

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,
Complainant,

Supreme Court Case
No. SC-

v.

The Florida Bar File
Nos. 2021-10,046 (13A); 2020-
10,011 (13A)

BRANDON ROBERT SCHEELE,
Respondent.

_____ /

**CONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT BEFORE
FORMAL COMPLAINT IS FILED**

COMES NOW, the undersigned respondent, Brandon Robert Scheele, and files this Conditional Guilty Plea pursuant to Rule 3-7.9 of the Rules Regulating The Florida Bar.

1. Respondent is, and at all times mentioned herein was, a member of The Florida Bar, subject to the jurisdiction of the Supreme Court of Florida.

2. Respondent is acting freely and voluntarily in this matter and tenders this Plea without fear or threat of coercion. Respondent is represented in this matter by Scott K. Tozian, Esquire.

3. As to The Florida Bar Case No. 2021-10,046 (13A), there was a finding of probable cause by the Board of Governors.

Exhibit A

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4. As to The Florida Bar Case No. 2020-10,011 (13A), there was a finding of probable cause by the Board of Governors.

5. The disciplinary measures to be imposed upon respondent are as follows:

A. Public reprimand to be administered by publication;

B. Attendance at Ethics School within six (6) months of this Court's order accepting this Plea. Respondent shall be responsible for the \$750.00 fee associated with that program;

C. A two-year period of probation with the following conditions:

a. Respondent will participate actively in the program offered by Florida Lawyers Assistance, Inc. (FLA, Inc.), by extending his two-year contract which began on August 27, 2020. The two-year period of probation will begin upon the Supreme Court of Florida's approval of this consent judgment. Respondent shall follow all recommendations by Florida Lawyers Assistance, Inc., during the entire probationary period

b. Respondent has paid the initial registration fee to FLA, Inc., and is obligated to pay the \$100.00 per month

monitoring fees pursuant to his contract with FLA, Inc., throughout the duration of the probationary period.

c. The Florida Bar will monitor respondent's compliance with his FLA, Inc. rehabilitation contract, including nonpayment of the monthly monitoring fees. Should respondent fail to pay FLA, Inc., respondent's failure to pay will be reported to the bar and the bar will follow up with regard to respondent's noncompliance, up to and including holding respondent in contempt for failure to pay the monthly monitoring fees; and

D. Respondent shall pay the bar's costs in this disciplinary proceeding.

6. The following allegations and rules provide the basis for respondent's guilty plea and for the discipline to be imposed in this matter:

In The Florida Bar File No. 2020-10,011 (13A), on June 7, 2019, respondent was arrested and subsequently charged with multiple offenses. Respondent was on vacation when he mixed a newly prescribed medication with alcohol and became impaired. While under the influence, respondent caused a scene at the hotel which resulted in the hotel manager calling the police. A scene also ensued between respondent and the police upon police arrival at the hotel. All charges were dropped against respondent upon successful completion of a pretrial diversion program in August 2020. Further, respondent completed treatment for his substance misuse.

In The Florida Bar File No. 2021-10,046 (13A), in 2020, respondent's law firm was counsel for plaintiff in case no. 2017-CA-0003278, *Jose R. Fuentes v. State Farm Mutual Automobile Insurance Company*. While respondent was not lead counsel on the case, he conducted the deposition of the defendant's witness, Dr. Shim on April 21, 2020. During the deposition respondent used profanity and, among other things, called the deponent a liar. In response, opposing counsel and counsel for non-party, Dr. Shim, filed Motions for Protective Orders with the court. A hearing was held on the motions on June 16, 2020. Respondent did not appear for the hearing, but, rather, lead counsel for plaintiff appeared and argued on respondent's behalf. The court granted the motions, issued sanctions, and in the order, dated June 25, 2020, included a prohibition preventing respondent from taking any further depositions of the deponent. Further, the judge referred respondent to The Florida Bar.

Respondent recognized that he acted improperly in his treatment of Dr. Shim. Respondent has since apologized to the witness both verbally and in writing.

Respondent admits that based on the foregoing he has violated the following Rules Regulating The Florida Bar: **Rule 3-4.3** (Minor Misconduct); **Rule 4-4.4(a)** (Respect for Rights of Third Persons); and **Rule 4-8.4(d)** (Conduct in the connection with the practice of law that is prejudicial to the administration of justice).

7. The following case law is applicable:

- a. In The Florida Bar v. Ellis, No. SC14-700 (Fla. Feb. 27, 2015) [TFB Nos. 2010-00,876(1A), 2012-00,405(1A), 2012-00,682(1A)] respondent received a public reprimand before the referee and 3 years of probation conditioned on FLA, Inc. with quarterly reports. In the first case, respondent pled no contest in Oregon to charges of assault and harassment and was adjudicated guilty. The charges arose from a domestic violence charge that arose in connection with his personal marital dispute. Respondent successfully complied with the terms of his criminal probation and the case was dismissed. Respondent self-reported the matter to the bar. In the 2nd case, respondent downloaded a photo of a young female ASA and altered it into a

lewd photograph. At the time, respondent was employed as an APD. He showed the altered photo, which was on his cell phone, to a number of other attorneys at a social gathering, including the young ASA who was the subject of the photo. Respondent later wrote a letter of apology to the ASA after her supervisor reported the incident to the bar. [Respondent was found guilty of violating RRTFB 3-4.3 and 4-8.4(d)]. In the 3rd case, respondent was arrested on charges of disturbing the peace, a misdemeanor, following a noise complaint by a neighbor. When law enforcement asked respondent to turn down his music, he became belligerent and refused to comply. Respondent entered into a deferred prosecution agreement in which he admitted to the charges and wrote a letter of apology to his neighbor. The case was *nolle prossed*. The incident led to respondent being fired from his job at the PD's office.

- b. In The Florida Bar v. Robert William Morris, No. SC19-1609 (Fla. Oct. 3, 2019) [TFB # 2019-30,835 (07B)] respondent's Conditional Guilty Plea for Consent Judgment was approved and respondent was publicly reprimanded and placed on a two-year period of probation conditioned upon participation in FLA. Respondent was arrested for Driving While Under the Influence. On or about June 12, 2019, Respondent entered a plea of no contest to reckless driving, alcohol related. The judge withheld adjudication and sentenced respondent to one year of probation with conditions. Respondent voluntarily obtained an evaluation with FLA, Inc., and agreed to enter into a two-year rehabilitation contract. Respondent was conditionally admitted to the bar in 2014 due to a history of arrests related to substance abuse, including a prior Driving Under the Influence charge in 2008. In mitigation, respondent had no prior disciplinary history, suffered from personal or emotional problems, fully cooperated with the bar, voluntarily sought out the FLA evaluation, suffered from a physical or mental disability or impairment, underwent interim rehabilitation, suffered the imposition of other penalties or sanctions and was remorseful. There were no aggravating factors.
- c. In The Florida Bar v. Mooney, 49 So. 3d 748 (Fla. 2010) (unpublished table decision) (public reprimand and

professionalism workshop), In SC10-640 and SC10-1584, respondent entered into a conditional guilty plea for consent judgment for his conduct in two Florida Bar cases. In the first case, respondent engaged in a series of email exchanges with opposing counsel that were disparaging, humiliating, and discriminatory against opposing counsel. Respondent also engaged in a hostile verbal exchange with opposing counsel during a deposition. In the second case, respondent engaged in a hostile confrontation with opposing counsel at a deposition in the presence of the opposing party and the court reporter. Respondent's conduct at the deposition was unprofessional and disruptive. Respondent contended that his conduct was a reaction to opposing counsel's disparaging remarks about his son. The Court approved the recommended discipline of a public reprimand before the Board of Governors and attendance at The Florida Bar's Professionalism Workshop.

8. The following mitigating factors set forth in the Standards for Imposing Lawyer Sanctions, Standard 3.3, are applicable:
 - A. 3.3(b)(1) (absence of a prior disciplinary record); and
 - B. 3.3(b)(2) (absence of dishonest or selfish motive);
 - C. 3.3(b)(3) (personal or emotional problems);
 - D. 3.3(b)(5) (full and free disclosure to the bar or cooperative attitude towards the proceedings);
 - E. 3.3(b)(8) (physical or mental disability or impairment or substance-related disorder); and
 - F. 3.3(b)(12) (remorse).

9. The Florida Bar has approved this proposed plea in the manner required by Rule 3-7.9.

10. Respondent has been a member of the Florida Bar since 2002 and has had an exemplary record with no disciplinary history until the aforementioned events in 2020. Respondent is Board Certified in Civil Trial law.

11. If this plea is not finally approved by the Board of Governors of The Florida Bar and the Supreme Court of Florida, then it shall be of no effect and may not be used by the parties in any way.

12. If this plea is approved, then respondent agrees to pay all reasonable costs associated with this case pursuant to Rule 3-7.6(q) in the amount of \$1,250.00. These costs are due within 30 days of the court order. Respondent agrees that if the costs are not paid within 30 days of this court's order becoming final, respondent shall pay interest on any unpaid costs at the statutory rate. Respondent further agrees not to attempt to discharge the obligation for payment of the Bar's costs in any future proceedings, including but not limited to, a petition for bankruptcy. Respondent shall be deemed delinquent and ineligible to practice law pursuant to Rule 1-3.6 if the cost judgment is not satisfied within 30 days of the final court order, unless deferred by the Board of Governors of The Florida Bar.

13. Respondent acknowledges the obligation to pay the costs of this proceeding and that payment is evidence of strict compliance with the conditions of any disciplinary order or agreement and is also evidence of good faith and fiscal responsibility. Respondent understands that failure to pay the costs of this proceedings or restitution may reflect adversely on any reinstatement proceedings or any other bar disciplinary matter in which respondent is involved.

14. This Conditional Guilty Plea for Consent Judgment fully complies with all requirements of the Rules Regulating The Florida Bar.

Dated this 6 day of January, 2022.

Brandon R. Scheele (electronically signed)

Brandon Robert Scheele

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Dated this 7 day of January, 2022.



Scott Kevork Tozian
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Dated this 10th day of January, 2022.



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