

THE FLORIDA BAR INQUIRY/COMPLAINT FORM

Please carefully review this inquiry/complaint form after you have included all information according to the instructions found on the other side of this form. Note that there is a requirement that you execute the oath at the end of the form. False statements made in bad faith or with malice may subject you to civil or criminal liability. You are required to certify that you have read the pamphlet "Complaint Against a Florida Lawyer" before submitting this form.

PART ONE:

Your Name: <u>Rick A Swope</u> Address: <u>8211 SW 28 St</u> City: <u>Davie</u> State: <u>FL</u> Phone: <u>954-476-7640</u> Zip Code: <u>33328</u> Social Security #: XXXXXXXXXX Have you contacted The Florida Bar ACAP program before filing this complaint? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Name and address of attorney that is the subject of this inquiry/complaint: Attorney's Name: <u>Matthew Levy</u> Address: <u>15300 Jog Rd, Suite 103</u> City: <u>Delray Beach</u> State: <u>FL</u> Telephone: _____ Zip Code: <u>33446</u>
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PART TWO: Can any person testify about what was said and done, not done, or agreed upon by you and the attorney?
 Yes No (See very important instructions on back of this form.)


PART THREE: I have read and, to the best of my ability, followed the instructions on the back of this form.

(A) The specific thing or things I am complaining about are: Important parts of the deposition are attached, however this attorney was threatening during deposition, attempted to use his position too intimidate, threaten, demean and wished to cause a physical confrontation.

(B) In support of those things listed above, the FACTS of my complaint are: Various parts which are important are attached to this complaint regarding my deposition testimony. You will note that this attorney was totally unprofessional, used poor judgement, attempted to threaten me, called me a liar and a hack, and basically conducted himself in such a poor manner that it is obvious that this attorney should not only be removed from the practice of law, but possibly needs some type of evaluation regarding his stability. Not only was this attorney attempting to threaten me as I was giving testimony, he attempted to threaten and demean another lawyer who apparently had only tried to clear up mis-conceptions that Mr Levy had regarding my history, but again this was not enough for Mr LEVY. He continued to demean and go off on an unprofessional manner (Page 2)

PART FOUR: Under penalty of perjury, I declare the foregoing facts are true, correct and complete. I further certify that I have read and understand the information contained in the pamphlet "Complaint Against a Florida Lawyer". I also understand that the filing of a Bar complaint will not toll or suspend any applicable statute of limitations pertaining to my complaint.

RECEIVED



 Signature

 Date 04-08-11

APR 11 2011

THE FLORIDA BAR - MIAMI

Florida Bar Complaint

Attorney

Matthew Levy

and in fact was so intent on screaming and attempting to provoke a possible physical confrontation, he forced Mr. Cozad to stop the deposition temporarily.

It will be obvious to the Florida Bar that this attorney has flagrantly disregarded the rules of the organization and professional conduct.

This attorney should not only be suspended from the practice of law with this conduct, but should most likely be removed for an extended period of time.

Although the Florida Bar in the past has done little to investigate complaints since the primary goal of the Bar is to protect attorneys at all costs, your actions will be closely watched on this particular case.

I will wait for your reply.

I will expect you to conduct a proper investigation into this matter.

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2008 CA036355XXXXMB AG

JANET PRUSHANSKY, individually,
and as Personal Representative
of the ESTATE OF ANN PRUSHANSKY,

COPY

Plaintiff,

vs

TARA FRADLEY and MAY FRADLEY,

Defendants.

621 N.W. 53rd Street
Boca Raton, Florida
May 19, 2010
1:00 p.m.

DEPOSITION

of

RICK SWOPE

1 APPEARANCES:

2 ON BEHALF OF THE PLAINTIFF:
3 METNICK & LEVY
4 15300 Jog Road Suite 103
5 Delray Beach, Florida 33446
6 BY: MATTHEW LEVY, ESQUIRE

7 ON BEHALF OF THE DEFENDANT:
8 DERREVERE, HAWKES, BLACK & COZAD
9 2005 Vista Parkway Suite 210
10 West Palm Beach, Florida 33411
11 BY: BART COZAD, ESQUIRE

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RICK SWOPE

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1 A. Dealing with attorneys. I'm sure.

2 Q. How about taking potshots at police agencies?

3 A. If it's deserved, sure.

4 Q. Okay.

5 A. Police officers that get on videotape and talk about
6 falsifying statements such as Hollywood did recently, sure.

7 Absolutely I do.

8 Q. Have you ever falsified a statement?

9 A. Never.

10 Q. Okay. Have you ever been found guilty of perjury
11 before?

12 A. Never.

13 Q. What happened in Indian River County some 10, 12 years
14 ago?

15 A. What do you mean Indian River?

16 I'm not familiar with that.

17 Q. Have you ever testified in Indian River County?

18 A. Sure. Absolutely.

19 Q. What happened 10, 12 years ago in Indian River County
20 with you?

21 MR. COZAD: Form.

22 BY MR. LEVY:

23 Q. Were you ever accused of perjury?

24 A. I have no clue. I would assume if I was accused of
25 perjury they would charge me and try me. So I'm sure anybody

1 can accuse anybody of perjury. I could accuse you of perjury,
2 but that doesn't mean that you did anything.

3 Q. Who is Neil Taylor?

4 A. He's an attorney in Miami.

5 Q. Do you know him?

6 A. Sure. Absolutely.

7 Q. Friends with him?

8 A. Yes.

9 Q. Work on cases with him?

10 A. Occasionally. Yes, sir.

11 Q. When's the last time you spoke to him?

12 A. I'm not sure. I don't think you need to know that
13 either.

14 Q. Oh, are you the judge and jury now?

15 A. I think in who I spoke with personally I'm not sure
16 you need to know that information. That's right.

17 Q. Oh, I think we'll find out there is a need to know.

18 Okay. Did you ever have Neil Taylor try to threaten a
19 lawyer for making postings about you?

20 MR. COZAD: Objection. Form. Relevance.

21 THE WITNESS: If somebody was making an improper
22 posting, sure. I mean I shouldn't say sure. I don't know
23 what Neil -- You're asking me to talk about what another
24 lawyer wrote?

25 Is that what you're asking me?

1 BY MR. LEVY:

2 Q. I'm asking you did you hire or ask Neil Taylor to
3 threaten a lawyer for making postings on a private list, sir,
4 about you?

5 MR. COZAD: Objection. Form. Relevance.

6 THE WITNESS: I never asked Mr. Taylor to do anything,
7 to threaten anyone, no.

8 BY MR. LEVY:

9 Q. Okay. Have you ever seen Neil Taylor's emails to me?

10 A. No. Not that I'm aware of. I don't even know who you
11 are. I still don't know your name.

12 Q. Oh, I introduced myself at the beginning of the
13 deposition, sir.

14 A. Probably, but I don't remember what your name is. I
15 have to look. Okay.

16 Q. Neil Taylor writes me, I am an FACDL/NACDL attorney in
17 Miami, Florida attorney. I am responding to your comment in
18 the Broward County Justice Association general discussion list
19 of December 17th, 2008. I regret the delay but obtaining the
20 exhibits took time.

21 I then asked him, who gave you my post from BCJA
22 regarding Swope?

23 Answer, someone that Swope knew gave it to him and he
24 passed it along to me.

25 Mr. Taylor then threatened me and asked me to clear

1 your name on this private list, sir.

2 And you can read the emails if you want. They've been
3 marked.

4 Is this something you do to attorneys who wish to
5 share the truth with other attorneys?

6 MR. COZAD: Objection to the form of the question.
7 Relevance. Hearsay. Predicate.

8 THE WITNESS: So you want me to comment on an email
9 that another attorney sent to you which I haven't seen?

10 BY MR. LEVY:

11 Q. It's right there.

12 A. Well, you might have wrote this yourself.

13 Q. Oh, sure.

14 A. You know.

15 Q. You're real clever.

16 A. The way you're responding and acting you may have
17 wrote it yourself.

18 Q. Why don't you check with Mr. Taylor and check the
19 facts, sir.

20 A. Why don't you check with Mr. Taylor. Apparently you
21 didn't have the facts if he wrote you a letter so.

22 Q. Okay. Sure. Like Mr. Taylor is the bc it all, know
23 it all and so are you.

24 A. I guess then you are. So I guess we could all defer
25 to you.

1 Q. Did you speak to Mr. Taylor and have him send
2 threatening emails to me?

3 MR. COZAD: Objection. Form. Relevance. Hearsay.

4 THE WITNESS: I answered that question.

5 MR. COZAD: It has nothing to do with this case.

6 Improper impeachment.

7 MR. LEVY: General impeachment.

8 THE WITNESS: You can probably read that back since he
9 didn't understand my first response.

10 BY MR. LEVY:

11 Q. You can answer again, sir.

12 A. No, I'm not going to answer it again.

13 Q. We can do this the nice way or the hard way. If this
14 deposition gets terminated we're going to come back and you're
15 going to pay for my time, not the other way.

16 A. I doubt that. So don't threaten me. Okay.

17 Q. You don't threaten me.

18 A. If you want to terminate --

19 Q. It's my deposition.

20 A. -- because you're scared and you're lying about
21 certain information then go ahead. You're not going to scare
22 me one bit. So don't try to threat me with this kind of
23 stuff.

24 Q. You're the one whose lying.

25 A. You're backing up in the chair and you're acting like

1 you're all tough. You're not going to scare me. So I don't
2 think so. If you want to ask me a question, go head. If you
3 want to pontificate in the whole depo it's your time. You're
4 paying me. Go ahead.

5 Q. If you want to be a hack and hold yourself as an
6 expert and lie under oath we can do that too.

7 MR. COZAD: Matt. Rick. Let's take a break. Let's
8 take a break. We're not getting anywhere. Come on.

9 MR. LEVY: This guy is lying through his teeth all he
10 wants.

11 MR. COZAD: It's not a last word.

12 MR. LEVY: Like my client hit the car in front of her.

13 MR. COZAD: I don't want -- Let's take a break.

14 (Thereupon, there was a recess taken.)

15 BY MR. LEVY:

16 Q. Have you ever testified under oath in a court of law
17 that you retired from the Broward County Sheriff's Office?

18 A. No. I believe I said I resigned. Resigned, retired.
19 I usually use the word resign.

20 Q. Okay. Have you ever sued Broward Sheriff's Office?

21 A. No.

22 MR. COZAD: Objection. Form.

23 BY MR. LEVY:

24 Q. Did you sue Broward Sheriff's Office to be reinstated
25 at any time?

1 A. No.

2 Q. Are you familiar with the case Lee versus Oceans
3 Casino Cruises?

4 A. I don't know.

5 Q. Here's a copy of it.

6 Bart, here's a copy of it.

7 Look at page three, sir.

8 A. Where do you want me to look?

9 Q. Third paragraph down.

10 A. Okay.

11 Q. "At trial the defendants introduced the testimony of
12 expert witness, Rick Swope. On direct Swope testified that he
13 worked for Broward and that he had retired. During
14 cross-examination plaintiff's counsel asked Swope if he had
15 been fired from the Broward County Sheriff's Office, to which
16 Swope responded that he had not been fired. He had a perfectly
17 clean record with that office and that he continued to do work
18 for the same office. Defense counsel did not object during
19 cross-examination."

20 Later on it says, "Following Swope's testimony at
21 sidebar the trial court asked plaintiff's counsel whether he
22 had a basis for the question regarding Swope's employment
23 termination. Plaintiff's counsel explained that he had been
24 advised that Swope had not retired from the Sheriff's Office
25 and that he was going to inquire further."

1 It then subsequently states in the second paragraph in
2 the right column, "The jury returned a verdict in plaintiff's
3 favor. Defense counsel moved for a new trial alleging for the
4 first time that the improper impeachment of Swope prejudiced
5 the case and warranted a new trial.

6 At the hearing on a motion plaintiff's counsel
7 explained that he had received the information that the Broward
8 Sheriff's Office had terminated Swope. Swope had sued the
9 office to be reinstated and the office had reinstated him."

10 Is that true?

11 A. No.

12 MR. COZAD: Objection. Form. Hearsay. Predicate
13 Improper impeachment.

14 THE WITNESS: No, it's not true. I mean you can
15 simply pull the records and they'll tell you that. So I
16 don't recall this case at all.

17 BY MR. LEVY:

18 Q. Are these the records that were destroyed that you're
19 talking about?

20 MR. COZAD: Objection. Form.

21 THE WITNESS: No. There was never any termination
22 records. Well, that I'm aware of. Items placed in my
23 file as well as others after we had left the agency.

24 BY MR. LEVY:

25 Q. By who?

1 A. By individuals in IA who had been terminated later.
2 So those were all ordered to be destroyed. I didn't know until
3 probably a year or two later after I left the Sheriff's Office.

4 But you could certainly pull a copy. I'll sign a
5 paper if you'd like to pull a copy of my personnel file.
6 You're more than welcome to have it. Send a copy to Mr. Cozad.
7 I'll sign for you so you don't have to go through hoops. You
8 can go there and pull it.

9 Q. How much money have you been paid to date in this
10 case?

11 A. I don't know. My billing file is on the CD for you,
12 but I would estimate probably \$10,000 or \$11,000, somewhere
13 around there total since April of '09.

14 Q. Is that when you were retained?

15 A. Yes, sir.

16 Q. Is this the CD?

17 A. Yes, sir. That's for you.

18 Q. That's for me?

19 A. Yes, sir.

20 Q. It's one disk?

21 A. Yes, sir.

22 Q. What's contained on the disk other than your
23 billing?

24 A. My entire file. All the depositions, all the notes,
25 photographs. Everything in the entire case with the exception



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