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August 6, 2020

The Honorable William Pryor

United States Court of Appeals
Eleventh Circuit
56 Forsyth St., N.W.
Atlanta, Georgia 30303

CC;

Hon. Dianne Feinstein

Ranking Member
Senate Judiciary Committee
152 Dirksen Senate Office Bldg
Washington, DC 20510

Via Email: senator@feinstein.senate.gov

FOR THE ATTN OF THE CHIEF JUDGE;
BY ECF FILING DUE TO PANDEMIC

Dear Chief Judge Pryor,

JUDICIAL COMPLAINT AGAINST SENIOR KENNETH MARRA, S.D. FL.

We refer to this courts' Judicial Conduct and Disability rules page on your website.¹ After review of the rules, we filed a judicial complaint against Judge Marra. A summary of our attempts to find out the status of the above judicial complaint is outlined below along with relevant proceedings and events for your review and consideration;

¹ See http://www.ca11.uscourts.gov/judicial_conduct_disability/2020

- (i) Due to the national/international pandemic, we filed a complaint against Judge Marra into the appeal case no. 19-13015 on June 9th, 2020. We provided a letter asking that the filing be transmitted to the correct person and/or department for processing. We did not receive any type of acknowledgment from the person(s) / department reviewing the complaint.
- (ii) On July 2nd, 2020, we followed up with a letter addressed for the Attn of: Circuit Mediation and Judicial Support Office, which was also filed by ECF into case no. 19-13015. Again, we asked that this complaint be directed to the [correct] person or department for processing. No reply or acknowledgment has been received.
- (iii) On July 13th, in the lower court case, *Consumer Financial Protection Bureau v. OCWEN Financial Corporation, Inc.* (9:17-cv-80495), District Court, S.D. Florida Judge Marra entered an order removing case from trial calendar re: Status conference held on 7/10/20. Signed by Judge Kenneth A. Marra on 7/13/2020.
- (iv) On July 27th, Law360 reported; “Don't Give Ocwen An Early Win, Regulators Tell Fla. Judge” Law360 (July 27, 2020, 5:37 PM EDT) -- State and federal regulators urged a Florida federal judge Friday not to grant an early win to Ocwen Financial in enforcement litigation it faces...”²
- (v) On July 29th, 2020 the Committee of the Judiciary held a remote hearing³ of five judicial nominees. One of those was nominee Aileen Mercedes Cannon – who has been nominated to Be United States District Judge For The Southern District Of Florida and designated to replace 'retiring' Senior Judge Kenneth Marra.

² See <https://www.law360.com/articles/1295551/don-t-give-ocwen-an-early-win-regulators-tell-fla-judge>

³ See <https://www.judiciary.senate.gov/meetings/07/29/2020/nominations>

- (vi) As a result of the [mis]conduct by the judge and the lawyers in the stated case(s), we filed State Bar complaints against named Goodwin Procter lawyers. These lawyers are counsel for Ocwen in both the lower court case and our appeal currently at this court. It should be noted that in these complaints, we addressed the ‘hot potato’ cases in Illinois and Georgia federal courts, where Goodwin Procter and the lawyers herein were also guilty of misconduct, including a conflict of interest, collusion and conspiracy, bad faith conduct, dishonesty etc.⁴
- a. Thomas Hefferon; filed with the Virginia State Bar. This was e-filed on June 8th, 2020. In a rapid response the Bar declined the complaint for reasons which are in direct conflict with the Bars’ own rules. We advised them of the same in an email response dated June 11th. The Bar replied on June 29th and we replied the same day, copying the United States Senate Committee On Banking, Housing and Urban Affairs and as at the date of this filing, no response has been received.
 - b. Matthew Sheldon; filed with the Virginia State Bar. This was e-filed on June 8th, 2020. See a. above for the status of this complaint.
 - c. Sabrina Rose-Smith; filed with the DC Bar. This was e-filed on June 15th, 2020. On August 4th, a letter was received from the DC Bar, rejecting our complaint and summarizing ‘We will not interfere with the court’s decision in this matter by investigating the facts you allege.’ We responded, citing our reasons the DC Bar is in direct conflict with the Bars’ own rules and copying the United States Senate Committee On Banking, Housing and Urban Affairs. As at the date of this filing, no response has been received.
 - d. Catalina Azuero; filed with the Florida Bar. This was e-filed on June 18th, 2020 and assigned a case reference number 21-112 by email on July 6th. On July 9th, a letter was sent via USPS mail signed by Mr Wilhelm and wherein he stated that efiled complaints were not acceptable during the pandemic. This letter was received at the end of the month due to the postal service delays. We responded via email on August 4th asking that

⁴ We have included a copy of all our complaints for your perusal (judicial notice). The complaints provide all the necessary details about the ‘hot potato’ cases.

our case be processed for reasons cited and which were pandemic related. A response is pending.

We Are Extremely Concerned Citizens

The complaint against Judge Kenneth Marra is particularly serious. Judge Marra colluded and conspired with both opposing counsel to deny us intervention. As detailed in the complaint, the Greens, also from Texas, gained access to the documents in the lower court case and in direct contradiction of Judge Marra's own statement in his Order (Doc. 411);

“In addition to the grounds stated in the Court's Order Denying Intervention (ECF No. 375), the Court notes that intervention is not permitted to allow a party to seek or obtain evidence for other litigation as asserted by the proposed Intervenors. (See ECF No. 408 at 4).”

Then we have the Goodwin Procter lawyers not only committing perjury in both the lower court case and again on appeal (19-13015), these same lawyers are willfully breaching ethical rules again (as outlined above and in the complaints) in the ‘hot potato’ cases in Illinois and Georgia in order to ‘win the case’ at any and all costs, which included a conflict of interest⁵ and behavior unbecoming of a lawyer. A review of the docket in all the above-mentioned cases show the same lawyers are still active on the cases up to this very day.

The Delays Acknowledging and Processing our Judicial Complaint is Obvious

Judge Marra appears primed to dismiss the lower court action based on the recent docket activity and relying on the Law360 article, which has leaked that the decision in this case favors Ocwen. The case will be dismissed via summary judgment by a bias judge and without a trial before a jury.

⁵ See enclosed Matthew Sheldon complaint, p.7; Mr. Sheldon, represented the Bank in the Illinois case and he was grilled by Judge Bucklo. (See transcript from Dec. 5, 2019 hearing, which was submitted to Judge May in Georgia; Doc. 53.14, Cobb County v. Bank of America Corporation (1:15-cv-04081-LMM) District Court, N.D. Georgia). Here's a snippet; "I really don't understand how you can represent them." - "I do find it DISTURBING."- Judge Bucklo.

The Smart Bet is the Complaint Will Be Dismissed After Marra Resigns

Judge Marra should not be officiating this case while our complaint is pending.⁶ From the summary provided above, it is widely accepted that Judge Marra will dismiss the case around the time the Senate confirms Aileen Cannon as judge.⁷ This, in turn, will allow Senior Judge Marra to retire immediately. Cannon will step into his position and this court will be able to dismiss the complaint against the judge because he has retired.⁸ Our complaint file will be closed.

The Bars' Mischief is Transparent

In unison, the State Bars' have schemed to shield biglaw firm Goodwin Procter and their lawyers. To date the Bars' have provided letters of dismissal or delay which are quite frankly, absurd.

⁶ See Burkes judicial complaint; "As such, the Burkes hold Judge Marra's assertions to be false, untruthful and for the purposes of this judicial complaint, personal and pervasive bias against these pro se elderly citizens from Texas. Judge Marra should be disqualified from the case."

⁷ See PN1919; <https://www.congress.gov/nomination/116th-congress/1919>

⁸ See sister court, Fifth Circuit; The Complaint of Judicial Misconduct Against U.S. District Judge Harry Lee Hudspeth (October 21, 2016);

"A judge who retires from office under § 371(a) is "no longer a judicial officer," and is "no longer subject to the disciplinary procedures of Section 372(c) [now 28 U.S.C. § 351 et seq.] and the remedies they prescribe." In re Charge of Judicial Misconduct, 91 F.3d 90, 91 (9th Cir. Judicial Council 1996), citing In re Complaint of Judicial Misconduct, 10 F.3d 99, 100 (3d Cir. Judicial Council 1994); see also In re Complaint of Judicial Misconduct, No. 13-02 (Judicial Conference of the United States 2014) (noting that after Judge Boyce Martin's retirement from office, the Second Circuit Judicial Council found that "the retirement was an intervening event that had made further proceedings unnecessary" per Rules for Judicial-Conduct and Judicial-Disability Proceedings Rule 20(b)(1)(B)).

In the light of Judge Hudspeth's retirement from office, the Judicial Council is no longer able to impose any sanction under 28 U.S.C. § 354(a)(2)(A) or (B). Moreover, even assuming the allegations of the complaint are true, the Council concludes that they would not warrant recommending the extraordinary step of attempting the impeachment of a judge who is no longer on the bench.

Pursuant to the Rules for Judicial-Conduct and Judicial-Disability Proceedings Rule 20(b)(1)(B), the Judicial Council concludes this proceeding because the intervening event of Judge Hudspeth's retirement from office has made further action unnecessary.-
[http://www.ca5.uscourts.gov/docs/default-source/default-document-library/complaint-of-judicial-misconduct-against-u-s-district-judge-harry-lee-hudspeth-\(october21-2016-order\).pdf?sfvrsn=2](http://www.ca5.uscourts.gov/docs/default-source/default-document-library/complaint-of-judicial-misconduct-against-u-s-district-judge-harry-lee-hudspeth-(october21-2016-order).pdf?sfvrsn=2)

We do not have an email for Chief Judge Pryor and hence the need to efile into our current appeal. We sincerely hope our letter is directed expeditiously to your inbox for review.

We thank you for your time and consideration.

As always, stay safe and God Bless.

Respectfully

s/ Joanna & John Burke

Joanna Burke & John Burke

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The Complaint of Judicial Misconduct Against U.S. District Judge Harry Lee Hudspeth (October 21, 2016);

*“The Committee considered whether impeachment and conviction after retirement would affect a judge's annuity under 28 U.S.C. § 371(a). The text of the Constitution (Article I, section 3, clause 7 states that “Judgment in Cases of Impeachment” extends only to removal from office and disqualification from further office) **and the statute (a judge who has retired under § 371(a) “shall” receive the annuity, with no stated exceptions) indicate that impeachment after retirement would not result in loss of the annuity.** See also *Johnson v. United States*, 79 F.Supp. 208, 210-11 (Ct. Cl. 1948) (the statutory right to salary [now annuity] after retirement is a property right likely subject to the protection of the Fifth Amendment). The Council further finds that the likelihood that Judge Hudspeth will attain public office in the future is minimal, certainly not such as would warrant the significant additional expenditure and drain on judicial and Congressional resources that completing this proceeding and attempting impeachment would entail.”*

Lawyer Complaint (Virginia Bar) : Thomas M. Hefferon

This complaint is against an attorney registered with the State Bar of Virginia. The lawyers' name is Thomas M. Hefferon and he works for Goodwin Procter, LLP. His law firm represents *Ocwen* in the cited case below and he is one of the named counsel of record. The Burkes claim that Mr. Hefferon violated (at a minimum) **Rule 4.1, Truthfulness in Statements To Others**; In the course of representing a client a lawyer shall not knowingly: (a) make a false statement of fact or law[.] See *In the Matter of William Franklin Burton*, VSB Docket No. 19-051-115210 and; **Rule 3.3, Candor Toward the Tribunal**; The 'comment' section from [VSB website](#) also apply here and *Moseley v. Virginia State Bar*, 280 Va. 1 (Va. 2010), **Rule 4.4, Respect For Rights Of Third Persons**; See *Barrett v. Virginia State Bar*, 272 Va. 260 (Va. 2006); **Rule 5.1 Responsibilities Of Partners And Supervisory Lawyers**; See *Morrissey v. Virginia State Bar*, (ORDER), 181311 (Va. 2019); **Rule 8.4, Misconduct**; See *Moseley v. Virginia State Bar*, 280 Va. 1 (Va. 2010). Then there's the *Cobb County* cases described herein, of which Mr. Hefferon is counsel. It is Mr. Hefferon who provided a declaration trying to substantiate the "representation of former employees" (Doc. 66.3, p.7) and which the Burkes believe to be in violations of **Rules 1.7, Conflict of Interest; 1.9 and 1.16 and 1.10** with respect to Mr. Hefferon. See *Lavender v. Protective Life Corp.*, Civil Action No.

2:15-cv-02275-AKK, at *25-26 (N.D. Ala. Jan. 31, 2017).

**The Burkes Motion to Intervene in Consumer Fin. Prot. Bureau v.
Ocwen Fin. Corp., No. 9:17-CV-80495-MARRA-MATTHEWMAN
(S.D. Fla. 2017-2020)**

Background: The CFPB initiated the civil case on April 20, 2017, alleging that *Ocwen*, in servicing borrowers' loans, engaged in various acts and practices in violation of federal consumer financial laws. On January 4, 2019, Joanna and John Burke sought leave to intervene under Federal Rule of Civil Procedure 24. (Doc. 220). The CFPB and *Ocwen* jointly opposed the motion to intervene (Doc. 224) and the Burkes filed a reply brief (Doc. 237). On May 30, 2019, the district court denied the Burkes' motion to intervene (Doc. 375). The Burkes moved for reconsideration (Doc. 408). The Court denied that motion on July 3, 2019, (Doc. 411), and the Burkes noticed an appeal on August 2, 2019 to the Eleventh Cir., Case No. 19-13015. The Burkes have argued that *Ocwen's* counsel, Mr. Thomas Hefferon knowingly committed perjury and withheld evidence of the *Greens* case from the Burkes.

Denial of Intervention 'As of Right': Judge Marra denied the Burkes intervention as of right (Doc. 375, p. 4).

Denial of Intervention 'Permissively': Judge Marra also concluded the Burkes should be denied permissive intervention.

Analysis of Judge Marra's Order [Reconsideration]: The Burkes then asked

Judge Marra to reconsider. The courts fleeting order follows (Doc. 411, p. 3);

“In addition to the grounds stated in the Court’s Order Denying Intervention (ECF No. 375), the Court notes that intervention is **not** permitted to allow a party to seek or obtain evidence for other litigation as asserted by the proposed Intervenors. (See ECF No. 408 at 4).”

Judge Marra’s Implausible Statement: The Burkes address the proclamation that the ‘*intervention is **not** permitted for the purposes of seeking or obtaining evidence for other litigation*’ and which refers to p. 4 of the Burkes motion for reconsideration (wherein the Burkes detail reasons for their request to intervene, included obtaining documentation to assist with their ongoing and active litigation in Texas against *Ocwen*).

Obtaining “Evidence” as a Non-Party Without a Motion to Intervene: Recently, and most certainly after Doc. 411 was published by Judge Marra, the pro se Burkes were researching cases and citations which would help prove their arguments for their current appeal at the Eleventh Cir. (Case No. 19-13015). The results now raise a serious question as to the truth of the uncorroborated statement in law by United States District Judge Kenneth A. Marra (Doc. 411, p.3).

Disclosure; While it is a thorny issue, the Burkes have been left no alternative but to [separately] file a judicial complaint against Judge Marra. This *CFPB v Ocwen* case indirectly involves important matters pertaining to the Burkes litigation and homestead. When they located this titanic case, which could provide a vehicle for

the Burkes to obtain either documentation and information that would assist in the Texas case(s) or could provide relief directly, they did so in a quick and legally correct basis. This is why the Burkes intervened in the S.D. Fl. Action. The Burkes allege there had to be joint collusion between counsel for *Ocwen*, CFPB and Judge Marra to unlawfully deny rightful intervenors Burkes from joining the lawsuit, which is proven by the filings on the docket itself.

In the Texas case of *Green v. Ocwen Loan Servicing, LLC* (In re Green), Bankruptcy No. 12-38016 (13) (S.D. Tex. Aug. 26, 2019), which will be referenced as “*Greens*” for short, is one of a series of actual cases by the *Greens*, who are Texas homeowners, at the S.D. Tex. court against *Ocwen*. The order *In Re Green* was published on August 26th, 2019, e.g. After Judge Marra had disposed of the Burkes motion to intervene and reconsideration and after the Burkes Notice of Appeal (Doc. 414, Aug. 2, 2019).

A summary of the *Greens* own foreclosure case(s) is provided by U.S. District Judge Nancy Atlas’s order affirming Bankruptcy Judge Marvin Isgur’s order, and allowing the *Greens* to retain access to ‘discovery’ documents as evidence for their own case against *Ocwen*.

The documents which the *Greens* actually obtained and *Ocwen* attempted to quash, would be from the lower court case in Florida. That is correct, these are

documents (currently under seal at S.D. Tex.), from the *CFPB v. Ocwen* case before Judge Marra. See *Green v. Ocwen Loan Servicing, LLC* (In re Green), Bankruptcy No. 12-38016 (13), at *2-4 (S.D. Tex. Aug. 26, 2019).

The Burkes hold Mr. Hefferon's filings and statements to be false and untruthful. Mr. Hefferon's responses went further than zealously defending his client, he viciously maligned these pro se elderly citizens from Texas and all the while knowingly committing perjury in signed statements and filings in the lower court.

"Ocwen and the CFPB jointly opposed the Burkes' motion, which the district court denied. On appeal, the Burkes repeat many of the same **conspiracy theories** and unsupported **attacks** on Ocwen and the CFPB that they alleged below, while **failing to articulate any comprehensible, legally-supported rationale** for why their intervention in this case is warranted. The Court should ignore the Burkes' **baseless and irrelevant attacks** on the parties and affirm the district court's well-reasoned decision."

Then, without a flicker of foreboding that as an attorney he had an ethical duty to tell the truth, he repeated these lies again, months later, at the appeal court level. This was prejudicial to the Burkes by premeditated cheating and trickery *e.g.* lying and knowingly hiding the *Greens* case from the Burkes. Below is the introduction from Burkes' reply brief on appeal at Eleventh Circuit (No. 19-13015):-

PREAMBLE AND DISCLAIMER

"First, a rather lengthy reply brief, including a recap of the case is necessary due to the **bad faith conduct of the parties**, the appellees in this appeal. While the

Burkes wished to keep the reply short and concise, this has proven impractical due to the **[mis]conduct** as detailed here. The Burkes summary argument truly attempts to focus on the evidence, the facts, the pleadings and the law, **but it ends up being sabotaged by a litany of ethical violations** which include, but are not by any means exhaustive;

- (i) Collusion and Conspiracy.
- (ii) Bad Faith Conduct.
- (iii) Dishonesty towards the Tribunal.
- (iv) New evidence showing the Court and the parties must have known about the Greens case in S.D. Tex.

Second, the pro se Burkes have been left **searching for the truth**, rather than focusing on the appeal, **due to apparent known concealment and dishonesty by the lower court.**”

The Cobb County Federal Court Cases in Illinois and Georgia

Mr. Hefferon is counsel in the two actions the Burkes wish to reference in this matter. These are; *Cobb County v. Bank of America Corporation* (1:14-CV-02280), District Court, N.D. Illinois and *Cobb County v. Bank of America Corporation* (1:15-cv-04081-LMM), District Court, N.D. Georgia where the Burkes recently uncovered more unethical practices. (See; “Edwin Montgomery Cook, William Vance Custer, IV, Bryan Cave, LLP, Atlanta, GA, *Matthew S. Sheldon, Thomas M. Hefferon, Goodwin Procter LLP*, Washington, DC, for Defendants.” *Cobb Cnty. v. Bank of Am. Corp.*, 183 F. Supp. 3d 1332, 1333 (N.D. Ga. 2016)).

Here, Goodwin Procter approached the County’s named eleven witnesses, former loan officers who signed affidavits which explained the illegal loans the

banks were issuing for financial avarice and not in the interests of consumers. Once Goodwin contacted them, these ex-employees of the Bank recanted in the majority, their claims from their first affidavit. Both the Illinois and Georgia judges stated that they were very troubled by the actions of Goodwin. In the Illinois case, there is a transcript of the hearing. Mr. Hefferon and his law firm represented the Bank in the Illinois case and his fellow partner, Matthew Sheldon was grilled by Judge Bucklo. (See transcript from Dec. 5, 2019 hearing, which was submitted to Judge May in Georgia; Doc. 53.14, *Cobb County v. Bank of America Corporation* (1:15-cv-04081-LMM) District Court, N.D. Georgia). Here's a snippet; "I really don't understand how you can represent them." - "I do find it DISTURBING."- Judge Bucklo.

After that hearing Goodwin promptly discarded the new witnesses (Doc. 83, March 25th, 2020) to fend for themselves and after signing agreements to represent them.

The courts found that this meant the witness statements were moot [at this time]. While the Burkes dispute that opinion in law, the purpose of this complaint is the Rules of Professional Conduct. The Burkes now highlight the fact that ethically, the lawyer(s) actions are certainly not 'moot'. Actually, in the Georgia action, Judge May has kept the 'sanctions' against Goodwin Procter, LLP, firmly on the table (Doc. 86, April 10th, 2020).

Furthermore, it was clear that the judges and all counsel recognized that these witnesses could be charged with perjury upon independent review. Goodwin dropped them faster than a hot potato but the ‘hot potato rule’ does not support that decision; Under the “hot potato” rule, a “law firm that knowingly undertakes adverse concurrent representation **cannot avoid disqualification by withdrawing** from the representation of the less favored client.” The “hot potato” rule reflects that the “duty of loyalty to an existing client is so important, so sacred, so inviolate that **“not even by withdrawing** from the relationship can an attorney evade it. See also; <https://definitions.uslegal.com/h/hot-potato-rule/> and *State Comp. Ins. Fund v. Drobot*, 192 F. Supp. 3d 1080 (C.D. Cal. 2016)

Certainly, from afar, the Burkes performed a quick audit and now question witness Jim Morelli’s employment history. Mr. Morelli is also a licensed notary public. So from a truth-seeking viewpoint, the fact that his Linkedin profile shows he worked from 1999-2007 - 8 years+ at First Franklin. But his affidavit states; "I worked as an account executive at First Franklin from 2002 to 2006." (Doc. 53.11, signed 30th Sept., 2019 by Mr. Morelli) – That’s 4 years. It begs the question - which is the truth?

As another example, when you look at Arnold “Arnie” Fishman’s before (Doc. 53.19, signed 22nd June, 2015) and after affidavit (Doc. 53.3, signed 26th July, 2019),

it is extremely troubling. Mr. Fishman is a licensed mortgage broker and very active in the mortgage industry, currently employed by BMO Harris Bank for the last 8+ years as a mortgage loan originator, according to his Linkedin profile. From the outside looking in, it appears Mr. Fishman now does not wish to jeopardize the mortgage and banking industry, where he's spent the best part of his career as a mortgage loan originator. It is indicative that if Mr. Fishman was interviewed, his statements could form the basis of perjury as a result of intimidation. See "Courts have noted that "a unilateral communications scheme . . . is rife with potential for coercion." *Kleiner v. The First Nat'l Bank of Atlanta*, 751 F.2d 1193, 1202 (11th Cir. 1985)". This is also affirmed by the expert report and declaration of Professor Roy D. Simon, Jr., an expert in the field of legal ethics and professional responsibility.

"Prima facie evidence exists that Goodwin Procter suborned perjury from the confidential witnesses by obtaining false declarations under penalty of perjury and, by analogy to the "sham affidavit doctrine..."

Mr. Hefferon's Actions are Below the Bar

Mr. Hefferon's resume identifies his seniority in the law firm (Partner, resume attached), his experience in litigation in consumer related cases and his many years of attorney experience. In the *CFPB v. Ocwen* case, he is listed as counsel. As a

partner, he is also overseeing a team of lawyers at Goodwin Procter, assigned to this case. Mr. Hefferon violated the terms of Rule 5.1(b).

In the Cobb cases, the fact Mr. Hefferon provided a detailed declaration (Doc. 66.3), outlining his decades of experience (a Partner since 1995 at Goodwin Procter) and being involved in well over 100 civil actions for these Banks. Mr. Hefferon's attempts to defend this unethical approach to witnesses, merely reaffirms the cold and calculated deceitfulness he is and was prepared to take *e.g.* risking his reputation and law license to win the case. Aggregating the CFPB case and the Cobb cases, the evidence is sufficient to show by clear and convincing proof that Mr. Thomas Hefferon's dishonesties and deception are on the record and cannot be contested and he personally elected to commit this fraudulence in court filings.

Elder Abuse Demands Revocation of License

Due to the seriousness of his harmful acts against the Burkes who are in their 80's, in poor health and litigating to keep their home, this is elder abuse fraud when the Burkes' legal and civil rights have been completely violated. Mr. Hefferon has violated the Rules of Professional Conduct, has abused his senior position which was used to act unlawfully and substantively injured the Burkes in their ongoing case(s).

In conclusion, the Burkes contend Mr. Hefferon's actions are so egregious against the elder Burkes, his license should be revoked, sending a strong message to

lawyers that this type of behavior will not be tolerated and is ‘Below the Bar’.

Submitted this day, Monday, June 8, 2020

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is
true and correct.

(28 U.S. Code § 1746)

s/ Joanna Burke

Joanna Burke

kajongwe@gmail.com

46 Kingwood Greens Dr.,

Kingwood, TX, 77339

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is
true and correct.

(28 U.S. Code § 1746)

s/ John Burke

John Burke

alsation123@gmail.com

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THOMAS M. HEFFERON

Partner

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Tom Hefferon, partner and former co-chair of Goodwin's Financial Industry practice, focuses his practice on civil litigation and government enforcement matters, with particular emphasis on the banking and consumer financial services industries. Mr. Hefferon frequently provides compliance advice and litigation risk analysis to industry clients.

AREAS OF PRACTICE

Consumer Financial Services Litigation

Class Actions

Appellate Litigation

Consumer Financial Services Enforcement + Government Investigations

Fair + Responsible Lending

Litigation + Dispute Resolution

Financial Industry

Financial Industry Litigation

Fintech

EXPERIENCE

Mr. Hefferon has a national practice concentrating on defending prominent financial institutions facing class action lawsuits pending in a large variety of state and federal courts. These cases typically arise under state and federal laws, including the Real Estate Settlement Procedures Act (RESPA), the Fair Housing Act (FHA), the Truth in Lending Act (TILA), the Fair Credit Reporting Act (FCRA), the Fair Debt Collection Practices Act (FDCPA), the Telephone Consumer Protection Act (TCPA), state and federal unfair and deceptive acts and practices laws (UDAP), other consumer lending statutes and regulations, bankruptcy laws and the common

law.

The matters at issue in these cases include fair lending; the legality under RESPA of a variety of business practices; federal preemption; arbitration; assignee liability; loan servicing; foreclosure, bankruptcy and default issues; and claims that challenge various lending practices under a wide variety of federal and state statutes, including UDAP laws. He has an active practice before numerous state and federal courts. In the last several years, Mr. Hefferon and others in the group have defended more than 200 putative class actions, most of which were brought as nationwide class actions, and have been lead counsel in four multidistrict litigation proceedings. He also is acting and has previously acted as lead counsel to mortgage industry trade associations appearing as amicus curiae in cases that present significant issues for the consumer credit industry, and as counsel to trade associations in connection with regulatory comment letters.

In the 2011 Term, Mr. Hefferon argued in the United States Supreme Court, for the Respondent in *Freeman v. Quicken Loans, Inc.* The case involved an important consumer credit question under RESPA, which the Court decided unanimously in his client's favor. Mr. Hefferon also has presented oral argument in most federal circuit courts and in a number of state supreme and lower appellate courts.

Mr. Hefferon also represents financial institutions and trade groups in a variety of contested matters in court and before federal and state administrative agencies, including the Consumer Financial Protection Bureau (CFPB), the Federal Trade Commission, the Department of Housing and Urban Development, the Federal Deposit Insurance Corporation, numerous state attorneys general, and state banking agencies. He is actively representing consumer finance companies in CFPB examinations and enforcement proceedings.

In addition to his specialty area, Mr. Hefferon has represented a range of corporate and individual clients, and has substantial experience in complex commercial disputes, including contract litigation, insurance disputes, lender liability cases and litigation arising in connection with bankruptcies filed under Chapters 7, 11 or 13. He has been sole or joint lead counsel in the trial of cases in federal and state courts in Massachusetts, Connecticut, New York, Missouri, Texas and Illinois.

PROFESSIONAL ACTIVITIES

Mr. Hefferon is a member of the American Bar Association, and other state and local bar associations.

PROFESSIONAL EXPERIENCE

During the 1989-1990 academic year, Mr. Hefferon was an adjunct assistant professor of law at Boston College Law School while on leave of absence from Goodwin.

RECOGNITION

Mr. Hefferon has been selected repeatedly for inclusion in *Chambers USA: America's Leading Lawyers for*

Business, *U.S. News-Best Lawyer's* and *The Legal 500 U.S.* He also has been named to BTI Consulting Group's "2013 Client Service All-Star Team."

AWARDS





PUBLICATIONS

Mr. Hefferon frequently appears as a panelist at continuing legal education seminars and Mortgage Bankers Association and American Bar Association meetings. He has co-chaired numerous seminars on consumer credit litigation issues, including, for more than a decade, a twice-annual American Conference Institute program on class action litigation in consumer lending.

CREDENTIALS

EDUCATION

J.D., 1986

The University of Chicago
(*magna cum laude*)

B.A., 1982

Trinity College
(*magna cum laude*)

ADMISSIONS

BAR

Virginia
Massachusetts
District of Columbia

COURTS

U.S. Supreme Court
U.S. Court of Appeals for the District of Columbia Circuit
U.S. Court of Appeals for the Eleventh Circuit

U.S. Court of Appeals for the First Circuit
U.S. Court of Appeals for the Second Circuit
U.S. Court of Appeals for the Third Circuit
U.S. Court of Appeals for the Fourth Circuit
U.S. Court of Appeals for the Fifth Circuit
U.S. Court of Appeals for the Sixth Circuit
U.S. Court of Appeals for the Seventh Circuit
U.S. Court of Appeals for the Eighth Circuit
U.S. Court of Appeals for the Ninth Circuit
U.S. District Court for the District of Massachusetts
U.S. District Court for the District of Columbia
U.S. District Court of Maryland
U.S. District Court for the Eastern District of Michigan
U.S. District Court for the Eastern District of Virginia
U.S. District Court for the Eastern District of Wisconsin
U.S. District Court for the Northern District of Illinois
U.S. District Court for the Central District of Illinois
U.S. District Court for the Western District of Michigan
U.S. District Court of North Dakota
U.S. Bankruptcy Court of Massachusetts
U.S. Bankruptcy Court of Maryland
U.S. Bankruptcy Court for the Eastern District of Michigan

Lawyer Complaint (Virginia Bar) : Matthew S. Sheldon

This complaint is against an attorney registered with the State Bar of Virginia. The lawyers' name is Matthew S. Sheldon and he works for Goodwin Procter, LLP. His law firm represents *Ocwen* in the cited case below and he is one of the named counsel of record. The Burkes claim that Mr. Sheldon violated (at a minimum) **Rule 4.1, Truthfulness in Statements To Others**; In the course of representing a client a lawyer shall not knowingly: (a) make a false statement of fact or law[.] See *In the Matter of William Franklin Burton*, VSB Docket No. 19-051-115210 and; **Rule 3.3, Candor Toward the Tribunal**; The 'comment' section from [VSB website](#) also apply here and *Moseley v. Virginia State Bar*, 280 Va. 1 (Va. 2010), **Rule 4.4, Respect For Rights Of Third Persons**; See *Barrett v. Virginia State Bar*, 272 Va. 260 (Va. 2006); **Rule 5.1 Responsibilities Of Partners And Supervisory Lawyers**; See *Morrissey v. Virginia State Bar*, (ORDER), 181311 (Va. 2019); **Rule 8.4, Misconduct**; See *Moseley v. Virginia State Bar*, 280 Va. 1 (Va. 2010). Then there's the *Cobb County* cases described herein, of which Mr. Sheldon is counsel. It is Mr. Sheldon who is in front of Judge Bucklo (N.D. Ill.) discussing what the Burkes believe to be, as violations of **Rules 1.7, Conflict of Interest; 1.9 and 1.16 and 1.10** with respect to Mr. Sheldon. See *Lavender v. Protective Life Corp.*, Civil Action No. 2:15-cv-02275-AKK, at *25-26 (N.D. Ala. Jan. 31, 2017).

**The Burkes Motion to Intervene in Consumer Fin. Prot. Bureau v.
Ocwen Fin. Corp., No. 9:17-CV-80495-MARRA-MATTHEWMAN
(S.D. Fla. 2017-2020)**

Background: The CFPB initiated the civil case on April 20, 2017, alleging that *Ocwen*, in servicing borrowers' loans, engaged in various acts and practices in violation of federal consumer financial laws. On January 4, 2019, Joanna and John Burke sought leave to intervene under Federal Rule of Civil Procedure 24. (Doc. 220). The CFPB and *Ocwen* jointly opposed the motion to intervene (Doc. 224) and the Burkes filed a reply brief (Doc. 237). On May 30, 2019, the district court denied the Burkes' motion to intervene (Doc. 375). The Burkes moved for reconsideration (Doc. 408). The Court denied that motion on July 3, 2019, (Doc. 411), and the Burkes noticed an appeal on August 2, 2019 to the Eleventh Cir., Case No. 19-13015. The Burkes have argued that *Ocwen's* counsel, Mr. Matthew Sheldon knowingly committed perjury and withheld evidence of the *Greens* case from the Burkes.

Denial of Intervention 'As of Right': Judge Marra denied the Burkes intervention as of right (Doc. 375, p. 4).

Denial of Intervention 'Permissively': Judge Marra also concluded the Burkes should be denied permissive intervention.

Analysis of Judge Marra's Order [Reconsideration]: The Burkes then asked Judge Marra to reconsider. The courts fleeting order follows (Doc. 411, p. 3);

“In addition to the grounds stated in the Court’s Order Denying Intervention (ECF No. 375), the Court notes that intervention is **not** permitted to allow a party to seek or obtain evidence for other litigation as asserted by the proposed Intervenor. (See ECF No. 408 at 4).”

Judge Marra’s Implausible Statement: The Burkes address the proclamation that the *‘intervention is **not** permitted for the purposes of seeking or obtaining evidence for other litigation’* and which refers to p. 4 of the Burkes motion for reconsideration (wherein the Burkes detail reasons for their request to intervene, included obtaining documentation to assist with their ongoing and active litigation in Texas against *Ocwen*).

Obtaining “Evidence” as a Non-Party Without a Motion to Intervene: Recently, and most certainly after Doc. 411 was published by Judge Marra, the pro se Burkes were researching cases and citations which would help prove their arguments for their current appeal at the Eleventh Cir. (Case No. 19-13015). The results now raise a serious question as to the truth of the uncorroborated statement in law by United States District Judge Kenneth A. Marra (Doc. 411, p.3).

Disclosure; While it is a thorny issue, the Burkes have been left no alternative but to [separately] file a judicial complaint against Judge Marra. This CFPB v Ocwen case indirectly involves important matters pertaining to the Burkes litigation and homestead. When they located this titanic case, which could provide a vehicle for the Burkes to obtain either documentation and information that would assist in the

Texas case(s) or could provide relief directly, they did so in a quick and legally correct basis. This is why the Burkes intervened in the S.D. Fl. Action. The Burkes allege there had to be joint collusion between counsel for *Ocwen*, CFPB and Judge Marra to unlawfully deny rightful intervenors Burkes from joining the lawsuit, which is proven by the filings on the docket itself.

In the Texas case of *Green v. Ocwen Loan Servicing, LLC* (In re Green), Bankruptcy No. 12-38016 (13) (S.D. Tex. Aug. 26, 2019), which will be referenced as “*Greens*” for short, is one of a series of actual cases by the *Greens*, who are Texas homeowners, at the S.D. Tex. court against *Ocwen*. The order *In Re Green* was published on August 26th, 2019, *e.g.* After Judge Marra had disposed of the Burkes motion to intervene and reconsideration and after the Burkes Notice of Appeal (Doc. 414, Aug. 2, 2019).

A summary of the *Greens* own foreclosure case(s) is provided by U.S. District Judge Nancy Atlas’s order affirming Bankruptcy Judge Marvin Isgur’s order, and allowing the *Greens* to retain access to ‘discovery’ documents as evidence for their own case against *Ocwen*.

The documents which the *Greens* actually obtained and *Ocwen* attempted to quash, would be from the lower court case in Florida. That is correct, these are documents (currently under seal at S.D. Tex.), from the *CFPB v. Ocwen* case before

Judge Marra. See *Green v. Ocwen Loan Servicing, LLC* (In re Green), Bankruptcy No. 12-38016 (13), at *2-4 (S.D. Tex. Aug. 26, 2019).

The Burkes hold Mr. Sheldon's filings and statements to be false and untruthful. Mr. Sheldon's responses went further than zealously defending his client, he viciously maligned these pro se elderly citizens from Texas and all the while knowingly committing perjury in signed statements and filings in the lower court.

"Ocwen and the CFPB jointly opposed the Burkes' motion, which the district court denied. On appeal, the Burkes repeat many of the same **conspiracy theories** and unsupported **attacks** on Ocwen and the CFPB that they alleged below, while **failing to articulate any comprehensible, legally-supported rationale** for why their intervention in this case is warranted. The Court should ignore the Burkes' **baseless and irrelevant attacks** on the parties and affirm the district court's well-reasoned decision."

Then, without a flicker of foreboding that as an attorney he had an ethical duty to tell the truth, he repeated these lies again, months later, at the appeal court level. This was prejudicial to the Burkes by premeditated cheating and trickery *e.g.* lying and knowingly hiding the *Greens* case from the Burkes. Below is the introduction from Burkes' reply brief on appeal at Eleventh Circuit (No. 19-13015):-

PREAMBLE AND DISCLAIMER

"First, a rather lengthy reply brief, including a recap of the case is necessary due to the **bad faith conduct of the parties**, the appellees in this appeal. While the Burkes wished to keep the reply short and concise, this has proven impractical due to the **[mis]conduct** as detailed here. The Burkes summary argument truly attempts to focus on the evidence, the facts, the pleadings and the law, **but it ends up being**

sabotaged by a litany of ethical violations which include, but are not by any means exhaustive;

- (i) Collusion and Conspiracy.
- (ii) Bad Faith Conduct.
- (iii) Dishonesty towards the Tribunal.
- (iv) New evidence showing the Court and the parties must have known about the Greens case in S.D. Tex.

Second, the pro se Burkes have been left **searching for the truth**, rather than focusing on the appeal, **due to apparent known concealment and dishonesty by the lower court.**”

The Cobb County Federal Court Cases in Illinois and Georgia

Mr. Sheldon is counsel in the two actions the Burkes wish to reference in this matter. These are; *Cobb County v. Bank of America Corporation* (1:14-CV-02280), District Court, N.D. Illinois and *Cobb County v. Bank of America Corporation* (1:15-cv-04081-LMM), District Court, N.D. Georgia where the Burkes recently uncovered more unethical practices. (See; “Edwin Montgomery Cook, William Vance Custer, IV, Bryan Cave, LLP, Atlanta, GA, **Matthew S. Sheldon**, *Thomas M. Hefferon*, **Goodwin Procter LLP**, Washington, DC, for Defendants.” *Cobb Cnty. v. Bank of Am. Corp.*, 183 F. Supp. 3d 1332, 1333 (N.D. Ga. 2016)).

Here, Goodwin Procter approached the County’s named eleven witnesses, former loan officers who signed affidavits which explained the illegal loans the banks were issuing for financial avarice and not in the interests of consumers. Once Goodwin contacted them, these ex-employees of the Bank recanted in the majority,

their claims from their first affidavit. Both the Illinois and Georgia judges stated that they were very troubled by the actions of Goodwin. In the Illinois case, there is a transcript of the hearing. Mr. Sheldon, represented the Bank in the Illinois case and he was grilled by Judge Bucklo. (See transcript from Dec. 5, 2019 hearing, which was submitted to Judge May in Georgia; Doc. 53.14, *Cobb County v. Bank of America Corporation* (1:15-cv-04081-LMM) District Court, N.D. Georgia). Here's a snippet; "I really don't understand how you can represent them." - "I do find it DISTURBING."- Judge Bucklo.

Once Mr. Sheldon left that hearing Goodwin promptly discarded the new witnesses (Doc. 83, March 25th, 2020) to fend for themselves and after signing agreements to represent them.

The courts found that this meant the witness statements were moot [at this time]. While the Burkes dispute that opinion in law, the purpose of this complaint is the Rules of Professional Conduct. The Burkes now highlight the fact that ethically, the lawyer(s) actions are certainly not 'moot'. Actually, in the Georgia action, Judge May has kept the 'sanctions' against Goodwin Procter, LLP, firmly on the table (Doc. 86, April 10th, 2020).

Furthermore, it was clear that the judges and all counsel recognized that these witnesses could be charged with perjury upon independent review. Goodwin

dropped them faster than a hot potato but the ‘hot potato rule’ does not support that decision; Under the “hot potato” rule, a “law firm that knowingly undertakes adverse concurrent representation **cannot avoid disqualification by withdrawing** from the representation of the less favored client.” The “hot potato” rule reflects that the “duty of loyalty to an existing client is so important, so sacred, so inviolate that **“not even by withdrawing** from the relationship can an attorney evade it. See also; <https://definitions.uslegal.com/h/hot-potato-rule/> and *State Comp. Ins. Fund v. Drobot*, 192 F. Supp. 3d 1080 (C.D. Cal. 2016)

Certainly, from afar, the Burkes performed a quick audit and now question witness Jim Morelli’s employment history. Mr. Morelli is also a licensed notary public. So from a truth-seeking viewpoint, the fact that his Linkedin profile shows he worked from 1999-2007 - 8 years+ at First Franklin. But his affidavit states; “I worked as an account executive at First Franklin from 2002 to 2006.” (Doc. 53.11, signed 30th Sept., 2019 by Mr. Morelli) – That’s 4 years. It begs the question - which is the truth?

As another example, when you look at Arnold “Arnie” Fishman’s before (Doc. 53.19, signed 22nd June, 2015) and after affidavit affidavit (Doc. 53.3, signed 26th July, 2019), it is extremely troubling. Mr. Fishman is a licensed mortgage broker and very active in the mortgage industry, currently employed by BMO Harris Bank for

the last 8+ years as a mortgage loan originator, according to his [Linkedin profile](#). From the outside looking in, it appears Mr. Fishman now does not wish to jeopardize the mortgage and banking industry, where he's spent the best part of his career as a mortgage loan originator. It is indicative that if Mr. Fishman was interviewed, his statements could form the basis of perjury as a result of intimidation. See "Courts have noted that "a unilateral communications scheme . . . is rife with potential for coercion." *Kleiner v. The First Nat'l Bank of Atlanta*, 751 F.2d 1193, 1202 (11th Cir. 1985)". This is also affirmed by the expert report and declaration of Professor Roy D. Simon, Jr., an expert in the field of legal ethics and professional responsibility.

"Prima facie evidence exists that Goodwin Procter suborned perjury from the confidential witnesses by obtaining false declarations under penalty of perjury and, by analogy to the "sham affidavit doctrine..."

Mr. Sheldon's Actions are Below the Bar

Mr. Sheldon's resume identifies his seniority in the law firm (Partner, resume attached), his experience in litigation in consumer related cases and his many years of attorney experience. In the *CFPB v. Ocwen* case, he is listed as counsel. As a partner, he is also overseeing a team of lawyers at Goodwin Procter, assigned to this case. Mr. Sheldon violated the terms of Rule 5.1(b).

In the Cobb cases, the fact Mr. Sheldon was directly in front of Judge Bucklo and attempted to defend this unethical approach to witnesses, merely reaffirms the cold and calculated deceitfulness he is and was prepared to take *e.g.* risking his reputation and law license to win the case. Aggregating the CFPB case and the Cobb cases, the evidence is sufficient to show by clear and convincing proof that Mr. Matthew Sheldon's dishonesties and deception are on the record and cannot be contested and he personally elected to commit this fraudulence in court filings.

Elder Abuse Demands Revocation of License

Due to the seriousness of his harmful acts against the Burkes who are in their 80's, in poor health and litigating to keep their home, this is elder abuse fraud when the Burkes' legal and civil rights have been completely violated. Mr. Sheldon has violated the Rules of Professional Conduct, has abused his senior position which was used to act unlawfully and substantively injured the Burkes in their ongoing case(s).

In conclusion, the Burkes contend Mr. Sheldon's actions are so egregious against the elder Burkes, his license should be revoked, sending a strong message to lawyers that this type of behavior will not be tolerated and is 'Below the Bar'.

Submitted this day, Monday, June 8, 2020

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is
true and correct.

(28 U.S. Code § 1746)

s/ Joanna Burke

Joanna Burke

kajongwe@gmail.com

46 Kingwood Greens Dr.,

Kingwood, TX, 77339

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is
true and correct.

(28 U.S. Code § 1746)

s/ John Burke

John Burke

alsation123@gmail.com

46 Kingwood Greens Dr.,

Kingwood, TX, 77339



MATTHEW S. SHELDON

Partner

msheldon@goodwinlaw.com

Washington, DC +1 202 346 4027

Matt Sheldon is a partner in Goodwin's Financial Industry and Consumer Financial Services Litigation practices. His practice centers on the representation of financial services institutions in government investigations and litigation matters, with a focus on class action litigation. Mr. Sheldon counsels and represents clients regarding an array of financial services and products, including mortgages, credit cards, insurance and reinsurance, and ERISA-covered retirement plans.

In the litigation context, Mr. Sheldon's practice focuses on defending financial service providers facing class action lawsuits in federal and state courts across the nation. His broad experience includes successfully defending a variety of clients in cases challenging fair lending compliance, financial product sales and marketing practices, reinsurance structures, and ERISA compliance.

Mr. Sheldon regularly represents financial institutions facing regulatory proceedings and government investigations by federal and state administrative agencies, including the Consumer Financial Protection Bureau (CFPB), the Department of Housing and Urban Development, the Federal Deposit Insurance Corporation and state attorneys general. He also provides fair lending and regulatory compliance advice, including representing clients on matters relating to federal banking and consumer finance regulations, such as the FCRA, ECOA, RESPA, TILA and FDCPA, as well as state banking and consumer protection statutes.

AREAS OF PRACTICE

Consumer Financial Services Litigation

Consumer Financial Services

Consumer Financial Services Enforcement + Government Investigations

Fair + Responsible Lending

Litigation + Dispute Resolution

Financial Industry

EXPERIENCE

Mr. Sheldon's representations include:

- Part of the Goodwin team that represented Quicken Loans, Inc. before the U.S. Supreme Court, in *Freeman v. Quicken Loans, Inc.* The case involved an important consumer credit question under RESPA, which the Court decided unanimously in Quicken's favor.
- Multiple mortgage lenders in putative class actions alleging mortgage insurance captive reinsurance arrangements violated RESPA; secured summary judgment on plaintiffs' claims on statute of limitations grounds.
- A mortgage lender in investigation by CFPB of mortgage brokerage relationship; proceeding was dropped without charges or action.
- Mortgage lenders in numerous putative class actions challenging loan origination, servicing, modification, and/or foreclosure practices; dismissal secured and/or class certification denied in multiple actions.
- Mortgage lenders in multiple Fair Housing Act lawsuits filed by municipalities alleging discriminatory lending practices.
- Advisory counsel for Mortgage Bankers Association on regulatory comment and amicus issues.
- The Joyful Heart Foundation in its nationwide "End the Backlog" project seeking to eliminate the accumulation of untested rape kits throughout the country.
- Representative clients include Quicken Loans, Flagstar Bank, First Horizon National Corporation, PHH Mortgage Corporation, Mortgage Bankers Association and IQor Holdings, Inc.

PROFESSIONAL ACTIVITIES

Mr. Sheldon is a member of the Virginia State Bar and the Virginia Trial Lawyers Association.

PROFESSIONAL EXPERIENCE

Prior to joining Goodwin, Mr. Sheldon was an attorney with the law firm Williams Mullen, P.C.

RECOGNITION

Mr. Sheldon has been named a 2014, 2015 and 2016 "rising star" in consumer law by *D.C. Super Lawyers*.

CREDENTIALS

EDUCATION

J.D., 2006

William & Mary School of Law

B.A., 2002

College of William and Mary

ADMISSIONS

BAR

District of Columbia

Virginia

COURTS

U.S. Supreme Court

Virginia Supreme Court

U.S. Court of Appeals for the Third Circuit

U.S. Court of Appeals for the Fourth Circuit

U.S. Court of Appeals for the Eleventh Circuit

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Lawyer Complaint (D.C. Bar) : Sabrina Rose-Smith

This complaint is against an attorney registered with the District of Columbia (D.C.) State Bar. The lawyers' name is Sabrina Rose-Smith and she works for Goodwin Procter, LLP. Her law firm represents *Ocwen* in the cited case below and she is one of the named counsel of record. The Burkes claim that Ms. Rose-Smith violated (at a minimum) **Rule 4.1, Truthfulness in Statements To Others**; In the course of representing a client a lawyer shall not knowingly: (a) make a false statement of fact or law[.] See *In re Mitchell*, 822 A.2d 1106 (D.C. 2003) and; **Rule 3.3, Candor Toward the Tribunal**; *In re Uchendu*, 812 A.2d 933 (D.C. 2002), **Rule 4.4, Respect For Rights Of Third Persons**; See *In re Pelkey*, 962 A.2d 268 (D.C. 2008); **Rule 5.1 Responsibilities Of Partners And Supervisory Lawyers**; See *In re Cohen*, 847 A.2d 1162 (D.C. 2004); **Rule 8.4, Misconduct**; See *In re Mitchell*, 822 A.2d 1106 (D.C. 2003). Then there's the *Cobb County* cases described herein, of which Ms. Rose-Smith is counsel. Then there is the violation of **Rules 1.7, Conflict of Interest; 1.9 and 1.16 and 1.10** with respect to Ms. Rose-Smith. See *Lavender v. Protective Life Corp.*, Civil Action No. 2:15-cv-02275-AKK, at *25-26 (N.D. Ala. Jan. 31, 2017).

Other cases specific to Goodwin are discussed below. The Burkes also draw the Bar's attention to; *Cruickshank v. Dixon (In re Blast Fitness Grp., LLC)*, No.

16-10236-MSH (Bankr. D. Mass. Jan. 8, 2019)

And there's also former Goodwin lawyer, now law professor, Associate Professor Luke M. Scheuer who previously held adjunct positions at Boston College Law School, the University of Massachusetts School of Law, and Boston University School of Law and his paper; "Duty to Disclose Lawyer Misconduct" (2010), Available at: https://works.bepress.com/luke_scheuer/2/, wherein he discusses cases like *In Re Himmel*.

**The Burkes Motion to Intervene in Consumer Fin. Prot. Bureau v.
Ocwen Fin. Corp., No. 9:17-CV-80495-MARRA-MATTHEWMAN
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The Burkes have argued that *Ocwen*'s counsel, Ms. Sabrina Rose-Smith knowingly committed perjury and withheld evidence of the *Greens* case from the Burkes.

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Analysis of Judge Marra's Order [Reconsideration]: The Burkes then asked Judge Marra to reconsider. The court's fleeting order follows (Doc. 411, p. 3);

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Furthermore, it was clear that the judges and all counsel recognized that these witnesses could be charged with perjury upon independent review. Goodwin dropped them faster than a hot potato but the ‘hot potato rule’ does not support that decision; Under the “hot potato” rule, a “law firm that knowingly undertakes adverse concurrent representation **cannot avoid disqualification by withdrawing** from the representation of the less favored client.” The “hot potato” rule reflects that the “duty of loyalty to an existing client is so important, so sacred, so inviolate that **“not even by withdrawing** from the relationship can an attorney evade it. See also; <https://definitions.uslegal.com/h/hot-potato-rule/> and *State Comp. Ins. Fund v. Drobot*, 192 F. Supp. 3d 1080 (C.D. Cal. 2016)

Certainly, from afar, the Burkes performed a quick audit and now question

witness Jim Morelli's employment history. Mr. Morelli is also a licensed notary public. So from a truth-seeking viewpoint, the fact that his Linkedin profile shows he worked from 1999-2007 - 8 years+ at First Franklin. But his affidavit states; "I worked as an account executive at First Franklin from 2002 to 2006." (Doc. 53.11, signed 30th Sept., 2019 by Mr. Morelli) – That's 4 years. It begs the question - which is the truth?

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Please review Law professor Roy Simon’s credentials, including his declaration and opinion that these lawyers violated Georgia’s professional codes of conduct.

In connection with this motion, the Counties retained Professor Roy D. Simon, Jr., a leading expert in the field of legal ethics. He is the Distinguished Professor of Legal Ethics Emeritus at Hofstra University School of Law, serves as a legal ethics advisor to law firms, and is the author of the twenty editions of Simon’s New York Rules of Professional Conduct Annotated, as well as other books in the field of professional responsibility. (See Declaration of Roy D. Simon (“Simon Decl.”), ¶¶ 1, 4, Ex. A.) and his profile;

https://www.hofstra.edu/faculty/fac_profiles.cfm?id=1410

Ms. Rose-Smith’s Actions are Below the Bar

Ms. Rose-Smith’s resume identifies her seniority in the law firm (Partner, resume attached), her experience in litigation in consumer related cases and her many years of attorney experience. In the *CFPB v. Ocwen* case, she is listed as

counsel. As a partner, she is also overseeing a team of lawyers at Goodwin Procter, assigned to this case. Ms. Rose-Smith violated the terms of Rule 5.1(b).

Ms. Rose-Smith's attempts to defend this unethical approach to witnesses, merely reaffirms the cold and calculated deceitfulness she is and was prepared to take *e.g.* risking her reputation and law license to win the case. Aggregating the CFPB case and the Cobb cases, the evidence is sufficient to show by clear and convincing proof that Ms. Rose-Smith's dishonesties and deception are on the record and cannot be contested and she personally elected to commit this fraudulence in court filings.

Elder Abuse Demands Revocation of License

The Burkes point to the conduct of the lawyer in the filing of this complaint, and rely upon the local Supreme Court in Texas when citing; for example the 1994 case before the Texas Supreme Court where they concisely summarized the difference, rejecting the Texas Bar's argument;

"Our inquiry relates to the classification of the crime, not the tribunal's subjective judgment of character of the particular lawyer convicted. In short, we classify the crime, not the lawyer." *Thacker, Matter of*, 881 S.W.2d 307, 309 (Tex. 1994).

Due to the seriousness of her harmful acts against the Burkes who are in their 80's, in poor health and litigating to keep their home, this is elder abuse fraud when the Burkes' legal and civil rights have been completely violated. Ms. Rose-Smith

has violated the Rules of Professional Conduct, has abused her senior position which was used to act unlawfully and substantively injured the Burkes in their ongoing case(s).

In conclusion, the Burkes contend Ms. Rose-Smith's actions are so egregious against the elder Burkes, her license should be revoked, sending a strong message to lawyers that this type of behavior will not be tolerated and is 'Below the Bar'.

Submitted this day, Monday, June 15, 2020

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

(28 U.S. Code § 1746)

s/ Joanna Burke

Joanna Burke

kajongwe@gmail.com

46 Kingwood Greens Dr.,

Kingwood, TX, 77339

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

(28 U.S. Code § 1746)

s/ John Burke

John Burke

alsation123@gmail.com

46 Kingwood Greens Dr.,
Kingwood, TX, 77339



SABRINA M. ROSE-SMITH

Partner

Chair, CRED@Goodwin

srosesmith@goodwinlaw.com

Washington, DC +1 202 346 4185

Sabrina Rose-Smith is a partner in Goodwin's Financial Industry and Consumer Financial Services Litigation practices. Her nationwide practice includes both defending financial institutions against consumer class actions and government enforcement actions, and regulatory compliance counseling for banks, credit card issuers, mortgage lenders and specialty finance companies. She is the lead editor of two firm blogs: LenderLaw Watch and Consumer Finance Enforcement Watch. Goodwin's LenderLaw Watch blog monitors, chronicles and analyzes news and legal issues affecting clients and others in the consumer finance industry; Goodwin's Consumer Finance Enforcement Watch blog is the marketplace's first resource for real-time reporting on the full range of public federal and state consumer finance enforcement activity. She also serves as chair of the firm's Committee on Racial and Ethnic Diversity.

Ms. Rose-Smith defends financial services clients in cases involving the Truth In Lending Act (TILA), the Fair Debt Collection Practices Act (FDCPA), the Real Estate Settlement Procedures Act (RESPA), the Fair Housing Act (FHA), the Equal Credit Opportunity Act (ECOA), the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the Telephone Consumer Protection Act (TCPA), state and federal unfair and deceptive trade practices (UDAP) statutes and other alleged violations of law arising from her clients' lending, servicing and/or collections activity.

Ms. Rose-Smith serves as Chair of CRED@Goodwin.

AREAS OF PRACTICE

Litigation + Dispute Resolution

Consumer Financial Services Litigation

Consumer Financial Services Enforcement + Government Investigations

Fair + Responsible Lending

Financial Industry



EXPERIENCE

Her areas of experience include:

- Class action defense, including successful methods for defeating class certification in both consumer finance and business litigation matters involving banks and other financial services businesses
- Assisting financial institutions in the creation and licensing of new specialty finance products, such as debit and stored value cards, installment loans and money transmission
- Developing and implementing effective internal compliance auditing procedures for financial institutions and counseling on problems that may arise in external government audits

She has recently represented:

- A nationwide mortgage lender in a government enforcement action based on alleged failure to comply with Federal Housing Administration guidelines for FHA – insured loans
- A national bank in a lawsuit alleging systemic violations of the Fair Housing Act
- A venture capital firm in a nationwide class action alleging that a company the firm invested in committed unfair and deceptive trade practices in the marketing and servicing of small dollar loans
- A mortgage lender in a class-wide federal jury trial involving lender's alleged violations of RESPA's affiliated business rules
- A national bank against civil claims arising out of its mortgage default servicing activity, including UDAP claims regarding fees charged and breach of contract claims for wrongful foreclosure or the conduct of vendors involved in the foreclosure/collections process
- A regional bank regarding its compliance with HUD regulations for FHA lenders and loan servicers
- A nationwide lender in a multi-district litigation (MDL) based on alleged unfair and deceptive sales and marketing of loan products

PROFESSIONAL ACTIVITIES

Ms. Rose-Smith is a member of the American Bar Association (Business Law, Litigation and Minority Trial Lawyer sections) and has served on executive committees within NAWL, the National Association of Women Lawyers. She is fellow for the Leadership Council on Legal Diversity (LCLD) and mentor to women and minorities within the firm and the broader legal profession. She is also a District Activist Leader for the National MS Society, and in that role she advocates for individuals with MS and serves as a liaison between elected officials and the National MS Society.

PUBLICATIONS

Ms. Rose-Smith's recent publications include:

- "The CFPBs Proposed Prepaid Card Regulations: A Primer," *LenderLaw Watch*, November 17, 2014
- "Plaintiffs Find Little Traction In Suits Against Banks Over "Payday" Loans," *LenderLaw Watch*, November 13, 2014
- "Supreme Court Will Not Review Third Circuit FDCPA Decision," *LenderLaw Watch*, November 10, 2014
- "D.C. District Court Strikes Down HUD's Disparate Impact Rule," *LenderLaw Watch*, November 6, 2014
- "CFPB Spotlight Still On Student Loans," *LenderLaw Watch*, October 30, 2014
- "CFPB Finalizes Mortgage Rules Amendments," *LenderLaw Watch*, October 27, 2014
- "CFPB Takes Action to Enforce New Mortgage Servicing Rules," *LenderLaw Watch*, October 13, 2014
- "Goodwin Procter's Ben Saul Comments On CFPB Enforcement of New Mortgage Servicing Rules," *LenderLaw Watch*, October 8, 2014
- "CFPB Sets Sights On Payday Lending 'Cycle Of Debt'," *Law360*, March 25, 2014
- "Small-Dollar Lenders Under Fire From AGs And CFPB," *Law360*, February 20, 2014

Ms. Rose-Smith's recent speaking engagements include:

- "American Bar Association 2017 Business Law Section Spring Meeting," April 6, 2017, New Orleans, LA
- "ACI's 28th National Consumer Finance: Class Actions & Litigation Conference," April 4, 2017, New York, NY
- "Payday Loan Bar Association 2016 Annual Meeting," November 9, 2016, Santa Barbara, CA
- "Payday Loan Bar Association 2015 Annual Meeting," November 4, 2015, Scottsdale, AZ
- "Consumer Protection Agency Limits Payday Lenders: Understanding Proposed Regulation LIVE Webcast," August 26, 2015
- "ACI Women Leaders in Financial Services Industry Law," June 15, 2015, New York, NY
- "2015 Business Law Section Spring Meeting," April 16, 2015, San Francisco, CA
- "LegalTech® New York 2015," February 3, 2015, New York, NY
- "Payday Loan Bar Association 2014 Annual Meeting," November 9, 2014, Kiawah Island, SC
- "The American Lawyer's New Partner Forum," November 4, 2014, New York, NY

CREDENTIALS

EDUCATION

J.D.

Vanderbilt University Law School

B.A.

Hollins University

ADMISSIONS

BAR

District of Columbia
Virginia

COURTS

U.S. Court of Appeals for the Second Circuit
U.S. Court of Appeals for the Fourth Circuit
U.S. Court of Appeals for the Eleventh Circuit
U.S. Court of Appeals for the District of Columbia Circuit
U.S. District Court for the Eastern District of Virginia
U.S. District Court of Maryland
U.S. District Court for the District of Columbia
U.S. District Court for the Eastern District of Michigan
U.S. District Court for the Northern District of Illinois

Lawyer Complaint (Fl. Bar) : Catalina E. Azuero

This complaint is against an attorney registered with the Florida State Bar. The lawyers' name is Catalina Azuero and she works for Goodwin Procter, LLP. Her law firm represents *Ocwen* in the cited case below and she is one of the named counsel of record. The Burkes claim that Ms. Azuero violated (at a minimum) "Based on these facts, the Florida referee found Hagendorf guilty of violating **rules 4-3.3 (candor toward the tribunal), 4-3.4 (fairness to opposing party and counsel), 4-4.1 (truthfulness in statements to others), 4-8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and 4-8.4(d) (conduct prejudicial to the administration of justice)** of the Rules Regulating the Florida Bar." - *The Florida Bar v. Hagendorf*, 921 So. 2d 611, 613-14 (Fla. 2006).

"The referee recommended that Niles be found guilty of violating the following provisions of the **Rules Regulating the Florida Bar: Rule 3-4.3 (misconduct and minor misconduct) of the Rules of Discipline; Rules 4-1.2(a) (scope of representation), 4-1.4 (communication), 4-1.5 (fees for legal services), 4-1.6(a) (confidentiality of information), 4-1.7(b), 4-1.8(b), (d), (i), 4-1.9(b) (conflict of interest), 4-1.15 (safekeeping property), 4-2.1 (adviser), 4-4.1(a) (truthfulness in statements to others), 4-4.4 (respect for rights of third persons), and 4-8.4(b), (c), (d) (misconduct) of the Rules of Professional Conduct.**" - *Florida Bar v.*

Niles, 644 So. 2d 504, 506 (Fla. 1994).

Then there's the *Cobb County* cases described herein, of which Ms. Azuero is counsel. Then there is the violation of "The trial court found that the attorneys had violated **Florida's Rule of Professional Conduct 4-1.7**, governing conflicts with current clients, and **Rule of Professional Conduct 4-1.9**, governing conflicts with former clients." *Young v. Achenbauch*, 136 So. 3d 575, 579 (Fla. 2014) with respect to Ms. Azuero. This resulted in suspensions for both lawyers, see; *The Florida Bar v. Steven Kent Hunter*, Case No.: SC16-1006, TFB No. 2014-70,728(11C) and *The Florida Bar v. Philip Maurice Gerson*, Case No.: SC16-1009, TFB No. 2014-70,729(11C). The April 11, 2018 Supreme Court opinion is here:

https://efactssc-public.flcourts.org/casedocuments/2016/1006/2016-1006_disposition_141625_d31a.pdf.

Other cases specific to Goodwin are discussed below. The Burkes also draw the Bar's attention to; *Cruickshank v. Dixon (In re Blast Fitness Grp., LLC)*, No. 16-10236-MSH (Bankr. D. Mass. Jan. 8, 2019)

And there's also former Goodwin lawyer, now law professor, Associate Professor Luke M. Scheuer who previously held adjunct positions at Boston College Law School, the University of Massachusetts School of Law, and Boston University School of Law and his paper; "Duty to Disclose Lawyer Misconduct" (2010),

Available at: https://works.bepress.com/luke_scheuer/2/, wherein he discusses cases like *In Re Himmel*.

**The Burkes Motion to Intervene in Consumer Fin. Prot. Bureau v.
Ocwen Fin. Corp., No. 9:17-CV-80495-MARRA-MATTHEWMAN
(S.D. Fla. 2017-2020)**

Background: The CFPB initiated the civil case on April 20, 2017, alleging that *Ocwen*, in servicing borrowers' loans, engaged in various acts and practices in violation of federal consumer financial laws. On January 4, 2019, Joanna and John Burke sought leave to intervene under Federal Rule of Civil Procedure 24. (Doc. 220). The CFPB and *Ocwen* jointly opposed the motion to intervene (Doc. 224) and the Burkes filed a reply brief (Doc. 237). On May 30, 2019, the district court denied the Burkes' motion to intervene (Doc. 375). The Burkes moved for reconsideration (Doc. 408). The Court denied that motion on July 3, 2019, (Doc. 411), and the Burkes noticed an appeal on August 2, 2019 to the Eleventh Cir., Case No. 19-13015. The Burkes have argued that *Ocwen's* counsel, Ms. Catalina Azuero knowingly committed perjury and withheld evidence of the *Greens* case from the Burkes.

Denial of Intervention 'As of Right': Judge Marra denied the Burkes intervention as of right (Doc. 375, p. 4).

Denial of Intervention 'Permissively': Judge Marra also concluded the Burkes

should be denied permissive intervention.

Analysis of Judge Marra's Order [Reconsideration]: The Burkes then asked Judge Marra to reconsider. The court's fleeting order follows (Doc. 411, p. 3);

“In addition to the grounds stated in the Court's Order Denying Intervention (ECF No. 375), the Court notes that intervention is **not** permitted to allow a party to seek or obtain evidence for other litigation as asserted by the proposed Intervenor. (See ECF No. 408 at 4).”

Judge Marra's Implausible Statement: The Burkes address the proclamation that the ‘*intervention is **not** permitted for the purposes of seeking or obtaining evidence for other litigation*’ and which refers to p. 4 of the Burkes motion for reconsideration (wherein the Burkes detail reasons for their request to intervene, included obtaining documentation to assist with their ongoing and active litigation in Texas against *Ocwen*).

Obtaining “Evidence” as a Non-Party Without a Motion to Intervene: Recently, and most certainly after Doc. 411 was published by Judge Marra, the pro se Burkes were researching cases and citations which would help prove their arguments for their current appeal at the Eleventh Cir. (Case No. 19-13015). The results now raise a serious question as to the truth of the uncorroborated statement in law by United States District Judge Kenneth A. Marra (Doc. 411, p.3).

Disclosure; While it is a thorny issue, the Burkes have been left no alternative but to [separately] file a judicial complaint against Judge Marra. This *CFPB v Ocwen*

case indirectly involves important matters pertaining to the Burkes litigation and homestead. When they located this titanic case, which could provide a vehicle for the Burkes to obtain either documentation and information that would assist in the Texas case(s) or could provide relief directly, they did so in a quick and legally correct basis. This is why the Burkes intervened in the S.D. Fl. Action. The Burkes allege there had to be joint collusion between counsel for *Ocwen*, CFPB and Judge Marra to unlawfully deny rightful intervenors Burkes from joining the lawsuit, which is proven by the filings on the docket itself.

In the Texas case of *Green v. Ocwen Loan Servicing, LLC* (In re Green), Bankruptcy No. 12-38016 (13) (S.D. Tex. Aug. 26, 2019), which will be referenced as “*Greens*” for short, is one of a series of actual cases by the *Greens*, who are Texas homeowners, at the S.D. Tex. court against *Ocwen*. The order *In Re Green* was published on August 26th, 2019, *e.g.* After Judge Marra had disposed of the Burkes motion to intervene and reconsideration and after the Burkes Notice of Appeal (Doc. 414, Aug. 2, 2019).

A summary of the *Greens* own foreclosure case(s) is provided by U.S. District Judge Nancy Atlas’s order affirming Bankruptcy Judge Marvin Isgur’s order, and allowing the *Greens* to retain access to ‘discovery’ documents as evidence for their own case against *Ocwen*.

The documents which the *Greens* actually obtained and Ocwen attempted to quash, would be from the lower court case in Florida. That is correct, these are documents (currently under seal at S.D. Tex.), from the *CFPB v. Ocwen* case before Judge Marra. See *Green v. Ocwen Loan Servicing, LLC* (In re Green), Bankruptcy No. 12-38016 (13), at *2-4 (S.D. Tex. Aug. 26, 2019).

The Burkes hold Ms. Azuero's filings and statements to be false and untruthful. Ms. Azuero's responses went further than zealously defending her client, she viciously maligned these pro se elderly citizens from Texas and all the while knowingly committing perjury in signed statements and filings in the lower court.

"Ocwen and the CFPB jointly opposed the Burkes' motion, which the district court denied. On appeal, the Burkes repeat many of the same **conspiracy theories** and unsupported **attacks** on Ocwen and the CFPB that they alleged below, while **failing to articulate any comprehensible, legally-supported rationale** for why their intervention in this case is warranted. The Court should ignore the Burkes' **baseless and irrelevant attacks** on the parties and affirm the district court's well-reasoned decision."

Then, without a flicker of foreboding that as an attorney she had an ethical duty to tell the truth, she repeated these lies again, months later, at the appeal court level. This was prejudicial to the Burkes by premeditated cheating and trickery *e.g.* lying and knowingly hiding the *Greens* case from the Burkes. Below is the introduction from Burkes' reply brief on appeal at Eleventh Circuit (No. 19-13015):-

PREAMBLE AND DISCLAIMER

“First, a rather lengthy reply brief, including a recap of the case is necessary due to the **bad faith conduct of the parties**, the appellees in this appeal. While the Burkes wished to keep the reply short and concise, this has proven impractical due to the **[mis]conduct** as detailed here. The Burkes summary argument truly attempts to focus on the evidence, the facts, the pleadings and the law, **but it ends up being sabotaged by a litany of ethical violations** which include, but are not by any means exhaustive;

- (i) Collusion and Conspiracy.
- (ii) Bad Faith Conduct.
- (iii) Dishonesty towards the Tribunal.
- (iv) New evidence showing the Court and the parties must have known about the Greens case in S.D. Tex.

Second, the pro se Burkes have been left **searching for the truth**, rather than focusing on the appeal, **due to apparent known concealment and dishonesty by the lower court.**”

The Cobb County Federal Court Cases in Illinois and Georgia

Ms. Azuero is counsel in the two actions the Burkes wish to reference in this matter. These are; *Cobb County v. Bank of America Corporation* (1:14-CV-02280), District Court, N.D. Illinois and *Cobb County v. Bank of America Corporation* (1:15-cv-04081-LMM), District Court, N.D. Georgia where the Burkes recently uncovered more unethical practices. *Cobb Cnty. v. Bank of Am. Corp.*, 183 F. Supp. 3d 1332, 1333 (N.D. Ga. 2016)).

Here, Goodwin Procter approached the County’s named eleven witnesses, former loan officers who signed affidavits which explained the illegal loans the

banks were issuing for financial avarice and not in the interests of consumers. Once Goodwin contacted them, these ex-employees of the Bank recanted in the majority, their claims from their first affidavit. Both the Illinois and Georgia judges stated that they were very troubled by the actions of Goodwin. In the Illinois case, there is a transcript of the hearing. Ms. Azuero and her law firm represented the Bank in the Illinois case and her fellow partner, Matthew Sheldon was grilled by Judge Bucklo. (See transcript from Dec. 5, 2019 hearing, which was submitted to Judge May in Georgia; Doc. 53.14, *Cobb County v. Bank of America Corporation* (1:15-cv-04081-LMM) District Court, N.D. Georgia). Here's a snippet; "I really don't understand how you can represent them." - "I do find it DISTURBING."- Judge Bucklo.

After that hearing Goodwin promptly discarded the new witnesses (Doc. 83, March 25th, 2020) to fend for themselves and after signing agreements to represent them.

The courts found that this meant the witness statements were moot [at this time]. While the Burkes dispute that opinion in law, the purpose of this complaint is the Rules of Professional Conduct. The Burkes now highlight the fact that ethically, the lawyer(s) actions are certainly not 'moot'. Actually, in the Georgia action, Judge May has kept the 'sanctions' against Goodwin Procter, LLP, firmly on the table (Doc. 86, April 10th, 2020). As of Monday, June 8th, 2020, the Cobb County lawyers

have officially filed for sanctions. See Doc's 493/494.

Furthermore, it was clear that the judges and all counsel recognized that these witnesses could be charged with perjury upon independent review. Goodwin dropped them faster than a hot potato but the 'hot potato rule' does not support that decision; Under the "hot potato" rule, a "law firm that knowingly undertakes adverse concurrent representation **cannot avoid disqualification by withdrawing** from the representation of the less favored client." The "hot potato" rule reflects that the "duty of loyalty to an existing client is so important, so sacred, so inviolate that **not even by withdrawing** from the relationship can an attorney evade it. See also; <https://definitions.uslegal.com/h/hot-potato-rule/> and *State Comp. Ins. Fund v. Drobot*, 192 F. Supp. 3d 1080 (C.D. Cal. 2016)

Certainly, from afar, the Burkes performed a quick audit and now question witness Jim Morelli's employment history. Mr. Morelli is also a licensed notary public. So from a truth-seeking viewpoint, the fact that his Linkedin profile shows he worked from 1999-2007 - 8 years+ at First Franklin. But his affidavit states; "I worked as an account executive at First Franklin from 2002 to 2006." (Doc. 53.11, signed 30th Sept., 2019 by Mr. Morelli) – That's 4 years. It begs the question - which is the truth?

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Please review Law professor Roy Simon's credentials, including his declaration and opinion that these lawyers violated Georgia's professional codes of conduct.

In connection with this motion, the Counties retained Professor Roy D. Simon,

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Ms. Azuero's Actions are Below the Bar

Ms. Azuero's resume identifies her role in the law firm (Attorney, resume attached), her experience in litigation in consumer related cases and her many years of attorney experience (Admitted to the Fl. Bar in 2004). In the *CFPB v. Ocwen* case, she is listed as counsel.

Ms. Azuero's attempts to defend this unethical approach to witnesses, merely reaffirms the cold and calculated deceitfulness she is and was prepared to take *e.g.* risking her reputation and law license to win the case. Aggregating the CFPB case and the Cobb cases, the evidence is sufficient to show by clear and convincing proof that Ms. Azuero's dishonesties and deception are on the record and cannot be contested and she personally elected to commit this fraudulence in court filings.

Elder Abuse Demands Revocation of License

The Burkes point to the conduct of the lawyer in the filing of this complaint, and rely upon the local Supreme Court in Texas when citing; for example the 1994 case before the Texas Supreme Court where they concisely summarized the difference, rejecting the Texas Bar's argument;

“Our inquiry relates to the classification of the crime, not the tribunal's subjective judgment of character of the particular lawyer convicted. In short, we classify the crime, not the lawyer.” *Thacker, Matter of*, 881 S.W.2d 307, 309 (Tex. 1994).

Due to the seriousness of her harmful acts against the Burkes who are in their 80's, in poor health and litigating to keep their home, this is elder abuse fraud when the Burkes' legal and civil rights have been completely violated. Ms. Azuero has violated the Rules of Professional Conduct, has abused her attorney role and experience of many, many years, which was used to act unlawfully and substantively injured the Burkes in their ongoing case(s).

Indeed, in Michigan, the Judge summed up ‘big law firms’ as being more accountable than smaller firms; see *El Camino Resources, Ltd. v. Huntington National Bank*, 623 F. Supp. 2d 863 (W.D. Mich. 2007). , citing; “This Court is fully aware of the “changes” in the “legal world” and attempts to stay abreast of them and deal with cases in an up-to-date fashion. Keeping that in mind, however, does not somehow lead this Court to believe that “changes” also mean adopting a

set of principles and ethics for “mega corporations” and “monster law firms” which is something less than that imposed on small companies and lesser-size law firms.

Rule 1.7 stands as is for everyone. This Court notes that, if anything, large law firms have *an even greater responsibility* to incorporate satisfactory computer conflicts check systems simply because of their size and the fact the lawyers in these firms are not able to manually check their client lists for potential conflicts.” -

Lemelson v. Apple Computer, Inc., 28 U.S.P.Q.2d at 1419 (rejecting SWS’s approach of a size- dependent application of ethical rules regarding disqualification).

In conclusion, taking the repetitive offenses as described holistically, the Burkes contend Ms. Azuero’s actions are so egregious against the elder Burkes, her license should be revoked, sending a strong message to lawyers that this type of behavior will not be tolerated and is ‘Below the Bar’.

Submitted this day, Thursday, June 18, 2020

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is
true and correct.

(28 U.S. Code § 1746)

s/ Joanna Burke

Joanna Burke

kajongwe@gmail.com

46 Kingwood Greens Dr.,
Kingwood, TX, 77339

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is
true and correct.

(28 U.S. Code § 1746)

s/ John Burke

John Burke

alsation123@gmail.com

46 Kingwood Greens Dr.,
Kingwood, TX, 77339



CATALINA E. AZUERO

Attorney

cazuero@goodwinlaw.com

Boston +1 617 570 1348

Catalina Azuero is a senior attorney in the firm's Financial Industry and Consumer Financial Services Litigation practices. She joined Goodwin in 2007.

AREAS OF PRACTICE

Consumer Financial Services
Business + Commercial Litigation
Litigation + Dispute Resolution
Financial Industry Litigation

EXPERIENCE

PROFESSIONAL ACTIVITIES

Ms. Azuero is a member of the Florida Bar Association.

RECOGNITION

While attending law school, Ms. Azuero was a Notes & Comment Editor *North Carolina Journal of International Law and Commercial Regulation*.

CREDENTIALS

EDUCATION



J.D., 2004

University of North Carolina School of Law
(with honors, Order of the Coif)

B.A., 2000

Boston College
(*magna cum laude*)

CLERKSHIPS

2005 to 2007 Massachusetts Appeals Court, Honorable James McHugh
U.S. Court of Appeals for the Eleventh Circuit

ADMISSIONS

BAR

Florida

COURTS

U.S. District Court for the District of Massachusetts