IN THE SUPREME COURT
STATE OF MISSOURI

IN RE:	)	
	)	
DANIEL L. FRANCO,	)	**Supreme Court #SC83356**
	)	
Respondent.	)	

INFORMANT'S BRIEF

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ATTORNEYS FOR INFORMANT

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STATEMENT OF JURISDICTION

Jurisdiction over this attorney discipline matter is established by Article 5, section 5 of the Missouri Constitution, Supreme Court Rule 5, this Court's common law, and Section 484.040 RSMo 1994.

STATEMENT OF FACTS

Count III

Respondent Daniel Franco was licensed to practice law in Missouri in September of 1991. **T.** 107, 111. He is not licensed in any other state, and more particularly, is not licensed in Kansas. **T.** 107. While the vast majority of Respondent's law practice is done in Missouri, Respondent has been practicing law in Kansas for about five years. **T.** 111. As a marketing tool, Respondent had "Practicing in KS & MO" printed in the upper left-hand corner of his business card. **Ex.** A-8, **T.** 112-13.

Respondent was aware of and familiar with the Kansas statute and rule governing the practice by non-Kansas licensed attorneys in Kansas. **Ex.** A-10, A-11; **T.** 116, 118. Kansas Rule 116 requires that Kansas local counsel reside in Kansas, sign all pleadings, and be present throughout all court appearances. **Ex.** A-11. In an October 1994 letter from a Missouri disciplinary committee to Respondent, which advised Respondent that probable cause had not been found to pursue a complaint, Respondent was strongly warned that Kansas law required that Kansas counsel sign all pleadings and appear at all hearings in Kansas. **Ex.** A-28.

In November of 1999, Respondent appeared, but not in an official capacity, with his client, Brett Reid, at the client's arraignment in the District Court of Riley County, Kansas. **T.** 126. A "preliminary examination," which is comparable to a preliminary hearing, was scheduled in Mr. Reid's case for January 4, 2000. **T.** 12, 14-15. On December 30, 1999, Respondent faxed a document, titled "Notice of Engaged Counsel

and Application for Continuance," to the Riley County court. **Ex.** A-7; **Supp**. **T.** 19. Respondent had dictated the pleading to his secretary over the telephone. Respondent told the secretary he needed a Kansas bar number on the pleading and recited one to her from memory that he thought belonged to an individual he had used frequently as local Kansas counsel in the past. **T.** 122, **Supp**. **T.** 11-12. The secretary, Ms. Navarro, did not have a pen handy when the bar number was dictated to her, so typed it in where her cursor was already positioned on her computer screen, which happened to be next to Respondent's Missouri bar number under his signature line. **Ex.** A-7; **Supp**. **T.** 12-13.

Earlier in December, 1999, Respondent met an attorney named Michael Bredehoft, who officed upstairs from Respondent's basement office in the Blumer, Nally & Siro building. **T.** 60, 67-68. Mr. Bredehoft, who became licensed in Missouri in 1997 and in Kansas in 1998, expressed an interest in Respondent's offer to let him co-counsel a few criminal cases with him. **T.** 60, 75. On December 30, 1999, Respondent called Bredehoft, who was home sick, and asked him if he wanted to work with Respondent on a new criminal matter that Respondent had pending in Kansas. **T.** 61-63. Respondent expressed some urgency in getting Mr. Bredehoft's name on a pleading right away. Mr. Bredehoft gave Respondent his Kansas bar number and told Respondent that Respondent could sign Bredehoft's name to the pleading, but that Mr. Bredehoft wanted Respondent to leave a copy of the pleading on Bredehoft's desk so he could review it the next day. **T.** 61-62. When Mr. Bredehoft went to his office the next day, December 31, there was nothing left on his desk and no messages from Respondent. Nor was Respondent in his office on December 31. **T.** 65. Because Mr. Bredehoft found nothing at the office about

the Kansas criminal case on that day or thereafter, and because he heard nothing further from Respondent about the case, he concluded that the representation had not materialized. **T.** 65-66. Respondent confirmed to Mr. Bredehoft on January 17, 2000, that the case had "fallen through." **T.** 68-69.

The continuance pleading faxed by Respondent to the Kansas court on December 30 bore signature lines for both Respondent and Mr. Bredehoft. **Ex.** A-7. Respondent signed Mr. Bredehoft's name to the pleading. **T.** 123. The pleading bore both Missouri and Kansas bar numbers under Respondent's name. **Ex.** A-7; **T.** 18. Only a Kansas bar number appears below Mr. Bredehoft's signature line. **Ex**. A-7.

Respondent left a message on Mr. Bredehoft's answering machine on January 12, 2000, asking Bredehoft to contact him about a "new matter" and said it was urgent. Bredehoft did not call him back. **T.** 67-69. Mr. Bredehoft had no direct conversation with Respondent from December 30, 1999, until January 17, 2000. **T.** 62, 66.

The Brett Reid preliminary examination took place on January 13, 2000, before Judge Wright in the Riley County District Court in Kansas. **Ex.** 2; **T.** 15. Respondent acted as Mr. Reid's attorney. **T.** 16. No one else appeared at the hearing on Mr. Reid's behalf. Respondent said nothing to the court about not being a Kansas licensed attorney and not having local counsel present. **T.** 16, 131. Respondent felt that he had put the court on notice, by virtue of the continuance pleading, that he was a Missouri licensed attorney, and that the court could tell from the absence of any other counsel at the table that Respondent had no local counsel present. **T.** 134.

While Respondent expected Mr. Bredehoft to appear at the Manhattan, Kansas, hearing, **T.** 128, he never spoke personally to Mr. Bredehoft about the need to appear. **T.** 130. Respondent never asked Ms. Navarro to contact Mr. Bredehoft about appearing with him at the Riley County hearing. **Supp. T.** 17-18. Mr. Bredehoft was not a Kansas resident on January 13, 2000. **T.** 66-67.

Paul Irvine, the assistant county attorney who represented the State of Kansas at Mr. Reid's preliminary examination, learned several days after the hearing that Respondent was not licensed in Kansas. **T.** 17. Mr. Irvine called Respondent on January 20, 2000, to discuss the situation with him. **T.** 19-20. Respondent confirmed to Mr. Irvine that he was not licensed in Kansas and that the Kansas bar number under his signature must have been inadvertently typed there by his secretary. **Ex.** A-9; **T.** 20. Mr. Irvine thereafter filed a motion with the court to determine the validity of Mr. Reid's preliminary examination, inasmuch as Reid had not been represented by Kansas licensed counsel. The court ruled that the hearing was invalid due to the fact that local counsel had not been present, **Ex.** 5, p. 43; **T.** 30, but later determined that Mr. Reid's subsequent waiver of his right to a preliminary examination was a valid waiver. **T.** 31, 35. Respondent subsequently obtained local counsel other than Mr. Bredehoft to assist him with the Reid case. **T.** 40-41. Mr. Irvine felt he could not trust Respondent after the preliminary examination. **T.** 54.

Count IV

On April 9, 1999, Mr. Gotschall, a special representative for the Region IV Disciplinary Committee, sent Respondent a copy of a complaint letter from a Ms. Mercer and requested that Respondent reply to the letter within ten days. **Ex.** A-15. Respondent received the letter, but made no response. **T.** 141. A follow-up letter again asking Mr. Franco to respond to the complaint was sent to Respondent on April 21, 1999. **Ex.** A-16. On May 4, 1999, Respondent wrote a letter to the special representative explaining why he had not made timely response. **Ex.** A-17. The letter was not responsive to the complaint. **T.** 142.

By letter dated October 5, 1999, Respondent notified Mr. Gotschall that he would be available to have his statement taken under oath on the afternoon of October 25, 1999. **Ex.** A-19. Respondent had, to that date, made no response to the Mercer complaint. **T.** 143. Respondent had a receptionist FAX a message to Mr. Gotschall's office on October 25 saying he was ill and would not be there. The FAX message stated that Respondent would contact Mr. Gotschall to reschedule the statement under oath. **Ex.** A-21. Respondent thereafter called Mr. Gotschall's office twice, one time not leaving a message and the other time leaving a message, but neither time talking to Mr. Gotschall. **T.** 144.

On October 6, 1999, Mr. Gotschall wrote Respondent a letter asking Respondent to reply within ten days to a complaint letter from a Ms. Bates. **Ex.** A-22. Mr. Franco did not respond to the letter. **T.** 144. Mr. Gotschall sent Respondent a follow-up letter

on October 25, asking for a response within ten days. **Ex.** A-23. Mr. Franco made no response. **T.** 145.

Respondent admitted that he failed to cooperate with the Region IV Disciplinary Committee by failing to produce the records and his file in connection with his representation of client Mercer. **Ex.** A-4, p. 2, ¶ 12.

Count II

Prior to July 4, 1999, Respondent represented Doris Bates in "housing court" on a city complaint. **T.** 94. Ms. Bates made an appointment with Respondent and met with him right after July 4, 1999, to get his legal help in resolving four real estate matters. **T.** 94, 172. Ms. Bates explained to Respondent that she needed him to draft a deed of release for a note securing some property that had been deeded to her in lieu of foreclosure, a deed from her to the buyers of a vacant lot she had sold, and two letters to people who were behind on various payments related to two other properties she owned. **T.** 96-97. Ms. Bates gave Respondent her notes regarding the properties and what she needed done, as well as some other papers. **T.** 95, 104-05. Respondent told Ms. Bates that he would check out her legal matters and take care of them. **T.** 95, 98. Ms. Bates asked Respondent at the meeting if he wanted any money, and he told her he did not need any yet. **T.** 98.

Ms. Bates never heard back from Respondent about the work she asked him to do. **T.** 99. She called his office and left messages several times, and sent him a certified letter, but he did not respond. **Ex.** A-27; **T.** 99.

Disciplinary Hearing

The Disciplinary Hearing Panel heard this case on August 29, 2000. The matter proceeded to hearing on a First Amended Information. **Ex.** A-3. Count I of the First Amended Information was dismissed during the hearing. **T.** 171. By agreement of the hearing panel, additional evidence was taken on September 26, 2000, through the testimony of witness Monica Navarro.

The Disciplinary Hearing Panel issued its decision on December 8, 2000. The Panel concluded that Respondent violated Rules 4-1.1, 4-1.3, and 4-1.4 under Count II as a consequence of his failure to perform work for and failure to communicate with client Bates. The Panel concluded that Respondent violated Rule 4-4.1 under Count III by making a false representation to the Riley County, Kansas, court. The Panel made no finding as to Rule 4-3.3(a)(1), which Informant alleged was violated in the First Amended Information. The Panel concluded that Respondent violated Rule 4-8.1(b) under Count IV by failing to cooperate with the Regional Disciplinary Committee's investigation of the Mercer and Bates complaints.

The Disciplinary Hearing Panel recommended that Respondent's license be suspended and that he not be eligible for reinstatement for 90 days. Informant did not concur in the recommended discipline, resulting in the filing of the case in the Supreme Court.

POINT RELIED ON

I.

THE SUPREME COURT SHOULD SUSPEND RESPONDENT WITH LEAVE TO APPLY FOR REINSTATEMENT AFTER SIX MONTHS NOTWITHSTANDING THE DISCIPLINARY HEARING PANEL'S RECOMMENDATION OF SUSPENSION WITH LEAVE TO APPLY FOR REINSTATEMENT AFTER NINETY DAYS BECAUSE RESPONDENT VIOLATED RULES 4-3.3(a) AND 4-4.1 IN THAT HE REPRESENTED A CLIENT IN A KANSAS COURT WITHOUT REVEALING THAT HE WAS NOT LICENSED IN KANSAS.

Rule 4-3.3(a)

State v. Weinstein, 411 S.W.2d 267, 274 (Mo. App 1967)

In re Caranchini, 956 S.W.2d 910, 919-20 (Mo. banc 1997)

POINT RELIED ON

II.

THE SUPREME COURT SHOULD SUSPEND RESPONDENT WITH LEAVE TO APPLY FOR REINSTATEMENT AFTER SIX MONTHS BECAUSE RESPONDENT HAD THE CONSCIOUS KNOWLEDGE THAT HIS CONDUCT IN THE KANSAS CASE WOULD MISLEAD THE COURT AS TO A MATERIAL MATTER IN THAT RESPONDENT AFFIRMATIVELY MISREPRESENTED, BY HIS FAILURE TO DISCLOSE OTHERWISE, THAT HE WAS LAWFULLY REPRESENTING HIS CLIENT AT THE PRELIMINARY EXAMINATION.

Rule 5.28(e)(1)

A.B.A. Standards For Imposing Lawyer Sanctions (1991 ed.)

In re Miller, 568 S.W.2d 246, 253-54 (Mo. banc 1978)

POINT RELIED ON

III.

THE SUPREME COURT SHOULD SUSPEND RESPONDENT WITH LEAVE TO APPLY FOR REINSTATEMENT AFTER SIX MONTHS NOTWITHSTANDING THE DISCIPLINARY HEARING PANEL'S RECOMMENDATION OF SUSPENSION WITH LEAVE TO APPLY FOR REINSTATEMENT AFTER NINETY DAYS BECAUSE RESPONDENT VIOLATED RULE 4-8.1(b) IN THAT RESPONDENT FAILED TO MAKE TIMELY RESPONSE TO REQUESTS FOR INFORMATION FROM THE DISCIPLINARY COMMITTEE, FAILED TO APPEAR FOR A SCHEDULED STATEMENT UNDER OATH, AND FAILED TO PRODUCE REQUESTED RECORDS.

In re Hardge-Harris, 845 S.W.2d 557, 560 (Mo. banc 1993)

Rule 4-8.1(b)

POINT RELIED ON

IV.

THE SUPREME COURT SHOULD SUSPEND RESPONDENT WITH LEAVE TO APPLY FOR REINSTATEMENT AFTER SIX MONTHS NOTWITHSTANDING THE DISCIPLINARY HEARING PANEL'S RECOMMENDATION OF SUSPENSION WITH LEAVE TO APPLY FOR REINSTATEMENT AFTER NINETY DAYS BECAUSE RESPONDENT VIOLATED RULES 4-1.1, 4-1.3, AND 4-1.4 IN THAT HE FAILED TO EITHER PERFORM CLIENT BATES' REAL ESTATE WORK OR REFER THE MATTER ELSEWHERE, FAILED TO TAKE ANY ACTION ON CLIENT BATES' LEGAL WORK, AND FAILED TO RETURN CALLS AND RESPOND TO A LETTER FROM CLIENT BATES.

Rule 4-1.1

Rule 4-1.3

Rule 4-1.4

ARGUMENT

I.

THE SUPREME COURT SHOULD SUSPEND RESPONDENT WITH LEAVE TO APPLY FOR REINSTATEMENT AFTER SIX MONTHS NOTWITHSTANDING THE DISCIPLINARY HEARING PANEL'S RECOMMENDATION OF SUSPENSION WITH LEAVE TO APPLY FOR REINSTATEMENT AFTER NINETY DAYS BECAUSE RESPONDENT VIOLATED RULES 4-3.3(a) AND 4-4.1 IN THAT HE REPRESENTED A CLIENT IN A KANSAS COURT WITHOUT REVEALING THAT HE WAS NOT LICENSED IN KANSAS.

When the judge asked Respondent if he was ready to proceed at Mr. Reid's preliminary hearing on January 13, 2000, Respondent knew several facts. Respondent knew he was not licensed to practice law in Kansas. And he knew no Kansas licensed attorney was present in the courtroom to assist him. Respondent's failure to alert the court to these salient facts was a knowing violation of Rules 4-3.3(a) and 4-4.1. Even if one accepts as true the evidence that would indicate that Respondent was not yet actually aware at the time of the hearing of the further wrinkle in this rumpled suit, i.e., that a seemingly valid Kansas bar number appeared below Respondent's signature line on the pleading previously filed by Respondent with the court, it is not disputed that Respondent did know that he was not Kansas licensed and that he had no one present who was.

Absent the presence of qualified local counsel, Respondent knowingly allowed the proceeding to go forward unlawfully.

Respondent testified that he said nothing to the court about his unlawful appearance in the judge's court because he believed that the judge was on notice that he was a Missouri attorney and that it was obvious he lacked local counsel. Respondent implies that it was up to the court to take any action the court deemed necessary under the circumstances. This is just the sort of quiet deception that the Rule addresses in the Comment. "There are circumstances where failure to make a disclosure is the equivalent of an affirmative misrepresentation." If the judge was relying on the continuance pleading to ascertain Respondent's status in the case, that pleading would have misled the court into assuming that Respondent was licensed in both Kansas and Missouri, so in the normal course of events the judge would have had no reason to question Respondent's credentials. Respondent, on the contrary, knew he was making an improper appearance, yet said nothing.

"An attorney in his dealings with the court should always make full disclosures to the court and should never seek to mislead the court into unnecessary or unwarranted action by any artifice or concealment." *State v. Weinstein*, 411 S.W.2d 267, 274 (Mo. App. 1967). The materiality of the misrepresentation is shown by the court's subsequent ruling that the preliminary hearing was invalid because the defendant was not represented by Kansas licensed counsel. Even though the court allowed the defendant to waive his right to a valid preliminary hearing, the court, the complaining witness who testified at the preliminary hearing, and the state were subjected to the unnecessary expense and the

waste of time that resulted from allowing the hearing to go forward on January 13. Respondent's failure to acknowledge to the court that he lacked the credentials to proceed on January 13 was an "affront to the fundamental and indispensable principle that a lawyer must proceed with absolute candor toward the tribunal." *In re Caranchini*, 956 S.W.2d 910, 919-20 (Mo. banc 1997).

II.

THE SUPREME COURT SHOULD SUSPEND RESPONDENT WITH LEAVE TO APPLY FOR REINSTATEMENT AFTER SIX MONTHS BECAUSE RESPONDENT HAD THE CONSCIOUS KNOWLEDGE THAT HIS CONDUCT IN THE KANSAS CASE WOULD MISLEAD THE COURT AS TO A MATERIAL MATTER IN THAT RESPONDENT AFFIRMATIVELY MISREPRESENTED, BY HIS FAILURE TO DISCLOSE OTHERWISE, THAT HE WAS LAWFULLY REPRESENTING HIS CLIENT AT THE PRELIMINARY EXAMINATION.

The Disciplinary Hearing Panel recommended that Respondent's license be suspended for a period of ninety days. Informant did not concur in the recommendation for several reasons. First and foremost, the record establishes a level of conduct not adequately addressed by a ninety day suspension. Respondent violated a duty to the public and the court. By allowing the preliminary examination to go forward, the complaining witness, a college student who alleged that Respondent's client attempted to rape her or committed aggravated sexual battery against her, was required to undergo a public examination regarding sensitive factual information, including a rigorous cross examination by Respondent, in a proceeding that was not valid. The court's time was likewise abused.

Respondent acted knowingly. Respondent's own testimony was that he knew what the Kansas rules were on appearance by non-licensed lawyers in Kansas. Further, Respondent had past written warning from a Missouri disciplinary committee that he needed Kansas counsel to sign Kansas pleadings and appear for hearings with him in Kansas. Respondent knew that his appearance failed to comply with the Kansas rules, but decided not to say anything.

The harm from the conduct is difficult to quantify. Mr. Irvine, the assistant prosecuting attorney, was never able to overcome his distrust of Respondent after learning that he appeared at the preliminary hearing without revealing his lack of a Kansas license. Any time a lawyer misrepresents himself to a court, fellow attorneys, and litigants, the harm done to the trust implicit in society's willingness to turn over resolution of its disputes to the judicial system is reasonably foreseeable. And while Respondent offered abundant evidence of his work overload and bad physical health at the time this conduct occurred, that evidence can only mitigate, but never excuse, the misconduct. See *In re Miller*, 568 S.W.2d 246, 253-54 (Mo. banc 1978).

Additionally, since January 1, 2000, the Rules do not contemplate a suspension of less than six months duration. Rule 5.28(e)(1). While it is true that the Rule allows exception in the case of "good cause shown," Informant believes that the Rule anticipates that such good cause showing occur at the time of application for reinstatement, and not in the order of discipline. "[S]uspension should be for a period of time equal to or greater than six months." Rule 2.3, A.B.A. Standards For Imposing Lawyer Sanctions (1991 ed.).

Informant believes that suspension without leave to apply for reinstatement for six months is the appropriate sanction in this case. "Suspension is generally 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, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding." Rule 6.12 A.B.A. Standards For Imposing Lawyer Sanctions (1991 ed.). The evidence clearly establishes that Respondent acted knowingly when he withheld the information that he lacked the credentials to proceed on January 13, that he took no action to remedy, or even clarify, the situation with the judge, and that his actions caused potential injury to his client by virtue of the antagonistic relationship with the assistant prosecuting attorney that resulted from his conduct, as well as potential injury to the legal system and public, which potential injury is inherent in an attorney's lack of candor.

Further support for a longer suspension is found in the presence in this case of the following aggravating factors: multiple instances of misconduct in this case, especially Respondent's failure to cooperate with disciplinary investigations, prior disciplinary action in the form of an admonition, and Respondent's nine years experience at the bar.

III.

THE SUPREME COURT SHOULD SUSPEND RESPONDENT WITH LEAVE TO APPLY FOR REINSTATEMENT AFTER SIX MONTHS NOTWITHSTANDING THE DISCIPLINARY HEARING PANEL'S RECOMMENDATION OF SUSPENSION WITH LEAVE TO APPLY FOR REINSTATEMENT AFTER NINETY DAYS BECAUSE RESPONDENT VIOLATED RULE 4-8.1(b) IN THAT RESPONDENT FAILED TO MAKE TIMELY RESPONSE TO REQUESTS FOR INFORMATION FROM THE DISCIPLINARY COMMITTEE, FAILED TO APPEAR FOR A SCHEDULED STATEMENT UNDER OATH, AND FAILED TO PRODUCE REQUESTED RECORDS.

While Respondent offered evidence in mitigation of his professional misconduct under this count, there is no doubt in the record that he consistently failed to comply with reasonable requests for information altogether or did so in a dilatory manner. The legal profession has the privilege of self-regulation. That privilege imposes on attorneys the responsibility to respond promptly to requests for information from disciplinary authorities, so that complaints can be resolved expeditiously. "The individual attorney's responsibility to the profession in this respect is no less important than the attorney's ethical responsibility to a client and to the court." *In re Hardge-Harris*, 845 S.W.2d 557, 560 (Mo. banc 1993). Respondent's conduct in failing to respond in a timely manner or, in some instances, not at all, his failure to appear for his scheduled statement followed by

his failure to take reasonable action to reschedule the statement, and his failure to produce requested documents constitutes professional misconduct under Rule 4-8.1(b).

IV.

THE SUPREME COURT SHOULD SUSPEND RESPONDENT WITH LEAVE TO APPLY FOR REINSTATEMENT AFTER SIX MONTHS NOTWITHSTANDING THE DISCIPLINARY HEARING PANEL'S RECOMMENDATION OF SUSPENSION WITH LEAVE TO APPLY FOR REINSTATEMENT AFTER NINETY DAYS BECAUSE RESPONDENT VIOLATED RULES 4-1.1, 4-1.3, AND 4-1.4 IN THAT HE FAILED TO EITHER PERFORM CLIENT BATES' REAL ESTATE WORK OR REFER THE MATTER ELSEWHERE, FAILED TO TAKE ANY ACTION ON CLIENT BATES' LEGAL WORK, AND FAILED TO RETURN CALLS AND RESPOND TO A LETTER FROM CLIENT BATES.

Respondent violated the competence, diligence, and communication rules by agreeing to handle Ms. Bates' real estate matters, then abandoning the work and the client. Even though Respondent testified that he never agreed with Ms. Bates to take on her work, the Disciplinary Hearing Panel found, in accordance with Ms. Bates' testimony, that he did. The Panel's finding is bolstered by the evidence that Respondent did not respond at all to Ms. Bates' calls and letter. If Respondent had turned her away as he testified, it would have been a simple matter to call or write her and reinforce that declination. Instead, he took no action at all. Having agreed to do the work, it was Respondent's professional responsibility to do the work in a diligent and competent

manner and to communicate with her about it. Taken alone, Respondent's violations of Rules 4-1.1 (competence), 4-1.3 (diligence), and 4-1.4 (communication) with respect to the Bates representation would merit an admonition. In combination with the other instances of misconduct on this record, however, Respondent should be suspended.

CONCLUSION

Respondent is guilty of professional misconduct by violating Rules 4-1.1, 4-1.3, 4-1.4, 4-3.3, Rule 4-4.1 and 4-8.1. Respondent's conduct in the Kansas case went beyond negligence and should result in his suspension from law practice without leave to apply for reinstatement for six months.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2001, two copies of Informant's Brief have been sent via First Class mail to:

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_____
Sharon K. Weedin

CERTIFICATION: SPECIAL RULE NO. 1(c)

I certify to the best of my knowledge, information and belief, that this brief:

1. Includes the information required by Rule 55.03;

2. Complies with the limitations contained in Special Rule No. 1(b);

3. Contains 4,400 words, according to Microsoft Word 97, which is the word processing system used to prepare this brief; and

4. That Norton Anti-Virus software was used to scan the disk for viruses and that it is virus free.

_____
Sharon K. Weedin