The Florida Bar v. Francisco Ramon Rodriguez
SC03-909

THE NEXT CASE ON OUR
CALENDAR THE FLORIDA BAR
VERSUS FRAN SKEUS -- FRANCISCO
RAMONE RODRIQUEZ.
COUNSEL.
AND I WOULD SUGGEST TO ALL
COUNSEL THAT CERTAINLY THE
COURT IS VERY FAMILIAR WITH
THE FACTS AND UNLESS THE
FACTS ARE ESSENTIAL TO YOUR
PRESENTATION I WOULD URGE
YOU TO USE YOUR TIME
THOUGHTFULLY TO ADDRESS THE
LEGAL QUESTIONS, BECAUSE WE
WANT YOU TO WALK AWAY
KNOWING THAT YOU'VE HAD THE
OPPORTUNITY TO EXPRESS YOUR
ARGUMENTS AND IF WE SPEND
TIME ON -- UNNECESSARILY IN
OTHER AREAS SOMETIMES WE
DON'T GET ALL OF OUR
ARGUMENTS FINISH.
SO MR. NACHWALTER.
>> GOOD MORNING, MAY IT
PLEASE YOUR COURT WITH ONLY
TEN MINUTES EVEN
BEEN -- BING A NEW YORKER I
CAN'T TALK THAT FAST.
I WILL TRY TO HIT THE POINTS
THAT I THINK ARE RELEVANT
AND I'M SURE YOU HAVE
QUESTIONS FOR ME.
BECAUSE LOOKING AT THE
QUESTIONS THAT YOUR HONOR
HAS SENT DOWN IN THE
SUPPLEMENTAL BRIEF, SUM
PLEAMENTAL QUESTIONS FOR US
TO BRIEF AS MUCH AS I WOULD
LIKE TO ARGUE THE MERITS OF
THIS APPEAL BECAUSE I THINK
WE'RE RIGHT ON THE MERITS I
GLEAN FROM THE QUESTIONS
THAT YOU SENT FOR US TO
BRIEF THAT THE QUESTION YOU

ARE REALLY ASKING MY CLIENT
IS DOES THE PUNISHMENT FIT
THE CRIME?
AND I WOULD SAY TO YOU UNDER
THESE CIRCUMSTANCES IN THIS
CASE IT DOES.
>> NOT -- THE PUNISHMENT
FITTING THE CRIME IS AS FAR
AS YOUR CLIENT IS CONCERNED
I UNDERSTAND HE WAS THE LEAD
TRIAL COUNSEL.
>> YES.
AND THERE WAS A COUPLE OF
THESE CLIENTS THAT DIDN'T
WANT TO STOP HIM.
CORRECT?
>> A COUPLE OF HIS CLIENTS
BALKED AT SETTLING.
>> DIDN'T HAVE TO TO SETTLE.
ONE OF HIM HE SAID YOU DON'T
SETTLE I'M WITHDRAWING.
CORRECT?
>> THEY HAD A HEARING BEFORE
A CIRCUIT JUDGE AND THE
JUDGE HAD A FULL HEARING ON
IT AND HE GAVE THEM AN
OPPORTUNITY, GAVE THIS
PARTICULAR CLIENT THE
OPPORTUNITY --
>> ALL OF THAT WAS GOING ON
WITHOUT DISCLOSING TO THE
CLIENT THAT HE HAD THIS DEAL
IN WHICH HE WAS GOING TO
MAKE -- HOW MUCH?
HOW MUCH WAS HIS CUT?
>> A LITTLE BIT OVER A
MILLION DOLLARS.
>> RIGHT.
>> SO HE DIDN'T DISCLOSE
THAT TO HIS CLIENT.
HOW CAN THE PUNISHMENT THAT
IS RECOMMENDED HERE FIT THAT
ETHICAL VIOLATION WHICH HAS
TO BE AN ETHICAL VIOLATION?
>> WELL IT WAS AN ETHICAL
VIOLATION AND BECAUSE AS
YOUR HONOR WELL KNOW WE COME
UP WITH HERE FINDING OF FACT
UNLESS THEY ARE CLEARLY
ERRONEOUS BY THE REEFREE AND
THE EVIDENCE WAS ACTUALLY
WITH RESPECT TO THIS FEE AND
OVER A MILLION DOLLARS IS A
LOT OF MONEY THAT THEY GAVE

UP A WHOLE -- THEY HAD A
WHOLE BUNCH OF CASES.
THIS IS NOT SOMETHING THEY
WANTED TO DO.
THE REFEREE MADE IT VERY
CLEAR THAT THIS WAS
SOMETHING THAT DuPONT
IMPOSED UPON THEM WHICH THEY
RESISTED.
SEE, THAT TO ME MISSES THE
POINT.
THE POINT IS THAT THEY ARE
NOT REPRESENTING DuPONT.
THEY ARE REPRESENTING THAT
CLIENT THAT THEY HAVE AN
OBLIGATION TO HAVE THAT
CLIENT KNOW AS MUCH AS THEY
KNOW ABOUT WHAT THE
SETTLEMENT IS ALL ABOUT.
>> YOUR HONOR, YOU ARE
RIGHT.
AND AT NO TIME IN THIS CASE
DID MY CLIENT NOT TAKE THE
STAND, NOT TESTIFY THAT HE
MADE A MISTAKE.
WHAT HE DID WAS NOT PROPER.
HE SHOWED REMORSE.
AND OWNED UP TO HAVING A
MADE A MISTAKE AND IT'S EASY
IN HINDSIGHT 20/20 TO LOOK
BACK INTO THE MIDDLE OF
NIGHT WHERE THEY HAVE THIS
GREAT DEAL FOR THEIR CLIENTS
THE REFEREE MADE IT CLEAR
THERE WERE TWO POTS OF
MONEY.
THAT'S THE BIG DISTINCTION
IN THIS CASE.
DuPONT SETTLED WITH THE
CLIENTS.
EXCEPT FOR TWO CLIENTS.
EVERYBODY ELSE HAD AN OPTION
TO ACCEPT THE SETTLEMENT OR
NOT ACCEPT THE SETTLEMENT.
AND THEY TURNED TO THE
SPECIAL MASTER APPOINTED BY
THE JUDGE WHO IS A MEDIATOR.
THEY WERE NOT EXPERIENCED
LAWYERS IN THIS BY THE
REFEREE ALSO FOUND.
SAID TO THIS EXPERIENCE
MEDIATOR, CAN WE DO THIS?
HE SAID, YES.
THEY RESISTED IT THREE OR

FOUR TIMES.
AND THEN FINALLY WHEN DuPONT SAID YOU'VE GOT 59 MILLION ON THE TABLE FOR YOUR CLIENTS.
IF YOU DON'T DO THIS INDIRECT PRACTICE RESTRICTION THERE'S NO DEAL.
>> LET'S SEE.
DID YOUR CLIENT START SAYING, WELL, GET THIS DEAL WE WOULD LIKE $12 MILLION.
IN OTHER WORDS THIS IS SOMETHING WHERE THERE IS A DEFENSIVE COERCION, BUT IT'S NOT AS IF THIS AMOUNT WHICH WAS 6,645,000 JUST SORT OF FELL OUT OF THE AIR AND WAS YOU KNOW THROWN TO THEM.
IT WAS A NEGOTIATED SETTLEMENT.
AND I THINK WHAT JUSTICE WELLS IS SAYING IS THAT IT WAS KEPT SECRET FROM THE CLIENTS SO NOT ONLY WAS THERE AN ABSOLUTE CONFLICT OF INTEREST, BUT HOW WERE THEY FURTHERING THE INTEREST OF THEIR CLIENTS IN WHAT THEY WERE DOING.
>> IF THEY WALKED OUT THAT NIGHT THERE WAS NO SETTLE.
THE BIG SETTLEMENT WAS THE DAVIS SETTLE.
BROKEN -- BRENDA WEBB SAID IF THEY HAD BLOWN THE DEAL I WOULD HAVE SUED THEM.
SHE WAS 30 MILLION OF THE 59 MILLION.
SHE SAID, THEY WORKED THEIR TAIL OFF IN THIS CASE.
THEY GOT A GREAT RESULT FOR IT.
JUSTICE PARIENTE, WE HAVE NEVER IN THIS CASE TAKEN THE POSITION THAT WHAT MR. RODRIQUEZ DID WAS NOT WRONG.
>> THEY WERE OPERATING UNDER THE IMPRESSION THAT THE JUDGE HAD ALREADY ANNOUNCED ORALLALLY THEY WOULD GRANT THE MOTIONS FOR SANCTIONS.
>> CORRECT.

>> WHAT RISK WAS THERE OVER DuPONT WALKED AWAY IN REALITY?
>>, YOU ARE SITTING HERE IN THE MIDDLE OF THE NIGHT AS AN EXPERIENCED MEDIATOR. THREE TIMES THEY SAID NO WHO COMES BACK AND SAYS IF YOU DON'T DO IT THIS DEAL IS OFF.
NOW, WE CAN HINDSIGHT THAT.
>> JUST ON THAT AND WE'RE NOT REWEIGHING THE FACTS. BUT AS THE MEDIATOR OR THE REFEREES SAID NEITHER SIDE CALLED MR. HANSON.
THE DuPONT LAWYERS ARE NOT THERE.
I REALIZE THESE ARE -- THIS IS COMING IN A PRETTY SELF-INTERESTED WAY, WHICH IS FROM THE TESTIMONY OF YOUR CLIENT.
SO ALTHOUGH WE MAY BE -- MAYBE HAVE TO ACCEPT IT IN TERMS OF THIS OVERALL SAYING I'M NOT SO IMPRESSED WITH THIS IDEA THAT EVERYONE AROUND THEM WAS TELLING THEM THIS IS WHAT YOU GOT TO DO.
YOU KNOW THIS IS REAL WORLD.
IT WAS 1996 AND I THINK EVERYBODY WOULD KNOW THAT THIS IS A CLEAR VIOLATION OF THE CANONS OF ETHICS AND THE RESPONSIBILITY OF THE CLIENT.
THE FACT THAT DuPONT ISN'T IN HERE, ALSO BEING SANCTIONED IS NOT SOMETHING THAT WE WILL BE CONSIDERING TODAY.
>> WELL, I WOULD DEBATE WITH YOU AS I DID AT TRIAL.
BUT WE HAVE LIMITED TIME HERE.
THE FACT THAT THISES GOOD FINANCIALLY FOR THEM.
THEY HAD OVER 15 CASES.
ONE OF THE CASES THEY GOT OUT OF THE OFFICE RESULTED IN OVER 50 MILLION VERDICT WHICH WOULD HAVE BEEN A LOT MORE THAN THE 6 MILLION THEY

GOT.
THIS IS NOT SOMETHING THEY WANTED TO DO.
BUT, WE COME TO THE COURT NOW WITH THE FINDING OF THE REFEREE WHO HEARD ALL OF THAT.
WHO HEARD ALL OF THAT.
>> MR. NACHWALTER THE REFEREE ALSO FOUND AS I UNDERSTAND IT THAT THERE WAS A LAWYER IN THE FIRM THAT DID SOME RESEARCH ABOUT WHETHER THIS AGREEMENT COULD BE ACCOMPLISHED AND THE CONCLUSION OF HIS RESEARCH WERE THAT IT COULD AS LONG AS ANY AGREEMENT WAS EXCUTED AFTER THE -- THESE CASES WERE TERMINATED WERE OVER EITHER BY SETTLEMENT OR BY A TRIAL.
AND SO THEY KNEW THAT INFORMATION BEFORE THEY SIGNED THE AGREEMENT.
>> WELL, I THINK YOU HAVE TO REMEMBER TWO THINGS.
FIRST OF ALL, JUST CANTERO.
WE HAVE THE ETHICS OPINION IN FLORIDA.
IN 199 THERE WAS NO LAW.
THERE WERE A LOT OF LAW REVIEW ARTICLE SUCH AS ONE BY PROFESSOR GELLER WHERE -- WHO ARE NOT IN FAVOR OF THE PRACTICE AND RULES.
WE LOOK AT THIS NOW AND WE SAY OKAY WE HAVE LAW ON THIS NOW.
THERE WAS NO LAW.
THEY HAD SOMEONE DO SOME RESEARCH.
PRELIMINARY RESEARCH THAT CAME TO THE CONCLUSION THAT THEY COULD DO A RETAINER AGREEMENT.
>> BUT WASN'T IT AN OBLIGATION IN 1996?
I ALWAYS THOUGHT IT WAS AN OBLIGATION PRIOR TO 1994 WHEN I WAS MEDIATING A CASE TO DISCLOSE TO MY CLIENT AND THE PEOPLE THAT I WAS ASKING

TO ASSIGN A RELEASE, WHAT ARE THE TERMS OF THE DEAL? AND THAT I HAD TO DISCLOSE WHAT MY INTEREST WAS IN THE DEAL.
WHAEPBT THAT THE LAW? WASN'T THAT THE ETHICAL OBLIGATION.
>> SKWREFT WELLS.
>> THAT DIDN'T HAPPEN IN THE MIDDLE THE NIGHT.
THAT HAPPENED AFTER THIS WENT ON IN THE MIDDLE OF THE NIGHT.
BECAUSE THERE HAD TO BE A DISCLOSURE BEFORE THERE WAS FINALITY.
>> JUSTICE WELL, YOU ARE RIGHT.
AND I'M NOT STANDING BEFORE YOU SAYING THAT THERE ARE ETHICS VIOLATIONS HERE, WHICH HE ADMITTED TO.
WE COME HERE WITH ADMITTED ETHICS VIOLATIONS IN A SITUATION WHERE THE REFEREE FOUND THESE WERE EXCEPTIONAL RESULTS FOR THE CLIENT, WHICH THAT WHICH.
NOW THE QUESTION IS WITH THESE ADMITTED ETHICAL VIOLATIONS, BY THE REFEREE FOUND --
>> ADMITTED THEY ARE ETHICAL VIOLATION.
THE REEFREE SAYS THAT YOUR CLIENT CAN ONLY GET -- [INAUDIBLE]
>> THERE ARE OTHER PEOPLE INVOLVED IN THIS AND YOUR CLIENTS WERE CERTAINLY ONE OF THOSE INVOLVED IN THIS OR WHY SHOULD YOUR CLIENT ONLY GET PROBATION AND WHY SHOULDN'T YOUR CLIENT HAVE TO DEPLOY?
THOSE ARE THE ISSUE WE ASKED YOU A SUPPLEMENTAL BRIEFING ON OTHER HAVING TO GIVE BACK THE MONEY THAT THEY RECEIVED FROM THE AGREEMENT?
>> LET ME ANSWER YOUR QUESTION.
BECAUSE THERE'S SEVERAL

QUESTIONS IN THAT QUESTION.
FIRST OF ALL, WHEN THE
REEFREE LOOKED AT THE
PUNISHMENT AND, YOU KNOW WE
SHOULDN'T JUST SAY THAT HE'S
GO -- GETTING A PUBLIC
REPRIMAND.
HE HAS 1,000 HOURS OF
PRO BONO SERVICE.
COULD YOU PLEASE TELL ME
ABOUT THAT BEFORE YOUR TIME
IS UP.
>> SURE.
BECAUSE -- MR. NACHWALTER
YOU'VE EXTENDED YOUR TIME
WITH THE QUESTIONS.
PLEASE RESPOND TO THE
QUESTIONS.
>> LET ME ASK YOU -- I WILL
FOCUS IN ON THE DISCORD
JUST -- JUSTICE QUINCE
BECAUSE I I THAT'S WHAT YOU
WANT ME TO ANSWER.
I HAVE TWO ANSWER.
ONE THE TPABG KPHUL AND ONE
IS LEGAL.
FROM A FACTUAL STANDPOINT
THE REEFREE HAD THAT IN
FRONT OF HIM.
HE LOOKED AT THE FACT.
THERE ARE AT LEAST EIGHT
MITIGATING FACTORS THAT HE
LOOKED AT.
HE LOOKED AT THE MAN.
HE LOOKED AT WHO HE WAS.
[INAUDIBLE]
>> HE DIDN'T DO THAT.
HE DID BOTH.
BECAUSE IF YOU LOOK AT THE
RULE, IF YOU LOOK AT 3-5.1
WHICH IS FORFEITURE IT SAYS
THE REEFREE MAY.
HE FIRST SAID HE DECLINED
UNDER THE MAY BECAUSE HE
THOUGHT IT WOULD BE PUNITIVE
THE RULE SAYS MAY.
HE SAID IT WOULD BE PUNITIVE
AND NOT APPROPRIATE UNDER
THE CIRCUMSTANCES.
THE MAN DOESN'T HAVE THE
MONEY.
AND IT'S BEEN TEN YEARS.
THIS IS TEN YEARS OLD.
>> BUT WHY IS IT TEN YEARS

OLD?
>> THE BAR BROUGHT A PROCEEDING THEN ANOTHER PROCEEDING.
THEN DECIDED TO --
>> DO YOU DISAGREE THAT HE KNEW IT WAS WRONG BECAUSE HE HID IT FROM HIS OWN CLIENT?
HE KNEW IT AT THAT TIME.
WHEN THE BAR STARTED INVESTIGATING
IF -- OOP -- OOPS I DID A LITTLE BIT OF RESEARCH AND I WAS WRONG.
WHY NOT COUGH IT UP THEN?
>> MR. NACHWALTER 30 SECONDS PLEASE.
>> I DON'T KNOW WHICH QUESTION TO DEAL WITH.
>> I -- DON'T LOSE SIGHT OF THE RULE.
HE EXERCISES THE REFEREE MAY FIND SPECIFIC FINDING AS TO WHY HE THOUGHT IT WAS PUNITIVE AND NOT APPROPRIATE BASED ON ALL OF THE FACTORS AND WHO THIS PERSON WAS AND THE FACT THAT THIS MEMBER HE SPENT OVER A MILLION DOLLARS DEFENDING HIMSELF BETWEEN THE BAR AGREEMENT AND ALL THE LAWSUITS FROM THE CLIENT
IN THE SECOND POINT IS THE RULE DOES NOT APPLY.
THERE ARE THREE SUPREME COURT CASES.
THREE TIMES THE SUPREME COURT THE MOST RECENT TIME IN FREDERICK HAVE SAID THAT IF IT'S NOT RESITION, THERE WAS NO HARM TO THE CLIENTS, THE MONEY DIDN'T COME FROM THE CLIENTS, THIS COURT HAS SAID ON THREE SEPARATE OCCASIONS UNDER THOSE CIRCUMSTANCES THAT THE CLIENT SECURITY FUND IS DESIGNED UNDER RULE 7 THAT GET MONEY BACK TO THE CLIENTS THAT WAS TAKEN FROM THE CLIENT.
THAT'S NOT THIS --
>> TEN SECONDS AND WE HAVE TO FINISH UP.

SO THE RULE DOES NOT PERMIT
THIS COURT AND I SAID IT
THREE SEPARATE TIMES TO HAVE
SOMEBODY PAY MONEY THAT'S
NOT RESITIONNARY.
>> THANK YOU VERY MUCH.
>> MR. DAVEY.
MAY IT PLEASE THE COURT.
I'M JIM DAVEY BAR COUNSEL
FOR THE FLORIDA BAR.
WE HAVE CROSS-PETITIONED FOR
REVIEW IN THIS CASE ASKING
THIS COURT TO IMPOSE A
TWO-YEAR SUSPENSION AND TO
DISCOURSE THE PROHIBITED
FEE.
WE FEEL THIS IS THE MINIMUM
NECESSARY TO DETER THIS KIND
OF CONDUCT IN FLORIDA, THE
REWARD ARE SO GREAT THE
CORPORATIONS HAVE MILLIONS
AND MILLIONS OF DOLLARS TO
DANGLE OVER THE HEADS OF OUR
LAWYERS.
THE RISK OF GETTING CAUGHT
IS ALMOST NOTHING WHEN IT'S
DONE IN SECRET BETWEEN THE
LAWYERS.
>> WHAT IS THE BAR'S
POSITION ON THIS PROPORTION
TPHALITY ISSUE IN THIS CASE?
ONE THIS WAS -- THIS SEEMS
TO ME HIGHLY QUESTIONABLE AS
FAR AS THE LAWYERS THAT WERE
REPRESENTING DuPONT.
THE BAR DIDN'T PROCEED
AGAINST THOSE LAWYERS.
>> THEY WERE NOT ADMITTED IN
THE STATE OF THE FLORIDA.
>> NONE OF THEM WERE
ADMITTED.
>> NO.
>> AN ARBITRATION IN MIAMI
AND NO LAWYERS FOR THE
CLIENT.
>> AND THEY WERE NOT EVEN
ADMITTED PRO HOP.
>> WE HAVE NO JURISDICTION.
>> THE PRACTICE OF LAW
BROUGHT AGAINST THOSE
LAWYERS?
>> NO IT HAS NOT.
>> WHO WAS REPRESENTING THEM
IN THE PROCEEDING THAT THE

JUDGE WAS CONDUCTING?
>> THERE WAS AN ORAL STATEMENT BY THE JUDGE THAT SHE WAS GOING TO GRANT THE MOTION FOR SANCTIONS.
WHO WAS REPRESENTING DuPONT IN THOSE PROCEEDINGS.
>> IT WAS NOT THESE LAWYERS.
>> NOBODY AT THE MEDIATION.
>> NO.
>> WAS COUNSEL OF RECORD.
>> NO, THEY DID NOT EVER APPEAR IN COURT.
WE'RE TALKING HERE ABOUT PROPORTION TPHALITY AND IT'S WHY THE COURT
OBVIOUS -- PROPORTIONALITY AND IT'S WHY THE COURT HAD THE FRIEDMAN STIPULATION.
I WAS SURE THEY WERE BROAD IN DIFFERENT VENUES WE HAVE TWO DIFFERENT REFEREES DECIDING WHAT SEEMS TO ME ALMOST AN IDENTICAL FACT ISSUE THAT IS WHAT HAPPENED IN 1997 BEFORE THE BAR, THE REFEREE IN THIS CASE SAID THAT THERE WAS NO MISAPPREHENSION BY THE BAR AND IN THE SAME FACTS THE REFEREE IN THE ST. LOUIS CASE FOUND THAT THERE WAS MISAPPREHENSION.
SO WHERE DO YOU RATE?
WHY IS MR. RODRIQUEZ LESS CULPABLE THAT MR. ST. LOUIS.
>> THE LIES.
THEY ARE EXACTLY THE SAME EXCEPT FOR THE LIES AND THE FACT THAT MR. ST. LOUIS WAS THE PRIMARY INSTIGATEOR.
THE PRIMARY NEGOTIATOR REGARDING THE APPEAL AND HE IS THE ONE WHO ACTUALLY SIGNED IT.
AND HE'S THE ONE THAT WAS SUPPOSED TO COMMUNICATE WITH THE CLIENTS AND TELL THEM ABOUT IT.
HE DIDN'T DO IT.
AND HE WENT AROUND THE STATE COERCING THEM TO SIGN THE SETTLEMENT.
YOU ASKED AT THE BEGINNING

OF YOUR ARGUMENT YOU SAID
YOU REQUESTED A TWO-YEAR
SUSPENSION.
WHAT'S THE AUTHORITY FOR A
TWO-YEAR SUSPENSION?
>> THE TWO-YEAR SUS SPEPBION.
WE BELIEVE THAT THIS CASE IS
MORE ETKPRAOEGOUS THAN HAGER
AND BRAND AND THERE'S THIS
INSIDIOUSMENT SCHEME TO TAKE
THE INTEREST ON THE CLIENT'S
FUNDS WHICH WE FEEL IS VERY
SERIOUS.
THEY WERE NOT SENT.
>> THERE WAS A PREVIOUS CASE
BEFORE THE BAR INVOLVING
INTEREST OF THE CLIENT'S
FUNDS.
SO HAVEN'T THEY ALREADY SET
A SANCTION FOR THAT?
THE MATTER CAME UP.
BUT IT WAS NEVER LITIGATED
AND I DON'T BELIEVE IT WAS
IN, IN THE CONSENT JUDGMENT.
>> BUT THERE'S NO FINDING ON
THE INTEREST OF -- TAKING
THE INTEREST OF THE CLIENT'S
MONEY.
THAT WAS $245,000.
>> NO, NO YOUR HONOR.
THAT'S NOT THE 245,000.
THE INTEREST ON THE CLIENT'S
MONEY IS 393,000.
>> IS THAT A FINDING THOUGH?
YOU JUST ANSWERED JUSTICE
CANTERO'S QUESTION SAYING
IT'S MORE EGREGIOUS BECAUSE
OF THE INTEREST.
I DON'T SEE THAT AS BEING A
FINDING THAT THERE'S A
VIOLATION OF THE RULE AT
LEAST IN THIS PROCEEDING.
>> YES.
IT WAS THE INTEREST ADVERSE
TO THE CLIENT.
THAT RULE.
THAT HE WAS FOUND GUILT.
>> DID YOU HAVE AN
OPPORTUNITY TO FINISH
JUSTICE CANTERO'S QUESTION?
AS TO THE AUTHORITY FOR A
TWO-YEAR SUSPENSION?
>> IN RAY HAGER, IN RE GRANT
THE FACT SHE WAS SO CLOSELY

INVOLVED WITH THIS.
HE WAS IN ON EVERYTHING.
AND HE ALSO WAS THE PRIMARY TRIAL COUNSEL FOR THE FIRM.
HE KNEW EVERYTHING THAT WAS GOING ON.
HE WAS THERE WHEN MR. ST. LOUIS SIGNED IT.
HE HAD CONCURRED OR AGREED WITH IT.
HE ACCEPTED HIS SHARE OF THE 6.445 MILLION.
>> DID THE REEFREE MAKE ANY FINDINGS AS TO HIS REPRESENTATIONS TO THE FLORIDA BAR IN THE PRIOR PROCEEDING IN THE MEETING WITH THE FLORIDA BAR?
>> YES, HE DID.
HE FOUND THAT HE DID NOT LIE TO THE FLORIDA BAR IN VIOLATION OF 4-1.8-B.
THEY SAID HE SHOULD HAVE DISCLOSED IT.
HE SHOULD HAVE.
WAS THAT THE SAME MEANING THAT THE OTHER REEFREE IN THE ST. LOUIS CASE FOUND THAT THEY -- HE DID AFFIRMATIVELY CREATE A MISAPPREHENSION.
IN OTHER WORDS WERE THEY ALL THE SAME MEETING?
>> I THINK THAT THE REFEREE IN THE ST. LOUIS CASE WAS STRONGER.
I BELIEVE THAT HE NOT ONLY DID HE FIND THEM AS MISAPPREHENSION BUT ALSO THAT THERE WAS A CONDUCT BIOMISSION.
>> THAT'S WHAT I'M ASKING.
WAS THAT THE SAME MEETING?
TWO REEF ROCKIES REACHED DIFFERENT CONCLUSIONS ABOUT -- REFEREES REACHED DIFFERENT CONCLUSIONS ABOUT WHAT HAPPENED.
WAS THERE A DIFFERENCE IN WEIGHING THE CREDIBILITY OF THE BAR DOWN -- COUNSEL?
>> TWO DIFFERENT REFEREES.
I JUST DON'T KNOW.
>> WAS IT THE FACT THAT

ST. LOUIS TOOK THE
INITIATIVE IN THAT MEETING
THAT HE DID MOST OF THE
TALKING?
WAS THERE A FINDING LIKE
THAT, THAT MR. RODRIQUEZ WAS
PASSIVE IN THE MEETING WITH
THE BAR AND MR. ST. LOUIS
DID ALL THE TALKING?
>> NO, I THINK THE EVIDENCE
SHOWS THAT THEY BOTH WERE IN
ON THAT FULLY.
>> JUSTICE QUINCE.
>> ON THE EVIDENTIARY
HEARING WITH MR. RODRIQUEZ
AND THE ATTORNEY WHO HAD
BEEN REPRESENTING HIM WITH
THE MEETING OF THE BAR
TESTIFIED IS THAT CORRECT?
>> YES.
THAT'S CORRECT.
AND HE WAS REPRESENTING
MR. ST. LOUIS -- HE DIDN'T
HAVE AN ATTORNEY AT THE TIME
WHEN THEY MET AT THE BAR.
>> MR. ST. LOUIS BELIEVED
THAT HE WAS REPRESENTING HIM
IS -- ALSO.
>> DID HE TESTIFY AT
MR. ST. LOUIS HEARING.
>> NO HE DIDN'T.
THAT WAS BY DEPOSITION.
DID YOU HAVE AN OPPORTUNITY
TO ANSWER HER QUESTION.
SHE PRESENTED YOU WITH A
QUESTION BEFORE.
THAT'S FINE.
ANY FURTHER QUESTIONS?
OKAY.
WELL, SINCE WE HAVE A
MINUTE.
LET ME ASK DID THE BAR AT
ANYTIME CONSIDER
CONSOLIDATING THESE
PROCEEDING BEFORE ONE
REFEREE SO THAT WE WOULDN'T
HAVE THIS PROBLEM?
>> YES, JUSTICE BELL FROM
THE VERY BEGINNING IT
APPEARED THAT THAT WOULD BE
APPROPRIATE.
HOWEVER, WHEN WE GOT INTO
THE GRIEVANCE COMMITTEE
LEVEL IT WAS THERE FOR OVER

A YEAR AND IT BECOME OBVIOUS
THAT WE KNEW WHAT SHOULD BE
DONE WITH DIANE FERRARA.
WE HAD ALL THE INFORMATION
WITH MR. FRIEDMAN.
IT LOOKED LIKE IT WOULD BE
YEARS BEFORE WE COULD GET
THE FINALITY WITH REGARD TO
MR. RODRIQUEZ AND
MR. ST. LOUIS AND I FELT
THAT I JUST COULD NOT DELAY
THEIR RESOLUTION OF THEIR
CASES FOR THAT LONG JUST TO
WAIT FOR THEM.
>> THAT DOESN'T EXPLAIN WHY
MR. RODRIQUEZ' CASE AND
MR. ST. LOUIS' CASE WEREN'T
CONSOLIDATED BEFORE THE SAME
BAR REFEREE.
>> I HAD ASSUMED THAT THE
CHIEF JUDGE OF THE CIRCUIT
WOULD ASSIGN THE SAME
REEFREE AND HE DID.
BUT THE REFEREE DISQUALIFIED
HIMSELF AND SO WE HAD
ANOTHER REEFREE.
>> THEY KNEW ABOUT THE
PENDING CASES THAT THEY
WERE.
THE BAR ALERTED THE COURT
AND THE CHIEF JUDGE THAT
THEY WERE RELATED.
>> YES, WE HAD A NOTICE OF
RELATED CASES.
>> I HAVE JUST IN TERMS OF
THE ISSUE OF ABOUT WHETHER
OR NOT THIS PARTICULAR
RESPONDENT PRESSURED THE
CLIENTS IN SOCIETY LING AND
WHEN THEY DIDN'T FILE A
MOTION TO WITHDRAW AND COULD
YOU CLARIFY WHETHER YOU FIND
THAT TO BE A AGGRAVATE!!ING
FACTOR IN MR. RODRIQUEZ'
CASE?
>> IN MR. RODRIQUEZ' CASE
INSOFAR AS HE KNEW WHAT
MR. ST. LOUIS WAS DOING IN
THAT REGARD.
>> HE'S NOT THE ONE TO FILE
THE MOTION TO WITHDRAW.
>>; YES, HE IS.
HE'S THE PRIMARY ONE CAPABLE
OF THAT IN THE WAGNER CASE

IN GAINESVILLE.
>> IS THAT A -- WHAT IS THE BAR'S VIEW OF THAT PARTICULAR CONDUCT?
>> IT'S COERCION.
COERCION TO SETTLE.
[INAUDIBLE]
YES, HE DID.
OKAY THANK YOU VERY MUCH.
MR. NACHWALTER YOU'VE EXPENDED ALL OF YOUR TIME.
WHAT I WILL DO IS GIVE YOU TWO MINUTES.
I WANT YOU TO ADDRESS THE QUESTIONS THAT WERE LEFT WITH REMAINING TO JUSTICE BELL, JUSTICE WELLS AND JUSTICE QUINCE.
THE RESPONSES WERE CUT SHORT.
TWO MINUTES?
>> WE COME TO THIS.
FOR THE FINDING BY A REEFREE OF NO MAL INTENT.
NO FRAUD, NO MISREPRESENTATION.
YOU ARE ALL ASKING ABOUT PROPORTIONALITY.
THE BAR DECIDED TO FILE THESE SEPARATELY.
THEY WERE FILED A YEAR APART.
JUSTICE PARIENTE, YOU TALKED ABOUT THE SAME FACTS.
IT'S NOT THE SAME FACTS.
IT WAS DIFFERENT TRIALS.
THE BAR COUNSEL WHO WAS THE KEY WITNESS FOR THE BAR IN OUR CASE THE REEFREE FOUND THE TESTIMONY NOT TO BE CREDITABLE.
I WOULD LIKE TO THINK IT WAS MY SENT LATING CROSS-EXAMINATION BUT FOR WHATEVER REASON.
>> WHAT IS THE MAIN DISTINCTION THEN?
THE CASES ARE NOT ALIKE.
WHAT IS THE MAIN DISTINCTION, ESPECIALLY IN TERMS OF FAULT?
THAT IS IN TERMS OF THE CONDUCT OF THE LAWYERS?
WHAT TO YOU MAINTAIN IS THE

MAIN DISTINCTION.
>> THE MAIN DISTINCTION IS
IN MY MILE -- TRIAL ON MY
RECORD WHICH IS ONLY RECORD
THAT SHOULD BE RELEVANT HERE
IS THIS REFEREE LISTENED TO
THE EVIDENCE AND FOUND THAT
MY CLIENT COMMITTED NO FRAUD,
NO MISREPRESENTATION, DID
NOT DECEIVE ANYBODY.
FOUND HIM NOT GUILTY OF ALL
THE 4-8 VIOLATION WHICH TO
ME WITH THE MOST VEERIOUS
VIOLATIONS.
HE WAS FOUND NOT GUILTY AT
THAT TRIAL BASED ON THAT
EVIDENCE.
YOU CAN'T TALK TO ME.
I DON'T THINK IT'S FAIR
ABOUT WHAT HAPPENED IN SOME
OTHER TRIAL OR I WASN'T
THERE.
I HAVE NO RIGHT TO CROSS
EXAMINE.
DIFFERENTNESS -- WITNESSES
TESTIFIED THAT'S THE PROBLEM
WITH THE PROPORTIONALITY
CONCEPT.
OR EQUATED TO SOMEONE WHO
PLED IN DECENT DECREE.
HOW MANY FINE HAVE WE SEEN A
CRIMINAL CASE WHERE ONE GOES
TO JAIL AND THE OTHER GETS
OFF.
THERE'S NO REPORT IN THOSE
CONSENT DECREES TO COMPARE.
AND YOU CAN'T COMPARE THE
RECORD IN ST. LOUIS' CASE
WHEN WE WEREN'T THERE AND
HAD NO RIGHT TO CROSS EXAM
MAINE.
THEY ARE NOT THE SAME FACT
OR RECORD.
THE BAR CREATED THAT PROBLEM
BY FILING THESE COMPLAINTS
SEPARATELY A YEAR APART.
THEY WERE NOT FILED AT THE
SAME TIME.
AND SO WE HAVE OUR RECORD
AND OUR RECORD MY CLIENT WAS
NOT FOUND GUILT OF ANY FRAUD,
MISREPRESENTATION, DECEIT.
>> THE ESSENTIAL FACT,
THOUGH OF ENTERING INTO THIS

AGREEMENT AND NOT DISCLOSING
IT TO THE CLIENT IS NOT
DISPUTED BY YOU IS IT?
>> THAT'S TRUE.
AND SO MY CLIENT.
>> ISN'T THAT THE CORE OF
THE CHARGES BROUGHT AGAINST
YOUR CLIENT AND ACTUALLY IN
THE OTHER CASES TOO?
>> IS ISN'T THAT THE CORE
ISSUE?
>> YOU KNOW IT'S A -- THE
CORE ISSUE IS THE PRACTICE
RESTRICTION WHICH LEADS TO
ALL THESE -- THE PRACTICE
RESTRICTION.
BUT THE FRAUD FINDING
MATTER.
BAR COUNSEL CITED HAGER AND
GRANT.
IN BOTH OF THOSE CASES WHICH
WERE AFTER OUR CASE.
I WOULD HAVE BEEN NICE TO
SEE BEFORE THE EVENTS
OCCURRED.
BOTH OF THOSE LAWYERS IN
BOTH OF THOSE CASES GOT A
ONE-YEAR SUSPENSION.
IN BOTH OF THOSE CASES THEY
WERE FOUND GUILT OF FRAUD
AND MISREPRESENTATION.
AS A MATTER OF FACT IN GRANT
THERE'S A UNANIMOUS PART
THAT SAYS IF IT WAS JUST A
PRACTICE RESTRICTION WITHOUT
THE FRAUD THE APPROPRIATE
PUNISHMENT WOULD BE A PUBLIC
REPRIMAND.
>> MR. NACHWALTER, THANK YOU
VERY MUCH.
YOU HAVE NOW EXPENDED AGAIN
BEYOND YOUR TIME.
THANK YOU VERY MUCH FOR THE
ARGUMENT TO BOTH PARTIES.
WE WILL PROCEED TO OUR NEXT
CASE.
THE NEXT CASE IS THE FLORIDA
BAR VERSUS PAUL D. FRIEDMAN.
GOOD MORNING.