

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

MARTHA ANN CHAPMAN,

Respondent.

Supreme Court Case
No. SC-

The Florida Bar File
No. 2021-30,355 (9A)

COMPLAINT

The Florida Bar, complainant, files this Complaint against Martha Ann Chapman, 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 3, 1994 and is subject to the jurisdiction of the Supreme Court of Florida.
2. Respondent practiced law in Orange County, Florida, at all times material.
3. The Ninth Judicial Circuit Grievance Committee "A" 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. Dr. Pedrioli hired respondent in 2015 to negotiate a claim against a university for employment discrimination.
5. In 2017, Dr. Pedrioli hired respondent to file a federal lawsuit against the university.
6. Dr. Pedrioli's fee agreement with respondent was hourly, billed at \$375.00 per hour.
7. Dr. Pedrioli paid respondent a total of \$37,500.00 in fee retainers between May 2015 and April 2017 and the funds were placed into respondent's trust account until the fees were earned.
8. The case successfully settled in June 2018.
9. Dr. Pedrioli began asking respondent for a fully itemized statement in November 2018 so he could verify how his retainers had been used.
10. After repeated requests, in March 2019, respondent sent Dr. Pedrioli a document that showed only the money he had paid and the number of total hours expended on the case, with no accounting as to how the time had been billed.
11. In June 2019, respondent emailed Dr. Pedrioli that she had neglected to send him a portion of the settlement he had been due in June 2018, and she sent him a check for \$2,500.00 plus interest in July 2019.

12. Although the \$2,500.00 from the June 2018 settlement was money that belonged to Dr. Pedrioli, it had been placed into respondent's operating account when it was received in July 2018.

13. After June 2019, Dr. Pedrioli continued to request an accounting of how his retainers had been used until he filed the bar grievance in December 2020.

14. Despite numerous emails and phone calls from Dr. Pedrioli after June 2019, respondent failed to respond to Dr. Pedrioli and failed to provide an accounting of his retainers that had been placed in her trust account.

15. During her sworn statement, respondent admitted that she deliberately stopped communicating with Dr. Pedrioli because she believed he was being difficult.

16. In her response to Dr. Pedrioli's December 2020 bar grievance, respondent attached "reconstructed" billing records, explaining that her billing files had been lost on her Blackberry and she had no backup.

17. Respondent informed the bar she thought she had previously communicated with Dr. Pedrioli about her lost billing files, but she admitted that she was mistaken and had not done so despite Dr. Pedrioli's repeated requests for the billing information.

18. Regarding her attorney trust account, respondent admitted during her sworn statement that she did not properly maintain client ledgers, monthly reconciliations, a receipts and disbursements journal, or monthly comparisons.

19. Respondent admitted she did not maintain her trust account in substantial minimum compliance with the Rules Regulating The Florida Bar.

20. The bar's audit of respondent's trust account revealed additional client matters with trust accounting issues.

21. In the K.S. matter, a deposit of \$1,250.00 was made into the trust account on May 6, 2020.

22. In the K.S. ledger respondent provided for the matter, the description for the deposit was "fees should not have been in trust."

23. During her sworn statement, respondent testified that the \$1,250.00 in funds in the K.S. matter were earned fees and should not have been deposited into the trust account.

24. The \$1,250.00 was transferred to her operating account on July 2, 2020.

25. The K.S. ledger card also contained an entry dated May 21, 2021, for a deposit of \$2,902.50 from respondent's operating account, and included the description "correction deposit."

26. Respondent acknowledged there was a shortage in the trust account until the \$2,902.50 was transferred from the operating account to the trust account.

27. In the T.D. matter, a \$50,000.00 settlement check was deposited into respondent's trust account on May 9, 2017.

28. Respondent transferred the funds to her operating account on May 10, 2017, in the amount of \$15,000.00, and on May 17, 2017, in the amount of \$35,000.00.

29. On May 18, 2017, respondent directed that a check for settlement proceeds in the amount of \$35,000.00 be issued to T.D. from the operating account.

30. Respondent testified during her sworn statement that she was travelling out of state at the time, and she transferred the funds to her operating account so her assistant could issue the check to T.D.

31. Respondent acknowledged she commingled trust funds with her operating funds.

32. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar:

(a) 4-1.3 A lawyer shall act with reasonable diligence and promptness in representing a client.

(b) 4-1.4(a) A lawyer shall: (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in terminology, is required by these rules; (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; and (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows or reasonably should know that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(c) 4-1.4(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

(d) 4-1.15 A lawyer shall comply with The Florida Bar Rules Regulating Trust Accounts.

(e) 5-1.1(a)(1) (2015) A lawyer must hold in trust, separate from the lawyer's own property, funds and property of clients or third persons that are in a lawyer's possession in connection with a representation. All funds, including advances for fees, costs, and expenses, must be kept in a separate bank or savings and loan association account maintained in the state where the lawyer's office is situated or elsewhere with the consent of the client or third person and clearly labeled and designated as a trust account except: (A) A lawyer may maintain funds belonging to the lawyer in the lawyer's trust account in an amount no more than is reasonably sufficient to pay bank charges relating to the trust account; and (B) A lawyer may deposit the lawyer's own funds into trust to replenish a shortage in the lawyer's trust account. Any deposits by the lawyer to cover trust account shortages must be no more than the amount of the trust account shortage, but may be less than the amount of the shortage. The lawyer must notify the bar's lawyer regulation department immediately of the shortage in the lawyer's trust account, the cause of the shortage, and the amount of the replenishment of the trust account by the lawyer.

(f) 5-1.1(a)(1) (2018) A lawyer must hold in trust, separate from the lawyer's own property, funds and property of clients or third

persons that are in a lawyer's possession in connection with a representation. All funds, including advances for fees, costs, and expenses, must be kept in a separate federally insured bank, credit union, or savings and loan association account maintained in the state where the lawyer's office is situated or elsewhere with the consent of the client or third person and clearly labeled and designated as a trust account except: (A) A lawyer may maintain funds belonging to the lawyer in the lawyer's trust account in an amount no more than is reasonably sufficient to pay bank charges relating to the trust account; and (B) A lawyer may deposit the lawyer's own funds into trust to replenish a shortage in the lawyer's trust account. Any deposits by the lawyer to cover trust account shortages must be no more than the amount of the trust account shortage, but may be less than the amount of the shortage. The lawyer must notify the bar's lawyer regulation department immediately of the shortage in the lawyer's trust account, the cause of the shortage, and the amount of the replenishment of the trust account by the lawyer.

(g) 5-1.1(b) (2011) Money or other property entrusted to an attorney for a specific purpose, including advances for fees, costs, and expenses, is held in trust and must be applied only to that purpose. Money and other property of clients coming into the hands of an attorney are not

subject to counterclaim or setoff for attorney's fees, and a refusal to account for and deliver over such property upon demand shall be deemed a conversion.

(h) 5-1.1(b) (2018) Money or other property entrusted to a lawyer for a specific purpose, including advances for fees, costs, and expenses, is held in trust and must be applied only to that purpose.

Money and other property of clients coming into the hands of a lawyer are not subject to counterclaim or setoff for attorney's fees, and a refusal to account for and deliver over the property on demand is conversion.

(i) 5-1.1(e) (2018) On receiving funds or other property in which a client or third person has an interest, a lawyer must promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer must promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, on request by the client or third person, must promptly render a full accounting regarding the property.

(j) 5-1.2(b) (2014) Records may be maintained in their original format or stored in digital media as long as the copies include all data contained in the original documents and may be produced when required. The following are the minimum trust accounting records that

must be maintained: (1) a separate bank or savings and loan association account or accounts in the name of the lawyer or law firm and clearly labeled and designated as a “trust account”; (2) original or clearly legible copies of deposit slips if the copies include all data on the originals and, in the case of currency or coin, an additional cash receipts book, clearly identifying the date and source of all trust funds received and the client or matter for which the funds were received; (3) original canceled checks or clearly legible copies of original canceled checks for all funds disbursed from the trust account, all of which must: (A) be numbered consecutively; (B) include all endorsements and all other data and tracking information; and (C) clearly identify the client or case by number or name in the memo area of the check; (4) other documentary support for all disbursements and transfers from the trust account including records of all electronic transfers from client trust accounts, including: (A) the name of the person authorizing the transfer; (B) the name of the recipient; (C) confirmation from the banking institution confirming the number of the trust account from which money is withdrawn; and (D) the date and time the transfer was completed. (5) original or clearly legible digital copies of all records regarding all wire transfers into or out of the trust account, which at a minimum must include the receiving and sending financial institutions' ABA

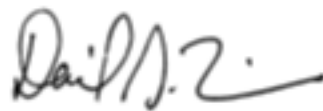
routing numbers and names, and the receiving and sending account holder's name, address and account number. If the receiving financial institution processes through a correspondent or intermediary bank, then the records must include the ABA routing number and name for the intermediary bank. The wire transfer information must also include the name of the client or matter for which the funds were transferred or received, and the purpose of the wire transfer, (e.g., "payment on invoice 1234" or "John Doe closing"). (6) a separate cash receipts and disbursements journal, including columns for receipts, disbursements, transfers, and the account balance, and containing at least: (A) the identification of the client or matter for which the funds were received, disbursed, or transferred; (B) the date on which all trust funds were received, disbursed, or transferred; (C) the check number for all disbursements; and (D) the reason for which all trust funds were received, disbursed, or transferred; (7) a separate file or ledger with an individual card or page for each client or matter, showing all individual receipts, disbursements, or transfers and any unexpended balance, and containing: (A) the identification of the client or matter for which trust funds were received, disbursed, or transferred; (B) the date on which all trust funds were received, disbursed, or transferred; (C) the check number for all

disbursements; and (D) the reason for which all trust funds were received, disbursed, or transferred; and (8) all bank or savings and loan association statements for all trust accounts.

(k) 5-1.2(d) (2015) The minimum trust accounting procedures that must be followed by all members of The Florida Bar (when a choice of laws analysis indicates that the laws of Florida apply) who receive or disburse trust money or property are as follows: (1) The lawyer is required to make monthly: (A) reconciliations of all trust bank or savings and loan association accounts, disclosing the balance per bank, deposits in transit, outstanding checks identified by date and check number, and any other items necessary to reconcile the balance per bank with the balance per the checkbook and the cash receipts and disbursements journal; and (B) a comparison between the total of the reconciled balances of all trust accounts and the total of the trust ledger cards or pages, together with specific descriptions of any differences between the 2 totals and reasons for these differences. (2) The lawyer is required to prepare an annual detailed list identifying the balance of the unexpended trust money held for each client or matter. (3) The above reconciliations, comparisons, and listings must be retained for at least six (6) years. (4) The lawyer or law firm must authorize, at the time the account is opened, and request any

bank or savings and loan association where the lawyer is a signatory on a trust account to notify Staff Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, in the event the account is overdrawn or any trust check is dishonored or returned due to insufficient funds or uncollected funds, absent bank error. (5) The lawyer must file with The Florida Bar between June 1 and August 15 of each year a trust accounting certificate showing compliance with these rules on a form approved by the board of governors. If the lawyer fails to file the trust accounting certificate, the lawyer will be deemed a delinquent member and ineligible to practice law.

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 e-filed with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida; with copies provided to Barry William Rigby, Counsel for Respondent, by United States Mail, Certified Mail No. 7020 0090 0000 6804 8491, return receipt requested, to his record bar address, 1881 Lee Road, Winter Park, Florida 32789, and via email at barryrigbylaw@gmail.com; and to Daniel James Quinn, Bar Counsel, via email at dquinn@floridabar.org, orlandooffice@floridabar.org; on this 14th day of March, 2022.



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 Daniel James Quinn, Bar Counsel, whose address, telephone number, and primary email address are The Florida Bar, 1000 Legion Place, Suite 1625, Orlando, Florida 32801, (407) 425-5424, and dquinn@floridabar.org, orlandooffice@floridabar.org. Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than trial counsel and Staff Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399, 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.