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The Florida Bar v. John L. Scott

THE NEXT CASE FOR THE ORAL ARGUMENT THIS MORNING IS THE FLORIDA BAR VERSUS SCOTT. IT IS MY UNDERSTANDING THAT WE HAVE TWO CASES WHICH ARE CONSOLIDATED HERE, AND THAT YOU ALL HAVE WORKED OUT THE MANNER IN WHICH YOU ARE GOING TO PROCEED. IS THE FLORIDA BAR GOING TO PROCEED FIRST?

YES, YOUR HONOR.

OKAY. YOU MAY PROCEED.

MAY I BE SEATED, YOUR HONOR?

YES, PLEASE.

MAY IT PLEASE THE COURT. GOOD MORNING, MY NAME IS EDWARD ITURRALDE. I AM HERE BEFORE THIS COURT TO ASK THAT THE REFEREE'S FINDINGS OF FACT BE ACCEPTED BUT NOT HIS RECOMMENDED 18-MONTH SUSPENSION WITH REFERENCE TO MR. SCOTT'S MISCONDUCT. MR. SCOTT, NUMBER ONE, ENGAGED IN SEXUAL MISCONDUCT WITH HIS CLIENT, GLORIA LEE. THE RECORD REVEALS THAT, ON OCTOBER 22, MS. LEE WENT TO HIS OFFICE TO DISCUSS HRS TERMINATION OF RIGHTS PROCEEDINGS AGAINST HER SON. SHE WENT IN THE MORNING, WITH HER HUSBAND AND WAS ASKED TO RETURN IN THE AFTERNOON. WHEN SHE RETURNED IN THE AFTERNOON WITH \$1,000 THAT SHE HAD BORROWED FROM HER MOTHER-IN-LAW, MR. SCOTT ASKED THE HUSBAND TO STEP OUTSIDE. WHEN THE HUSBAND STEPPED OUTSIDE HE ASKED MS. LEE, HOW BAD DO YOU WANT TO WIN THIS CASE? SHE SAID I WILL DO ANYTHING F I HAVE TO PAY \$20, \$25 FOR THE REST OF MY LIFE, I WILL DO IT. HE UNZIPPED HIS PANTS, APPROACHED HER, HAD HE ERECTION, WAS FONDLING HIMSELF. GRABBED HER HEAD, PUSHED IT FORWARD, AND GOT SEMEN ON HER FACE AND BLOUSE. SHE LEFT, DISTRAUGHT, AFTER WIPING HERSELF, WAS MADE TO RETURN BY HER HUSBAND, TO GET A RECEIPT FOR \$1,000 THAT HAD BEEN PAID. THE HUSBAND KNEW SOMETHING WAS WRONG. SHE WAS OBVIOUSLY VERY UPSET. SHE WOULDN'T TELL HIM WHY. THE YOUNG CHILD WAS IN THE BACKSEAT OF THE CAR. LATER ON THAT NIGHT, SHE TOLD THE HUSBAND AND HE WAS VERY UPSET AND THEY DECIDED TO GO SEE THE MOTHER, WHO HAD GIVEN THEM THE MONEY. THEY EVENTUALLY WENT TO SEE ANOTHER ATTORNEY AND ENDED UP IN LAW ENFORCEMENT. LAW ENFORCEMENT, WITH THEIR CONSENT, ASKED IF THEY COULD PUT A MICROPHONE ON HER AND ASKED IF SHE WOULD GO BACK TO MR. SCOTT'S OFFICE AND SHE DID. ON OCTOBER 28, SHE WENT, THESE CONVERSATIONS WERE RECORDED AND THEY WERE LATER FRANCE KRIBD. -- TRANSCRIBED. HERE, AND I APOLOGIZE TO THE COURT, BUT I AM QUOTING FROM THE RECORD, AMONGST OTHER CONVERSATIONS, MR. SCOTT SAID "DO YOU WANT TO SUCCESS MY CONGRESS", AND HE IMPLIED THAT DOING SO MIGHT MAKE HIM WORK HARDER. HE WAXES AND WANES, MAYBE IT WILL HELP ME WORK HARDER ON YOUR CASE AND SAID YOU STILL HAVE TO PAY ME BUT I AM ALREADY GIVING YOU A DISCOUNT. DURING THIS OCTOBER 20 CONVERSATION, SHE SAID I CAN'T DO IT. MY FATHER REPEATEDLY RAPED ME, AND I CAN'T DO IT. I DON'T EVEN DO IT TO MY HUSBAND. I CAN'T DO IT.

LET ME ASK YOU THIS. I THINK WE KNOW THE FACTS. WHY DO YOU THINK THE REFEREE RECOMMENDED 18 MONTHS, INSTEAD OF DISBARMENT IN THIS CASE? IT IS PRETTY GRIEVOUS CASE, AS YOU ARE MAKING THE POINT. WHY DO YOU THINK THERE WAS THIS PARTICULAR RECOMMENDATION?

YES, YOUR HONOR. OBVIOUSLY I COULD NEVER KNOW. MY SUSPICION IS PERHAPS THE MITIGATING FACTOR HE FOUND, OF MR. SCOTT'S ALCOHOLISM. HE DID CITE SEVERAL CASES THAT REFLECT A DISCIPLINE PROPORTIONATE TO WHAT HE IMPOSED HERE, IN SOMAHA, BUT THE FACTS IN SOMAHA, THERE WAS MERE TOUCHING AND PHOTOGRAPHING OF SEMINUDE. IT WASN'T PERSONAL PARTS. IT WASN'T DOWNRIGHT SEXUAL, ALTHOUGH THERE WERE OVERTONES OR UNDERTONES OF SEXUAL CONTENT, AND IN SOMAHA, HE DID IMPOSE A ONE-YEAR SUSPENSION. HE HAD SOME OTHER CASES WITH LIFE SUSPENSIONS.

HASN'T THE REFEREE, IN THE PAST, TREATED ALCOHOL AS A SICKNESS AND AS MITIGATING FACTOR IN DISCIPLINE BEFORE? ISN'T THIS WHAT THE REFEREE WAS DOING IN THIS CASE, YOU GATHER?

YES YES, SIR. I THINK THAT IS CORRECT, AND I THINK THIS COURT HAS FOUND ALCOHOLISM TO BE A MITIGATING FACTOR AS WELL. HOWEVER, WHILE THIS COURT HAS SAID IT IS A MITIGATOR, IT IS NOT AN EXCUSE T DOESN'T GIVE YOU FREE LICENSE. IT DOESN'T MEAN YOU ARE BEYOND DISCIPLINE. HAD THIS PERSON IN THE PAST, ALTHOUGH THEY HAVE DEMONSTRATED THE MITIGATING CIRCUMSTANCE OF ALCOHOL.

WHAT WAS THE DISCIPLINARY HISTORY OF THIS PERSON?

HE HAD ONE MINOR MISCONDUCT IN 1992. IT WAS A BANKRUPTCY CASE, AND, IN WHICH HE HAD NOT COMMUNICATED WITH HIS CLIENT AND DID NOT PROCEED DILIGENTLY IN THAT MATTER, AND, WHEN ASKED BY THE GRIEVANCE COMMITTEE TO PROVIDE CERTAIN DOCUMENTS TO SUBSTANTIATE THE FEE THAT HE HAD EARNED, HE WAS UNABLE TO PROVIDE THOSE DOCUMENTS. HE STATED THAT IT WAS DUE TO HIS SECRETARIAL STAFF AND HE RECEIVED A MINOR MISCONDUCT WITH ADMONISHMENT.

WHAT IN THIS CASE, IF ANY, OF ANY PREVIOUS RELATIONSHIP RELATIONSHIP BETWEEN THIS LAWYER AND THIS CLIENT, PERSONAL OR PROFESSIONAL?

THERE WAS EVIDENCE -- RIGHT. SHE HAD VISITED MR. SCOTT PREVIOUSLY, IN REGARD TO HER OTHER CHILD. HER OTHER, OLDER -- I BELIEVE IT WAS THE OLDER CHILD, AND I COULD BE MISTAKEN, BUT HER OTHER CHILD HAD SIGNIFICANT PSYCHOLOGICAL PROBLEMS, AND SHE DIDN'T KNOW WHAT TO DO. HE HAD ATTEMPTED SUICIDE. HE HAD RUN AWAY FROM HOME. HE WAS SHOP LASTING. -- SHOPLIFTING, AND SHE WENT TO SEE MR. SCOTT FOR A \$25 CONSULTATION. WHAT DO YOU THINK I SHOULD DO WITH MY SON, AND AFTER A CONVERSATION, I BELIEVE THEY REACHED AN AGREEMENT THAT, IF YOU CAN'T HANDLE HIM AND HE HAS ALL THESE MAJOR PSYCHOLOGICAL PROBLEMS, MAYBE YOU SHOULD GIVE HIM DURESS, AND THEY HAD THE RESOURCES TO DO. THAT SHE TESTIFIED THAT SHE THOUGHT MR. SCOTT WAS HER ATTORNEY AND HE MADE IT VERY CLEAR THAT IT WAS A ONE-TIME \$25 REPRESENTATION FEE AND THE REPRESENTATION WAS OVER. THERE WAS, ALSO, EVIDENCE THAT MS. LEE CAME BACK TO HIM. THAT WAS SOMETIME AFTER OCTOBER 1, BECAUSE IT WAS REGARD TO AN AUTOMOBILE ACCIDENT CASE AND A POLICE REPORT FOR AN AUTOMOBILE ACCIDENT CASE, WHICH WAS INTRODUCED INTO EVIDENCE, DATED OCTOBER 1, SO SHE WENT BACK TO SEE HIM ABOUT THIS AUTOMOBILE ACCIDENT CASE. HE TESTIFIED THAT HE DID NOT RETAIN HER, THAT HE THOUGHT IT WAS A SHAM. SHE TESTIFIED THAT HE TOLD HER TO GO GET A NECK BRACE AND TO GET ESTIMATES AND SO FORTH, AND SHE THOUGHT, SHE RECEIVED THE CONTRACT. SHE SIGNED THE CONTRACT. THERE WAS NO EVIDENCE THAT MR. SCOTT HAD EVER SIGNED THE CONTRACT, AND THE REPRESENTATION WAS TERMINATED OFFICIALLY ON NOVEMBER 11, WHEN MR. SCOTT DELIVERED A LETTER TO HER, INDICATING THAT HE WAS RETURNING HER RECORDS AND WASN'T ABLE TO PROCEED WITH THE CASE. ACCORDING TO MR. SCOTT, HE TERMINATED THE -- NEVER INITIATED AN ATTORNEY-CLIENT RELATIONSHIP. THERE IS, ALSO, TESTIMONY BY MR. SCOTT, WHICH WAS NOT DISCUSSED BY THE REFEREE AND APPARENTLY DID NOT BELIEVE MR. SCOTT, THAT AT SOME POINT IN TIME BETWEEN THE \$25 CONSULTATION CASE AND THE AUTOMOBILE

ACCIDENT CASE, THAT ON A DATE, ON A THURSDAY WHEN HIS OFFICE WAS CLOSED, AND THE LIGHTS WERE OFF, THAT SHE CAME AND KNOCKED ON THE WINDOW OF HIS OFFICE. THAT HE WENT UP TO SEE HER, AND HIS WORDS, SHE OFFERED AND I ACCEPTED, MEANING THAT THEY ENGAGED IN SEX, BECAUSE SHE WAS SO APPRECIATIVE OF THE ADVICE THAT HE HAD GIVEN HER IN REGARD TO HER SON. THERE WAS NO CORROBORATING EVIDENCE TO THAT, OTHER THAN MR. SCOTT'S TESTIMONY. IN FACT, THE TIME LINE WOULD SEEM TO INDICATE THAT THERE WAS VERY LITTLE TIME FOR THAT TO HAVE HAPPENED. THE CHILD WAS SIGNED OVER TO HRS ON SEPTEMBER 30, 1997, AND THAT DOCUMENT IS IN THE RECORD.

EXCUSE ME. GO AHEAD.

VERY BRIEFLY, YOU HAVEN'T MENTIONED THE CONTEMPT OF COURT ISSUE?

NO, SIR, I HAVE NOT. NOT YET.

AND HOW DID THAT PLAY INTO THIS?

WELL, OF THE THREE THINGS, GENERALLY, HE HAS BEEN ACCUSED OF, THE SEXUAL MISCONDUCT, THE LYING ABOUT THE SEXUAL MISCONDUCT AND THE CONTEMPT OF COURT, OBVIOUSLY THE CONTEMPT OF COURT IS THE LESSEE EGREGIOUS, BUT I THINK MOUNTING EVIDENCE IS BUILDING A PYRAMID UPON WHICH THIS COURT COULD, SHOULD DO NOTHING ELSE THAN DISBAR MR. SCOTT. I DISCUSSED THE FACTS. IF YOU WOULD LIKE ME TO. I WASN'T SURE WHAT THE QUESTION WAS.

YOU ARE IN YOUR REBUTTAL. THANK YOU, COUNSEL. MR. SCOTT.

MY TURN?

I APPRECIATE YOU ALL LETTING ME COME HERE TODAY AND THIS IS THE FIRST TIME I HAVE EVER APPEARED BEFORE YOU ALL. I DON'T REALLY KNOW WHAT I AM SAYING OR DOING, SO IF I SAY OR DO SOMETHING WRONG, PLEASE CORRECT ME. I WAS FIRST DENIED AN ORAL ARGUMENT. I FILED A MOTION FOR REHEARING, AND FOR SOME STRANGE REASON IT WAS GRANTED, AND I APPRECIATE IT BECAUSE I CAME HERE TO TELL THE TRUTH. THERE ARE TWO PARTS TO THIS CASE. NOW, I THINK I AM SUPPOSED TO LOOK AT THIS CLOCK, RIGHT?

RIGHT.

THE --

THE YELLOW LIGHT WILL COME ON AND AS I UNDERSTAND UNDERSTAND THE WAY WE ARE PROCEEDING, THE FLORIDA BAR IS THEN GOING TO ARGUE --

TEN MINUTES AND THEN RESERVE FI. YES, SIR. THANK YOU. -- FIVE. YES, SIR, THANK YOU. THIS WOMAN CAME TO ME IN AUGUST. SHE HAD BEEN PRESENTED A PROPOSAL BY THE DEPARTMENT OF FAMILY AND CHILDREN, TO TERMINATE HER OLDEST SON'S PARENTAL RIGHTS FOR HER OLDEST SON. APPARENTLY HE HAD PSYCHOLOGICAL PROBLEMS. WE TALKED ABOUT IT. I, AT THAT TIME, HAD A BASIC \$25 CONSULTATION FEE. OKAY. WE DISCUSSED IT. SHE DECIDED THAT SHE COULD NOT TAKE CARE OF THE CHILD, AND SHE LEFT, AND I EXPLAINED TO HER PROFUSELY THAT IT WAS THE END OF MY REPRESENTATION WITH HER. NOW, AT THAT TIME IN MY LIFE, MY SECRETARY AT THAT TIME, I DID A LOT OF TITLE WORK, A LOT OF REAL ESTATE WORK RESPECT AND ON THURSDAY AFTERNOONS AND SOME DAYS ALL DAY THURSDAY, SHE WOULD BE GONE TO THE COURT HOUSES, DOING TITLE WORK, BUT I WOULD GO DOWN THERE AND WORK ON THE BOOKS AND EVERYTHING, SO SOMETIME BETWEEN THIS AUGUST DATE AND APPROXIMATELY AUGUST, OCTOBER 1, THIS WOMAN KNOCKED ON MY DOOR. THE LIGHTS IN MY OFFICE WERE OFF. MY OFFICE WAS CLOSED. I OWN MY OFFICE OUTRIGHT. OKAY. WHEN IT IS CLOSED AND THE

LIGHTS WERE OFF AND THE DOOR IS LOCKED, IT IS NOBODY'S BUSINESS WHAT HAPPENS IN THERE BUT MINE, BECAUSE I OWN IT. NOT THE FLORIDA BAR. NOT THE SUPREME COURT. ANYWAY, THIS LADY KNOCKED ON THE DOOR. I WENT TO THE DOOR, BECAUSE A LOT OF MY FRIEND THERE, IN TOWN, HAPPENED TO KNOW THAT SOMETIMES I AM THERE DOING MY BOOKS OR SOMETHING THERE, EVEN THOUGH THE LIGHTS ARE OFF. THIS WOMAN CAME IN, AND AS MS. -- AS MR. ITY YOU ARE ALLEGED' VERY GENTLY SAID -- MR. ITURRALDE SO GENTLY PUT IT, I ACCEPTED. I AM ASHAMED OF IT, BECAUSE MY MOTHER HAD JUST DIED. I HAD HAD A STROKE AND A SERIOUS BLOOD CLOT A COUPLE OF YEARS BEFORE, AND HAD NOT, TO BE HONEST WITH YOU -- I DON'T KNOW HOW TO PUT THIS GENTLY -- HAD NOT BEEN WITH A LADY FOR A WHILE. THIS WOMAN OFFERED AND I ACCEPTED, BUT I WAS NOT -- I DID NOT REPRESENT HER AT THAT TIME. OKAY. THEN SHE CAME BACK, ABOUT OCTOBER 1 OR A LITTLE BIT AFTER THAT. SHE HAD HAD AN AUTOMOBILE WRECK. AN UNINSURED MOTORCYCLIST HAD BUMPED INTO THE BACK OF HER BUMPER. SHE CAME INTO MY OFFICE WITH A NECK BRACE ON. SHE HAD SOMEHOW TALKED A DOCTOR INTO GETTING ONE. SHE TOOK IT OFF AND LAUGHED AND SAID, HERE, WE WILL MAKE SOME MONEY ON THIS. AND I SAID, YOU KNOW, I DON'T DO THAT. I DON'T HANDLE FRAUD CASES. I SAID ARE YOU HURT? SHE SAID, WELL, I DON'T KNOW. I DON'T THINK SO. AND I SAID, WELL, I DON'T WANT TO HAVE ANYTHING TO DO WITH THE CASE. I DID DO HER A COURTESY OF GIVING HER SOME MEDICAL RELEASE FORMS. I SAID WHAT YOU NEED TO DO IS, YOU NEED TO GO SEE A DOCTOR, REALLY, AND YOU PROBABLY HAVE UNINSURED MOTORIST COVERAGE. --

LET ME GET THIS STRAIGHT. UP UNTIL THIS POINT, WAS SHE EVER A CLIENT? DID YOU EVER CONSIDER HER A CLIENT?

NO, SIR. MY SECRETARY, WHO HAD WORKED FOR ME FOR SIX YEARS AT THAT TIME, WHEN SHE FIRST CAME IN THE OFFICE, SHE HAD CALLED HER IN ADVANCE, IN THIS FIRST PART OF OCTOBER, OKAY, AND SHE HAD CALLED HER AND TOLD HER WHAT IT WAS ABOUT. IT WAS ABOUT A AUTOMOBILE CASE, AND MY SECRETARY HAD WORKED FOR ME FOR SO LONG -- YES, SIR.

IN ANY OF YOUR DEALINGS THAT YOU EVER HAD WITH HER, DID YOU EVER CONSIDER HER A CLIENT?

NO, SIR. I CONSIDERED HER A CLIENT IN THE LAST PART OF AUGUST, WHEN I DISCUSSED, WITH HER, THE TERMINATION OF HER PARENTAL RIGHTS WITH HER OLDEST CHILD, AND THEN I CONSIDERED HER A CLIENT ON THE AFTERNOON OF OCTOBER 22. SHE AND HER HUSBAND, WHICH I DIDN'T FIND OUT UNTIL THEN THAT SHE WAS MARRIED, BUT SHE AND HER HUSBAND CAME IN TO SEE ME, ON THE MORNING OF OCTOBER 22, AND I TOLD THEM THAT I WOULD REPRESENT THEM, BECAUSE THE DEPARTMENT OF FAMILY AND CHILDREN WERE ATTEMPTING TO TERMINATE THE PARENTAL RIGHTS ON THE SECOND CHILD. BUT THAT I WOULD NEED \$1,000 FEE. THEY CAME BACK ON THE AFTERNOON OF OCTOBER 22. THERE WERE FIVE PEOPLE WHO WERE THERE IN MY OFFICE.

IS THIS THE PERIOD WHEN IT IS REPRESENTED THAT YOU TOLL THE HUSBAND HE WOULD -- YOU TOLD THE HUSBAND THAT HE WOULD HAVE TO LIVE AND SHE WOULD STAY IN?

NO, SIR. THERE WERE FIVE PEOPLE. FOUR OF THEM TESTIFIED AT THE TRIAL, INCLUDING MY SECRETARY AT THE TIME. ONE OF THEM BY AFFIDAVIT AT THE GRIEVANCE COMMITTEE. HE WAS SICK IN INDIANA AND COULDN'T APPEAR PERSONALLY. THERE WERE FIVE PEOPLE IN MY OFFICE AT THAT TIME, AND THEY ALL TESTIFIED, MY SECRETARY BEING THE MAIN ONE, ROBIN TED WELL, THAT SHE NEVER -- ROBIN TIDWELL, THAT SHE NEVER LEFT THE FRONT OF MY DESK. BRAN FORWARD IS A TOWN OF 4,000 PEOPLE. I AM A COUNTRY LAWYER. I HAVE A LITTLE TINY OFFICE, AND MY SECRETARY TESTIFIED, PLUS FOUR OTHER PEOPLE IN MY OFFICE TESTIFIED, EITHER PERSONALLY BY AFFIDAVIT OR AT THE TRIAL, THAT THIS WOMAN, ON THE AFTERNOON WHEN SHE MADE THE COMPLAINT AND SHE SAID THIS HAPPENED, AND SHE TESTIFIED IN HER COMPLAINT AND SAID THIS HAPPENED IN THE AFTERNOON OF OCTOBER 22 THAT I SEXUALLY ABUSED HER, AND MY SECRETARY AND THESE OTHER PEOPLE SAID THAT THIS COULDN'T HAVE

HAPPENED, BECAUSE MY SECRETARY AND TWO OF THESE TWO PEOPLE WERE SITTING IN THE FRONT PART OF MY OFFICE, AND THE OTHER TWO PEOPLE WERE SITTING IN MY PERSONAL OFFICE.

BUT ARE YOU CHALLENGING THE FINDINGS OF FACT BY THE REFEREE AT THIS POINT? IS THAT WHAT YOU ARE CHALLENGING?

YES, SIR, AND I KNOW, AS WE SAY IN THE COUNTRY, I AM UP AGAINST IT, BUT I BROUGHT A 40-PAGE BRIEF HERE, AND I CAN'T GO THROUGH THAT IN 15 MINUTES. BUT I AM ASKING YOU ALL, IMPLORING YOU ALL TO READ IT. THIS IS THE WORST -- THIS WOMAN IS, WAS AN ADMITTED SCHIZOPHRENIC, WHO DID NOT TAKE HER MEDICINE, WHO REFUSED TO TAKE HER AUTHOR A SIN, BECAUSE SHE -- HER THORAZINE, BECAUSE SHE DIDN'T LIKE THE WAY IT FELT.

LET ME PUT IT THIS WAY. IF WE ACCEPT THE FINDINGS OF FACT OF THE REFEREE, WHY IS THE DISCIPLINE IN THIS CASE, WHY SHOULD IT NOT BE A MORE SERIOUS --

IF YOU ACCEPT THE FINDINGS OF THE REFEREE, BY GOD YOU OUGHT TO DISBAR ME, BECAUSE THIS REFEREE CAME OUT AND SAID, BASICALLY, THAT I HAD SEXUALLY ABUSED THIS WOMAN AND DONE ALL THESE THINGS AND LIED AND DONE ALL THIS STUFF. NO. THIS IS A CASE ABOUT FACTS. AND LIKE I SAY, AS WE SAY IN THE COUNTRY, I KNOW I AM UP AGAINST, BECAUSE I DON'T THINK YOU ALL WANT TO REALLY CONSIDER FACTS. I KNOW THAT THAT IS NOT REALLY WHAT YOU ALL DO. YOU REALLY WANT TO CONSIDER LAW, AND I DON'T HAVE A WHOLE LOT OF LAW HERE, BUT I HAVE GOT 40 PAGES OF FACTS. I HAVE GOT TWO POLICE OFFICERS AND THE STATES ATTORNEY THAT ADMITTED --

MR. SCOTT, PLEASE. WHAT ABOUT THE TAPE?

THE TAPES? I WILL BE HONEST WITH YOU, SIR. JUDGE WELLS, I WAS A DRUNK THEN.

I WOULD EXPECT YOU TO BE.

I WAS A DRUNK THEN. ON DECEMBER 13, 18999, I -- DECEMBER 13, 1999, I QUIT DRINKING AND HADN'T HAD A DRINK SENSE. I WAS DRUNK THEN. I HAD HAD A PREVIOUS NONREPRESENTATIONAL SEXUAL RELATIONSHIP WITH THIS WOMAN. TWO POLICE OFFICERS THAT SENT HER TO MY OFFICE, TAPE-RECORDED, TO GET ME TO TALK ABOUT SEX. AND SHE STARTED IT, AND I DID IT AND I SAID SOME FILTHY THINGS, AND SOME UGLY THINGS THAT I AM ASHAMED OF. NOT BECAUSE OF YOU, BUT LIKE I SAID A MINUTE AGO, BECAUSE MY MOTHER TAUGHT ME BETTER, AND I DID WRONG ON DECEMBER 13 OR A COUPLE OF DAYS BEFORE THAT. I LOOKED AT MYSELF IN THE MIRROR AND I SAID I DON'T LIKE WHAT I SEE, AND I CHECKED INTO A REHAB CENTER, AND I HAVEN'T HAD A DRINK SINCE. I GO TO THE GYM EVERYDAY. AND I HAVE REHABILITATED MYSELF. THE BAR DIDN'T ASK ME TO DO THAT. THE BAR DIDN'T HELP ME TO DO THAT.

BUT YOU WERE REPRESENTING HER THOUGH, DURING THE, IN OCTOBER OF 1997, WHEN THE TAPE-RECORDED CONVERSATION --

WHEN THE TAPE-RECORDED -- YES, MA'AM, WHEN THE DIRTY CONVERSATIONS -- I GUESS.

IS THAT -- HOW, IN TERMS OF THOSE COMMENTS OR REMARKS, ARE YOU SAYING, NOW, WELL, I DID THAT, BUT I ASKED TO BE ACCUSED, BECAUSE I WAS AN ALCOHOLIC DURING THAT TIME?

I WAS DRUNK AND I WAS ALCOHOLIC. I WAS SICK, JUSTICE PARIENTE. YES, MA'AM. I WAS A SICK MAN. ALCOHOLISM IS A DREADFUL DISEASE. OKAY. I GUESS I WILL ALWAYS BE AN ALCOHOLIC. WE LEARN IN AA THAT YOU, I GUESS YOU PROBABLY ARE ALWAYS ALCOHOLIC. IF I WENT OUT NOW AND BOUGHT A BOTTLE OF LIQUOR, IT COULD BE THAT I COULD AGAIN BE DRUNK BY TOMORROW.

YOU ARE IN YOUR REBUTTAL ON THE CROSS-RESPONDENT'S CASE.

OKAY. I FINISHED WITH MY TIME?

YES, SIR.

OKAY. THANK YOU.

NOW, THIS IS GOING TO BE YOUR REBUTTAL AND YOUR STATEMENT ON THE OTHER CASE, IS THAT THE WAY WE ARE PROCEEDING HERE?

I JUST THOUGHT IT WAS GOING GOING TO BE REBUTTAL, AND I WILL ANSWER WHATEVER QUESTIONS THE COURT HAS FOR ME.

ON MY, ON THE SHEET THAT I HAVE, MR. SCOTT WOULD HAVE SOME ADDITIONAL REBUTTAL. IS THAT THE WAY YOU ARE PROCEEDING HERE?

YES. THAT'S CORRECT. I FILED, FIRST, AND THEN MR. SCOTT FILED PETITION FOR REVIEW, SO WE ARE CROSS APPEALING EACH OTHER. HE DOES GET THE LAST WORD. HE HAS THE LAST FIVE MINUTES.

OKAY.

MR. SCOTT JUST INDICATED THAT HE VOLUNTARILY ENTERED REHAB AND IS GOING TO AA AND TRYING TO TAKE CARE OF HIS PROBLEMS WITH ALCOHOL, AND TO WHAT EXTENT SHOULD WE TAKE THAT INTO CONSIDERATION, WHEN WE ARE LOOKING AT THE DISCIPLINE, IF THERE IS TO BE DISCIPLINE IN THIS PARTICULAR CASE?

I THINK YOU SHOULD LOOK AT IT AND I THINK THE REFEREE DID LOOK AT IT. BUT I THINK, AT A CERTAIN POINT THERE IS A LINE IN THE SAND, WHERE WE SAY THAT IS DISBARMENT ACTIVITY, AND IF YOU HAVE JUST STEPPED OVER THE SAND, THAT LINE IN THE SAND, YOU CAN WEIGH THE MITIGATING FACTORS AND SAY, WELL, ALCOHOLISM CAN BRING YOU BACK, BUT WHEN YOU HAVE THE SEXUAL MISCONDUCT IN THIS CASE, YOU DOUBLE THAT OVER WITH THE LINE ABOUT IT IN THIS CASE, AND YOU ADD A LITTLE BIT EXTRA FOR THE CONTEMPT IN THIS CASE, THE ALCOHOL MITIGATION JUST DOESN'T FIT THE SCALES OF JUSTICE BACK INTO LINE. YOU HAVE 100 POUNDS ON THIS SIDE AND MAYBE TEN POUNDS OF MITIGATION, AND IT JUST DOESN'T BALANCE OUT, AND THAT WOULD BE THE BAR'S POSITION. I UNDERSTAND THAT IT IS A MITIGATING FACTOR. I ACCEPT THAT IT IS A MITIGATING FACTOR. I AGREE THAT IT IS A MITIGATING FACTOR, BUT IT HAS TO --

THERE, IN THE MITIGATING FACTOR, AND MR. SCOTT SAID WHATEVER RELATIONSHIP HE HAD WITH THIS LADY STARTED WHEN SHE WAS NOT HIS CLIENT, AND IS THAT MITIGATION IN THIS INSTANCE?

I DO NOT BELIEVE SO. I BELIEVE THAT IS A FABRICATION ON MR. SCOTT'S PART, AND I BELIEVE THAT THE JUDGE FOUND THAT TO BE A FABRICATION ON MR. SCOTT'S PART. YOU FIND THAT THE REFEREE DOES NOT MENTION THAT TESTIMONY AT ALL. HE COMPLETELY DISCOUNTED IT.

IN TERMS OF PUNISHMENT, WE HAVE THESE ACTS OCCURRING IN 1997.

YES, MA'AM.

WE ARE NOW IN 2001.

YES, MA'AM.

AND AS FAR AS THE BAR SEEKING THE ULTIMATE SANCTION OF DISBARMENT, MEANING BASICALLY THAT WE DON'T SEE THAT IT IS POSSIBLE FOR MR. SCOTT TO BE REHABILITATED, WHAT IS THE BAR'S POSITION THAT, ONCE FINDING THIS OUT, INSTEAD OF TRYING TO SEEK A SUSPENSION, I MEAN, HE WAS APPARENTLY PRACTICING FOR OVER A THREE-YEAR PERIOD, WITHOUT ANY FURTHER INCIDENT, AND THE FACT THAT HE IS NOW GETTING ACTIVE TREATMENT OR HAD GOTTEN TREATMENT, AGAIN, SORT OF SUPPORTING THIS CONCEPT THAT THE BAR IS SEEKING DISBARMENT FOR AN ACT THAT OCCURRED YEARS BEFORE. HOW DO YOU RESPOND TO THAT PROBLEM?

WITH ALL DUE RESPECT, YOUR HONOR --

WHAT I SEE AS A PROBLEM. MAYBE YOU DON'T SEE IT AS A PROBLEM.

NO, YOUR HONOR. IT IS A PROBLEM, BUT WITH ALL DUE RESPECT, IT IS NOT JUST 1997. THE SEXUAL MISCONDUCT CERTAINLY WAS IN 1997, BUT THEN IN 1999, HE LIED ABOUT IT TO THE GRIEVANCE COMMITTEE. IN 2000 HE LIED ABOUT IT TO THE REFEREE, AND IN 2000 HE GOT THE CONTEMPT, SO THERE IS ONGOING MISCONDUCT THAT IS NOT JUST AN ISOLATED INCIDENT BACK IN 1997.

BUT WE HAVE GOT TO ACCEPT, FOR THE PURPOSE OF OUR REVIEW OF THIS COMPETENT, SUBSTANTIAL EVIDENCE, THAT I GUESS MS. LEE TESTIFIED ONE WAY AND MR. SCOTT TESTIFIED THE OTHER. HE IS TELLING US, AGAIN, AS AN OFFICER OF THE COURT, THAT THIS DIDN'T HAPPEN THE WAY THE REFEREE FOUND T THE FACT THAT SOMEONE SAYS IT DIDN'T HAPPEN THAT WAY, HOW DO WE MAKE THE MISCONDUCT WORSE, BECAUSE HE DOESN'T ADMIT TO SOMETHING THAT HE SAYS DIDN'T OCCUR?

BECAUSE IT IS NOT JUST A HE SAID/SHE SAID. WE HAVE THE TAPES. WE HAVE THE BILLING STATEMENT PREPARED BY MR. SCOTT IN RESPONSE TO THE STATE ATTORNEY'S OFFICE, WHICH IS EXHIBIT 18 IN THE RECORD, AND IN THAT BILLING STATEMENT, HE PUTS IN NO CHARGE FOR THE INITIAL CONSULTATION, WHICH OCCURRED IN THE MORNING OF OCTOBER 22, AND HE PUTS IN, I FORGOT THE AMOUNT OF TIME, ABOUT A HALF-HOUR, I BELIEVE HAD, IN THE AFTERNOON PORTION OF IT. IF IT OCCURRED THE WAY HE STATED WHY WOULD HE NOT BILL HER IN THE MORNING BUT BILL HER A HALF-HOUR IN THE AFTERNOON, WHEN IT WAS SUCH A SHORT CONVERSATION THAT OCCURRED IN THE VEST BUELL OF HIS OFFICE? HE PREPARED THAT DOCUMENT, HIMSELF, ON NOVEMBER 5, 1997, JUST A FEW DAYS AFTER THE, THESE ALLEGED INCIDENTS. HE PREPARED IT IN RESPONSE TO THE STATE ATTORNEYS OFFICE, WHERE HE WAS BEING, IN THE PROCESS OF BEING PROSECUTED FOR A SERIOUS OFFENSE, WHICH COULD AFFECT NOT ONLY HIS LICENSE BUT HIS REPUTATION IN THE SMALL COMMUNITY, AND YOU KNOW, THERE IS, ALSO, PHYSICAL EVIDENCE, THE RECEIPTS, WHICH IS EXHIBIT 34 IN THE RECORD. THOSE RECEIPTS SHOW THAT THE SHORES, THE ALIBI WITNESSES, PAID \$1,000 TO MR. SCOTT BEFORE THE LEASE PAID. THESE ALIBI WITNESSES, IT IS MY IMPRESSION AND CONTENTION, LEFT BEFORE THE LEES. THE LEES TESTIFIED THAT, WHEN THEY GOT THERE, THEY DID SEE PEOPLE WAITING IN THE OFFICE, AND THEY KNEW THAT MR. SCOTT HAD CLIENTS IN THE BACK. THEY WENT, WITH THEIR KID, TO GET ICE CREAM, AND THEN THEY RETURNED. THAT IS WHY THESE ALIBI WITNESSES DIDN'T SEE THE LEES. I UNDERSTAND THAT HE HAS GOT A DISPUTE WITH THE EVIDENCE AND THE FACTS, BUT IT IS NOT JUST A HE SAID/SHE SAID. THERE ARE PHYSICAL EVIDENCE THAT DISPUTE WHAT HE IS SAYING.

SO THE STATE ATTORNEY PROSECUTED THIS IMMEDIATELY, IN 1997?

YES, MA'AM.

THE BAR WAITED TWO MORE YEARS TO DO SOMETHING ABOUT IT?

I DON'T REMEMBER EXACTLY WHY THAT HAD NOT BEEN PROSECUTED. I CAME INTO THE FLORIDA BAR IN 1998 AND INHERITED THIS CASE AND WE IT TOOK IT TO THE GRIEVANCE COMMITTEE.

DO YOU AGREE THAT THIS IS THE WORST OF THE WORST SITUATION? AGAIN, IN TERMS OF PUBLIC TRUST AND CONFIDENCE, FOR THE BAR TO LET SOMETHING LIKE THIS GO, IF THEY FEEL IT WAS AS EGREGIOUS AS NOW PRESENTING, CONCERNS ME, BUT YOU ARE NOW BRINGING UP THAT THIS SECOND INCIDENT, THE JACKSONVILLE INCIDENT, WHICH YOU SAY WOULDN'T RISE TO THE LEVEL OF DISBARMENT ALONE, COULD YOU JUST GIVE US, DID THAT OCCUR AFTER HE WAS IN TREATMENT FOR ALCOHOLISM?

NO, MA'AM. THAT DID NOT -- THAT OCCURRED IN I BELIEVE, 1999. HE WAS SCHEDULED FOR A TRIAL ON MONDAY. HE HAD PICKED THE JURY WITH JUDGE KENON AND THE STATE ATTORNEY. HE WAS TOLD, ALONG WITH THE JURY AND THE WITNESSES TO RETURN ON WEDNESDAY, TO PERFORM THE TRIAL. ON TUESDAY, HE CALLED HIS SECRETARY AND ASKED HER TO CALL -- I SEE THAT MY TIME IS UP. MAY I FINISH THIS RESPONSE?

YOU MAY COMPLETE YOUR STATEMENT.

HE TOLD THE SECRETARY TO CALL THE OFFICE, AND INFORM THEM THAT HE WAS HAVING A HEART ATTACK. HE DID NOT GO, HOWEVER, TO SEEK IMMEDIATE ATTENTION. HE WENT TO JACKSONVILLE FOR A SETTLEMENT CONFERENCE, AND THEN DID NOT SEEK ANY MEDICAL ATTENTION UNTIL THE FOLLOWING DAY. MR. CHIEF JUSTICE: THANK YOU.

THANK YOU. THANK YOU, YOUR HONORS.

DO I HAVE FIVE MINUTES MORE?

. MR. CHIEF JUSTICE: I BELIEVE YOU HAVE GOT ABOUT FOUR MINUTES MORE. FOUR MINUTES.

THREE? OKAY. OKAY. I AM TIRED OF BEING CALLED A LIAR. I HAVE GOT A MOTTO -- MR. CHIEF JUSTICE: MR. SCOTT, HAVE YOU JOINED THE FLORIDA BAR PROGRAM FOR ALCOHOLISM?

YES, SIR. I QUIT DRINKING --

HAVE YOU ENTERED INTO A CONTRACT?

I VOLUNTARILY ENTERED INTO A CONTRACT WITH FLA IN FEBRUARY.

FEBRUARY OF WHAT YEAR?

2000. I QUIT DRINKING ON DECEMBER 13. I GOT OUT OF THE HOSPITAL, THE REHAB, VISTA REHAB, ON DECEMBER 17. I HAD AN AA SPONSOR THE NEXT SUNDAY. I GOT OUT ON FRIDAY. I HAD A SPONSOR THAT SUNDAY. I STARTED GOING TO AA MEETINGS TWICE A WEEK, AND THEN I FOUND OUT ABOUT FLA, AND I JOINED THEM IN EITHER JANUARY THE NEXT MONTH OR FEBRUARY, THE FIRST OF FEBRUARY. I CAN'T REMEMBER THE EXACT DATE. AND I HAVE CALLED, EVERY SINGLE DAY, TO THE NUMBER, AND TAKEN -- SORRY -- AN URINE TEST, WHEN REQUIRED, AND APPARENTLY DONE OKAY. I HAVEN'T HAD ANY COMPLAINTS. ILL LIKE TO MAKE A COUPLE OF -- I WOULD LIKE TO MAKE A COUPLE OF COMMENTS, IF I COULD. I DRAFTED -- THE STATES ATTORNEY AND THE FDLE AGENT, AND THE HEAD OF THE DETECTIVE DEPARTMENT FOR THE SHERIFFS DEPARTMENT, INVESTIGATED MY CASE COMPLETELY. THEY TALKED TO EVERY WOMAN THAT I HAVE EVER KNOWN, PROBABLY, IN THE LAST 20 YEARS. THE BEST THEY COULD COME UP WITH WAS SOLICITATION OF PROSTITUTION IS WHAT I WAS CHARGED WITH, AND MISS JOHNSON ADMITTED, UNDER OATH, IT IS IN THE TRIAL RECORD, AND THE FDLE AGENT, MR. DANIEL MORE OR LESS ADMITTED THEY HAD A REALLY WEAK CASE. I AM THE ONE THAT DRAFTED THE PRETRIAL INTERVENTION AGREEMENT. I AM THE ONE THAT PUT THAT PART IN THERE ABOUT

THAT I WOULD BE REQUIRED TO GO TO A PSYCHIATRIST AND I HIRED THE MOST IMMINENT FORENSIC PSYCHOLOGIST, DR. CROPP THAT I KNOW IN OUR NORTH CENTRAL FLORIDA AREA, A MAN THAT HAS TESTIFIED IN TRIAL, THE ONLY ONE THAT I KNEW AND IS VERY IMMINENT. I SPENT \$600 AND SPENT ALL DAY OVER THERE, AND HE CAME OUT WITH A REPORT THAT SAID I WAS NOT A SEXUAL THREAT TO ANYONE. I HIRED A POLYGRAPH EXPERT, A MAN WITH OVER 40 YEARS' EXPERIENCE THIS IS IN THE RECORD. MR. MULANOWSKI. THAT COST ME OVER \$1,000, AND HE FOUND OUT THAT I WAS TELLING THE TRUTH, THAT I HAD NOT SOLICITED ANYBODY. THE JUDGE ACCEPTED, MR. ITURRALDE ACCEPTED THIS INTO EVIDENCE, BUT NOW HE DOESN'T MENTION IT IN HIS REPORT. LET ME TELL YOU WHAT I REALLY RESENT. I REALLY RESENT TWO THINGS. I WENT TO JACKSONVILLE, SICK AS A DOG, THE DAY BEFORE THAT TRIAL BECAUSE MY ASSOCIATE IN THE CASE HAD BEEN APPOINTED TO THE FIRST DCA, AND I WAS LEFT BY MYSELF, AND I HAD NEVER BEEN IN A MALPRACTICE CASE BEFORE. WE HAD HAD A MEDIATION THAT, TWO MONTHS BEFORE, HAD FAILED COMPLETELY. I HAD WORKED TWO MONTHS TO GET THESE PEOPLE TOGETHER. IT HAD TAKEN ME TWO MONTHS, TO GET TWO LAWYERS, THREE LAWYERS, COUNTING MYSELF, TWO DOCTORS, A CLIENT, TWO ADJUSTORS, ALL THESE PEOPLE TOGETHER ON THE 19th FLOOR OF THE HOLLAND & KNIGHT OFFICES IN JACKSONVILLE, AND I WENT THERE, AND I WENT THERE, BECAUSE I WASN'T GOING TO SAY MY CLIENT WAS WAFFLING, MY EXPERT WITNESS WAS WAFFLING ON ME, AND I WASN'T GOING TO GET A DIRECTED VERDICT BECAUSE I WAS GOING TO BE SICK. IT TOOK ME THREE HOURS TO DRIVE TO JACKSONVILLE. I HAD TO STOP ON THE SIDE OF THE ROAD. AND I WENT OVER THERE, AND TO BE HONEST WITH YOU, I GOT A \$400,000 SETTLEMENT FOR MY CLIENT. I HAD A FRIEND OF MINE COME DOWN FROM SAVANNAH, WHO WAS A SENIOR PARTNER IN THE LARGEST FIRM IN SAVANNAH, TO COME DOWN AND GIVE ME A LITTLE BIT OF HEAVYWEIGHT, BECAUSE I AM KIND OF LIKE A PUNK FROM BRAN FORWARD. I HAD AN ACE OF TRUMPS UP MY SLEEVE, BECAUSE I DISCOVERED, AFTER LOOKING AT 1,000 PAGES OF MEDICAL RECORDS, THAT THE DOCTOR HAD SIGNED THE REPORT 18 MONTHS AFTER HE DIED. MR. CHIEF JUSTICE: MR. SCOTT, YOUR TIME IS UP.

THANK YOU. MR. CHIEF JUSTICE: THANK YOU, COUNSEL. THE COURT WILL BE IN RECESS FOR 15 MINUTES.