SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 04-426
District Docket No. VC-02-017E

IN THE MATTER OF	
VINCENT M. YACAVINO	
AN ATTORNEY AT LAW	

Decision

Argued: March 17, 2005

Decided: April 21, 2005

G. Glennon Troublefield appeared on behalf of the District VC Ethics Committee.

Respondent appeared pro se.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

This matter was before us on a recommendation for discipline (one-year suspension) filed by Special Master Robert C. Shelton, Jr. For the reasons expressed below, we determine

that a six-month suspension is the appropriate level of discipline to be imposed on respondent.

The five-count complaint charged respondent with having violated RPC 3.1 (filing a frivolous complaint); RPC 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal); RPC 3.4(g) (presenting or threatening to present criminal charges to obtain an improper advantage in a civil matter); RPC 3.5(a) (seeking to influence a judge by means prohibited by law); RPC 3.5(c) (engaging in conduct intended to disrupt a tribunal); RPC 8.4(a) (violating the Rules of Professional Conduct); RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation); and RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice).

In addition, on July 23, 2004, after the conclusion of the ethics hearing, the presenter filed a motion to amend the complaint to include a charge of violating RPC 3.2 (failing to expedite litigation). The special master granted the motion.

Respondent was admitted to the New Jersey bar in 1964. He has no disciplinary history. Although licensed as an attorney, respondent does not practice law, but trades gold and silver in New York.

The facts in this matter are not in dispute. Respondent was involved in five lawsuits, four as a plaintiff and one as a defendant, in connection with family and business disputes that he had with his wife's relatives. Respondent represented himself in these matters. The ethics complaint alleged that respondent filed duplicative complaints, filed complaints to include claims after he had been denied leave to amend prior complaints to assert those claims, threatened to file criminal charges and ethics grievances in an effort to remove a judge or defense counsel from the litigation, and engaged in a pattern of conduct showing disrespect, abuse, and contempt toward judges and adversaries.

In turn, respondent contended that the claims in the lawsuits were different, not duplicative; that he was obligated under the entire controversy doctrine to file the lawsuits; that he contacted the prosecutor's office to seek guidance; that he had no intent to have a judge or attorneys removed from the case; and that his conduct was proper. He asserted before the special master that the civil matters were still pending, and that, on appeal, the adverse orders would be reversed. In his brief filed with us, respondent stated that the consolidated cases are on appeal.

The consolidated cases will be identified in the same manner as at the ethics hearing:

Yacavino I	Filed October 3, 1996 in Middlesex County, Docket No. L-0196-96.
Yacavino II	Filed February 23, 1998 in Bergen County, Docket No. L-1860-98.[1]
Yacavino III	Filed March 25, 1997 in Middlesex County, Docket No. L-3072-97.
Yacavino IV	Filed June 30, 1998 in Middlesex County, Docket No. L-6574-98; plaintiffs are respondent's wife and children; respondent is named as a defendant.
Yacavino V	Filed June 21, 2001 in Middlesex County, Docket No. L-6252-01.

Yacavino I

On October 3, 1996, respondent filed a lawsuit against a partnership known as Garden State Buildings, John Visceglia, Diego Visceglia (an attorney), and unknown "John Doe" and "James Doe" defendants. John and Diego Visceglia are the brothers of respondent's wife. In count one, respondent sought to enforce a debt in excess of $41,000. In count two, respondent sought an accounting from the directors and trustees of Summit Associates Liquidating Trust ("SALT"), alleging that they had liquidated a

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[1]Although Yacavino II was filed after Yacavino III, the parties used these designations, except in the formal ethics complaint, in which the cases are cited in chronological order.

now-defunct corporation, Summit Associates, Inc. ("Summit"), in which respondent owned preferred stock.

On February 20, 1997, the Honorable Mark Epstein, J.S.C. denied defendants' motion to dismiss count one, granted respondent permission to file an amended complaint adding Vincent Visceglia (respondent's father-in-law) as a necessary defendant, and granted defendants' motion to dismiss count two, with prejudice. Respondent filed an amended complaint on February 25, 1997, adding Vincent Visceglia as a defendant.

On October 6, 1997, respondent filed a motion to amend the first amended complaint by adding a count alleging fraud and misrepresentation and requesting punitive damages. The Honorable Douglas K. Wolfson, J.S.C. denied respondent's motion, without prejudice, on December 19, 1997. At some point, respondent filed a motion for leave to appeal Judge Wolfson's order. On January 12, 1998, Judge Wolfson provided the Appellate Division with supplemental findings of fact and a statement of reasons for the order denying respondent's motion to amend the complaint.

According to Judge Wolfson, respondent alleged in the proposed amendment that he was a preferred stockholder of Summit and that the liquidators of the corporation had sold assets at below fair market value, resulting in respondent's receipt of

less than par value for his shares. Judge Wolfson determined that, because respondent's immediate family owned a thirty percent interest in Nin-Vin, the partnership that bought the assets from Summit, respondent sustained no damages. According to respondent, however, defendants later served interrogatory answers indicating that Summit had sold assets to Nin-Vin for fair market value.

Judge Wolfson remarked that, although respondent's initial complaint had contained a count involving the Summit liquidation, Judge Epstein's February 20, 1997 order had dismissed that count based on the expiration of the statute of limitations. Judge Wolfson observed that respondent attempted to "reintroduce into litigation issues already dismissed." The judge also found that respondent failed to allege fraud with sufficient particularity and failed to act with due diligence.

Although the record does not contain a copy of the order, on February 8, 1998, the Appellate Division denied respondent's motion for leave to appeal Judge Wolfson's order denying his motion to amend the complaint.

Yacavino II

On February 23, 1998, respondent filed a complaint in Bergen County against Diego and John Visceglia, SALT, Garden State Buildings, and unknown "John Doe" and "Jane Doe" defendants. Respondent alleged fraud, breach of fiduciary duty, self-dealing, and violation of the oppressed minority shareholder statute. R.4:5-1(b)(2) requires parties to disclose the existence of related actions. Pursuant to that rule, respondent certified that the claims in Yacavino II were the same claims that he attempted to allege by amending the complaint in Yacavino I.

On April 20, 1998, the Honorable Amy Chambers, J.S.C. consolidated Yacavino II with Yacavino I and Yacavino III, then pending in Middlesex County).[2] The defendants then moved before Judge Wolfson to dismiss Yacavino II, arguing that his order denying respondent's motion to amend Yacavino I established the law of the case and that the claims were barred by the statute of limitations. At the July 6, 1998 hearing on the motion, the following exchange took place between Judge Wolfson and respondent:

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[2]By this time, Yacavino III had been filed in Middlesex County and had been consolidated with Yacavino I.

> Respondent: I assumed that . . . your denial of my motion to amend was simply a procedural motion.
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> The Court: That's just a false statement. . . . I specifically alerted you to the very issue that I was concerned about. . . . I ruled against you on [the] basis, that from the perspective of the Court there was no basis upon which the cause of action could stand. And under the rules I'm permitted to deny leave to amend a complaint where the complaint fails to state a cause of action.
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> [Ex.P-27 at 4-15 to 5-12.]
>
> And then you took that ruling and you tried to circumvent it by filing the same complaint in Bergen County.
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> [Ex.P-27 at 6-3 to 5.]
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> For you to do what you did is disrespectful to the Court, is disrespectful to the system, it's disrespectful to Bergen County, it's disrespectful to my presiding judge, and it's disrespectful to your adversary. And I know you don't care about your adversary. For him to have to defend this four different times, three different times, two different forums is an abuse of the system.
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> [Ex.P-27 at 16-24 to 17-6].

By order dated June 12, 1998, Judge Wolfson dismissed the Yacavino II complaint with prejudice and awarded defendants costs and attorney fees of $6,000. On October 9, 1998, Judge Wolfson denied respondent's motion for reconsideration of the

orders denying his motion to amend the complaint in Yacavino I and dismissing the complaint in Yacavino II.

Respondent's answer maintained that venue was properly in Bergen County because none of the parties resided in Middlesex County. He asserted that the claims were different because, in Yacavino II, he had alleged that Summit had transferred assets for below fair market value to Garden State Buildings in which, unlike Nin-Vin, his family did not own any interest. Respondent conceded that Judge Wolfson's order dismissing Yacavino II constituted a ruling on the merits of his claims of wrongdoing surrounding the liquidation of Summit, although he disagreed with the ruling.

Respondent contended throughout the consolidated cases and at the ethics hearing that Judge Wolfson's order denying his motion to amend the complaint was procedural, not substantive, and that Judge Wolfson's reasons for denying the motion to amend were not findings on the merits. Respondent cited BOC Group, Inc. v. Lummus Crest, Inc., 251 N.J.Super. 271, 281-82 (Law Div. 1990) in support of his argument. In that case, the plaintiff's motion to amend the complaint was granted. Id. at 281. After the defendants moved to dismiss the amended count, the plaintiff contended that the court's decision to permit the amendment was

a decision on the merits of the claim. Id. The court disagreed, ruling that the granting of the motion simply permitted the plaintiff to litigate the amended cause of action and that the plaintiff was still required to prove the claim. Id. at 281-82. In that case, the motion had been granted, and the plaintiff was permitted to litigate the amended counts, while, in respondent's case, Judge Wolfson denied his motion to amend the complaint, ruling that respondent had failed to state a cause of action.

Yacavino III

On March 25, 1997, respondent filed a complaint in Middlesex County against Vincent, Anna (respondent's mother-in-law), and Diego Visceglia, and unknown "John Doe" and "Jane Doe" defendants. In Yacavino III, respondent sought damages based on an agreement that he claimed he had with Vincent and Anna Visceglia: they were to make certain inter vivos gifts to respondent and, if the gifts had not been transferred to him during their lifetimes, they were to transfer the property in their wills. The complaint alleged that, on February 7, 1997, Anna denied having entered into the agreement. Respondent included a fraud count against Diego Visceglia for allegedly misrepresenting that Anna had agreed to make the gifts.

As seen below, on July 28, 2000, the complaint in Yacavino III was dismissed with prejudice.

Yacavino IV

On June 30, 1998, respondent's wife, Maria, and their children, Nina and Vincent, Jr., through counsel, filed a twenty-three count complaint in Middlesex County against the same defendants named in Yacavino I, II, and III, as well as other family members and entities. Although respondent denied preparing the complaint in Yacavino IV, he conceded that he had assisted counsel in its preparation. The complaint included counts of fraud, misrepresentation, breach of fiduciary duty, breach of a contract to make gifts to Maria and respondent, tortious interference with contractual interests in property, and other wrongdoing. The complaint essentially alleged that Maria's family, both individually and acting through partnerships and corporations, deprived the plaintiffs of assets to which they were entitled. Respondent was named as a defendant in Yacavino IV.

On July 8, 1998, respondent filed an answer to the complaint. Although purporting to be an answer, the pleading was more in the nature of a complaint – respondent did not provide a

paragraph-by-paragraph reply admitting or denying the allegations of the complaint, but joined in the plaintiffs' request for the appointment of an independent receiver for Nin-Vin, and demanded a jury trial.

At some point, Yacavino IV was consolidated with Yacavino I and III. On March 10, 1999, the Honorable Harriet Derman, J.S.C., to whom the consolidated cases had been assigned, entered a case management order providing that the parties were required to obtain court permission before filing any motions, that the plaintiffs in Yacavino IV were permitted to file an amended complaint and a motion seeking discovery, and that respondent was permitted to send a letter to the court identifying outstanding discovery motions.

On March 16, 1999, William Slattery, a new attorney for the Yacavino IV plaintiffs, filed an amended complaint containing thirteen counts. Two days later, respondent filed an answer to the amended complaint and a cross-claim against the other defendants.

On August 27, 1999, Judge Derman conducted a hearing on the defendants' motion for summary judgment. Almost one year later, on July 5, 2000, the judge issued an eighty-two page opinion on the motion, dismissing Yacavino III in its entirety

and seven counts of Yacavino IV, and confirming that Yacavino I and six counts of Yacavino IV survived. Judge Derman reduced her ruling to an order on July 28, 2000.

The judge determined that the plaintiffs had not proven the essential elements of an inter vivos gift; that, as to the claims based on a contract to make gifts, the terms of the contract were vague and indefinite, there was no "meeting of the minds," there was no consideration for the contract, and the statute of frauds and the statute of limitations barred relief; that the claim for breach of contract to make a will was premature because such a claim is not ripe until the death of the testator, and that the statutory requirements were not satisfied; that the Yacavino IV plaintiffs' claims against Summit were barred by the statute of limitations and collateral estoppel, finding an identity of interest between respondent and the Yacavino IV plaintiffs, and noting that respondent's attempts to assert identical claims had previously been rejected by two judges; that the fraud claims were not supported by specificity or reasonable reliance; and that, because the plaintiffs had no claim for breach of contract, they could not sustain a claim for interference with a contractual relationship

and could not establish malice, an essential element of that cause of action.

On July 28, 2000, Judge Derman issued an opinion dismissing another count in Yacavino IV and denying Maria's motion to appoint a guardian ad litem for Vincent Visceglia.

Several weeks later, on August 10, 2000, Judge Derman denied the defendants' motion for partial summary judgment in Yacavino I and IV and, sua sponte, granted summary judgment to plaintiffs. Although the court had requested that the plaintiffs file a cross-motion for summary judgment, they refused because they claimed that additional discovery was required. Judge Derman found that, after selling real property to Garden State Buildings, Summit received a note for $2,370,000, which the trustees of SALT assigned to various Visceglia family members in exchange for Summit stock. According to the court's findings, in 1993, Summit trustees ceased making payments on the note and later sent reduced payments, which the Yacavinos did not accept. Although the record does not contain a copy of the order, the opinion indicated that summary judgment was granted in Yacavino I and in three counts in Yacavino IV, awarding unspecified damages, plus pre-judgment interest.

On September 20, 2000, Judge Derman conducted a hearing on respondent's motion for reconsideration of her ruling dismissing Yacavino III and partially dismissing Yacavino IV. Judge Derman denied that motion, stating that the evidence that respondent presented as "newly discovered" had been presented to the court before her initial ruling.

As seen below, respondent began issuing a series of letters to Judge Derman, expressing disagreement with her rulings and accusing defense counsel of improprieties and the court of favoritism and conduct involving a "cover-up". On February 26, 2001, respondent asked Judge Derman for permission to amend his pleadings to assert claims against defense counsel. In denying that request, the judge, by letter dated March 15, 2001, reminded respondent that three judges had found his claims about the Summit liquidation to be without merit or barred by the statute of limitations, noting that including additional defendants would not revive his claim.

About two weeks later, by letter dated March 31, 2001, respondent contacted Judge Amy Chambers, the presiding judge of the civil division in Middlesex County, after she had refused to meet with him. Respondent asserted that, if permitted to meet with Judge Chambers, he would have asked her whether, if the

consolidated cases were reversed and remanded by the Appellate Division, they would again be assigned to Judge Derman. Respondent stated in his letter that, if the cases would be assigned to Judge Derman, "it would serve no purpose for me to delay the consideration and preparation of a complaint for the committee on judicial conduct similar to the preliminary ideas attached hereto." Enclosed with respondent's correspondence was a draft letter to the Advisory Committee on Judicial Conduct listing ten grievances against Judge Derman.

On May 8, 2001, respondent wrote to the Middlesex County Prosecutor's Office regarding his concerns about Judge Derman, and asking for guidance. Respondent claimed that the Nin-Vin liquidators were stealing from the partnership and that Judge Derman permitted them to do so by failing to intervene. Respondent was informed that the prosecutor's office declined to take any action while the civil matters remained pending.

On June 7, 2001, Judge Derman dismissed respondent's Yacavino IV cross-claim, as duplicative of claims that had previously been dismissed. She also deemed Yacavino I amended to include three of the counts asserted in Yacavino IV.

Yacavino V

On June 22, 2001, respondent filed in Middlesex County a complaint containing twenty-nine counts and encompassing 103 pages. In Yacavino V, respondent asserted that, during the litigation of the consolidated cases, he discovered additional claims, which he sought to include by amending his pleadings. According to Yacavino V, because Judge Derman either failed to rule on his requests to assert additional causes of action, or denied them, she did not dismiss the claims and he was required by the entire controversy rule to assert them before the consolidated cases were concluded. Respondent, however, included in Yacavino V the same claims that Judge Derman had dismissed substantively in her extensive July 5, 2000 decision.

After consolidating Yacavino V with the other cases, Judge Derman, in a seventy-two page opinion dated June 2, 2002, dismissed the complaint based on "numerous fatal infirmities," including res judicata, collateral estoppel, and the statute of limitations. In her opinion, Judge Derman addressed the defendants' motion to bar respondent from filing additional motions, discovery requests, and complaints:

> The plaintiff has been a difficult litigant.* He has pursued a course of conduct to attempt to intimidate this court by explicit and implied threats. He has

> sought to chill this court by overtures to the Assignment Judge, the Presiding Judge of the Civil Division and the Middlesex County Prosecutor. He has even appended drafts of judicial complaints. At this point, however, the court is obligated to deny defendants' request to limit plaintiff's right to file lawsuits. The court will, however, impose sanctions for the reasons hereafter provided. Hopefully, this penalty will suffice to discourage plaintiff from further repetitive and frivolous filings, which he has already threatened.
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> *For the record, Mr. Yacavino is generally respectful and polite in court although he often cannot or will not stop speaking when told to do so.
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> [Ex.P-18 at 54.]

Judge Derman determined that respondent was subject to sanctions for filing frivolous litigation, both under statute, N.J.S.A. 2A:15-59.1, and court rule, R. 1:4-8, finding that the filing of Yacavino V was initiated in bad faith to harass the defendants and that respondent knew, or should have known, that the allegations were without any reasonable basis in law or equity. The judge stated that, after respondent's motions to amend his pleadings were denied, he simply filed new lawsuits, and them moved to consolidate the cases, thus trying to achieve indirectly what he could not accomplish directly. The judge also found that respondent's multiple filings taxed limited court

resources, noting that he had written almost 100 letters to the court.

With respect to the ethics implications of respondent's conduct, Judge Derman stated:

> Mr. Yacavino's behavior has been unprofessional. He is an officer of the court and yet has brought non-meritorious claims and discovery requests, which behavior violates RPC 3.1 and 3.4(d). He has threatened to present criminal charges, even seeking a meeting with the Middlesex County Prosecutor in violation of RPC 3.4(g). The totality of Mr. Yacavino's behavior, including threats of ethical complaints against this court, attempts at ex parte communication with the Assignment Judge and Presiding Judge of the Civil Division, threats of litigation against court-appointed experts before they have even acted,[3] and a ceaseless barrage of voluminous correspondence suggest a violation of RPC 8.4(d).
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> [Ex.P-18 at 68.]

Judge Derman directed the parties to submit briefs and certifications of service, stating that, upon receipt of those documents, she would enter an order awarding attorney fees and costs to eight parties.

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[3]The court referred to the fact that, upon learning of the names of potential court-appointed fiscal agents, respondent contacted one of them and threatened to sue him if he did not perform adequately.

On June 15, 2002, respondent filed a motion for reconsideration of Judge Derman's opinion dismissing Yacavino V, stating that Judge Derman had misunderstood the facts and complaining again about the lack of discovery:

> The Middlesex County Courts' refusal to conduct the normal discovery rule hearings in these different matters because attorneys of the State of New Jersey are involved (Diego Visceglia and/or Kevin Kilcullen and/or others), is tantamount to ruling that a license to practice Law in New Jersey is a license to cheat and/or steal and/or commit malpractice upon those who love and/or trust that attorney; if that attorney or those attorneys are able because of their **position** to avoid discovery of their actions for a long enough period of time. . . . An open-minded reading of The Court's opinion appears to indicate to me, that The Court had actually misunderstood the import of each and every one of my counts contained in this complaint.
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> [Ex.P-105 at 7-8.]

In addition, respondent submitted a motion for a new trial in all five consolidated cases. On August 27, 2002, Judge Derman entertained oral argument on respondent's motions, denying both of them. At that hearing, respondent asked Judge Derman to award costs to him, the losing party, to be paid by the prevailing party.

Although the record does not contain a copy of the order, according to respondent, Judge Derman ordered him to pay his

adversaries' legal fees and costs of $35,000.

Respondent's brief filed in this matter indicated that, after the rulings in the consolidated cases became final, he filed appeals, which are currently pending before the Appellate Division.

Respondent's Pleadings and Letters to the Court

Through a series of letters to Judge Derman, respondent expressed his increasing frustration with the manner in which she was conducting the litigation.

In a March 13, 2000 letter to Judge Derman, respondent discussed various discovery issues and raised the possibility of improper actions by counsel and the court:

> [H]ow much more of a destructive effect would allegations that attorneys in this case or even the court for that matter was [sic] willing to entertain a cover-up of possible illegal and/or unethical conduct by one or more attorneys of the State of New Jersey? . . . I have been assuming that your honor has not already referred some of these matters to the ethics committee, but instead is awaiting the completion of the discovery in this case. I am not familiar with the Middlesex County custom for handling such serious ethical situations and look to you, the court, for guidance as to whether or not some of these matters should be brought to the attention of the assignment Judge at this time.
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> [Ex.P-43 at 6.]

Following the taking of Diego Visceglia's deposition, respondent sent a letter, dated December 23, 2000, to Judge Derman stating:

> [S]erious possible questions involving possible criminal violations and or possible unethical conduct on the part of Mr. Diego Visceglia have already been raised in the past in this case, and The Court to this date has done absolutely nothing to allow even a preliminary investigation to take place to clarify any of those issues.
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> [Ex.P-47 at 2.]
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> Given all of the other embarrassing circumstances which the Court has already allowed itself to be subjected to criticism for failing to take any of the proper action (with [sic] I have alluded to, in my many previous letters), and because the Court has a duty not only to the litigants but to the public, if the Court were to allow an injustice to be perpetrated . . . on top of the injustice that the Court has allowed to be done . . . the integrity of the New Jersey judicial system is in jeopardy of being dragged through the mud. And watching this, and attempting to be the voice of reason, I am totally embarrassed that I am such a failure as an attorney as to be unable to make the Court see and understand exactly what I have been trying to communicate.
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> [Ex.P-47 at 17.]

Next, respondent sent to Judge Derman a thirty-page, single-spaced letter dated February 22, 2001, accusing the

defense attorneys of misrepresentation and deceit, accusing the judge of favoritism, complaining about adverse discovery orders, and questioning the recommendations of the court-appointed fiscal agent. In that letter, respondent stated:

> The defendants have been allowed to continue in their wrongful actions and wrongful possession and control of the NIN-VIN partnership because The Court has refused to take the proper and immediate action that was demanded by the plaintiff at the first case management hearing. Given the evidence uncovered by the Court appointed fiscal agent in only his initial examination, the Court has an absolute duty and obligation to remove whoever it is who claims to be in management of this partnership at this time. To fail to take any such action and to fail to authorize complete discovery on the part of the plaintiffs could very well tip the scales from only an appearance of extreme favoritism by the Court to the defendants, to one of a more likely embarrassment.
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> [Ex.P-48 at 4.]
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> Your Honor, on the record, has already indicated that you would seriously consider violating terms of this partnership agreement on behalf of [the defendants]. I have on many many occasions, in my letters and other ways, pleaded with Your Honor to avoid the appearance of impropriety, but as time moves on and as things have developed in this case, the positions you have taken and continue to take defy sensible explanation. You have not taken, to my knowledge, any steps to refer any of these matters which have been brought to your attention to the attention of any of the appropriate authorities (and I am thinking

specifically of the ethics committees of the bar association of New Jersey and/or the Attorney General's office of New Jersey, and/or the local prosecutor's office).

[Ex.P-48 at 8.]

I determined to give you as much time that you needed to reconsider what not only had been plain error but what had been impulsively imprudent on your part. Your order and inaction can be seen as either for the purpose of attempting to benefit Mr. Diego Visceglia or otherwise prevent discovery that would cause Mr. Diego Visceglia to answer for his actions. . . . . Your failure to properly respect the rules of the Court of New Jersey in these regards shocked me, but as a gentleman and notwithstanding the tens of millions of dollars involved in all of these consolidated cases, I chose to give you continued opportunities to reconsider your activities as well as point out to You the very real **appearance** (and it seemed at the time only an appearance) of a possible judicial cover-up of the possible criminal and/or possible unethical conduct of one or more attorneys of the State [of] New Jersey that was growing with each of your actions and statements.

[Ex.P-48 at 13-14.]

Diego and John Visceglia can only successfully hide and conceal whatever they may have done of a wrongful nature by enlisting the co-operation of The Court by having the Court deny the attorneys the right to make discovery . . . .

[Ex.P-48 at 22-23.]

> For the fiscal agents to constantly recommend that the capital accounts be adjusted is tantamount to suggesting that where the tax Laws were broken over so many years and in so many ways, that [sic] they should be corrected by another tax violation . . . .
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> [Ex.P-48 at 26.]

Only four days later, on February 26, 2001, respondent sent a forty-page letter, with thirty-eight pages of exhibits attached, to Judge Derman asking again for permission to amend his pleadings to assert causes of action against Diego Visceglia and the attorneys representing the defendants. Respondent accused the attorneys of criminal, civil, and ethics violations.

During the August 27, 2002 hearing on respondent's motions for reconsideration and a new trial, Judge Derman summarized respondent's inappropriate language to the court:

> That's enough, Mr. Yacavino. Let's talk about your language about your submissions to this Court. Your choice of language in your briefs and your certifications this Court finds to be inappropriate and impolitic to being -- at the point of being contumacious of the Court. For the record,
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> "One virtue she seems to have forgotten. . ."
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> "The Court will never admit this, but she knows full well that the defendants have followed a course of producing what they need for their case."

"Neither attorney produced a single response and the Court characteristically refused. . ."

"The Court is in the embarrassing position. . ."

"The Court's sudden opinion that Mr. Yacavino has to prove intent on the accrued interest by clear and convincing evidence is yet another example of its blatant prejudice and utter inability to render justice here."

In a footnote, "The Court's prejudice also bleeds through. . ."

"I am quite confident that the Court is not so stupid as my adversaries would seem to hope. . ."

"The time is running out for her to make things right without compulsion from the Appellate Division. . ."

"The honorable thing to do would be to swallow its pride, reverse itself and get this case back on track. Does the Court have the judicial humility to take this step, notwithstanding the necessity for this litigant to have been so candid with the Court in the past because of all the circumstances. . ."

"The Court could not possibly address the errors that litter every page of this Court's 72-page opinion. . ."

"I wonder if the Court has even read any of the cases cited in my briefs. . ."

That language is inappropriate. You're a member of the Bar. However, I am not going to impose any sanctions.

> I understand, Mr. Yacavino. I'm very familiar with this case. I understand the frustration that apparently you suffer because of this case. I think Mr. Reid used the right word before, "some compulsion."
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> I understand that you're very emotionally involved in this case, and I'm not going to
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> take any -- any action with respect to this very, very inappropriate language.
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> [Ex.P-32 at 54-12 to 56-12.]

Respondent's Conduct at the Underlying and Ethics Hearings

On August 27, 1999, Judge Derman heard oral argument on the defendants' motion for summary judgment in the consolidated cases. During that hearing, Judge Derman repeatedly warned respondent to refrain from interrupting her, finally calling a sheriff's officer into the courtroom.

During a May 19, 2000 hearing on plaintiffs' motion to appoint a guardian ad litem for Vincent Visceglia, Judge Derman instructed respondent, at least five times, to remain calm or to modulate his tone of voice.

Similarly, at a September 20, 2000 hearing on respondent's motion for reconsideration, he had to be told several times by both the judge and the sheriff's officer to refrain from speaking.

In addition, respondent failed to follow procedural rules. When he submitted his post-hearing brief to the special master, he served copies on each of the Justices of the Court. Later, although respondent was granted permission to file a thirty-five page brief with us (he had asked to submit a fifty-page brief), rather than the maximum twenty-page brief permitted by practice, he submitted a twenty-four page "Statement of the Facts Addendum," in addition to a thirty-five page brief. Thus, although respondent's request to file a fifty-page brief was denied, he submitted fifty-nine pages of facts and argument. At oral argument, he attempted to submit a lengthy summary of his presentation before us. We declined to accept respondent's submission.

Respondent's Motions Before the Special Master

Before the special master, respondent filed a motion to subpoena five judges, three defense attorneys in the consolidated cases, three defendants in the consolidated cases, and two prosecutors, claiming that their testimony would have exonerated him. Ruling that the ethics complaint was based on the voluminous documents to which respondent had stipulated, the special master denied respondent's request. Respondent repeatedly

insisted at the hearing below, and in his brief filed with us, that the special master's ruling violated his Sixth and Fourteenth Amendment rights to confront witnesses and to compulsory process for obtaining witnesses in his favor.

At the conclusion of the presenter's case, respondent filed a motion to dismiss the complaint, arguing that the presenter failed to establish a prima facie case for any RPC violation. He further contended that the filing of the ethics complaint was premature while the consolidated cases remained on appeal because the Appellate Division could reverse all of the adverse rulings entered by the lower court, particularly the findings that he filed frivolous litigation. The special master instructed respondent to include the motion with his written summation. Although the special master did not explicitly rule on respondent's motion to dismiss the complaint, he implicitly denied it by finding respondent guilty of ethics violations.

At the conclusion of the hearing below, the special master found that, by filing successive complaints containing the same allegations that had previously been dismissed as meritless or barred by the statute of limitations, respondent violated RPC 3.1 and RPC 3.4(c). The special master determined that respondent failed to expedite litigation, a violation of RPC

3.2, by making incessant requests to file motions, repeatedly raising the same issues, and writing impertinent and insulting letters to judges with the intent to delay the inevitable dismissal of his claims.

The special master further found that respondent threatened to present criminal charges against the judge and opposing attorneys, in an effort to have them removed from the case, a violation of RPC 3.4(g). Finally, the special master determined that, by submitting more than thirty letters to Judge Derman in which respondent used abusive, disrespectful, and discourteous language, and by submitting briefs and certifications containing disparaging comments to the trial court, respondent violated RPC 3.5(c) and RPC 8.4(d).

The special master did not address the charged violations of RPC 3.5(a) (seeking to influence a judge by means prohibited by law), RPC 8.4(a) (violating the Rules of Professional Conduct), or RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation).

The special master recommended that respondent be suspended for one year, and, as a condition of reinstatement, that he provide proof that he completed, with at least a "C" grade, courses in civil procedure and ethics at either Rutgers Law

School or Seton Hall University School of Law, and that, upon reinstatement, respondent practice under the supervision of a proctor for two years.

Following a de novo review of the record, we are satisfied that the special master's finding that respondent's conduct was unethical is supported by clear and convincing evidence.

RPC 3.1 provides that a lawyer shall not assert an issue in a proceeding unless the lawyer knows or reasonably believes that there is a basis for doing so that is not frivolous. Respondent violated this RPC when he repeatedly filed the same claims after the court dismissed them on the merits. For example, Judge Wolfson denied respondent's motion to amend Yacavino I. Although respondent asserted that Judge Wolfson's order did not indicate that the ruling was on the merits, Judge Wolfson's supplemental statement of reasons filed with the Appellate Division made it clear that the motion was denied because the claim was barred by the statute of limitations and because respondent failed to state a cause of action. Yet, barely two weeks after the Appellate Division denied his motion for leave to appeal Judge Wolfson's order, respondent filed a complaint in Bergen County, alleging the same claims that Judge Wolfson had dismissed. Respondent did so knowingly, as established by his R.4:5-2(b)(2) certification

that the claims in Yacavino II were the same as those that he had attempted to allege by amending Yacavino I.

According to the hearing transcript of the defendants' motion to dismiss Yacavino II, Judge Wolfson had specifically cautioned respondent that he had denied the motion to amend because the proposed claims could not be sustained. Judge Wolfson, concluding that respondent had tried to circumvent his ruling by filing the same complaint in Bergen County, sanctioned respondent $6,000. Although, at that point, only two of the five complaints in this matter had been filed, Judge Wolfson found that respondent had already abused the system by filing repetitive claims.

Respondent's reliance on BOC Group, Inc. v. Lummus Crest, Inc., 251 N.J.Super. 271 (Law Div. 1990) is misplaced. As mentioned above, the judge in that case granted the motion to amend, allowing the plaintiff to pursue the claim. That ruling was obviously procedural, not substantive, because it permitted the plaintiff to litigate the claim, but did not determine whether the claim had been sustained. Here, Judge Wolfson denied respondent's motion to amend the complaint, based on his inability to state a cause of action and the expiration of the statute of limitations. At the hearing on the motion to dismiss

Yacavino II, Judge Wolfson stated that he had alerted respondent to the fact that his proposed amendment failed to state a cause of action. Respondent, thus, knew, or should have known, that Judge Wolfson's order was substantive, not procedural.

Respondent's violation of RPC 3.1 with respect to Yacavino V was even more blatant. In a lengthy, comprehensive opinion dated July 5, 2000, Judge Derman dismissed Yacavino III and part of Yacavino IV. Although respondent did not file Yacavino IV, he admitted that he had assisted the attorney in its preparation and that, as a party to that lawsuit, he was familiar with the allegations and the procedural history of the litigation. Judge Derman dismissed those claims for a variety of substantive reasons, such as, the absence of essential elements of a gift and a contract, the operation of the statute of frauds and the statute of limitations, and the doctrine of collateral estoppel. She denied respondent's motion for reconsideration of the dismissals, ruling that the evidence that respondent described as "newly discovered" had previously been submitted.

Notwithstanding Judge Derman's ruling on the merits of respondent's claims, he filed Yacavino V, asserting in the body of the complaint that Judge Derman had not dismissed his claims. Judge Derman then dismissed Yacavino V, finding that respondent's

claims were barred by res judicata, collateral estoppel, and the statute of limitations. Judge Derman became the second judge to sanction respondent for filing frivolous litigation. She determined that respondent filed Yacavino V in bad faith, with the intent to harass the defendants, and that he knew, or should have known, that the allegations were made without any reasonable basis in law or equity.

By filing repetitive claims, after prior court rulings that those claims could not be sustained, respondent violated RPC 3.1.

Although the special master found that respondent also violated RPC 3.4(c) by filing claims that had previously been dismissed, respondent did not knowingly disobey an obligation under the rules of a tribunal. Respondent had not been prohibited from filing complaints. To the contrary, Judge Derman denied the defendants' motion to bar respondent from filing additional complaints. We, thus, dismiss the charged violation of RPC 3.4(c).

Respondent also failed to expedite litigation. He relentlessly requested permission to file motions, repeatedly raised the same issues that had previously been adjudicated, and wrote lengthy and inappropriate letters to the judges assigned to the case, as well as other members of the judiciary. All of these

actions served to delay the litigation's progress. Although the complaint did not charge respondent with having violated RPC 3.2, the issue was fully litigated below and the special master granted the presenter's motion to amend the complaint to include that violation. Moreover, according to the presenter's reply summation, he mentioned the RPC 3.2 violation in the preliminary conference report submitted to the special master before the hearing and set forth the allegations in his preliminary hearing report. The record developed below contains clear and convincing evidence that respondent failed to expedite litigation. We, therefore, find that respondent violated RPC 3.2.

We find that respondent violated RPC 3.4(g) on several occasions. In a number of letters to Judge Derman, he alluded to potential criminal activity by defense counsel as well as a possible "cover-up" by the court. Although he discussed his concerns with the Middlesex County Prosecutor's Office, that agency declined to take any action while the civil matters were pending. Respondent sent a letter to Judge Chambers asking whether the consolidated cases would be assigned to Judge Derman if they were reversed on appeal. Enclosed with respondent's letter was a draft of a grievance against Judge Derman to the Advisory Committee on Judicial Conduct.

Despite respondent's suggestion that defense counsel may have engaged in unethical conduct, there is no indication in the record that respondent filed an ethics grievance against any of his adversaries. Similarly, if respondent truly believed that Judge Derman had acted unethically, he should have filed the grievance, regardless of whether the cases would be remanded to the same judge if reversed on appeal. Respondent's failure to file ethics grievances belies his purported good faith belief that he was concerned about possible unethical conduct. Despite respondent's protestations that he was genuinely concerned about possible criminal and ethics violations, his intent was to obtain the removal of Judge Derman and defense counsel, whom he considered obstacles in his quixotic mission to correct the wrongs that he allegedly suffered. He, thus, threatened criminal prosecution in an attempt to obtain an unfair advantage, i.e., the removal of those he considered detrimental to his objectives.

We further find that respondent engaged in conduct intended to disrupt a tribunal, a violation of RPC 3.5(c), and conduct prejudicial to the administration of justice, a violation of RPC 8.4(d). At several hearings, Judge Derman repeatedly cautioned respondent to restrain himself, to change his tone of voice, or to remain calm. She felt it necessary on one occasion to call the

sheriff's officer into the courtroom because of concern about respondent's conduct. At another hearing, the sheriff's officer joined in the court's efforts to obtain respondent's compliance with the judge's directive that respondent remain quiet. Judge Derman characterized respondent as a difficult litigant who, although generally respectful and polite, either would not or could not stop talking, even when so directed.

Respondent also violated RPC 8.4(d) in other ways. According to Judge Derman, he wrote almost 100 letters to her. Some of these letters contained insulting and disrespectful language directed at her, accusing her of prejudice in favor of his adversaries, of engaging in a "cover-up" of wrongful conduct, and of bringing embarrassment to the judiciary. Many of the letters were lengthy and had extensive exhibits attached.

In addition, when dissatisfied with a court's ruling, respondent repeatedly made the same request. For example, Judge Derman entered an order requiring a party to obtain court permission before filing a motion. Although she denied respondent's request for discovery, he continued to send letters, begging the judge to permit him to file motions for discovery. Respondent's verbose documents and multiple complaints asserting the same claims that had previously been dismissed taxed the

court's resources. While an attorney is permitted, or even required, to fervently advocate a position, respondent exceeded the bounds of zealous representation. He also threatened to sue a court-appointed fiscal agent, before that agent had even become involved in the case.

Although the complaint alleged violations of RPC 3.5(a), RPC 8.4(a), and RPC 8.4(c), the presenter did not pursue those charges, and they were not proven by clear and convincing evidence. We, therefore, dismiss those charges.

In sum, respondent was guilty of violating RPC 3.1, RPC 3.2, RPC 3.4(g), RPC 3.5(c), and RPC 8.4(d).

Threatening to present or presenting criminal charges to obtain an unfair advantage in a civil matter leads to discipline ranging from an admonition to a suspension, depending on the severity of the conduct. See, e.g., In the Matter of Mitchell J. Kassoff, DRB 96-182 (1996) (admonition for attorney who, after being involved in a car accident, sent a letter to the other driver indicating his intent to file a criminal complaint against him for assault; the letter was sent the same day that the attorney received a letter from the other driver's insurance company denying his damage claim); In the Matter of Christopher Howard, DRB 95-215 (1995) (admonition for attorney who, during

the representation of one shareholder of a corporation, sent a letter to another shareholder threatening to file a criminal complaint for unlawful conversion if he did not return the client's personal property); In re Hutchins, 177 N.J. 520 (2003) (reprimand for attorney who, in attempting to collect a debt on behalf of a client, told the debtor that he had no alternative but to recommend to his client that civil and criminal remedies be pursued); In re McDermott, 142 N.J. 634 (1995) (reprimand for attorney who filed criminal charges for theft of services against a client and her parents after the client stopped payment on a check for legal fees); In re Dworkin, 16 N.J. 455 (1954) (one-year suspension for attorney who wrote a letter threatening criminal prosecution against an individual who forged an endorsement on a government check, unless the individual paid the amount of the claim against him and the legal fee that the attorney ordinarily charged in a criminal matter "of this type;" the Court found that the attorney had resorted to "coercive tactics of threatening a criminal action to effect a civil settlement"); and In re Barrett, 88 N.J. 450 (1982) (three-year suspension for serious acts of misconduct that included the filing of a criminal complaint with the purpose of coercing a party into reaching a civil settlement).

Disrupting a tribunal, engaging in conduct prejudicial to the administration of justice, or filing frivolous litigation leads to a broad spectrum of discipline: from an admonition to disbarment. Admonitions were imposed in In the Matter of Alfred Sanderson, DRB 01-412 (2002) (admonition for attorney who, in the course of representing a client charged with driving while intoxicated, made discourteous and disrespectful communications to the municipal court judge and to the municipal court administrator) and In the Matter of John J. Novak, DRB 96-094 (1996) (admonition imposed on attorney who engaged in a verbal exchange with a judge's secretary; the attorney stipulated that the exchange involved "loud, verbally aggressive, improper and obnoxious language" on his part).

Attorneys received reprimands for their conduct in In re Lekas, 136 N.J. 514 (1994) (reprimand imposed on attorney who, while the judge was conducting a trial unrelated to her client's matter, sought to withdraw from the client's representation; when the judge informed her of the correct procedure to follow and asked her to leave the courtroom because he was conducting a trial, the attorney refused; the judge repeatedly asked her to leave because she was interrupting the trial by pacing in front of the bench during the trial; ultimately, the attorney had to

be escorted out of the courtroom by a police officer; the attorney struggled against the officer, grabbing onto the seats as she was being led from the room); In re Stanley, 102 N.J. 244 (1986) (reprimand for attorney who engaged in shouting and other discourteous behavior toward the court in three separate cases; the attorney's "language, constant interruptions, arrogance, retorts to rulings displayed a contumacious lack of respect. It is no excuse that the trial judge may have been in error in his rulings."); and In re Mezzacca, 67 N.J. 387 (1975) (reprimand imposed on attorney who referred to a departmental review committee as a "kangaroo court" and made other discourteous comments).

Three-month suspensions were imposed in In re Hall, 169 N.J. 347 (2001) (attorney suspended for three months after she was found in contempt by a Superior Court judge for accusing her adversaries of lying, maligning the court, refusing to abide by the court's instructions, suggesting the existence of a conspiracy between the court and her adversaries, and making baseless charges of racism against the court; the attorney also failed to reply to the ethics grievances and, after her temporary suspension, she failed to file an affidavit with the Office of Attorney Ethics and maintained a law office); and In re Vincenti,

114 N.J. 275 (1989) (three-month suspension for attorney who challenged opposing counsel and a witness to fight, used profane, loud, and abusive language toward his adversary and an opposing witness, called a judge's law clerk "incompetent," used a racial innuendo at least once, and called a deputy attorney general a vulgar name; attorney previously had been suspended for one year for making repeated discourteous, insulting, and degrading verbal attacks on a judge and the judge's rulings, substantially disrupting the orderly process of a trial, and displaying a pattern of abuse toward witnesses, opposing counsel, and other attorneys).

A one-year suspension was levied against attorneys in In re Maffongelli, 176 N.J. 514 (2003) (one-year suspension imposed on attorney who displayed a pattern of inability and refusal to follow the court rules, sending the same improper documents to the courts, even after receiving clear instructions not to do so; failed or refused to appear at hearings where his presence was required; showed a woeful lack of familiarity with court rules and practices (for example, he requested entry of default after dismissal of a complaint); refused to observe the dignity of court proceedings (for example, he engaged in a confrontation with a judge's secretary and yelled at his adversary during a

motion hearing), refused to accept responsibility for his mistakes, blaming court staff for his problems; and caused the needless waste of many hours of judges' and staff time); In re Shearin, 166 N.J. 558 (2001) (one-year suspension imposed on attorney by way of reciprocal discipline where, in a property dispute between rival churches, a court had ruled in favor of one of them and enjoined the other church (the attorney's client) from interfering with the owner's use and enjoyment of the property; the attorney then violated the injunction by filing two lawsuits, which were found to be frivolous, seeking rulings on matters that had already been adjudicated; the attorney also misrepresented the identity of her client to the court, made inappropriate and offensive statements about the trial judge, failed to expedite litigation, submitted false evidence, and counseled or assisted her client in conduct that she knew was illegal, criminal, or fraudulent); and In re Vincenti, 92 N.J. 591 (1983) (as mentioned above, one-year suspension for attorney who displayed a pattern of abuse, intimidation, and contempt toward judges, witnesses, opposing counsel, and other attorneys; the attorney engaged in intentional behavior that included insults, vulgar profanities, and physical intimidation consisting of, among other things, poking his finger in another

attorney's chest and bumping the attorney with his stomach and then his shoulder).

A two-year suspension was issued in In re Grenell, 127 N.J. 116 (1992), where the attorney, in one matter, filed frivolous criminal charges against his wife's former husband, shouted obscenities at the former husband and threatened to kill his adversary; in a second matter, the attorney was charged with contempt and was removed from a municipal courtroom after he became loud and uncontrolled; and in three additional matters, the attorney disrupted court proceedings by screaming obscenities at his adversaries and engaging in loud and unruly behavior.

Three-year suspensions were imposed in In re Shearin, 172 N.J. 560 (2002) (three-year suspension, retroactive to 2000, imposed by reciprocal discipline for attorney who sought the same relief she had previously sought without success in prior lawsuits against a rival church in a property dispute, knowingly disobeyed a court order expressly enjoining her and her client from interfering with the rival church's use of the property, demonstrated a reckless disregard for the truth when she made disparaging statements about the mental health of a judge, and taxed the resources of two federal courts, many defendants, and many other members of the legal system who were forced to deal

with frivolous matters; as mentioned above, Shearin had received a one-year suspension for similar misconduct); and In re Hall, 170 N.J. 400 (2002) (three-year suspension imposed after attorney made numerous misrepresentations to trial and appellate judges, made false and baseless accusations against judges and adversaries, served a fraudulent subpoena, failed to appear for court proceedings and then misrepresented that she had not received notice, and displayed egregious courtroom demeanor by repeatedly interrupting others and becoming unduly argumentative and abusive; her conduct occurred in four cases and spanned more than one year; as noted earlier, Hall had received a three-month suspension for similar misconduct).

Disbarment was deemed appropriate in In re Vincenti, 152 N.J. 253 (1998) for an attorney described by the Court as an "arrogant bully," "ethically bankrupt," and a "renegade attorney;" this was the attorney's fifth encounter with the disciplinary system.

Attorneys who threatened to present or presented criminal charges to obtain an unfair advantage in a civil matter and who engaged in other misconduct, such as disrupting a tribunal, have received reprimands or suspensions. See, e.g., In re Geller, 177 N.J. 505 (2003) (reprimand imposed on attorney who filed

baseless motions accusing two judges of bias against him; failed to expedite litigation and to treat with courtesy judges (characterizing one judge's orders as "horseshit," and, in a deposition, referring to two judges as "corrupt" and labeling one of them "short, ugly and insecure"), his adversary ("a thief"), the opposing party ("a moron," who "lies like a rug"), and an unrelated litigant (the attorney asked the judge if he had ordered "that character who was in the courtroom this morning to see a psychologist"); failed to comply with court orders (at times defiantly) and with the disciplinary special master's direction not to contact a judge; used means intended to delay, embarrass, or burden third parties; made serious charges against two judges without any reasonable basis; made a discriminatory remark about a judge; and titled a certification filed with the court "Fraud in Freehold"; in mitigation, the attorney's conduct occurred in the course of his own child-custody case, the attorney had an unblemished twenty-two-year career, was held in high regard personally and professionally, was involved in legal and community activities, and taught business law); and In re Supino, 182 N.J. 530 (2005) (three-month suspension imposed on attorney who, in his own child custody dispute, filed nine criminal complaints against his

former wife, filed thirty criminal complaints against seven police officers who had responded to the attorney's former wife's calls involving either the custody dispute or the attorney's alleged violation of a restraining order, threatened to file additional criminal complaints against the police, judges, and the municipal court administrator, all in violation of RPC 3.2, RPC 3.4(g), RPC 3.5(c), and RPC 8.4(d); the attorney testified that he had developed alcohol problems and had been diagnosed with bipolar disorder).

In our view, the conduct most analogous to respondent's is that exhibited by the attorneys in Geller, supra, and Supino, supra, who also represented themselves in family disputes, albeit child custody battles. Geller, Supino, and respondent aimed their conduct at a great number of people and violated numerous RPCs. Here, however, respondent advanced no mitigation, insisting that his conduct was not unethical and that he would be vindicated on appeal.

Geller received a reprimand. Our decision stated that, if not for the extensive mitigating factors considered, a term of suspension would have been warranted. Supino received a three-month suspension, based on the absence of proven mitigating

circumstances, other than the fact that the conduct occurred in the heat of his own child-custody case.

In this matter, aggravating factors include respondent's refusal to admit his wrongdoing, the magnitude of his misconduct (five lawsuits spanning from 1996 that remain pending on appeal), his pattern of filing pleadings after the identical claims had been dismissed, and the immense and unnecessary expenditure of resources by both the judiciary and the defendants who were forced to deal with respondent's prolonged and incessant lawsuits.

On the other hand, we cannot overlook respondent's unblemished career of more than forty years. Although respondent did not actively practice law during that entire period, he was engaged in the practice for a substantial portion of that timeframe. Moreover, all of the ethics charges stem from respondent's conduct in connection with a series of emotionally-charged family lawsuits prompted by his steadfast conviction that his wife's parents and brothers, through various means, intentionally deprived respondent and his immediate family of funds, property, and other assets to which he believed they were entitled. Respondent's conviction was not entirely erroneous, as illustrated by Judge Derman's order granting summary judgment to

respondent in Yacavino I and Yacavino IV. Furthermore, no client harm resulted from respondent's misconduct, save for any harm that he inflicted on himself as a pro se attorney. In addition, while we do not intend to minimize the seriousness of respondent's misconduct, we acknowledge that he was increasingly frustrated by his perception that the court was denying him critical discovery and, that by not ruling on his motions for discovery, the court deprived him of the opportunity to file interlocutory appeals.

In addition, we consider that respondent seems to have lost all perspective concerning the litigation. After bringing multiple complaints against his wife's relatives and family businesses, he tried to file lawsuits against the defense attorneys and even threatened litigation against the court-appointed fiscal agent. Judge Derman stated that she took no additional action with respect to respondent's inappropriate conduct toward the court because she recognized that he was "very emotionally involved" in the consolidated cases. Respondent appears to have been motivated, not by venality, but by a desperate and tenacious belief in the righteousness of his position.

After balancing the above factors, five members determine that the appropriate level of discipline is a six-month suspension. In their view, in the absence of mitigating factors, the discipline would have been more severe. Before respondent is reinstated, he must demonstrate proof of fitness to practice law, as attested to by a mental health professional approved by the Office of Attorney Ethics. Chair Mary Maudsley voted for a three-year suspension. Judge Reginald Stanton recused himself. Members Matthew Boylan, Esq. and Robert Holmes, Esq. did not participate.

We further require respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

Disciplinary Review Board
Mary J. Maudsley, Chair

By: Julianne K. DeCore
Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Vincent M. Yacavino
Docket No. DRB 04-426

Argued: March 17, 2005

Decided: April 21, 2005

Disposition: Six-month suspension

Members	Six-month Suspension	Three-year suspension	Recused	Dismiss	Did not participate
Maudsley		X			
O'Shaughnessy	X				
Boylan					X
Holmes					X
Lolla	X				
Pashman	X				
Schwartz	X				
Stanton			X		
Wissinger	X				
Total:	5	1	1		2

Julianne K. DeCore
Julianne K. DeCore
Chief Counsel