

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,

Complainant,

Case No. SC07-226

v.

TFB File No. 2005-00,500(1A)

ROBERT ANTHONY DEES,

Respondent.

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**REPORT OF THE REFEREE ACCEPTING CONSENT JUDGMENT**

I. **SUMMARY OF PROCEEDINGS**

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to R. Regulating Fla. Bar 3-7.6, the following proceedings occurred:

On February 6, 2007, The Florida Bar filed its Complaint against Respondent , as well as its Request for Admissions, in these proceedings. On March 5, 2007, Respondent filed an Answer to the Complaint and Request for Admissions. Respondent also served its First Interrogatories on The Florida Bar. A Notice of Telephonic Status Conference was sent on March 20, 2007. The Florida Bar served answers to Respondent's discovery requests, and propounded its discovery on Respondent. A second Case Management Conference was held on May 14, 2007, setting down a final hearing for July 23, 2007. Respondent entered into a Conditional Guilty Plea and Stipulation for Entry of Consent

Judgment on July 10, 2007. All of the aforementioned pleadings, responses thereto, exhibits, and this Report constitute the record in this case and are forwarded to the Supreme Court of Florida.

## II. FINDINGS OF FACT

A. Jurisdictional Statement. Respondent is, and at all times material to this complaint was, a member of The Florida Bar, subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

B. Narrative Summary Of Case. Based on the foregoing consent judgment, I would find the following facts:

1. Prior to September 1, 2004, the Cadenhead Law Firm was retained to represent Bradley Noe on a felony charge of uttering a forged instrument. Respondent began working at the firm as an associate lawyer on September 1, 2004, and was assigned Mr. Noe's case. There were also misdemeanor charges pending against Mr. Noe at that time, but Respondent did not represent Mr. Noe in those proceedings.

2. Brady Marchant, Mr. Noe's former wife, was a witness in one of the criminal cases against Mr. Noe. There was a great deal of acrimony between Mr. Noe and Ms. Marchant.

3. Ms. Marchant, who had an injunction against Mr. Noe, lived with her father, Travis Marchant.

4. During this time, Mr. Noe and Ms. Marchant were also plaintiffs in a pending medical malpractice suit relating to the death of their daughter at birth.

5. On October 8, 2004, Respondent contacted Mr. Marchant in an attempt to try and resolve the charges against his client. On the same date, however, Mr. Marchant, after speaking with Respondent, called the Leon County State Attorney's Office stating that he felt he was being threatened and/or bribed to get his daughter to drop the pending felony charges against Mr. Noe. Respondent denies threatening or attempting to bribe Mr. Marchant or Ms. Marchant.

6. Mr. Marchant also told the State Attorney's Office that Respondent would be calling him again on October 12, 2004.

7. Based on the foregoing, Mr. Marchant and his daughter consented to allow a controlled taping of future calls by the State Attorney's Office in order to obtain evidence of possible extortion and/or witness tampering.

8. On October 12, 2004, Respondent called Mr. Marchant who told Respondent that before he would agree to anything, he wanted to hear from Mr. Noe himself.

9. Respondent then told Mr. Marchant that he would get Noe in his office and call him back.

10. Later that day, Respondent called back Mr. Marchant with his client, Mr. Noe, present. Unbeknownst to Respondent or his client, this conversation was taped by Gary Mendelson, an investigator for the State Attorney's Office.

11. Respondent put the call on speaker-phone so that all three parties could participate in the conversation. Mr. Noe told Mr. Marchant that he wanted all the charges against him dropped, and in return Mr. Noe would pay \$10,000 in back child support that he owed Ms. Marchant.

12. While Respondent was present, Mr. Noe also offered to withdraw as a plaintiff in the pending malpractice action and agreed that, if he were deposed in the medical malpractice suit, Mr. Noe would lose his memory and not remember any damaging information about Ms. Marchant. At one point in the conversation between Mr. Noe and Mr. Marchant, Respondent interrupted stating that he could not counsel his client to not testify to the truth because that would be illegal and unethical.

13. At the conclusion of the conversation between Mr. Noe and Mr. Marchant, Respondent stated:

Well, if ya'll put it to the State Attorney's Office that we've threatened you by any means cause, I, I hope that you don't feel that way. I'm just trying to resolve the case to my client's best interest and he wants to get this behind him and, put the girls in the best position for the rest of their life whether it be Brady or, or, or this other daughter

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14. Based on the foregoing conversation, on October 26, 2004, Investigator

Mendelson made a controlled call to Respondent from the State Attorney's Office.

15. Mr. Mendelson told Respondent that Mr. Marchant had complained to him that he felt threatened.

16. Respondent replied that he and his client had negotiated with Mr. Marchant to lobby the State Attorney's Office to drop the charges against Mr. Noe who had agreed to bring his back child support up to date and to drop out of the malpractice case.

17. When Mr. Mendelson questioned Respondent about Mr. Noe agreeing to lose his memory at the malpractice deposition, Respondent said "No, that's, that's completely false. . . ."

18. During the same conversation, regarding Mr. Noe's loss of memory, Respondent also said "if Brad said to tell them that he would lose his memory ah, I'd, rightfully so tell Brad that he, you know, that's, that's completely improper. . . ."

19. Subsequently, Mr. Noe was charged and pled nolo contendere to extortion.

20. Respondent was not charged with any criminal wrongdoing.

### III. RECOMMENDATIONS AS TO GUILT

I recommend that Respondent be found guilty of violating the following Rules Regulating the Florida Bar: 4-1.16(a)(1) and 4-8.4(d).

### IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

Based on the foregoing findings, I recommend that Respondent be found guilty of misconduct justifying disciplinary measures, and that he be disciplined as follows:

A. The imposition of a public reprimand before the Board of Governors of The Florida Bar pursuant to R. Regulating Fla. Bar 3-5.1(d).

B. Respondent will attend the next scheduled Professionalism Workshop after the issuance of the final judgment in this case.

C. Payment of The Florida Bar's taxable costs in the amount of \$ 1,444.37 in these proceedings.

V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD AND AGGRAVATING AND MITIGATING FACTORS

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1), I considered the following personal history of Respondent, to wit:

A. Personal History of Respondent

Age: 35

Date admitted to the Bar: September 18, 2002

B. Prior Discipline: None

C. Under Standard 9.22, I considered the following aggravating factors:

(d) Multiple offenses

D. Under Standard 9.32, I considered the following mitigating factors:

(a) no prior disciplinary record;

(e) full and free disclosure to the Bar and cooperative attitude toward these proceedings

(f) inexperience in the practice of law

(g) good character and excellent reputation in the legal community

(j) interim rehabilitation

(l) remorse

VI. STATEMENT OF COSTS AND MANNER IN WHICH COSTS

SHOULD BE TAXED

I find the following costs were reasonably incurred by The Florida Bar:

Administrative Costs, pursuant to R. Regulating Fla. Bar 3-7.6(q)(1)(I),	\$ 1,250.00
Bar Counsel Expenses	131.87
Investigative Costs and Expenses	62.50

**TOTAL** \$ 1,444.37

It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and that should such cost judgment not be satisfied within thirty days of said judgment becoming final, Respondent shall be deemed delinquent and ineligible to practice law, pursuant to R. Regulating Fla. Bar 1-3.6, unless otherwise deferred by the Board of Governors of The Florida Bar.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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JUDGE SHANE R. VANN  
REFEREE

Bay County Courthouse  
300 East 4th St.  
P. O. Box 2269  
Panama City, FL 32402-2269

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been mailed to THE HONORABLE THOMAS D. HALL, Clerk, Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida 32399-1927, and that copies were furnished by regular U.S. Mail to KENNETH LAWRENCE MARVIN, Staff Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300; OLIVIA PAIVA KLEIN, Bar Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300; and JOHN A WEISS, ESQ., Counsel for Respondent, whose record Bar address is 2937 Kerry Forest Parkway, Suite B-2, Tallahassee, FL 32309-6825, on this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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JUDGE SHANE R. VANN  
REFEREE