Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 22-169
District Docket Nos. XIV-2017-0601E
and XIV-2018-0400E

In the Matter of	
Joshua F. McMahon	
An Attorney at Law	

Corrected Decision

Argued: January 19, 2023

Decided: March 27, 2023

Darrell M. Felsenstein appeared on behalf of Office of Attorney Ethics.

Respondent waived appearance for oral argument.

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

This matter was before us on a recommendation for a three-month suspension filed by a special ethics master. The formal ethics complaint charged respondent with having violated RPC 3.1 (two instances – engaging in frivolous litigation); RPC 3.2 (two instances – failing to treat all persons involved with

the litigation process with courtesy and consideration); RPC 3.4(d) (two instances – making frivolous pretrial discovery requests); RPC 3.4(g) (two instances – presenting, participating in presenting, or threatening to present criminal charges to obtain an improper advantage in a civil matter); RPC 4.4(a) (two instances – engaging in conduct that has no substantial purpose other than to embarrass, delay, or burden a third person); RPC 8.2(a) (two instances – making a statement with reckless disregard for the truth or falsity thereof concerning the qualifications of a judge); and RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice).

For the reasons set forth below, we determine that a two-year suspension, with conditions, is the appropriate quantum of discipline for respondent's misconduct.

Respondent earned admission to both the New Jersey bar and the New York bar in 2005. He has no prior discipline in New Jersey. During the relevant timeframe, he maintained a practice of law in Westfield, New Jersey. According to the Court's Central Attorney Management System, respondent no longer resides in New Jersey and has no New Jersey office address.

The facts underpinning this matter are largely undisputed, although respondent disagreed that his conduct violated the Rules of Professional Conduct. Certain facts we relied upon are contained in confidential portions of

the record. The OAE's two-count complaint addressed respondent's misconduct across multiple matters. Count one charged respondent with misconduct stemming from his behavior toward employees of two separate county prosecutor's offices, a local police department, and litigants and officials of a local government unit. Count two charged respondent with misconduct stemming from his behavior toward litigants; witnesses; adversaries; and the Superior Court in connection with civil litigation in which he represented plaintiffs.

Respondent's conduct in each forum is separately addressed below.

Respondent's Conduct Toward Members of the Essex County Prosecutor's Office and the Westfield Police Department

In July 2016, respondent was falsely accused of having committed a serious crime.[1] On July 11, 2016, the Essex County Prosecutor's Office (the ECPO) received the criminal investigation from the Union County Prosecutor's Office (the UCPO). The investigation was transferred to the ECPO, at the direction of the Office of the Attorney General (the OAG), because respondent previously had been employed as an assistant prosecutor with the UCPO.

[1] We have intentionally omitted from our decision in this matter the details surrounding the alleged criminal conduct because those allegations were patently false. However, the mere fact that respondent was falsely accused of a crime is not confidential and, in our view, set respondent down a path that partially resulted in this disciplinary proceeding. We refer to the individual who falsely reported this crime as "the complainant" and have omitted any other identifying information.

On July 13, 2016, just two days after the investigation had been transferred, the ECPO received video footage of respondent's office parking lot where the crime was alleged to have occurred. The video footage disproved the criminal allegations. Prior to his exoneration, however, the Westfield Police Department (WPD) had seized, pursuant to a court order, respondent's handgun; ammunition; firearm identification card; and gun permit.

On July 14, 2016, Brian Schiller, Esq., respondent's attorney at the time, contacted ECPO's First Assistant Prosecutor, Robert Laurino (First Assistant Laurino). First Assistant Laurino advised Schiller that the investigation was under review and that he was awaiting documents from the UCPO. The next day, on July 15, 2016, Schiller appeared at the ECPO and, this time, ECPO's then Deputy Chief Prosecutor, Clara Rodriguez (Deputy Chief Rodriguez), informed him that the case still was under review, and that criminal charges against the complainant would be considered.

Despite having received assurances from the ECPO that criminal charges against the complainant were under review, on July 18, 2016, respondent, through Schiller, filed a citizen's complaint against the complainant with the Westfield Municipal Court, alleging perjury, false swearing, and filing false reports with law enforcement.

On July 21, 2016, respondent's citizen's complaint was transferred to the ECPO. On the same date, the ECPO learned that the complainant was being held in a Georgia jail pursuant to respondent's citizen's complaint and accompanying warrant. Respondent's citizen's complaint, however, was never (1) reviewed nor signed by a Superior Court judge; (2) reviewed nor approved by the UCPO for extradition; or (3) entered into the National Crime Information System. Thus, on August 2, 2016, respondent's citizen's complaint against the complainant was dismissed as defective.

The same day that his citizen's complaint was dismissed, at 11:52 p.m., respondent sent an e-mail to UCPO Assistant Prosecutor, Caroline Lawlor (AP Lawlor), a supervisor within the UCPO special victims' unit, demanding that she identify every person within the UCPO involved with the investigation. In his e-mail, respondent stated:

> Despite what you've done here, members of your unit do important work and I am trying to minimize inconvenience by not subpoenaing every single person in your unit.
>
> [ExOAE-2.][2]

[2] "A" refers to the May 29, 2020 amended verified answer.
"1T" refers to the transcript of the January 7, 2022 ethics hearing.
"2T" refers to the transcript of the January 20, 2022 ethics hearing.
"4T" refers to the transcript of the February 18, 2022 ethics hearing.
"5T" refers to the transcript of the February 22, 2022 ethics hearing.
"6T" refers to the transcript of the February 28, 2022 ethics hearing.
"8T" refers to the transcript of the March 3, 2022 ethics hearing.

(footnote cont'd on next page)

Respondent continued, stating that, if Lawlor declined or ignored his request:

> subpoenas will be served immediately and, should you move to quash the subpoenas for being overbroad, this email will be part of my response to said motion.
>
> In other words, should you decline to identify every person involved besides yourself, I will subpoena your entire unit's investigative personnel.
>
> [ExOAE-2.]

Respondent further claimed that he intended to do the same with the ECPO because, like AP Lawlor, "they think they are unaccountable because of the position of public trust they hold." Respondent also informed AP Lawlor that "people generally don't find me to be the most pleasant human on Earth when they get in my way. But people who abuse their power and hurt other people for unjustified reasons, such as here, they get special treatment from me." Respondent described AP Lawlor's conduct as "abhorrent" and recommended, in his e-mail, that she spend time watching "DA Nifong's disbarment proceedings."[3]

"ExOAE" refers to the OAE's exhibits entered into evidence during the ethics hearing.
"ExSupp" refers to exhibits to the OAE's May 10, 2022 supplemental written summation.
"OAES" refers to the OAE's April 27, 2022 summation brief to the special master.
"SMR" refers to the August 26, 2022 report of the special master.

[3] Mike Nifong is the former North Carolina district attorney who withheld exculpatory DNA evidence in a sexual assault case against three members of the Duke University lacrosse team. In 2007, Nifong was disbarred for this misconduct.

Respondent continued, accusing AP Lawlor of "railroading" him, and stating that the "playing of games by you and your colleagues will be brought to an end." He concluded his e-mail by stating he would "dole out my own lesson in accountability, the proper way, in a court of law, and not by abusing people my bosses have a problem with to curry favor."

Three days later, on August 5, 2016, respondent subpoenaed members of the ECPO and the WPD to appear, on August 11, 2016, before the Honorable David B. Katz, P.J.Ch.., for a court hearing related to the criminal allegations.

On August 7, 2016, at 11:18 p.m., respondent sent AP Lawlor a second e-mail, this time including "Mike Nifong" in the subject line. Respondent wrote:

> While you hold my weapon and only means of self defense [sic], refuse to impose no contact on the warrants, refuse to arrest [the complainant], this is what we get within 48 hours of [the complainant's] release.
>
> Keep not doing your job and trying to give me a taste.
>
> You transferred a lie. The fact that you, Caroline, are doing this to me is disgusting and reprehensible.
>
> My 1983 is coming. And you and the rest of them under oath is coming.
>
> Get ready to raise the right hand.
> …
>
> Three days.
>
> [ExOAE-3.]

The very next day, on August 9, 2016, respondent sent a lengthy e-mail to Deputy Chief Rodriguez, accusing her of ordering the WPD to no longer accept criminal reports from him. Specifically, respondent wrote:

> Where do you get the nerve and authority to tell a police agency to commit official misconduct by not doing their legal duty to "protect and serve."
>
> …
>
> More important, you have precisely zero authority to issue that type of criminal order, as you are not the Attorney General, and no authority to order police officers to reject complaints of criminal behavior related to imminent threats of violence.
>
> This, as you know, is absolutely unlawful, and I suggest you or whatever subordinate of yours that issued this unlawful order rescind same at once or I will notify your Prosecutor, members of the Attorney General's office, and, if that is unsuccessful, the Governor's Office and federal government. *See N.J.S.A.* 2C:30-2.
>
> [ExOAE-4.]

Respondent also accused Deputy Chief Rodriguez of "stealing my weapon and issuing orders to the police to ignore me," and conspiring with the UCPO, stating:

> [See] how this is about to go.
>
> Perhaps you have conferred with my former colleagues and supervisors [the UCPO] and that is why you are engaged in this blatant misconduct. I will, in due course, ascertain an answer to this question.

> Allow me to be clear: if you choose to decline to respond to my queries, do not return my property at once, and direct that your Office arrest and prosecute [the complainant] for [their] horrific crimes, I will pursue every single legal and ethical action at my disposal directly against you and anyone else involved.
>
> [ExOAE-4.]

In this same e-mail, respondent stated that he believed ECPO Deputy Chief Assistant Prosecutor, Celeste Montesino (AP Montesino), was "betraying a personal agenda or animus, perhaps being carried out at the behest of you or members of my former office [the UCPO], as there is no other explanation for your flagrant violation of the law and ethics rules."

Respondent continued, promising to take action the next day if Deputy Chief Rodriguez did not stop her "misconduct."

> Similarly, I will investigate, and where appropriate, lodge any and all criminal charges applicable directly against you and your confederates, as well as file a Section 1983 action in federal court wherein you are named a defendant.
>
> [ExOAE-4.]

He again referenced the disbarment proceedings of "former DA Michael Nifong and the conduct of every state actor in that disgusting and reprehensible example of an out-of-control prosecutor." Respondent concluded his email, directing Deputy Chief Rodriguez to preserve evidence in anticipation of "future litigation," and stating:

> I look forward to hearing from you, Ms. Rodriguez, because I do not work for you, I am not answerable to you, and you are most certainly answerable to the public, at least for the time you have left in your public office before you lose the last semblance of public authority you presently possess.
>
> [ExOAE-4.]

The next day, on August 10, 2016, the ECPO filed a motion to quash the subpoenas issued by respondent, and to disqualify Brian Schiller, Esq., respondent's counsel at the time. The motion was supported by AP Montesino's certification and scheduled to be heard before the Superior Court on August 12, 2016.

In reply to the motion to quash, respondent, on that same date, left a voice message for ECPO Deputy Chief Detective Jose Ramirez, twice stating he was going to "blow up" AP Montesino "in front of a superior court judge." Respondent testified at the ethics hearing that, by using this language, he was conveying that he intended to impeach her on cross-examination, not actually harm her.

On August 10, 2016, respondent appeared at the WPD and met with Lieutenant Leonard Lugo (Lt. Lugo). The meeting took place in an interview room, was videorecorded, and continued for more than two hours. The video depicts respondent as angry, combative, and loud. He repeatedly hurled expletives and demanded that Lt. Lugo answer his questions and provide him

with information. Respondent expressed his displeasure that his citizen's complaint against the complainant had been dismissed. Respondent also:

- Repeatedly asked for the name of the person who authorized a visit to respondent's mother's home. When Lt. Lugo asked why he needed the name, respondent stated that "someone's getting tattooed. Someone's getting brutally tattooed;"
- Told Lt. Lugo, in reply to an answer he deemed unsatisfactory, that "we can sit here and pretend like we're in Saudi Arabia" with the "jihad police;"
- Demanded to know "who is f***ing with my life;"
- Accused Lt. Lugo of treating him worse than he would treat a "sh*t bag;"
- Advised Lt. Lugo that he represents police officers and describes himself as a line between them and the "f***ing cage;"
- Stated that "You're gonna see later today what I do to cops who are corrupt;"
- Told Lt. Lugo, "And right now out there in this world, it ain't that great for you. You take one of your f***ing best soldiers who would be a f***ing ally and you f**k me, and I'm not even having my f***ing hair pulled when you're f***ing me;"

- Told Lt. Lugo that ECPO AP Montesino and Deputy Chief Rodriguez "are f***ing toast;"
- Referring to himself, stated, "you come at the f***ing king, you best kill the f***ing king;"
- Stated that he can be "the most vicious, brutal mother***er" and that Lt. Lugo was "so close to meeting the other f***ing me;"
- Told Lt. Lugo he was "giving you an opportunity man-to-man to my face before I f***ing come at both of you in a way you can't f***ing imagine;"
- Stated "stop being with Hitler," in reply to Lt. Lugo's answers he deemed unsatisfactory;
- Informed Lt. Lugo he would be filing an internal affairs complaint against him and stated that, even if got dismissed, he knew "how good I am with a jury filled with eight black women in a box;"
- Referring to AP Lawlor, stated "you wanted to f***ing listen to Caroline Lawlor. She's some stupid f***ing AP;"
- Stated he's the guy who either puts you in prison for 100 years or he puts "cops who f**k with me on the front page of the Ledger;"
- Told Lt. Lugo to call the ECPO to see who is torturing him. Then stated "someone's getting a taste. I'll tell you now someone's getting a taste. Tattooed and taste;"

- Referred to loyalty "as long as you don't betray me;"
- Told Lt. Lugo that if Lt. Lugo shot "a fifteen-year-old black kid, you'll be looking for me;"
- Repeatedly stated that the officers could "wand me" to prove he was not wearing a recording device;
- Suggested that Lt. Lugo did not want respondent as his enemy because respondent had told everyone he hoped Lugo becomes police chief;
- Called himself a "pr*ck mother***er," "loyal," "smart," and someone who does not "respond well to authority that's dumber than me;"
- Stated that the ECPO employed "sh*t bag APs;"
- Repeatedly referenced the Duke Lacrosse prosecution and played a related video for the officers on his cell phone; and
- Concluded the meeting by stating, "You want to play f**k-f**k games with me, I'm going to play f**k-f**k games in a way you can't even f***ing imagine" and "I'm going to make this a sh*t show you can't even imagine."

That same evening, at 8:48 p.m., respondent sent an e-mail to Deputy Chief Rodriguez and AP Montesino, with the subject line "Request to Preserve Records; Complaint of Theft/Official Misconduct; Request to Cease and Desist

Unlawful Behavior." In the body of his e-mail, respondent accused AP Montesino of lying in her certification in support of the motion to quash, stating:

> [y]ou just committed a crime Ms. Montesino, and now 'the process' you've put me through will begin for you just as mine comes to an end.
>
> Based on the quality of your work product, I actually feel bad for your victims because they have no idea how incompetent you truly are.
>
> [ExOAE-6.]

Based upon his recent communications with both offices, on August 12, 2016, the UCPO and ECPO filed a joint petition for the forfeiture of respondent's handgun, which previously had been seized by the WPD.

The ECPO also informed the court that the criminal investigation of the case against the complainant remained pending and was tentatively scheduled for presentation to a grand jury on September 21, 2016.

That same day, at 9:06 p.m., respondent sent Deputy Chief Ramirez an e-mail with the subject line "witness tampering/hindering." In his e-mail, respondent again complained that the ECPO had "ordered" the WPD to refuse any additional criminal complaints from him concerning the complainant; accused AP Montesino of lying in her certification to the court; and demanded that his citizen's complaint against the complainant be reinstated so they could be arrested and extradited. He concluded by stating:

> I am asking you, respectfully, cause we have only spoken once by phone and you have not personally to my knowledge, wronged me like others in your office; arrest and prosecute this [person]; return my firearm; and leave me be.
>
> [ExOAE-8.]

In response, Deputy Chief Ramirez requested that respondent cooperate with the investigation by providing a statement and by allowing for a forensic examination of his cellular phone.

On August 15, 2016, at 12:54 p.m., respondent replied to Deputy Chief Ramirez's e-mail, stating he would provide a statement to the ECPO upon the following conditions: (1) the charges against the complainant were reinstated; (2) his handgun was returned; and (3) he was provided with a "written declaration of innocence."

Further, respondent informed Deputy Chief Ramirez that he declined to provide either a statement or his cellular phone, stating:

> Me testifying that something did not happen which a video shows did not happen is both superfluous and, from an intelligent prosecutor's standpoint, stupid and ridiculous.
>
> [ExOAE-9.]

If his demands were not met, respondent informed Deputy Chief Ramirez that he intended to file ethics grievances with the Office of Attorney Ethics, have

the ECPO disqualified, and charge people criminally for "submitting false sworn certifications." Respondent concluded his e-mail, stating:

> I did not start out nasty with ECPO, but I can assure you, if they don't stop trying to give me a taste, they will regret their disgusting betrayal of their oath to do justice.
>
> [ExOAE-9.]

Later that same day, at 2:30 p.m., respondent sent to Deputy Chief Ramirez a follow-up e-mail, stating that the "delays and incoherent, illogical requests . . . is just going to be further ammunition for any legal action I take if you do not correct course immediately."

Two months later, on November 22, 2016, respondent sent to Lt. Lugo of the WPD, via facsimile, a two-page document titled "Initial Notice of Claims of Damages against the State of New Jersey."

Respondent completed the document, which was a template, by hand and signed it. He identified Lt. Lugo, AP Lawlor, and Deputy Chief Rodriguez as conspiring to violate his constitutional rights and sought damages of $10 million. The facsimile cover page identified the subject as "Fredo Corleone"[4] and stated:

> LT – All you had to do was the right thing; be fair, honest, adhere to the truth. Instead, you chose self-

[4] Frederico "Fredo" Corleone was the middle son of Mafia boss Don Vito Corleone, characters in Mario Puzo's 1969 novel "The Godfather."

> interest, career advancement and betrayal of a loyal ally and supporter who never did a single thing to you except say what a great cop you were and sing your praises. And, in return, you lied to my face, and betrayed me. You stole my property and violated my civil and constitutional rights. And you carried water for an unethical, disgusting prosecutor. And then, when that was not good enough, you did nothing to right the situation, despite repeated opportunities. So, know this: I will spend all my time and money seeking your termination as a police officer, to charge you criminally, and to personally bankrupt you for your cowardly and selfish behavior. You're not above the law and I'm going to personally teach you that. – JFM
>
> [ExOAE-11.]

Thereafter, on November 27, 2016, respondent contacted Pamela McCauley, the ECPO's supervising victim/witness coordinator, seeking copies of documents pertaining to the criminal investigation against the complainant, who had been indicted. When McCauley advised him that the ECPO does not provide discovery to victims or witnesses, respondent screamed at her and threated to file criminal and civil actions against her if she did not comply with his demands. The following day, on November 28, 2016, respondent sent an e-mail to McCauley, stating he was going to charge her and her supervisor with violating his constitutional rights, official misconduct, and false swearing.

In reply to respondent's interaction with McCauley, on November 29, 2016, Deputy Chief Rodriguez informed respondent that, in view of his verbal harassment of McCauley, Rodriguez would be handling all future

communications from respondent. Further, based upon respondent's continued threatening behavior, on December 15, 2016, the ECPO supplemented its brief in support of its petition for the forfeiture of respondent's handgun, which remained pending.

On June 30, 2017, the Honorable David B. Katz, P.J., Ch., granted the ECPO's petition of gun forfeiture, revoked respondent's permit to purchase firearms, and ordered that the seized firearm and ammunition not be returned to respondent.[5]

Respondent's Behavior Toward the Union County Prosecutor's Office

On March 9, 2018, in connection with the OAE's investigation underlying Docket No. XIV-2018-0400E, the UCPO forwarded to the OAE a series of electronic communications between respondent and members of the UCPO concerning several unrelated criminal matters. Respondent did not dispute the accuracy of the communications, but denied that they were threatening, abusive, or in violation of the Rules of Professional Conduct. Each incident is separately addressed below.

[5] The OAE, in connection with its disciplinary investigation, obtained the files and hearing transcripts from the gun forfeiture proceeding. Those records, however, were released to the OAE subject to the Superior Court's protective orders, dated February 22, May 22, and August 23, 2018, which designated the transcripts, including Judge Katz's June 30, 2017 oral decision, as confidential. Thus, we have refrained from quoting from Judge Katz's oral decision; however, we do not view these protective orders as precluding us from referencing, generally, the fact of the gun forfeiture proceeding or the outcome of the proceeding.

The Tyshawn Offley Matter

In February 2017, respondent filed a motion for change of custody to have his client, Tyshawn Offley, released from prison for medical reasons. The assigned UCPO assistant prosecutor, Michael D'Agostino (AP D'Agostino), after consultation with his supervisor, opposed the motion, noting that it was not supported by medical proof of illness necessitating Offley's release.

The following week, on February 14, 2017, AP D'Agostino and respondent appeared for oral argument. The Honorable Robert Kirsch, J.S.C., during a pre-hearing conference held in his chambers, informed respondent that the court was inclined to deny the motion based upon insufficient proof of illness. Respondent, according to AP D'Agostino, was upset by this information and blamed another attorney in his office, stating he was going to "rip Adam's head off." While still in chambers, respondent became so enraged that, according to AP D'Agostino, Judge Kirsch stood up and told respondent he was being completely inappropriate.

The parties then went on the record, at which time Judge Kirsch denied the motion. While waiting for the signed order, respondent informed AP D'Agostino that he was "talentless" and would be respondent's "new project." On February 14, 2017, following oral argument, respondent sent an e-mail to AP D'Agostino's supervisor at the time, Deborah White, Esq. (AP White),

referring to AP D'Agostino as "spineless," "talentless," and "utterly lacking in compassion," and sarcastically stating he "can see why the [UCPO] is so widely respected these days by the Bar."

On February 21, 2017, respondent sent a text message to AP White, stating "[n]o response on Tyshawn and your sh*t, kiss-a** APs horrible judgment and lack of compassion?" On March 8, 2017, respondent again sent an e-mail to AP White, informing her that his client had been released from prison and stating, "I am a mother####er, but don't hurt people who don't swing at me first."

Respondent's Open Public Meeting Act Request to UCPO

Following a January 17, 2017 Mountainside Borough Council meeting, respondent filed a complaint with the UCPO, alleging a violation of the Open Public Meetings Act (OPMA), pursuant to N.J.S.A. 10:4-6, and claiming he had not been permitted to engage in a public presentation during the public comment period of the meeting.

On February 28, 2017, UCPO Assistant Prosecutor Shawn Barnes (AP Barnes) informed respondent, in writing, that he had determined, following his review of the video recording of the meeting, that the Borough had not violated OPMA.

In response, on March 6, 2017, respondent sent a lengthy e-mail to AP Barnes, threatening him with a lawsuit, pursuant to 42 U.S.C. § 1983, unless AP Barnes reversed his ruling. Respondent began his e-mail by stating "what a disgrace and attack on minority and civil rights, especially from you, of all people." Respondent continued, repeatedly referring to AP Barnes as a "liar,' "lying," or having "lied," and asking him if he was "delusional."

On March 8, 2017, respondent sent another e-mail to AP Barnes, demanding to know whether he intended to submit "a new, and truthful" letter. Respondent informed him it was his "final inquiry" and threatened:

> If you do not change your lying and completely unethical letter, you will be a captioned defendant for conspiring with Mountainside to violate the First Amendment to the US Constitution – hopefully they reimburse you, but who knows how qualified immunity works here because you're operating outside your prosecutorial role and doling out horrific legal advise [sic] telling a municipality they can censor the content of protected political speech.
>
> [ExOAE-20(C3).]

Also on March 8, 2017, respondent sent an e-mail to the UCPO's Director of Communications, Mark Spivey, accusing AP Barnes of lying and being "incompetent and talentless," calling current staff of the UCPO "incompetent people," and referring to himself as "the most talented AP to ever work in that building."

State v. Courtney Wallace and Tori Isaac

In March 2016, respondent represented Guy Johnson, who had been wrongfully accused of pointing a handgun at his ex-girlfriend, Courtney Wallace. On April 25, 2016, all charges against Johnson were dropped, and criminal charges were issued against Wallace and her friend, Tori Isaac.

On May 26, 2016, respondent and Johnson appeared at the UCPO to discuss with the assigned UCPO Assistant Prosecutor, Theresa Hilton (AP Hilton), the plea offers to Wallace and Isaac. That meeting was terminated by AP Hilton "due to [respondent's] inability to control his temper and act professionally."

On July 6, 2016, respondent sent an e-mail to AP Hilton, asserting claims of prosecutorial leniency based on racism. He further stated, "[i]f your Office, who will likely be a named defendant in a civil suit, is unable to discharge their duty in an objective fashion and follow the evidence, then perhaps you should seek to transfer the matter to another office." In a second e-mail, respondent threatened civil charges against AP Hilton if the charges against Wallace were not enhanced. Subsequently, respondent's communication to the UCPO domestic violence unit was restricted to writing, by regular mail.

Wallace subsequently entered a guilty plea to witness tampering, with a recommended sentence of probation conditioned on a ninety-day jail sentence and restitution, which would include any legal fees Johnson incurred defending against his criminal investigation. On August 30, 2016, respondent filed a motion to reject the plea, asserting that it was too lenient. The trial court denied his motion.

Between November 21 and December 9, 2016, UCPO Domestic Violence Supervisor and Assistant Prosecutor Karyn Weingarten (AP Weingarten) contacted respondent in an attempt to quantify Johnson's legal fees. In response, respondent sought to have AP Weingarten recused as the prosecutor because she had asked him for copies of canceled checks as evidence of the legal fees incurred. In his January 12, 2017 letter to the court, respondent stated:

> If the Court will not reign in this out-of-control, runaway prosecutor, then we will pursue every other legally available option to end her, literally, unprecedented invasion into the attorney-client relationship and legally indefensible attempt to conduct a rogue investigation of this Office, which is comprised of her former colleagues with whom she has a clear personal animus.
>
> [ExOAE-20(D4).]

State v. Arrend Santiago

During respondent's representation of Arrend Santiago, he sent dozens of e-mails to UCPO Assistant Prosecutor Thomas Andrykovitz and UCPO Internal Affairs Supervisor John Esmerado, demanding the production of documents and threatening legal action. In one e-mail, dated October 20, 2016, he stated:

> In seven days, seven days you will provide the records, or a Vaughn index with specific privileges for every time you refuse, or I will simply sue you.
>
> No more games. So long as you remain defiant of fundamental fairness and take your time, I will be relentless in seeking your depositions as well and I am sure you can imagine how that will go.
>
> [ExOAE-20(E).]

Respondent threatened that they would "be OPRA'd every single day until you stop hiding evidence of witness statements the law requires you provide."

Text Messages to Assistant Prosecutor Estrella Lopez

On January 5 and January 6, 2017, respondent sent text messages to UCPO Assistant Prosecutor Estrella Lopez (AP Lopez) regarding a charging decision she had made. When AP Lopez replied that he was "bad with boundaries[,]" respondent stated:

> You've always thought you're smarter than you are. But since you don't want to pick up the phone, Boundaries Woman, I'll show you boundaries, Estrella. You'll see what more needs to be said when your answering your bosses questions. Who the f**k do you

> think you are to ignore people and then falsely accuse them of sh*t . . . . You need a comeuppance.
>
> [ExOAE-20(F).]

State v. Eugene Cady

On March 3, 2017, in an online article, NJ Advance Media reporter Thomas Haydon identified a cooperating witness, by name, in an ongoing gang murder trial. The witness, who was represented by respondent at the time, was put at risk of harm.

Respondent contacted UCPO Director of Communications, Mark Spivey, and, within an hour, Haydon had removed the name of the cooperating witness from the online article. Importantly, Spivey had not provided Haydon with the witness's name; rather, the witness's name was revealed in a court hearing attended by Haydon.

On March 3, 2017, respondent sent an e-mail to Spivey, stating:

> You didn't return a call or email when one of YOUR witnesses is put in grave jeopardy and that tells me you put personal ahead of professional and therefore you don't deserve your job. You should be ashamed of yourself.
>
> He got chased today by a car of gang bangers and you don't answer an email or return a call.
>
> I went out of my way to help because it was a murder and the right thing to do, even though I absolutely despise your incompetent, talentless administration

> who you march in lock step to no matter what they tell you to do.
>
> And this is what you do out of spite when your moment to step up comes.
>
> This is your job--not the APs trying to put a murderer in jail. You're the press guy. No one else. Just you.
>
> And quite frankly, you're a total hack at this point and I'll be outside clapping when you and your bosses leave for the final time and disappear into the ether because no one will ever hear from any of you ever again because none of you have the talent or work ethic to survive and prosper outside a Government job where performance and results actually matter.
>
> You sold your soul. I hope it was worth it, Big Guy.
>
> [ExOAE-20(G).]

On March 10, 2017, Robert E. Barry, County Counsel for Union County, informed respondent that the UCPO would no longer accept e-mail correspondence from any e-mail address affiliated with his law firm and that all communication from him was required to be in writing, by regular mail.

Despite Barry's instruction, respondent's disturbing e-mail communication with various UPCO assistant prosecutors and local government officials and employees continued. On December 9, 2019, the UCPO Legal Chief of the Investigative Units, David Hummel, provided the OAE with additional communications, as well as social media screenshots from the Facebook and Twitter pages of respondent's law firm. In his e-mail

communications, respondent continued to call various assistant prosecutors and municipal prosecutors "talentless;" "unethical, malicious incompetents;" "petty spiteful liars;" "cheaters and hypocrites;" and "taxpayer waste."

Also, in a social media post, respondent referred to the UCPO as a "sociopathic institution devoid of trial lawyers and unconcerned with prosecuting innocent minorities and immigrants." He also referred to the former Acting Prosecutor as "a stupid, anti-male buffoon (who) decided she would singlehandedly and systematically target for destruction every talented competent man in the building while other weak pathetic 'men' stood idly by and watched UCPO be destroyed from within." Respondent also reposted an article regarding the newly sworn in Chief of Detectives, who was also the first female Chief in the history of the UCPO. Respondent referred to her as "Becky with the good hair."

On November 27, 2019, respondent sent an e-mail to Chief Hummel, warning him to "please be very careful when you're eating your Turkey – you'd be surprised how many people choke to death during Thanksgiving. I suggest you cut it into very small pieces – makes it easier to chew."

Respondent sent many of these e-mails after his July 27, 2018 interview with the OAE, during which he had expressed to the OAE his alleged remorse for his behavior, a desire to improve himself and conform his conduct, stated he

was "100 percent accountable," and that "this is on me." Specifically, he had stated:

> . . . I'm 100 percent responsible for being sitting here right now. I take full accountability for what I did. And I'm concerned. I don't want to be here. And I just want to do my job. And I want to try and – I love to be a trial lawyer. I love being in classrooms teaching, which I've done for 10 years.
>
> And [my attorneys] have imparted a lot the past few months to me . . . .
>
> ***
>
> But I promise you, I don't have a bad heart. I don't want to hurt anybody. And I'm very ashamed of the fact that I'm here. Like, this is very shameful for me and embarrassing. And, you know, the stuff before that gets me upset is because I need to deal with certain things that have happened in the past, and I need to address those things and turn that energy and emotion into doing more constructive and positive things.
>
> And words don't matter; it's deeds. And I'm just looking for an opportunity to plead, you know, to turn the page, please move forward. And, I mean, have a chance to demonstrate that I can learn from this mistake – mistakes, because I'm – I'm well aware that multiple people have complained about my behavior.
>
> [ExOAE-30pp58-61.]

In his amended verified answer, respondent admitted that his choice of words may have, in some instances, been inappropriate. In defense of his actions, however, he stated:

> . . . Respondent had a previous, professional working relationship with a variety of UCPO employees, and may have resorted to previously used language that was neither as professional nor as decorous as it should have been. Also as noted above, the exhibits detail communications that took place around the time Respondent was dealing with the false charges brought against him and his emotional response to same as forth in detail in paragraph 5 above.
>
> [A¶42.]

Respondent's Behavior During a Mountainside Disciplinary Proceeding

On April 25, 2017, respondent represented Frances Pasquale, a Mountainside Borough police officer, in defense of disciplinary charges made against the officer by the police department. Arthur Thibault, Esq., prosecuted the disciplinary charges for the Mountainside Township police department and Robert Verry served as the disciplinary hearing officer.

During the April 25, 2017, disciplinary hearing, respondent got into a heated exchanged with the hearing officer when the hearing officer attempted to explain that respondent was not permitted to issue witness subpoenas without the hearing officer's approval, pursuant to N.J.S.A. 40A:14-148. The transcript, which was admitted to evidence during the ethics hearing, revealed respondent's discourteous statements to the hearing officer:

> HEARING OFFICER VERRY: So between January 20th and whenever the subpoenas were issued that I received last night, what part didn't you get?

[Respondent]: The law.

HEARING OFFICER VERRY: Okay. So –

[Respondent]: You, you -- it seems in this forum, we like to make things up as we go based on the decision you made, for example, in your 12 pages –

HEARING OFFICER VERRY: Let's focus on --

[Respondent]: I'm not done. I'm not done. We all know this is going up. We all know this is going up. So don't stop me from making my record, Mr. Verry. Let me make my record.

HEARING OFFICER VERRY: Let's remain focused.

[Respondent]: So we're clear, this is going up so do not stop me from making a record.

HEARING OFFICER VERRY: Okay. I'll stop you from making a record. Let's deal with the issue at hand, the subpoenas.

[Respondent]: Are you accredited by any agency or anyone to be a hearing officer?

HEARING OFFICER VERRY: Again, let's focus on –

[Respondent]: No. I want to focus on the appropriateness of you being here. Don't tell me how to do my job.
HEARING OFFICER VERRY: Well, let's focus.

[Respondent]: Don't tell me how to do my job. Are you a member of the Bar?

HEARING OFFICER VERRY: So what part of you got it -- cause you said you got it. If you have an issue with

this process and the procedure you should have addressed it on January 20th. You didn't have a problem with the process. As a matter of fact you got, I got it. Your quote. So –

[Respondent]: So what's your question?

HEARING OFFICER VERRY: In light of the fact you failed to fol1ow the process and the procedure I'm going to quash all the subpoenas that you issued and if you want to re-issue –

[Respondent]: You're going to quash them on what? Where's the motion?

HEARING OFFICER VERRY: Under 40A:14-148. The subpoenas are to be sent to me. There's an opportunity to object to them by the opposing side and if –

[Respondent]: Do you see –

HEARING OFFICER VERRY: And if you want –

(Whereupon the court reporter asks for clarification.)

HEARING OFFICER VERRY: Are you going
to focus? Then you can go ahead.

[Respondent]: Are you going to continue to make disparaging comments towards me?

HEARING OFFICER VERRY: Are you going to focus?

[Respondent]: Are you going to continue to make nasty, disparaging comments towards my client?

HEARING OFFICER VERRY: Disparaging?

> [Respondent]: Are you saying the same things to him? You're just having ex parte communications with him.
>
> HEARING OFFICER VERRY: He's silent. He's silent.
>
> [Respondent]: You quashed the motions based on -- excuse me. The subpoenas on what motion? On what motion did you quash the subpoenas just now?
>
> MR. THIBAULT: I sent an email –
>
> [Respondent]: An invisible motion. Let me go ahead and read to you because you like to make things up. 40A:14-147, "Except as otherwise provided by law, the officer, board or authority empowered to hear and determine the charge or charges made against a member or officer of the police department or force, shall have the power to subpoena witnesses and documentary evidence. The Superior Court shall have jurisdiction to enforce any such subpoena."
>
> [ExOAE-23pp121-123.]

When the hearing officer quashed respondent's subpoenas for failure to adhere to proper procedure, respondent impugned his neutrality:

> HEARING OFFICER VERRY: At this point in time the subpoenas are quashed so why don't we let the X amount of people that are out in the hall leave?
>
> [Respondent]: Well, or we can deal with the problem in a practical fashion since they're going to get subpoenaed anyway, unless you don't intend to give us due process which doesn't seem you do.
>
> HEARING OFFICER VERRY: If you did it correctly we wouldn't be having this conversation right now but you --

> [Respondent]: I love how you're an advocate. You're supposed to be neutral.
>
> [ExOAE-23p125.]

Throughout the proceeding, respondent continued to belittle the hearing officer, stating things like "[y]ou've shown zero interest in getting to the truth," accusing him and Thibault of "hiding" something from him, and asking if he would "prefer to get paid and continue this charade." Respondent suggested that Verry was beholden to the Township, stating, "I get who pays you, Mr. Verry, but I'd like a little neutrality and independence here please."

Respondent's approach carried throughout the entire proceeding. The below excerpt typified his conduct:

> HEARING OFFICER VERRY: I already ruled on this.
>
> [Respondent]: You didn't let me be heard.
>
> HEARING OFFICER VERRY: You didn't ask to be heard.
>
> [Respondent]: Yes, I did. I always ask to be heard. I have a standing request to be heard.
>
> HEARING OFFICER VERRY: Show me a request where you –
>
> [Respondent]: Show me where I didn't ask to be heard. We'll play the game, your [sic] prove the negative game. So the burden is on me to produce things but he just says them.

> HEARING OFFICER VERRY: So we can move on again.
>
> [Respondent]: No, not so we can move on.
>
> [ExOAE-23p174.]

Respondent later stated that he refused to move on until the hearing officer demonstrated an ability "to be neutral and independent," and threatened to "make sure that this goes all over so people understand how cops are – what kind of shake they're going to get with you."

Respondent further questioned the hearing officer's credentials:

> HEARING OFFICER VERRY: You want to pretend like I answer to you. I don't. Any other administrative issues you want to bring up? Cause I'm certainly willing to entertain them.
>
> [Respondent]: I want to know -- do we have your C.V.? Who accredits you? Who accredits you that you write this? Who accredits you that you write things from February on a 30-day issued from August? Are you accredited by anyone?
>
> HEARING OFFICER VERRY: Any other –
>
> [Respondent]: I asked you a question. Are you accredited by anyone?
> HEARING OFFICER VERRY: Any other administrative issues you --
>
> [Respondent]: What are your credentials to be sitting here right now other than they passed a resolution to have you here? I have no idea what your credentials are to be here because you're ignoring everything I say.

> HEARING OFFICER VERRY: No. I'm addressing everything you say. You're just not happy with the answers you're getting.
>
> [Respondent]: No. You're not used to someone like me, Chief.
>
> HEARING OFFICER VERRY: When you're not happy you seem to get louder instead of – just really --
>
> [Respondent]: I got where I am because --
>
> HEARING OFFICER VERRY: -- moving on with this hearing.
>
> [ExOAE-23pp179-180.]

Respondent also directed his ire toward Thibault. Respondent repeatedly called Thibault "a liar" and characterized Thibault's prosecution of the charges on behalf of the town as being at the expense of the "taxpayer." "People should be ashamed of themselves and if he thinks how I conduct myself, I'm fighting for a man with a family who's going to be put out on the street and he gets paid by taxpayers." Respondent called Thibault "Captain Nonsense" and a "liar." He repeatedly denigrated Thibault, describing him as "blubbering," "speaking in nothing," and a "renegade lawyer [who was] only concerned with getting paid and making their client happy at the expense of a man and his family which is a disgrace."

Moreover, while questioning a witness, respondent asked whether the witness had "ever heard of the crime of perjury?" Despite the witness stating he had, respondent proceeded to read from the criminal code:

> Under our Criminal Code 2C:28-1, Subsection A, "A person is guilty of perjury, a crime of the third degree, if in any official proceeding he makes a false statement under oath or equivalent affirmation or swears or affirms the truth of a statement previously made, when the statement is material and he does not believe it to be true.
>
> I'm going to ask you again.
>
> [ExOAE-23pp197-198.]

Based upon his conduct toward the ECPO; UCPO; WPD; and Mountainside officials, the OAE asserted respondent had violated RPC 3.1; RPC 3.2; RPC 3.4(d); RPC 3.4(g); RPC 8.2(a); and RPC 8.4(d).

Respondent's Conduct in the Kelly Litigation

Respondent represented Todd Kelly and three other Elizabeth police officers in their civil action against the City of Elizabeth; its then mayor (J. Christian Bollwage); its then Police Director (James Cosgrove); and others, captioned Kelly v. City of Elizabeth, et al., Docket No. UNN-L-2647-16 (the Kelly litigation). The plaintiffs asserted, among other claims, that they had not

been promoted based upon retaliatory motives, in violation of the Conscientious Employee Protection Act, N.J.S.A. 34:19-1.

On May 15, 2017, respondent deposed three Elizabeth police officers: Lieutenant Richard Shaughnessy, Sergeant Julian Hilongos, and Lieutenant Rense Schalen.[6] During each deposition, respondent frequently made insulting and threatening remarks to the witnesses. For instance, while conducting the Shaughnessy deposition, respondent asked:

> Q: Do you have problems with your memory and your brain?
>
> A: No. I just don't remember dates.
>
> Q: You just don't remember dates?
>
> A: Some dates I don't remember.
>
> Q: Do you have a problem with your memory?
>
> A: No, I don't.
>
> Q: Do you have a medical condition that helps give you problems with your memory?
>
> A: No, I don't.
>
> Q: Being a police officer its very important to have the ability to recollect things that you observe. Correct?

[6] James M. Mets, Esq., represented the Elizabeth Superior Officers Association; Robert F. Varady, Esq., represented defendants J. Christian Bollwage and the City of Elizabeth; Edward Kologi, Esq., represented defendant James Cosgrove; Adam Colicchio, Esq., represented defendant Patrick Shannon; and Craig Dowd, Esq., represented defendant Tyrone Torner.

A: Sometimes.

Q: When is it not important to have a good ability as a police officer –

(colloquy interrupted by Varady)

[ExOAE-24p15-16.]

Later, in the same deposition, respondent asked Shaughnessy if he was aware that respondent's client, Todd Kelly, had been removed from an internal personnel list:

Q: Are you aware that Todd was ultimately removed from that list?

A: I believe a lot of people got removed from that list, yes.

Q: You see, this is gonna go one way, if you answer the questions, and another way, Lieutenant, if you don't. So I –

MR. METS: Objection.

MR. VARADY: Objection. You're harassing the witness.

MR. DOWD: Objection.

MR. METS: He answered the question.

[Respondent]: Can I finish? I'm instructing the witness.

MR. METS: You're not. You're lecturing the witness. You can instruct him.

[Respondent]: Mr. Mets, let me just instruct the witness, please.

Q: This is gonna go one way if you answer the question and it's going to go another way if you don't answer the question. So, I'm simply asking that you not -

MR. METS: Could you explain? What does that mean, because you seem to be threatening.

MR. VARADY: I'm objecting to that as intimidating and harassing.

[Respondent]: Mr. Mets, you seem to have a very sensitive delicate constitution. You take everything as a threat.

…

Q: Mr. Shaughnessy, if you answer the question simply the deposition will go one way. If you do not the deposition will be another way. So, I'm asking that you please not change the question I ask you in your own mind and answer your question. I ask that you please just answer my question.

[ExOAE-23pp108-110.]

Respondent's commentary toward the witness continued:

Q: Lieutenant Shaughnessy, what does rescind mean on the planet earth in English speaking words?

Q: Is it right for anyone to try and put this on Cosgrove alone as opposed to Bollwage, yes or no?

MR. KOLOGI: Objection to the form.
MR. DOWD: Objection to the form.

A: It's not right to put anything under anything if they didn't do anything wrong?

Q: Thank you for the principle. That's fortune cookie. I need to know specifically here.

[ExOAE24pp275-276.]

Respondent's conduct toward the witness continued during the Hilongos deposition.

Q: Are you telling me this is a hard question, whether or not the taxpayers are paying more?

MR. DOWD. Objection.

MR. KOLOGI: Objection to form.

MR. METS: Objection. You don't have to answer that.

Q: I'm gonna ask you again. This isn't a hard question. Does it cost the taxpayers more or less money if they pay a rate at overtime?

MR. KOLOGI: Objection. He's already answered the question as to the effect on the taxpayers. He said he doesn't know.

[ExOAE25p69.]

Later, also during the Hilongos deposition, the following exchange occurred:

Q: Did he tell you that he would make sergeants, yes or no?

A: Yes.

Q: Did he tell you that he would make lieutenants, yes or no?

A: No.

Q: Thank you. That wasn't so hard.

[ExOAE25p92.]

Respondent's demeanor toward the witnesses continued during the Schalen deposition.

Q: Did he threaten to take away pay jobs from supervisors at the time?

A: Nope.

Q: If you were strapped to a polygraph right now –

(Objections)

Q: So, this guy, the director, has never made a threat to take away pay jobs from bosses?

A: Not to me.

Q: I didn't ask to you.

A: Not that I'm aware of, no.

Q: He took away pay jobs from captains. How you gonna sit here and say –

MR.METS: Objection.

MR. VERADY: Objection.

MR. DOWD: Objection.

[Respondent]. Let me finish the question.

MR. METS: It's not a question.

[Respondent]: You like to interrupt.

[ExOAE26pp25-26.]

Respondent continued with his questioning of Schalen:

Q: The director couldn't take away your ability to earn pay jobs. Right.

A: Sure, he could.

Q: And that would be very devastating to you personally. Correct?

A: No.

Q: That wouldn't be devastating to you?

MR. METS: Objection. Asked and answered. He said no.

A: I just said no, Josh.

MR. COLICCHIO: Same objection.

Q: So then why do you work so many jobs, Rense?

A: None of your business.

MR. VARADY: Objection.

MR.METS: Objection.

MR. VARADY: What does that have to do with the lawsuit?

> [Respondent]: That's the way it works in here. I'm asking the questions.
>
> [ExOAE26pp31-32.]

Respondent ignored most of defense counsel's objections and engaged in often demeaning colloquy with his adversaries. For example:

> MR. DOWD: When you ask the deponent the same question over and over again over objections, and you know you're asking the questions again, because you prefaced it by saying, I'm gonna ask again, that's called intimidating and harassing the witness. And we'd ask that you stop.
>
> [Respondent]: How many trials have you done?
>
> MR. DOWD: We'd ask that you would stop.
>
> [Respondent]: And I'd ask that you go do some trials. If that's intimidating the witness we're in a different world.
>
> [ExOAE-23pp124-125.]

Respondent continued:

> Q: And yet if you had another lieutenant who was simply promoted you would save all that money from the taxpayer?
>
> MR. KOLOGI: Objection. This is getting argumentative. You're trying to get the answer that you want He's saying, no.
>
> [Respondent]: Mr. Kologi, he's not saying no. So, stop coaching the witness and be a friend to the taxpayer, Mr. Kologi, which I know you are.

MR. KOLOGI: You're trying to elicit an answer he's not prepared to give you.

[Respondent]: No. You should stop counseling the witness.

[ExOAE-24p162 (emphasis added).]

While questioning a witness, respondent also referenced unrelated litigation involving the City of Elizabeth:

Q: Are you aware of any lawsuits that have been settled by the city in the amounts that are millions of dollars? Are you aware?

MR. SIMIIZ: Objection to form.

A: The only one I think I am aware of is Conray. I don't know how much he settled for.

Q: Would that be the Thurman Brown settlement?

A: I don't know the victim or plaintiff.

Q: That was over a million. Correct?

A: I think it is.

Q: That was Mr. Renaud's office who handled that; is that correct, the 1.5 million?

A: I have no idea.

MR.VARADY: Object to the form.

MR. SIMITZ: Objection to form.

Q: How about any firefighters in Elizabeth, any million dollar lawsuits you're aware of there?

A: The recent one. I believe his name is Bonda. Am I saying it correctly?

Q: I believe it's Bonda.

A: Bonda.

Q: Are you aware if that was a multiplier of millions?

A: Yes.

Q: How many cops could I get for three and half million bucks just on those two suits right there?

MR.VARADY: Objection to form.

MR. DOWD: Objection to form.

MR. SIMITZ: You can't get any cops, Counselor.

MR. METS: They're people. They're not for sale.

Q: How many cops could the women and children of Elizabeth get for three and a half million dollars to protect them?

[ExOAE24pp48-50.]

Similarly, respondent misrepresented the outcome of a different, unrelated proceeding:

Q: Are you aware that the same mayor was just found liable for 2.1 million in punitive damages for delivering retaliatory messages himself?
MR. VARADY: Objection. That's entirely false.

MR. KOLOGI: Absolute false statement.

MR.VARADY: Complete misrepresentation.

[Respondent]: What part of it is false, 2.1 million?

MR. VARADY: What case?

[Respondent]: Bonda v. Elizabeth.

MR. VARADY: The mayor was dismissed from the case on summary judgment, wiseguy.

[Respondent]: Except the complaint alleged the mayor specifically retaliated.

MR.VARADY: You asked if the mayor was held liability [sic] for 2.1 million dollars. He was not. So, stop lying. Stop misrepresenting.

[ExOAE-24p280.]

During the Shaughnessy deposition, respondent read to the witness the statute governing false statements made while under oath:

Q: That's not what I asked you, though. Are you telling us under oath – actually let me rephrase.

A: I think that would be a question for the mayor, no?

Q: No.

A: No?

Q: 2C:28-2. False Swearing. Subsection A. "A person who makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made, when he does not believe the statement to be true, is guilty of a crime of the fourth degree." Do you understand that?

A: Yes.

[ExOAE24p60 (emphasis added).]

At this point in the Shaughnessy deposition, which was the first of the three depositions that day, defense counsel informed respondent he would stop the deposition if respondent was going to accuse Shaughnessy of a crime. The parties contacted the Honorable Robert J. Mega, J.S.C., and, in his telephonic ruling, Judge Mega required that the deposition proceed but cautioned respondent that the deposition wasn't a "test of . . . a witness' knowledge of the 2C code and understanding it . . . . In terms of whether or not somebody has lied or falsified something under a record, that's for another court, and that's for another agency to investigate, not this court at this time." Respondent replied "[m]essage received, your Honor." Judge Mega further ordered that no deposition could be suspended or adjourned unless the objecting party sought leave of court for a protective order.

Just prior to the call with Judge Mega, the court reporter announced that she could no longer transcribe the deposition because counsel were talking over one another. "I can't take you both down so I'm stopping. I'm gonna step out, guys. I gotta step out, because I can't. I can't do this. It's impossible."

Following the May 15, 2017, depositions, Kologi filed a motion for a protective order, seeking to limit respondent's conduct in the taking and

defending of all remaining depositions. Upon receipt of the motion, on May 18, 2017, the court issued a temporary stay of all pending depositions and set a briefing schedule.

Respondent opposed the motion and, on May 31, 2017, submitted his opposition brief, which he also characterized as his cross-motion for a protective order against defendants, for "witness intimidation, witness interference, obstruction of access to discovery and public records, falsehoods to opposing counsel and the tribunal, and frivolous litigation at taxpayer expense."

Respondent accused the defendants of being "engaged in a deliberate, concerted and intentional conspiracy to obstruct, delay and deny Plaintiffs lawful access to the Courts, and are using fraud, deceit and intimidation to achieve their unlawful ends." Repeatedly referring to defense counsel as "taxpayer-funded" attorneys, respondent claimed they had obstructed the completion of depositions; objected "at an unprecedented rate;" and were "engaged in an effort to work with one another in an attempt to intimidate and bully [respondent] . . . because they represent powerful politicians."

In his first footnote, respondent accused defense counsel of violating the doctrine of completeness by not providing the court with complete transcripts. Instead, respondent claimed:

> [T]hey do what they have done throughout this case: mislead the Court and withhold the complete record.

> Simitz lied to the Court while his Client tampered with my witnesses and the Court has not acted on same; yet, the Court grants a preposterous stay of depositions because the witnesses are, one after another, corroborating my complaint.
>
> [ExOAE28n1.]

In another footnote, respondent suggested the court was imbedded with defense counsel, stating that "the court and Kologi and Varady have a long history and the undersigned [respondent] should 'not be surprised' by the fact that Defendants are winning virtually all of the motions." Respondent attributed these allegations of collusion between defense counsel and the court to "various persons, who wish to remain anonymous due to fear of reprisal and retaliation." Respondent continued, claiming that the "constant reiteration of politics infecting the legal process is causing a loss of confidence in the impartial administration of justice."

In yet another footnote, respondent claimed he was in discussions with the OAG and intended to hand over the deposition transcripts for investigation, "as the persons testifying are police officers and they have made clear that Bollwage and Cosgrove are operating as if 'pay-to-play' corruption is lawful and [the police officers] efforts to retaliate and silence those that bring same to light are somehow lawful and not corrupt; which, in fact, they most certainly are."

Respondent also asserted, without citation to any legal authority, that a protective order would be violative of his and his client's right to freedom of speech.

On July 28, 2017, Judge Mega granted Kologi's motion for a protective order, ordering that respondent be:

> restrained from making threats, attempts at intimidation, insults, or any other unprofessional conduct inconsistent with the New Jersey Rules of Professional Conduct at any deposition, arbitration or other court proceeding related to the above captioned matter; and it further
>
> ORDERED that [respondent] shall be restrained from making any reference to state or federal criminal statutes, prosecution or threat of prosecution to opposing counsel, to fact or party witnesses; and it further
>
> ORDERED that [respondent] shall be restrained from questioning any fact or party witness on matters irrelevant to the above captioned matter or unreasonably calculated to lead to the discovery of admissible evidence of same
>
> [ExOAE-37.]

Judge Mega's order was accompanied by a thirty-five-page opinion, detailing respondent's behavior during the depositions. The court recited many of the same above-described deposition excerpts as examples of the "more egregious harassing and insulting conduct," determining respondent's conduct

to be inconsistent with RPC 3.2, RPC 3.4(d), and RPC 3.4(g), and necessitating the issuance of a protective order.

The court also determined that respondent's May 31, 2017 brief and cross-motion ran afoul of RPC 3.1, RPC 3.4(g), and RPC 8.2(a), stating:

> Here, [respondent] contends his adversaries have been conspiring to obstruct the prosecution of plaintiffs' case without any submissions consistent with that bald accusation nor did it refer to any evidence. This court does not credit, as [respondent] appears to urge, that previously decided discovery motions issued by this court constitute evidence of an unlawful conspiracy. Counsel's claims of illegality also extend beyond his adversaries, imputing this court is beholden to counsel for defendants.
>
> [ExOAE37.]

In conclusion, the trial court held that the proper administration of the case demanded its intervention to restrain respondent from his "persistent non-conformity of deposition protocol." Based upon the court's past observations of conduct between counsel and the "atmosphere of belligerence," including overzealous motion practice by both sides, the court sua sponte appointed a special discovery master.

In his verified, amended answer to the formal ethics complaint, respondent defended his conduct, stating that the depositions were taken in connection with contentious litigation. Defendant also stated that the depositions were among the first he had ever taken. "At the time [r]espondent had virtually no civil litigation

experience, and he was engaged in contentious litigation with highly experienced litigators."

Respondent acknowledged, however, that he would benefit from anger management therapy to better control his emotions, "and has already begun that therapeutic work to become a better lawyer and advocate."

Prior to the commencement of the formal ethics hearing, the special master held numerous case management conferences with the parties, eight of which were conducted via Zoom and transcribed. The special master also resolved numerous motions and objections, including the following.

On November 23, 2020, respondent, through his then attorney, John C. Whipple, Esq., filed a formal objection to a virtual disciplinary proceeding on the basis that (1) the matter presented complex legal and factual issues; (2) the lack of urgency since respondent did not pose a threat to the public; and (3) the practical difficulties associated with virtual hearings, particularly in view of the anticipated length of the hearing.

In its November 30, 2020 opposition, the OAE stated that its office had, to that date, successfully participated in twenty-two virtual hearings, including complex knowing misappropriation matters, and that any technological issues had promptly been resolved.

On December 18, 2020, the special master denied respondent's application, determining that the ethics hearing could proceed in a virtual format. The special master stated:

> I do not find there any case specific facts and circumstances which support the need for an in-person hearing in this matter. As a trial lawyer practicing during Covid-19 Pandemic and its restrictions, and as a Certified Civil Trial Attorney, I have been able to conduct depositions, participated in virtual hearings, arguments, and conferences while navigating the required technology.
>
> ***
> Every consideration will be given to assure that this hearing will be conducted fairly, and witnesses and evidence will be given the same scrutiny, as if they were presented in-person.
>
> [ExSupp7.]

On October 4, 2020, the special master entered a protective order relating to Exhibit 19 to the OAE's complaint, which is the transcript of the Superior Court's June 30, 2017 decision granting the ECPO's petition for the forfeiture of respondent's firearm. The protective order directed that:

> All information and records pertaining to the above protected subject matter, including transcripts, motion papers and written summations, shall be filed with the Special Master under seal and not disclosed to the general public; however, this shall not prevent disclosure to attorneys of record or others in their firm whose functions require access, court staff whose function requires access, experts retained by a party in connection with this matter, the parties to this action

> and their staff whose function requires access, the Special Ethics Master, the Disciplinary Review Board ("Board") and the Supreme Court
>
> [ExSupp4.]

On January 21, 2021, the day before the ethics hearing was scheduled to commence, respondent's former attorney, Whipple, sought to be relieved as counsel. Thus, on January 22, 2021, the special master conducted a prehearing conference and permitted Whipple to withdraw as counsel, leaving respondent to proceed pro se. The special master emphasized that, in reaching his determination, he relied upon respondent's repeated representations that, if he were allowed to proceed pro se, the hearing would not be further delayed. Respondent acknowledged that opening statements would commence the following week, on January 28, 2021.

However, on January 28, 2021, the day the hearing was scheduled to begin, respondent raised a multitude of issues, including whether the hearing could be bifurcated; the burden and standard of proof; the applicability of mens rea; the applicability of the protective order; and the confidentiality of ethics grievances and internal affairs complaints filed by respondent. The hearing was adjourned to allow the parties an opportunity of to submit formal briefs.

On February 19, 2021, a third prehearing conference was conducted to address, among other issues, the OAE's motion for a protective order related to certain complaints respondent had filed against members of law enforcement.

On February 26, 2021, the special master conducted a fourth prehearing conference, this time addressing respondent's naming of additional witnesses and his accusation that the special master was a "biased agent of the government." Four additional prehearing conferences occurred prior to the commencement of the hearing on January 7, 2022, nearly one year after respondent's request to proceed pro se.

On February 8, 2021, the OAE moved for a protective order, pursuant to R. 1:20-9(h), to bar the unauthorized or public disclosure of any investigations initiated by respondent against law enforcement. Pursuant to the OAG's Internal Affairs Policy & Procedure (IAPP), such information should be sealed by protective order against disclosure during the ethics hearing. Respondent was expected to cross-examine some of the OAE witnesses regarding his recent complaints.

On February 15, 2021, respondent opposed the OAE's motion, asserting that the OAE's motion lacked specificity, thereby preventing him from providing a more fulsome response. Respondent claimed that the OAE failed to cite any "caselaw which has held that the Government can silence a private

citizen (respondent) from sharing what he knows about corrupt police, prosecutors, judges and politicians with the public." Respondent demanded the OAE withdraw its motion based upon its failure to cite any law authorizing the relief being sought. Respondent also alleged that the OAE improperly had provided copies of its exhibits to the special master, prior to their admission into evidence, in an attempt to "dirty me up." Further, respondent alleged that the entire proceeding was a farce and deprived him of due process. Specifically, respondent asserted:

> Further, this is already within the context of the OAE choosing you (Mr. Kenny) as the Special Master, presumably because they have dealt with you in the past, and you ultimately being subordinate to Mr. Zweig's boss, Charles Centinaro (e.g., who, for example, had the authority to reverse your choice as to whether to proceed via Zoom or not). Thus, this entire process, where the group prosecuting me choose the judge of me, and said judge is answerable to the prosecutor's (Zweig) boss (Centinaro) deprives me of fundamental fairness and due process of law. The judicial branch ought not be carrying water for bad politicians, judges, prosecutors and police who are the subject of harsh criticism by civil rights attorneys . . . .
>
> [ExSEM6.]

On February 22, 2021, the special master granted the OAE's motion and issued a protective order "pertaining to ongoing . . . investigations involving. . . members of law enforcement being conducted . . . ." The order provided:

> All information and records pertaining to the above protected subject matter, including transcripts, motion papers and written summations, shall be filed with the Special Master under seal and not disclosed to the general public; however, this shall not prevent disclosure of attorneys of record and others in their firm whose functions require access, court staff whose function requires access, experts retained by a party in connection with this matter, the parties to this action and their staff whose function requires access, the Special Master, the Disciplinary Review Board ("Board") and the Supreme Court.
>
> [ExSEM10.]

Further, the order contemplated the OAE identifying those portions of the transcript that were required to be marked "confidential" and, further, that the special master would clear the courtroom when any such testimony or argument was occurring.

On March 3, 2021, the OAE filed a motion to bar respondent from sending harassing and intimidating e-mails to individuals on the OAE's witness list who were expected to testify at the hearing. In support, the OAE attached a December 18, 2020 e-mail from respondent to the UCPO Legal Chief of the Investigative Units, David Hummel, which stated "I know we will be seeing one another soon and we will have a chance to talk very soon. I am very much looking forward to it as it has been almost a year since I learned what type of human you truly are and we have not had a chance to speak since then." The OAE's motion was

supported by additional e-mails of the same nature. The OAE also noted that respondent had filed complaints against many of the OAE's witnesses.

In its motion, the OAE also addressed an argument raised by respondent – that the special master be recused for having received a copy of all exhibits in advance of the hearing, without notice to respondent or opportunity to object. The OAE urged that R. 1:20-5(b)(3)(J) permits the special master to address, at any prehearing conference, any matter "which may aid in the disposition of the case." Thus, the special master correctly ordered, via his October 21, 2020 case management order, that the parties exchange evidence in advance of the scheduled hearing. Further, the OAE argued that respondent had failed to articulate a basis, in accordance with R. 1:20-6(d), necessitating the special master's disqualification from presiding over the hearing. "There is no basis for you to recuse yourself under these precedents simply because you may have read some of the exhibits that the OAE intends to move into evidence at the hearing."

On the same date, March 3, 2021, respondent demanded that the OAE cease any future references to special "master," because the term "is a vestige of systemic racism."

On March 8, 2021, respondent opposed the OAE's motion, stating that the OAE acted in a "misleading and deceitful fashion," and that it wants to "cancel"

him because he is a "harsh critic of [the Government's] racist, sexist, unethical and immoral conduct."

On March 11, 2021, the special master conducted a fifth prehearing conference, during which he addressed the OAE's motion that respondent cease and desist communications with the OAE's witnesses, which he granted. The special master also denied respondent's motion that the special master be recused.

On March 25, 2021, the special master conducted the sixth prehearing conference in this matter. Although oral argument was scheduled to begin, the hearing was converted to a conference because Steven Zweig, Esq., the deputy ethics counsel then assigned to the matter, announced he was leaving the OAE for another employment opportunity. The special master directed the OAE to file a formal motion.

Thus, on March 31, 2021, the OAE moved to adjourn the ethics hearing dates based upon the impending departure of the assigned deputy ethics counsel. Respondent opposed the OAE's motion and cross-moved to dismiss the complaint. Alternatively, respondent requested that the special master order the OAE to engage in good faith negotiations to resolve the ethics matter short of a hearing. On April 7, 2021, the OAE submitted a reply in further support of its adjournment request.

On April 9, 2021, the special master conducted a seventh prehearing conference to address the OAE's motion. He granted the OAE's motion, denied respondent's cross-motion to dismiss, articulated his reasoning on the record, and memorialized the decision in an order of the same date.

On April 23, 2021, the special master conducted the eighth and final prehearing conference, at which time hearing dates were discussed.

On September 17, 2021, following deputy counsel Zweig's departure, the OAE notified the special master that Darrell M. Felsenstein, Assistant Counsel and Statewide Fee Arbitration Coordinator, had been assigned to the matter.

The formal ethics proceeding commenced on January 7, 2022 and spanned eight days.

During the OAE's opening statement, respondent objected to the OAE's reference to the ECPO's criminal investigation and claimed that protective orders required the record be sealed when such matters were discussed on the record. Despite the special master's repeated attempts to have respondent define, specifically, his understanding as to the parameters of the various protective orders governing the underlying criminal allegation, as well as the gun forfeiture proceeding, respondent refused. Instead, respondent repeatedly accused the OAE of intentionally violating of the governing protective orders, at one point stating:

> Judge, we -- Mr. Kenny, we got a real problem right now. We got a real problem right now. We got a big problem. I don't know what's going on here. But if it -- this office is hell bent – you're going to hear me acknowledge that I don't speak nice to people, especially when I view them as engaging in terrible behavior. But now it's two things so far. And we can't get off the ground. Not because of me. He just broke the law. Sitting here talking about my conduct being unethical. You're sitting here telling them they should look into it, which I don't appreciate you doing. He just broke the law. So what are you going to do about that? What are you going to do about it?
>
> This is not -- I don't find any of this funny. You're having people who are going against me talking in my hearings, powerful people. The prosecutor of Union County is showing up at my Ethics hearing. Now you have this man reading into the record with Kathleen Estabrooks, an adversary I have on a multimillion dollar case that's up in front of the Third Circuit, which is also connected to Bill Daniel through State Senator Nick Scutari. And now this man's reading false allegations into the record of a [person] who's been indicted for trying to ruin my life on lies. This man's reading it into the record. What is going on here?
>
> [1T45-1T46.]

Respondent argued that the complainant's allegation could not be referenced or discussed, unless the record was sealed, based upon the nature of the allegation, as well as the Superior Court's protective order which sealed the gun forfeiture files. Respondent then moved to disqualify Felsenstein and to dismiss the complaint, based upon his "rampant misconduct," including

attempting to "dirty me up, make me look bad, let it get out in public that I've been falsely accused of [a serious crime]."

When the OAE resumed its opening statement, reciting the content of various e-mails respondent had sent to members of the ECPO and statements made to the WPD, respondent again objected, asserting they, too, were subject to protective orders, requiring the record be sealed. Again, despite the special master's request that respondent define "how far down the chain the protective order flows," respondent refused. Respondent accused Felsenstein of "misleading" and "lying" to the special master.

Following respondent's repeated demands, the special master determined, with the OAE's agreement, to seal the entire record. Respondent, in turn, objected to a "blanket sealing of the record." However, the special master determined that the prudent course was to seal the entire record and, upon formal application by either party, the special master would consider unsealing all, or a portion of, the record. The special master explained his reasoning for sealing the entire record as follows:

> Initially, an attempt was made to separate confidential references from non-confidential to have as much of the Ethics Hearing public as possible. However, it was concluded separating the record between confidential and non-confidential matters would be overly burdensome and disruptive. Therefore, the entire Ethics

> Hearing record was sealed. The OAE consented to such seal and designation of confidentiality.
>
> [SMRp2.]

The OAE called respondent as its first witness, and his testimony spanned four days. Respondent was combative, non-responsive, evasive, and, often, answered the OAE's question with a question of his own or, simply, by attacking the integrity of the OAE and the special master. For brevity, only a few excerpts are included here, although the record is replete with additional examples.

In response to the OAE's question "do words matter," respondent replied:

> Of course they matter. I grew up with a John Kennedy poster on my wall until I learned he was basically sexually molesting nineteen-year-olds. I thought Roger Gorman was my idol growing up, and then I learned all of that was a lie, too. Just like I thought judges were all fantastic, and then I realized most of them for the past 15 years are going through Nick Scutari who federal prosecutors wrote a fifty-eight-page report about, I sent it to your office, and you ignore that. We all read about it in the news. You're sitting here going after me because you don't like the way I talk. And you're ignoring all these terrible things that have happened to people, real people, the front page of the newspapers. You've done horrible things. I just told you Caroline Lawlor released someone who serially raped little boys, anally raped little boys, and she let him out. And you have a complaint against me in here for Mike D'Agostino because I was mean to him that he didn't let out my black nonviolent drug offender who was dying of leukemia. That's your office. That's who all of you are. If it's not clear to all of you that I'm prepared to get up in front of your justices, it should be.

[1T179-1T180.]

When the OAE asked respondent why he had referenced Fredo Corleone in his correspondence to Lt. Lugo, respondent explained that Lugo was a "lying dirty cop" and that Corleone was someone who was "weak, pathetic, just looking to get ahead." The OAE probed, asking whether Fredo also was a character who got shot in the head for betraying somebody, to which respondent erupted:

> Yeah. Is this going to be like your blowup argument, Mr. Felsenstein? Is this where you're going to tell me, the former prosecutor who puts murders and rapists and terrible people in jail, you're going to play this game again now? Just like Zweig? Is that what you want to do now? You can't even -- you can't even be honest with me as we're here face-to-face. You're going to sit here and you're going to sit here and tell me, blowup? Nobody said anything about blowup, and now you're sitting here telling me Fredo Corleone is, what, a death threat? You don't think I'm prepared for this, Mr. Felsenstein? You don't think I already have Chandliss and Bruno lined up prepared when you make this Fredo Corleone argument, he's scared, Fredo Corleone?
>
> What did he do about it at the time if he was so scared, Fredo Corleone? What did he do?
>
> The fact that your office is doing this is just so reprehensible. I mean, look at the -- look at the argument you're making right now. You don't even believe it. You don't even believe it and you're putting it forward, just like you know -- Mr. Felsenstein, have you ever said, your witness got blown up on the stand in your entire career? If I go to your firm and go start talking to your colleagues, you think they're going to ever say you ever made any mention, or anyone you ever worked with talked about a witness getting blown

> up on the stand? You never heard that expression? Really? Is that what you're going to say while you sit here and try and prosecute me like I'm some kind of -- come on. Operate in good faith here, please.
>
> [1T182-1T183.]

On the second day of the hearing, respondent continued to provide non-responsive answers to the OAE's direct questions.

> Q: So to go through that, [respondent], what was the purpose of -- what did you mean when you said, "blow up Ms. Montesino in front of a Superior Court judge," twice? What was the purpose of that language?
>
> A: Celeste Montesino, well, as I told you last time, and Mr. Felsenstein -- and, again, I don't want to get aggravated and frustrated, and I don't know your background other than what I've seen on the internet. But if you've never described a witness as getting killed on the stand or a witness is getting blown up on the stand, then we come from very different backgrounds.
>
> The prosecutors who are going to come in here are going to talk about, you know, the language that we use, similar to when you said about giving someone a taste. I was a gang prosecutor. I had the Latin Kings put a hit out to murder me. I was moved out of my house by gangs -- because gangs wanted to murder me. You don't have a lot of lawyers coming in front of here for your Office of Attorney Ethics proceedings that are gang prosecutors having murder hits put out on them. I did MS13 Latin King Blood Crip cases. I speak a certain way, as you can tell.
>
> What I don't do is lie, like Celeste Montesino, who lied in her certification under oath in trying to frame an innocent man. And the reason I was so livid and angry and the reason I was intending to blow her up in front

of the judge the next day, who I later realized the judge is a complete klutz as well. This is a judge who didn't want to give me the video of me being exonerated, Mr. Felsenstein. Celeste Montesino didn't want to give me the video and was hiding these -- this information. This is at the time where [the complainant] is threatening to kill me, threatening to kill my friends, threatening to kill my friends' infant children, and I'm talking about Brent Brammick (phonetic), Ann Marie Brammick, his wife, and their daughter. This is when I'm going to Westfield PD begging for help and they won't help me because they said Celeste Montesino and Clara Rodriguez told them they're not allowed to do anything for me. This is when I'm finding out that Leo Lugo is lying and doing things behind my back recording me.

There's nothing wrong with that recording, absolutely nothing wrong. I was a victim of a horrible, horrible -- this [complainant] tried to run me over at 3 in the morning in my driveway two years later. [The complainant] falsely accused me of [committing crimes] in the Essex County Prosecutor's Office. I don't think [the complainant's] still been sentenced. These are second- degree crimes punishable by five to 10 years in prison, and they didn't do anything to this [complainant] who, two years later, tried to run me over in my driveway.

What are we talking about here? We're talking about how I talk to cops in Newark? Jose Ramirez, when you bring him in, he almost killed his partner drunk driving in an accident. You don't even understand the depth of things I know when you spend 10 years in law enforcement like I did. I know things about all these people. I have dear, close friends who worked in the office with those people. I know all the things they were saying.

So when they come in to testify, Celeste is going to have her head ripped off proverbially, Mr. Felsenstein.

I don't want to play these games with you all where we pretend that we don't use allegorical language and metaphors and flourishing language. To blow up a witness means you're going to destroy them on the stand. You know it. Mr. Kenny knows it. Every lawyer knows it. The fact that Zweig -- and I'm not blaming you, but you're pursuing it now which means you're adopting it. The fact that Zweig put this in the complaint is disgraceful. It's dishonest and it's disgraceful.

This is me calling a man who (indiscernible) doesn't take my statement, orders Westfield PD not to help me while someone's threatening to kill me. I mean, what are we talking about here? I'm a man who's going against very powerful government actors all over the place, and I'm being attacked by them.

So one at a time, as you put up these witnesses, I'm going to dismantle them one at a time. One at a time. You should have looked at Celeste Montesino's certification before you asked me that question. She lied through her teeth. She's a horrible, terrible person.

So, yes, blow her up in front of a Superior Court judge means exactly what it means. And for you all to allude that it's some kind of bad act, it's disgraceful. It's disgraceful. It's disingenuous. It's bad faith. And you shouldn't be doing it. In fact, I'd call on you to withdraw it from your complaint. Stop asking me questions about blowing her up because I know you don't think that that's a violent-crime threat. She didn't think it was a violent-crime threat. This was a trial lawyer saying your witness is going to get blown up on the stand tomorrow. That's all it was.

[2T15-2T18.]

In response to the OAE's question about whether calling Tribault, his adversary in the Mountainside disciplinary matter, a liar was appropriate under the Rules of Professional Conduct, respondent again attacked the OAE, stating:

> Yeah. You're the office who doesn't prosecute prosecutors who put innocent black people in jail. I mean, you have no moral superiority. Charles Centinaro is writing me letters where he lies in writing. You have – you have a former prosecutor who works in the Office of Attorney Ethics, Deborah White, who put an innocent black man in jail. And then Charles Centinaro denies my grievance, lying and saying there's a civil lawsuit pending, so he won't docket it, which is a lie.
>
> [4T34.]

The OAE called Deputy Chief Rodriguez as its second witness. Her direct testimony commenced on day five of the hearing and, during the second day of respondent's cross-examination of Rodriguez, respondent determined to withdraw from further participation in the ethics proceeding. Specifically, respondent stated:

> I no longer wish to participate in these events. But I know OAE has some kind of rule where they'll bring new charges if you don't participate, you know. So I wanted to have an inquiry on that because I think it also would have the added benefit of expediting the proceedings for everybody.
>
> Based on what happened last week, based on everything that's been going throughout, I don't believe I'm going to get any kind of fair shake. I had time to really think about her testimony and how I was talked to and

treated. And I no longer think this is a productive use of my time.

In addition, I think it causes me serious, you know, harm to continue to participate in this process. Specifically, the witness was allowed to degrade me, personally attack me for hours last week. No one did anything to stop her, giving opinion testimony as a fact witness, offering incessant attacks on me as an opinion.

The Special Master referred to my questions as I guess not substantive when he said that I should ask substantive questions, and at one point said I was unhinged.

In addition, I was told when I end a question with the word "correct," and we're talking to a man who was a gang prosecutor for eight years who's certified by the Supreme Court who tried more criminal cases and has examined hundreds, if not thousands of witnesses, that ending a question with the word "correct" allowed the witness to give open-ended nonresponsive answers.

I don't wish to have a back-and-forth or argue about this. I'm sure, Mr. Kenny, you'll disagree. I'm sure, Mr. Felsenstein, you'll disagree. But, gentlemen, at this point, I'm saying essentially no mas. I've had it. I think that the OAE, whenever I lodge complaints as it pertains to white prosecutors abusing my black clients, a great deal of their witnesses have abused me and my clients. Clara Rodriguez wouldn't answer a simple question about the initiation of a criminal case, that it's started through a summons, a warrant or a direct indictment. I'm spending 20 minutes to try and get someone to answer a question when I ended with the word "correct." And then rather than you, Mr. Kenny, just simply, you know, stopping her from attacking me, abusing me, I felt like you compounded the issue, took their side. I clearly don't believe you're neutral and impartial.

I can't continue in this process without causing I feel like myself violence to my conscience. I don't think it's a healthy thing. I am leaving the law. I've told you all that for a long time. None of you have attempted to facilitate a resolution. I have brought up the fact that child murderers and child molesters and child rapists can negotiate dispositions, but I can't negotiate a disposition.

So I view this as systemically -- and the people involved to be outrageous at this point. I'm not saying I am – I'm pure as the driven snow or without any accountability, but I can't -- I can't have another day of what happened last week where I'm going to sit here and be attacked and two lawyers are going to sit here and just watch it all happen as you're prosecuting me for being discourteous and mean.

So my -- my question is, I don't -- I want to waive my appearance. I essentially don't want to participate. But I'm not looking for additional, you know, actions to be brought by OAE. I've never had someone tell me I'm unhinged while I'm being literally attacked by a witness nonstop. I've never had someone allow the witness to just behave like this. It's my witness. It was my cross-examination. I was patient. I knew this process was most likely going to be nonsensical, a kangaroo court, for lack of a better term. I waited to get to the -- and it has been throughout, sending subpoenas and then pretending they don't know they have to notice me on subpoenas. I mean, just, you know, the institution prosecuting me for ethics violations should be beyond reproach. And Charles -- and from Charles Centinaro on down, it's a nightmare. The fact that they appoint you makes this systemically just an absurdity.

So I don't want to participate. And I don't want to waste anyone's time. And that's kind really it. I just -- you know, whatever needs to be done, you guys can go do it. And I'm not looking to spend any more time of my

> life sitting here having government bureaucrats who I am in hotly contested litigation with as a civil rights and criminal defense attorney, I'm not going to sit here and have the whole government just sit here and attack me. I have virtually no power. You all have tons of power. The people who you're bringing in as witnesses have tons of power. And all I've been shown is abuse. And then you all complain and cry about my words, which – and so I've had it.
>
> I don't want to participate. I'm being very clear. I'm being very transparent.
>
> [6T4-6T7.]

The OAE represented it would not amend the complaint to include violations of the Rules of Professional Conduct based upon respondent's failure to further participate but reserved the right to argue that respondent's departure was an aggravating factor. Accordingly, the hearing proceeded in respondent's absence.[7]

Several employees of the UCPO and ECPO testified regarding their interactions with respondent during the criminal investigation. For instance, AP Lawlor, who stated that she knew respondent from his time as an assistant prosecutor in the UCPO, explained how she initially was assigned to handle the

[7] The remainder of the hearing took place over three days, February 28, March 2, and March 3, 2022. The OAE presented the testimony of the following witnesses: Clara Rodriguez; Caroline Lawlor; Celeste Montesino; Shawn Barnes; David Hummel; Estrella Lopez; Deborah White; Mark Spivey; Doreen Yanik; Edward J. Kologi; Donna Trasente; Robert Varady; Arthur Thibault; Jeanine Verdel; and Michael D'Agostino.

criminal investigation regarding respondent, but that it was almost immediately transferred to ECPO, at the OAG's directive. Following the transfer, AP Lawlor had no further involvement with the investigation. AP Lawlor testified that she did not possess the video respondent had accused her of not turning over. When asked if she had any concerns for her safety after receiving respondent's e-mails, AP Lawlor emphatically stated:

> Yes. Only because, you know, [respondent] sometimes cannot be very stable. So I never know, you know, what his words mean or his demeanor or his actions. I've observed him in the past and there's concerns I had for his stability.
>
> [6T52.]

She testified that she was concerned by his e-mails and, further, that, in her twenty-five years as a prosecutor, she had never received e-mails of the same ilk from any other attorney.

ECPO employee AP Montesino also testified. She explained that, prior to handling the criminal matter involving respondent, she had never heard of him. After speaking with Lt. Lugo and Deputy Chief Ramirez, AP Montesino testified that she had become concerned for her safety, stating:

> I believed that [respondent] appeared to be someone who was struggling to maintain control of his emotions. He was a represented subject of an investigation. We have – we do not speak with persons who are a subject of an investigation. It is not our practice to speak to them. It is our practice to speak to the attorney, if at all

> possible. We don't share information. And the fact that [respondent] made it clear that he knew people within our office, that he was able to obtain information about the assistant prosecutors here, it appeared clear that he had information about the unit because he was provided with the direct line for people. And so I was concerned that he was struggling to maintain control of his emotions, that he was someone who was incapable of restraining himself. Based on the information that was sent, he was someone that appeared not to be in control of his emotions and unable to control his anger.
>
> [6T68.]

Concerning respondent's reference to "blow[ing] her up," AP Montesino testified that she understood respondent's words to be threats of violence and not puffery. AP Montesino also explained that respondent had yelled at her in court and, publicly, had acted in a menacing and threatening fashion, requiring a sheriff's officer to intervene.

ECPO Deputy Chief Rodriguez also testified. Deputy Chief Rodriguez testified that she had prepared the brief to move forward with the forfeiture of respondent's firearm and permit based upon his alarming behavior toward her office. She explained that this was unusual, since the underlying criminal matter had been dismissed, however:

> . . . I was concerned about [the complainant.] I was concerned about [respondent]. I was concerned about the people in my office. I was concerned about the people in Union County. And I thought at the time that – I believe, and I believed that [respondent] was not stable. He had a gun. He had said certain things in

> emails. He had said many things in a video. He had spoken with, you know, a deputy chief who was concerned.
>
> [5T19.]

Deputy Chief Rodriguez further explained:

> I thought he was an unstable person with a gun and that he thought there was a conspiracy between Union County, myself and Ms. Montesino, and that we were there to hurt his reputation . . . . His accusations, you know, were – his thought process in those emails was the most, you know – really concerned me. I mean, it really concerned me.
>
> But I think the video put me over the top.
>
> [5T46.]

In the midst of respondent's cross-examination of Deputy Chief Rodriguez, he decided to cease participating in the ethics proceeding.

Several members of the UCPO testified regarding respondent's behavior toward them, in unrelated matters.

For instance, UCPO AP Lopez testified regarding the text messages she received from respondent. She explained that she knew respondent from his earlier employment with the UCPO and considered them to have a friendly relationship. Although she knew respondent had a tendency to be bombastic at times, she believed he had veered into caustic when the two became adversaries. In 2020, she learned respondent had even filed an internal affairs complaint

against her, which was proven unfounded. She testified that she had interpreted respondent's text message to her as a threat. AP Lopez stated she had never had another attorney treat her in this manner.

UCPO AP D'Agostino also testified regarding his interaction with respondent in connection with the Tyshawn Offley matter. He explained that, one week prior to the scheduled oral argument on respondent's motion seeking his client's release based upon medical condition, respondent had approached him in his assigned courtroom and asked if he would consent to the release. When AP D'Agostino reiterated the state's position that the motion lacked medical substantiation, respondent began telling everyone within earshot that AP D'Agostino was unjust and liked cancer. AP D'Agostino testified that he had limited interaction with respondent prior to this incident.

Thibault testified regarding respondent's conduct and demeanor during the Mountainside disciplinary hearing. He described respondent as one of the most unprofessional attorneys he had ever encountered. Thibault acknowledged that disciplinary hearings often are contentious, but stated that:

> [Respondent's] demeanor was -- I mean, to describe it as unprofessional is kind. He was -- he was loud. He was degrading toward the Hearing Officer, to myself, and to the people that were in that room. He screamed. He yelled. He used – he called me -- what I remember specifically about the one that got the most heated, he called me a liar based on a way that I was interpreting case law. And he -- he screamed at and pointed at me at

> the hearing, standing over the counsel table. He had to have said that at least 10 times, pointing at me, screaming, liar, liar, liar, to the point where it -- I lost my cool where I -- because it was so agitating to be treated that way. And I never had seen another adversary treat another attorney that way, particular where there's members -- you know, civilians, people who are not members of the Bar. I had a police representative there. I had my associate there. I had a court reporter there. I had a hearing officer that was there. And there may have -- aside from Mr. Pasquale, there may have been another civilian, like - - I say non-member of the Bar, maybe the Borough Administrator. I'm not really sure. So it was – it was -- I've never seen that behavior. I've never seen somebody raise their voice to a level that was almost indescribable. You'd have to hear it, you know, to be able to describe, to see how loud he was.
>
> You know, and he's not a small man. That's the other thing, too. It was almost like that was an act of intimidation toward the hearing officer.
>
> [8T38-8T40.]

Kologi, a certified civil trial attorney, testified regarding his interactions with respondent in the Kelly litigation. He testified that, in his thirty-nine years at the bar, he had never encountered another attorney who handled depositions like respondent. "I never saw anything quite like this where every deposition was going to be a problem." Kologi explained that respondent waved the criminal code and threatened witnesses with criminal charges. Kologi further explained that the transcripts did not capture respondent's tone.

Varady, an attorney with forty-five years at the bar, also testified with respect to his observations of respondent during the Kelly litigation, recalling respondent's generally obnoxious behavior. Like Kologi, Varady testified that respondent waved the criminal code at witnesses and threatened criminal charges.

> [Respondent] went out of the room, got the Criminal Code book and started waving it at witnesses telling them its false – when he didn't like an answer, it was false swearing, they could be convicted, they were going to be charged with a crime.
>
> [8T25.]

Varady also stated that he believed respondent was attempting to intimidate witnesses and other attorneys in the room. Further, he recalled that respondent had offered to bet opposing counsel as to what a witness's testimony was going to be.

Likewise, a court reporter of twenty-nine years, testified that the depositions were the worst of her career, and described respondent as "very arrogant" and "obnoxious." She testified it was the only deposition she had participated in where an attorney did not care if she was able to take down what was being said. "Everybody was forgetting that I was in the room, and especially him because he just fought with everybody over everything."

The court reporter testified that, until that day, she had never walked out of a deposition in tears. She explained that she was so upset she called her office and asked to have someone cover the remainder of the deposition. No other reporter was available, so she returned for the remainder of the deposition. While she was in the kitchenette getting water, Kologi and Simitz tried to console her. Respondent saw the interaction and threatened to call her boss if she did not get back to the deposition. Following the depositions that day, she told her office she "never, ever wanted to be in the same room with [respondent] again."

Respondent did not provide the special master with a post-hearing brief or summation.

On April 27, 2022, the OAE submitted a written summation to the special master. The OAE asserted that the clear and convincing evidence introduced at the hearing unquestionably established all the charged violations of the Rules of Professional Conduct.

Specifically, the OAE asserted that respondent violated RPC 3.1 by baselessly alleging, in his brief filed in opposition to Kologi's motion for a protective order, that his adversaries in the Kelly litigation had conspired to obstruct the prosecution of the plaintiffs' case without any supporting evidence for this bald assertion. Respondent violated this Rule a second time by asserting

that the Superior Court was beholden to counsel for defendants when, in a footnote in his brief, he asserted that "the court and Kologi and Varady have a long history and the undersigned [respondent] should 'not be surprised' by the fact that Defendants are winning virtually all of the motions." According to the OAE, respondent's statement in this respect also violated RPC 8.2(a).

Respondent repeatedly violated RPC 3.2, according to the OAE, by repeatedly acting "in a belligerent and offensive fashion to others whether they were opposing counsel, the Judge, a hearing officer, a police officer, court reporter, victim witness coordinator, a witness, anyone and everyone that he has come in contact with."

The OAE asserted that respondent violated RPC 3.4(d) when, during the Shaughnessy deposition, he alluded to separate, unrelated litigation involving the City of Elizabeth that had no factual nexus to the Kelly litigation. Respondent separately violated this Rule when, in connection with the Kelly litigation, he demanded that the deposition witnesses "give their own personal legal conclusions, on matters with no discernable relevance to the alleged retaliatory discharge of his clients."

Respondent violated RPC 3.4(g), according to the OAE, when he twice recited the false swearing statute during the Shaughnessy deposition. Respondent violated this Rule a second time when, in connection with the

Mountainside disciplinary hearing, he asked a witness whether he knew the meaning of perjury and proceeded to read from the criminal code.

The OAE asserted that respondent violated RPC 8.4(d) when, on at least five occasions during the depositions in the Kelly litigation, he "referred to opposing counsel as burdens on taxpayers or taxpayer waste."[8] According to the OAE, "[t]hese comments were designed purely to harass and annoy and served only to undermine the integrity of and to serve to disrupt public confidence in the judicial system."

For the totality of his misconduct, the OAE asserted that a one-year suspension was warranted. The OAE also recommended the imposition of conditions to ensure respondent "understands the seriousness of his actions," including counseling to assist with his inability to control his anger, as well as proof of mental fitness by an OAE approved physician.

Citing to disciplinary precedent, discussed herein, the OAE acknowledged that the discipline imposed on attorneys who display disrespectful or insulting conduct to persons involved in the legal process can range from an admonition to a lengthy term of suspension. The OAE likened respondent's misconduct to the conduct of the attorney in In re Van Syoc, 216 N.J. 427 (2014), who received

[8] Notably, count two of the OAE's complaint, which addressed respondent's conduct in the Kelly litigation, did not charge him with having violated RPC 8.4(d).

a six-month suspension, and In re Vincenti, 92 N.J. 591 (1983) (Vincenti I) who, following a one-year suspension, eventually was disbarred for the same type of misconduct, 152 N.J. 253 (1998) (Vincenti II). The OAE stated:

> Here, Respondent's threatening and disrespectful conduct is most similar to the behavior of the attorneys suspended for the higher period of time. Over and over again, Respondent engaged in contemptible conduct, threatening and harassing behavior, accusing adversaries of being liars and worse, maligning the Court, suggesting conspiracies, accusing disciplinary authorities and the Special Master of misconduct, using vile and offensive language and, asserting frivolous claims. As in In re Van Syoc and In re Vincenti, Respondent's behavior has showed a pattern of abusive behavior consistent with his scorched earth strategy, which has no purpose other than intimidation. Aggravating the situation here was the demeanor of Respondent during the Hearing before his abrupt exit, his decision to remove himself from the proceeding entirely, as well as his lack of remorse and belief that his actions and words, no matter how vile, were always appropriate.
>
> [OAESpp57-58.]

Thus, the OAE urged the imposition of a one-year suspension with conditions.

After reviewing the evidence and testimony presented at the ethics hearing, the special master concluded that respondent had violated RPC 3.1; RPC 3.2; RPC 3.4(d); RPC 3.4(g); RPC 4.4(a); RPC 8.2(a); and RPC 8.4(d) (SMp57).

The special master concluded that, in his view, the testimony elicited at the hearing mirrored the allegations of the OAE's complaint, stating that "most of the live testimony, in all likelihood, was redundant and unnecessary due to the self-authenticating nature of most of the evidence relied upon by the OAE." (SMRp16). The special master's report recited, at great length, the documents and evidence presented at the hearing.

With respect to count one, and specifically, respondent's behavior toward the ECPO, the special master recounted, inter alia, the testimony of Rodriguez, Lawlor, and Montesino, along with respondent's myriad e-mails and voicemail messages, as well as the two-hour video recording of respondent and Lt. Lugo. Regarding respondent's behavior toward the UCPO, the special master referenced the March 9, 2018 letter from the UCPO, outlining respondent's misconduct toward several employees of his office. He also referenced the supporting testimony that was introduced during the hearing. With respect to respondent's conduct in connection with the Mountainside disciplinary matter, the special master cited to the testimony of Thibault and the transcript of the disciplinary hearing.

With respect to count two of the OAE's complaint, and specifically, respondent's behavior in the Kelly litigation, the special master relied upon Judge Mega's referral; the deposition transcripts; and the testimony of Kologi,

Varady, and Transente.

Based upon the clear and convincing evidence presented, including his opportunity to observe the credibility of each witness, including respondent, the special master determined that respondent violated all the charged RPCs "as alleged." Although the special master, in his analysis, did not specify the facts upon which he relied to support each of his findings, he repeatedly adopted the OAE's position in this respect:

> Based on the evidence submitted, I find the OAE has proven by clear and convincing evidence that the [r]espondent has violated all allegations asserted. For the foregoing reasons, the OAE has clearly and convincingly proven that [r]espondent violated each of the Rules of Professional Conduct alleged. Despite the length of the [h]earing and volumes of evidence, the facts giving rise to the charges are mostly undisputed.
>
> [SMRp57.]

The special master rejected respondent's defense that his actions were vulgar and aggressive but not violative of the Rules. "I do not find that the [r]espondent's justification or necessity obviates the need to comply with the RPC's which [r]espondent was accused of violating." Notably, too, the special master commented that the same comportment that served as the basis for the OAE's complaint "was practiced by the pro se [r]espondent in defending this matter." The special master acknowledged that some of the allegations, standing alone, came "close to falling short of the level of proof required." In his view,

the totality of respondent's conduct, however, clearly and convincingly established each of the charged violations.

In aggravation, the special master weighed respondent's "lack of remorse and contrition and even a lack of acknowledgement that his comportment was not countenanced by the Rules he was required to heed." In mitigation, the special master noted that respondent's misconduct did not arise out of his representation of clients; his conduct stemmed from extremely stressful personal matters; his history of community, charitable, and volunteer service; the emotional trauma for which he was seeking ongoing treatment; and, that he was a dedicated public servant for eight years. The special master also accorded weight to the length of time that the ethics charges had remained pending and disruptive to respondent's personal and professional life.

The special master acknowledged that disciplinary precedent for similar misconduct resulted in discipline ranging from an admonition to a term of suspension. The special master also cited to our decision in In the Matter of David Richard Cubby, Jr., DRB 21-205 (March 15, 2022), where we imposed a three-month suspension for the attorney's erratic behavior.

The special master, thus, concluded that a three-month suspension was the proper quantum of discipline. As conditions precedent to respondent's reinstatement, the special master recommended: (1) enrollment in continuing

legal education classes on professionalism; (2) proof of fitness to practice law, as attested to by a mental health professional approved by the OAE; and (3) proof of successful completion of an anger management course approved by the OAE.

On November 21, 2022, the OAE submitted its letter brief to us expressing its agreement with the special master's findings of misconduct but disagreeing with the recommended quantum of discipline. Rather, the OAE asserted that respondent's egregious and pervasive conduct that led to the disciplinary charges, in conjunction with his demonstrated inability to control himself during and after the hearing, required a longer term of suspension.

Respondent did not submit a brief for our consideration. He did, however, send an e-mail on October 28, 2022, to Acting Chief Counsel Timothy Ellis, in response to having received the Office of Board Counsel's (the OBC) scheduling letter, "to formally petition DRB to have my complaint(s) dismissed." In his e-mail, respondent asserted that the entire disciplinary process had been corrupted because it was "overseen by the unethical and immoral Charles Centinaro." Respondent also asserted that the special master, Felsenstein, Zweig, and Centinaro had "worked to cancel and silence me for racist, sexist and political reasons due to my work on behalf of the community against very powerful people." Further, respondent contended that "this cadre of white males should

themselves be investigated for their corrupt, unethical and dishonest behavior." Finally, respondent engaged in a series of baseless, disparaging remarks in an attempt to impugn the integrity of the Board Chair, whom respondent requested recuse himself from this matter. Respondent also sought confirmation that "Maurice" [Chair Gallipoli] would not be "sitting on my case."

In response, on October 31, 2022, Acting Chief Counsel Ellis informed respondent that we would not engage in informal discussions of his case via letter or e-mail. Rather, respondent was directed to make any arguments regarding the charges, quantum of discipline, or other issues he deemed relevant, via his brief to us, due November 25, 2022.

On November 2, 2022, the OAE filed a motion to expand the record to include several e-mails respondent had sent to the special master, the OAE, the DRB, and others, spanning February 18, 2022 through September 29, 2022. Within his e-mail communications, respondent accused the OAE and the special master of "carrying water for corrupt people;" accused the OAE of being politically corrupt, as well as "racists and bigots covering for unethical, corrupt white prosecutors that ruin Black lives;" accused Deputy Counsel Felsenstein of being "dishonest and unethical;" demanded a response from our Chair with respect to his complaint against the OAE, or threatening that he "will write to the Justices about DRB and OAE and the former's refusal to investigate the

latter;" and threatening our former Chief Counsel by stating he intended "to bring all of this to the Chief Justice's attention," but stating "[t]hen again, he chose all of you, so I guess we shall see what he thinks about you all ignoring Giglio,[9] refusing to docket grievances against prosecutors who ruin the lives of innocent All-Americans, and a plethora of other issues."

Respondent did not oppose the OAE's motion, despite proper notice.

On November 2, 2022, respondent returned his oral argument form, dated November 1, 2022, indicating that he waived oral argument but disagreed with the conclusions and recommendations of the trier of fact. In his transmittal e-mail, respondent asked Acting Chief Counsel Ellis when respondent would be interviewed regarding his complaints "so we can be assured you do a good faith, fair and proper investigation of the corrupt, unethical and even criminal acts I've referenced in my complaints." Respondent concluded his e-mail, stating that "[t]hus far, DRBs conduct has been immoral, unethical and corrupt, but you can turn it around Tim!"

Respondent also refused delivery of the OBC's shipment of two boxes of documents, comprising the record in this matter. On November 15, 2022, the

[9] "Giglio" refers to Giglio v. United States, 405 U.S. 150 (1972), where the Supreme Court of the United States clarified that the exculpatory evidence prosecutors were obligated to disclose to defense counsel included evidence that may be used to impeach the credibility of a prosecution witness.

boxes and their contents were returned to the OBC, with a UPS label stating, "receiver did not want, refused delivery," and identifying "[Respondent]" as the original receiver.

* * *

We now turn to our de novo review of this matter. As a preliminary determination, we find that the special master's ruling to grant the OAE's motion for a protective order, governing the evidence from the gun forfeiture proceedings, was appropriate. The special master, in furtherance of the three protective orders issued by the Superior Court governing the gun forfeiture proceedings, correctly determined to seal the transcript of Judge Katz's June 30, 2017 oral decision, which was admitted to evidence.

In reaching his decision, the special master relied upon the Superior Court's May 22, 2018 protective order that designated the gun forfeiture transcripts confidential and precluded their disclosure, dissemination, or distribution to anyone other the OAE, respondent, and his counsel, without further order of the court. On August 23, 2018, the Superior Court's protective order was amended to permit the release of Judge Katz's oral decision (the June 30, 2017 transcript) to us and provided as follows:

> A true copy of the transcript dated June 30, 2017 released under the Protective Order entered May 22, 2018 … shall also be released as an exhibit to the Disciplinary Review Board and its staff, to the Justices

> of the Supreme Court and the staff in the Supreme Court Clerk's Office, as well as to John C. Whipple, Esq., counsel to the respondent.
>
> [ExOAE-18.]

However, the protective order expressly required that the transcript be submitted under seal to the referenced individuals and entities.

We conclude, however, that the Special Master's determination to seal the entire record of the ethics hearing was unnecessary and, in fact, conflicts with the principles of transparency under which our disciplinary system operates. R. 1:20-9. Indeed, such transparency is of paramount importance to fulfilling the dual purposes of the disciplinary system, "to protect the public and to preserve public confidence in the bar." In re Wigenton, 210 N.J. 95, 102 (2012). Moreover, since 1995, the disciplinary Rules have required that "[t]here shall be no private discipline." R. 1:20-9(d)(3). Thus, we have omitted from our decision in this matter specific information from the gun forfeiture proceedings, including Judge Katz's oral decision; however, we do not find the mere existence of the gun forfeiture proceeding and its outcome to be within the scope of the Superior Court's protective orders.

Next, we conclude that the special master, in accordance with the authority vested in him pursuant to R. 1:20-6(b)(4), correctly determined to

adjourn the disciplinary hearing when the then assigned OAE attorney announced his impending departure from the OAE.

Likewise, the special master correctly determined that the hearing could proceed in a virtual (versus live) format. R. 1:20-6(c)(2)(A) and the Court's Second Omnibus Order, effective April 24, 2020, contemplated virtual hearings for non-complex disciplinary matters. In particular, the Court's April 24, 2020 Omnibus Order stated that "[e]ffective May 11, 2020, disciplinary hearings and fee arbitrations will resume in a virtual (video or phone) format to the extent possible based on facilities, technology, and other resources; and the nature and complexity of the matter." The Order also provided that the discretion to proceed in relatively straightforward matters rested with the Director of the Office of Attorney Ethics (the OAE). The Court issued subsequent Omnibus Orders, which confirmed its earlier directives that disciplinary hearings may continue in a virtual format. See, e.g., September 17 and October 8, 2020 Omnibus Orders. Further, to the extent respondent's motion raised any constitutional objections to the virtual disciplinary hearing, those objections are expressly reserved for the Court. See R. 1:20-15(h).

As a final procedural matter, we grant the OAE's unopposed motion to expand the record to include respondent's most recent communications to the special master and to the OAE. Although we cannot consider his subsequent,

uncharged conduct to support a violation of any RPC charged in the complaint, pursuant to R. 1:20-4(b) and In re Roberson, 210 N.J. 220 (2012), we can consider his subsequent conduct in aggravation. See In re Steiert, 220 N.J. 103 (2014) (evidence of unethical conduct contained in the record can be considered in aggravation, even though such unethical conduct was not charged in the formal ethics complaint); see also In re Spina, 121 N.J. 378, 385 (1990) (in aggravation, the Court considered the attorney's admitted misuse of other client funds for which he had not been charged).

Moving to our review of the record, we conclude that the special master's determination that respondent violated RPC 3.2; RPC 4.4(a); RPC 8.2(a); and RPC 8.4(d) is supported by clear and convincing evidence. We respectfully part company with the special master's conclusion that the evidence clearly and convincingly establish that respondent violated RPC 3.1; RPC 3.4(d); and RPC 3.4(g).

Specifically, RPC 3.2 requires a lawyer to treat with courtesy and consideration all persons involved in the legal process. The Court has opined that attorneys who lack "civility, good manners[,] and common courtesy . . . tarnish[] the entire image of what the bar stands for." In re McLaughlin, 144 N.J. 133, 154 (1996). Lawyers must, therefore, "display a courteous and respectful attitude not only towards the court but towards opposing counsel,

parties in the case, witnesses, court officers, clerks - in short, towards everyone and anyone who has anything to do with the legal process." In re Vincenti, 114 N.J.at 285. "Vilification, intimidation, abuse[,] and threats have no place in the legal arsenal." In re Mezzacca, 67 N.J. 387, 389-90 (1975).

There is no question that respondent repeatedly violated the principles described above in connection with every matter addressed herein. Indeed, the voluminous record is replete with instances of respondent's utter lack of civility, good manners, or decorum. Instead, over a prolonged period, respondent engaged in a continuous pattern of abusive, intimidating, and often threatening behavior toward anyone who opposed him or his clients, to include governmental and non-governmental attorneys, witnesses, and third parties. Although respondent attributed his actions to his aggressive litigation style, inexperience with civil depositions, and the stressors he suffered from the false criminal allegations, these excuses are no defense for his vile and belittling treatment of many individuals, across many forums, involved in the legal process.

Respondent's communications, including voice messages and e-mails to various members of the UCPO and ECPO, some of whom he had no prior interaction with, were alarming, demeaning, and threatening. As an example, in an e-mail to AP Lawlor, respondent baselessly accused the assistant prosecutor,

with whom he had no prior interaction, of engaging in a conspiracy against him, threatening to subpoena her entire unit if she refused to turn over a video (that she did not possess); and threatening that people like her "get special treatment" from him. In a second e-mail to AP Lawlor, respondent suggested she was out to get him, and threatened "[k]eep not doing your job and trying to give me a taste." Respondent sent similar e-mails to members of the ECPO. He accused AP Rodriguez of ordering the WPD to decline respondent's criminal complaints; threatened to report the assistant prosecutor to the Governor, Attorney General, and others, unless she rescinded this alleged order; and accused her of flagrantly violating the law and ethics rules. In other e-mails, respondent accused multiple ECPO assistant prosecutors of official misconduct, perjury, and threatened civil litigation, ethics grievances, and criminal charges. Respondent's electronic communication with members of the UCPO was equally disturbing. He repeatedly engaged in name calling; used offensive and foul language; alleged racism; and threatened litigation. In short, the record is replete with respondent's electronic communication to members of the UCPO and ECPO, which were vitriolic, abusive, threatening, and served no purpose other than to disrespect and intimidate those he believed were against him or his clients, in violation of RPC 3.2.

Respondent further violated RPC 3.2 through his discourteous and unprofessional conduct toward the Mountainside disciplinary hearing officer and Thibault. Respondent repeatedly resorted to belittling and demeaning the hearing officer, through name-calling and questioning his credentials. Respondent's conduct in this respect also violated RPC 4.4(a), which precludes an attorney in connection with his representation of a client, from engaging in conduct that has "no substantial purpose other than to embarrass, delay, or burden a third person"

Respondent again lacked courtesy and consideration, violative of RPC 3.2, during the Kelly litigation. The deposition transcripts, excerpted above at great length, exemplify respondent's belligerent and hostile treatment of the deponents, opposing counsel, and court reporter. Respondent repeatedly ignored objections; repeated his questions when he disliked the witness's answer; and engaged in belittling and sarcastic colloquy with all participants. Kologi and Varaday, both veteran attorneys in Union County, testified at the ethics hearing that respondent badgered and bullied witnesses and, generally, conducted himself in a discourteous and obnoxious manner. Respondent's conduct in this respect also violated RPC 4.4(a).

Next, RPC 8.2(a) states that, "a lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity

concerning the qualifications of a judge, adjudicatory officer or other public legal officer, or of a candidate for election or appointment to judicial or legal office." Here, respondent violated this Rule in two respects. First, in his opposition brief to defendant's motion for a protective order, which sought to restrain his conduct during depositions in the Kelly litigation, respondent asserted that "the court [and defense counsel] have a long history" and, thus, he was not surprised that defendants have won virtually all of the motions. Unquestionably, this bald allegation of collusion between the court and defense counsel impugns the integrity of the court and is violative of RPC 8.2(a). Respondent violated this Rule a second time when, in the Mountainside disciplinary matter, he questioned the honesty, integrity, and credentials of the hearing officer.

RPC 8.4(d) prevents an attorney from engaging in conduct prejudicial to the administration of justice. The OAE asserted, and the special master agreed, that respondent violated this Rule based upon his conduct during the depositions in the Kelly litigation, and specifically, by referring to opposing counsel as burdens on the taxpayers. However, count two of the OAE's complaint, pertaining to respondent's conduct in the Kelly litigation, did not charge him with having violated RPC 8.4(d). Nonetheless, we determined respondent violated RPC 8.4(d) based upon his conduct during the Mountainside

disciplinary hearing, for which he was charged. Respondent repeatedly impugned the integrity of the hearing officer, in front of the parties and witness, with repeated references to who pays his bill and questioning his credentials. These comments served no purpose and, instead, were designed purely to harass and annoy, and served to undermine the public's confidence in the judicial system.

The record does not, however, support the special master's determination that respondent violated RPC 3.1, RPC 3.4(d), or RPC 3.4(g).

RPC 3.1 provides that:

> A lawyer shall not bring or defend a proceeding, nor asset or controvert an issue therein unless the lawyer knows or reasonably believes that there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law, or the establishment of new law.

The OAE asserted, and the special master agreed, that respondent had violated RPC 3.1 based upon his filing of a letter brief in opposition to the motion for a protective order in the Kelly litigation. Although his letter was filled with vitriol, with rantings of fraud and conspiracy among defense counsel, his misconduct in this respect is more appropriately addressed by RPC 3.2 and RPC 4.4(a).

Likewise, the record does not clearly and convincingly support a violation pursuant to RPC 3.4(d), which precludes an attorney from making frivolous pretrial discovery requests or failing to make reasonably diligent efforts to comply with proper discovery requests by an opposing party. Here, the OAE asserted, and the special master agreed, that respondent had violated this Rule when he referred to irrelevant, unrelated litigation during his questioning of one of the witnesses in the Kelly litigation. The OAE also asserted, and the special master agreed, that respondent also violated this Rule by demanding that witnesses give personal legal conclusions, with no discernable relevance to the alleged retaliatory claim of his clients. Although respondent's line of questioning in this regard could be viewed as broad in scope, the record lacks any additional evidence in support of this charge. Indeed, R. 4:10-2, governing the scope of discovery in civil matters, specifically permits discovery of information, even if inadmissible at trial, if such information is "reasonably calculated to lead to the discovery of admissible evidence" Thus, on this record, we cannot clearly and convincingly find that respondent's questioning witnesses in these respects amounted to "frivolous discovery."

Nor do we find, on this record, that respondent violated RPC 3.4(g), which precludes an attorney from presenting or threatening to present criminal charges to obtain an improper advantage in a civil matter. According to the OAE,

respondent violated this Rule during the Kelly litigation depositions when, on at least two occasions, he read to the witness directly from the criminal code for the crime of false swearing. Likewise, during the Mountainside disciplinary proceeding when, in response to a witness's answer, he asked the witness whether he had ever heard of the crime of perjury, quoted directly from N.J.S.A. 2C:28-1, and then proceeded to inform the witness "I'm going to ask you again."

In our view, it is neither unusual nor unethical for an attorney to remind a witness, during a deposition or trial, that they are testifying under oath and the consequences for failing to tell the truth. Although respondent went a step further by waving a criminal code in front of a witness, we decline to find, on these specific facts, that his conduct in this respect, although theatrical and unnecessary, constitutes a violation of RPC 3.4(g). Further, we conclude that respondent's aggressive, volatile, and unprofessional comportment during these proceedings, including his act of waving the criminal code toward a witness, is adequately addressed by his violation of RPC 3.2.

In sum, we find that respondent violated RPC 3.2 (two instances), RPC 4.4(a) (two instances), RPC 8.2(a) (two instances), and RPC 8.4(d). We determined to dismiss the remaining charges pursuant to RPC 3.1, RPC 3.4(d), and RPC 3.4(g). The sole issue remaining for our determination is the appropriate quantum of discipline for respondent's misconduct.

Attorneys who have engaged in misconduct similar to respondent, by displaying disrespectful or insulting conduct to persons involved in the legal process, including judgments, in violation of the same or similar RPCs charged here, are subject to a broad spectrum of discipline, ranging from an admonition to disbarment, depending on the severity of the misconduct, the attorney's disciplinary history, and the presence of other ethics violations.

Discipline less than a term of suspension was imposed in the following matters. In re Gahles, 182 N.J. 311 (2005) (admonition for attorney who, during oral argument on a custody motion, called the other party "crazy," "a con artist," "a fraud," "a person who cries out for assault," and a person who belongs in a "loony bin;" in mitigation, we considered that the attorney's statements were not made to intimidate the party but, rather, to acquaint the new judge on the case with what the attorney perceived to be the party's outrageous behavior in the course of the litigation; prior reprimand for unrelated conduct); In re Geller, 177 N.J. 505 (2003) (reprimand for attorney who filed baseless motions accusing two judges of bias against him (characterizing one judge's orders as "horse***t," and, in a deposition, referring to two judges as "corrupt" and labeling one of them "short, ugly and insecure"); the attorney also made personal attacks against almost everyone involved in the matter, including his adversary ("a thief") and the opposing party ("a moron," who "lies like a rug"); in addition,

the attorney failed to comply with court orders (at times defiantly) and with the disciplinary special master's direction not to contact a judge; the attorney also 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;" during the ethics proceedings, the attorney questioned whether the OAE presenter was "over prosecuting" the case because he "desire[d] to be a Monmouth County judge;"; in mitigation, the attorney's conduct occurred in the course of his own child-custody case, he had an unblemished twenty-two-year career, and he was held in high regard personally and professionally because of his involvement in legal and community activities); In re Cubby, 250 N.J. 426 (2022) (Cubby I) (censure for attorney who engaged in excessively discourteous and insulting conduct spanning two consolidated matters; in the first matter, the attorney, in his capacity as a pro se defendant in a landlord tenant case, continually interrupted his adversary during mediation and called him a "scumbag;" after mediation failed, the attorney, during a court appearance, repeatedly interrupted the judge with insulting remarks, calling her "corrupt," refusing to accept her rulings, and leaving the courtroom after she had directed that the matter proceed to trial; the attorney then filed an emergent motion to stay the Law Division's order of eviction, which the Appellate Division granted;

despite his success, the attorney accused the Appellate Division of "either dropp[ing] the ball or [being] in on the scam" when the Appellate Division informed the attorney that it had no jurisdiction to consider his objections to the submissions of his adversary and the trial judge; in the second matter, the attorney, while representing a defendant in a Chancery Division matter, repeatedly interrupted the trial judge as he issued a decision from the bench; the attorney called the judge "corrupt," accused him of issuing an "extrajudicial" decision, referred to opposing counsel as "clowns," and accused the sheriff's officer of threatening him after the officer had directed him not to interrupt the court; during the ensuing ethics proceedings, the attorney continued his vitriolic behavior by baselessly accusing disciplinary authorities of corruption or incompetence, expressing his belief that the OAE had persecuted him in a "sham investigation," the purpose of which "only served to protect parties believed to be actively engaging in misappropriating government funds [. . .]," and claimed that the OBC had attempted to "have [his] matter rubber stamped for discipline while allowing [us] to avoid accountability;" in aggravation, we considered the default status of the matter and the fact that the attorney's improper behavior had encompassed two separate matters and had continued, unabated, during the disciplinary proceedings; no prior discipline); In re Bailey, 249 N.J. 49 (2021) (censure for an attorney who had engaged in offensive and threatening behavior

in two separate matters; in the first matter, the attorney intruded into an arbitration hearing taking place in his law office, began taking photographs, and then stated "[t]his will be in the newspaper when I put this in there after we kick you're [sic] a**es. You should be ashamed of yourself for kicking people out of a building and you have to live with yourself;" in the second matter, the attorney threatened arrest for federal crimes to gain an improper advantage in a civil matter, which involved an individual who had purportedly created a defamatory website; when the individual asked for an explanation for his purported arrest, the attorney replied, "[o]h, you have no idea what you just got into, buddy, you have no idea. Welcome to my world. Now you're my b***h"; in mitigation, we considered the attorney's lack of prior discipline in twenty-six years at the bar, his letters of reference and good deeds, and charitable ventures).

More severe discipline, ranging from a three-month suspension to disbarment, was imposed in the following matters. In re Cubby, 250 N.J. 428 (2022) (Cubby II) (three-month suspension for an attorney who, in an e-mail to a judicial secretary, with whom he had no prior interaction, baselessly accused her of engaging in a criminal conspiracy and threatened her with personal liability for transmitting a letter from Chief Counsel to the OBC, which informed relevant parties of basic procedural information regarding Cubby I; in that same e-mail, the attorney also attacked the integrity of the OBC and us, which he

accused of "deliberate[ly] attempt[ing] to deny [him] his civil and due process rights" based on the default status of Cubby I; the attorney also baselessly accused the OBC of purposely scheduling the deadline by which he could move to vacate the default in the earlier matter to conflict with his unrelated criminal matter in Passaic County; the attorney further accused the OAE and New Jersey prosecutors and judges of "deliberately disregarding the law and maintaining false charges [against him] in retaliation;"; additionally, the attorney demanded that OAE staff prevent the OAE attorney from discharging his investigative duties and threatened that anyone who assisted the OAE attorney would, likewise, be guilty of misconduct; in determining to impose a three-month suspension, we weighed our decision in Cubby I and respondent's failure to learn from his mistakes); In re Rifai, 204 N.J. 592 (2011) (three-month suspension for attorney, in a default matter, who called a municipal prosecutor an "idiot," among other things; the attorney also bumped into an investigating officer during a break in trial and repeatedly obtained postponements of the trial, once based on a false claim of a motor vehicle accident; when contacted by an ethics committee investigator, the attorney "raised his voice to the [investigator,]" "challenged the [DEC's] authority to investigate the grievance[,]" "and was extremely uncooperative and belligerent during the investigation[;]" the attorney had been reprimanded on two prior occasions for

unrelated conduct); In re Hall, 169 N.J. 347 (2001) (Hall I) (three-month suspension for attorney, in a default matter; the attorney was found in contempt by a Superior Court judge for maligning the court; refusing to abide by the court's instructions; suggesting the existence of a conspiracy between the court and her adversaries; making baseless charges of racism against the court; and accusing her adversaries of lying; the attorney also failed to reply to the ethics grievances and, after her temporary suspension, maintained a law office and failed to file the required affidavit with the OAE; the attorney had no prior final discipline at that time); In re Van Syoc, 216 N.J. 427 (2014) (six-month suspension for attorney who, during a deposition, called opposing counsel "stupid" and a "bush league lawyer[;]"; the attorney also impugned the integrity of the trial judge by stating that he was in the defense's pocket; in aggravation, we considered the attorney's disciplinary history, which included an admonition and a reprimand, the absence of remorse, and the fact that his misconduct occurred in the presence of his two clients, who, as plaintiffs in the very matter in which their lawyer had accused the judge of being in the pocket of the defense, were at risk of losing confidence in the legal system); In re Vincenti, 92 N.J. 591 (1983) (Vincenti I) (one-year suspension for attorney who, in two separate court proceedings, 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); In re Hall, 170 N.J. 400 (2002) (Hall II) (three-year suspension for attorney who 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 above, Hall had received a prior three-month suspension for similar misconduct); In re Vincenti, 152 N.J. 253 (Vincenti II) (disbarment for 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).

In our view, based upon disciplinary precedent, a quantum of discipline less than a significant term of suspension would be woefully insufficient for the totality of respondent's alarming and unrelenting misconduct. In addition to his continuous improper, unprofessional, and discourteous conduct in multiple

forums, spanning prolonged periods, respondent committed the additional serious misconduct of impugning the integrity of a tribunal.

The OAE correctly observed that respondent's misconduct is most similar to the attorney in Vincenti I who was suspended for one year for his pattern of abuse and discourteous conduct toward judges, witnesses, opposing counsel, and other attorneys during his defense of a client in a child abuse case. In re Vincenti, 92 N.J. 591. Like respondent, the attorney in Vincenti I used abusive, sarcastic, and disrespectful language toward others involved in the legal process. Also like respondent, Vincenti accused the court, on numerous occasions, of colluding with the prosecution, cronyism, racism, and permitting the proceedings to have a "carnival nature," among other things. Id. at 593. In addition to his verbal attacks in the courtroom, Vincenti engaged in collateral actions designed to gain advantage in the litigation, by demeaning and harassing the judge and opposing counsel. For instance, he sent a letter to the deputy attorney general representing the Division of Youth and Family Services and the assistant public defender, demanding that they remove themselves from the case based upon what he perceived to be a breach of confidentiality when, in fact, these allegations had no basis in fact. Id. at 594. Like respondent, Vincenti also engaged in name calling, accusing the deputy attorney general, whom he filed an ethics grievance against, of being a "bald-faced liar" and "a thief, a liar and a cheat." Indeed, like

respondent, Vincenti's misconduct was pervasive and directed at everyone. For instance, following resolution of a misunderstanding over the payment for the court-ordered evaluation, Vincenti moved for the judge's disqualification, asserting "possible collusion between a witness (and) the Court," and calling the psychologist an "extortionist." Id. at 595. In addition to making these assertions in court, Vincenti alleged, in his appeals to the Appellate Division and to the Court, that the trial judge had engaged in "extortion as well as cronyism, bias, prejudice, racism and religious bigotry during the trial, again without any basis in fact." Id. at 595.

Also similar to respondent's behavior, other examples of Vincinti's misconduct included telling the assistant public defender to "go screw himself" and "f**k off" and calling him an "a**hole," "schmuck," and "schmuckface," all in the presence of other individuals. Further, he intentionally bumped an attorney who was standing with a witness but not involved with the proceeding, and advised him he could take his law firm and "shove it up [his] a**." Id. at 598.

Respondent's conduct also is similar to that of the attorney in Van Syoc, who engaged in inappropriate behavior during a deposition, including name calling and intimidation tactics. Like here, the court reporter described Van Syoc as "nasty and insulting." Also during the deposition, Van Syoc declared the

Superior Court judge to be corrupt, in the broadest sense possible, by stating that the judge was in his adversary's pocket, in violation of RPC 8.2(a). Because these unsubstantiated attacks on the Superior Court had occurred in front of Van Syoc's clients and a court reporter, the attorney also had violated RPC 8.4(d).

Unlike Van Syoc's misconduct, which spanned several hours of a deposition, or the attorney's misconduct in Vincenti I, which was also limited in its duration, respondent's misconduct spanned several years and intimidated numerous government officials, fellow attorneys, and other individuals involved in the litigation process. Respondent's alarming and threatening behavior has spanned multiple forums and has continued, unabated, throughout the lengthy disciplinary proceedings in this matter. In these respects, respondent's misconduct is far more severe than that of the attorneys in Van Syoc or Vincenti I.

Thus, based upon our reasoning in Van Syoc and Vincenti I, the totality of respondent's unabated misconduct warrants a significant term of suspension. To craft the appropriate discipline, however, we also consider both mitigating and aggravating factors.

In mitigation, respondent has no prior discipline in his seventeen years at the bar. In re Convery, 166 N.J. 298 (2001).

In aggravation, respondent has failed to demonstrate any contrition or remorse for his misconduct and, in fact, maintains he had not violated any of the Rules of Professional Conduct. Further, respondent has continued to malign everyone associated with the disciplinary proceeding, including the special master, and the former and currently assigned OAE deputy counsel, as evidenced by the hearing transcripts, and the numerous e-mails he sent to the OAE after the conclusion of the hearing. Respondent's scorched-earth strategy of maligning everyone whom he perceives as expressing any form of disagreement against him is alarming. He quickly resorts to name calling, profane language, allegations of conspiracies, and an overall confrontational approach in nearly every communication. Over a prolonged period, respondent has demonstrated an incapacity to conduct himself appropriately and professionally. No one, including prosecuting attorneys, police officers, adversaries, judges, and witnesses, are immune from his volatile personality. Indeed, during his direct testimony at the ethics hearing, respondent baldly accused the entire criminal and disciplinary systems of unchecked corruption, stating, "[t]hat's who all of you are. If it's not clear to all of you that I'm prepared to get up in front of your justices, it should be."

Respondent's vitriolic behavior has continued and escalated, seemingly uninterrupted, since 2016. In fact, in a written opinion, a Superior Court judge

expressed sincere concern with respondent's ability to control his temperament. We echo that sentiment based on respondent's erratic, conspiratorial, and confrontational behavior, which he has been unable to control, even throughout the disciplinary proceedings.

On balance, consistent with disciplinary precedent, and given respondent's total inability to conform himself with the professional standards expected of an attorney, we determine that a two-year suspension is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.

We also require, as conditions precedent to his reinstatement, that (1) respondent demonstrate his fitness to practice law, as attested to by a medical doctor approved by the OAE, and (2) within sixty days of the Court's disciplinary Order in this matter, respondent enroll in an OAE-approved anger management course and submit proof of attendance to the OAE.

Further, we wish to recommend to the Court that it require respondent to show cause why he should not be disbarred or otherwise disciplined, pursuant to R. 1:20-16(b).

Chair Gallipoli, Member Hoberman, and Member Rivera voted for disbarment and wrote a separate dissent.

Member Joseph was absent.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Hon. Maurice J. Gallipoli, A.J.S.C. (Ret.),
Chair

By: */s/ Timothy M. Ellis*
Timothy M. Ellis
Acting Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Joshua F. McMahon
Docket No. DRB 22-169

Argued: January 19, 2023

Decided: March 27, 2023

Disposition: Two-year suspension

Members	Two-year suspension	Disbar	Absent
Gallipoli		X	
Boyer	X		
Campelo	X		
Hoberman		X	
Joseph			X
Menaker	X		
Petrou	X		
Rivera		X	
Rodriguez	X		
Total:	5	3	1

/s/ Timothy M. Ellis
Timothy M. Ellis
Acting Chief Counsel