

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

ROGER ALAN ANDREWS,

Respondent.

Supreme Court Case No.
SC-

The Florida Bar File Nos.
2019-00,409(2B); 2019-00,615(2B)

COMPLAINT

The Florida Bar, complainant, files this Complaint against Roger Alan Andrews, 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 May 5, 1997 and is subject to the jurisdiction of the Supreme Court of Florida.
2. Respondent resided and practiced law in Wakulla County, Florida, at all times material.
3. The Second Judicial Circuit Grievance Committee B 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.

COUNT I – TFB #2019-00,409 – COMPLAINT OF MICHELLE BURT

4. On April 25, 2011, respondent filed a notice of appearance and a petition for benefits on behalf of Michelle Burt (“Ms. Burt”) in her worker’s compensation case.

5. On May 24, 2011, a response to petition for benefits was filed and authorization was given to the treating physician for Ms. Burt to resume treatment.

6. On June 17, 2011, respondent filed a notice of voluntary dismissal of petition for benefits.

7. On November 14, 2011, respondent filed a petition for benefits for temporary partial disability benefits due to restricted duty limitations of Ms. Burt and inability of her employer to accommodate her.

8. On February 20, 2012, a mediation was held.

9. On February 29, 2012 an order approving mediation settlement agreement was entered.

10. On December 11, 2013, respondent filed a petition for benefits for payment of medical bills for treatment with the authorized provider at Tallahassee Neurological Clinic, claiming that lack of payment was preventing follow up treatment, and for attorney fees and costs.

11. On December 18, 2013, a response to petition for benefits was filed, claiming the bills will be paid when they were received on the proper form.

12. On April 23, 2014, an order dismissing petition for benefits without prejudice was filed.

13. On March 16, 2015, respondent filed a petition for benefits for authorization of a follow up appointment with Ms. Burt's physician, claiming carrier approval was required for an appointment.

14. On March 25, 2015, a response to petition for benefits was filed, stating no good faith effort was made prior to the filing of this petition, requesting that the petition be dismissed.

15. Although a mediation conference was scheduled for June 5, 2015, on May 15, 2015, respondent filed a notice of voluntary dismissal of petition for benefits.

16. According to Ms. Burt, she repeatedly asked Mr. Andrews to resolve her case via a settlement.

17. There was no activity in this case between 2015 and 2019.

18. On March 14, 2019, respondent filed a motion to withdraw as counsel, which was granted the same day.

19. From that date, Ms. Burt proceeded *pro se*.

20. On July 23, 2019, a joint petition for lump-sum settlement was filed and August 1, 2019, a settlement order was entered.

21. Respondent failed to respond to numerous requests for information and status updates from his client, Ms. Burt.

22. Respondent failed to resolve the case in accordance with his client's wishes.

23. Respondent provided proof of communications with Ms. Burt in 2018. However, he provided no evidence of communication with her between 2011 and 2018.

24. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: 4-1.3 (Diligence); 4-1.4 (Communication); and 4-3.2 (Expediting Litigation).

COUNT II – TFB #2019-00,615 – COMPLAINT OF DEBRA HOUSE WASHINGTON

25. On March 3, 2009, Debra House Washington (“Ms. House Washington”) was injured while doing court-ordered community service for the City of Quincy.

26. On February 24, 2010, Fred Pearson, Ms. House Washington's previous attorney, wrote to her, informing her that the Florida League of Cities, the insurer for the City of Quincy, had denied her worker's compensation claim because she was not a city employee and therefore,

was not eligible for worker's compensation benefits through the Department of Financial Services/Division of Risk Management. He further informed her that she had until March 2, 2013 to file a claim.

27. In or around April 2012, Ms. House Washington hired respondent to represent her.

28. Ms. House Washington signed a retainer agreement on April 30, 2012 for a worker's compensation case.

29. Except for her signature, there is no mention of Ms. House Washington in the agreement, including the date of the injury/accident or who Ms. House Washington's employer was at the time of her injury.

30. On May 1, 2012, respondent contacted the Florida League of Cities to request payment of temporary total disability/temporary partial disability from March 3, 2009 to present and continuing, adjustment of average weekly wage/compensation rate, and payment of back due benefits. He further stated that he intended to file a petition for benefits if the benefits requested therein were not provided in a timely manner.

31. Respondent never filed a petition for benefits, or a complaint related to Ms. House Washington's claim.

32. According to Ms. House Washington, respondent told her on numerous occasions, including as recently as July 2020, that he was waiting for a hearing date on her case.

33. Respondent never informed Ms. House Washington that the statute of limitations on her case ran on March 2, 2013, and that she had no viable claim.

34. Respondent admits that he sent Ms. House Washington eight checks issued from his trust account between December 2019 and April 2020, totaling approximately \$2,225.00.

35. Based on Ms. House Washington receipt of funds from respondent, she believed that respondent obtained a settlement on her behalf, and that he was holding her settlement funds.

36. Respondent told The Florida Bar that he had not received any money on behalf of Ms. House Washington, claiming the funds provided to Ms. House Washington were intended to “help her get back on her feet.”

37. Respondent further stated the checks written on his trust account were from his earned fees in other cases.

38. Respondent’s trust account at Regions Bank was reviewed for the period of February 1, 2013, through January 30, 2020. The auditor found the following violations:

39. The trust account did not receive or hold trust funds for complainant during the audit period.

40. Respondent indicated the funds for the checks to Ms. House Washington came from client funds held for the specific purpose of paying his legal fees.

41. Respondent did not disburse these funds for legal fees, but instead disbursed these funds to Ms. House Washington, who was not entitled to the trust funds.

42. Respondent violated Rule 5-1.1(b) by disbursing \$2,225.00 held specifically to pay legal fees for a purpose other than the payment of those legal fees.

43. Respondent issued 13 trust checks that did not identify any client or legal matter. These checks included 8 issued to the respondent, 4 issued to the Ms. House Washington, and 1 issued to a third party.

44. Respondent violated Rule 5-1.2(b) by failing to clearly identify a client or legal matter on trust checks.

45. Respondent did not always accurately disburse trust funds to himself and to his clients.

46. For example, respondent deposited \$7,500.00 on January 26, 2018, for Client #1. Respondent transferred \$1,500.00 from these funds to

his personal account in January 2018, and then transferred an additional \$4,000.00 to his personal account in February 2018. That left a balance in the trust account for Client #1 of \$2,000.00 on February 20, 2018.

47. On February 22, 2018, respondent deposited \$111,954.00 for Client #2. Respondent then disbursed \$6,000.00 to Client #1 on March 19, 2018. This disbursement used \$2,000.00 held for Client #1 and \$4,000.00 held for Client #2.

48. Respondent effectively “borrowed” \$4,000.00 from Client #1 in February 2018, creating a trust account shortage, and then replenished the shortage in March 2018, using trust funds belonging to Client #2.

49. In another example, respondent received \$45,000.00 for Client #3 on October 1, 2018. By November 6, 2018, respondent had disbursed a total of \$11,000.00 to himself and \$32,500.00 to the client, leaving a balance of \$1,500.00.

50. On July 16, 2019, respondent disbursed \$10,000.00 to a third party on behalf of Client #3. The disbursement used \$1,500.00 held for Client #3 and \$8,500.00 from trust funds belonging to Client #4.

51. Assuming the \$8,500.00 was an earned fee, respondent violated Rule 5-1.1(b) by diverting \$8,500.00 held to pay a legal fee benefiting Client #4, to pay a third-party benefiting Client #3.

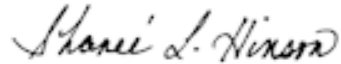
52. Rule 5-1.2(b) requires lawyers to clearly identify the client or case by number or name in the memo area of trust checks. Trust check #1468 was used to disburse the \$10,000.00 and Client #3 was incorrectly noted as the client for the entire \$10,000.00 that was disbursed.

53. Respondent violated Rule 5-1.2(b) by failing to correctly identify both clients who provided the trust funds for the disbursement. This failure caused the accounting balance for Client #3 to falsely appear to be a negative \$8,500.00. The check could be considered a false record because it likely deceived the third party into believing the respondent was holding the entire \$10,000.00 for Client #3.

54. The audit showed that the respondent was not in substantial compliance with the minimum requirements of The Florida Bar's rules governing trust accounts.

55. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: 4-1.2 (Objective and Scope of Representation), 4-1.3 (Diligence), 4-1.4 (Communication), 4-3.2 (Expediting Litigation), 4-8.4(c) (A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.), 5-1.1 (Trust Accounts), and 5-1.2 (Trust Accounting Records and Procedures).

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 Roger Alan Andrews, at aandrews@andrewsdisability.com; and that a copy has been furnished by United States Mail via Certified Mail No. 7017 1450 0000 7821 0674, return receipt requested, to Roger Alan Andrews, whose record bar address is 1626 Crawfordville Highway, Suite C, Crawfordville, FL 32327-0190; and via email to Shaneé L. Hinson, Bar Counsel, shinson@floridabar.org, on this 26th day of July, 2021.



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 Shaneé L. Hinson, Bar Counsel, whose address, telephone number and primary email address are The Florida Bar, Tallahassee Branch Office, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, (850) 561-5845 and shinson@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 East 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.