

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR

Complainant,

Supreme Court Case  
No.SC 21-976

v.

The Florida Bar File  
No. 2021-10,403

MICHAEL ALAN STEINBERG

Respondent

\_\_\_\_\_ /

Comes now, the Respondent, Michael Alan Steinberg, and files this his response to the formal complaint for reciprocal discipline and says:

1. Admitted
2. Admitted
3. Admitted
4. Admitted, however, there are mitigating circumstances
5. Without knowledge, but uncontested
6. Admitted
7. Admitted that Respondent did not report the order of suspension until

April 5, 2021. The US Court of Appeals for Veterans Claims is a legislative court under Article I of the United States Constitution. Both attorneys and non-attorneys may practice before this court. Upon receipt of the order suspending him from practicing before the US Court of Appeals for

RECEIVED, 07/13/2021 02:51:29 PM, Clerk, Supreme Court

Veterans Claims, for 90 days, the Respondent notified his clients whom he was representing before that court of the suspension, and took no further action with respect to any pending cases. At the time of the suspension there was one case in which the Respondent did not submit a motion to withdraw, because all of the pleadings indicated that the respondent was suspended, opposing counsel and the court knew that counsel was suspended, and counsel assumed that he was no longer the counsel of record. Upon request, Respondent did file a motion to withdraw which was granted.

Because the US Court of Appeals for Veterans claims is not an Article III Federal Court, the Respondent believed and continues to believe that Rule 3–4.6 does not apply to this court, however, after completing the 90 day suspension and taking the continuing legal education courses required, Respondent applied for readmission, and was denied until the matter was addressed by the Florida Bar. Rather than contest the position of the US Court of Appeals for Veterans Claims, the Respondent notified the Florida Bar.

8. Denied, however, admitted that the alleged conduct, on its face, violates the rules regulating the Florida Bar.

The Respondent would add the following as an explanation.

The Respondent is primarily engaged in the practice of Social Security law. He also handles a number of cases before the Department of Veterans Affairs. As set forth in the complaint the Respondent has been practicing law for almost 40 years.

The Respondent is the sole owner of a small law practice, with approximately 20 employees, including four attorneys and a law school graduate, who is an accredited non-attorney representative with respect to matters before the Social Security Administration.

The Respondent has one secretary that is responsible for handling Social Security appeals at the federal court level. He has another secretary that handles matters at the administrative level. He has a third secretary that is responsible for VA cases.

Toward the end of 2019, the Respondent's secretary, who handles his VA matters, was diagnosed with breast cancer and underwent radical mastectomy and lobectomy on December 27, 2019.

Although the Respondent has handled hundreds of Social Security appeals at the Federal Court and Court of Appeals level, He has only handled a few cases before the US court of Appeals for Veterans Claims.

The Respondent attempted to handle several cases, without the aid of a secretary.

With respect to the first case which is the subject matter of this grievance, when the Respondent filed the notice of appearance, he indicated that the fee/retainer agreement was already on record in this case. He also listed his email address as [mas@ssalawyers.com](mailto:mas@ssalawyers.com). This is the same email address he uses for appeals to the district court and the 11th Circuit Court of Appeals, with respect to Social Security cases.

On November 28, 2018, an email was sent by the US Court of Appeals for Veterans Claims to the Respondent's personal email address, [frosty28@aol.com](mailto:frosty28@aol.com). This email contains a link to an order directing the Respondent to submit a copy of the fee agreement. The Respondent did not see this email, and did not anticipate such an order, because he did not have a separate fee agreement for work performed before the US Court of Appeals for Veterans Claims and the notice of appeal indicated that the fee agreement was in the claims file. A subsequent order was entered on December 14, 2018 and February 5, 2019, all three of which the Respondent was not aware. Had he seen the orders, he would have resubmitted the fee agreement, which was already in the claims file.

On March 19, 2019, the appeal was dismissed, for failure to submit the fee agreement.

The Respondent then filed a motion to reinstate, explaining the circumstances. The motion to reinstate, explained that he did not receive the orders because it was sent to his personal email.

The Respondent was advised that the email on record with the US Court of Appeals for Veterans Claims was [frosty28@aol.com](mailto:frosty28@aol.com), Therefore, on the motion to reinstate, the Respondent used that email address.

On April 17, 2019, the appeal was reinstated. On June 17, 2019, the attorney for the department of Veterans Affairs filed a motion to extend time to file the record before the agency. This motion was granted. On August 14, 2019, an order was entered requiring the Appellant to file a brief within 60 days.

The brief was due by October 14, 2019. This was about the same time the attorney's secretary that handles his VA cases was diagnosed with breast cancer. In addition, the attorney received a number of orders regarding Social Security appeals to file briefs, and as a result, missed the deadline to file the brief. The Respondent acknowledges that it was his responsibility make sure that the brief was filed timely or to request an extension of time. The order of the court was not intentionally ignored. It was just inadvertently overlooked. On December 10, 2019, the court ordered that within seven days the Appellant file a brief and a motion to file

the brief late. The Respondent then filed a motion for leave to file the brief and the brief.

On January 22, 2020 the Appellant's motion to file brief out of time was granted.

On March 19, 2020, the attorney for the Department of Veterans Affairs filed a motion for extension of time to file Appellee brief. This motion was granted. The Appellee filed his brief on May 7, 2020.

On August 27, 2020, the court made a decision in favor of the Appellant and remanded the case for new decision.

Although on its face it appears that the Respondent repeatedly ignored orders of the court, the inactions were not intentional.

The second case involved a veteran who had been hospitalized, at a private hospital, when he believed he was having issues with his heart. Hospital records indicated that he was not having heart related issues.

The veteran requested that the Department of Veterans Affairs pay for his medical care at the private hospital, because it was necessary that he go there on an emergent basis. The Department of Veterans Affairs denied the claim, because it took the position that the care was not emergent.

The Veteran requested the Respondent to assist him in appealing this decision. Typically, in VA cases, the fee agreement will provide for the attorney to receive a percentage of the past due benefits. The Veteran and the Respondent had this type of fee agreement. The Respondent handled other matters for the Veteran for which this type of fee agreement applied. In this case, because there was no backpay involved, the fee agreement would not apply. The Respondent agreed to handle the appeal to the US Court of Appeals for Veterans Claims at no charge.

In this case, the issue with the fee agreement was similar. No fee agreement was submitted with the appeal, because the Respondent indicated that the fee agreement was already in the claims file.

Again, on February 26, 2019, an email was sent to [frosty28@aol.com](mailto:frosty28@aol.com), directing the representative to submit a copy of the fee agreement.

The Respondent discovered the February 26, 2019 order, and submitted the fee agreement on March 26, 2019.

On March 27, 2019 the court ordered the Department of Veterans Affairs to file the decision and the record within 30 days.

On April 26 2019, the Department of Veterans Affairs filed a motion to extend time to file the record until June 10, 2019. This motion was granted.

On June 10, 2019, the record before the agency was filed (Albeit the wrong record) On July 2, 2019, the Appellant was ordered to file a brief within 60 days.

The Respondent did not file the brief within the 60 days. This was in the same time period that the Respondent's secretary was having health problems and he was overwhelmed with orders requiring him to file briefs in other cases. On September 19, 2019, an order was entered requiring the Respondent to file the brief and a motion to file the brief late. On October 28, 2019, the Respondent filed a brief and the motion to file brief out of time.

On October 31, 2019, the Clerk of the court send a notice of non-conforming documents to Appellant.

On November 12, 2019, the court ordered the Appellant to comply with the rules of the court by filing the brief and appropriate motion to file the brief late.

The Respondent did not see notices sent on October 31, 2019 or November 12, 2019. Upon discovering there was an issue with brief, the Respondent submitted an amended brief and motion for leave to file brief out of time on March 18, 2020.

On April 21, 2020, the court entered an order finding the Respondent in civil contempt of court. On June 25, 2020, the motion for leave to file brief out of time was granted.

On August 24, 2020, the Appellee filed a motion to extend time to file Appellee brief. That motion was granted. On October 28, 2020 the Appellee filed another motion to stay proceedings, and that motion was granted. On December 21, 2020, the Appellee filed another motion to stay proceedings and that motion was granted. On January 27, 2021, the Appellee filed a motion to amend the record before the agency.

With respect to the motion to stay proceedings, it was noted that the Respondent was suspended for 90 days. The Respondent did not take any further action as he assumed that he was no longer the attorney of record and this was known by the court and the attorney for the Department of Veterans Affairs. The Appellant was notified as well.

Subsequently the Respondent was directed to file a formal motion to withdraw, which he did on February 16, 2020. On February 22, 2021, the motion was granted.

A grievance was initiated by the Clerk of the Court. The facts set forth in the grievance were accurate, however, it is posited the suspension from the practice of law, given the extenuating circumstances, is unduly harsh.

A suspension from practicing before the US Court of Appeals for Veterans Claims for 90 days, with a requirement to complete six hours of ethics focused continuing legal education, standing alone, may appear to be appropriate. However, for the Florida Bar to adopt the same sanction, would have devastating consequences to the Respondent, as well as his clients and employees.

The Respondent currently has over 100 open matters in federal court, approximately 300 cases pending before the Social Security Administration and several hundred open cases before the Department of Veterans Affairs. A suspension would require the Respondent to withdraw from all pending matters. He would have to terminate the employment of all employees, who also are representing hundreds of Social Security claimants.

The failures of the Respondent were not due to selfish motives or dishonesty. The Respondent had a period of a few months, where the combination of illness of his secretary, together with an overwhelming caseload, resulted in the above mistakes.

The Respondent does not wish to contest the complaint for discipline, however, he pleads with the court to impose sanctions short of suspension.

Respectfully submitted

s/Michael A. Steinberg  
4925 Independence Pkwy.  
Suite 195  
Tampa, FL 33634  
(813) 221-1300  
Florida Bar No. 0340065  
[mas@ssalawyers.com](mailto:mas@ssalawyers.com)

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 Jennifer Robyn Dillon, Bar Counsel at [rdillon@floridabar.org](mailto:rdillon@floridabar.org) ; and to Patricia Ann Toro Savitz, Staff Counsel, The Florida Bar, at [psavitz@floridabar.org](mailto:psavitz@floridabar.org) on this 13<sup>th</sup> day of July, 2021

s/Michael A. Steinberg  
4925 Independence Pkwy.  
Suite 195  
Tampa, FL 33634  
(813) 221-1300  
Florida Bar No. 0340065  
[mas@ssalawyers.com](mailto:mas@ssalawyers.com)