

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

BRUCE JACOBS,

Respondent.

Supreme Court Case
No. SC20-1602

Florida Bar File

No. 2019-70, 188 (11 H)

No. 2019-70,358 (11H)

No. 2020-70,056 (11 H)

**RESPONDENT'S MOTION TO SUPPLEMENT
RECORD WITH EVIDENCE IN SUPPORT OF SHAM**

Respondent, Bruce Jacobs, Esq. ("Jacobs") files his Motion to Supplement Record with Evidence in Support of Sham, and states:

1. "A plea is considered 'sham' when it is palpably or inherently false, and from the plain or conceded facts in the case, must have been known to the party interposing it to be untrue." *See Rhea v. Halkney*, 157 So. 190, 193 (Fla. 1934)."

2. Jacobs respectfully submits The Florida Bar ("TFB") prosecuted him under the false narrative that he should be disbarred for filing motions to disqualify as a ""deliberate and knowing litigation tactic" to "manipulate the system" when he does not get the relief he seeks. (ROR 17-18).

3. Respectfully, TFB presented this admittedly false narrative to the Referee insisting Jacobs files disparaging and inflammatory motions to disqualify as revenge for unfavorable rulings which "serve no other purpose

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than to allow respondent to ‘express the bottomless depth of the displeasure that one might feel’ for having lost his appeal. (ROR 18).

4. In preparing his initial brief and reviewing TFB’s exhibits, Jacobs discovered the Supplemental Memorandum on Investigation filed by Jude M. Faccidomo, Esq. the Assigned Investigating member for these grievances and the Chair of Florida Bar Grievance Committee 11-H dated November 13, 2019. See attached as Exhibit A. (TFB Exh pg 640-642).

5. As Mr. Faccidomo wrote “... it should be noted that to deem the pleading frivolous is a significant finding. Further, a lawyer is obligated by the Oath of Attorney and Rules Governing the Florida Bar to provide zealous representation of their client. ***This includes properly preserving appellate issues. In fact, if an attorney failed to preserve an appellate issue, they can be deemed ineffective in their representation.***” (emphasis added).

6. Respectfully, The Florida Bar is on notice by this memo since 2019, before filing this action in 2020, that this prosecution is a sham.

7. Mr. Faccidomo’s memo supports Jacobs’ position that these proceedings are filed in bad faith and a pretext to silence Jacobs’ First Amendment right and obligation under TFB rules to report unethical conduct by attorneys, banks, and judges involved in systemic foreclosure frauds.

8. Mr. Faccidomo’s memo corroborates Jacobs’ bar trial testimony

that he files motions to disqualify judges when he must to preserve the arguments of bias for further appellate review. (T1, 181:24-182:11).

9. “Attorneys should not be placed in a position where they fear retaliation for filing a motion to disqualify.” *In re Cohen*, 99 So. 3d 926, 940 (Fla. 2012). “Attorneys should be free to challenge, in appropriate legal proceedings, a court's perceived partiality without the court misconstruing such a challenge as an assault on the integrity of the court. Such challenges should, however, be made only when substantiated by the trial record.” *United States v. Brown*, 72 F.3d 25, 29 (5th Cir. 1995).

WHEREFORE, Bruce Jacobs Esq., respectfully submits this Honorable Court supplement the record to include Mr. Faccidomo’s memo showing Jacobs had legitimate reasons to file the motions to disqualify at issue to support his argument the false narrative advanced by TFB in seeking his disbarment is a sham, and any other relief deemed mete and just.

Respectfully submitted,

/davidjwinker/

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BY: /s/ BRUCE JACOBS
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was filed with the Florida Courts e-filing Portal, and served on all those on the Service List, either via Notices of Electronic Filing generated by the e-Portal system or another authorized manner on June 24, 2021.

EXHIBIT A

SUPPLEMENTAL MEMORANDUM ON INVESTIGATION

To: Florida Bar Grievance Committee 11-H

From: Jude M. Faccidomo, Assigned Investigating Member and Chair

Date: November 13th, 2019

C: Tonya Avery, Esquire

**Re: Complaint by 3rd District Court of Appeal against Attorney Bruce Jacobs
Florida Bar File Nos.: (2019-70,358 2019- 70,188)**

INTRODUCTION

On or about April 16th, 2019 this investigator received the referral from Bar counsel on the instant matter. Following a lengthy investigation, on May 14th, 2019 this investigator met with counselors for the Respondent and interviewed them pertaining to the issues raised in the complaint. On August 12th, 2019 a follow up email was sent to the Respondent's attorneys requesting that they respond to two (2) specific areas with additional information. First, they were requested to respond to the court's allegation that ... *there is a reasonable basis to conclude that Mr. Jacobs and Jacobs Legal, PLLC violated these Rules or filed a paper that is frivolous or in bad faith when they included in their response to a motion to disqualify this entire court from considering this case when this court had previously three times denied virtually identical motions filed by them.*" Secondly, this investigator inquired as to whether the Respondent had ever previously been sanctioned by the 3rd District Court of Appeal or any other tribunal.

After requesting several extensions of time to respond, the Respondent was given a final deadline of October 31st, 2019. On October 31st, 2019 this investigator received a letter from the Respondent's Counsel, Roy Wasson, addressing the questioned posed in the August 12th email.¹

RESPONDENT'S ANSWER TO QUESTION 1

Was the filing frivolous or in bad faith?

The Respondent, through counsel, advises that the argument being made by the Respondent was to preserve an issue on appeal that was already the subject of a petition for certiorari with the United State Supreme Court in *Alexander v. Bayview loan Servicing, LLC*, Case No.: 18-375. Specifically stating that "*Mr. Jacobs submitted his Third District Court*

¹ The filing by Mr. Wasson was received after the close of business on the day of the deadline for reply. As such, the initial report had already been submitted to counsel for the Florida Bar. Since this investigator was not clear with counsel as to whether the deadline was close of business or 11:59 pm on October 31st it is proper for this supplemental memorandum to be incorporated and included with the previous filing without prejudice to the Respondent.

response in Bank of America v. Atkin on September 17, 2018, before the Third District's first order to show cause in Aquasol was issued on December 5, 2018. Mr. Jacobs had already initiated in the Supreme Court of the United States the case of Alexander v. Bayview Loan Servicing, LLC Case No.: 18-375. That case was initiated almost two months prior to the subject response filed in the Third District...[s]ince Mr. Jacobs believed it was in this client's best interest to preserve the issue in the event the U.S. Supreme Court agreed to grant certiorari..."

As stated in the initial memorandum filed on this matter, it is not the position of this investigator to opine on whether there has been a violation. Notwithstanding, it should be noted that to deem a pleading frivolous is a significant finding. Further, a lawyer is obligated under the Oath of Attorney and the Rules Governing the Florida Bar to provide zealous representation of their client. This includes properly preserving appellate issues. In fact, if an attorney failed to preserve an appellate issue, they can be deemed ineffective in their representation. Additionally, if the Third District believed they properly adjudicated this issue previously, and that any and all higher courts would concur with their ruling they were free to simply per curium affirm the lower court.

RESPONDENT'S ANSWER TO QUESTION 2
Has the Respondent previously been sanctioned?

The Respondent, through counsel, identifies three previous instances of concern. First, in *Bernardo v. PNC Mortgage* Case No.: 3D12-1071 the Third District Court stated that "...counsel for the appellant is ordered to show cause ...why sanctions should not be opposed (sic) upon counsel under section 57.105... and Rule 9.410..." The Respondent submitted a Verified Response to that order to show cause and no sanctions were ordered. Secondly, in *BAC Home Loan Servicing v. Headley*, Case No.: 3D12-1560 the court took the effort in its order to remind the Respondent "...of his duty of candor to the tribunal." Lastly, in *Barek v. HSBC Bank USA, N.A.*, Case No.: 3D17-1426 the court admonished the Respondent for what it described as dilatory and frivolous filings and inappropriate "non-record evidence and personal attacks."

There are several points of note regarding the Respondent's answers to this inquiry. First, none of the above items ever resulted in sanctions or sustained rules to show cause. Secondly, the Respondent and counsel are commended for their candor to this body for, nevertheless, identifying these cases. The remarks of the court are germane to the issue and would likely have avoided detection but for their being brought to light by counsel for the Respondent. Finally, while above instances do not constitute sustained Orders to Show Cause, the Third District was quite clearly firing "warning shots" at the Respondent attempting to alert him that they deemed his pleadings to be violative of the Rules of Appellate Procedure and Rules governing the Florida Bar.

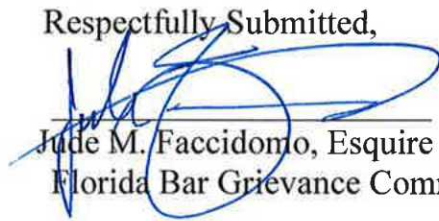
CONCLUSION

It is the opinion of this investigator that the following questions be considered by the committee:

1. Was it best practice for the Respondent preserve his client's appellate rights by filing the pleading with the Third District knowing the same issue had previously been adversely ruled upon?
2. What, if any weight, should the previous admonishments from the court be given when considering the instant matter?

Further sayeth this Investigator naught.

Respectfully Submitted,



Jude M. Faccidomo, Esquire

Florida Bar Grievance Committee 11-H, Chair