

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

JOSEPH WIMBERT GIBSON JR.,

Respondent.

Supreme Court Case  
No. SC-

The Florida Bar File  
No. 2019-70,300 (11M)

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**COMPLAINT**

The Florida Bar, complainant, files this Complaint against Joseph Wimbert Gibson Jr., respondent, pursuant to the Rules Regulating The Florida Bar and alleges:

1. Respondent is and was at all times mentioned herein a member of The Florida Bar admitted on June 28, 1982 and is subject to the jurisdiction of the Supreme Court of Florida.
2. Respondent resided and practiced law in Miami-Dade County County, Florida, at all times material.
3. The Eleventh Judicial Circuit Grievance Committee M found probable cause to file this complaint pursuant to Rule 3-7.4, of the Rules Regulating The Florida Bar, and this complaint has been approved by the presiding member of that committee.

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4. Cyril Poitier retained respondent on March 27, 2018, in connection with two related real estate matters that required litigation.

5. Mr. Poitier paid respondent \$4,000.00 for his services.

6. Respondent entered a Notice of Appearance on March 30, 2018, but did not file an Answer at that time. The plaintiff in the underlying civil matter alleged that Mr. Poitier had been served on March 24, 2018, making the Answer due on April 17, 2018. Thereafter, the plaintiff in the underlying case filed a motion for default judgment against Mr. Poitier.

7. Instead of addressing the default, respondent filed a "Motion to Dismiss for Failure to State a Claim."

8. Worried about his case, Mr. Poitier made an appointment with respondent for May 8, 2018, to discuss the matter. On that date, Mr. Poitier went to respondent's office and met with another attorney at the firm who informed him of the Motion for Default.

9. After several unsuccessful attempts to schedule an in-person meeting with respondent, Mr. Poitier contacted the office and informed an assistant he was terminating the representation.

10. While seeking a new attorney, Mr. Poitier filed an answer pro se on June 12, 2018.

11. On or about June 14, 2018, Mr. Poitier retained attorney Robert Bisonnette to represent him in the matter. Mr. Bisonnette wrote an email to respondent advising him of the new representation and requesting a refund of the unused portion of the retainer. Respondent did not reply to the email.

12. On June 21, 2018, Mr. Bisonnette sent follow up correspondence reiterating the demand for the return of the retainer by June 25, 2018. On June 22, 2018, Mr. Bisonnette received an email from respondent's office acknowledging the correspondence and stating that a response would be provided by June 27, 2018. Despite respondent's assertion, no response received by that date.

13. On July 6, 2018, respondent filed a Notice to Strike the Pro Se Answer but did not consult Mr. Poitier or his new attorney before doing so. Notably, respondent charged Mr. Poitier fees for the preparation and review of his Motion to Strike Pro Se Answer and Motion to Dismiss Nunc Pro Tunc or Stay with Prejudice.

14. On July 11, 2018, Mr. Bisonnette's office sent respondent a Substitution of Counsel which respondent signed and returned several days later. It was filed on July 16, 2018.

15. On July 26, 2018, respondent's office sent Mr. Poitier a "Pre-Bill" with reference to the two pending cases against Poitier. Several charges were made by respondent's office following his termination.

16. Notably, respondent billed 1.3 hours of "preparation and response to client and Robert Bisonnette. Preparation and review of Motion to Strike pro se answer and Motion to dismiss nunc pro tunc, or stay with prejudice. O/Cs with staff." For this entry, a total of \$520.00 was charged against the retainer.

17. Additionally, respondent charged .4 hours for preparing a Notice of Hearing on July 13, 2018, for a total of \$160.00.

18. Similarly, respondent billed ".1" entries for emails on nine occasions in July 2018.

19. By July 16, 2018, when the Substitution of Counsel was completed, an additional \$1,280.00 was charged against the retainer in the month of July, leaving a balance of \$166.00 due to Mr. Poitier.

20. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: 4-1.3 (Diligence); 4-1.4 (Communication); and 4-1.5 (Fees and Costs for Legal Services).

WHEREFORE, The Florida Bar prays respondent will be appropriately disciplined in accordance with the provisions of the Rules Regulating The Florida Bar as amended.



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## **CERTIFICATE OF SERVICE**

I certify that this document has been efiled with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida, with a copy provided via email to Andrew Scott Berman, Attorney for Respondent, at [aberman@ybkklaw.com](mailto:aberman@ybkklaw.com); and that a copy has been furnished by United States Mail via certified mail No. 7017 3380 0000 1082 8109, return receipt requested to Andrew Scott Berman, Attorney for Respondent, whose record bar address is Tower III, Suite 1748; 825 Brickell Bay Drive, Miami, FL 33131-2936 and via email to Rita Florez, Bar Counsel, [rflorez@floridabar.org](mailto:rflorez@floridabar.org), on this 15<sup>th</sup> day of December, 2021.



Patricia Ann Toro Savitz  
Staff Counsel

**NOTICE OF TRIAL COUNSEL AND DESIGNATION OF PRIMARY EMAIL ADDRESS**

PLEASE TAKE NOTICE that the trial counsel in this matter is Rita Florez, Bar Counsel, whose address, telephone number and primary email address are The Florida Bar, Miami Branch Office, 444 Brickell Avenue Rivergate Plaza, Suite M-100; Miami, Florida 33131-2404, (305) 377-4445 and [rflorez@floridabar.org](mailto:rflorez@floridabar.org); Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than trial counsel and to Staff Counsel, The Florida Bar, 651 E Jefferson Street, Tallahassee, Florida 32399-2300, [psavitz@floridabar.org](mailto:psavitz@floridabar.org).

**MANDATORY ANSWER NOTICE**

RULE 3-7.6(h)(2), RULES REGULATING THE FLORIDA BAR,  
PROVIDES THAT A RESPONDENT SHALL ANSWER A COMPLAINT.