

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

BRUCE JACOBS,

Respondent.

Supreme Court Case
No. SC-

The Florida Bar File
No. 2019-70,188 (11H)
No. 2019-70,358 (11H)
No. 2020-70,056 (11H)

COMPLAINT

The Florida Bar, Complainant, files this Complaint against Bruce Jacobs, respondent, pursuant to the Rules Regulating The Florida Bar and alleges the following:

1. Respondent is, and at all times mentioned in the complaint was, a member of The Florida Bar, admitted on September 24, 1997, and is subject to the jurisdiction of the Supreme Court of Florida.

2. Prior to the filing of this Complaint, there has been a finding of probable cause by a grievance committee as required by Rule 3-7.4(1) Rules Regulating The Florida Bar. The presiding member of that committee has approved the instant Complaint.

COUNT I: AS TO THE FLORIDA BAR FILE NO. 2019-70,188(11H)

3. Respondent's conduct came to the attention of The Florida Bar as a result of a referral by the Third District Court of Appeal for the State of Florida.

4. Respondent represented the defendant in a civil lawsuit in the case styled HSBC Bank et. al, v. Aquasol Condominium Association, Inc., Case No.:13-29724-CA-01.

5. After a final judgment of foreclosure was entered in favor of the bank, respondent filed an appeal to the Third District Court of Appeal.

6. One of the issues raised by respondent on appeal was that the bank lacked standing to foreclose against his client because the bank was not the *holder and owner* of the note. Yet, that issue had been addressed and ruled on in the seminal case *HSBC Bank, USA, NA v. Buset*, 241 So.3d 882 (Fla. 3d DCA 2018), which held that in order to establish standing in a foreclosure action you must prove that you were either the *holder or owner* of the note.

7. Respondent did not cite to, acknowledge, or address, the controlling adverse decision in *Buset* in his briefs, even though respondent was counsel of record in both the trial court and on appeal and was, therefore, fully aware of *Buset's* holding and its binding nature on the court.

8. Notwithstanding same, the Third District Court of Appeal affirmed the trial court's decision, finding no merit in the arguments raised by the appellant.

9. Respondent then filed a motion for rehearing and rehearing en banc.

In his motion, respondent made disparaging and reckless comments regarding the judiciary. Excerpts of his comments are highlighted below:

- “Most disturbing, the opinion sends the wolves after Aquasol’s counsel personally by commending the trial court’s ‘patience’ for not holding him in contempt of court. Truthfully, no court should dare make the front page of the paper for jailing an attorney for asking about a false document in evidence. ***This Court’s opinion intentionally emboldens judges to abuse their contempt powers.***”
- “This Court’s insistence on ***ignoring established Florida Supreme Court law to benefit bad corporate citizens*** is certain to cause chaos.”
- “Fla. Stat. § 673.3011 controls enforcement of negotiable instruments, not mortgages. Ownership controls the right to enforce the mortgage. ***This Court is acting illegally by instructing the law is otherwise.***”
- “I refuse to accept the idea that you cannot win when you are right. This is a biblical, spiritual journey for me. I have faith I will be protected ***because I am acting so clearly within the law and this Honorable Court is not.***”
- “It’s become clear to me that the ‘powers that be’ support this fraudulent foreclosure system that took so long to put in place. If only the Courts enforced the 2001 amendments to Article 9 and forced Banks to bring their contracts to prove their purchase of the debt to prove standing. . . . ***This foreclosure crisis was such an interesting phenomenon. Courts kept covering up for Banks that were intentionally doing it wrong.***”
- “Banks have all the resources to do it right but made business decisions to do it fraudulently. ***It’s as if they knew the Courts would always let them get away with it. Some out of fear as elected officials. Some out of indifference. Some out of belief that banks and bad corporate citizens got them to their position and***

they are on that team. The banks should always win. I call those judges traitors to the constitution.”

- “These banks have so much and keep taking more. They don’t care if you are rich or poor, white or black. . . . ***It is easy to win when the game is rigged.***”
- “In the decade that I’ve fought on the trenches of foreclosure court, I’ve been blessed to help so many clients save their homes. Yet, I’ve had to warn them this broken system is riddled with fraud and perjury. ***The judges decide the rule of law, and whether any rule of law exists. Maybe the rule of law only applies to the rest of us.***”
- “***This Court is sworn to protect and defend the constitution of the United States of America, not the foreclosure fraud of Bank of America or HSBC.***”
- “***Why would anyone sworn to protect and defend the constitution stay silent while domestic enemies destroy our democracy from within? Is this really the world Americans should live in where those in power do not do what is right?***”
- “I’m fighting the modern-day monopoly. I am calling all the patriots who swore the oath to protect and defend the Constitution to join me. ***Any court that protects the monopoly over the rule of law is a traitor to the constitution and should be tried for treason.***”
- “This Court should not ignore Florida Supreme Court precedent and the actual facts of the dispute ***to reach a pre-determined result of blow the dogwhistle for judges to attack Aquasol’s counsel with contempt and jail for doing his job.***”

10. Upon review of respondent’s motion, which included a review of his initial and reply briefs, on or about September 26, 2018, the court issued an Order to Show Cause within ten days as to why the court should not impose sanctions

against respondent for filing a motion and briefs which violated both the Florida Rules of Appellate Procedure and The Rules Regulating The Florida Bar. (*A copy of the Third District Court of Appeal's order is attached as Exhibit "A"*).

11. On or about December 5, 2018, the court entered its order imposing sanctions. (*A copy of the Third District Court of Appeal's order is attached as Exhibit "B"*).

Specifically, the court found that respondent impugned the qualifications or integrity of the court without any objectively or reasonable basis for doing so. The court further found that respondent filed a motion that was frivolous or in bad faith and was subject to sanctions pursuant to Florida Rule of Appellate Procedure 9.410(a) which provides:

“After 10 days’ notice, on its own motion, the court may impose sanctions for any violation of these rules, or for the filing of any proceeding, motion, brief, or other document that is frivolous or in bad faith. Such sanctions may include reprimand, contempt, striking of briefs or pleadings, dismissal of proceedings, costs, attorneys’ fees, or other sanctions.”

12. Additionally, the court found that not only did respondent’s conduct violate the Rules Regulating the Florida Bar, but it also violated the elementary norms of civility and professionalism.

13. As such, the court imposed reasonable attorney’s fees against Respondent not to exceed \$5,000.00 and referred this matter to The Florida Bar.

14. Based on the foregoing, Respondent is in violation of Rule 4-8.2(a) Impugning Qualifications and Integrity of Judges or Other Officers. (A lawyer

shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, mediator, arbitrator, adjudicatory officer, public legal officer, juror or member of the venire, or candidate for election or appointment to judicial or legal office) of the Rules Regulating The Florida Bar.

COUNT II: AS TO THE FLORIDA BAR FILE NO. 2019-70,358(11H)

15. Respondent's conduct came to the attention of The Florida Bar as a result of a referral by the Third District Court of Appeal for the State of Florida.

16. Respondent represented the defendant in a civil lawsuit in the case styled *Bank of America, N.A., v. Ryan Atkin*, Case No. 3D18-1840, Lower Tribunal No. 09-87096.

17. The plaintiffs filed a petition for writ of prohibition with regard to a denial of a motion to disqualify the trial judge.

18. On or about September 17, 2018, respondent filed a Response to the Writ and a Motion to Disqualify the Third District Court of Appeal from ruling in the *Atkin* matter.

19. In his response, respondent made disparaging and reckless comments regarding the judiciary. Excerpts of his comments are highlighted below:

- “In Simpson [sic], this Court violated the standard of review, ignored Florida Supreme Court precedent, and falsified the facts in contradiction to the record.”

- “The impartiality of this Court is objectively questioned and it cannot issue a ruling with integrity in this case.”
- A named circuit court judge acted with “blatant disregard for the rule of law and the client’s constitutional rights” in an unrelated case and was upheld by this Court.
- The same circuit court judge has “recently escalated her illegal conduct.”
- A different, unnamed circuit court judge changed a favorable ruling because opposing counsel “threw a fundraiser for the new judge who rotated into the division.”

20. Similarly, respondent made the following disparaging and reckless comments regarding the judges of the Third District Court of Appeal, as well as the justices of the Florida Supreme Court, in his jurisdictional brief to the United States Supreme Court which he attached as Appendix 1 to his Response to the Writ:

- “The opinion [of this Court] misrepresented facts, ignored Florida Supreme Court law, and disregarded evidence showing fraud. The Florida Supreme Court declined jurisdiction to address this factually and intellectually dishonest result.”
- “The Third District Misrepresented the Amended Rule 1.540(b) Motion to reach a pre-determined result – foreclosure.”
- “... the Dishonesty of the Third DCA’s opinion.”
- “The Florida Supreme Court has repeatedly declined to protect the constitutional rights of foreclosure defendants.”
- “[I]n virtually every appeal where the trial judge ruled in favor of undersigned counsel’s client, including Simpson, the Third DCA reversed with intellectually and factually dishonest opinions.”

- This Court “attempt[ed] to cover up, protect, and ignore well-documented fraud on the court in foreclosures. All to ensure a pre-determined result – foreclosure.”
- “The Third DCA’s Opinion is pretextual and arbitrary.”
- “This Court is called on to act because the Florida Supreme Court has taken no action to prevent the Third DCA from improperly ignoring fraudulent conduct in foreclosures.”
- “It is objectively reasonable to fear the Third DCA acted to reach a predetermined outcome that favors banks over homeowners – foreclosure. If the Florida Supreme Court will not act, this Court must.”
- “Democracy will not fail if financial institutions are held to the rule of law. To the contrary, democracy falls if the public is allowed to believe Courts are biased in favor of bad corporate citizens and a fraudulent foreclosure process.”

21. Upon review of respondent’s pleadings, on or about December 14, 2018, the court issued an Order to Show Cause requiring respondent, within ten days, to address why the court should not impose sanctions against him for violations of both the Florida Rules of Appellate Procedure and Rules Regulating The Florida Bar. *(A copy of the Third District Court of Appeal’s order is attached as Exhibit “C”).*

22. Specifically, the court found a reasonable basis to conclude that respondent violated Rule 4-8.2(a) on September 17, 2018 when he filed his response to the petition for writ of prohibition.

23. The court also concluded that same was violated when respondent filed as Appendix 1 to his Response a copy of a jurisdictional brief that was filed in an unrelated case to the United States Supreme Court.

24. On or about April 10, 2019, the court entered its order of referral to The Florida Bar. *(A copy of the Third District Court of Appeal's order is attached as Exhibit "D")*.

25. Based on the foregoing, Respondent is in violation of Rule 4-8.2(a) Impugning Qualifications and Integrity of Judges or Other Officers. (A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, mediator, arbitrator, adjudicatory officer, public legal officer, juror or member of the venire, or candidate for election or appointment to judicial or legal office) of the Rules Regulating The Florida Bar.

COUNT III: AS TO THE FLORIDA BAR FILE NO. 2020-70,056(11H)

26. Respondent's conduct came to the attention of The Florida Bar as a result of a referral by the Honorable Michael A. Hanzman of the Eleventh Judicial Circuit Court in Miami-Dade County.

27. Notably, Judge Hanzman's referral raised similar concerns with regard to respondent's conduct as those raised and sanctioned by the Third District Court of Appeals of Florida.

28. Here, respondent represented the defendant in a civil lawsuit in the case styled *Bank of New York Mellon v. Ryan Atkin*, Case No. 2009-87096 CA.

29. On or about July 26, 2019, respondent filed a Verified Motion for Judicial Disqualification. In his motion, respondent continued to make disparaging and reckless comments regarding a member of the judiciary. (*A copy of respondent's Verified Motion for Judicial Disqualification excluding attachments is attached as Exhibit "E"*). Excerpts of his comments are highlighted below:

- Judge Hanzman refused to respect the notice of unavailability and his office advised the hearing was still scheduled to move forward at this juncture. This is the latest of a series of improper actions by Judge Hanzman that gives rise to Mr. Atkin's objectively reasonable fears that he will not be given a fair hearing in this court.
- Judge Hanzman Has Repeatedly Ignored Obvious Fraud on the Court by Large Financial Institutions in Foreclosures While Abusing His Power to Chill Defense Counsel's Zealous Advocacy Against Those Financial Institutions.
- Judge Hanzman has made repeated statements on the record and off the record that reflect his indifference to large financial institutions presenting false evidence to the court to obtain the equitable relief of foreclosure. His personal finances appear to be heavily invested in the financial services sector which gives Mr. Atkin a reasonable fear Judge Hanzman will not be fair and impartial because it will negatively impact his significant personal financial holdings.
- Here, this Honorable Court has allowed the most rich and powerful segment of our society, the financial sector in which he is personally heavily invested in, to engage in felony misconduct and walk away without any punishment in violation of the Judicial Canons and the rule of law. The Court was "unimpressed" with

these allegations of felony misconduct based on a prior foreclosure trial that involved entirely different misconduct which the Court similarly excused.

30. On July 29, 2019, respondent's motion for disqualification was denied as untimely and legally insufficient.

31. In addition to the incident described above, on or about May 3, 2019 and July 14, 2019, respectively, respondent filed a Motion for Determination of Entitlement to Prevailing Party Attorneys' Fees and Re-hearing, and a Motion for an Award of Attorney's Fees and Costs for Order Determining Entitlement of Multiplier.

32. In denying the motions, the court found that the defendant was not entitled to attorney's fees and costs because same was neither plead nor requested in his pleadings. The court further explained that the rule with regard to a claim for attorney's fees is well established pursuant to controlling authority which respondent did not cite to, acknowledge or address in his motion. (*A copy of Judge Michael A. Hanzman's order is attached as Exhibit "F"*).

33. Judge Hanzman's July 31, 2020, order further stated:

"Apparently Defendant's counsel- Bruce Jacobs- has not gotten the message or been deterred by our appellate court's issuance of an Order to Show Cause based upon its finding of 'a reasonable basis to conclude Mr. Jacobs violated his duty of candor to the tribunal ... by failing to disclose to this court controlling adverse case law, " Aquasol Condo Ass 'n, Inc v. HSBC Bank USA, 43 Fla. L. Weekly D2271 (Fla. 3d Sept. 26 2018), or its later Order Imposing Sanctions" and referral to the Florida Bar for appropriate disciplinary proceedings based - in part- on Mr. Jacobs' 'extraordinary and corrosive ' attacks 'on the integrity of the trial court and this court. 'Aquasol

Condo Ass'n, Inc v. HSBC Bank USA, Nat'l Ass'n, 43 Fla. L. Weekly D2699 (Fla. 3d DCA Dec. 5, 2018). Despite the appellate court's findings and Bar referral, Mr. Jacobs' recently filed a scurrilous motion to disqualify this Court and once again violated Rule 4-8.2(a) of the Rules and Regulation of the Florida Bar by impugning the integrity of this Court, and he has once again failed to cite controlling authorities. In sum, Mr. Jacobs is unrepentant, undeterred, and continues to engage in the exact same behavior he was sanctioned for and which is now presumably being investigated by the Bar. Accordingly, this Order will be sent to the Florida Bar so it may be considered as part of any disciplinary proceeding. "

34. Based on the foregoing, Respondent is in violation of Rules 4-3.3(a)(3) False Evidence; Duty to Disclose. (A lawyer shall not knowingly: fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel) and Rule 4-8.2(a) Impugning Qualifications and Integrity of Judges or Other Officers. (A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, mediator, arbitrator, adjudicatory officer, public legal officer, juror or member of the venire, or candidate for election or appointment to judicial or legal office) of the Rules Regulating The Florida Bar.

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

A handwritten signature in black ink, appearing to read 'Tonya', followed by a long horizontal flourish.

Tonya L. Avery, Bar Counsel

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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 copies provided via email to Benedict P. Kuehne, at ben.kuehne@kuehnelaw.com and Roy D. Wasson, at roy@wassonandassociates.com Attorneys for Respondent, and that copies have been furnished by United States Mail via certified mail No. 7017 3380 0000 1082 7201, return receipt requested to Benedict P. Kuehne 100 SE 2nd St. Ste. 3105, Miami, FL 33131-2100 and to Roy D. Wasson via certified mail No. 7017 3380 0000 1082 7218 at 28 W. Flagler St. Ste. 600, Miami, FL 33130-1893 and to Tonya L. Avery, Bar Counsel, The Florida Bar, via email at tavery@floridabar.org, on this 3rd day of November, 2020.



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 Tonya L. Avery, Bar Counsel, whose address, telephone number and primary email address are The Florida Bar, Miami Branch Office, 444 Brickell Avenue Rivergate Plaza, Suite M-100Miami, Florida 33131-2404, (305) 377-4445 and tavery@floridabar.org; and 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.

MANDATORY ANSWER NOTICE

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