

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

KARL O. KOEPKE,

Respondent.

Supreme Court Case  
No. SC

The Florida Bar File  
No. 2020-30,104(09C)

**COMPLAINT**

The Florida Bar, complainant, files this Complaint against Karl O. Koepke, 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 7, 1965 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 "C" 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.

4. On October 2, 1990, a Final Judgment of Dissolution of Marriage was issued. Pursuant to the final judgment, respondent was obligated to pay \$8,000 per month in alimony to Ms. Koepke, his former wife.

5. On December 30, 2002, a Final Judgment on Modification of Alimony was issued. The final judgment ordered respondent to pay \$1,100 weekly alimony to Ms. Koepke.

6. Respondent failed to pay a substantial amount of the alimony owed to Ms. Koepke.

7. On March 5, 2014, Ms. Koepke filed a Motion for Contempt seeking to collect the alimony owed.

8. On May 22, 2014, respondent filed Former Husband's Supplemental Petition for Modification or Termination of Alimony. Thereafter, respondent amended the supplemental petition twice.

9. On November 9, 2015, respondent noticed his appearance in the case as co-counsel.

10. On September 9, 2016, respondent entered into a written settlement agreement at mediation in a personal injury case. Respondent personally signed the settlement agreement as attorney for the plaintiff. The settlement agreement was subject to court approval as it included claims of the plaintiff's minor children.

11. Respondent was entitled to considerable attorneys' fees pursuant to the contingency fee agreement entered into with the client in the personal injury matter.

12. Ms. Koepke's counsel learned that a substantial personal injury case being handled by respondent might have settled.

13. Ms. Koepke began to pursue discovery related to the settlement of the case in late 2016. Ms. Koepke filed motions to compel when respondent failed to produce documents in response to the discovery requests.

14. In a June 29, 2017 court order granting Ms. Koepke's April 4, 2017 Motion to Compel Production, respondent was required to produce "any settlement agreements."

15. On July 10, 2017, respondent filed his notice of compliance. However, respondent produced no documents regarding the September 9, 2016 settlement agreement.

16. On July 20, 2017, respondent filed his amended notice of compliance with the June 29, 2017 order compelling production. Petitioner's Amended Notice of Compliance stated specifically, "(3) there being no settlement, no documents exist or could be found that are responsive." (Emphasis added.)

17. Ms. Koepke's served a Subpoena Duces Tecum (For Trial) requiring respondent bring his complete office file on the subject personal injury case to trial.

18. On August 24, 2017 and August 25, 2017, a trial on respondent's supplemental petition and Ms. Koepke's motion for contempt was held.

19. Respondent caused a several hour delay on August 24, 2017 as he did not bring his file to the trial contrary to the above-referenced subpoena. After hearing argument of counsel for the parties, the court ordered respondent to immediately return to his home/office to retrieve the file.

20. The Court identified the settlement agreement for the personal injury matter during an in-camera review of respondent's file and ordered its production.

21. The court was unable to complete the trial on the supplemental petition and motion for contempt in the time allotted due to the delays caused by the untimely disclosure of the settlement agreement and the upcoming rotation of the trial judge required the case to be tried again before a different judge assigned to the division.

22. On or about September 27, 2017, Counsel for the Former Wife filed Motion for Rule to Show Cause Why the Former Husband/Petitioner Should Not be Held in Direct and Indirect Criminal Contempt.

23. On February 20, 2018, the trial court entered an Amended Order to Show Cause Under Criminal Rule 3.840 and Arraignment for Violation of Court Order and Subpoena Duces Tecum for Trial. Respondent was directed to appear on February 20, 2018 to enter a plea to the allegations of criminal contempt and set for trial on March 16, 2018.

24. On April 26, 2018, a trial was held on the indirect criminal contempt after the trial court granted respondent's motion to continue the March 16, 2018 trial date. On July 2, 2018, the court issued an Order and Final Judgment of Indirect Criminal Contempt as to Karl O. Koepke which adjudicated respondent guilty of indirect criminal contempt of court and sentenced him to 30 days in the Orange County Jail.

25. In the facts contained within the trial court's order, the court found "[d]espite the known existence of the Settlement Agreement at Mediation, there were no documents produced in response to the order requiring 'any settlement agreements.'" (Emphasis in original.)

26. The trial court further found in the facts:

Since discovery of the Settlement Agreement at Mediation and final approval of the settlement in the personal injury case, the [respondent] has surreptitiously directed the payment of his substantial attorneys' fees to an irrevocable trust for the benefit of himself and his grandchildren. This transfer effectively shields the asset from execution by the Former Wife for satisfaction of any outstanding, unpaid alimony and any attorneys' fees to which she might be entitled.

It also impacts the assessment of "ability to pay" on the part of the [respondent] required per §61.08, Florida Statutes.

27. In the analysis of the facts, the trial court found:

While successfully accomplishing the delay in disclosure of the personal injury case settlement, [respondent] researched, planned and executed a diversion of the attorneys' fees to an irrevocable trust. The diversion effectively shielded a substantial asset that would have been available for payment of overdue, unpaid alimony and attorneys' fees/costs as appropriate. Further, it impacted the Court's ultimate analysis of the [respondent's] "ability to pay." This is a financial win for the [respondent], at the cost of integrity and fairness in the justice system.

Actual delay in reaching the merits of this case resulted from [respondent's] actions, and justice was in fact hindered and delayed. The case lingered unnecessarily through motions to compel, incomplete production of documents, explicit false responses to discovery, and ultimately a mistrial. [Respondent] continues to enjoy paying no alimony under prior court orders. Significant additional court time and attorneys' fees have been and will be required in order to bring the case to conclusion. Moreover, [respondent's] delay may indeed have impacted the outcome of the case on the merits.

Lawyers are sworn to uphold principles of truth and honor in the administration of justice, and shall "never seek to mislead the judge ... by any artifice or false statement of fact or law." The [respondent] intentionally violated his oath and these enduring principles that are fundamental to the integrity of our system of justice. In doing so, he disrupted the orderly administration of justice, and hindered, obstructed, delayed, and frustrated the prosecution of this case. Sanctions for contempt of court are mandated by the law and the facts of this case. (Citation omitted.)

28. Respondent appealed the July 2, 2018 Order and Final Judgment of

Indirect Criminal Contempt as to Karl O. Koepke.

29. On July 26, 2019, the Fifth District Court of Appeal affirmed the trial court order per curiam.

30. Respondent was remanded into custody to serve his sentence on September 6, 2019. Respondent has served his 30-day jail sentence.

31. Respondent's misconduct in this matter caused a mistrial, requiring the case to be tried again at significant additional cost to Ms. Koepke and considerable additional time commitment by the court.

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

(a) 3-4.3 The standards of professional conduct to be observed by members of the bar are not limited to the observance of rules and avoidance of prohibited acts, and the enumeration herein of certain categories of misconduct as constituting grounds for discipline shall not be deemed to be all-inclusive nor shall the failure to specify any particular act of misconduct be construed as tolerance thereof. The commission by a lawyer of any act that is unlawful or contrary to honesty and justice, whether the act is committed in the course of the attorney's relations as an attorney or otherwise, whether committed within or outside the state of Florida, and whether or not the act is a felony or misdemeanor, may constitute a cause for discipline.

(b) 4-3.4 A lawyer must not: (a) unlawfully obstruct another party's access to evidence or otherwise unlawfully alter, destroy, or conceal a document or other material that the lawyer knows or reasonably should know is relevant to a pending or a reasonably foreseeable proceeding; nor counsel or assist another person to do any such act; (b) fabricate evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness, except a lawyer may pay a witness reasonable expenses incurred by the witness in attending or testifying at proceedings; a reasonable, noncontingent fee for professional services of an expert witness; and reasonable compensation to a witness for time spent preparing for, attending, or testifying at proceedings; (c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists; (d) in pretrial procedure, make a frivolous discovery request or intentionally fail to comply with a legally proper discovery request by an opposing party; (e) in trial, state a personal opinion about the credibility of a witness unless the statement is authorized by current rule or case law, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the culpability of a civil litigant, or the guilt or innocence of an accused; (f) request a person other than a client to refrain from voluntarily giving relevant information to



another party unless the person is a relative or an employee or other agent of a client, and it is reasonable to believe that the person's interests will not be adversely affected by refraining from giving such information; (g) present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil matter; or (h) present, participate in presenting, or threaten to present disciplinary charges under these rules solely to obtain an advantage in a civil matter.

(c) 4-8.4(b) A lawyer shall not commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects.

(d) 4-8.4(c) A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, except that it shall not be professional misconduct for a lawyer for a criminal law enforcement agency or regulatory agency to advise others about or to supervise another in an undercover investigation, unless prohibited by law or rule, and it shall not be professional misconduct for a lawyer employed in a capacity other than as a lawyer by a criminal law enforcement agency or regulatory agency to participate in an undercover investigation, unless prohibited by law or rule.

(e) 4-8.4(d) A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, including

to knowingly, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic.

(f) Oath of Admission. “I do solemnly swear: I will support the Constitution of the United States and the Constitution of the State of Florida; I will maintain the respect due to courts of justice and judicial officers; I will not counsel or maintain any suit or proceedings which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land; I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law; I will maintain the confidence and preserve inviolate the secrets of my clients, and will accept no compensation in connection with their business except from them or with their knowledge and approval; To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications; I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged; I will never reject, from any

consideration personal to myself, the cause of the defenseless or oppressed, or delay anyone's cause for lucre or malice. So help me God."

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 a copy provided via email to Karl O. Koepke, at [koepkelaw@aol.com](mailto:koepkelaw@aol.com); and that a copy has been furnished by United States Mail via certified mail No. 7017 3380 0000 1082 7034, return receipt requested to Karl O. Koepke, whose record bar address is 1121 Eastin Avenue, Apartment B7, Orlando, Florida 32804-6355 and via email to Karen Clark Bankowitz, Bar Counsel, The Florida Bar, 1000 Legion Place, Suite 1625, Orlando, Florida 32801-1050, [kbankowitz@floridabar.org](mailto:kbankowitz@floridabar.org) and [orlandooffice@floridabar.org](mailto:orlandooffice@floridabar.org), on this 25th day of February, 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 Karen Clark Bankowitz, Bar Counsel, whose address, telephone number and primary email address are The Florida Bar, 1000 Legion Place, Suite 1625, Orlando, Florida 32801-1050, (407) 425-5424 and [kbankowitz@floridabar.org](mailto:kbankowitz@floridabar.org) and [orlandooffice@floridabar.org](mailto:orlandooffice@floridabar.org). 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](mailto: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.