

Republic of Iraq
Federal Supreme Court
Ref. 63 / Federal / 2022



The Federal Supreme Court (F.S.C.) convened on 29.5.2022 headed by Judge Jasem Mohammad Abboud and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haider Jaber Abed, Haider Ali Noory, Khalaf Ahmed Rajab, Ayoub Abas Salih Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali who are authorized to judge in the name of the people, they made the following decision:

The plaintiff:

Lawyer Mohammed Al-Sayed Jassim.

The defendant:

The President of the Lawyers' Syndicate, in addition to his position, is his attorney, Shawkat Sami Al-Samarrai.

The claim:

The plaintiff claimed that Article (Fifth /jim) of the principles of professional conduct violates the constitution in all respects, as well as contravenes general principles, the law, and the right to choose, and since this grave breach calls for cancellation, the citizen is free to choose his lawyer and whom he entrusts in terms of designation by name and number and the right of individual defense or Joined or jointly, and the lawyer's right to enter into any lawsuit, participating in the previous lawyers in representing his clients, and since Article (6) of Order No. (30) for the year 2005 in Chapter Two (Consideration of the Legitimacy of Legislation) and for the immediate and direct interest in the case before the Disciplinary

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Board In the Syndicate in Issue No. (31/Discipline/2020), which was established by the claimant Ahmed Hatem without due right, after he was underestimated and cut off from his former clients without excuse, in which the plaintiff challenged the validity of the claim as well as its illegality and its violation of the right to choose, representation and freedom to engage in professional work corresponding to the right of the citizen in choosing more than one lawyer and even a work team working individually or collectively, and since Article (Fifth / jim) is dangerous for misunderstanding and lack of proper use, and it came in violation of natural law and the constitution, the plaintiff requested From the Federal Supreme Court ruling to cancel it. The case was registered with this court in No. (63/Federal/2022) and the legal fee was collected for it based on the provisions of Article (1/Third) of the Federal Supreme Court's internal system No. (1) of 2005, and informs the defendant of its petition and documents in accordance with the provisions of Article (2/ First) from the same bylaw mentioned above, his representative responded with the answer list dated 4/4/2022, which included the following: 1- The text under appeal was legislated by the General Authority of the Bar Association based on the provisions of Article (171) of the Law No. 173) for the year 1965 and came as a legislative option in accordance with the powers of the public body defined by the Law on Advocacy. 2- The plaintiff refers to filing a lawsuit before the Disciplinary Council of the Iraqi Bar Association, and he has challenged the invalidity of the claim in the aforementioned lawsuit as well as its illegality, and this is outside the jurisdiction of the Federal Supreme Court specified by Article (93/First) of the Constitution. 3- Article (fifth / c) does not violate the citizen's right

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to choose, representation, and freedom to practice professional work, as it allows the lawyer to delegate to the persons who have attorneys' attorneys or to give them legal advice, as well as for him to join his colleague in the lawsuit or to delegate the client of his colleague (If he agrees to this in writing or resigns or withdraws from the case) the fact that the assignment on behalf of persons who have agents is considered unfair competition, especially if he offers lower fees than his colleague or distorts his reputation with the intention of diverting the client from the other attorney, and Article (17/ First) of the Iraqi constitution for the year 2005 in preserving personal privacy in a way that does not conflict with the rights of others and public morals 4. Article (sixth/eighth) indicates the necessity of a written agreement between the lawyer and the client that defines the mutual rights and obligations, otherwise, this is considered a presumption of professional negligence. The article in question was canceled and allowed to appoint any other lawyer without the consent of the original lawyer, which is a violation of the contract between the lawyer and the client. Therefore, the ruling requested that the plaintiff's lawsuit be dismissed and that he be charged with all judicial expenses. After completing the procedures stipulated in the aforementioned bylaw, a date was set for the pleading in accordance with Article (2/Second) of it, and the two parties were informed of it. On the appointed day, it was formed, and the plaintiff did not attend, and the defendant attended, in addition to his job, his attorney, Shawkat Sami Al-Samarrai, I noted The court stated that the plaintiff submitted a request dated 5/25/2022 requesting the postponement of the lawsuit to another date due to his preoccupation with lawsuits before the Basra Federal Court of Appeal, and because the lawsuit

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was ready to be decided upon, the court decided to reject the plaintiff's request, the defendant's attorney responded and requested that the lawsuit be dismissed, because it had already been decided By this court, and he repeated his previous requests and statements, and since there is nothing left to be said, the court decided the conclusion of the pleading, and the court issued the following ruling:

The decision:

Upon examination and deliberation by the Federal Supreme Court, it was found that the plaintiff, lawyer Muhammad Al-Sayed Jassim, had filed the case before this court challenging the unconstitutionality of Paragraph (Jim) of (fifth) of the rules of professional conduct for Iraqi lawyers on the grounds that it violates the constitution, and since the jurisdictions of the Federal Supreme Court specified According to Article (93) of the Constitution of the Republic of Iraq for the year 2005, as well as under Article (4) of the Federal Supreme Court Law No. (30) for the year 2005 as amended by Law No. (25) for the year 2021, and it was not among those jurisdictions that monitor the rules of conduct issued by unions For the purpose of regulating the work of its members, the plaintiff's lawsuit will have no legal basis and must be answered due to lack of jurisdiction. Therefore, the Federal Supreme Court decided to dismiss the lawsuit of the plaintiff, lawyer Muhammad Al-Sayed Jassem, and charge him the fees, expenses, and attorney's fees to the defendant's attorney, in addition to his job, lawyer Shawkat Sami Fadel, an amount of one hundred thousand dinars. The decision in the agreement is conclusive and binding on all authorities based on the provisions of Articles (93 and 94) of the Constitution of the

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Republic of Iraq for the year 2005 and Articles (4 and 5/Second) of the Federal Supreme Court Law No. AD (30) for the year 2005 amended by Law No. (25) for the year 2021 and publicly understood on Shawwal 27/1443 AH corresponding to 5/29/2022 AD.

Signature of
The president

Jasem Mohammad Abboud

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