Filing # 108438332 E-Filed 06/05/2020 10:37:46 AM

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Petitioner,

v.

SCOT STREMS,

Respondent.

_____/

Supreme Court Case
No. SC-

The Florida Bar File
Nos. 2018-70,119 (11C-MES)
2019-70,311 (11C-MES)
2020-70,440 (11C-MES)
2020-70,444 (11C-MES)

PETITION FOR EMERGENCY SUSPENSION

This petition of The Florida Bar seeks emergency relief and requires the immediate attention of the Supreme Court pursuant to R. Regulating Fla. Bar 3-5.2. The Florida Bar seeks the emergency suspension of Scot Strems, Attorney No. 42524, from the practice of law in Florida based upon facts that establish clearly and convincingly that Mr. Strems and his firm are causing great public harm. The Florida Bar alleges as follows:

1. Respondent, Scot Strems, is and at all times hereinafter mentioned, was a member of The Florida Bar and subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

2. Mr. Strems is currently the respondent in several complaints before the Florida Bar, including File Nos. 2018-70,119, 2019-70,311, 2020-70,440, and

2020-70,444. The instant petition concerns some—but by no means all—of the issues raised in those files.

3. Pursuant to R. Regulating Fla. Bar 3-5.2, this petition has been authorized by the Executive Director of the Florida Bar, as indicated below.

4. Pursuant to R. Regulating Fla. Bar 3-5.2, this petition is supported by the affidavits of Hon. Gregory Holder and Hon. Rex Barbas of the 13th Judicial Circuit in and for Hillsborough County. These affidavits are attached to this petition as Exhibits U and V respectively, and they are discussed in more detail below.

Summary of Allegations

5. As the evidence below shows, Mr. Strems sits at the head of a vast campaign of unprofessional, unethical, and fraudulent conduct that now infects courts and communities across the state.

6. Mr. Strems is the owner and the sole named partner of the Strems Law Firm, P.A. ("SLF"), which is based in Coral Gables, Florida. The firm's website boasts approximately 20 attorneys across 6 offices who have a combined 128 years of experience. *See generally* https://www.stremslaw.com/about-us/#~F8h5f52.[1] Relevant to this petition, the firm specializes in first-party property claims, in

[1] The cited page can be found by navigating to the "About Us" tab on the front page of the SLF site at www.stremslaw.com.

which it represents homeowners against their property insures. To give some sense of SLF's reach in this field, the firm's former Litigation Manager, Christopher Aguirre testified in one matter that the firm handles as many as 10,000 files at once. *See* Exhibit S, 20:10-17. He likewise testified that, as a litigation associate, he had a caseload of 700 cases. *See id.*, 11:21-12:3. Consequently, it is fair to say that SLF has a sprawling practice involving thousands of clients.

7. Despite the professional veneer of the firm's website, dockets across Florida are replete with orders sanctioning Mr. Strems and his subordinates for the delay, misrepresentation, and bad faith that have become the hallmarks of their firm's litigation practice. In that vein, an alarming number of SLF's cases follow a familiar pattern:

- Suit is **filed**, with Mr. Strems usually signing the complaint. In many if not most cases, SLF will file separate lawsuits for separate alleged losses, even though they occur under the same policy, at the same property, and at the same time. *See* Exhibit U, ¶ 4; Exhibit V, ¶ 6. After SLF files these cases, its water mitigation company of choice—All Insurance Restoration Services, Inc. ("AIRS")—subsequently files multiple lawsuits in county court relating to the same losses. Exhibit U, ¶ 4. While SLF does not typically represent AIRS in these cases, AIRS proceeds under an assignment of benefits ("AOB" or "a/o/b") executed by SLF's clients. *Ibid.* The end result is that the involvement of respondent and his firm results in "four separate lawsuits filed resulting from the same alleged occurrence." *Ibid.*[2]

[2] The tactics described in this paragraph are more fully discussed below along with the affidavits of Hon. Gregory Holder and Hon. Rex Barbas.

- From the commencement of the suit, SLF engages in a ceaseless pattern of **delay**. Deadlines for written discovery are ignored, as are duly noticed depositions. The matter invariably requires court intervention, which results in additional delay as issues are briefed and hearings are scheduled, canceled, and re-scheduled.

- SLF ignores or otherwise **violates court orders**. Orders compelling discovery responses or depositions are routinely disregarded (among other types of orders), resulting in even further litigation. When SLF does provide discovery responses pursuant to a discovery order, the responses are often incomplete, unverified, or late.

- SLF engages in **mendacious, bad-faith conduct**. In the course of litigating the case—which quickly devolves into a series of discovery and sanctions motions—SLF makes dishonest or even fraudulent statements to opposing counsel and to the court. For example, dubious reasons might be given to excuse an absence from a hearing, or SLF may conveniently forget to apprise the court of a client's death.

- The court **sanctions** SLF and/or its clients. After months (if not years) of delay and the repeated violation of court orders, the court levies heavy sanctions against SLF, including in many cases the dismissal of the entire action with prejudice. Even if the sanctions fall short of dismissal, SLF may simply cut its losses and voluntarily dismiss the matter. In either case, the end result is a massive waste of judicial resources and defense costs, and—of course—nothing for Mr. Strems's clients.

8. This pattern of conduct by Mr. Strems and his firm has resulted in clear and unquestionable harm to the public and warrants the imposition of an emergency suspension order. Numerous parties have been and continue to be injured by the respondent's bad faith, including: the insurers and their counsel who must litigate these cases; the courts, which expend tremendous time and resources resolving these disputes; the public, which relies heavily upon the judicial resources consumed by SLF's case load; Florida homeowners, whose insurance

premiums ultimately fund both sides of SLF's cases; and, of course, respondent's own clients who are sometimes conscripted (unwittingly or otherwise) into the firm's conduct, and whose claims are frequently rendered worthless due to court sanctions.

Standard of Review

9. Rule 3-5.2 of the R. Regulating Fla. Bar lays out the relevant standard for this petition. In short, the Florida Bar must allege facts that "if unrebutted, would establish clearly and convincingly that [the respondent] appears to be causing great public harm…."

10. Relevant to that standard, this petition addresses several sanctions orders against respondent and SLF that were granted pursuant to this Court's decision in *Kozel v. Ostendorf*, 629 So. 2d 817 (1993). In most of these orders, Mr. Strems's case was dismissed with prejudice. *Kozel* provides the following six factors to determine whether to grant such relief:

a. Whether the attorney's misconduct was willful, deliberate, or contumacious, rather than an act of neglect or inexperience;

b. Whether the attorney has been previously sanctioned;

c. Whether the client was personally involved in the act of disobedience;

d. Whether the delay prejudiced the opposing party through undue expense, loss of evidence, or in some other fashion;

e. Whether the attorney offered reasonable justification for his conduct; and

f. Whether the delay created significant problems of judicial administration.

Id. at 818.

11. Consequently, the sanctions orders in the following section include numerous findings that follow these factors, and these orders in turn weigh strongly in favor of a finding of great public harm under Rule 3-5.2 (*see e.g.,* the fourth and sixth factors, which relate to the harm to litigants and the judiciary, respectively).

The Sanctions Orders

12. Below are synopses of orders and other filings across 18 separate cases that lay bare the pattern of unethical and unprofessional conduct by respondent and SLF. They are all attached as Exhibits A through R. The orders below by no means represent the totality of sanctions issued against respondent and his firm. Indeed, the orders themselves make reference to yet more sanctions orders which are not addressed in this petition. These synopses are intended to familiarize the Court with the pattern of conduct that is the subject of this petition; the Florida Bar urges the Court to review each of the exhibits in full.

13. While many of these orders may have been issued over a year ago, this overall pattern of conduct was only recently brought to the attention of the Florida Bar. At any rate, the most recent of these orders is dated February 27, 2020, and involves a misleading affidavit signed by Mr. Strems personally.

Accordingly, while this pattern of conduct may have begun in the past, it continues presently, and will no doubt continue without the intervention of the Court.

14. The orders at issue follow:

a. ***Laurent v. Fed. Nat'l Ins. Co.***
20th Judicial Circuit, Case No. 14-CA-003012
Hon. Elizabeth Krier

- On March 2, 2016, Judge Krier entered an order striking the pleadings in the captioned case and dismissing it with prejudice. *See generally* Exhibit A.

- At length, this order details SLF's continual failure to abide by procedural rules and the court's own orders. *See id.*, ¶¶ 2-8.

- "The Plaintiff's non-compliance with discovery orders and the trial deadlines set forth by the Court demonstrates a willful and deliberate disregard for the Court's authority. The Plaintiff's willful and deliberate disregard of orders issued by the Court has severely prejudiced the Defendant's ability to prepare its case." *Id.*, ¶ 11.

- "The Plaintiff's actions have caused the unnecessary delay of this case." *Id.*, ¶ 12.

- "The Plaintiff attorney's conduct was not a result of neglect or inexperience… Moreover, the delay prejudiced the Defendant's defense of this case." *Id.*, ¶ 14.

- After further discussion of the *Kozel* factors, Judge Krier struck the pleadings and dismissed the case. *See id.*, ¶¶ 13-16.

b. ***Scott v. Security First Ins. Co.***
Broward County Court, Case No. COCE 15-002048
Hon. Stephen Zaccor

- On October 18, 2016, Judge Zaccor dismissed the captioned case with prejudice. *See generally* Exhibit B.

- At length, the court describes SLF's failure to respond to discovery requests, even after being ordered to do so. *See id.*, ¶¶ 5-11.

- Following a motion for contempt, SLF filed interrogatory answers purporting to have been answered by SLF's client. *See id.,* ¶¶ 11-12.

- Two weeks later – with their client's deposition close at hand – SLF filed a notice of suggestion of death, advising the court for the first time that their client had died nearly six months earlier. *See id.*, ¶ 13. Consequently, SLF's client was deceased at the time that her interrogatory answers were filed.

- The insurer-defendant then moved to dismiss the case for SLF's failure to substitute a party (*i.e.*, the decedent's representative), but on the eve of the hearing on that motion, SLF filed a notice of voluntary dismissal in a "deliberate attempt to avoid the Court's jurisdiction and cover up the misrepresentations and willful disregard for the court's process…" *Id.*, ¶ 18.

- "As a result of Plaintiff's counsel's willful disregard and gross indifference for the Florida Rules of Civil Procedure, as well as an Order executed by this Court, litigation had been indefensibly delayed for over 500 days, and Defendant has incurred significant expenses and wasted considerable time and resources." *Id.*, ¶ 20.

- According to the court, "Plaintiff's counsel has engaged in egregious willful disregard for the Florida Rules of Civil Procedure, deliberately delayed litigation and discovery in this case for over one-year (1), made misrepresentations to Defendant's counsel, and has exhibited gross indifference for the importance of candor throughout the pendency of this litigation." *Id.*, ¶ 3.

- Consequently, Judge Zaccor set aside the notice of voluntary dismissal, and dismissed the case with prejudice. *Id.*, ¶ 22.

c. ***Scott v. Security First Ins. Co.***
Broward County Court, Case No. COCE 15-020233
Hon. Daniel Kanner

- This is a companion case to the *Scott v. Security First Ins. Co.* case above.[3] It follows the same pattern of conduct with the same result.

- "Notwithstanding the fact that the Plaintiff, Deanne Scott, passed away on September 29, 2015, Plaintiff's counsel did not notify this Court or Defense Counsel until April 20, 2016, roughly two hundred and five (205) days after the fact. Given the amount of time which lapsed, Plaintiff's Counsel either knew or should have known of the Plaintiff's death and apprised the Court of the same." Exhibit C, ¶ 5.

- "[T]his Court finds that the Plaintiff's egregious bad faith conduct, willful disregard for the Florida Rules of Civil Procedure, and gross indifference for the importance of professionalism and civility, constitute a level of fraud which gives this Court the authority to set aside the Plaintiff's Notice of Voluntary Dismissal without Prejudice and impose the foregoing Dismissal with Prejudice." *Id.*, ¶ 2.

d. ***Robinson, et al. v. Safepoint Ins. Co.***
11th Judicial Circuit, Case No. 2015-019927
Hon. Jorge Cueto

- In this case, the insurer-defendant moved to dismiss the case due to an alleged fraud on the court by the plaintiffs. Specifically, the defendant discovered phone records indicating that the plaintiffs had contacted a water mitigation company several days *before* the alleged date of the subject loss.[4]

- In his order on the insurer's motion, Judge Cueto found that "Plaintiffs had provided false and misleading testimony and documentation" for the purpose of "contriv[ing] false water damage claims in order to fraudulently recover money under Plaintiffs' homeowners insurance policy." Exhibit D-1, ¶¶ 3, 5.

---

[3] Notably, both of the *Scott v. Security First Ins. Co.* cases involve two alleged losses occurring one week apart under the same policy.

[4] More specifically, the water mitigation company at issue is All Insurance Restoration Services, or AIRS. AIRS is a water mitigation company frequently used in SLF's cases, and is frequently referenced in sanctions orders against the firm.

- "The Court therefore finds that dismissal of the Plaintiffs' entire lawsuit with prejudice is warranted for perpetrating a fraud upon the Court." *Id.*, ¶ 6.

- As Mr. Strems will no doubt point out, Judge Cueto's decision was reversed and remanded by the Third DCA with instructions to conduct an evidentiary hearing on the insurer's motion before proceeding with the case. In this decision, though, the appellate court found that the record "certainly suggests that an attempted fraud on the court may have been committed…" Exhibit D-2, p. 2.

- After the lengthy wait for the resolution of the appeal, the case is back on track, with the insurer-defendant continuing to pursue its efforts to dismiss the case.

e. ***Santos v. Fla. Family Ins. Co.***
9th Judicial Circuit, Case No. 2015-CA-2791
Hon. Kevin Weiss

- In his order dismissing the case, Judge Weiss detailed SLF's lengthy history of violating discovery orders and other pretrial orders and deadlines throughout the case. *See* Exhibit E-1, pp. 2-7. In sum, "Plaintiff and his counsel [SLF] have failed to comply with this Court's Orders on four occasions, and have violated the Florida Rules of Civil Procedure on at least twelve occasions." *Id.*, p. 2.

- "This delay has prejudiced Florida Family [the insurer] through undue expense. Florida Family has unnecessarily expended fees and costs to defend this frivolous litigation. Plaintiff brought this suit against Florida Family, yet fails to obey discovery orders, produce relevant documents, and timely comply with the Rules of Civil Procedure. Defendant has been forced to file 7 motions to compel just to receive documents to which it is entitled in an attempt to defend this suit." *Id.*, p. 9.

- "This delay has caused problems with judicial administration in that the Court has unnecessarily wasted its time and resources hearing and ruling on discovery motions for discovery that Plaintiff is required, by law, to provide to Defendant. This Court should not have to hear or waste its time compelling Plaintiff and his counsel, as an officer of the Court, to comply with this Court's Orders or the Rules of Civil

Procedure. Further, this complete disregard for the Court's authority renders the justice system inoperable." *Id.*, p. 10.

- Following this analysis of the *Kozel* factors, Judge Weiss decided to dismiss the case with prejudice. *See ibid.*

- Judge Weiss vacated the dismissal upon reconsideration, and instead struck several of plaintiff's exhibits, fact witnesses, and experts, and also awarded entitlement to monetary sanctions against both plaintiff and SLF. *See* Exhibit E-2, p. 2. In the framework of the *Kozel* factors, Judge Weiss points SLF's wholesale refusal to comply with the barest requirements of discovery, the discussion of which is far too comprehensive to be summarized here. *See id.*, pp. 3-12. Among other things, Judge Weiss found that SLF "continues to exhibit no respect for this Court's authority," and notes that a prior sanction of $14,533.29 in that same case "has not deterred Plaintiff's counsel from engaging in similar litigation conduct." *Id.*, p. 9.

- According to Judge Weiss, these sanctions were warranted because "Plaintiff and his counsel [SLF] have…demonstrated 'a deliberate and contumacious disregard of this Court's authority and [] bad faith, [and] willful disregard and gross indifference to the applicable rules of civil procedure…'" *Id.*, ¶ 8 (quoting *Mack v. Nat'l Constructors, Inc.*, 666 So. 2d 244, 245 (Fla. 3d DCA 1996)).

- While Judge Weiss's second order invited the plaintiff to submit new witnesses and exhibit lists, the litigation terminated shortly thereafter. Specifically, SLF agreed to pay the defendant $15,000.00 in defense costs, and then voluntarily dismissed the case with prejudice. *See generally* Exhibit E-3; Exhibit E-4.

f. ***Casiano v. Federated Nat'l Ins. Co.***
20th Judicial Circuit (Lee County), Case No. 16-CA-000219
Hon. Alane Laboda

- In this case, SLF missed the court-ordered deadlines for expert disclosures by months. *See* Exhibit F-1.[5] The first time it addressed

[5] The magistrate's report and recommendations cited here were adopted by court order the following day, May 18, 2017.

the issue, the court declined to strike plaintiff's experts and fact witnesses, and instead offered an opportunity to correct the issue. *Id.*, ¶¶ 4-5.

- Unwilling to engage in the discovery process, SLF again failed to provide adequate disclosures in response to the court order, and witnesses further failed to appear for deposition. *See* Exhibit F-2, pp. 2-4. Consequently, several exhibits and witnesses were struck. *See id.*, ¶¶ 3-4.

- Shortly after this order, SLF dismissed its client's case with prejudice. *See generally* Exhibit F-3.

g. ***Rodriguez v. Avatar Prop. & Cas. Ins. Co.***
13th Judicial Circuit, Case No. 16-CA-000575
Hon. Elizabeth Rice

- In her July 14, 2017 order dismissing the captioned case with prejudice, Judge Rice "noted an incredible pattern of delay by Plaintiff and his attorneys from the very inception of the lawsuit." Exhibit G, ¶ 21. Furthermore, "[t]he conduct displayed in this case appears to be part of a disturbing pattern of conduct by the Strems Law Firm…" *Id.*, ¶ 23.b.

- Indeed, Judge Rice spent the greater part of her eight-page order discussing SLF's failure to attend depositions despite agreed-upon deposition dates, subpoenas, and a court order to do so. *See id.*, pp. 1-5. In fact, SLF filed two motions for protective orders to head off their client's deposition, which included various representations the court found to be false. *See id.*, ¶¶ 9-12.

- Judge Rice ordered the deposition to move forward, but SLF and their client ignored that order as well. *See id.*, ¶¶ 14-15.

- Following another blown deposition date, the defendant naturally moved for contempt and sanctions, and in the ensuing hearing, the court found that SLF "recently manufactured" its excuses for refusing to attend the court-ordered deposition. *Id.*, ¶ 20.

- After conducting the six-factor analysis required by *Kozel* (and finding that all factors weighed against SLF), Judge Rice dismissed the case with prejudice. *See id,*, ¶¶ 22-28. In the course of this

analysis, the court found that the insurer-defendant "clearly was prejudiced" by SLF's conduct, and that it "expended unnecessary time and expense in preparing for and traveling to the deposition and considerable time and expense in filing and defending motions related to Plaintiff's failure to comply with discovery – all in a case which has hovered on the brink of dismissal for substantive legal reasons since its inception." *Id.*, ¶ 23.d (emphasis in original). The court further found that "[t]he conduct of Plaintiff and his attorneys has caused substantial problems of judicial administration. The Court has expended many hours in preparing for and conducting hearings related to the matters at issue in the Motion." *Id.*, ¶ 23.f.

- After a nearly two-year appeal, the Second DCA ultimately affirmed Judge Rice's decision on May 17, 2019.

h. ***Reese, et al. v. Citizens Prop. Ins. Corp.***
11th Judicial Circuit, Case No. 2017-001281
Hon. Thomas Rebull

- Here, on the insurer-defendant's *Kozel* motion, Judge Rebull found that "the actions of Plaintiffs and [SLF] warrant[] the ultimate sanction of dismissal with prejudice. Despite prior warnings by this Court, Plaintiffs and Plaintiffs' counsel have defiantly failed to comply [with] this Court's orders on three (3) separate occasions and have violated the Florida Rules of Civil Procedure." Exhibit H, pp. 1-2.

- At significant length, Judge Rebull details SLF's failure to comply with the court's orders to: (i) attend a deposition; (ii) appear at a show cause hearing; and (iii) file a written response to the defendant's motion to strike the pleadings and dismiss the case. *Id.*, pp. 3-4. Furthermore, after all of the notices, correspondence, and motions exchanged on the issue, SLF still "ha[d] yet to provide [Defendant] the most basic discovery in this matter." *Id.*, p. 9.

- In his comprehensive application of *Kozel* analysis, Judge Rebull decided to dismiss the action entirely, characterizing SLF's misconduct as "willful, deliberate, *and* contumacious, as Plaintiffs and their counsel have flouted three (3) of the Court's order[s] in the span of just over one (1) months, the second to last of which this Court entered after *personally* admonishing Plaintiffs' and their counsel that

any further violations of this Court's orders could result in a dismissal of this action." *Id.*, p. 2 (emphasis in original).

- The insurer-defendant "incurred significant fees and costs" after two no-show depositions and three hearings. *Id.*, p. 7.

- "[T]he Court has unnecessarily wasted its time and resources reviewing, entertaining, and ruling on discovery motions for discovery that Plaintiffs (as the Court *personally* explained to Plaintiffs and Plaintiffs' counsel during the hearing held on June 26, 2017), are required – by law – to provide [Defendant]." *Id.*, p. 8.

- Judge Rebull further notes that SLF's "behavior is no aberration, as Plaintiffs' counsel has been previously sanctioned on numerous occasions for similar conduct." *Id.*, p. 3.

i. ***Rivera, et al. v. Security First Ins. Co.***
13th Judicial Circuit, Case No. 16-CA-004946
Hon. Rex Barbas

- In a sanctions order dated August 16, 2017, Judge Barbas recounted SLF's repeated failure to attend its clients' depositions, which were all coordinated with defense counsel. *See* Exhibit I-1, ¶¶ 6-44. In each instance, SLF reached out to defense counsel to reschedule the depositions at the eleventh hour, citing ostensible conflicts that SLF could not or would not substantiate. *See ibid.*

- Apparently fed up with the year-long delay in obtaining these depositions, the insurer-defendant filed a Motion for Sanctions for Continued Pattern of Delay and for Plaintiff's Failure to Appear at Deposition. *See id.*, ¶ 41. The motion sought dismissal and monetary sanctions. *See id.*, ¶ 42. Despite the relief sought by the defense, SLF filed no response. *See ibid.*

- In his order on the sanctions motion, Judge Barbas made several findings of SLF's misconduct. For example:

> 45. Plaintiffs' lawyers' actions in this litigation have been deliberate and contumacious and designed to prevent the orderly movement of this litigation.

46. The most basic discovery, Plaintiffs' depositions were deliberately delayed, and Plaintiffs failed to provide any credible or reasonable justification for the delays.

47. At some point mere foot dragging becomes conduct which evinces deliberate callousness and willful disregard of the Court's authority. *Turner v. Marks*, 612 So. 2d 610 (Fla. 4th DCA 1992).

48. Plaintiffs' lawyers have willfully disregarded the Florida Rules of Civil Procedure and the Rules of Professional Conduct and have engaged in bad faith litigation conduct.

49. The actions of Plaintiffs' lawyers have caused substantial problems of judicial administration in not only this case, but this Circuit Court.

…

51. The delays and violations of Court Orders by The Strems Law Firm, P.A. are not isolated. The Strems Law Firm, P.A. has evidenced a pattern of litigation delays and frequently violates Court Orders.

52. This Court previously sanctioned Plaintiffs' counsel and/or Plaintiffs in this case for failing to comply with a Court Order. *See Order Granting Defendant's Motion for Sanctions for Failure to Comply with Court Order*, signed 12/8/2016.

Id., ¶¶ 45-52.

- Based on the foregoing, Judge Barbas entered a sanctions award of $37,000.00 "to be paid by Scot Strems, Esq. from his personal account." *Id.*, ¶ 58. "The Court further advises The Strems Law Firm, P.A. that if another lawsuit is filed before it, Scot Strems, Esq. shall be required to appear before the Court at any hearings, and may not send any other attorney from The Strems Law Firm, P.A. to appear on his behalf. *Id.*, ¶ 60.

- Additionally, Judge Barbas referred SLF to the Florida Bar in the text of the order itself. *See id.*, ¶ 59.[6]

- Upon SLF's motion for reconsideration, Judge Barbas vacated the original sanctions order on November 29, 2017 in order to grant the parties an evidentiary hearing on the amount of the sanctions award, and in order to permit SLF and Mr. Strems an opportunity to present evidence that they did not act in bad faith. *See generally* Ex. I-2.

- While SLF was busy litigating these sanctions issues, their clients were defeated on summary judgment due to their failure to comply with post-loss obligations under the insurance policy. *See* Exhibit I-3, ¶¶ 5-7. More specifically, plaintiffs failed to submit a sworn proof of loss, failed to submit to examinations under oath, and failed to show damaged property relevant to the loss. *See id.*, p. 2. The court explicitly reserved jurisdiction to decide the sanctions issues. *See id.*, p. 3.

- SLF appealed the court's summary judgment order on or about December 27, 2017. The year-and-a-half appeal concluded with a *per curiam* affirmation of Judge Barbas's order on or about May 24, 2019.

- In the interim, SLF did nothing further to attempt to vindicate itself on the sanctions issues. Nothing on the docket indicates that the evidentiary hearing on the award or bad faith issues moved forward. As the case is currently open (as of the drafting of this petition), it appears that those issues are still pending.

j. ***Perez, et al. v. Homeowners Choice Prop. & Cas. Ins. Co.***
13th Judicial Circuit, Case No. 16-CA-010243
Hon. Gregory Holder

- The dispute in this case arose out of SLF's refusal to submit their client for contractually mandated examination under oath ("EUO"), and their refusal to submit his sworn statement. *See* Exhibit J-1, 7:8-12:14.

---

[6] The Florida Bar subsequently opened this matter under File No. 2018-70119.

- In his order dismissing the case, Judge Holder found that "through the conduct of counsel for the Plaintiffs, The Strems Law Firm, P.A., this case has been continuously delayed, resulting in additional cost, time, energy, and expense expended by the Defendant. Specifically, Strems Law Firm has engaged in bad faith litigation practices both in the case and in additional matters before this Court on previous occasions… ." Exhibit J-2, pp. 1-2.

- In the hearing on the order, Judge Holder explained that SLF "has engaged in these tactics on a repeated basis, whether it's incompetence, misfeasance, malfeasance, nonfeasance, or just a lack of ethics, we will make that determination, but indeed it must stop." Exhibit J-1, 15:8-12.

k. ***Morales, et al. v. Federated Nat'l Ins. Co.***
Volusia County Court, Case No. 2016 11929 CODL (71)
Hon. Angela Dempsey

- As with several other cases, the litigation in this matter centered around SLF's repeated failure to provide responses to discovery, its failure to attend depositions, and its repeated violation of court orders. *See generally* Exhibit K, ¶¶ 2-6.

- "The Plaintiff's non-compliance with this Honorable Court's Discovery Orders demonstrates a willful and deliberate disregard for the Court's authority thereby justifying the application of the sanction of striking Plaintiffs' pleadings. The Plaintiff's actions constitute a pattern of willful, contemptuous, and contumacious disregard of lawful Court Orders." *Id.*, ¶¶ 7-8.

- "At some point mere foot dragging becomes conduct which evinces deliberate callousness and willful disregard of the court's authority." *Id.*, ¶ 11 (citing *Turner v. Marks*, 612 So. 2d 610 (Fla. 4th DCA 1992)).

- "Given the totality of the circumstances," the court struck the plaintiff's pleadings and dismissed the case with prejudice. *Id.*, ¶ 12.

l. ***Collazo v. Avatar Prop. & Cas. Ins. Co.***
13th Judicial Circuit, Case No 16-CA-1883
Hon. Paul Huey

- In this case, the insurer-defendant filed a motion to dismiss with prejudice that explains the "standard operating procedure" of SLF "to ignore the well-established law, disregard the Florida Rules of Civil Procedure, violate Court orders, and thwart insurers' attempts to conduct discovery and defend themselves." Exhibit L-1, ¶ 16.

- The insurer's motion charts out all the usual landmarks of litigation with SLF, which includes:

  - SLF's failure to respond timely (or at all) to written discovery. *See id.*, ¶¶ 48, 55, 112, 116-121, 130, 135.

  - SLF's untimely tender of deficient and unresponsive responses to written discovery. *See id.*, ¶¶ 56, 57. To give some sense of the deficiencies in these responses, it bears noting that SLF apparently raised blanket, copy-paste objections to an interrogatory requesting that SLF explain the factual allegations central to its own case. *See id.*, ¶ 90.

  - SLF's refusal to cooperate on setting hearings on dispositive motions. *See id.*, ¶¶ 59, 66.

  - SLF's failure to secure the attendance of its own adjusters/loss consultants at depositions, including depositions scheduled pursuant to court order. *See id.*, ¶¶ 62-63, 104-105, 107.[7]

  - SLF's efforts to unilaterally set hearings and depositions. *See id.*, ¶¶ 66, 95, 132.

  - SLF's violations of court orders, directives, and deadlines. *See id.*, ¶¶ 92, 94, 99, 104, 107, 112, 116, 119, 129-130, 134.

---

[7] In fact, the motion gives a lengthy discussion of the relationship between SLF and its favored adjusters/loss consultants All Insurance Restoration Services, Inc. ("AIRS") and Contender Claims Consultants, Inc. ("Contender"). The motion avers, among other things, that these companies, along with SLF, "are involved in literally thousands of claims together, more likely, tens of thousands of claims." Ex. L-1, ¶ 4. Insurer's counsel "never has encountered, not once, a single case where AIRS or Contender was involved, and [SLF] was not." *Id.*, ¶ 5. "[T]he purportedly failed part [of the home] allegedly causing the problem had been disposed of, with no photographs or videos taken of the same. Significantly, this **exact** scenario happens in every single claim involving [SLF], AIRS and Contender, which again, are thousands or tens of thousands." *Id.,* ¶ 9 (emphasis in original).

- In light of these submissions (and others far too numerous for this summary) Judge Huey found that the insurer-defendant's motion was "well-taken" and dismissed the case with prejudice, finding that the submissions satisfied the *Kozel* factors. Exhibit L-2, ¶¶ 3-5.

- On March 20, 2020, the Second DCA affirmed Judge Huey's decision following a two-year appeal.

m. ***Frazer, et al. v. Avatar Prop. & Cas. Ins. Co.***
17th Judicial Circuit, Case No. CACE 16-015798 (14)
Hon. Carlos Rodriguez

- In his order dismissing this case, Judge Rodriguez found that "[f]rom the record evidence, there is no question that [SLF], Plaintiffs' public adjuster – [Contender], and the other company hired by Plaintiffs, [AIRS], have a multitude of claims together. It is equally clear that Strems, Contender and AIRS routinely fail to appear for scheduled examinations under oath as well as depositions." Exhibit M, ¶ 7.

- The court went on to discuss plaintiffs' and SLF's repeated failure to provide discovery responses and attend agreed-upon EUO's and depositions. *Id.*, ¶¶ 8-38.

- What few discovery responses SLF provided were "grossly deficient and mendacious," and "never verified." *Id.*, ¶¶ 42-43.

- On one occasion, one of the plaintiffs "appeared for deposition, but left pursuant to the instructions of Strems without giving any testimony." *Id.*, ¶ 24.

- During the court-ordered deposition of the other plaintiff, "Mr. Saldamando [an attorney for SLF] repeatedly instructed [the plaintiff] not to answer proper questions with no basis at all. Then, with a question pending and unanswered, Mr. Saldamando unilaterally declared a break over the strenuous objection of Defendant's attorney, removed [the plaintiff] from the room, and spent some twenty minutes or so discussing the case with her, again, with a question pending." *Id.*, ¶ 56.

- At another deposition, "Mr. Saldamando would not allow the deposition to proceed unless Defendant agreed to certain stipulations,

which were not only impermissible, they were in direct contradiction to the Court's directives." *Id.*, ¶ 57.

- Furthermore, Judge Rodriguez found that "the conduct of [SLF] and Mr. Saldamando here, is no aberration." *Id.*, ¶ 64.

- "[T]he Court finds that the *Kozel* factors have been satisfied, and the circumstances of this cause warrant dismissal of the action with prejudice." *Id.*, ¶ 63. Judge Rodriguez then levied sanctions of $22,877.02 against SLF and Mr. Saldamando. *Id.*, ¶¶ 65, 67.

- Judge Rodriguez offered a more itemized account of SLF's sanctionable conduct late in the order. *See id.*, ¶ 66. Without belaboring a point-by-point recitation of these findings, Judge Rodriguez held that "[t]he conduct is deliberate and contumacious. … Throughout this case and per the orders filed, in many other cases, the conduct is such that it cannot be said to be an accident or isolated conduct but has been sanctioned previously, the client may or may not be involved but the conduct appears attorney drive, the prejudice to the defense has been extreme, rendering them totally unable to defend the case, there has been no offered justification, other than an obvious, and observed by the Court in the courtroom, animosity toward the defense and finally, the administration of justice has been brought to a halt beyond just the discovery issue because this case improperly appeared on the trial docket, bumped other ready cases and wasted time." *Ibid.*

- While SLF appealed Judge Rodriguez's decision on November 2, 2018, their initial brief was not filed until December 13, 2019, following the Fourth DCA's show-cause order requiring that filing.

- On June 3, 2020, the Fourth DCA released its decision, vacating the monetary sanctions against SLF on the basis that the trial court did not provide sufficient notice and opportunity to be heard regarding those sanctions. The decision otherwise left Judge Rodriguez's findings untouched.

n. ***Ramirez et al. v. Heritage Prop. & Cas. Ins. Co.***
13th Judicial Circuit, Case No. 16-CA-3258
Hon. Rex Barbas

- In his August 23, 2018 order in the captioned matter, Judge Barbas details an extensive campaign of misconduct on behalf of Mr. Strems, SLF, and various other attorneys of the firm. Totaling 67 paragraphs, the court's findings of fact and conclusions of law recite a litany of discovery violations by SLF, including the firm's serial failure to provide written responses or appear at depositions, as well as its casual violation of several court orders. *See generally* Exhibit N, pp. 2-12. These violations are far too numerous to be individually recited here.

- In the court's words, SLF "demonstrated a 'deliberate and contumacious disregard of this Court's authority and [] bad faith, [and] willful disregard and gross indifference to the applicable rules of civil procedure,' by failing to comply with this Court's Orders on at least four occasions and spoiliating evidence." *Id.*, p. 14 (quoting *Mack v. Nat'l Constructors, Inc.*, 666 So. 2d 244, 245 (Fla. 3d DCA 1996)).

- The defendant "has had to unnecessary[ily] defend this frivolous case and has had to research and draft motions, correspond with opposing counsel, and attend hearings in order to secure discovery responses that Plaintiffs are required, by law, to provide to Defendant." *Id.*, p. 19.

- "This delay has caused problems with judicial administration in that the Court has unnecessarily wasted its time and resources hearing and ruling on discovery motions for discovery that Plaintiff is required, by law, to provide to Defendant. This Court should not have to hear or waste its time compelling Plaintiffs and their counsel, as an officer of the Court, to comply with this Court's Orders or the Rules of Civil Procedure." *Id.*, pp. 19-20.

- Judge Barbas ultimately dismissed this case with prejudice based upon SLF's "continued and willful violations of this Court's Order and for spoiliating relevant evidence…" *Id.*, p. 13.

o. ***Rodriguez v. Am. Security Ins. Co.***
10th Judicial Circuit, Case No. 2017-CA-002051
Hon. Michael Raiden

- In an order entered on November 14, 2018, Judge Raiden unpacks a litany of dilatory conduct and violated court orders too lengthy to be completely summarized here. *See generally* Exhibit O. The order grants the insurer-defendant's motion to show cause resulting from SLF's characteristic failure to comply with discovery.

- The insurer-defendant propounded written discovery on SLF on or about July 21, 2017, and SLF made no response by the time that the defendant filed the subject sanctions motion nearly 8 months later. In that time, SLF failed to respond to those discovery requests, failed to respond to counsel's follow-up correspondence, and failed to appear for a mutually scheduled deposition. *See id.*, ¶ 2.

- Though the insurer's motion imperiled the plaintiff's entire case, SLF sought to withdraw as counsel while the motion was still pending. *See id.*, ¶ 3. According to SLF's counsel on the case, they became unable to communicate with their client. *Ibid.* SLF represented that their client was aware of the lawsuit and the posture of the litigation, even though there was no indication that their client was actually mailed a copy of SLF's motion to withdraw. *Ibid.*

- SLF was able to secure the plaintiff's attendance at a November 5, 2018 hearing on the insurer's motion to show cause, and during her testimony, the plaintiff "denied ever having personally filed a claim with the Defendant, authorizing anyone else to do so, or authorizing anyone to file suit on her half." *See id.*, ¶ 4. "More disturbingly, [the plaintiff] also produced a copy of a purported contract for services between herself and the Strems Law Firm and testified that her signature had been forged on this document." *Ibid.* She further testified that she had "refused to attend [her deposition] because [SLF] did not represent her and she had not filed suit." *Ibid.*[8]

[8] Ms. Rodriguez's testimony here clearly echoes the allegations made against respondent and SLF in a recently filed class-action lawsuit captioned *Sonia Ortiz v. The Strems Law Firm, P.A., et al.*, Case No. 2020-CA-004053-O in the 9th Judicial Circuit in and for Orange County, Florida. A copy of the

- The court held a follow-up hearing on November 6, 2018, but no one from SLF attended the November 6, 2018, despite being advised that appearance would be in the firm's best interest. *See id.*, p. 1, ¶ 13(a).

- After addressing a number of sanctions orders against SLF in other matters (some of which are discussed in this petition), Judge Raiden then turned to the issue of whether dismissal of the action was appropriate under *Kozel*. While he found that the plaintiff was not personally involved in SLF's misconduct, the remaining five factors all warranted dismissal. *See id.*, ¶¶ 13(a)-13(e). In relevant part, Judge Raiden analyzed the *Kozel* factors as follows:

  (a) Whether the attorney's disobedience was willful, deliberate, or contumacious, rather than an act of inexperience.

  YES. **The history of this case reflects the same strategy of delay, delay, delay, without adequate explanation**, as those cited above. Moreover, the case at bar adds an additional wrinkle not found in those opinions, *viz.*, Plaintiff's claim that she never entered into a contract for representation with the Strems firm and never authorized this lawsuit. There are two reasons why the Court chooses to believe Ms. Rodriguez. First, what would be her motive to lie? … Most notably, this is not a situation in which the Plaintiff appeared in an effort to salvage her lawsuit. Thus her testimony that she never asked for the suit and doesn't want to pursue it is compelling. Second, as noted early on in this order, the Strems Law Firm did not send a representative to the November 6 hearing. It made that choice at its peril, as the Court suspected it might.

  (b) Whether the Attorney Has Been Previously Sanctioned.

  YES. While the Court has no information personally implicating the individual attorneys who have filed pleadings in this matter, the

---

amended complaint in this lawsuit is attached as Exhibit T. While the entire pleading is well worth reviewing, paragraph 41 and its subparagraphs paint a vivid picture of how respondent and his firm allegedly use third-party runners to solicit representation from unwitting homeowners, who are unaware that they are signing retainer agreements with SLF. This scheme is characterized as a "plot of deception to thwart Florida Bar Ethics and anti-solicitation statutes." Exhibit T, ¶ 41. Based upon her testimony, it appears that Ms. Rodriguez was a victim of this scheme.

foregoing recitation amply demonstrates **a history of willful misconduct on the part of the firm in general designed to mislead insurance companies and the court system**.

…

(d) Whether the Delay Prejudiced the Opposing Party Through Undue Expense, Loss of Evidence, or In Some Other Fashion.

YES. The lawsuit has been active for nearly a year and a half with little or no meaningful discovery provided despite Defendant's repeated and reasonable efforts, including motions and hearings, to obtain it. As in several of the cases cited in this order, **the Strems firm has blamed the client for its problems in responding, which representations turn out to be true only because the client has disavowed the suit**.

(e) Whether the Attorney Offered Reasonable Justification for Noncompliance.

NO.

(f) Whether the Delay Created Significant Problems of Judicial Administration.

TO SOME EXTENT. This Court's labors do not appear to have been quite so extensive as in some of the opinions provided by Defendant, but given that **the case seems to be invalid *ab initio*** even a few hours' work on hearings and orders was unjustifiably shifted away from other, more deserving litigants.

Id., ¶¶ 13(a)-13(f) (emphasis supplied; text reformatted for ease of review).

- Finding that the *Kozel* factors were satisfied, Judge Raiden dismissed the action with prejudice, and denied SLF's motion to withdraw as counsel "pending compliance with the sanctions to be imposed in this order," which included the insurer-defendant's fees and costs, which "shall be paid exclusively by counsel with no obligation whatsoever attending to Ms. Rodriguez." *Id.*, p. 9.

- SLF's attempt to appeal Judge Raiden's order ultimately failed, and on November 13, 2019, SLF moved to vacate the order. A hearing on that motion has yet to occur.

p. ***Vera v. Am. Security Ins. Co.***
13th Judicial Circuit, Case No. 18-CA-006103
Hon. Lamar Battles

- SLF filed the captioned suit on June 25, 2018, naming Mirta Vera and Israel Perez as plaintiffs.

- The insurer successfully moved to compel appraisal, obtaining an agreed order from SLF on December 6, 2018 to submit the claim to appraisal.

- Notwithstanding the agreed order, SLF apparently refused to permit the appraisal panel to inspect the property at issue. The insurer-defendant filed a motion for precisely that relief on March 26, 2019. It also sought sanctions for SLF's violation of the agreed order.

- Furthermore, during this time a dispute apparently arose between the parties as to whether plaintiff Israel Perez was, in fact, alive.

- A hearing was held on the insurer-defendant's motion on May 1, 2019. Exhibit P-1.[9] During the hearing, Judge Battles made several findings, including:

> [The Court:] Counsel's motion today points out a pattern of violation of this Court's orders that is best described in their motion and through a litany of past orders. It's not an isolated incident.
>
> A long time ago in this very hearing room on numerous occasions, Mr. Drake of the Strems Law Firm has been ordered and required to file the notice of related cases.

[9] This transcript is included as an exhibit to SLF's motion to disqualify Judge Battles, but for the Court's ease of reference, it is filed separately here as its own exhibit.

> That was not done in this case until after 9:00 last night before this hearing today at 2:00 p.m.
>
> …
>
> Plaintiff is required to, by written submission to the record and to this Court, show cause within 10 days of the order regarding whether Israel Perez is deceased or whether the Israel Perez identified in this long-standing lawsuit is the correct party plaintiff. If this is a deceased individual, you had an obligation to immediately make counsel, the court and everyone aware. …
>
> I want to make one other thing clear. Based on this record of late submissions, violations, or close to violations of court orders, the Court in this particular case is going to order, and I want you to get this specifically, that Scott Strems, Esquire, the President of Strems Law Firm, is to appear before the Court at any further hearings in this matter. And that would be a personal appearance; no telephonic appearance. Let's be clear so there's no misunderstanding. Scott Strems will physically appear in any further hearings on this matter, along with the client or clients.

Id., 3:19-5:23.

- Ultimately, the insurer-defendant's motion was granted in part by an order issued May 2, 2019. *See* Exhibit P-2. The order provides, in relevant part:

> 3. Plaintiffs shall, by written submissions to the Court, show cause within 10 days from the date of this Order as to whether Israel Perez is deceased or whether Israel Perez is identified as a correct party Plaintiff. Plaintiffs shall also file their written submission to the Court with the Clerk.
>
> 4. Scot Strems, Esq., shall personally appear before the Court at any further hearings in this matter. Scot Strems, Esq. may not appear telephonically and may not send any other

attorney from The Strems Law Firm, P.A. to appear on his behalf.

Id., ¶¶ 3-4.

- Remarkably, shortly after Judge Battles's order, SLF moved to disqualify him from the case on May 13, 2019 citing "multiple…derogatory statements made about [SLF]" including, *inter alia*, Judge Battles's observations above. *See* Exhibit P-3, ¶ 14.

- Included as an exhibit to SLF's Motion to Disqualify is a photograph of a Verification of Israel Perez. Mr. Perez represents that he is in fact "one of the Plaintiffs in this case" and that his father who shared his same name passed away in 2002. Exhibit P-4, ¶¶ 1-2.

- Judge Battles denied the motion for disqualification on May 15, 2019. Unwilling to accept this outcome, SLF petitioned the Second DCA for a writ of prohibition, effectively seeking reversal of Judge Battles's decisions.

- The Second DCA dismissed SLF's petition on October 21, 2019, leaving Judge Battles's orders in place. Nonetheless, there has been no meaningful activity in this case since. Save for the appeal-related filings and an agreed order substituting defense counsel, SLF has not acted in this case since June 5, 2019.

- It further bears noting that, despite Mr. Perez's prior representation that he was a true party plaintiff in this action, he was quietly dropped as a plaintiff in the amended complaint filed on June 5, 2019. *See generally* Exhibit P-5. In fact, the amended complaint makes no mention of Mr. Perez at all.

q. ***Courtin v. Homeowners Choice Prop. & Cas. Ins. Co.***
11th Judicial Circuit, Case No. 2016-CA-6419
Hon. Pedro Echarte

- In the captioned action, the insurer-defendant filed a Motion for Sanctions for Fraud Upon the Court against SLF and Mr. Strems personally. *See generally* Exhibit Q-1. This motion responded to an

affidavit signed by Mr. Strems personally, which pertained to correspondence with the insurer-defendant that ostensibly suspended plaintiff's obligation to sit for an examination under oath.

- The motion avers that Mr. Strems's affidavit offers a one-sided, cherry-picked account of his correspondence with the insurer-defendant. *See id.*, ¶¶ 22-23. More to the point, "it was discovered that Scot Strems removed numerous emails sent from Aaron Ames that directly conflict with the allegations [Strems] alleges in his affidavit…" *Id.*, ¶ 24.

- From the full, unabridged correspondence between Mr. Strems and the insurer's representative, it is clear that there was never any agreement to suspend Mr. Strems's clients' obligations to sit for an EUO. *See id.*, ¶¶ 25-37. Consequently, the insurer alleged that Mr. Strems committed fraud upon the court by submitting a sworn affidavit that he knew to be false in order to avert the court's rightful disposition of the case. *Id.*, ¶¶ 41-43.

- Judge Echarte ultimately deferred ruling on the sanctions issue until the appeal was resolved on his prior decision granting summary judgment in the insurer's favor. *See* Exhibit Q-2. Judge Echarte did hear the motion, however, and he did not mince words regarding his thoughts on Mr. Strems's affidavit, expressly characterizing his claims as "false." *See* Exhibit Q-3, 18:1-6. The following exchange is illustrative:

  THE COURT: The lack of candor that Mr. Strems has exhibited in this affidavit – are you shaking your head as I'm addressing you?

  MS. GIASI: No, your Honor.

  THE COURT: I thought you were.

  MS. GIASI: I apologize. I was not.

  THE COURT: It's **stunning lack of candor**. I'm flabbergasted that a lawyer would risk his or her career to make **false claims**.

  MS. GIASI: Your Honor –

THE COURT: **It's false**. What else do you want me to say?

MS. GIASI: Respectfully, I think that the Court needs to look at this from the 30,000-level view. There were EUO's requested –

THE COURT: What on earth does that mean?

MS. GIASI: Let's look at the big picture.

THE COURT: Oh. I was looking at the small picture?

…

THE COURT: I'm going to defer ruling on the Motion to Dismiss for Fraud upon the Court in view of the fact that I have already granted a summary judgment. I will revisit this motion should the 3rd District Court of Appeals choose to reverse the granting of the motion for summary judgment. In the meantime, **I'm going to direct you to refer Mr. Strems to the Florida Bar.**

Id., 17:20-18:15, 19:7-14 (emphasis added). Consequently, Judge Echarte's order deferred a ruling on the sanctions issue, but expressly directed defense counsel in that case to report Mr. Strems to the Florida Bar based upon his affidavit. *See* Exhibit Q-2.

r. ***Watson v. Homeowners Choice Prop. & Cas. Ins. Co., Inc.***
Broward County Court, Case No. 16-3269 COCE (53)
Hon. Robert Lee

- In this case, respondent filed an affidavit that was essentially the same as the affidavit filed in the *Courtin* case above, and again the court saw through it. In its order granting summary judgment against respondent and his client, the court found:

> More troubling to the Court, however, is Plaintiff's attempt to avoid summary judgment by submitting letters and email chains as "summary judgment evidence" that are in reality settlement negotiations. Clearly, these documents could be inadmissible at trial and cannot be used to thwart summary

> judgment. *See* Rule 1.510(e). Additionally, although ultimately not necessary to the Court's decision in this case, the Defendant has some support for its contention that the email relied upon by Plaintiff that purports to waive the EUO requirement has been doctored to eliminate the reply email in which the Defendant responds forcefully that it is not waiving the EUO.

Exhibit R, p. 3. The court granted summary judgment in the insurer's favor, and reserved jurisdiction on the request for sanctions for the "doctored" material in the affidavit. *Id.*, p. 4.

- SLF commenced their appeal of the court's decision on July 23, 2018. In keeping with the SLF's signature pattern of delay, its initial brief has still not been filed in the appeal.

Affidavits

15. The following affidavits are from Hon. Gregory Holder and Hon. Rex Barbas of Florida's 13th Judicial Circuit. Each of these judges have presided over cases involving SLF and have personally witnessed the type of conduct described above. (Indeed, some of their cases are discussed above.) Consequently, these judges have a full-color, firsthand understanding of how SLF operates, and each of them is uniquely qualified to comment on the harm SLF as caused and will continue to cause to the public and the judiciary.

16. Judge Holder has served on the bench since 1994, and presently sits in the General Civil Division, where he has over ten years of experience. *See* Exhibit U, ¶ 1. In that time, he has "presided over hundreds of cases" involving Mr. Strems and SLF. *Id.*, ¶ 2.

17. Judge Barbas was elected in 1996 and served as a Circuit Court judge in the 13th Judicial Circuit since 1997. *See* Exhibit V, ¶ 1. He was assigned to the General Civil Division from 2005 through 2007 and was reassigned to that division in 2015 before being appointed as that division's Administrative Judge in May 2017—a position he holds through the present. *See id.*, ¶¶ 2-3.

Respondent's Delay and Mendacious Conduct in Litigation

18. Both Judge Holder and Judge Barbas make extensive observations about respondent's and SLF's litigation practices, all of which support the pattern of misconduct alleged above.

19. Judge Holder has approximately 40 cases filed by SLF and estimates that the 13th Judicial Circuit's General Civil Division has from 300 to 400 such cases. *See id.*, ¶ 4. As administrative judge of the General Civil Division, Judge Barbas is likewise well-apprised of the volume of SLF's lawsuits in the 13th Judicial Circuit. Indeed, Judges Holder and Barbas presided over some of the cases discussed above.

20. Judge Holder explains that he has discussed the practice of Mr. Strems and his firm with his fellow judges, and that "[u]niversally, these discussions have noted [Mr. Strems's] absolute violations of the Rules of Professional Responsibility and blatant obstruction of justice in virtually every case where he and his firm enter an appearance." *Ibid.* Judge Barbas makes essentially the same

observation: “In my discussion with my colleagues, I have confirmed that there has been a consistent pattern of obfuscation, delay, obstruction of justice and absolute unprofessional conduct by the Strems Law Firm attorneys.” Exhibit V, ¶ 5.

21. In litigation, Mr. Strems and SLF “engage[] in dilatory tactics in virtually every case,” according to Judge Holder, who further confirms that SLF and Mr. Strems “engage in mendacious, bad-faith conduct” as described in the foregoing sections of this petition. Exhibit U, ¶ 5.

22. Judge Holder further explains that he has been called upon to sanction SLF on several occasions, “based upon the willful and contumacious actions of Mr. Strems and his attorneys in failing to comply with the applicable Florida Rules of Civil Procedure involving discovery, honesty and integrity.” *Id.*, ¶ 7. In support, he cites one example where SLF repeatedly breached his orders before agreeing to a dismissal with prejudice “to avoid the inevitable sever sanctions that this Court would have imposed based upon this protracted contemptuous behavior.” *Ibid.*

23. Likewise, Judge Barbas cites a sampling of SLF matters “that are illustrative of the dilatory and unethical actions by the Strems Law Firm.” Exhibit V, ¶¶ 12-12(e). That discussion is too lengthy to reproduce here, but Judge Barbas explains that these cases “provide clear and convincing evidence of the blatant unethical actions my judicial colleagues and I have suffered. These issues and

blatant obstruction of justice by the Strems Law Firm are found within each and every Strems Law Firm case within our Thirteenth Judicial Circuit." *Ibid.*

Respondent's Duplicitous Filing Scheme

24. Both Judges Holder and Barbas also describe respondent's concerted effort to skirt procedural rules and violate standing court orders in order to maximize SLF's volume of cases in the 13th Judicial Circuit—all done for the purpose of maximizing the firm's attorney fee recovery under Fla. Stat. § 627.428.

25. Citing a recent class-action lawsuit against Mr. Strems and SLF, Judge Holder explains how SLF secures its clients through third-party loss consultants without any initial consultation before the prospective client signs a contingency fee agreement. Exhibit U, ¶ 4.[10]

26. With a signed retainer agreement in hand, SLF arranges for a water remediation company (often All Insurance Restoration Services, Inc., or "AIRS") to attend the subject property and obtain an assignment of benefits from the client. *See ibid.* "AIRS then files two separate lawsuits in the County Court against the appropriate insurance company based upon damage to two rooms in the home from the same event. The Strems Law Firm then files two separate lawsuits against the insurance company in the Circuit Court alleging damage to the same two rooms in

[10] Judge Holder refers specifically to the class action lawsuit filed against respondent and SLF, which is discussed above in n.7. *See* Exhibit T. The relevant allegations can be found at ¶¶ 6-27.

the home from the same event." *Ibid.* Judge Holder estimate that AIRS alone has some 200 active cases in the 13th Judicial Circuit. *See ibid.*

27. Judge Barbas discusses this scheme in his affidavit, observing the enormous volume of related cases filed by both SLF and the Fernandez Trial Firm, P.A. (the "Fernandez Firm"), who serves as counsel for AIRS. *See* Exhibit V, ¶¶ 6-7. The principal of the Fernandez Firm is Carlos O. Fernandez, who is a former SLF attorney, based upon information and belief.

28. In this effort, SLF routinely files Circuit Court actions against an insurer (on behalf of the homeowner) while the Fernandez Firm (on behalf of AIRS as the homeowners' assignee) brings County Court actions against the same insurers involving the same losses. These cases "involve the same parties or assignees of the same parties, the same issues of fact, the same insurance contracts, the same property, the same or virtually the same dates of loss, and the same issues of law. As a result of those cases being filed separately, the possibility of conflicting rulings arises and duplication of legal services resulting in an absolute duplication of attorney fees and a complete waste of judicial time and effort." Exhibit V, ¶ 6. "It is quite evident from the style of this case, the date of filing and a review of the contents of these cases that they are related and should therefore be consolidated." *Id.*, ¶ 8.

29. Citing an example where related cases were brought separately in Circuit and County Court, Judge Holder explains that "[i]t is intuitively obvious to even the most casual observer that these various lawsuits in both County Court and Circuit Court should be consolidated from the inception, and are only brought to allow Mr. Strems and his firm to claim attorney fees associated with the alleged breach of the insurance contract." Exhibit U, ¶ 6.

30. Particularly relevant to this issue are the 13th Judicial Circuit's Administrative Orders S-2019-047 and S-2019-44, which require plaintiffs' attorneys to notify the court of related cases so that they can be considered for consolidation. *See* Exhibit V, ¶ 10.

31. Even so, Judge Barbas is "aware of only a limited number of cases in which the Strems law firm or the Fernandez Trial Firm have notified the court of a related case. These filings were pursuant to order of the Court." *Id.*, ¶ 11.

32. Given the affidavits of Judges Holder and Barbas, there can be no doubt that respondent and SLF have endeavored to pull the wool over the eyes of the 13th Judicial Circuit in order to keep it unaware of the firm's duplicative filings and attorney's fee claims. This standing repudiation of the court's authority evinces a lawless and fraudulent intent to abuse the judiciary, and this intent pervades the entire pattern of conduct alleged in this petition.

33. In his final assessment, Judge Holder asserts that there is a "clear and present danger presented by the continued legal practice of Mr. Scott Strems and the Strems Law Firm." Exhibit U, ¶ 9. Furthermore, the conduct of Mr. Strems and SLF "has resulted in clear and unquestionable great harm" to his clients and the defendants who must combat this conduct. *Ibid.* "We must also consider the countless hours of judicial resources that must be expended to deal with these matters and the injurious effect of this behavior as to other litigants who seek their day in court." *Ibid.*

34. In that same vein, Judge Barbas explains that the cases and orders addressed in his affidavit "provide clear and convincing evidence of the Strems Law Firm's continued pattern and practice involving violations of the Rules Regulating the Florida Bar and constitute a clear and present danger to the citizens of Florida represented by Mr. Scot Strems and the members of his law firm." Exhibit V, ¶ 12.

Rule Violations

35. Based upon the foregoing evidence, respondent has violated the following Rules Regulating the Florida Bar:

a. Misconduct and Minor Misconduct, 3-4.3 – The commission by a lawyer of any act that is unlawful or contrary to honesty and justice may constitute a cause for discipline whether the act is committed

in the course of a lawyer's relations as a lawyer or otherwise, whether committed within Florida or outside the state of Florida, and whether the act is a felony or a misdemeanor.

b. Diligence, 4-1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client.

c. Communication, 4-1.4(a) – A lawyer shall: (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in terminology, is required by these rules; (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; and (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows or reasonably should know that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

d. Meritorious Claims and Contentions, 4-3.1 – A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is abasis in law and fact for doing so that is

not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law.

e. Expediting Litigation, 4-3.2 – A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

f. Candor Toward the Tribunal, 4-3.3(a) – A lawyer shall not knowingly (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer; (2) fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client; … (4) offer evidence that he lawyer knows to be false.

g. Candor Toward the Tribunal, 4-3.3(b) – A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging, or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

h. Fairness to Opposing Party and Counsel, 4-3.4(a) – A lawyer must not 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.

i. Fairness to Opposing Party and Counsel, 4-3.4(b) – A lawyer must not fabricate evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness.

j. Fairness to Opposing Party and Counsel, 4-3.4(c) – A lawyer must not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

k. Fairness to Opposing Party and Counsel, 4-3.4(d) – A lawyer must not, in pretrial procedure, make a frivolous discovery request or intentionally fail to comply with a legally proper discovery request by an opposing party.

l. Responsibilities of Partners, Managers, and Supervisory Lawyers, 4-5.1(a) – A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that

the firm has in effect measures giving reasonable assurance that all lawyers therein conform to the Rules of Professional Conduct.

m. Responsibilities of Partners, Managers, and Supervisory Lawyers, 4-5.1(b) – Any lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.

n. Responsibilities of Partners, Managers, and Supervisory Lawyers, 4-5.1(c) – A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if: (1) the lawyer orders the specific conduct or, with knowledge thereof, ratifies the conduct involved; or (2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

o. Misconduct, 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.

p. Misconduct, 4-8.4(c) – A lawyer shall not engage in conduct involving dishonesty fraud, deceit, or misrepresentation.

q. Misconduct, 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.

WHEREFORE, based on the aforementioned facts, the bar asserts that the respondent has caused, is causing, and/or is likely to cause immediate and serious harm to clients and/or the public, and that immediate action must be taken for the protection of the respondent's clients and the public. Therefore, pursuant to R. Regulating Fla. Bar 3-5.2, the Florida Bar respectfully requests this Court to:

A. Suspend respondent from the practice of law until further order of this Court;

B. Order respondent to accept no new clients from the date of this Court's order and to cease representing any clients after 30 days from the date of this Court's order. Within the 30 days from the date of this Court's order, respondent shall wind down all pending matters and shall not initiate any litigation on behalf of clients. Respondent shall withdraw from all representation within 30 days from the date of this Court's order. In addition, respondent shall cease acting as personal representative for any estate, as guardian for any ward, and as trustee for any trust and will withdraw from said representation within thirty days from the date of this court's order and will immediately turn over to any successor the

complete financial records of any estate, guardianship or trust upon the successor's appointment.

C. Order the respondent to furnish a copy of the suspension order to all clients, opposing counsel, and courts before which Scot Strems is counsel of record as required by Rule 3-5.1(h) of the Rules of Discipline of The Florida Bar and to furnish Staff Counsel with the requisite affidavit listing all clients, opposing counsel and courts so informed within 30 days after receipt of the Court's order.

D. Order respondent to refrain from withdrawing or disbursing any money from any trust account related to respondent's law practice until further order of this court, a judicial referee appointed by this Court or by order of the Circuit Court in an inventory attorney proceeding instituted under R. Regulating Fla. Bar 1-3.8, and to deposit any fees, or other sums received in connection with the practice of law or in connection with the respondent's employment as a personal representative, guardian or trustee, paid to the respondent after issuance of this Court's order of emergency suspension, into a specified trust account from which withdrawal may only be made in accordance with restrictions imposed by this Court. Further, respondent shall be required to notify bar counsel of

The Florida Bar of the receipt and location of said funds within 30 days of the order of emergency suspension.

E. Order respondent to not withdraw any money from any trust account or other financial institution account related to respondent's la practice or transfer any ownership of any real or personal property purchased in whole or in part with funds properly belonging to clients, probate estates for which respondent served as a guardian, and trusts for which respondent served as a trustee without approval of this court, a judicial referee appointed by this court or by order of the Circuit Court in an inventory attorney proceeding instituted under R. Regulating Fla. Bar 1-3.8.

F. Order respondent to notify, in writing, all banks and financial institutions where the respondent maintains an account related to the practice of law, or related to services rendered as a personal representative of an estate, or related to services rendered as a guardian, or related to services rendered as a trustee, or where respondent maintains an account that contains funds that originated from a probate estate for which respondent was personal representative, guardianship estate for which respondent was guardian, or trust for which respondent was trustee, of the provisions of this Court's order and to provide all the aforementioned banks and

financial institutions with a copy of this Court's order. Further, respondent shall be required to provide Bar Counsel with an affidavit listing each bank or financial institution respondent provided with a copy of said order.

G. Order respondent to immediately comply with and provide all documents and testimony responsive to a subpoena from The Florida Bar for trust account records and any related documents necessary for completion of a trust account audit to be conducted by The Florida Bar.

H. And further authorize any Referee appointed in these proceedings to determine entitlement to funds in any trust account(s) frozen as a result of an Order entered in this matter.

Respectfully Submitted,

J. DEREK WOMACK
Bar Counsel
The Florida Bar – Miami Branch Office
444 Brickell Avenue, Suite M-100
Miami, Florida 33131
(305) 377-4445
Florida Bar No. 93318
jwomack@floridabar.org

PATRICIA ANN TORO SAVITZ
Staff Counsel

The Florida Bar
651 East Jefferson Street
Tallahassee, Florida 32399-2300
(850) 561-5600
Florida Bar No. 559547
psavitz@floridabar.org
/s/
JOSHUA E. DOYLE
Executive Director
The Florida Bar
651 East Jefferson Street
Tallahassee, Florida 32399-2300
(850) 561-5600
Florida Bar No. 25902
jdoyle@floridabar.org

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 Scott Kevork Tozian, attorney for respondent, at stozian@smithtozian.com; and that a copy has been furnished by United States Mail via certified mail No. 7017 3380 0000 1082 8437, return receipt requested, to Scott Kevork Tozian, attorney for respondent, whose record bar address is 109 N. Brush Street, Suite 200, Tampa, Florida 33602, and a copy provided via email to Mark Alan Kamilar, attorney for respondent, at kamilar@bellsouth.net; and that a copy has been furnished by United States Mail via certified mail No. 7017 3380 0000 1082 8406, return receipt requested, to Mark Alan Kamilar, attorney for respondent, whose record bar address is 2921 SW 27th Avenue, Miami, Florida 33133, and via email to John Derek Womack, Bar Counsel, jwomack@floridabar.org.

Dated, on this 5th day of June 2020.

PATRICIA ANN TORO SAVITZ

Staff Counsel
The Florida Bar
651 East Jefferson Street
Tallahassee, Florida 32399-2300
(850) 561-5600
Florida Bar No. 559547
psavitz@floridabar.org

NOTICE OF DESIGNATION OF PRIMARY EMAIL ADDRESS

PLEASE TAKE NOTICE that bar counsel in this matter is John Derek Womack, Bar Counsel, whose address, telephone number and primary email address are The Florida Bar, Miami Branch Office, 444 Brickell Avenue, Rivergate Plaza, Suite M-100, Miami, Florida 33131-2404, (305) 377-4445 and jwomack@floridabar.org. Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than bar counsel and to Patricia Ann Toro Savitz, Staff Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, FL 32399-2300, psavitz@floridabar.org.

MANDATORY ANSWER NOTICE

RULE 3-5.2(a), OF THE RULES REGULATING THE FLORIDA BAR, PROVIDES THAT A RESPONDENT SHALL ANSWER A COMPLAINT.