

**IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)**

**THE FLORIDA BAR,**

**Supreme Court Case  
No. SC08-326**

**Complainant,**

**v.**

**SEAN WILLIAM CONWAY,**

**The Florida Bar File  
No. 2007-51,308(17B)**

**Respondent.**

\_\_\_\_\_ /

**REPORT OF REFEREE**

**I. SUMMARY OF PROCEEDINGS:**

The Florida Bar filed its formal Complaint in this cause on February 25, 2008. Thereafter, the undersigned was appointed to preside as referee, by order of the Chief Judge of the Fifteenth Judicial Circuit. The parties have presented to me a Conditional Guilty Plea for Consent Judgment, which has been approved by The Florida Bar Board of Governors' designated reviewer. After due deliberation, I have determined to recommend that respondent's Conditional Guilty Plea for Consent Judgment be approved, for the reasons set forth herein. The pleadings and all other papers filed in this cause, which are forwarded to the Supreme Court of Florida with this report, constitute the entire record.

During the course of these proceedings, respondent was represented by Fred Haddad; The Florida Bar was represented by Alan Anthony Pascal.

## II. FINDINGS OF FACT:

A. Jurisdictional Statement: Respondent is, and at all times mentioned during this investigation was, a member of The Florida Bar, and subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.

### B. Narrative Summary:

1. Respondent voluntarily sought admission to The Florida Bar and was admitted to the practice of law in The State of Florida on or about December 18<sup>th</sup> 1996.

2. Respondent took an Oath of Admission in which respondent specifically swore that “I {Respondent} will maintain the respect due to courts of justice and judicial officers.”

3. Furthermore, as a voluntary member of The Florida Bar, respondent agreed to comply with all the terms and intent of The Rules of Professional Conduct as enacted by The Supreme Court of Florida.

4. Respondent’s public remarks about a judge, made as both an officer of the court and as a member of The Florida Bar, are subject to The Rules Regulating The Florida Bar.

5. Judge Cheryl Aleman is a circuit court judge within the Seventeenth Judicial Circuit, in and for Broward County, Florida.

6. On or about October 31, 2006, respondent posted an entry on the Internet website [www.jaablog.jaablaw.com](http://www.jaablog.jaablaw.com). This website is a public website that disseminates information for free via the internet.

7. Such entry was entitled “Judge Aleman’s New (illegal) ‘One-week to prepare’ policy”. (A copy of the posting was attached to the Complaint filed herein as **Exhibit A.**)

8. In his public posting, respondent made numerous derogatory remarks about Judge Aleman. These remarks were improper and posted to impugn the qualifications and integrity of Judge Aleman.

9. Respondent’s remarks were as follows:

- Respondent referred to Judge Aleman throughout the internet posting as an “EVIL UNFAIR WITCH” or “EUW.”
- Respondent improperly questioned her qualifications by stating that Judge Aleman was “seemingly mentally ill.”
- Respondent further remarked that Judge Aleman had an “ugly, condescending attitude.”
- Respondent also impugned Judge Aleman’s integrity by stating “... she is clearly unfit for her position and knows not what it means to be a neutral arbiter.”
- Respondent continued impugning the judge’s qualifications and integrity by stating that “... there’s nothing honorable about that malcontent.”

10. These statements were false or posted with reckless disregard as to their truth or falsity.

11. Respondent's statements not only unfairly undermined public confidence in the administration of justice, but these statements were prejudicial to the proper administration of justice.

### **III. RECOMMENDATION AS TO GUILT:**

By the conduct set forth above, respondent violated R. Regulating Fla. Bar **3-4.2** [Violation of the Rules of Professional Conduct as adopted by the rules governing The Florida Bar is a cause for discipline.]; **3-4.3** [The commission by a lawyer of an 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.]; **4-8.2(a)** [A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, mediator, arbitrator, adjudicatory officer, public legal officer, juror or member of the venire, or candidate for election or appointment to judicial or legal office.]; **4-8.4(a)** [A lawyer shall not violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.]; and **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 ...].

**IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:**

I recommend that respondent be found guilty of misconduct justifying bar discipline, and that he receive a public reprimand, to be administered by The Florida Bar's Board of Governors.

Respondent should also be required to pay The Florida Bar's reasonable costs in this matter, as set forth in The Florida Bar's affidavit of costs. I also recommend that statutory interest be applied to this cost judgment, should respondent fail to satisfy it immediately. Pursuant to R. Regulating Fla. Bar 1-3.6 and unless otherwise deferred by the Board of Governors of The Florida Bar, respondent will be deemed delinquent and declared ineligible to practice law, if he fails to pay this cost judgment within 30 days of it being final.

I am satisfied that the imposition of a public reprimand, and payment of The Florida Bar's costs are elements of an appropriate sanction, under applicable law. Attorney discipline must protect the public from unethical conduct and have a deterrent effect, while still being fair to respondents. The Florida Bar v. Pahules, 233 So. 2d 130, 132 (Fla. 1970). I have based this conclusion upon my review of applicable case law as well as the Florida Standards for Imposing Lawyer Sanctions.

**V. PERSONAL HISTORY, PAST DISCIPLINARY RECORD AND AGGRAVATING AND MITIGATING FACTORS:**

Prior to recommending discipline, and pursuant to R. Regulating Fla. Bar 3-7.6(k)(1), I considered the following:

A. Personal History of Respondent:

Age: 37

Date admitted to The Florida Bar: December 18, 1996

B. Aggravating Factors: None

C. Mitigating Factors:

9.32(a) Respondent has been a member of The Florida Bar since December 18, 1996, and has not been disciplined previously;

9.32(l) Respondent is remorseful for his conduct in this matter.

D. Prior Discipline: None

**VI. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED:**

I find that The Florida Bar has incurred reasonable costs in the matter and that same should be assessed against the respondent, as follows:

A. Grievance Committee Level Costs:

- |                             |       |
|-----------------------------|-------|
| 1. Court Reporter Costs     | \$-0- |
| 2. Bar Counsel Travel Costs | \$-0- |

B. Referee Level Costs:

- |                             |       |
|-----------------------------|-------|
| 1. Court Reporter Costs     | \$-0- |
| 2. Bar Counsel Travel Costs | \$-0- |

C.	Administrative Fee	\$ 1,250.00
D.	Miscellaneous Costs:	
1.	Investigator Costs	\$-0-
2.	Witness Fees	\$-0-
3.	Copy Costs	\$-0-
4.	Telephone Charges	\$-0-
TOTAL ITEMIZED COSTS:		\$1,250.00

It is recommended such costs be charged to respondent and interest at the statutory rate shall accrue and should such cost judgment not be satisfied within 30 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 \_\_\_\_\_, 2008.

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HONORABLE STEPHEN RAPP, REFEREE

**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, 500 South Duval Street, Tallahassee, Florida 32399-1927, and that copies were mailed by regular U.S. mail to the following: STAFF COUNSEL, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300; and ALAN ANTHONY PASCAL, Bar Counsel, The Florida Bar, 5900 North Andrews Avenue, Suite 900, Fort Lauderdale, Florida 33309-2366; and to FRED HADDAD, counsel for respondent, 1 Financial Plaza, Suite 2612, Fort Lauderdale, Florida 33394 on this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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STEPEN RAPP, REFEREE