

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

FILED
8/30/2021 9:19 AM
ARDC Clerk

In the matter of:)	
)	
DAVID C. THOLLANDER,)	
)	Commission No. 2021PR00070
Attorney-Respondent,)	
)	FILED – August 30, 2021
No. 6202012.)	

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Sharon D. Opryszek, pursuant to Supreme Court Rules 753(b) and 761, complains of Respondent, David C. Thollander, who was licensed to practice law in Illinois on November 9, 1989 and in Michigan on November 18, 1998, and alleges that Respondent has engaged in the following conduct which subjects Respondent to discipline pursuant to Supreme Court Rule 770:

(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)

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.

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.

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.

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.

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.”

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.

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.

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.

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.

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."

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.

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.

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

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.

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. “

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.

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*, 2018MC1-600222-01, 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).

WHEREFORE, the Administrator requests that this matter be assigned to a panel of the Hearing Board, that a hearing be held, and that the panel make findings of fact, conclusions of fact and law, and a recommendation for such discipline as is warranted.

Respectfully submitted,

Jerome Larkin, Administrator
Attorney Registration and
Disciplinary Commission

By: /s/ Sharon D. Opryszek
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