

**IN THE SUPREME COURT OF FLORIDA**

THE FLORIDA BAR,

Case No.: SC20-806 & SC20-842

Complainant,

FL Bar File Nos.:

v.

2018-70, 119 (11C)(MES)

2019-70, 311 (11C)(MES)

SCOT STREMS,

2020-70, 440 (11C)(MES)

2020-70, 444 (11C)(MES)

Respondent.

2019-70, 468 (11C)

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**RESPONSE IN OPPOSITION TO RESPONDENT’S MOTION FOR REHEARING**

Complainant, THE FLORIDA BAR, by and through its undersigned attorney, responds to the Respondent, SCOT STREMS, motion for rehearing. In opposition to that motion, the Bar shows to this Court:

1. A motion for rehearing is required to state “with particularity” the points of law or fact that a party believes in good faith this Court has “overlooked or misapprehended.” A motion for rehearing is not “an open invitation for an unhappy litigant or attorney to reargue the same points previously presented.” *Ayala v. Gonzalez*, 984 So. 2d 523, 526 (Fla. 5th DCA 2008).

2. In his motion, Mr. Strems does not argue that this Court was mistaken about the facts or that this Court misapprehended the evidence

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underlying the long list of serious violations for which this Court entered judgment in these two proceedings. He does not argue that this Court overlooked the law in rejecting a mitigating factor, in finding an additional aggravating factor, or in applying the prior precedent addressing disbarment.

3. The only matter he claims this Court may have potentially overlooked are “the many cases, numbering in the thousands of clients” that he claims the record proved were “properly and ably handled” by his law firm. But there is no competent substantial evidence about the handling of those cases for thousands of clients. No one did a quality control review of those cases. The Bar addressed the cases from which it received complaints.

4. The problems within his law firm addressed in SC20-806 that concerned attorneys and staff overwhelmed by too many cases were systemic problems. The method of settling cases seeking fees in excess of his contingency agreement using global settlements as addressed in SC20-842 was also a systemic problem. As this Court’s opinion accurately recites, the attorney representing the insurer testified that all of his settlements were global. This Court sanctioned Gregory Saldamando, Mr. Strems’ associate, in SC20-844 for a very similar problem arising from the firm’s approach to settling claims under its contingency fee agreements. The violations in

these two proceedings were not isolated incidents that can be offset by evidence of years of stellar service to other clients.

5. This Court properly chooses to disbar a lawyer in the lawyer's first disciplinary proceeding only in cases that are exceptional. But these two consolidated cases are exceptional, as the 37-page opinion explains. These two cases are really a consolidation of many disciplinary proceedings. His failure to supervise his lawyers as the sole partner in this law firm under Rule 4-5.1(c) not only harmed clients, but it left many of his associates with the stigma of *Koziel* orders and related sanctions. These violations involve knowing or intentional conduct violating Rules 4-3.3(b) and 4-8.4(c). In SC20-842, this Court found Mr. Strems guilty of three additional violations, rejecting the Referee's recommendations.

6. This Court clearly explained that it had concluded that disbarment was appropriate as a "combined sanction" for all of the many violations. It recited the Standards that justify disbarment. It correctly found that his conduct was aggravated by a dishonest and selfish motive. It pointed out cases in which lawyers received serious sanctions for violations of only a few of the violations that are combined in this one sanction. There is no reason to conclude that this Court overlooked anything in reaching the sanction of disbarment with leave to reapply in five years.

7. Mr. Strems also requests that this Court take the exceptional step of imposing this sanction to commence at the time of his emergency suspension in 2020. Simply put, this is not the type of case that warrants a *nunc pro tunc* sanction. Unless this Court were to adopt a policy of running all disbarments following emergency suspensions from the date of emergency suspension, this case does not qualify for such treatment.

WHEREFORE, the Bar respectfully requests this Court deny the motion for rehearing.

Respectfully submitted,

/s/ Chris W. Altenbernd

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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 12th day of January, 2023, the foregoing was filed and served via the State of Florida's E-Filing Portal to:

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*/s/ Chris W. Altenbernd*

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