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IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

LARRY ELLIOT KLAYMAN,

Respondent.

_____/

Supreme Court Case No.

The Florida Bar File No. 2020-00,515(2A)

FORMAL COMPLAINT FOR RECIPROCAL DISCIPLINE

The Florida Bar, complainant, files this Complaint against Larry Elliot Klayman, respondent, pursuant to the Rules Regulating The Florida Bar and alleges:

1. Respondent is and at all times mentioned in the complaint, was a member of The Florida Bar, admitted on December 7, 1977, and is subject to the jurisdiction of the Supreme Court of Florida.

2. In addition to membership in The Florida Bar, Respondent is a member of the District of Columbia Bar, subject to the jurisdiction of District of Columbia Court of Appeals.

3. This is a two-count reciprocal discipline action. The Florida Bar was notified of respondent's 90-day suspension (Count I) entered on June 11, 2020. Respondent subsequently notified the bar of a pending motion for reconsideration of his suspension and the bar's case was placed on

deferral. The motion for rehearing was ultimately denied. However, during that time, the bar was notified of another pending investigation against respondent. The second investigation resulted in an 18-month suspension (Count ll) on September 15, 2022.

COUNT I

4. The first count is based on the District of Columbia Court of Appeals Order dated June 11, 2020, which imposed a 90-day suspension and a CLE course on conflicts of interest. A copy of that Order is attached hereto as Exhibit "**A**".

5. The suspension was based on the following conduct:

A. Respondent founded Judicial Watch in 1994 and served as its in-house general counsel until 2003.

B. During respondent's tenure at Judicial Watch, Sandra Cobas ("Ms. Cobas") served as the director of Judicial Watch's Miami Regional Office.

C. Ms. Cobas complained to Judicial Watch about her employment conditions, alleging that she was subject to a hostile work environment during several weeks in 2003.

D. As general counsel, respondent provided legal advice to Judicial Watch concerning Ms. Cobas's claims.

E. After both respondent and Ms. Cobas had ended their employment with Judicial Watch, Ms. Cobas filed a complaint against Judicial Watch in a Florida state court, alleging the same hostile-work-environment conditions. The Florida trial court granted a motion to dismiss the case.

F. Thereafter, without seeking consent from Judicial Watch, respondent entered an appearance on Ms. Cobas's behalf and filed a motion requesting that the trial court vacate its order of dismissal.

G. When the motion was denied, respondent filed a notice of appeal on Ms. Cobas's behalf and, later, a brief in a Florida appellate court, but the appellate court affirmed the dismissal.

H. In 2002, while still employed by Judicial Watch, respondent solicited a donation from Louise Benson ("Ms. Benson") as part of a campaign to raise funds to purchase a building for the organization.

I. Respondent was acting as both chairman and general counsel of Judicial Watch when he solicited this donation from Benson.

J. Ms. Benson committed to donate $50,000 to the building fund, and thereafter paid $15,000 towards that pledge. Judicial Watch

did not purchase a building.

K. In 2006, after respondent had left Judicial Watch, he and Ms. Benson filed a lawsuit against Judicial Watch in federal court, where they were represented by attorney Daniel Dugan.

L. Ultimately, the federal district court dismissed Ms. Benson's claims (but not respondent's claims) on jurisdictional grounds.

M. Shortly thereafter, Ms. Benson sued Judicial Watch in the Superior Court of the District of Columbia, alleging unjust enrichment and seeking a return of her donation. Initially, she was represented in that suit by Mr. Dugan.

N. Eventually, and without seeking consent from Judicial Watch, respondent entered an appearance in the case as co-counsel for Ms. Benson.

O. Judicial Watch requested that respondent withdraw, stating that he organized the fundraising effort that was at the center of Ms. Benson's complaint while he was Judicial Watch's attorney, and noting that Ms. Benson had identified him as a fact witness.

P. When respondent did not withdraw, Judicial Watch moved to disqualify him. The motion for disqualification was never decided,

as the parties stipulated to the dismissal of the case.

Q. In 2001, while respondent was still employed by Judicial Watch, Judicial Watch and Peter Paul ("Mr. Paul") entered into a representation agreement and modification, under which Judicial Watch agreed to evaluate legal issues emanating from Mr. Paul's fundraising activities during an election campaign for the New York State Senate in 2000, and to represent him in connection with an investigation into alleged criminal securities law violations and possible civil litigation stemming from those fundraising activities.

R. Respondent drafted, edited, and approved the representation agreement and modification and authorized the signing of both documents as Judicial Watch's chairman and general counsel. Judicial Watch later represented Mr. Paul in a civil lawsuit brought in California state court.

S. Following respondent's departure from Judicial Watch, Judicial Watch withdrew from the representation.

T. Thereafter, Mr. Paul sued Judicial Watch in the United States District Court for the District of Columbia alleging, among other theories, that Judicial Watch breached its representation agreement with him.

U. While Mr. Paul initially was represented by Mr. Dugan, respondent entered an appearance in the case without seeking Judicial Watch's consent.

V. Judicial Watch moved to disqualify respondent. The district court (the Honorable Royce Lamberth) granted the motion to disqualify, finding that respondent's representation of Mr. Paul violated Rule 1.9.

W. The court found that respondent was representing the plaintiff "in a matter directly arising from an agreement he signed in his capacity as [g]eneral [c]ounsel for the current defendant" and that respondent's representation of Mr. Paul was "the very type of 'changing of sides in the matter' forbidden by Rule 1.9." (Conflict of Interest).

X. To be sure, Disciplinary Counsel proved that respondent flagrantly violated Rule 1.9 (Conflict of Interest) on three occasions. His misconduct was not isolated, and, it appears, he acted vindictively and "motivated by animus toward Judicial Watch" (with which he had developed an acrimonious relationship).

Y. The Board and the Hearing Committee stated that respondent's misconduct was intentional rather than inadvertent or

innocent.

Z. The Board further stated that, his misconduct — involving a "switch[ing of] sides" that strikes at the integrity of the legal profession — deserves the serious sanction of a ninety-day suspension.

AA. Wherefore, effective thirty days after entry of this order, respondent is suspended from the practice of law. The period of suspension is ninety days, commencing after he has filed the affidavit required by D.C. Bar R. XI, § 14(g). Before reinstatement, he must also complete a CLE course on conflicts of interest.

COUNT II

6. The second count is based on the District of Columbia Court of Appeals Order dated September 15, 2022, which imposed an 18-month suspension. A copy of that Order is attached hereto as Exhibit "**B**"

7. The suspension was based on the following conduct:

BB. E.S. met respondent in 2009, while she was covering a story for Voice of America (VOA). E.S. told respondent that she was being sexually harassed by her cohost and that after she reported the harassment to her supervisor, she was transferred to a different position.

CC. Early in 2010, respondent and E.S. agreed that he would represent her in a case against VOA.

DD. Respondent and E.S. agreed that respondent would work on a contingent basis, receiving forty percent of any award E.S. won. E.S. did not believe that respondent provided her with a written fee agreement.

EE. Respondent later unilaterally increased his fee to fifty percent.

FF. Initially, respondent attempted to negotiate a settlement with VOA. After the negotiations were unsuccessful, respondent encouraged E.S. to move from the District of Columbia to Los Angeles, assuring her that he could get her transferred to the VOA office in Los Angeles. Respondent paid for the move and for E.S.'s living expenses in Los Angeles. E.S. and respondent agreed that the money respondent was providing would be paid out of any award E.S. won, in addition to the contingency fee.

GG. VOA denied E.S.'s request for a transfer, at which point respondent filed a civil suit against E.S.'s alleged harasser and supervisors.

HH. E.S. wanted her case to be "very quietly handled." She

explained her concerns about publicity to respondent, and he initially respected her wishes.

II. Respondent later began to pursue a strategy designed to draw attention to E.S.'s case.

JJ. Respondent filed suit against the members of VOA's governing board and the Broadcasting Board of Governors (BBG) which included prominent public figures.

KK. E.S. did not agree to the BBG suit, claiming that the case "was getting too big" and preferring to focus on VOA and her harasser and supervisors.

LL. Respondent subsequently filed motions to disqualify the district-court judge who had been assigned to both of E.S.'s cases, arguing that the judge was politically biased against him.

MM. Respondent also wrote numerous articles mentioning E.S.'s case and providing confidential information about E.S.

NN. Although E.S. was initially "completely against" the articles, she ultimately agreed to the publicity after respondent explained that it would help her case.

OO. In April 2010, respondent began to repeatedly express romantic feelings towards E.S. Respondent told E.S. that he loved

her, and E.S. replied that he was her attorney, and they could only be friends.

PP. For months thereafter, respondent kept saying that "he wanted to have a relationship with [E.S.] and [she kept] saying no, and it was ongoing and ongoing and it wouldn't stop ... it was very, very, very uncomfortable" for her.

QQ. Respondent sent an email to E.S. saying "You are ... the only woman I've ever really loved. ... [W]hen I walk down the street ... and see an attractive woman, my thoughts immediately flip to you. I see no one else... My loving you has given me true meaning in my life."

RR. E.S. believed that respondent's feelings for her were causing him to act unprofessionally in his representation, which respondent himself acknowledged in writing several times.

SS. In one letter, respondent said that "I do truly love [E.S] ... [A]nd my own emotions have rendered me non-functional even as a lawyer." In an email, respondent said "It[']s very hard to be a lawyer and feel so much for your client." In a second email, respondent said that he had "not been able to function lately, because [he was] out there so far emotionally and got nothing back," and that E.S. would

"get better legal representation with someone else ... who does not have an emotional conflict and can keep his mind clear."

TT. In July 2010, E.S. wrote to respondent and directed him to withdraw the case against the BBG, which was the only active case at that time.

UU. Several days later, E.S. wrote to an executive at VOA stating that she had "instructed Larry Klayman to withdraw any and all civil actions that he may have filed in my name and that he is no longer representing me." This letter was not sent directly to respondent, but by the next day he had received a copy.

VV. Respondent, however, did not dismiss the entirety of the case against the BBG.

WW. Respondent also continued to act on E.S.'s behalf. For example, after the trial court granted defendants' motion to dismiss the BBG case, respondent filed a motion to reconsider.

XX. In November 2010, because respondent continued to contact her about her case, E.S wrote another letter to him reiterating his termination. That letter was incorrectly addressed, and respondent testified that he did not receive it.

YY. In January 2011, E.S. wrote to respondent a third time,

stating that he was “not representing [her] in any way or shape.”

ZZ. Respondent replied to E.S., implying that she had not written the email and explaining that he “[could not] allow her legal rights and obligations to be compromised or lost altogether.”

AAA. Several days later, respondent filed a notice of appeal in the BBG case, despite not having had any communication with E.S. about filing the appeal.

BBB. E.S. later personally filed a notice of appeal in that case.

CCC. Respondent alleged that E.S. was seeking revenge against him because she was angry that her case had not gone well.

DDD. Respondent further denied having any romantic intentions toward E.S. He claimed that to the extent he did have feelings for E.S., they “actually made [him] work harder” on her behalf.

EEE. Respondent also contested the existence of a contingent fee agreement, claiming that he consulted with E.S. about his actions in the case, such as filing the disqualification motion.

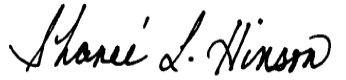
FFF. Finally, respondent acknowledged E.S.’s initial reluctance to pursue publicity but testified that she later agreed to do so. He denied pressuring E.S. on the issue.

GGG. By reason of the foregoing, the Hearing Committee

concluded that respondent violated: D.C.R. Prof. Cond.1.2(a) (lawyer shall abide by client's decisions as to objectives of representation and shall consult with client as to means used); 1.4(b) (lawyer shall appropriately explain matter to client); D.C.R. Prof. Cond.1.5(b) (requiring written agreement regarding representation) and (c) (contingent fee agreement shall be in writing); D.C.R. Prof. Cond.1.6(a)(1) and (a)(3) (lawyer shall not reveal client confidence or secret for lawyer's advantage); D.C.R. Prof. Cond.1.7(b)(4) (lawyer shall not represent client if lawyer's professional judgment will be or reasonably may be adversely affected by personal interest); and D.C.R. Prof. Cond. 1.16(a)(3) (discharged lawyer shall withdraw from representation).

8. By operation of Rule 3-4.6, Rules Regulating The Florida Bar, the District of Columbia Court of Appeals Orders shall be considered as conclusive proof of such misconduct in this disciplinary proceeding.

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 Larry Elliot Klayman, Respondent, at leklayman@gmail.com; and that a copy has been furnished by United States Mail via Certified Mail No. 7020 1810 0000 0813 3037, return receipt requested, to Larry Elliot Klayman, whose record bar address is Klayman Law Group, PA, 7050 W. Palmetto Park Road, Boca Raton, FL 33433-3426; and to Shaneé L. Hinson, Bar Counsel, at shinson@floridabar.org, on this 29th day of August, 2023.

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 E. 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 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.