

**BEFORE THE HEARING BOARD
OF THE ILLINOIS ATTORNEY REGISTRATION
AND DISCIPLINARY COMMISSION**

In the Matter of:

FRANK AVILA,)	
Attorney-Respondent.)	Commission No.
Illinois ARDC No. 6273730)	2026PR00022

ANSWER AND RESPONSE TO COUNT II

NOW COMES, THE RESPONDENT-ATTORNEY, FRANK AVILA, by and with and through, **HIMSELF, Pro-Se,** and hereby files this **ANSWER AND RESPONSE TO COUNT II** of the above captioned Complaint. In Support of this Answer and Response, the Attorney states as follows:

1. The Respondent-Attorney **ADMITS** the allegations in Paragraph **22** of the Complaint.
2. The Respondent-Attorney **ADMITS** in part to the allegations in Paragraph **23** of the Complaint, but the allegation needs some clarification. The Respondent-Attorney may have communicated some of the deals to his client, the Defendant R.R. but certainly not all of them. Approximately four (4) Assistant State's Attorneys did approach the Respondent-Attorney but the Respondent-Attorney did not know who they were and which had authority and what the final offer was exactly. The

Respondent-Attorney does NOT remember the specifics of the Offers nor any specific Offer and none were put in writing nor put on the record. The Trial was delayed by four (4) hours. However, The Respondent-Attorney did NOT communicate all the Offers to his client. The Respondent-Attorney does NOT recall the specific offer mentioned in Paragraph 23 so that is DENIED, at least in part, in terms of the specific offer. He has no excuse for this, however, as an explanation and in mitigation, it was a very chaotic morning, and the Respondent-Attorney Frank Avila was sick and in pain (and may have had a fever as the day went on as he felt hot and he was sweating, feeling nauseous and out of it), On or about Saturday, November 30th, 2024, the Respondent-Attorney had debilitating pain in his side and he could barely do anything because of the pain. On or about Monday, December 1st, 2024, he went to Resurrection Hospital Emergency Room and was admitted as an inpatient and left the hospital on or about Friday, December 6th, 2026. After two (2) invasive procedures (and endoscopy and a colonoscopy) as well as a biopsy, it was determined that Frank Avila had H. Pylori (*Helicobacter pylori*) and tears in his stomach lining. He was put on three (3) new medications including two (2) very harsh antibiotics which made him even more nauseas and feeling horrible. H. pylori (*Helicobacter pylori*) is a type of bacteria that infects the stomach and can cause inflammation, ulcers, and is linked to stomach cancer. The reason that The Respondent-Attorney did not continue the

Trial is because it was already continued more than once and did not want to delay his client.

3. The Respondent-Attorney **ADMITS** to the allegations in Paragraph 24 of the Complaint. However, there needs to be some clarification and further details. Attorney Frank Avila objected to the entry of new evidence that was not received prior to Trial (alleged Text Messages) that had no authentication, and insufficient foundation. The Honorable Judge allowed Text Messages into evidence that were not given to the Defendant during Discovery which was another reason for mistrial. The Respondent-Attorney Frank Avila thought that it was insane that the Honorable Judge believed the minor child and characterized her as shy. The Honorable Judge disregarded the evidence that the minor child was having sex at 11 or 12 years old, had child pornography on her phone (naked photos of other children her age and talking to boys/men who were older than her), was getting into brutal fights. The Honorable Judge also disregarding the Case Law that the Respondent-Attorney provided about spanking not being child abuse. It was R.R.'s half-brother and not R.R. who did the spanking although R.R. was in the room and may have suggested it. The reason for the mistrial was that the Honorable Judge did not issue Curry admonishments and did not state the potential penalties nor the offers. However, the Respondent-Attorney Frank Avila is still at fault and his only mitigation is his illness and the chaos of the day.

The Honorable Judge did NOT tell the Defendant the potential penalties of the crime she was charged with (The Respondent-Attorney did tell the Defendant the penalties of the crime she was charged with at the beginning of the case but not before trial on that day) NOR any Curry admonishments and NO mentioning the offer or offers on the table. The Respondent-Attorney does not recall the exact offer nor offer(s) made. No offers were made in writing nor stated in open court.

4. The Respondent-Attorney **ADMITS** the allegations in Paragraph **25** of the Complaint. The Respondent-Attorney re-states his above details and specifics. Also, Attorney Frank Avila admitted his mistake immediately and asked for a Mistrial immediately. The Respondent-Attorney Frank Avila admitted his mistake to the Honorable Judge and admitted his mistake to the Illinois ARDC and was completely honest and forthcoming. The Respondent-Attorney informed the Honorable Judge that he was sick the day of Trial but maybe did not realize it at the time or not want to admit it to himself and tried to push through, and was in the hospital less than 10 days after the Trial and was in debilitating pain 8 days after the Trial. The Respondent-Attorney immediately fixed his mistake and made sure his client had a good and acceptable result.
5. The Respondent-Attorney **ADMITS** the allegations in Paragraph **26** of the Complaint.

6. The Respondent-Attorney cannot **ADMIT** nor **DENY** the allegations in Paragraph **27**, subsections a, b and c, of the Complaint because they are conclusions, the Respondent-Attorney is not the decision maker to decide if a rule was violated. However, the Respondent-Attorney **ADMITS** the allegations in Paragraphs **22, 23, 24, 25, and 26** of the Complaint regarding his client R.R., with the exception of some small factual details mentioned above, and providing context and mitigation.
7. The Respondent-Attorney would like to provide some context and mitigation: All of the “offers” took place in the four (4) hours while waiting for the trial to start. The offers were made by at least four (4) different Assistant State’s Attorney(s) that were not present during the pendency of this case and were not the Assistant State’s Attorney(s) at Trial. There was no communication between the Assistant State’s Attorneys nor were the offers communicated to the Judge or at least the Judge did not acknowledge the offers. The Respondent-Attorney does not know the names of the Assistant State’s Attorneys making the offers nor did he deal with them previously on this case. The morning was chaotic and confusing and the client nor the Attorney knew why there was such a delay. The Respondent-Attorney does recall asking for the Offers in writing. The Respondent-Attorney does not recall the specifics of any of the offers. The Respondent-Attorney was sick on the day of trial and had a pain in his side, felt nauseas, felt hot, may have had a temperature, and was

sweating. The Respondent-Attorney was hospitalized less than 10 days after the Trial and had debilitating excruciating acute pain 8 days after the Trial. The Respondent-Attorney admitted to his client and the Honorable Judge that he was sick but could not admit it to himself for not wanting to delay this case further and to push on. The Respondent-Attorney felt some disorientation from illness and the waiting around. The Respondent-Attorney even tried to get clarification about one of the offers but could not because there was different people. The Respondent-Attorney does NOT recall an offer of Reckless Conduct but that was the final resolution of Supervision on a Reckless Conduct for the client which was an acceptable result. The Respondent-Attorney always had the best interests of the client at the forefront but did make a mistake on that day of the trial. The Trial was continued more than once, and he did not want it continued on his Motion to delay it again for his client. The Guardians (who were not even the full legal guardians) of the minor child clearly lied and lacked credibility. The Judge let evidence in that was not tendered at Trial. The Judge believed the minor child and stated the minor child was “shy”. The minor child was having sex at the ages of 11 and 12 years old and had child pornography (photos of children her own age), getting into brutal fights, sharing nude photos of other children with other children, and talking to older boys/men. The Judge disregarded all the case law (and providing no contrary case law) on spanking and discipline. The

Judge did not take into account that R.R. did not spank the child herself, but her half-brother did, but she was in the room and allegedly did suggest it because of the behavior of the minor child. The Respondent-Attorney, and his client R.R., contend that the Judge should have a complaint and investigation into her and that the Judge's Complaint against the Respondent-Attorney was to distract from her own mistakes and responsibilities.

8. It should be noted that the client R.R. of the Respondent-Attorney did NOT file a Complaint against the Respondent-Attorney Frank Avila. The client R.R. had told the Respondent-Attorney Frank Avila that she does not waive Attorney-Client privilege. It should also be noted that the Respondent-Attorney immediately asked for a Mistrial. The Respondent-Attorney admitted to the Judge that he did not present all the offers to his client R.R. The Respondent-Attorney admitted he was sick and informed the Judge he was in the hospital less than 10 days after the Trial. The Respondent-Attorney admitted to the Illinois ARDC that he did not inform his client, R.R., of all the offers made the morning before Trial. The Respondent-Attorney was completely honest and forthcoming regarding R.R. and Count II. The Respondent-Attorney ADMITS the allegations but offers some facts, corrections to specifics of the allegations that may not be accurate, context and the mitigation of his illness as mitigation and explanation but not as an excuse. There was no intentional violation of

any Illinois ARDC Rules. This all happened in one morning on a very chaotic day when the Respondent-Attorney was sick. However, again, the Respondent-Attorney ADMITS the allegations in Count II and only offers the context and mitigation for context and mitigation, and not as an excuse nor a denial of the allegations.

WHEREFORE, THE RESPONDENT-ATTORNEY, respectfully prays for the relief from this Illinois Attorney Registration and Disciplinary Commission of accepting this ANSWER and RESPONSE, recognizing that that the Respondent-Attorney Frank Avila acknowledges and ADMITS the allegations in Count II (with some minor factual inaccuracies), and that while the Respondent-Attorney ADMITS the allegations in Count II, the Respondent-Attorney respectfully requests that the Context of the situation and the Mitigation of the Respondent-Attorney being sick on the day of the occurrence(s) (and later being in the hospital) are taken into account and considered when making a final decision.

Respectfully,

By: /s/ *Electronic Signature of Frank Avila*
Frank Avila
The Respondent-Attorney

SECTION 1-109 VERIFICATION BY FRANK AVILA

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned Attorney, Frank Avila, certifies that the statements set forth in this instrument (Answer and Response to Count II) are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

Respectfully Verified and Certified,

By: /s/ *Electronic Signature of Frank Avila*

FRANK AVILA

Attorney and Counselor at Law

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