copy of all comments or objections must be served on the executive director of The Florida Bar and any persons who may have made an appearance in the matter.

3. No provision with Rule 1-12.1(g) or any other subpart permits a “reply” or anything of the kind. The Rule only permits “comments or objections,” followed by submission to the Court. Therefore, The Florida Bar’s Motion for Leave to Respond and Response is wholly unauthorized and improper.

4. If The Florida Bar wished to permit a “reply” to the expressly-permitted “comments and objections,” it was free, subject to approval by The Florida Supreme Court, to craft Rule 1-12.1 to provide for a “reply.” However, the governing Rule does not provide any authority for permission to file a “reply.”

5. Rule 1-12.1 is akin to Fla. R. App. P. 9.300(a) which permits a “motion” and a “response” to the motion. No “reply” is permitted, and any attempted reply will be stricken as a matter of law. *See North Pointe Insurance Co. v. Tap Technologies, Inc.*, 235 So. 3d 849 (Fla. 2d DCA 2017), striking a reply to a motion as “unauthorized.”

6. The undersigned notes that if a reply was possibly permitted, the proper procedure would be to ask for permission to submit a reply with argument as to why a reply is needed. There is no authority for the improper filing of such a

request along with the reply. This practice is wholly unauthorized and, respectfully, should not be condoned by the Court.

7. Finally, even if filing for permission to file a reply with the reply was somehow permitted, a reply should not be an invitation to advance derogatory claims to those persons that properly filed “comments and objections” to the proposed rule. If there is to be considered a “concerted effort” on the part of anyone, it appears that The Florida Bar is engaged in such an effort to have the Proposed Rule Change go into effect, as evidenced by the filing of the improper and unauthorized reply, coupled with an attack on those who provided comments.

8. Respectfully, per Rule 1-12.1, The Florida Bar was given every opportunity to craft a proposed rule change, and fashion all statements and arguments in support thereof; and, under the same Rule, members of the Bar are given the opportunity to submit comments and objections. This is where it should end. If otherwise, based upon the reply submitted and the nature thereof, those providing comments and objections would be compelled to seek to make comments to the reply, especially where The Florida Bar sees fit to attack those person **it expressly invited to make comments and objections**.

CONCLUSION

For all of these reasons, the Motion to Strike should be granted. The Florida Bar’s reply is unauthorized and improper.

Respectfully submitted,

/s/ *Louis Arslanian*

LOUIS C. ARSLANIAN

I HEREBY CERTIFY that a true copy of the above and foregoing was filed
and eServed to all parties on this matter on this 11th day of February, 2020.

/s/ *Louis Arslanian*

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