

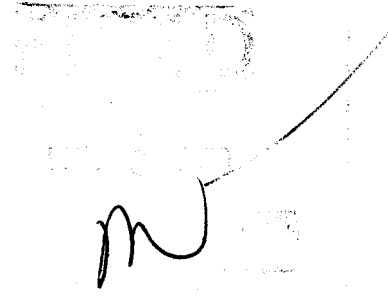
IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,
Complainant,

Case No. 71,347
and 72,258

v.

JAMES L. DIAMOND,
Respondent.

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Reply Brief of Complainant and
Answer Brief of Complainant On
Cross-Petition for Review

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INTRODUCTION

The Florida Bar, Complainant, will be referred to as the "the Bar" or "The Florida Bar". James L. Diamond, Respondent, will be referred to as "Mr. Diamond" or "Respondent".

POINT ON APPEAL

POINT I

WHETHER THE RULES REGULATING THE FLORIDA
BAR PROVIDE FOR AUTOMATIC REINSTATEMENT
WHERE A SUSPENSION EXCEEDS NINETY DAYS?

ARGUMENT

I

**THE RULES REGULATING THE FLORIDA BAR DO
NOT PROVIDE FOR AUTOMATIC REINSTATEMENT
WHERE A SUSPENSION EXCEEDS NINETY DAYS
(RESTATED)¹**

Respondent urges this Court to order that he be automatically reinstated at the termination of his suspension. The Rules Regulating The Florida Bar unequivocally provide that a suspension of more than ninety days shall require proof of rehabilitation. Rule 3-5.1(e). Rehabilitation must be proven at the termination of the suspension, not at the beginning. Rule 3-7.9(b) see The Florida Bar in Re Charles K. Inglis, 471 So.2d 38 (Fla. 1985). This issue was expressly addressed in The Florida Bar v. Musleh, 453 So.2d 795 (Fla. 1984) where the foregoing analysis was upheld.

¹This argument is in response to Respondent's third point on appeal. The Florida Bar will rely on its initial brief regarding the remaining arguments.

CONCLUSION

Based upon the foregoing reasons and citations of authority, The Florida Bar respectfully submits that the Referee erroneously imposed a three year suspension, and would urge this court to disbar the Respondent.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and seven copies of the above and foregoing Complainant's Reply Brief and Answer Brief on Cross-Petition for Review sent Federal Express to Sid J. White, Clerk, Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida 32399-1927 and that a true and correct copy was mailed to Nicholas Friedman, Attorney for Respondent, at Friedman, Baur, Miller & Webner, P.A., 100 North Biscayne Boulevard, 21st Floor, New World Tower, Miami, Florida 33132 on this 7 day of March, 1989.



RANDI KLAYMAN LAZARUS
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