

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

**THE FLORIDA BAR,
Complainant,**

Case Nos. SC20-806 & SC20-842

v.

**SCOT STREMS,
Respondent.**

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RESPONDENT'S MOTION FOR REHEARING

Respondent Scot Stremms, pursuant to Rule 9.330, seeks a rehearing of this Court's disbarment order entered in the consolidated cases on December 22, 2022. Respondent asks this Court to reconsider the severity of the discipline and instead impose a 3-year rehabilitative suspension with conditions to protect the public upon Stremms' readmission, serve as a strong measure of punishment for his unethical conduct, and deter others from engaging in similar misconduct. Respondent also asks this Court to order the sanction to become effective from the time of Stremms' emergency suspension on June 9, 2020.

Rehearing is warranted here because Stremms' misconduct, while serious, should be measured in consideration of his previously unblemished legal history and absence of prior misconduct. His good

faith reformatory efforts to respond to the realities of his law firm's inadequacies prior to his emergency suspension, while imperfect and insufficient, stand as an indication that he was and is motivated to serve the best interests of his clients. Imposing a strict 3-year suspension will better serve the public good by allowing a resolute lawyer to demonstrate his fitness to practice law in a manner consistent with the highest ideals of the profession.

A. Rehearing to Consider Severity of Punishment.

A rehearing should be considered in light of the potential oversight or misapprehension by this Court of the many cases, numbering in the thousands of clients as established by the record of proceedings before the Referee, that were properly and ably handled by Stremms and the Stremms Law Firm without incident in the years leading to his emergency suspension. While ultimately not effective to cure the problems that led to his suspension, Stremms invested considerable resources and time to represent the firm's injured insureds more competently and completely by increasing the number of SLF lawyers, recruiting experienced lawyers to the firm, creating comprehensive firm-wide case management policies, initiating regular educational opportunities, reducing the once-

alarming lawyer caseloads, and assigning senior lawyers to manage troubling cases. (ROR 49-50).

To cope with the existing cases and provide opportunities for insureds to obtain representation, SLF opened additional offices in Tampa and Orlando, enabling the firm to better manage the caseloads and lawyers, and to involve local lawyers familiar with local practices in responding to the concerns raised by judges. Addressing the problems arising from the burgeoning caseload, SLF identified solutions to systemic issues by incorporating innovative metrics and case management systems to track discovery and meet deadlines. (T. 96-98, 2048). SLF created a discovery unit, purchased new phone systems, equipment, and software, and continued its expansion with the hiring of additional attorneys and staff. (ROR 48-50).

Incorporating a team-based approach to case management and prosecution was an important long-term solution. SLF increased the number of litigation lawyers to eighteen (18) by 2017. (ROR 6). The firm organized lawyers into teams comprised of senior and associate attorneys supported by experienced paraprofessionals. (ROR 12). Each team's caseload was reduced to approximately five hundred (500) as SLF continued to attract and recruit new lawyers and staff

to populate the teams with two (2) lawyers and five (5) paraprofessionals, including a paralegal, a discovery paralegal, a litigation assistant, and a scheduling assistant to handle a reduced and responsible caseload of three hundred and fifty (350). (ROR 6, 12; T. 1278-79). These well-meaning improvements helped the firm better assist their clients, underscoring that Strem's dedicated himself and his firm to learning from the identified problems and devoting his attention to implementing meaningful reforms.

As this Court recognized in dismissing the Bar's request for permanent disbarment, Strem's has demonstrated that he is amenable to rehabilitation and has shown by his affirmative conduct that he was actively engaged in rehabilitation efforts as he worked to solve the problems that led to his emergency suspension.

The range of punishment is, of course, a matter to be determined by this Court. *See Fla. Bar v. Kinsella*, 260 So. 3d 1046, 1048 (Fla. 2018). The Standards for Imposing Lawyer Sanctions recognize the broad scope of sanctions and authorize the imposition of suspensions even as disbarment might be an available option. For instance, the Court's consideration of Standard 4.3(b) allows a suspension when a lawyer's failure to disclose a conflict "causes

injury or potential injury to a client.” Similarly, Standard 6.1(b) recognizes a “[s]uspension is appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld and takes no remedial action.” Standard 6.2(b) recommends a suspension when a lawyer “knowingly violates a court order or rule and causes injury or potential injury to a client or a party or causes interference or potential interference with a legal proceeding.”

In view of Strem’s meaningful, contemporaneous efforts to rectify the problems at SLF and provide better and more compliant representation to the injured insureds, this Court should consider that Strem is amenable to rehabilitation that can be promoted by a suspension with strict conditions of re-entry consisting of supervision, mentoring, community service, and continuing legal education.

B. Incorporation of Emergency Suspension as the Effective Date of the Sanctions.

Immediately upon his emergency suspension on June 9, 2020, Strem ceased the practice of law, engaged skilled counsel to protect the continuity of the client representations, and took prompt,

corrective action to comply with all terms of the emergency suspension order. The sanctions imposed by this Court should become effective at the time of Strems' emergency suspension and his cessation of the practice of law. That effective date is consistent with the penalty ultimately imposed by this Court and conforms to the interests of justice and the protection of the community.

C. Conclusion.

For these reasons, this Court should reconsider the severity and effective date of the penalty based on legal authority and record proceedings that, when considered in the context of Strems absence of prior disciplinary history, may have been overlooked or misapprehended when resolving these consolidated appeals.

Respectfully submitted,

S/ Benedict P. Kuehne
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the has been furnished this January 6, 2023, via the State of Florida's E-Filing Portal, to: Chris W. Altenbernd, service-caltenbernd@bankerlopez.com, John Derek Womack, Bar Counsel, The Florida Bar, jwomack@floridabar.org; Patricia Ann Savitz, Staff Counsel, The Florida Bar, psavitz@floridabar.org.

/s/ Benedict P. Kuehne
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