IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

v.

RAYMOND B. MITCHELL
Respondent.
_____/

SUPREME COURT CASE
NO. SC20-1777
The Florida Bar File
No. 2019-10,038(20A)

REPLY TO FLORIDA BAR'S RESPONSE FOR REHEARING

The Respondent, Raymond B. Mitchell, by and through the undersigned counsel files this *Reply to the Florida Bar's Response to Respondent's Motion for Rehearing* ("Reply") and would state as follows:

1. The Florida Bar in its Reply states the Rule regarding a Motion for Rehearing correctly, which says the Motion must "state with particularity the points of law or fact that, in the opinion of the movant, the court has overlooked or misapprehended in its order or decision" from Fla. R. App. P. 9.330(a)(2)(A). They then argue that the Motion for Rehearing did not show that this Court "overlooked or misapprehended anything" in adopting the Referee's Report and it simply "reargues the points he has already made" in his Motion for Rehearing.

2. The Florida Bar's arguments in the paragraph above are incorrect since Rule 9.330 says the Motion for Rehearing must state the points of law or fact that, in the opinion of the movant, the court has overlooked

or misapprehended. It is the opinion of the movant that is required. Respondent's opinion or belief, to the best of his knowledge, is that the Court did or likely did overlook or misapprehend some laws or facts in this case. Since the Court's final Order did not contain a rationale of why it adopted the Referee's Report Respondent cannot know with certainty whether the Court overlooked some facts or laws, or misapprehended them. As there are several hundreds of pages of documents and transcripts in this case and judges are usually very busy some facts or laws may have been overlooked or misapprehended. (Misapprehended means "misunderstood").

3. Respondent believes the Court likely overlooked the testimony of all the witnesses in this case who all agreed totally with Respondent's statements in his Motion to Disqualify since the transcripts are hundreds of pages long and it would be difficult to read them all and comprehend and remember everything they testified to. Since all the witnesses agreed with Respondent then the Referee's claim in her Report that Respondent "has no basis" to state what he had written and thus not true, was itself not true and should be corrected. If their testimony was not overlooked or misapprehended it likely would have been mentioned in the final Order and a rationale about it would have been explained in the Order. When their testimony is stated and summarized in succession for the relevant statements in Respondent's Motion

for Rehearing, it is much easier for someone or the Court to see what the witnesses testified to without having to read through hundreds of pages.

4. The Florida Bar's arguments alleging he reargued the same arguments in his briefs in paragraph #1 above are also incorrect. Respondent admitted, based on this Court's Order and ruling that he did violate the Rule 4-8.4(d) about not disparaging a judge, but that the Rule is very vague and unclear as to what is allowed to be stated as bias or prejudice in Rule 2.330, a motion to disqualify. That was a new argument that was not argued fully in the briefs (although it was mentioned) because Respondent did not know whether his actions would be ruled to be legal or a violation. When he discovered that this Court agreed with the Referee, then the void for vagueness doctrine became relevant since Respondent believes the Court may have overlooked that legal doctrine. The void for vagueness legal doctrines and the 8th Amendment prohibition against excessive fines and cruel punishment (with its counterpart in the Florida Constitution) are Constitutional laws and precedents that are required to be obeyed in every case whether it is argued, reargued, or even not argued, as they are fundamental. The courts and judges have a duty to follow the Constitutions in every case since many of the provisions are absolute, such as the provision about prohibiting excessive fines and punishments. Since this Court is one of equity and is bound to promote

justice, it seems the comparison of what other attorneys did in violating rules being much, much greater than what Respondent did but receiving the exact same number of days of suspension would be unjust and excessive. This Court must not simply just follow some rules and laws but has a duty to promote justice and correct injustice whenever it can do so.

5. The Florida Bar alleges in its paragraph 4 of its Response that "Respondent contends that he violated no ethics rules", however, that allegation is false because Respondent admitted he violated Rule 4-8.4(d) *(not disparaging)* and apologized for it. Respondent wrote on page 2 and 18 of his Motion:

> Respondent, Raymond B. Mitchell, realizes now that he was incorrect in writing those words, and now apologizes to this Court, the Florida Bar, Referee, Judge Hawthorne and anyone else involved in this case for writing those words that are determined to be disparaging. *{page 2}*
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> During the entire 19 years and since 1994 Respondent has only done one violation of the Rules, out of thousands of documents filed, hearings attended, and court actions performed. *{page 18}*

6. Respondent did argue good cause to delay the suspension for the sake of the client's bankruptcy cases that could be harmed and destroyed since he does not have the funds to somehow get their cases filed with some other attorney due to the very slow Covid economy which has greatly slowed down Respondent's gross income from about 75% to 90% less than it was two

years ago. The clients should be not be punished and have their cases ruined by a sudden suspension of the sole attorney in this law firm due to no fault of their own. This Court is one of equity and the Florida Bar did not offer or state any reason at all about what harm would occur from delaying a suspension for the sake of the clients. Since no harm was alleged and there are huge benefits to the clients then a delay would greatly benefit them and help them view the court system as a more just one. 30 days is not nearly enough or sufficient time to complete bankruptcy cases since chapter 7 cases take about 4 months to obtain a discharge of debts from the filing of the petition and it takes a little time to prepare the cases.

WHEREFORE, the Respondent requests that this Honorable Court reconsider and rehear its ruling and reduce the suspension to 60 or 30 days, or to a rebuke or admonition, delay the suspension for the clients, and award Respondent any and all other and further relief this Court deems just and proper under the circumstances.

By: /s/ *Raymond B. Mitchell*
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CERTIFICATE OF SERVICE

I certify that a copy of this document (Motion) was emailed to Joi L. Pearsall and to all the persons/emails listed below on April 13, 2022:

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