

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of:)	
)	
DAVID C. THOLLANDER,)	
)	No. 2021PR00070
Attorney-Respondent,)	
)	
No. 6202012.)	

RESPONDENT’S ANSWER TO ADMINISTRATOR’S COMPLAINT

Respondent, DAVID C. THOLLANDER (“Respondent”), by and through his undersigned counsel, for his Answer to the Administrator of the Attorney Registration and Disciplinary Commission’s Complaint, states as follows:

(Conduct intended to disrupt tribunal, using means that have no substantial purpose other than to embarrass, delay, or burden a person and conduct prejudicial to the administration of justice)

Respondent denies the allegations contained in the italicized heading, above.

1. Prior to August 22, 2014, Albert Campasano retained Respondent to represent him in an age discrimination suit related to Mr. Campasano’s attempt to purchase property.

ANSWER: Respondent admits the allegations contained in paragraph 1.

2. On or about August 22, 2014, Respondent filed an action in the Chancery Division of the Circuit Court of Cook County on behalf of plaintiff Albert Campasano alleging age discrimination and seeking a restraining order and injunction of property transfer. The clerk of the court docketed the matter as *Campasano v. Koster, et al.*, case number 14CH13676. The matter was assigned to Judge Anna Demacopoulos.

ANSWER: Respondent admits the allegations contained in the first and second sentences of paragraph 2. Respondent denies the allegations contained in the third sentence of paragraph 2. Further answering, Respondent states that the matter was first assigned to Judge Leroy K. Martin, Jr. and eventually transferred to Judge Anna Demacopoulos.

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3. Beginning May 21, 2018 through May 25, 2018, the Campasano matter proceeded to bench trial before Judge Demacopoulos. During the proceedings, the Court repeatedly admonished Respondent to obey the Court's ruling concerning his improper courtroom behavior, involving shouting, interrupting, and arguing with the Court, including interjecting comments during the Court's rulings.

ANSWER: Respondent admits the allegations contained in the first sentence of paragraph 3. Respondent denies the allegations contained in the second sentence of paragraph 3 and further states that the report of proceedings from the bench trial speaks for itself.

4. On May 23, 2108, during the questioning of a witness, Thomas Koster, the following exchange occurred between Judge Demacopoulos and Respondent.

COURT: All right. I'm going to allow the testimony. Go ahead, Mr. Koster.

MR. THOLLANDER: (Inaudible)

COURT: I'm sorry? Say it a little louder, Mr. Thollander.

MR. THOLLANDER: Oh, gadzooks.

COURT: We're going to take a five-minute recess.

ANSWER: Respondent admits that the report of proceedings is accurately quoted in paragraph 4.

5. The Court took a short recess and upon returning to the courtroom, the Judge requested questioning of the witness resume. Before opposing counsel could ask the next question, Respondent interjected, and the following exchange occurred between Judge Demacopoulos and Respondent.

COURT: Mr. Koster, you're still under oath. You may ask another question.

MR. THOLLANDER: Your Honor, if I can make a record?

COURT: No.

MR. THOLLANDER: I can't talk?

COURT: Mr. Thollander, I'm warning you at this time. Please have a seat. Mr. Thollander, please have a seat.

MR. THOLLANDER: I want to make a record.

COURT: Have a seat.

MR. THOLLANDER: I still want to make a record.

COURT: Have a seat.

MR. THOLLANDER: I'm sitting down.

COURT: Thank you.

MR. THOLLANDER: I want to make a record.

COURT: Mr. Besetzny, please. You may ask another question.

MR. THOLLANDER: Your Honor, I'm objecting to the Court. I want to make a record as to the issue of the offer. Mr. Campasano's complaint sought among other things enjoining the sale and having the property sold to him, and the discussions and offer around the sale all pertained to settlement or partial settlement of this case.

COURT: Ask another question, Mr. Besetzny. Mr. Thollander, if you make one more comment under your breath--

MR. THOLLANDER: I said gadzooks.

COURT: Mr. Thollander, if you make one more comment that's offensive to this Court, I will hold you in contempt of court.

MR. THOLLANDER: Gadzooks is offensive to the Court?

COURT: You are now in contempt of court. I'm fining you \$ 1,000. Ask another question, Mr. Besetzny.

MR. THOLLANDER: May I ask the Court--

COURT: You are now [at] \$2,000. Ask another question, Mr. Besetzny."

ANSWER: Respondent admits that the report of proceedings is accurately quoted in paragraph 5. Respondent denies the characterization that he interjected and the inference that he improperly interrupted the court proceeding when he was trying to make a record.

6. A few minutes later, during the Respondent's cross examination of a witness, the following exchange occurred between Judge Demacopoulos and Respondent:

COURT: Mr. Thollander, clearly the witness is confused as I am to your question. You're asking a question that's confusing. You may clarify. What tab are you looking at?

MR. THOLLANDER: I am looking at the tab that counsel has indicated-

COURT: What tab?

MR. THOLLANDER: 25. (screaming "25")

COURT: Mr. Thollander, you are now at \$3,000 - will not tolerate your conduct any longer. We are terminating for the day.

The case was continued to May 24, 2018, at 9:30 a.m.

ANSWER: Respondent admits that the above exchange occurred, but denies that it is accurately represented in paragraph 6. Further answering, Respondent states that he did not scream "25" and the report of proceedings does not contain the parenthetical "(screaming "25")". Respondent admits that the case was continued to May 24, 2018 at 9:30 a.m.

7. On May 24, 2018, Respondent did not arrive in court until 10:18 a.m. At that time, the court advised Respondent that the contempt order stood, the \$3,000 sanction was vacated and a full sanction hearing would occur at the conclusion of the trial. Further, based on what transpired the prior date, the judge requested that Respondent: keep his voice down when addressing witnesses, refer to exhibits by their number, not use a hostile tone in his voice when questioning witnesses, and to allow the Court to hear objections and arguments, then rule on objection without interrupting the Judge during her ruling. Respondent did not reply.

ANSWER: Respondent admits the allegations contained in the first three sentences of paragraph 7. Respondent denies the allegations contained in the fourth sentence of paragraph 7. Further answering, Respondent states that he replied, "[y]es, ma'am" after Judge Demacopoulos made the statements described in the second sentence of paragraph 7. Additionally, Respondent was not given an opportunity to reply to Judge Demacopoulos's statements as described in the third sentence of paragraph 7 because Judge Demacopoulos immediately invited Respondent to resume his cross-examination of Thomas Koster, which Respondent did. In addition, Respondent states that he arrived in court at 10:18 a.m. because he was stuck in traffic, traveling from his home to the Daley Center in downtown Chicago. Though Judge Demacopolous had her staff calculate, using Google Maps, the travel time between Respondent's office and the Daley Center, this was

irrelevant because that was not the route that Respondent was traveling. Respondent communicated with Judge Demacopoulos's staff and his opposing counsel, Kevin Besetzny, that he would be arriving late to court because he was stuck in traffic.

8. After the trial concluded, the Judge allowed Respondent to make a statement in allocution. The Judge took the matter of the sanction in the Respondent's contempt finding under advisement and continued the matter for ruling to August 28, 2018.

ANSWER: Respondent admits the allegations contained in paragraph 8. Further answering, Respondent states that Judge Demacopoulos sanctioned him \$3,000 on May 23, 2018, then vacated the \$3,000 sanction at the beginning of the trial on May 24, 2018. Judge Demacopoulos allowed Respondent to make a statement in allocution at the end of the trial on May 24, 2018, after she had already vacated the \$3,000 sanction.

9. On August 28, 2018, in a written opinion and order, the Judge found Respondent in direct criminal contempt of court in that from May 21, 2018 through May 25, 2018, the Court repeatedly admonished Respondent to obey the Court's rulings, about Respondent's improper courtroom behavior which included shouting, behaving in a hostile manner and interjecting during Court rulings. The Judge found that Respondent: refused to comply with Court orders, continually muttered under his breath through trial, interrupted the Court yelling "gadzooks," after a Court ruling and was rude, hostile, and unbecoming - even after having been admonished several times regarding his behavior. The Judge found that Respondent's behavior interrupted the Court's proceedings, lessened the dignity of the Court and brought the administration of justice into disrepute. The Judge fined Respondent \$1000. The contempt matter was docketed as *In re Contempt of David Thollander*, 2018MC1600222-01.

ANSWER: Respondent admits that Judge Demacopoulos entered a written order of adjudication on August 28, 2018 in *In re Contempt of David Thollander*, 2018 MC 1600222-01 finding him in direct criminal contempt of court, which speaks for itself. Respondent denies any allegations contained in paragraph 9 that are inconsistent with the August 28, 2018 order of adjudication. Respondent denies that his conduct rose to the level of criminal contempt and that the August 28, 2018 order of adjudication accurately reflects his conduct or what he was held in contempt for.

10. On August 28, 2018, the trial judge issued a written order of adjudication finding Respondent in direct criminal contempt, in that Respondent:

- “a. refused to comply with Court Orders;
- b. continually muttered under his breath throughout the trial;
- c. interrupted the Court yelling 'Gadzooks!' after the Court ruled; and
- d. behaved in other rude, hostile, and unbecoming manners to the Court.”

ANSWER: Respondent admits that Judge Demacopoulos entered a written order of adjudication on August 28, 2018 in *In re Contempt of David Thollander*, 2018 MC 1600222-01 finding him in direct criminal contempt of court, which speaks for itself. Respondent denies any allegations contained in paragraph 10 that are inconsistent with the August 28, 2018 order of adjudication. Respondent denies that his conduct rose to the level of criminal contempt and that the August 28, 2018 order of adjudication accurately reflects his conduct or what he was held in contempt for.

11. Additionally, the Judge found that Respondent had been admonished several times regarding his behavior, that Respondent refused to change his behaviors or acknowledge their impropriety and that Respondent's conduct, which occurred in the presence of the Court while in open session, impeded and interrupted the Court's proceedings, lessened the dignity of the Court, and tended to bring the administration of justice into disrepute.

ANSWER: Respondent admits that Judge Demacopoulos entered a written order of adjudication on August 28, 2018 in *In re Contempt of David Thollander*, 2018 MC 1600222-01 finding him in direct criminal contempt of court, which speaks for itself. Respondent denies any allegations contained in paragraph 11 that are inconsistent with the August 28, 2018 order of adjudication. Respondent denies that his conduct rose to the level of criminal contempt and that the August 28, 2018 order of adjudication accurately reflects his conduct or what he was held in contempt for.

12. In her order, the Judge ruled that Respondent was in direct criminal contempt of court by willful and contemptuous conduct and judgment entered on the findings. As a sanction for the contempt, Respondent was fined \$1,000, to be paid within 30 days from entry of the order.

ANSWER: Respondent admits that Judge Demacopoulos entered a written order of adjudication on August 28, 2018 in *In re Contempt of David Thollander*, 2018 MC 1600222-01 finding him in direct criminal contempt of court, which speaks for itself. Respondent denies any allegations contained in paragraph 12 that are inconsistent with the August 28, 2018 order of adjudication. Respondent denies that his conduct rose to the level of criminal contempt and that the August 28, 2018 order of adjudication accurately reflects his conduct or what he was held in contempt for. Respondent further states that he was initially sanctioned \$3,000 on May 23, 2018, which Judge Demacopoulos vacated on May 24, 2018. On September 26, 2018, Respondent moved the Illinois Appellate Court for the First District for a stay of the enforcement of the \$1,000 sanction, pending the disposition of his appeal of the finding of contempt, which was granted.

13. Respondent was served a copy of the order, identified in paragraphs 9 through 11, in open court on August 28, 2018.

ANSWER: Respondent admits the allegations contained in paragraph 13.

14. On or about September 4, 2018, Respondent filed a notice of appeal from the judgment against him for contempt of court in docket number 2018MC1600222-01. The matter was docketed in the Appellate Court for the 1st Judicial District as appeal number 1-18-2070.

ANSWER: Respondent admits the allegations contained in paragraph 14.

15. On December 19, 2019, the appellate court issued a modified opinion in 1-18-2070, which affirmed the judgment of contempt against Respondent. *In re Contempt of David Thollander*, 2019 IL App (1st) 182070-U. In the opinion, the court affirmed the finding of contempt, held that they could neither find an abuse of discretion in the lower court's finding or sentencing, nor were the findings against the manifest weight of the evidence, nor did the court fail to provide the appropriate procedural safeguards.

ANSWER: Respondent admits that the appellate court issued a modified opinion in 1-18-2070 on December 19, 2019, which affirmed the trial court and which speaks for itself.

Respondent denies any allegations contained in paragraph 15 that are inconsistent with the December 19, 2019 modified opinion.

16. On December 17, 2019, Respondent filed a petition with the Illinois Supreme Court seeking leave to appeal the appellate court affirmance in *In re Contempt of David Thollander*, appellate court number 1-18-2070. The Court docketed the matter as number 125600. On March 25, 2020, the Court denied the petition.

ANSWER: Respondent admits the allegations contained in paragraph 16.

17. By reason of the conduct outlined above, Respondent has engaged in the following misconduct:

a. engaging in conduct intended to disrupt a tribunal including but not limited to repeatedly refusing to comply with Court orders, muttering under his breath, interrupting the shouting at, loudly arguing with, yelling and interrupting Judge Demacopoulos and behaving in other rude, hostile and unbecoming manners to the Court in the matter of *Campasano v. Koster, et al.*, docket number 14CH13676, in violation of Rule 3.5(d) of the Rules of Professional Conduct (2010);

b. using means in representing a client that have no substantial purpose other than to embarrass, delay, or burden a third person, including but not limited to repeatedly refusing to comply with Court orders, muttering under his breath, interrupting the shouting at, loudly arguing with, yelling and interrupting Judge Demacopoulos and behaving in other rude, hostile and unbecoming manners to the Court in the matter of *Campasano v. Koster, et al.*, docket number 14CH13676, in violation of Rule 4.4(a) of the Rules of Professional Conduct (2010);

c. committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer by engaging in willful and contemptuous conduct resulting in a finding of direct criminal contempt of court against Respondent, by Judge Anna Demacopoulos, in *In Re Contempt of David Thollander*, 2018MC1600222-01, in violation of Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010); and

d. conduct that is prejudicial to the administration of justice, by conduct including, but not limited to repeatedly refusing to comply with Court orders, muttering under his breath, interrupting the shouting at, loudly arguing with, yelling and interrupting Judge Demacopoulos and behaving in other rude, hostile and unbecoming manners to the Court in the matter of *Campasano v. Koster. et al.*, docket number 14CH13676, in violation of Rule 8.4(d) of the Illinois Rules of Professional Conduct (2010).

ANSWER: Respondent denies each and every allegation contained in paragraph 17.

RESPONDENT'S STATEMENT PURSUANT TO COMMISSION RULE 231

- A. Respondent was admitted in the United States District Court for the Northern District of Illinois on December 20, 1989. He was admitted to practice in the United States Court of Appeals for the Sixth and Seventh Circuits on November 28, 1994 and December 30, 1991, respectively. He was admitted to practice law in Michigan on November 13, 1998.**
- B. Respondent does not have any other professional licenses.**

Dated: October 12, 2021 DAVID C. THOLLANDER

HINSHAW & CULBERTSON LLP

By: /s/Thomas P. McGarry

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One of His Attorneys

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