

Email and Response for Florida Bar requesting comments on the Stremms Referee Report.

My responses are in **red** below.

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From: scott@johnsonstrategiesllc.com <scott@johnsonstrategiesllc.com>

Sent: Saturday, October 10, 2020 2:24 PM

To: Walker, Francine <fwalker@floridabar.org>

Cc: Lyle, Susannah <SLyle@floridabar.org>

Subject: RE: Stremms Emergency petition

Francine: Sorry, it's a Saturday so please feel free to respond on Monday at your convenience. But, I'm looking for some "on the record" comments regarding the Stremms decision from the Florida Bar, for example:>

The referee's recommendation is not a decision.

- 1.) Is there any chance the Supreme court would not go along with Denaro's recommendation and impose a harsher penalty? Or lesser penalty? **The Supreme Court decides what the discipline will be and orders it. As I said above, the referee is making a recommendation as part of the process.**
- 2.) Is the bar disappointed and is there anything it can or will do to influence the supreme court for a harsher penalty? When will the Supreme court proffer its final sentence? **The Florida Bar does not comment on pending litigation. If the Bar files additional pleadings in this case, those will be posted on the Supreme Court docket and you may quote from them.**
- 3.) The allegations and Denaro's decision both provide indications that insurance fraud was committed on multiple occasions, a felony. Does the Bar encourage an appropriate investigation be conducted by a State's Attorney to make this determination and prosecute should the evidence confirm such? **The Florida Bar, as an arm of the Florida Supreme Court, is focused only on lawyer regulation.**
- 4.) What's next regarding Stremms "Contempt" charge by the Bar? **This infographic illustrates the next steps from the referee trial to conclusion (and see below excerpted information). Please refer to the rules violations charged by The Florida Bar in the formal complaint (on the docket) and/or in the referee's report.**
- 5.) What's next, if anything, from the Bar regarding actions against Scot Stremms. **See above regarding possible additional pleadings and below as to the process after the referee's report is filed.**

Francine, thanks for anything you can provide and, when you're available, we can do this by phone if you prefer. I'm really just trying to wind down my reporting on this case at this point.

Thanks so much for all the assistance you've given so far. 😊

scott

<https://www.floridabar.org/public/acap/acap003/>

7. Trial By Referee

- Based on findings of the grievance committee, Bar counsel may file a formal complaint against the accused lawyer with the Florida Supreme Court.
- If the case is not disposed of pretrial via a consent judgment, the Supreme Court will issue an order that the chief judge appoint a circuit or county court judge as referee to hold a trial on the complaint.
- Referee takes testimony and receives other evidence.
- Referee issues a report with findings and, if recommending guilt, also recommends sanctions. The referee's recommendations are not final until approved by Supreme Court.

REVIEW: Referee's report is reviewed by designated reviewer and Bar's Board of Governors. BOG and lawyer have 60 days to appeal referee's decision.

8. Review

- After the referee's report is filed with the Supreme Court, it is reviewed by the Board of Governors. The BOG and accused lawyer each have 60 days to appeal the referee's decision.
- Referees' decisions following trial and pretrial dispositive orders (such as dismissal or summary judgment) are reviewed by the BOG. If the BOG disagrees with any aspect of the referee's decision, it can seek review by the Supreme Court.
- Like grievance committee actions, the referee's report is first reviewed by the Disciplinary Review Committee before being presented to the BOG.

Supreme Court: Reviews report of the referee or consent judgment. Court can approve or disapprove any aspect, and its decision on guilt and a final discipline order is final.

9. Supreme Court

- The Florida Supreme Court is the final authority on lawyer discipline. The court's decision on guilt and the ultimate sanction imposed are final.
- The Supreme Court reviews consent judgments and referee decisions from disciplinary trials. If neither the BOG nor the accused lawyer petitions for review of the referee's report, then the court will conduct its review of the report (without briefs, unless the court requests briefing).
- The Supreme Court can approve or disapprove any aspect of the report of referee, including findings of guilt or recommended sanctions.

ENFORCEMENT: Discipline order is enforced by the Supreme Court's contempt powers.

10. Enforcement

- The Florida Supreme Court's orders are enforced through the court's contempt powers. Example: A lawyer accused of practicing law while suspended will be brought before the court on a petition for contempt, and new discipline may be

imposed. A disbarred lawyer who is caught practicing law may be permanently disbarred and face additional contempt sanctions.