

Stephens' Squibs

Family Law Case Law Updates

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Monthly Florida Family Law CLE Episode 9 - Released April 15, 2021

COURSE No. 2103326N

CLE Credits

Marital & Family Board Cert 2.0

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Ethics 0.5

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Presented by:

Eddie Stephens, Caryn A. Stevens & Gina Szapucki

Special Guests:

Ralph R.T. White and
Dan Caine, President Family Law Software

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Episode 9 - Agenda:

00:00:00 - 00:37:35 Family Law Case Law Update for all Florida reported cases in February 2021. Topics include; Alimony, Attorney's Fees, Enforcement, Equitable Distribution, Income, Injunctions, Modification, Procedure, and Support. Presented by EDDIE STEPHENS, CARYN A. STEVENS, & GINA SZAPUCKI.

00:37:35 - 01:08:55 3 Months of Disciplinary Proceedings with RALPH "R.T." WHITE and EDDIE STEPHENS

01:08:55 – 01:40:31 DAN CAINE, President of Family Law Software, discusses the American Rescue Plan and included tax provisions that impact on 2021 child support calculations.

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HOST BIOS

Eddie Stephens, author of *Stephens' Squibs – Florida Family Law Updates*, is a partner at Ward Damon and leads the Family and Marital Law department. He is a Board Certified Family Law attorney who specializes in high-conflict divorces. Most important to Stephens is litigating in a manner that minimizes the impact of divorce on children.

Caryn A. Stevens is a partner at Ward Damon, and focuses her practice exclusively in the areas of marital & family law. Prior to joining Ward Damon, she practiced marital & family law at a boutique-style family law firm and spent 12 years working in the mental health & counseling fields. Caryn has assisted thousands of children, families and couples through difficult circumstances and life changes, providing a wealth of experience that allows her to bring a unique and compassionate perspective to her clients. Caryn is a native South Floridian, and currently lives in Palm Beach County with her husband. She comes from an extensive family of attorneys, including her father, brother, several uncles and cousins. Caryn is a proud alumni of Florida State, and in her spare time she loves watching FSU football, traveling the world, and going to the theater.

Gina Szapucki is an associate at Ward Damon and concentrates her practice exclusively in the areas of marital & family law. Gina quickly realized she had a passion for helping families while clerking for a family law firm. Prior to joining Ward Damon, she practiced marital & family law at a boutique law firm. Her drive to assist and guide families during challenging times continues to grow. In her spare time enjoys traveling, cycling, exploring new restaurants and cuisines. Gina Szapucki is an associate at Ward Damon and concentrates her practice exclusively in the areas of marital & family law. Gina quickly realized she had a passion for helping families while clerking for a family law firm. Gina represents clients from all walks of life while zealously advocating for individual's rights under Florida law. Gina is originally from New Jersey but has called Florida home for the last 15 years. She is a proud Chi Omega Alumni and in her spare time enjoys traveling, cycling, exploring new restaurants and cuisines.

GUEST BIOS

Ralph “RT” White is Board Certified in marital and family law by The Florida Bar and practices exclusively in the area of marital and family law. He handles complex divorce cases, intricate prenuptial agreements, post-dissolution issues and other family law related matters, including appellate practice. He has successfully represented a broad range of clients by employing creative strategies for the cases he handles. Mr. White is experienced in litigating a wide variety of matrimonial cases. Mr. White's diverse background in business and litigation affords him a unique perspective and capability when representing people in divorce.

Dan Caine founded Family Law Software in 1996 with Wendell Smith. Wendell and Dan had previously developed income tax software that was purchased in 1993 by H&R Block. To this day, that software forms the foundation of the H&R Block consumer desktop software tax program. Millions of people have prepared their Federal and State income taxes using code developed by Wendell and Dan. After leaving H&R Block in 1996, Wendell and Dan wanted to create another product that would use their tax and finance expertise, make a positive difference in the world, and not compete with corporate giants. They hit on the idea of

making software to handle the financial aspects of divorce. They created a program for individuals, but the time was not right for that program. So they created a version for divorce professionals -- financial planners, mediators and divorce attorneys. Today, still led by Wendell and Dan, Family Law Software is by far the leading program specifically for divorce professionals nationwide.

Florida February 2021

Family Law Appellate Opinions:

Agreements:

1. *Bates v. Bates*, 46 Fla.L.Weekly D287 (Fla. 3rd DCA 2021). Prenuptial agreement was not invalid due to duress, but ivalid due to coercion. Lengthy discussion. *Judge Sharon J. Hamilton, affirmed.*

Alimony:

2. *Ritacco v. Ritacco*, 46 Fla.L.Weekly D241 (Fla. 4th DCA 2021). Trial court affirmed for not imputing income from a DROP investment wife was going to use to buy a house. The Court erred considering certain benefits as in-kind income to husband. The payments in question were not liquid nor in-kind. Error to secure alimony with collateral that exceeds amount of support obligation. *Judge Janis Brustares Keyser, affirmed in part, reversed in part.*

Appeals:

3. *Tyson v. Tyson*, 46 Fla.L.Weekly D395 (Fla. 1st DCA 2021). Appeal on entitlement of fees when amount has not been determined is non-final and not subject to appeal. *Appeal dismissed.*

Attorney's Fees:

4. *Shaw v. Shaw*, 46 Fla.L.Weekly D397 (Fla. 1st DCA 2021). Trial court erred denying fees without adequate explanation and no findings of fact. *Judge John F. Simon, reversed.*

5. *C.F. v. S.B.*, 46 Fla.L.Weekly D367 (Fla. 2nd DCA 2021). Trial court erred denying fees based on lack of evidence of amount and reasonableness of fees, when Judge said only entitlement will be determined. *Judge Alicia Polk, affirmed in part, reversed in part.*

Child Support:

6. *Mantilla v. DOR*, 46 Fla.L.Weekly D231 (Fla. 3rd DCA 2021). Child support based on imputation of income that is unsupported by competent evidence is reversed. *Note: Administrative action, there is no Judge.*

Enforcement:

7. *Williams v. Samuels*, 46 Fla.L.Weekly D403 (Fla. 2nd DCA 2021). Trial court erred finding party in contempt without finding party had a present ability to comply with order. *Judge Dana Y. Moore, reversed.*

8. *Harrington v. Pospishil*, 46 Fla.L.Weekly D375 (Fla. 4th DCA 2021). Trial court did not impermissibly modify agreement when it removed the word "reasonable" from other party's obligation to provide reasonable notice when

requesting child's passport after the other party was held in contempt for refusing to provide child's passport. *Judge Renatha S. Francis, affirmed.*

Equitable Distribution:

9. *Corrales v. Corrales*, 46 Fla.L.Weekly D388 (Fla 3rd DCA 2021). Supersedes 46 Fla.L.Weekly D11. Granted the motion for rehearing; withdrew original opinion. The trial court correctly found husband's premarital residence had no non-marital value, when equity was taken out of the home several times during the marriage and repaid with marital funds; such debt incurred dwarfed the premarital value of the home. *Judge Ivonne Cuesta, affirmed.*

10. *Schuenzel v. Schuenzel*, 46 Fla.L.Weekly D383 (Fla. 3rd DCA 2021). Trial court erred calculating prejudgment interest on a total amount paid. Prejudgment interest should be calculated for each payment made separately. *Judge David H. Young, affirmed in part, reversed in part.*

11. *Peterson v. Peterson*, 46 Fla.L.Weekly D311 (Fla. 2nd DCA 2021). Trial court erred by not reflecting amount husband had intentionally dissipated from his 401K in the final distribution schedule. *Judge Chet A. Thorpe, affirmed in part, reversed in part.*

Injunctions:

12. *Chiscul v. Hernandez*, 46 Fla.L.Weekly D343 (Fla. 4th DCA 2021). Domestic violence injunction was based on incidents that occurred prior to parties' separation. In determining whether a petitioner has reasonable cause to believe that he or she is in imminent danger of becoming a victim of any act of domestic violence, the trial court "must consider the current allegations, the parties' behavior within the relationship, and the history of the relationship as a whole." *Judge Susan L. Alspector, reversed.*

Parenting:

13. *Posso v. Sierra*, 46 Fla.L.Weekly D353 (Fla. 5th DCA 2021). While the determination to allow ultimate parental decision making should be based upon a finding that to do otherwise would be detrimental to the best interests of the child, such a finding can be made in the final judgment or during trial. Without a transcript, unable to prove error. *Judge Alan S. Apte, affirmed in part, reversed in part.*

Procedure:

14. *Corridon v. Corridon*, 46 Fla.L.Weekly D386 (Fla 3rd DCA 2021). Trial court affirmed for not quashing service because an out of state return of service did not list the date and time of service. This requirement has been removed from Florida Statute. The Court erred determining child custody issues when a default is issued without affording the defaulted party an opportunity to present evidence on issues related to the child. *Judge Bonnie J. Helms, affirmed in part, reversed in part.*

15. *DOR o/b/o THW v. DEB*, 46 Fla.L.Weekly D362 (Fla. 2nd DCA 2021). Trial court erred ordering a third party to submit to DNA testing. Court had no jurisdiction over a third party. *Judge Jack Helinger's orders quashed by certiorari.*

16. *Armand v. Amisy*, 46 Fla.L.Weekly D324 (Fla. 3rd DCA 2021). Trial court erred granting final judgment of divorce without addressing husband's motion to dismiss for lack of jurisdiction. *Judge George A. Sarduy, reversed.*

17. *Bailey v. Bailey*, 46 Fla.L.Weekly D245 (Fla. 4th DCA 2021). Court properly denied 3rd party's petition for an intervention in a business she no longer owned, but the court erred in not allowing this 3rd party to intervene when they had an interest in real property which was subject to litigation. *Judge Karen M. Miller, affirmed in part, reversed in part.*

Support:

18. *DOR and Clemons v. McMullen*, 46 Fla.L.Weekly D371 (Fla. 1st DCA 2021). Trial court erred deducting child support not actually paid for other children from obligor's income. *Administrative Judge J. Bruce Culpepper, reversed.*

19. *Posso v. Sierra*, 46 Fla.L.Weekly D353 (Fla. 5th DCA 2021). Court erred in failing to address retroactive child support. *Judge Alan S. Apte, affirmed in part, reversed in part.*

The Florida Bar
Summary of Disciplinary Orders
December 2020 / January & February 2021
(Ranked in order of severity of discipline)

1. **Andrew Spark**, 13201 Roosevelt Ave., PMB 818085, **Flushing, N.Y., disbarred** retroactive to July 15, 2019, when he was suspended because of a felony determination of guilt, following a January 21 court order. (Admitted to practice: 1991) Spark abused his privilege to practice law and used his law license to engage in deception with the intent to access private rooms provided to attorneys in two separate jail facilities for the purpose of soliciting prostitution. Spark video recorded these encounters with the goal of creating an adult pornographic film for his own prurient and/or financial interest. He pleaded guilty to three separate charges and was ordered in each case to complete probation. (Case No: SC19-1163)
2. **Lisbeth A. Freeman**, P.O. Box 6867, **Ft. Myers Beach, disbarred**, effective immediately because of her current suspension. (Admitted to practice: 2014) Freeman was hired to assist in the probate matter of a client's deceased wife's estate. Freeman filed a Petition for Administration along with the death certificate and a will but failed to take any further action on the court file and failed to communicate with the client. Freeman abandoned representing the client and relocated to Pennsylvania without withdrawing from the case or notifying the client. She failed to respond to The Florida Bar and failed to participate in the disciplinary proceeding. (Case No: SC20-892)
3. **Edward Juan Lynum**, 6813 County Road 219, **Wildwood, disbarred** effective immediately following a January 21 court order. (Admitted to practice: 2005) During personal litigation proceedings, Lynum repeatedly made statements that disparaged the judiciary, opposing counsels, and other litigants and parties. Lynum also failed to comply with court orders, and he filed frivolous federal lawsuits. In the disciplinary proceeding, Lynum failed to appear for his scheduled sworn statement and scheduled court appearances, failed to respond to the Bar's complaint and discovery requests, and failed to appear for the sanction hearing. (Case No: SC20-746)
4. **Beth Ann Maliszewski**, P.O. Box 2425, **Ft. Myers, disbarred**, effective immediately because of the current suspension. (Admitted to practice: 2001) Maliszewski is a party in a paternity action involving visitation and paternity rights over her child. After becoming aware of a potential paternity action, Maliszewski filed an injunction against the child's prospective father and had him arrested, resulting in him receiving a no contact order with the child. On the day the paternity action was filed, Maliszewski, via counsel, voluntarily dismissed the Petition for Injunction. Maliszewski avoided service

in the paternity action, refusing to appear in court. She stopped working, turned off her phone and disappeared with the child. In a second matter, Maliszewski was appointed and paid \$1,000 for a guardian ad litem family law matter and failed to fulfill her duties. She did not respond to The Florida Bar or participate in the disciplinary proceeding. (Case No: SC20-813)

5. **Oded Chayoun**, 633 N.E. 167 St., Suite 1112, **North Miami Beach, disbarred** with leave to apply for readmission after five years, effective 30 days following an October 27 court order. (Admitted to practice: 2011) Chayoun failed to perform any significant services for a client despite charging an initial fee and also failed to properly communicate with the client. When answering to the Bar, Chayoun submitted several letters with inconsistencies regarding nonpayment for services, demonstrating the falsehood of his representations. (Case No: SC19-484)
6. **Leonardo Adrian Roth**, 201 S. Biscayne Blvd., Suite 905, **Miami, disbarred**, effective immediately from a December 23 court order. (Admitted to practice: 1988) Roth was previously disbarred in 2013 but in three separate grievances with the Bar, he is alleged to have held himself out as an attorney in good standing, licensed to practice law in the State of Florida. The complainants in these cases assert that they received legal advice and other services from Roth and that he did not disclose his disbarment. (SC20-1260)
7. **Michael Lee Weimorts**, P.O. Box 4926, **Santa Rosa Beach, disbarred** and must pay \$3,500 in restitution to the Summerhaven North Townhome Association effective 30 days following a December 10 court order. (Admitted to practice: 1993) Weimorts failed to diligently represent the homeowners association, failed to communicate with the client for more than two years, failed to respond to Florida Bar inquiries, and failed to participate in the disciplinary proceedings. (Case No: SC20-555)
8. **Mark Payne**, 9040 Town Center Pkwy., **Lakewood Ranch, disbarred** effective 30 days following a December 10 court order. (Admitted to practice: 1985) Payne and his wife own Real Estate Services Group, Inc., a Florida corporation that buys and sells real estate. Payne purchased a home after final judgment in a foreclosure action. After the purchase, Payne contacted the homeowners, offering to represent them in the foreclosure action brought by their mortgage lender. Payne did not enter into a written agreement with the homeowner clients, nor explain or seek their consent for his simultaneous ownership interest in and legal representation of Real Estate Services Group. In addition to the conflict of interest, Payne failed to make the necessary and proper disclosures to the lender and made misrepresentations to all parties. (Case No: SC18-680)
9. **Nicole Blair Dickerson**, P.O. Box 26095, Los Angeles, Calif., and 33 E. Robinson St., Suite 113, **Orlando, disbarred** effective immediately following a November 16 court order. (Admitted to practice: 2015) Dickerson failed to provide a copy of the Supreme Court's March 5 order of suspension to all active clients, opposing counsel and courts where she was counsel of record,

as required, and failed to file with The Florida Bar her required affidavit certifying those notifications. Dickerson communicated with one client after being suspended, and ultimately abandoned her clients without protecting their interests and without refunding any unearned legal fees. Her law office website and LinkedIn profile continued to show she was practicing law. (Case No: SC20-1452)

10. **Jean Bernard Chery**, 1221 W. Colonial Drive, Suite 201, **Orlando, disciplinary revocation** with leave to seek readmission after five years effective 30 days following a November 25 court order. (Admitted to practice: 2009) Chery improperly made disbursements to himself from his trust account. He also received settlement funds in several personal injury matters and disbursed attorney's fees to himself before clients signed settlement statements and in amounts greater than he was entitled to. Chery deposited funds into the trust account to replenish the shortages but failed to notify the Bar's Lawyer Regulation Department of the shortages, their cause, or the amount of the replenishments. (Case No: SC20-1323)
11. **Ernest Maloney Page IV**, 115 W. Drew St., **Perry, disciplinary revocation** effective 30 days following a December 10 court order. (Admitted to practice: 2004) Page was charged by Information in the U.S. District Court, Middle District of Florida, Jacksonville Division. On Sept. 3, Page pleaded guilty to conspiracy to commit bribery concerning a program receiving federal funds. Page filed for disciplinary revocation, which was granted by the Florida Supreme Court on December 10. (Case No: SC20-1338)
12. **Gregory Robert Garner**, P.O. Box 940005, **Maitland, disciplinary revocation** with leave to seek readmission after five years effective 30 days following a November 12 court order. (Admitted to practice: 2010) Garner failed to diligently and promptly handle probate matters, failed to maintain adequate client communication and failed to timely respond to the Bar's investigative inquiries. He also allowed a shortage, which he has since replaced, to develop in his law office trust account. (Case No: SC20-146)
13. **James Russell Leone**, 1594 Ross Drive, **Deltona, disciplinary revocation** with leave to seek readmission after five years effective 30 days following a December 17 court order. (Admitted to practice: 1985) Leone was the subject of a Florida Bar investigation wherein he was alleged to have misled or misrepresented facts or law to a nonlawyer relating to residential property over which Leone was asserting a legal interest for his client. Leone filed an action for ejectment, but the trial court found Leone failed to establish any legal basis for his client's claim. Leone had previously represented his client in at least seven similar matters. (Case No: SC20-1553)
14. **Stephen Michael Jones**, 390 N. Orange Ave., Suite 2300, **Orlando, emergency suspended** effective 30 days following a November 9 court order for existing matters. (Admitted to practice: 2015) On Feb. 20, a client filed a complaint alleging that in 2018 and 2019, Jones received 11 checks

totaling \$11,001.95 on his behalf, cashed those checks and failed to remit the funds which represented garnished wages awarded in a final judgment – to the client. In another complaint, a client alleged that Jones received an insurance settlement on his behalf but had not paid his medical bills. Jones has abandoned his law practice, and The Bar has determined that he misappropriated client funds. Jones has failed to respond to any of The Bar’s inquiries. (Case No: SC20-1593)

15. **Stephen Michael Jones**, 390 N. Orange Avenue, Suite 2300, **Orlando, suspended** effective immediately following a January 8 court order. (Admitted to practice: 2015) Jones was found in contempt for failing to respond to an official Bar inquiry. He also failed to respond to the Court’s order to show cause in this matter. Jones is currently on emergency suspension, effective December 9, 2020, in Case No. SC20-1593. A petition for emergency suspension is granted by the Florida Supreme Court when The Florida Bar presents clear and convincing evidence that a lawyer appears to be causing great public harm (see Rule 3-5.2(a)) and also constitutes a formal complaint so that the matter is fully investigated and a final disciplinary action is ordered. (Case No: SC20-1406)
16. **Allison Kelliher**, 293 Knotty Wood Lane, **Wellington, suspended**, effective 30 days following a January 6 court order. (Admitted to practice: 2008) Kelliher failed to respond to Bar inquiries and the Florida Supreme Court’s order to show cause. She is suspended until she fully responds in writing to the Bar inquiry, and until further order of the court. (Case No: SC20-1622)
17. **George Edward Ollinger III**, 100 Rialto Place, Suite 700, **Melbourne, suspended** by petition for emergency suspension effective 30 days following a January 19 court order. (Admitted to practice: 1977) Ollinger engaged in patterns of misconduct, including, but not limited to, misappropriating client’s funds, commingling attorney and client funds, and engaging in conflicts of interest. A petition for emergency suspension is granted by the Florida Supreme Court when The Florida Bar presents clear and convincing evidence that a lawyer appears to be causing great public harm (see Rule 3-5.2(a)) and also constitutes a formal complaint so that the matter is fully investigated and a final disciplinary action is ordered. (Case No: SC21-28)
18. **Justin Infurna**, 8324 Prestbury Drive, **Orlando, suspended** by petition for **emergency suspension** effective 30 days following a December 28 court order. No new clients may be accepted as of December 28. (Admitted to practice: 2010) Infurna is causing great public harm by abandoning his clients’ cases, failing to appear for legal proceedings, making misrepresentations to clients as well as to at least one judge, and by engaging in a pattern of verbally attacking clients, former employees, and fellow attorneys. (Case No: SC20-1834) A petition for emergency suspension is granted by the Florida Supreme Court when The Florida Bar presents clear and convincing evidence that a lawyer appears to be causing great public harm (see Rule 3-5.2(a)) and also constitutes a formal complaint so that the matter is fully investigated and a final disciplinary action is ordered.

19. **Stefan E. McHardy**, 15800 Pines Blvd., Suite 300, **Pembroke Pines**, **suspended** effective 30 days following a November 2 court order. (Admitted to practice: 1982) The Florida Bar filed its Petition for Contempt and Order to Show Cause on May 8 because McHardy failed to respond to a Florida Bar inquiry. On that same day, the Florida Supreme Court ordered McHardy to show cause by May 26, which he also failed to do. (Case No: SC20-661)
20. **Mayowa F. Odusanya**, 1315 Oakfield Drive, **Brandon**, **suspended for three years** effective immediately following a November 24 court order. (Admitted to practice: 2010) Odusanya was hired to handle post-conviction matters for a client convicted of criminal charges in the Sixth and 13th judicial circuits. Odusanya filed a Notice of Appearance in one circuit's case but filed no pleadings in the cases in the other circuit. Odusanya failed to diligently pursue relief for his client and failed to provide substantive information to his client's family and his client, who was incarcerated in a state prison. (Case No: SC19-1309)
21. **Rita Horwitz Altman**, 215 S. Olive Ave., Suite 200, **West Palm Beach**, **suspended for three years** and probation for two years thereafter effective immediately following a December 17 court order. (Admitted to practice: 1992) Altman represented an immigration client in an asylum claim. The client provided critical evidence to Altman, who failed to add it to the asylum claim and to the court during the final hearing. Altman's negligence, incompetence, lack of diligence and failure to be forthright with the court when asked about the evidence resulted in the denial of the asylum claim. (Case No: SC20-848)
22. **Felix Anthony Felicier**, P.O. Box 772705, **Orlando**, **suspended for three years** effective 30 days following a November 12 court order. (Admitted to practice: 2006) Felicier failed to maintain adequate trust accounting records and failed to adequately follow required trust accounting procedures resulting in a shortage in the trust account. He made disbursements to his clients in two contingency fee matters without having a signed closing statement and improperly shared fees with a nonlawyer. In addition, Felicier and his wife, Jaminette De Jesús-Felicier failed to diligently represent a criminal defendant resulting in the trial judge issuing an order removing them as attorneys of record. The trial court's order set forth factual findings of Felicier's multiple failures to appear for hearings, his failure to appear for trial on Feb. 4, 2019, and Felicier and his wife's failure to appear for a trial on Aug. 19, 2019. (Case No: SC20- 1110)
23. **Katrina Wegmann**, 66 W. Flagler St., Suite 500, **Miami**, **suspended for three years**, effective 30 days following a December 23 court order. (Admitted to practice: 2012) Wegmann was arrested and charged with insurance fraud following a claim for damages to her home in which she misrepresented the date of the incident giving rise to the damages. After Wegmann successfully completes a Pretrial Diversion Agreement with the Miami-Dade County State Attorney's Office, criminal charges will be dropped. (SC20-1795)

24. **John Chandler Ross**, 1025 Indian River Ave., **Titusville**, **suspended for three years** with proof of rehabilitation required prior to being reinstated effective 30 days following a November 24 court order. (Admitted to practice: 1983) This was a reciprocal discipline based upon the December 18, 2019, order of the U.S. District Court for the Middle District of Florida, entered in a forfeiture case wherein the court removed Ross as counsel for the client and directed that he be suspended from the practice of law before the U.S. District Court for the Middle District of Florida. The court found it necessary to take steps to remove Ross as counsel because of his abandonment of the client and the case. (Case No: SC20-588)
25. **Sasha Bentley Weitzner**, 37 N. Orange Ave., Suite 500, **Orlando**, **suspended for 18 months** effective 30 days following a December 10 court order. (Admitted to practice: 2007) While in court, Weitzner appeared to be under the influence of drugs or alcohol. The court requested a urinalysis, which Weitzner refused. He was then replaced at the client's request. In another case, Weitzner fell asleep during voir dire, causing the judge to stop proceedings to wake him up and admonish him. When questioned, Weitzner denied being under the influence of drugs or alcohol. In another matter, Weitzner was arrested on one count of Grand Theft and two counts of Petit Theft First Offense. He entered a residential treatment facility, where he remained for 18 months until being successfully discharged. He fully cooperated with the Bar's investigation, showed remorse, and proved interim rehabilitation. (Case No: SC20-215)
26. **Erica Helene Kobloth**, 5613 Pacific Blvd., Apt. 3307, **Boca Raton**, **suspended for one year** effective immediately following a November 2 court order. (Admitted to practice: 2012) Kobloth was held in contempt of the Supreme Court's order dated Dec. 13, 2019, for failing to notify clients, opposing counsel and tribunals of her prior suspension. (Case No: SC20-1018)
27. **Da Alexis Trischa-Day Benjamin**, P.O. Box 220025, **Hollywood**, **suspended** for six months, effective 30 days following an October 29 court order. (Admitted to practice: 2007) Benjamin neglected clients in two employment discrimination lawsuits and a garnishment case. In each case, there were procedural deficiencies, mistakes in pleadings and/or missed deadlines. She also failed to keep clients adequately informed. (Case No: SC19-2003).
28. **James M. Thomas**, 36181 E. Lake Road, Suite 414, **Palm Harbor**, **suspended for one year** effective 30 days following a December 1 court order. (Admitted to practice: 2003) Thomas represented a complainant in a civil matter involving damage to the complainant's condominium. The court entered summary judgment as to liability in favor of the complainant and reserved ruling on the amount of damages and attorney's fees and costs. Thereafter, Thomas failed to appear at two properly noticed pre-trial conferences. As a result, the court entered an order dismissing the complainant's case without prejudice. The trial court found that Thomas' failure to appear could not be explained as a mere calendaring error and was

more than excusable neglect. The consequence of the dismissal resulted in the complainant recovering nothing and being required to pay \$30,563.10 in attorney's fees to Thomas. Thomas refiled a new case for the complainant but failed to pursue it. (Case No: SC18-1391)

29. **Kevin Keenan Chase**, 709 Laurel Way, **Casselberry**, **suspended for one year**, effective immediately following a November 12 court order. (Admitted to practice: 1994) On November 13, 2017, Chase was involved in two motor vehicle accidents resulting in property damage and left the scenes of the accidents. Charges filed pertaining to both accidents were dismissed. After being arrested for a separate incident on June 22, 2018, Chase was adjudicated guilty of driving under the influence and failed to comply with a court order. (Case No: SC20- 1575)
30. **Carmen Diana Lubbecke**, 715 N. Washington Blvd., Suite B, **Sarasota**, **suspended for one year** effective 30 days following a December 17 court order. (Admitted to practice: 2000) Lubbecke represented a husband and wife in a foreclosure defense case. Thereafter, she entered into an agreement with the husband to receive proceeds from the sale of the house in foreclosure as payment for legal fees. Lubbecke did not advise the clients to seek the advice of independent counsel. Lubbecke communicated with the husband and entered into a legal agreement regarding purchasing the home, which she did not ultimately do. While representing the wife in the foreclosure, Lubbecke filed a lawsuit against her to remove her name from the property pursuant to the party's agreement in their divorce. (Case No: SC20-1786)
31. **Joseph Wimbert Gibson, Jr.**, 19 W. Flagler St., Suite 417, **Miami**, **suspended for six months**, effective 30 days following a January 21 court order. (Admitted to practice: 1982) Gibson was retained to appeal a conviction but instead filed an insufficient Anders brief to withdraw from the criminal case. He was sanctioned for failing to assist the client in obtaining a substitute counsel as the court-ordered three times. Gibson failed to communicate with his client that there was no arguable merit to his case before the brief was filed, and delayed providing a copy of the appeal record to him despite being ordered to do so five times. (Case No: SC19-792)
32. **Stuart Kaufman**, 5601 Collins Ave., Apt. 1507, **Miami Beach**, **suspended for six months**, effective 30 days following a November 5 court order. (Admitted to practice: 1977) Kaufman used a third-party company to search the public records and contact prospective clients who had a surplus on foreclosure cases and shared fees with the company, while charging an excessive contingent fee. (Case No: SC20-1181)
33. **Santiago Asconapé**, 5515 S. Park Avenue, **Hinsdale, IL**, **suspended for 91 days** and required to undergo a mental evaluation before applying for reinstatement to The Florida Bar effective 30 days following a November 5 court order. (Admitted to practice: 2010) Asconapé was convicted in Florida on a misdemeanor charge of cyberstalking and sentenced to 11 months, 29 days probation without early termination. Respondent was also required by

the court order to complete 25 hours of community service, to submit to a mental evaluation and undergo any recommended treatment. Asconapé's probation was terminated on March 4. (Case No: SC20-557)

34. **Reginald Luster**, 1751 University Blvd. S., Suite A, **Jacksonville**, **suspended for 91 days** effective 30 days following a November 19 court order. (Admitted to practice: 1988) Luster settled a personal injury case without advising the complainant, a chiropractor treating Luster's clients, and failed to protect or otherwise pay the bills for their treatment. After a trust account audit, no violations were found but also no evidence that Luster had protected the complainant's funds. The clients indicated that they did not inform Luster to not pay the complainant and had no knowledge that he was not paid. They provided their closing statements which were originals, and which lacked certain language added by Luster to his copies which he provided to the Bar. When asked about the discrepancy, Luster acknowledged his mistake and expressed remorse. Luster did subsequently pay the complainant the money owed to him. (Case No: SC20-930)
35. **Aubrey George Rudd**, 100 Edgewater Drive, Apt. A, **Miami**, **suspended for 91 days** effective Nunc pro tunc to Aug. 1. (Admitted to practice: 1991) During The Bar's investigation of Rudd's petition for reinstatement from a suspension imposed in a prior discipline action, it was discovered that Rudd had filed divorce petitions on behalf of two clients following entry of that prior suspension order, but before its effective date, and was further unable to provide proof that he notified two clients, a judge, and opposing counsel of his suspension. Rudd also engaged in acts of misconduct unrelated to the practice of law including failing to accurately update his homestead status and not reporting rental income on his tax returns; both of which were corrected. (Case No: SC20-1567)
36. **Barbara Jean Throne**, P.O. Box 303, **Blountstown**, **91-day suspension** plus attendance at Ethics School and Professionalism Workshop prior to reinstatement, effective 30 days following a January 7 court order. (Admitted to practice: 1988) After filing a notice of appeal in her client's criminal case, Throne failed to diligently represent her client and to adequately communicate with him. Throne failed to respond to numerous communications from the First District Court of Appeal to comply with court rules and orders resulting in the dismissal of her client's appeal. Throne also failed to reply to the Bar's disciplinary complaint and did not comply with the Referee's pretrial order. (Case No: SC20-537)
37. **Frank T. Blainey**, 455 Alt. 19 S., G107, **Palm Harbor**, **suspended for 91 days** and probation for three-years effective 30 days following a December 28, 2020, court order. (Admitted to practice: 2006) In 2016, Blainey was drinking socially with a client, resulting in a physical altercation. On July 20, 2018, Blainey was convicted of misdemeanor battery. In addition to being intoxicated at the time of the incident, Blainey has a history of DUIs

and issues with alcohol. After his arrest, Blainey failed to provide the Bar with updates regarding his criminal case. (Case No: SC19-372)

38. **Craig Albert Fine**, 159 New Dorp Lane, F1 PLAZA-1, **Staten Island, New York, suspended for 90 days** effective December 14 following a December 10 court order. (Admitted to practice: 2012) Fine failed to maintain minimum trust account records, which led to a \$17,965.97 shortfall in his trust account. Further, Fine commingled personal funds in his trust account and issued earned fees to himself that cleared through another client's funds held in trust. In mitigation, the court found the unintentional nature of the misappropriation,; his remorse and acceptance of responsibility; immediate efforts made to rectify the situation; and remedial record-keeping measures instituted among other matters including his unblemished disciplinary record. This is a reciprocal discipline action from the Supreme Court of New York, Appellate Division, Second Judicial Department. (Case No: SC20-1497)
39. **Lillian Clover**, P.O. Box 5305, **Titusville, suspended for 90 days** with automatic reinstatement to the practice of law effective 30 days following a November 5 court order. (Admitted to practice: 2005) Clover neglected a family law case and failed to tell the client that she would be unable to complete the case due to personal issues. Although Clover found new attorneys to represent other clients, this client's case was overlooked. The client eventually hired new counsel and Clover provided the client with a full refund. (Case No: SC20-1556)
40. **Mark Alan Marder**, 84 Big Island Trail, **Ponte Vedra, suspended for 90 days** effective 30 days following a November 12 court order. (Admitted to practice: 1978) Marder received earnest money deposits totaling \$30,000 for two real estate contracts on his client's property in 2006 and 2007. After the sales fell through, Marder took the funds as his fees. The client filed a complaint. Marder and his client reached an agreement in which Marder refunded \$17,000 to his client. Marder improperly requested his client withdraw his Bar complaint as a result of the agreement. Additionally, Marder failed to properly maintain trust account records and failed to properly follow minimum trust accounting procedures. (Case No: SC20-1565)
41. **Larry Thomas McMillan**, 3250 Mary St., Suite 406, **Coconut Grove, suspended for 90 days** effective 30 days following a November 12 court order. (Admitted to practice: 1994) McMillan made misrepresentations to the bank regarding a credit card dispute. He presented significant mitigation and provided a full refund of the legal fees. (Case No: SC20-1587).
42. **Bert Edward Moore**, P.O. Box 1622, **Crestview, 90-day suspension** with one-year probation and attend Ethics School and Professionalism Workshop effective 30 days following an October 29 court order. (Admitted to practice: 1981) Moore failed to properly and timely withdraw from his client's criminal appeal. He remained attorney of record on the criminal appeal for almost two years after the client wanted him to withdraw. (Case No: SC20-535)

43. **John Christopher Kenny**, 1700 N. Monroe St., Suite 11-131, **Tallahassee, suspended for 60 days** effective immediately following a December 10 court order. (Admitted to practice: 1994) Kenny was hired to handle an adoption matter and failed to timely respond to the petition for adoption served on his client. He failed to competently and diligently handle his client's legal matter, resulting in a motion for default being entered against his client. (Case No: SC20-814)
44. **Jonathan Ari Markhoff**, 1835 N.E. Miami Gardens Drive, Suite 143, **North Miami Beach, suspended for 45 days** effective 30 days following a November 12 court order. (Admitted to practice: 2010) Markhoff entered into a partnership in a company with a non-lawyer who was an expert in the field of Medicaid benefits. The company provided both legal and nonlegal services to a client but there was no separation of those services, and no separate retainers. Markhoff's fees came from payments made to the company. A non-lawyer employee gave legal advice to the clients to transfer assets to their adult daughter but Markhoff advised same clients to rescind such transfer and enter into service agreements with their daughter instead. (Case No: SC20-1581)
45. **Daniel S. Ciener**, P.O. Box 540459, **Merritt Island, suspended for 30 days** and directed to attend Ethics School effective 30 days following a November 20 court order. (Admitted to practice: 1967) Ciener failed to provide his client with competent and diligent representation in a criminal case. Ciener visited his client at the jail only once over a period of 10 months, failed to provide his client with discovery materials, and failed to adequately communicate with his client regarding the preparation of his client's defense. (Case No: SC20-1571)
46. **Derek Vaughn Lewis**, P.O. Box 1152, **Ft. Pierce, suspended for 30 days** effective 30 days following a November 12 court order. (Admitted to practice: 1999) Lewis notified a client in a criminal matter he would need to hire appellate counsel for an appeal following a criminal conviction; nonetheless, Lewis filed a notice of appeal on behalf of the client. Despite two motions for extensions of time to file the initial brief, the court dismissed the case for lack of compliance with the court orders extending time. Lewis ceased communication with the client after filing the notice of appeal and subsequent extensions. (Case No: SC20-1572)
47. **Shirley Linette Bates**, 1450 Lake Bradford Road, Suite C, **Tallahassee, public reprimand** effective 30 days following an October 29 court order. (Admitted to practice: 2005) Bates received fees to file a post-conviction action and then contracted with a paralegal to draft the motion. Bates did not respond to client requests for updates or provide a draft of the motion despite repeated requests. The client terminated Bates as her attorney and Bates agreed to issue a partial refund. (Case No: SC20-552)
48. **Marla Jayne Rawnsley**, 101 N. Woodland Blvd., Suite 301, **Deland, public reprimand** and required attendance at The Florida Bar's Trust Accounting Workshop effective immediately following a November 12 court order.

- (Admitted to practice: 1987) Rawnsley failed to timely notify her client's prior counsel of the settlement and receipt of funds in trust on the client's behalf after having been previously notified of prior counsel's asserted entitlement of fees and costs for his prior representation. (Case No: SC20-1548)
49. **James Wesley Smith III**, 9100 Conroy Windermere Road, Suite 200, **Windermere, public reprimand** and completion of office procedures and record-keeping analysis by and under the direction of The Florida Bar's Diversion/Discipline Consultation Service effective immediately following a November 12 court order. (Admitted to practice: 2005) Smith failed to competently and diligently handle several clients' appeals resulting in the Fifth District Court of Appeal issuing orders sanctioning him. (Case No: SC20-1545)
 50. **Patrick James Landy, Jr.**, 997 S. Wickham Road, **Melbourne, public reprimand** with three years' probation, effective immediately following a November 12 court order. (Admitted to practice: 2017) Landy entered no contest pleas to two amended charges of misdemeanor stalking, which were related to a previous personal relationship. The court withheld adjudication, placing Landy on probation for one year as to each count to run consecutive, with early termination permitted after one year upon successful completion of all conditions of probation. (Case No: SC20-1578)
 51. **Christine Marie Humphrey**, 601 Brickell Key Drive, Suite 700, **Miami, public reprimanded**, effective immediately following a November 5 court order. (Admitted to practice: 2004) Humphrey failed to provide all services provided for in a retainer agreement. She was ordered to pay restitution for the unearned fees. In a second matter, Humphrey promised to refund a retainer to a client, but failed to do so. In a third case, Humphrey failed to communicate that 75% of the retainer had been used pursuant to the retainer agreement. However, Humphrey absorbed the bill and the client did not remit any additional fees. (Case No: SC20-1542)
 52. **Jaminette De Jesús-Felicier**, P.O. Box 772705, **Orlando, public reprimand** with one-year of probation effective immediately following a November 12 court order. (Admitted to practice: 2006) De Jesús-Felicier and her husband, Feliz Anthony Felicier failed to diligently represent a criminal defendant resulting in the trial judge issuing an order removing them as attorneys of record. The trial court's order set forth factual findings of De Jesús-Felicier and her husband's failure to appear for the trial on Aug. 19, 2019, her husband's multiple failures to appear for hearings and his failure to appear for trial on Feb. 4, 2019. (Case No: SC20-1111)
 53. **Ryan Christopher Wagner**, 110 S.E. 6 St., Suite 1420, **Ft. Lauderdale, public reprimand** and held in contempt effective immediately following a November 24 court date. (Admitted to practice: 2014) Wagner failed to respond to an official Bar inquiry in a timely manner. (Case No: SC20-1361)

54. **George Crosby Gaskell III**, P.O. Box 1111, **Stuart, public reprimand** and required to complete Ethics School effective January 25 following a January 7 court order. (Admitted to practice: 2007) Gaskell filed or attempted to file a series of unsuccessful or insufficient bankruptcy petitions in an attempt to save his home from foreclosure. Four were dismissed because of technical errors or Gaskell's failure to properly prosecute the proceeding. Three were not accepted by the clerk of court because of technical deficiencies. Gaskell's unsuccessful efforts to pursue a bankruptcy or negotiate a loan modification caused repeated delays in finalizing the foreclosure case. (Case No: SC20-1005)