



FILED

Jan. 19, 2022

**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY THE
SUPREME COURT OF TEXAS**

**IN THE MATTER OF
ALFONSO KENNARD, JR.
STATE BAR CARD 24036888**

§
§
§

CAUSE NO. 65861

**RESPONDENT ALFONSO KENNARD'S ORIGINAL ANSWER
AND RESPONSE TO PETITION FOR RECIPROCAL DISCIPLINE**

TO THE BOARD OF DISCIPLINARY APPEALS:

Respondent, Alfonso Kennard, Jr. "Kennard" hereby enters a general denial (with explanation) to any and all, singular and plural, claims of Petitioner, Commission for Lawyer Discipline, now asserted or ever to be asserted against him in this Petition for Reciprocal Litigation. Respondent has shown cause why the Board of Disciplinary Appeals ("BODA") should not take any discipline, reciprocal or otherwise, against Respondent, Alfonso Kennard, Jr.

I. BACKGROUND STATEMENT AND VERIFIED FACTS

Respondent, Alfonso Kennard, Jr. ("Kennard") is a life-long Texas having grown up in El Paso, Texas. Mr. Kennard was raised by his mother, a cafeteria worker, and worked very hard to attend the University of Notre Dame and, subsequently, St. Mary's University College of Law. After graduation and working for defense firms, including but not limited to Epstein Becker, Mr. Kennard opened his own (primarily Plaintiff's) employment and civil rights law firm on April 17, 2011, as a Professional Corporation. Exhibit 1, Respondent's Professional Corporation documents.

Alfonso, Kennard is and has been the sole shareholder in Kennard Law, P.C. since its inception. Exhibit 1.

Respondent, Alfonso Kennard earned his Board Certification in Employment Law by the Texas Board of Legal Specialization in 2010.

Kennard retained a cloud service/case management systems provider in Texas for everyday business use for his law firm, Kennard Law, P.C. Unfortunately, the provider failed to provide reliable service to Kennard Law. The company, Uptime, was based in Minnesota and provided services all over the country, including Texas.

On occasion, the cloud servers would be down for days at a time. As such, Kennard Law could not consistently operate. Uptime had also threatened to delete Kennard Law's stored data.

Kennard Law sued Uptime. The state district court upheld the Minnesota choice of law provision. Uptime then turned around and sued Kennard Law, P.C. in Minnesota. Neither Kennard nor Kennard Law (which is Kennard) did not have the financial resources to spend \$50,000 to \$100,000 or more to defend the underlying matter in Minnesota.

Kennard did appear *pro se*¹ on behalf of his Professional Corporation in state court and then Federal Court in Minnesota.

Attorneys for Uptime reported Mr. Kennard's appearing *pro se* to the State Bar of Minnesota as a violation. Kennard did respond to the Minnesota Bar. The Minnesota Bar took the alleged disciplinary issue to the State Bar of Minnesota.

Kennard did not receive timely notice of the Minnesota Supreme Court proceedings.

Shortly after the Covid-19 pandemic began in March 2020, Kennard Law maintained no physical office space and the Minnesota Supreme Court failed to send electronic notices to Alfonso Kennard, Jr. Kennard raised those issues and was denied relief.

Contrary to allegations, Kennard **did** file a motion for and obtain *pro hac vice* status in Uptime's Minnesota case against him. Exhibit 2, Docket Sheet as it relates to Kennard's *pro hac vice* Motion.

¹ It is important to note that Kennard never tried or intended to solicit or represent any cases in Minnesota other than defending his corporation as the sole shareholder in that state.

Kennard did file his *pro hac vice* Application on July 17, 2020. The Court granted that Pro Hac Vice Application for Kennard on July 28, 2020. Less than a month later and on August 27, 2020, Uptime's counsel moved to revoke Kennard's *pro hac vice* status. Briefing ensued for months. The Court ultimately granted Uptime's motion and revoked Kennard's *pro hac vice* status (as well as sanctioned him).

Subsequently, the Minnesota Appellate Court's dated the disciplinary Order against Mr. Kennard on March 9, 2021.

The Court wholly failed to issue the Order electronically to Mr. Kennard. The Court sent Respondent a notice of the Order via Certified Mail (#7018 1830 0002 1141 9729). The certified letter sent by the Office of the Clerk to Mr. Kennard was postmarked March 12, 2021, **three (3) days after the Order was issued.**

The Order, mailed on March 12, 2021, would presumptively been received at a minimum, three (3) days after that which would be March 15, 2021. Respondent did not receive the certified letter from the Office of the Clerk until March 18, 2021.²

Respondent's Kennard's subsequent Motion/Petition was timely postmarked by FedEx on March 26, 2021.

Despite Respondent's timeliness, the Minnesota Disciplinary Body refused to accept Respondent Kennard's Motion for Reconsideration and Rehearing.³

² Mr. Kennard verifies these facts in the attached Sworn Verification.

³ Rule 140.1 presumes that Notice has actually been afforded to the Respondent via the electronic system and that Respondent is made aware that an Order was issued. That was not the case here. Respondent received the letter on March 18, 2021. This makes sense because the certified letter was sent on a Friday from Minnesota and received by Respondent on a Thursday (and since the letter was likely not sent by the post office until after the weekend). Kennard also enclosed a check for \$100.00 since he has been unable to locate an electronic method to process a fee. He also provided his email to: alfonso.kennard@kennardlaw.com and since the Minnesota electronic filing system will (and still does not) allow Kennard alerts or filing privileges

Neither the courts in Minnesota nor the Minnesota Bar ever considered the fact (nor was it argued) that Mr. Kennard is and always has been the sole shareholder of his corporation.

II. GENERAL DENIAL

Respondent, Alfonso Kennard, Jr. hereby enters a general denial (with explanation) to any and all, singular and plural, claims of Petitioner, Commission for Lawyer Discipline, now asserted or ever to be asserted against him in this Petition for Reciprocal Litigation. Respondent has shown cause why the Board of Disciplinary Appeals (“BODA”) should not take any discipline, reciprocal or otherwise, against Respondent, Alfonso Kennard, Jr.

III. SPECIFIC DENIAL AND RESPONSES TO PETITIONER’S PETITION

A. Respondent, Alfonso Kennard, Jr., alleges that he did not violate the Unauthorized Practice of Law, as codified, in Minnesota. Alfonso Kennard, Jr., is and has been the sole shareholder of Kennard Law since its inception in 2011. Minnesota Statute 481.02 **Unauthorized Practice of Law** Subsection 3 **Permitted actions** (the provisions of this section shall not prohibit): (15) the sole shareholder of a corporation from appearing on behalf of the corporation in court.

B. Alfonso Kennard Jr., as the sole shareholder of his corporation had the absolute right to represent his corporation (Kennard Law) in Court in Minnesota when it was sued by Uptime. Exhibit 3 Minnesota Statute 481.02. Unauthorized Practice of Law.

C. Kennard did not violate any statute or disciplinary rule of the state of Minnesota. While opposing counsel, the courts and the disciplinary process was concerned that Kennard was not licensed in Minnesota all wholly failed to question, ascertain or even consider that Kennard was the sole shareholder of his corporation and therefore within his right to defend his sole shareholder corporation.

D. Respondent, Alfonso Kennard, Jr., Kennard alleges that the procedure followed in Minnesota on the disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process as Kennard timely requested a rehearing as set out, above.

E. Respondent Alfonso Kennard, while legitimately representing his sole shareholder corporation, did apply and was granted *pro hac vice* status.⁴

F. Respondent, Alfonso Kennard, did cooperate with the Minnesota State Bar. Kennard did speak to the representative of the Minnesota several times (as well as emailed) and explained that he was the 100 percent shareholder.

IV. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Respondent, Alfonso Kennard prays this Board finds that any and all discipline against him as noticed pursuant to 9.02 Texas Rules of Disciplinary Procedure is found unwarranted.

Respectfully Submitted,



/s/ Ellen Sprovach
Ellen Sprovach
Texas State Bar ID 24000672
ellen.sprovach@kennardlaw.com
5120 Woodway Dr., Suite 10010
Houston, Texas 77056
(713) 742-0900 (main)
(832) 558-9412 (facsimile)

**ATTORNEY IN CHARGE
FOR RESPONDENT**

⁴ Importantly, there is much mention of Order that corporations must be represented by attorneys. There are exceptions to having an attorney and the Court failed to specify same. Alfonso Kennard, Jr., as the sole shareholder of the corporation can represent it in court. He could also represent the corporation

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument has been forwarded via e-mail on this 18th day of January 2022.

Jackie Truitt
Executive Assistant
Board Of Disciplinary Appeals
Po Box 12426
Austin, Tx 78711

Via E-mail: filing@txboda.org

Amanda Kates
Assistant Disciplinary Counsel
State Bar of Texas

Via E-mail: Amanda.kates@texasbar.com

/s/ Ellen Sprovach
Ellen Sprovach

BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY THE
SUPREME COURT OF TEXAS

IN THE MATTER OF
ALFONSO KENNARD, JR.
STATE BAR CARD 24036888

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CAUSE NO. 65861

VERIFICATION OF ALFONSO KENNARD, JR.

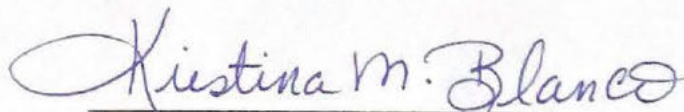
1. "My name is Alfonso Kennard, Jr.; I am over the age of eighteen (18) and I am fully competent to make this declaration. All of the facts stated herein are true and correct and are based upon my personal knowledge. The documents attached are true and correct copies.
2. I am the Sole Shareholder for Kennard P.C. My law firm just recently had its 10th year anniversary. Prior to running this firm, I worked for several years for large defense firms after graduating from St. Mary's School of Law and the University of Notre Dame. I have been licensed as an attorney in Texas since 2002.
3. The facts contained in Respondent Alfonso Kennard's Original Answer to Petition For Reciprocal Discipline are true and correct.

I declare under penalty of perjury under the laws of the state of Texas that the facts I have provided on this form and any attachments are true.



ALFONSO, KENNARD, JR.

Subscribed and sworn to before me on this 18th day of January, 2022.



Notary Public in and for the State of Texas



My commission expires 10.6.2023

EXHIBIT 1

Form 203

Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
FAX: 512/463-5709

Filing Fee: \$300

**Certificate of Formation
Professional Corporation**

Filed in the Office of the
Secretary of State of Texas
Filing #: 801412940 04/17/2011
Document #: 364260720002
Image Generated Electronically
for Web Filing

Article 1 - Entity Name and Type

The filing entity being formed is a professional corporation. The name of the entity is:

Kennard Law P.C.

The name must contain one of the words of organization required for business corporations or an abbreviation thereof, or the phrase "Professional Corporation" or the initials "P.C." The name must not be the same as, deceptively similar to or similar to that of an existing corporate, limited liability company, or limited partnership name on file with the secretary of state. A preliminary check for the "name availability" is recommended.

Article 2 - Registered Agent and Registered Office

☐ A. The initial registered agent is an organization (cannot be corporation named above) by the name of:

OR

☒ B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:

Alfonso Kennard Jr

C. The business address of the registered agent and the registered office address is:

Street Address:

3746 Rocky Ledge Lane Katy TX 77494

Consent of Registered Agent

☐ A. A copy of the consent of registered agent is attached.

OR

☒ B. The consent of the registered agent is maintained by the entity.

Article 3 - Directors

The number of directors constituting the initial board of directors and the names and addresses of the person or persons who are to serve as directors until the first annual meeting of shareholders or until their successors are elected and qualified are set forth below:

Director 1: **Alfonso Kennard Jr**

Address: **3746 Rocky Ledge Lane Katy TX, USA 77494**

Article 4 - Authorized Shares

The total number of shares the corporation is authorized to issue and the par value of each of such shares, or a statement that such shares is without par value, is set forth below.

Number of Shares	Par Value (must choose and complete either A or B)	Class	Series
10000	<input type="checkbox"/> A. has a par value of \$ <input checked="" type="checkbox"/> B. without par value.		

If the shares are to be divided into classes, you must set forth the designation of each class, the number of shares of each class, and the par value (or statement of no par value), of each class. If shares of a class are to be issued in series, you must provide the designation of each series. The preferences, limitations, and relative rights of each class or series must be stated in the space provided for supplemental information.

Article 5 - Purpose

The purpose for which the corporation is organized is for the rendition of the professional service set forth below (only one specific type of professional service is permitted) and services ancillary to the rendition thereto.

Legal/Attorney services and consultation

Supplemental Provisions / Information

[The attached addendum, if any, is incorporated herein by reference.]

Effectiveness of Filing

☒ A. This document becomes effective when the document is filed by the secretary of state.

OR

☐ B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

Organizer

The name and address of the organizer is set forth below.

Alfonso Kennard Jr. **3746 Rocky Ledge Lane, Katy, TX 77494**

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Alfonso Kennard Jr.

Signature of organizer.

FILING OFFICE COPY

EXHIBIT 2

07/17/2020	5	MOTION for Admission Pro Hac Vice for Attorney Alfonso Kennard, Jr.. Filing fee \$ 100, receipt number AMNDC-7891987 filed by Kennard Law, P.C.. (Minenko, Michael) (Entered: 07/17/2020)
07/28/2020	6	TEXT ONLY ENTRY: ORDER granting 5 Motion for Admission Pro Hac Vice of Attorney Alfonso Kennard for Kennard Law, P.C. Approved by Magistrate Judge Elizabeth Cowan Wright on 7/28/2020. (NAH) (Entered: 07/28/2020)
08/05/2020	7	ORDER/NOTICE: Rule 26 Meeting Report due by 8/17/2020. TELEPHONIC Pretrial Conference set for 8/24/2020 at 11:00 AM before Magistrate Judge Elizabeth Cowan Wright. Signed by Magistrate Judge Elizabeth Cowan Wright on 8/5/2020. (Attachments: # 1 Consent Form)(TMA) (Entered: 08/05/2020)
08/14/2020	8	NOTICE of Appearance by Steven M. Cerny on behalf of Uptime Systems, LLC. (Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	9	RULE 7.1 DISCLOSURE STATEMENT. There is no parent corporation, publicly held corporation or wholly-owned subsidiary to report for Plaintiff Uptime Systems, LLC. (Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	10	MOTION to Remand to State Court , MOTION for Attorney Fees filed by Uptime Systems, LLC. (Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	11	NOTICE OF HEARING ON MOTION 10 MOTION to Remand to State Court MOTION for Attorney Fees : Date and time to be determined. (Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	12	MEMORANDUM in Support re 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Uptime Systems, LLC. (Attachments: # 1 Certificate of Service, # 2 LR7.1/LR72.2 Word Count Compliance Certificate)(Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	13	AFFIDAVIT of Steven M. Cerny in SUPPORT OF 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Uptime Systems, LLC. (Attachments: # 1 Exhibit(s) Exhibit 1, # 2 Exhibit(s) Exhibit 2, # 3 Exhibit(s) Exhibit 3, # 4 Exhibit(s) Exhibit 4, # 5 Exhibit(s) Exhibit 5, # 6 Exhibit(s) Exhibit 6, # 7 Exhibit(s) Exhibit 7, # 8 Exhibit(s) Exhibit 8, # 9 Exhibit(s) Exhibit 9, # 10 Exhibit(s) Exhibit 10, # 11 Exhibit(s) Exhibit 11, # 12 Exhibit(s) Exhibit 12, # 13 Exhibit(s) Exhibit 13, # 14 Exhibit(s) Exhibit 14, # 15 Exhibit(s) Exhibit 15)(Cerny, Steven) (Entered: 08/14/2020)

08/14/2020	<u>14</u>	PROPOSED ORDER TO JUDGE re <u>10</u> MOTION to Remand to State Court MOTION for Attorney Fees filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	<u>15</u>	MEET and CONFER STATEMENT re <u>10</u> Motion to Remand to State Court, Motion for Attorney Fees filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 08/14/2020)
08/17/2020	16	(Text-Only) NOTICE TO ATTORNEY regarding Dispositive Motions briefing schedule: All dispositive motions must comply with Local Rule 7.1(c). Responses to dispositive motions shall be filed with the Court on or before 21 days after the service of the supporting memorandum to the original motion. Replies to responsive briefs shall be filed 14 days after the service of the response to the dispositive motion. <u>Upon the motion being fully briefed and filed, counsel for the moving party shall email Chief Judge Tunheims chambers at Tunheim_Chambers@mnd.uscourts.gov to request a hearing date.</u> Upon receiving from Chief Judge Tunheims Courtroom Deputy a hearing date, time and location, the moving party shall file the amended notice of hearing at that time. (HAZ) (Entered: 08/17/2020)
08/17/2020	<u>17</u>	REPORT of Rule 26(f) Planning Meeting. Filed by Uptime Systems, LLC. Jointly Signed by Kennard Law, P.C..(Cerny, Steven) (Entered: 08/17/2020)
08/18/2020	<u>18</u>	ORDER: The Pretrial conference scheduled for 8/24/20 is CANCELLED. See ORDER for details. Signed by Magistrate Judge Elizabeth Cowan Wright on 8/18/2020.(TMA) (Entered: 08/18/2020)
08/27/2020	<u>19</u>	MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC. (Cerny, Steven) (Entered: 08/27/2020)
08/27/2020	<u>20</u>	NOTICE OF HEARING ON MOTION <u>19</u> MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. : Motion Hearing set for 10/2/2020 at 01:00 PM in Video Conference (no courtroom) before Magistrate Judge Elizabeth Cowan Wright. (Cerny, Steven) (Entered: 08/27/2020)
08/28/2020	<u>21</u>	MEMORANDUM in Support re <u>19</u> MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC. (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> LR7.1/LR72.2 Word Count Compliance Certificate)(Cerny, Steven) (Entered: 08/28/2020)

08/29/2020	22	Declaration of Steven M. Cerny in Support of 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC. (Attachments: # 1 Exhibit 1)(Cerny, Steven) (Entered: 08/29/2020)
08/29/2020	23	PROPOSED ORDER TO JUDGE re 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 08/29/2020)
08/29/2020	24	MEET and CONFER STATEMENT re 19 Motion for Miscellaneous Relief filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 08/29/2020)
08/29/2020	25	CERTIFICATE OF SERVICE by Uptime Systems, LLC re 21 Memorandum in Support of Motion, (Cerny, Steven) (Entered: 08/29/2020)
08/31/2020	26	MOTION to Alter/Amend/Supplement Pleadings filed by Kennard Law, P.C.. (Attachments: # 1 Exhibit(s), # 2 Exhibit(s))(Kennard, Alfonso) (Entered: 08/31/2020)
08/31/2020	27	PROPOSED ORDER TO JUDGE re Defendant's Motion to Amend Answer 26 Motion to Alter/Amend/Supplement Pleadings. (Kennard, Alfonso) (Entered: 08/31/2020)
08/31/2020	28	MEET and CONFER STATEMENT re 26 Motion to Alter/Amend/Supplement Pleadings filed by Kennard Law, P.C..(Kennard, Alfonso) (Entered: 08/31/2020)
09/04/2020	29	(Text-Only) ORDER/NOTICE: Motion Hearing on Plaintiff's Motion to Amend is set for 10/15/2020 at 10:00 AM before Magistrate Judge Elizabeth Cowan Wright via videoconference. Ordered by Magistrate Judge Elizabeth Cowan Wright on 9/4/2020.(TMA) (Entered: 09/04/2020)
09/04/2020	30	RESPONSE in Opposition re 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Kennard Law, P.C.. (Attachments: # 1 Exhibit(s), # 2 LR7.1/LR72.2 Word Count Compliance Certificate)(Kennard, Alfonso) (Entered: 09/04/2020)
09/04/2020	31	PROPOSED ORDER TO JUDGE re 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Kennard Law, P.C..(Kennard, Alfonso) (Entered: 09/04/2020)
09/08/2020	33	(Text-Only) ORDER/NOTICE: Motion Hearing on Defendant's Motion to Amend is reset for 10/26/2020 at 01:00 PM before Magistrate Judge Elizabeth Cowan

		Wright. Ordered by Magistrate Judge Elizabeth Cowan Wright on 9/8/2020.(TMA) (Entered: 09/08/2020)
09/18/2020	34	RESPONSE in Opposition re 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. , 5 MOTION for Admission Pro Hac Vice for Attorney Alfonso Kennard, Jr.. Filing fee \$ 100, receipt number AMNDC-7891987, 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Kennard Law, P.C.. (Attachments: # 1 LR7.1/LR72.2 Word Count Compliance Certificate Certificate of Compliance, # 2 Exhibit(s) Ex. 1)(Kennard, Alfonso) (Entered: 09/18/2020)
09/18/2020	35	PROPOSED ORDER TO JUDGE re 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. , 5 MOTION for Admission Pro Hac Vice for Attorney Alfonso Kennard, Jr.. Filing fee \$ 100, receipt number AMNDC-7891987 filed by Kennard Law, P.C..(Kennard, Alfonso) (Entered: 09/18/2020)
09/18/2020	36	Reply to Response to Motion re 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Uptime Systems, LLC. (Attachments: # 1 LR7.1/LR72.2 Word Count Compliance Certificate, # 2 Certificate of Service)(Cerny, Steven) (Entered: 09/18/2020)
09/18/2020	37	Second Declaration of Steven M. Cerny in Support of 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 09/18/2020)
09/22/2020	38	LETTER TO MAGISTRATE JUDGE by Uptime Systems, LLC <i>Requesting Permission to File Reply Memorandum in Support of Motion to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr.</i> . (Cerny, Steven) (Entered: 09/22/2020)
09/22/2020	39	(Text-Only) ORDER/NOTICE TO ATTORNEY. This case is before the Court on the Motion to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Plaintiff (Dkt. 19). IT IS ORDERED that local counsel for Defendant Kennard Law, P.C., Michael Minenko, appear at the Zoom hearing on the Motion to Revoke. Ordered by Magistrate Judge Elizabeth Cowan Wright on 9/22/2020.(TMA) (Entered: 09/22/2020)
09/22/2020	40	(Text-Only) ORDER/NOTICE: Motion Hearing on Motion to revoke pro hoc vice status (Dkt. 19) is reset for 10/7/2020 at 09:30 AM before Magistrate Judge Elizabeth Cowan Wright.(TMA) (Entered: 09/22/2020)
09/22/2020	41	(Text-Only) ORDER in Response to 38 Letter to Magistrate Judge.This case is before the Court on Defendants request to file a reply brief of no more than 2,000 words in support of its Motion to Revoke (Dkt. 38). The request is GRANTED. Defendant may file a reply of no more than 2,000 words on or before

		September 28, 2020. Ordered by Magistrate Judge Elizabeth Cowan Wright on 9/22/2020.(TMA) (Entered: 09/22/2020)
09/28/2020	42	Reply to Response to Motion re 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC. (Attachments: # 1 Certificate of Service, # 2 LR7.1/LR72.2 Word Count Compliance Certificate)(Cerny, Steven) (Entered: 09/28/2020)
10/05/2020	43	LETTER TO MAGISTRATE JUDGE by Uptime Systems, LLC . (Attachments: # 1 Petition For Disciplinary Action)(Cerny, Steven) (Entered: 10/05/2020)
10/06/2020	44	First MOTION for Leave to File Reply/Surreply filed by Kennard Law, P.C.. (Attachments: # 1 LR7.1/LR72.2 Word Count Compliance Certificate Certificate of Compliance, # 2 Exhibit(s) Ex. 1, # 3 Exhibit(s) Ex. 2, # 4 Exhibit(s) Ex. 3)(Kennard, Alfonso) (Entered: 10/06/2020)
10/07/2020	45	Minute Entry for proceedings held before Magistrate Judge Elizabeth Cowan Wright: granting 44 Motion for Leave to File Reply/Surreply; Motion Hearing held on 10/7/2020 re 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC, 44 First MOTION for Leave to File Reply/Surreply filed by Kennard Law, P.C.. (Court Reporter Renee Rogge) (EMCS) (Entered: 10/07/2020)
10/07/2020	46	ORDER. If Mr. Kennard wishes to make an oral argument on the Motion to Revoke, Mr. Kennard is ordered to file a letter showing good cause why he should be permitted to do so, in view of his failure to appear at the October 7 hearing, no later than 9:00 a.m. on October 8, 2020. Signed by Magistrate Judge Elizabeth Cowan Wright on 10/7/2020.(EMCS) (Entered: 10/07/2020)
10/08/2020	47	LETTER TO MAGISTRATE JUDGE by Kennard Law, P.C. . (Kennard, Alfonso) (Entered: 10/08/2020)
10/12/2020	48	MEMORANDUM in Support re 26 MOTION to Alter/Amend/Supplement Pleadings filed by Kennard Law, P.C.. (Attachments: # 1 Certificate of Compliance)(Kennard, Alfonso) (Entered: 10/12/2020)
10/13/2020	49	TRANSCRIPT of Motions Hearing held on 10/7/2020 before Magistrate Judge Elizabeth Cowan Wright. (19 pages). Court Reporter: Renee Rogge. For a copy of the transcript, please file a Transcript Request under <i>Other Filings/Other Documents</i> . Transcript temporarily sealed to determine if redactions are required. Parties have 7 days to file a Notice of Intent to Request Redaction or Notice that No

		<p><i>Redaction is Required.</i> In accordance with Judicial Conference policy and Local Rule 80.1, the transcript may be released and made remotely electronically available to the public in 90 days. For further information on redaction procedures, please review Local Rule 5.5 and Case Information >Transcripts, Court Reporters and Digital Audio Recordings.</p> <p>Notice Intent/No Intent to Request Redactions due 10/20/2020. Redaction Request due 11/3/2020. Redacted Transcript Deadline set for 11/13/2020. Release of Transcript Restriction set for 1/11/2021.</p> <p>(RAR) (Entered: 10/13/2020)</p>
10/14/2020	50	ORDER/NOTICE TO ATTORNEY regarding 26 MOTION to Alter/Amend/Supplement Pleadings filed by Kennard Law, P.C. Signed by Magistrate Judge Elizabeth Cowan Wright on 10/14/2020.(EMCS) (Entered: 10/14/2020)
10/30/2020	51	AMENDED NOTICE of Hearing on Motion: 10 MOTION to Remand to State Court MOTION for Attorney Fees : Motion Hearing set for 12/1/2020 at 10:30 AM in Video Conference (no courtroom) before Chief Judge John R. Tunheim. (Cerny, Steven) (Entered: 10/30/2020)
11/20/2020	52	MOTION for Sanctions filed by Uptime Systems, LLC. (Attachments: # 1 Certificate of Service)(Cerny, Steven) (Entered: 11/20/2020)
11/20/2020	53	NOTICE OF HEARING ON MOTION 52 MOTION for Sanctions : Motion Hearing set for 12/14/2020 at 01:00 PM in Video Conference (no courtroom) before Magistrate Judge Elizabeth Cowan Wright. (Cerny, Steven) (Entered: 11/20/2020)
11/20/2020	54	MEMORANDUM in Support re 52 MOTION for Sanctions filed by Uptime Systems, LLC. (Attachments: # 1 Certificate of Service, # 2 LR7.1/LR72.2 Word Count Compliance Certificate)(Cerny, Steven) (Entered: 11/20/2020)
11/20/2020	55	Declaration of Steven M Cerny in Support of 52 MOTION for Sanctions filed by Uptime Systems, LLC. (Attachments: # 1 Exhibit(s) Exhibit 1, # 2 Exhibit(s) Exhibit 2, # 3 Exhibit(s) Exhibit 3, # 4 Exhibit(s) Exhibit 4, # 5 Exhibit(s) Exhibit 5, # 6 Exhibit(s) Exhibit 6, # 7 Exhibit(s) Exhibit 7, # 8 Exhibit(s) Exhibit 8, # 9 Exhibit(s) Exhibit 9, # 10 Exhibit(s) Exhibit 10, # 11 Exhibit(s) Exhibit 11, # 12 Exhibit(s) Exhibit 12)(Cerny, Steven) (Entered: 11/20/2020)

11/20/2020	56	MEET and CONFER STATEMENT re 52 Motion for Sanctions filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 11/20/2020)
11/20/2020	57	PROPOSED ORDER TO JUDGE re 52 MOTION for Sanctions filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 11/20/2020)
11/23/2020	58	MEMORANDUM in Opposition re 52 MOTION for Sanctions filed by Kennard Law, P.C.. (Attachments: # 1 LR7.1/LR72.2 Word Count Compliance Certificate)(Minenko, Michael) (Entered: 11/23/2020)
11/23/2020	59	DECLARATION of Michael J. Minenko in Opposition to 52 MOTION for Sanctions filed by Kennard Law, P.C..(Minenko, Michael) (Entered: 11/23/2020)
11/25/2020	60	ORDER granting 19 Motion. Plaintiffs Motion to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. (Dkt. 19) is GRANTED and Alfonso Kennard, Jr.s pro hac vice admission to the District of Minnesota is REVOKED. Signed by Magistrate Judge Elizabeth Cowan Wright on 11/25/2020. (TMA) (Entered: 11/25/2020)

EXHIBIT 3

481.02 UNAUTHORIZED PRACTICE OF LAW.

Subdivision 1. **Prohibitions.** It shall be unlawful for any person or association of persons, except members of the bar of Minnesota admitted and licensed to practice as attorneys at law, to appear as attorney or counselor at law in any action or proceeding in any court in this state to maintain, conduct, or defend the same, except personally as a party thereto in other than a representative capacity, or, by word, sign, letter, or advertisement, to hold out as competent or qualified to give legal advice or counsel, or to prepare legal documents, or as being engaged in advising or counseling in law or acting as attorney or counselor at law, or in furnishing to others the services of a lawyer or lawyers, or, for a fee or any consideration, to give legal advice or counsel, perform for or furnish to another legal services, or, for or without a fee or any consideration, to prepare, directly or through another, for another person, firm, or corporation, any will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or, for a fee or any consideration, to prepare for another person, firm, or corporation, any other legal document, except as provided in subdivision 3.

Subd. 2. **Corporations.** No corporation, organized for pecuniary profit, except an attorney's professional firm organized under chapter 319B, by or through its officers or employees or any one else, shall maintain, conduct, or defend, except in its own behalf when a party litigant, any action or proceeding in any court in this state, or shall, by or through its officers or employees or any one else, give or assume to give legal advice or counsel or perform for or furnish to another person or corporation legal services; or shall, by word, sign, letter, or advertisement, solicit the public or any person to permit it to prepare, or cause to be prepared, any will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or hold itself out as desiring or willing to prepare any such document, or to give legal advice or legal services relating thereto or to give general legal advice or counsel, or to act as attorney at law or as supplying, or being in a position to supply, the services of a lawyer or lawyers; or shall to any extent engage in, or hold itself out as being engaged in, the business of supplying services of a lawyer or lawyers; or shall cause to be prepared any person's will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or any other legal document, for another person, firm, or corporation, and receive, directly or indirectly, all or a part of the charges for such preparation or any benefits therefrom; or shall itself prepare, directly or through another, any such document for another person, firm, or corporation, except as provided in subdivision 3.

Subd. 3. **Permitted actions.** The provisions of this section shall not prohibit:

(1) any person from drawing, without charge, any document to which the person, an employer of the person, a firm of which the person is a member, or a corporation whose officer or employee the person is, is a party, except another's will or testamentary disposition or instrument of trust serving purposes similar to those of a will;

(2) a person from drawing a will for another in an emergency if the imminence of death leaves insufficient time to have it drawn and its execution supervised by a licensed attorney-at-law;

(3) any insurance company from causing to be defended, or from offering to cause to be defended through lawyers of its selection, the insureds in policies issued or to be issued by it, in accordance with the terms of the policies;

(4) a licensed attorney-at-law from acting for several common-carrier corporations or any of its subsidiaries pursuant to arrangement between the corporations;

(5) any bona fide labor organization from giving legal advice to its members in matters arising out of their employment;

(6) any person from conferring or cooperating with a licensed attorney-at-law of another in preparing any legal document, if the attorney is not, directly or indirectly, in the employ of the person or of any person, firm, or corporation represented by the person;

(7) any licensed attorney-at-law of Minnesota, who is an officer or employee of a corporation, from drawing, for or without compensation, any document to which the corporation is a party or in which it is interested personally or in a representative capacity, except wills or testamentary dispositions or instruments of trust serving purposes similar to those of a will, but any charge made for the legal work connected with preparing and drawing the document shall not exceed the amount paid to and received and retained by the attorney, and the attorney shall not, directly or indirectly, rebate the fee to or divide the fee with the corporation;

(8) any person or corporation from drawing, for or without a fee, farm or house leases, notes, mortgages, chattel mortgages, bills of sale, deeds, assignments, satisfactions, or any other conveyances except testamentary dispositions and instruments of trust;

(9) a licensed attorney-at-law of Minnesota from rendering to a corporation legal services to itself at the expense of one or more of its bona fide principal stockholders by whom the attorney is employed and by whom no compensation is, directly or indirectly, received for the services;

(10) any person or corporation engaged in the business of making collections from engaging or turning over to an attorney-at-law for the purpose of instituting and conducting suit or making proof of claim of a creditor in any case in which the attorney-at-law receives the entire compensation for the work;

(11) any regularly established farm journal or newspaper, devoted to general news, from publishing a department of legal questions and answers to them, made by a licensed attorney-at-law, if no answer is accompanied or at any time preceded or followed by any charge for it, any disclosure of any name of the maker of any answer, any recommendation of or reference to any one to furnish legal advice or services, or by any legal advice or service for the periodical or any one connected with it or suggested by it, directly or indirectly;

(12) any authorized management agent of an owner of rental property used for residential purposes, whether the management agent is a natural person, corporation, partnership, limited partnership, or any other business entity, from commencing, maintaining, conducting, or defending in its own behalf any action in any court in this state to recover or retain possession of the property, except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal;

(13) any person from commencing, maintaining, conducting, or defending on behalf of the plaintiff or defendant any action in any court of this state pursuant to the provisions of section 504B.375 or sections 504B.185 and 504B.381 to 504B.471 or from commencing, maintaining, conducting, or defending on behalf of the plaintiff or defendant any action in any court of this state for the recovery of rental property used for residential purposes pursuant to the provisions of section 504B.285, subdivision 1, or 504B.301, except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal, and provided that, except for a nonprofit corporation, a person who is not a licensed attorney-at-law shall not charge or collect a separate fee for services rendered pursuant to this clause;

(14) the delivery of legal services by a specialized legal assistant in accordance with a specialty license issued by the supreme court before July 1, 1995;

(15) the sole shareholder of a corporation from appearing on behalf of the corporation in court; or

(16) an officer, manager, partner, or employee or an agent of a condominium, cooperative, or townhouse association from appearing on behalf of a corporation, limited liability company, partnership, sole proprietorship, or association in conciliation court or in a district court action removed from conciliation court, in accordance with section 491A.02, subdivision 4.

Subd. 3a. **Real estate closing services.** Nothing in this section shall be construed to prevent a real estate broker, a real estate salesperson, or a real estate closing agent, as defined in section 82.55, from drawing or assisting in drawing papers incident to the sale, trade, lease, or loan of property, or from charging for drawing or assisting in drawing them, except as hereafter provided by the supreme court.

Subd. 4. **Mortgage foreclosure fees.** It shall be unlawful to exact, charge or receive any attorney's fee for the foreclosure of any mortgage, unless the foreclosure is conducted by a licensed attorney at law of Minnesota and unless the full amount charged as attorney's fee is actually paid to and received and retained by such attorney, without being, directly or indirectly, shared with or rebated to any one else; and it shall be unlawful for any such attorney to make any showing of receiving such a fee unless the attorney has received the same or to share with or rebate to any other person, firm, or corporation such fee, or any part thereof, received by the attorney; but such attorney may divide such fee with another licensed attorney at law maintaining the other's place of business and not an officer or employee of the foreclosing party, if such attorney has assisted in performing the services for which the fee is paid, or resides in a place other than that where the foreclosure proceedings are conducted and has forwarded the case to the attorney conducting such foreclosure.

Subd. 5. **Corporate fiduciary agents.** It shall be unlawful for any corporation, appearing as executor, administrator, guardian, trustee, or other representative, to do the legal work in any action, probate proceeding or other proceeding in any court in this state, except through a licensed attorney at law of Minnesota maintaining the attorney's own place of business and not an officer or employee of such executor, administrator, guardian, trustee, or representative. No attorney's fee shall be charged or paid or received in any such case, unless actually paid to and received and retained by such an attorney at law maintaining the attorney's own place of business and not an officer or employee of such executor, administrator, guardian, trustee, or representative; and it shall be unlawful for such attorney to represent in any manner receiving any sum as a fee or compensation unless the same has been actually received or, directly or indirectly, to divide with or rebate to any person, firm, or corporation any part of any such fee or consideration received by the attorney in any such case; but such attorney may divide such fee with another licensed attorney at law maintaining the other's own place of business and not an officer or employee of such executor, administrator, guardian, trustee, or other representative, if such attorney has assisted in performing the services for which the fees are paid, or resides in a place other than that where the action or proceedings are conducted and has forwarded the case to the attorney conducting the action or proceedings.

Subd. 6. **Attorneys of other states.** Any attorney or counselor at law residing in any other state or territory in which the attorney has been admitted to practice law, who attends any term of the supreme court, court of appeals, or district court of this state for the purpose of trying or participating in the trial or proceedings of any action or proceedings there pending, may, in the discretion of the court before which the attorney appears in the action or proceeding, be permitted to try, or participate in the trial or proceedings in, the action or proceeding, without being subject to the provisions of this section, other than those set forth in subdivision 2, providing the state in which the attorney is licensed to practice law likewise grants permission to members of the state bar of Minnesota to act as an attorney for a client in that state under the same terms.

Subd. 7. **Lay assistance to attorneys.** Nothing herein contained shall be construed to prevent a corporation from furnishing to any person lawfully engaged in the practice of law, such information or such clerical service in and about the attorney's professional work as, except for the provisions of this section, may be lawful, provided, that at all times the lawyer receiving such information or such services shall maintain full, professional and direct responsibility to the attorney's clients for the information and services so received.

Subd. 8. **Penalty; injunction.** (a) Any person or corporation, or officer or employee thereof, violating any of the foregoing provisions shall be guilty of a misdemeanor; and, upon conviction thereof, shall be punished as by statute provided for the punishment of misdemeanors. It shall be the duty of the respective county attorneys in this state to prosecute violations of this section, and the district courts of this state shall have sole original jurisdiction of any such offense under this section.

(b) A county attorney or the attorney general may, in the name of the state of Minnesota, or in the name of the State Board of Law Examiners, proceed by injunction suit against any violator of any of the provisions above set forth to enjoin the doing of any act or acts violating any of said provisions.

(c) In addition to the penalties and remedies provided in paragraphs (a) and (b), the public and private penalties and remedies in section 8.31 apply to violations of this section.

Subd. 9. **Construing subdivision.** Nothing in subdivision 3a shall be construed to allow a person other than a licensed attorney to perform or provide the services of an attorney or be construed to otherwise conflict with this section.

History: (5687-1) 1931 c 114 s 1; 1959 c 476 s 1; 1969 c 9 s 87; 1974 c 406 s 49; 1981 c 168 s 1; 1983 c 247 s 173,174; 1986 c 444; 1987 c 377 s 6; 1988 c 695 s 3-5; 1991 c 299 s 1; 1992 c 376 art 1 s 1; 1992 c 497 s 1; 1992 c 591 s 1; 1993 c 321 s 1; 1994 c 502 s 1; 1994 c 568 s 2; 1997 c 174 art 12 s 70; 1999 c 86 art 1 s 74; 1999 c 199 art 2 s 19

NOTE: This section was deemed unconstitutional to the extent that it attempts to require courts to allow nonattorneys to appear in court on behalf of corporations in *Haugen v. Superior Development, Inc.*, 819 N.W.2d 715 (Minn. Ct. App. 2012), citing *Nicollet Restoration, Inc. v. Turnham*, 486 N.W.2d 753 (Minn. 1992).