SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 25-079
District Docket No. XIV-2023-0042E

In the Matter of Gary P. Lightman
An Attorney at Law

Argued
June 19, 2025

Decided
September 10, 2025

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

Marc D. Garfinkle appeared on behalf of respondent.

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Introduction

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

This matter was before us on a disciplinary stipulation between the Office of Attorney Ethics (the OAE) and respondent. Respondent stipulated to having violated RPC 3.1 (engaging in frivolous litigation); RPC 3.2 (failing to treat all persons involved in the litigation process with courtesy and consideration); RPC 3.4(d) (making frivolous pre-trial discovery requests); RPC 3.4(g) (presenting, participating in presenting, or threatening to present criminal charges to obtain an improper advantage in a civil matter); RPC 4.4(a) (engaging in conduct that has no substantial purpose other than to embarrass, delay, or burden a third party); and RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice).

For the reasons set forth below, we determine that a censure, with a condition, is the appropriate quantum of discipline for respondent's misconduct.

Ethics History

Respondent earned admission to the New Jersey bar in 1979, to the Pennsylvania bar in 1978, to the District of Columbia bar in 1981, and to the

Florida bar in 1994. He has no prior discipline in New Jersey. At the relevant times, he maintained a practice of law in Plymouth Meeting, Pennsylvania.

Facts

Respondent and the OAE entered into a disciplinary stipulation, dated April 1, 2025, which sets forth the following facts in support of respondent's admitted ethics violations.

Respondent represented the defendants in connection with a civil action, Hightower v. Ingerman Management Company, et al., pending in the United States District Court for the District of New Jersey (the DNJ). Ingerman Management Company (IMC) had employed Marshelle Hightower as a human resources director. In March 2017, however, IMC terminated Hightower's employment. Thereafter, Hightower retained a Philadelphia-based law firm that specializes in employment law (the Firm) to represent her in an action against IMC, alleging claims of racial and gender discrimination, as well as retaliation, after she brought the discrimination to the attention of IMC management.[1]

[1] Hightower primarily was represented by a named partner, as well as another partner, from the Firm, both of whom were female. We have intentionally omitted their names, and the Firm's name, from our decision in this matter and, instead, refer to their interactions with respondent more generally as "the Firm" or a similar variation.

The case was litigated in the DNJ from 2017 through December 2022. The Honorable Christine O'Hearn, U.S.D.J., presided over the matter. During the trial, Judge O'Hearn sanctioned respondent three times, totaling $1,500, for making statements to the jury about excluded evidence.

Ultimately, following the trial, Judge O'Hearn awarded Hightower $939,148 in attorney's fees. Although the Firm requested an 85% enhancement of the legal fee award, Judge O'Hearn concluded that the case failed to meet the requirements for an "exceptional" boost in fees. However, she did find that a 40% enhancement was appropriate because of "the inordinate amount of work required in this case caused by the way in which defendant and [respondent] chose to defend it, up to and including trial." Judge O'Hearn added that:

> the professional discourtesy – and, to be sure, that is a benevolent characterization – that plaintiff's counsel had to endure throughout this litigation, including during the trial and within the court's personal observation, is wholly unacceptable in the practice of law. Litigation can be hard fought and vigorously defended without resorting to such conduct.
>
> [Ex.1.][2]

Four years earlier, during Hightower's October 5, 2018 deposition, respondent had accused one of the Firm's partners of engaging in inappropriate

[2] "Ex." refers to the exhibits attached to the stipulation.
"T" refers to the transcript of the June 19, 2025 oral argument before us.

conduct after she had instructed Hightower to not answer respondent's questions about conversations she had held with Hightower. Respondent's inappropriate conduct continued over the course of the deposition. For example, respondent frequently raised his voice. Later, the Firm placed on the record that respondent "interrupted the witness in the middle of her answer. Secondly, we're going to get on the record that Mr. Lightman has just been yelling at the witness for the last couple minutes. Thirdly, we're going to get on the record that Mr. Lightman is now leaving."

Regarding discovery, respondent expressed his belief that the Firm, or Hightower herself, had deleted text messages from Hightower's cellular telephone prior to producing the messages. After a lunch break during the deposition, the Firm stated on the record that respondent "not for the first time, accused me of engaging in inappropriate conduct in connection with the text messages that we produced on behalf of plaintiff." In reply, respondent again accused the Firm of tampering with discovery. Shortly thereafter, the Firm stated for the record that respondent was again interrupting Hightower's testimony and that he was "being insulting and harassing and defamatory and that will not continue." In reply, respondent denied the conduct. He also denied, on the record, that he was yelling at Hightower during the deposition.

Later, after another break in the deposition, the Firm stated for the record that, when the parties were off the record, "Mr. Lightman made a comment, beware of getting a ride from or driving your co-worker, which makes a mockery of the very serious allegations [in Hightower's case]."[3] Respondent did not dispute having made the comment but clarified, for the record, that he had "said it to [his] people, not [hers]." The Firm also indicated that, during the same break, respondent entered an office where a Firm attorney and Hightower were located and "falsely accused [Hightower] of having an inappropriate relationship" with an IMC executive.

Also during the deposition, respondent asked Hightower: "Do you have a problem with your eyes, by the way? It's like whenever you're about to tell a lie, your eyes like shut."

Subsequently, during a December 20, 2018 deposition of David DeAugustine, IMC's Chief Operating Officer, the Firm placed on the record that, during one of the breaks, respondent "asked [a Firm attorney] how I sleep at night, and he then threatened both myself and Miss Hightower that he was going to find out who leaked [information] to the Courier Post and he was going

[3] Hightower's claim, in part, involved being retaliated against for reporting a romantic relationship between a high-ranking IMC executive and his subordinate. Hightower observed the executive and the subordinate driving in an automobile together and romantically embracing one another.

to come after us even if he had to do it pro bono." Later, after another break, the Firm placed on the record that "Mr. Lightman just made a comment, 'it's amazing what some attorneys or some lawyers will dig up, like bogus discrimination claims.'"

Less than one month later, respondent and the Firm exchanged e-mails about the litigation. Specifically, on January 14, 2019, the Firm sent an e-mail to respondent following a telephone conversation, recounting that, during the conversation, respondent had "falsely accused" the Firm of delaying communications because the responsible attorney did not reply to his Friday evening e-mail until Monday morning. In the e-mail, the Firm also provided a timeline regarding efforts to obtain a reply from respondent since January 4, 2019, asserting that "it is clear that you (again) have engaged in false and defamatory comments regarding my conduct that you know very well to be false. I have repeatedly asked you to stop engaging in such conduct, yet you continue to do so." Respondent's replied, stating: "Denied denied denied Pls stop making sh*t up."

Finally, with respect to Hightower, who was African American, respondent continually referred to her as "Afro American," despite the Firm having corrected him multiple times.

In connection with the litigation, respondent sought to compel the appearance of a witness, Kim Johnson, who resided out of state. Although Johnson resided more than one hundred miles from the nearest federal courthouse in her state, respondent sought an order compelling her appearance at the courthouse to provide trial testimony.

Following the Firm's receipt of respondent's subpoena to Johnson, the Firm contacted respondent and requested that he withdraw it. Respondent refused; consequently, the Firm filed a motion to quash the subpoena. In reply, respondent filed a cross-motion to compel Johnson to testify and for sanctions against the Firm.

In a May 24, 2022 memorandum of law in support of his motion, respondent wrote that he had reached an agreement with Johnson for her to testify at trial. However, respondent accused the Firm or Hightower of contacting Johnson to convince her not to testify. Respondent asserted that Johnson was a necessary and material witness in IMC's defense and that the nearest federal courthouse to her was "well within 100 miles from her residence, pursuant to Rule 43(a) of the Federal Rules of Civil Procedure."[4] Thus,

[4] Fed. R. Civ. P. 45(c)(1)(A) provides that a subpoena may command a person to provide testimony only if the individual "resides, is employed, or regularly transacts business in person" within one hundred miles. Respondent mistakenly cited Fed. R. Civ. P. 43(a) when referring to the one-hundred-mile rule. Additionally, respondent knew Hightower did not reside within one hundred

(footnote continued on next page)

respondent requested that Judge O'Hearn issue an order compelling Johnson to comply with the subpoena.

Furthermore, respondent requested that Judge O'Hearn sanction the Firm for interfering with Johnson's testimony. Specifically, respondent asserted that the record was "clear" that Johnson had "agreed to accept service of the trial subpoena, and to voluntarily testify at trial." However, respondent claimed that the Firm, "despite warning, contacted Ms. Johnson [who] now suddenly refuses to cooperate or testify at trial." Thus, respondent urged Judge O'Hearn to sanction the Firm in accordance with 28 U.S.C. § 1927.[5] Additionally, respondent left "to the Court's discretion whether the Court also should refer this matter for further investigation regarding potential violations of 42 U.S.C. § 1985.[6]

However, three days prior to filing his motion with Judge O'Hearn, respondent had exchanged e-mails with Johnson about her testimony. On May

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miles of her nearest federal courthouse. In the memorandum of law, respondent relied on cases from jurisdictions outside of New Jersey and outside the Third Circuit.

[5] 28 U.S.C. § 1927 provides: "Any attorney or other person admitted to conduct cases in any court of the United States or Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct."

[6] 42 U.S.C. § 1985 (conspiracy to interfere with civil rights) criminalizes conduct that prevents a person from performing their official duties; that obstructs justice or intimidates a party, witness, or juror; or deprives a person of rights or privileges.

21, 2022, Johnson informed respondent that she was willing to testify but requested to do so via Zoom. Respondent informed her that he would raise the issue of testifying via Zoom, but that Judge O'Hearn had not been receptive to virtual testimony for another witness. The same date, respondent sent his e-mail exchange with Johnson to the Firm, adding "PS, please do NOT contact Kim Johnson, and please also instruct Ms. Hightower NOT to contact Kim Johnson. thx." The Firm replied, informing respondent that the Firm's attorneys could not:

> bar Ms. Hightower or me from contacting Ms. Johnson. She is a former employee that is not in the litigation control group. I am giving you one last opportunity here to email her and advise her that the subpoena is invalid, and that she has no legal obligation to testify at trial. If you don't, I will file a Motion to Quash with the court today.
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> [Ex.4.]

In reply, respondent asserted that if the Firm or Hightower contacted Johnson, they would "interfere with one of the defendant's key witnesses at [their] own peril." Respondent advised that he would raise the issue of Johnson's testimony with the court the following week and told the Firm to "pls make sure you know what you are doing, before accusing me of making 'misrepresentations to a potential witness.'"

On May 21, 2022, an attorney at the Firm replied and directed respondent to "please stop threatening me," clarifying that, if he withdrew the subpoena for Johnson's testimony, she would not waste the court's time with a motion to quash. Respondent informed the Firm that he would not withdraw the subpoena and, instead, instructed the Firm "please don't contact or otherwise interfere or tamper with a material defense witness (and make sure Hightower also does not interfere or tamper with our material defense witness)."

Contemporaneous with his e-mails to the Firm, respondent sent another e-mail to Johnson stating:

> By the way, under the Rules of Court, since you reside more than 100 miles from the Court, the Subpoena cannot command you to appear at trial. But we request and very much would appreciate your trial testimony. Please confirm that if we can get the Judge to agree to take your testimony via Zoom, you would be willing to testify.
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> [Ex.4.]

Later that same date, respondent sent another e-mail to Johnson explaining that he had:

> finished my legal research on the Subpoena issue, and I also spoke to IMC. As I understand the law, because you are more than 100 miles from the Court House, technically the Subpoena cannot command you to honor it and testify, unless the Judge Orders it, based

> on our showing of a substantial need for your testimony.[7]
> [Ex.4.]

Respondent contended IMC needed Johnson's testimony "for a number of reasons." Respondent also informed Johnson that IMC had offered to reimburse her for travel expenses to testify at the federal courthouse in Camden, New Jersey.

On May 22, 2022, Johnson sent a reply e-mail to respondent stating that she had "been advised that I am not obligated to testify. I will NOT be testifying in this case and respectfully ask that you respect my decision. I have copied Ms. Hightower's attorney . . . in this email so there will be no misunderstanding regarding me testifying in this case."

On May 23, 2022, in reply to Johnson's e-mail, respondent provided her with a copy of the letter he had filed with the court. Respondent then asked Johnson if she was still willing to voluntarily testify via Zoom or whether he would need to request an order from Judge O'Hearn compelling Johnson to testify at her nearest federal courthouse pursuant to "Rule 43(a) [sic] [o]f the

[7] Although he acknowledged in his May 21, 2022 e-mail to Johnson that he knew she resided more than one hundred miles from the nearest federal courthouse, respondent misrepresented to Judge O'Hearn, in his May 24, 2022 memorandum of law, that Johnson resided "well within" one hundred miles. The disciplinary stipulation did not include a charge that respondent violated RPC 3.3(a)(1) (making a false statement of material fact to a tribunal) or RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); however, we can consider this uncharged misconduct in aggravation. See In re Steiert, 201 N.J. 119 (2014).

Federal Rules of Civil Procedure." Additionally, respondent warned Johnson that unless she used "'reply all' and tell us to the contrary, we will assume that it was Marshelle Hightower or her counsel were the ones who 'advised' you that you are not obligated to testify."

Twelve minutes after sending his e-mail to Johnson, respondent sent an e-mail to the Firm, stating:

> Your conduct – in interfering and tampering with our intent to call Kim Johnson as a witness – is inexcusable and wrongful. It is incredible that, after you also listed Kim Johnson as a plaintiff's witness, and after we expressly told you not to contact Ms. Johnson, that you (or Hightower) then contacted her, and after speaking to you (or Hightower), Ms. Johnson apparently now has changed her mind, and now is not willing to testify voluntarily.
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> [Ex.4.]

Just three days earlier, at a pre-trial conference, Judge O'Hearn repeatedly chastised respondent (not the Firm) for his conduct and warned that the case would not be a "circus." Throughout the hearing, Judge O'Hearn cited examples of respondent's untimely submissions that were legally and factually incorrect. For instance, in a letter that respondent had submitted to Judge O'Hearn concerning jury instructions, he argued that the Third Circuit Court of Appeals did not have a jury instruction regarding 42 U.S.C. § 1981 (equal rights under the law). In reply, Judge O'Hearn stated "that is absolutely false. And I am going

to have my law clerk pass it out to you because it took him five minutes to find it yesterday."

Further, respondent, on the record, misrepresented to Judge O'Hearn rulings made by previous judges presiding over the case, including the number of witnesses he could call during the trial. Judge O'Hearn expressed that she was "highly annoyed that [respondent was] telling me these issues haven't been decided when I pick up an order and it very specifically has already decided this issue . . . It seems like you don't know what's going on."

Indeed, during the pretrial conference, after respondent interrupted Judge O'Hearn, she stated "I have never had a lawyer stand up in the middle of me issuing a ruling and start interrupting me and talking to me after I just had to leave the bench because you wouldn't stop talking." At the conclusion of the hearing, Judge O'Hearn stated:

> I have to tell you, I feel like this has been a colossal waste of time. There is no preparation, you tell me things you want to make motions, the deadlines have passed, I asked you what the basis is, you don't know. I asked you weren't they waived, you say they were. You say there is an order, I say when. I'm really trying to be patient to resolve all these issues.
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> [Ex.5,p125.]

Apart from his misconduct toward the Firm and Hightower, respondent was inappropriate with other individuals. For example, during a pre-trial Zoom

call between respondent and the Firm, he told the members of the Firm that trials were "better than sex." Then, between the opening statements of the parties during the trial, respondent told two law clerks employed by the court that "[b]eing a trial lawyer is better than sex." At a sidebar, Judge O'Hearn admonished him for his comment, as did the Chief Judge of the DNJ. Further, Judge O'Hearn prohibited respondent from speaking to anyone at the courthouse with the exception of his co-counsel and client.

Additionally, respondent conceded that, because he "filed so many motions on so many issues that did not require motions," Judge O'Hearn had instructed him to stop filing motions. Moreover, he admitted that his actions toward the Firm and Hightower for the entirety of the case were "meant to bully, intimidate and were done in a mocking fashion toward plaintiff and counsel."

On July 14, 2022, a partner from the Firm submitted to Judge O'Hearn a declaration in support of her motion for attorney's fees and expenses. In the declaration, the partner listed her accomplishments as an attorney practicing law in the employment discrimination field for approximately fourteen years. She certified that the Hightower matter was "extraordinarily difficult to navigate because of what I believe was an intentional strategy by IMC to bully and intimidate Ms. Hightower into not pursuing and then dropping her claims against defendants IMC and Brad Ingerman."

The Firm partner noted that, even before she filed a lawsuit on Hightower's behalf, Hightower was "wrongly accused of engaging in criminal misconduct" and Hightower and the Firm "were threatened with lawsuits for pursuing her claims." Indeed, on April 24, 2017, before Hightower filed a complaint against IMC, respondent sent a letter indicating that, if she filed a complaint, IMC would spend "whatever is necessary" to defend against Hightower's claims, as well as pursue litigation against the Firm "for pursuing frivolous litigation as well as abuse of process and malicious use of process." The next day, respondent sent another e-mail to the Firm warning that, if it did not withdraw Hightower's allegations to "please make sure that you and your client both are fully familiar with the provisions of Rule 1:4-8 of the Rules of Court, and the New Jersey Frivolous Claims Act, NJSA 2A:15-59.1, and Toll Brothers, Inc. v. Township of West Windsor, 190 NJ 61 (2007) [sic]."

In the declaration, the Firm partner highlighted multiple instances in which she believed that respondent had "repeatedly and baselessly" accused the Firm and Hightower of engaging in criminal conduct. For instance, she quoted from a November 29, 2018 e-mail in which respondent had accused Hightower of perjuring herself, stating "P.S. . . . Are you aiding and abetting plaintiff's

spoliation of evidence, or aiding and abetting plaintiff in providing false information to the Court about such spoliation?"[8]

The Firm partner also noted that, after a July 29, 2019 court hearing, respondent had threatened that, if Hightower refused to settle, he would contact the United States Attorney's Office to file criminal charges against her for perjury. In his e-mail to the Firm, respondent referenced individuals who had been imprisoned for perjury and wrote that "regardless of what happens in the civil case, people who commit multiple felonies of perjury, deserve to go to jail, Hightower is no better than anyone else." The Firm partner also stated, in her declaration, that respondent had threatened witnesses. Specifically, in a sworn statement, a witness wrote that respondent had pressured her to hire his firm for representation and, if she did not, threatened that he would subpoena her to provide testimony at a deposition and would also subpoena her personal computer, which made the witness feel "very upset," as well as "harassed and intimidated."

Ultimately, the Firm partner certified that, because of respondent's conduct, she had to:

> spend a significant amount of time (more than in any other case in which I have litigated during my

[8] Previously, on October 5, 2018, after Hightower's deposition, respondent opened the door of the office where a Firm partner was conferring with a colleague about the deposition and "sang 'spoliation' in a mocking tone over and over."

> employment with [the Firm]) following up with Defendants regarding discovery. Opposing counsel frequently did not respond to my emails regarding discovery issues, or if they did respond, did not address the questions/issues that I raised.
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> [Ex.12.]

Moreover, the Firm partner contended that she had to "spend a significant amount of time responding to, and correcting, false allegations and mischaracterizations that [respondent] made about both my conduct and the conduct of Plaintiff throughout the course of litigation."

Consequently, Judge O'Hearn awarded Hightower $939,148 in attorney's fees.

Based on the foregoing facts, the parties stipulated that respondent violated RPC 3.1 by attempting to compel Johnson's testimony when, in fact, he had no legitimate basis under the Federal Rules of Civil Procedure to do so; RPC 3.2 by failing to treat all individuals involved in the Hightower litigation with courtesy and consideration and needlessly delaying the matter; RPC 3.4(d) by making frivolous discovery requests and by failing to comply with proper discovery requests by an opposing party; RPC 3.4(g) by threatening to refer the Firm's attorneys for criminal prosecution solely to obtain an improper advantage in the Hightower civil matter; RPC 4.4(a) by engaging in conduct that had no other purpose other than to embarrass a third party; and RPC 8.4(d) by

repeatedly delaying the Hightower litigation, even after Judge O'Hearn had issued sanctions against him.

The Parties' Positions Before the Board

The OAE recommended the imposition of a censure and, citing disciplinary precedent, noted that conduct involving violations of RPC 3.1; RPC 3.2; RPC 3.4(d); RPC 3.4(g); RPC 4.4(a); and RPC 8.4(d) typically results in the imposition of discipline ranging from an admonition to a term of suspension.

During oral argument before us, the OAE emphasized that, by engaging in a scorched-earth approach to the federal litigation, respondent had lost sight of his obligations and responsibilities under the Rules of Professional Conduct.

In aggravation, the OAE emphasized that respondent was afforded multiple opportunities throughout the Hightower litigation to act in accordance with the Rules yet failed to do so. Specifically, the OAE argued that:

> Faced in that lawsuit with the opportunity time after time on each rule violation to stop, respondent, instead of heeding that call from Federal Judges and opposing counsel to pull back, respondent chose to double down and triple down and repeatedly showed disrespect to his adversaries, opposing parties, and to the legal process to the point that Federal Judge, Judge O'Hearn, advised respondent or ordered respondent that he was not permitted during the trial to even speak to anyone at the courthouse other than his client or co-counsel.
>
> [T4.]

In mitigation, the OAE acknowledged respondent's lack of prior discipline in his forty-six years at the bar. Further, the OAE contended that respondent's misconduct took place only in one matter and was not intended to denigrate the District Court or Judge O'Hearn.

In his May 6, 2025 written submission and during oral argument before us, respondent, through counsel, acknowledged that his courtroom behavior and his attitude toward counsel of the Firm were troubling. However, he asserted that his violations of the Rules of Professional Conduct were aberrational and unlikely to recur.

Specifically, respondent asserted that he had a personal relationship with IMC "long before undertaking to represent" the company in the Hightower litigation and, thus, contended that his "thoughts and acts were affected by his personal emotional involvement with his case," led to his "unhinged" behavior, and clouded his ability to see the wrongfulness of his behavior. Further, he acknowledged that he should not have represented IMC and should have withdrawn from the representation "when he sensed a heightened emotional involvement."

Nevertheless, respondent requested that we consider his "long history as a good citizen of the Bar and his present awareness of his misconduct (as well as the likely reason for its occurrence, and the easy means to avoid future similar

events)." In addition, he emphasized that his misconduct occurred only in the Hightower matter, has not occurred in any other matter, and, thus, was aberrational. Respondent attributed his overzealousness to getting too close to the "danger zone" in respect to advocacy based on language, semantics, and his desire to please his client/friend. However, respondent could not explain his misrepresentations to Judge O'Hearn.

Also during oral argument, respondent addressed us directly. In response to our questioning, he asserted that he did not tell Johnson the subpoena was enforceable to require her to come to New Jersey. Rather, he contended that, in his memorandum of law to the court, relying on a split in the Third Circuit, he had attempted to persuade Judge O'Hearn to order Johnson to testify at her nearest federal courthouse. Respondent denied having misrepresented information to Judge O'Hearn.[9]

Respondent also maintained that his client had asked him to adopt a scorched-earth litigation tactic and, thus, that was the strategy he employed. He stated that in the future, however, if a client requested that he adopt a scorched-

[9] Respondent's statement to us during oral argument conflicts with his stipulation that he violated RPC 3.1 by issuing a subpoena to Johnson when he had no legitimate basis under the Fed. R. Civ. P. to compel her testimony yet attempted to do so anyway.

earth litigation tactic, he would counsel the client to adopt other strategies that conformed with the Rules of Professional Conduct.

Analysis and Discipline

Violations of the Rules of Professional Conduct

Following a review of the record, we find that the stipulated facts set forth in this matter clearly and convincingly support respondent's admitted violations of RPC 3.1; RPC 3.2; RPC 3.4(d); RPC 3.4(g); RPC 4.4(a); and RPC 8.4(d).

First, respondent violated RPC 3.1, which prohibits an attorney from engaging in frivolous litigation, by attempting to subpoena Johnson to testify in the Hightower matter. Specifically, as he stipulated, there is no question that, as a matter of law, he lacked a legitimate basis to subpoena Johnson to testify in the DNJ, considering she resided beyond the express geographical limitations set forth in Fed. R. Civ. P. 45. Moreover, he admitted in his e-mails to Johnson that he issued the subpoena to her before he completed his legal research regarding whether the subpoena could be legally enforced.

Next, respondent violated RPC 3.2, which requires an attorney to treat all persons involved in the litigation process with courtesy and consideration, and RPC 4.4(a) which prohibits an attorney from engaging in conduct that has no substantial purpose other than to embarrass, delay, or burden a third person.

Respondent violated both Rules by engaging in crude and disrespectful conduct – both preceding the filing of Hightower's complaint and during the pendency of the litigation – conduct that served no legitimate purpose. Indeed, the Firm, a target of much of respondent's vitriol, attempted to correct respondent's behavior in real time, only to be met with more insulting and disparaging conduct. Further, respondent admitted that he repeatedly referred to Hightower as "Afro American," notwithstanding the Firm's multiple attempts to correct his derogatory comments. In short, respondent's admitted strategy to defend his client against Hightower's allegations was to adopt a scorched-earth approach. In so doing, he rejected any attempt – including attempts by the District Court – to conform his conduct with standards of professionalism, courtesy, and respect.

Similarly, the Firm attested, and respondent admitted, that he failed to comply with the plaintiff's discovery requests and, worse, made multiple, frivolous pre-trial discovery requests of her, in violation of RPC 3.4(d).

Next, respondent violated RPC 3.4(g), which prohibits an attorney from presenting or threatening to present criminal charges to obtain an improper advantage in a civil matter. Here, respondent violated this Rule by repeatedly threatening to refer the Firm's attorneys to the United States Attorney's Office for criminal prosecution, in a sorely misguided attempt to obtain an improper advantage in the Hightower litigation. Indeed, respondent requested that Judge

O'Hearn impose criminal sanctions against the Firm for allegedly tampering with Johnson's testimony (even though he knew at that point that the subpoena he issued could not lawfully compel her testimony).

Finally, there is no question that respondent's representation of IMC wasted judicial resources, in violation of RPC 8.4(d). In particular, he admittedly filed frivolous motions, thereby wasting court resources. Further, Judge O'Hearn sanctioned respondent three times, yet he chose not to correct his conduct. Moreover, his vulgar comments to court staff concerning his view that being a trial lawyer was "better than sex" necessitated intervention by both Judge O'Hearn and the Chief Judge, who spoke to him about his conduct in this respect. Additionally, in her declaration, the Firm partner detailed the many ways that respondent had delayed the Hightower litigation and explained that, despite her extensive experience trying employment discrimination matters, the Hightower case was extraordinarily difficult due to respondent's misconduct. To be sure, Judge O'Hearn noted that a pre-trial hearing, in which she had to walk off the bench due to respondent's conduct, had been a "colossal waste of time," even though at the beginning of the hearing, she warned respondent that the trial should not be a "circus."

In sum, we find that respondent violated RPC 3.1; RPC 3.2; RPC 3.4(d); RPC 3.4(g); RPC 4.4(a); and RPC 8.4(d). The sole issue left for our

determination is the appropriate quantum of discipline for respondent's misconduct.

Quantum of Discipline

Attorneys who have filed frivolous litigation have received reprimands or censures, including if their conduct prejudices the administration of justice. See In re Loigman, 224 N.J. 271 (2016) (reprimand for an attorney who, following the dismissal of an abuse and neglect complaint filed by a state agency, filed a second abuse and neglect complaint on behalf of the same child; the attorney did not serve the complaint, which listed no named defendants and which generally alleged that the child suffered "extreme" abuse because the child's parents were unwilling to accommodate the child's desire to practice a particular form of Judaism; the attorney also filed a notice of claim, pursuant to the New Jersey Tort Claims Act, alleging that the child had been the victim of repeated, unspecified acts of abuse by his parents, against which the Ocean County Prosecutor had failed to protect him; we determined that, as a matter of law, the parent's refusal to accommodate the child's religious preferences did not constitute abuse; we also found that the attorney's failure to name the parents as defendants and to serve them with the complaint was a clear attempt to deny the parents due process; although the attorney did not repeatedly file the same

actions in defiance of court orders or engage in other serious misconduct, the attorney continued to exhibit "a measure of hubris" in connection with his representation), and In re Giannini, 212 N.J. 479 (2012) (censure for an attorney who made numerous unprovoked, inflammatory, and fictitious statements about various judges and parties in post-judgment pleadings that the attorney had filed on behalf of his sister; the attorney also made repeated, frivolous discovery requests to judges who had no nexus to the litigation; the attorney further made knowingly false, outrageous statements in his post-judgment pleadings by alluding to matters that were either irrelevant or unsupported by admissible evidence; finally, the attorney improperly attempted to compel his adversary and her counsel to withdraw their ethics grievance against him; the attorney displayed an "arrogant failure" to recognize his wrongdoing, given that he had "doubled down" on his baseless views of the New Jersey Judiciary and of the disciplinary system in his brief to us).

Disrespectful or insulting conduct to persons involved in the legal process leads 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. However, absent serious aggravating factors, brief episodes of discourteous conduct typically result in an admonition or a reprimand. See, e.g., In re Gahles, 182 N.J. 311

(2005) (admonition for an 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, the attorney's statements were not made to intimidate the party); In re Romanowski, 252 N.J. 415 (2022) (reprimand for an attorney who, in a contentious divorce proceeding, called his client a "moron;" a "ridiculous person;" told her to "shut up;" stated that she and her ex-husband deserved one another; and threatened to withdraw as counsel if she did not pay outstanding fees; mitigating factors included the attorney's unblemished forty years at the bar and the passage of seven years from the time of the misconduct until the imposition of discipline); In re Bailey, 249 N.J. 49 (2021) (censure, in a reciprocal discipline matter, 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 your 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;" violations of RPC 3.2; RPC 3.4(g); RPC 3.5(c) (engaging in conduct intended to disrupt a tribunal); RPC 4.1(a) (making a false statement of material fact or law to a third person); RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); and RPC 8.4(d); in mitigation, we considered the attorney's lack of prior discipline in twenty-six years at the bar, his character letters, and his history of charitable ventures); In re Rifai, 204 N.J. 592 (2011) (three-month suspension for an attorney who called a municipal prosecutor an "idiot," among other things; intentionally bumped into an investigating officer during a break in trial; repeatedly obtained postponements of the trial, one based on a false claim of a motor vehicle accident; and was "extremely uncooperative and belligerent" with the DEC investigator; the attorney had been reprimanded on two prior occasions); In re Van Syoc, 216 N.J. 427 (2014) (six-month suspension for an 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 the judge was in the defense's pocket, a violation of RPC 8.2(a) (making 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);

we found several aggravating factors, including 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 an attorney who displayed a pattern of abuse, intimidation, and contempt toward judges, witnesses, opposing counsel, and other attorneys; the attorney engaged in intentional behavior that included insults, vulgar profanities, and physical intimidation consisting of, among other things, poking his finger in another attorney's chest and bumping the attorney with his stomach and then his shoulder); In re Vincenti, 152 N.J. 253 (1998) (Vincenti II) (disbarment for an attorney described by the Court as an "arrogant bully," "ethically bankrupt," and a "renegade attorney").

Attorneys who have asserted a frivolous issue in a proceeding have received discipline ranging from an admonition to a censure. See, e.g., In the Matter of Samuel A. Malat, DRB 05-315 (March 17, 2006) (admonition for an attorney who asserted state law claims that did not comply with the New Jersey Tort Claims Act after the court already had sanctioned the attorney in another suit for asserting state law claims that were frivolous for the same reason; prior

reprimand and two three-month suspensions); In re Silverman, 179 N.J. 364 (2004) (reprimand for an attorney who agreed to represent a client free of charge and who, after the client rejected a settlement offer that would have included a portion of the attorney's legal fee, sued the client for the collection of the fee, alleging breach of contract; no prior discipline); In re Kimm, 191 N.J. 552 (2007) (censure for an attorney who filed a "contrived" treble damage RICO and consumer fraud suit in the Law Division with the sole purpose of coercing his adversary into withdrawing her Chancery Division action; no prior discipline).

When an attorney engages in conduct that has no substantial purpose other than to embarrass, delay, or burden a third person, discipline ranging from an admonition to a censure has been imposed. See In the Matter of Beverly Giscombe, DRB 19-326 (February 24, 2020) (admonition for an attorney who walked out of a courtroom after the clerk gave her a future court date she could not attend; the attorney called the clerk a "fat a**;" we found the conduct violated RPC 3.2 and RPC 4.4(a)), and In re Fiocca, 254 N.J. 100 (2023) (censure for an attorney who registered a non-profit company, purportedly for her daughter's future medical practice, using substantially the same name as her former brother-in-law's cardiology practice; after creating the company, she filed a lawsuit against her former brother-in-law's cardiology practice alleging that the cardiology practice was misappropriating the non-profit company's

name; she then served a subpoena on the cardiology practice's banking institution, seeking certain records that her sister had been denied access to in the divorce litigation against her former brother-in-law).

The discipline imposed for threatening to present criminal charges to obtain an improper advantage in a civil matter ranges from an admonition to a suspension, depending on the severity of the conduct, the attorney's disciplinary history, and any aggravating or mitigating factors. See, e.g., In the Matter of Alan Ozarow, DRB 13-096 (September 26, 2013) (admonition for an attorney who, within three weeks, sent four letters to his adversary, threatening to present to the county prosecutor criminal charges of fraud against the adversary's client; in mitigation, the attorney was not motivated by self-interest; was frustrated by what he perceived to be outrageous circumstances that his client was forced to endure; expressed remorse; discontinued his behavior upon learning from his adversary that his conduct violated the Rule; and had an unblemished twenty-six-year career at the bar); In re Mason, 213 N.J. 571 (2013) (reprimand for an attorney who, in a letter to the lawyer for the buyer in an assets-purchase transaction, threatened criminal charges against the buyer if he were to disturb any of the subject collateral; the attorney also had an ethics history evidencing a pattern of mistreating clients and attorneys); In re Brown, 231 N.J. 166 (2017) (in a default matter, censure for an attorney who required her client to sign a

payment arrangement form, in which the client acknowledged that she could face criminal charges if she did not pay the fee in accordance with the payment schedule; we did not find any mitigating factors; the attorney had a prior three-month suspension, but no history of mistreating clients or attorneys); In re Ledingham, 189 N.J. 298 (2007) (three-month suspension for an attorney who threatened his client with criminal action for theft of services in order to collect his excessive fee).

In our view, respondent's misconduct is most analogous to that of the censured attorney in Bailey, who intruded into an arbitration hearing to threaten the participants and, in a separate matter, threatened criminal charges against an adversary. Also like Bailey, respondent has no prior discipline in a lengthy career at the bar. However, unlike Bailey, respondent's discourteous conduct was not a brief episode but, rather, persisted for years during the pendency of the Hightower litigation. It is clear respondent did not want Hightower to file a complaint against IMC, and once she did, for five years, he employed various unethical tactics to pressure her to withdraw her complaint.

Further, unlike in Bailey, where the litigants were the target of the attorney's ire, here, respondent targeted not only Hightower, but also her individual attorneys and the law firm representing her. He also threatened multiple times to file criminal charges against Hightower and her counsel,

including inviting the court, in a memorandum of law, to consider referring his adversaries for criminal prosecution. Further, respondent's misconduct extended to his interactions with Judge O'Hearn and court staff.

Based on the foregoing precedent, Bailey in particular, we determine that a censure is the baseline discipline for respondent's misconduct. To craft the appropriate discipline in this case, however, we also consider aggravating and mitigating factors.

In aggravation, over the five years of litigation, respondent was afforded multiple opportunities by multiple parties to revise his litigation strategy but refused to do so, thereby demonstrating an extremely disturbing inability to recognize the proverbial "line," even when it is pointed out to him. In re Silber, 100 N.J. 517 (1985) (the attorney's failure to remediate conduct despite opportunities to do so considered in aggravation).

Moreover, although the OAE did not charge respondent with having violated RPC 3.3(a)(1) or RPC 8.4(c), we may consider that unethical conduct in aggravation. Steiert, 201 N.J. 119 (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). Here, in order to support his frivolous subpoena and cross-motion to compel enforcement and for sanctions against the Firm, respondent knowingly misrepresented material facts

to Judge O'Hearn, including the distance Johnson resided from a federal courthouse. He also misrepresented to Judge O'Hearn the orders of prior judges in the litigation, as well as the existence of model jury instructions.

In mitigation, respondent has an unblemished disciplinary record in forty-six-years at the bar, a factor that we and the Court accord significant weight. In re Convery, 166 N.J. 298, 308 (2001). However, we considered this mitigating factor in setting the baseline discipline at a censure and, thus, do not accord it additional mitigating weight.

In further mitigation, respondent entered into a disciplinary stipulation with the OAE, thereby accepting responsibility for his misconduct and conserving judicial resources. In the Matter of John E. Maziarz, DRB 18-251 (January 9, 2019) at 12 (noting that attorneys who enter into disciplinary stipulations save the OAE "valuable resources"), so ordered, 238 N.J. 476 (2019). Finally, during oral argument before us, respondent expressed remorse for his misconduct.

Conclusion

On balance, we conclude that the aggravating and mitigating factors do not justify a departure from the baseline discipline and, thus, determine that a

censure is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.

Additionally, given respondent's unprofessional behavior throughout the Hightower matter, we recommend the condition that, within sixty days of the Court's issuance of a disciplinary Order in this matter, respondent be required to complete a continuing education course in legal ethics and professionalism, as approved by the OAE.

Member Modu 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. Mary Catherine Cuff, P.J.A.D. (Ret.),
Chair

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

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Gary P. Lightman
Docket No. DRB 25-079

Argued: June 19, 2025

Decided: September 10, 2025

Disposition: Censure

Members	Censure	Absent
Cuff	X	
Boyer	X	
Campelo	X	
Hoberman	X	
Menaker	X	
Modu		X
Petrou	X	
Rodriguez	X	
Spencer	X	
Total:	8	1

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