In re John Stephen Xydakis
Attorney-Respondent

Commission No. 2021PR00104

Synopsis of Hearing Board Report and Recommendation
(June 2025)

The Administrator brought a three-count complaint against Respondent based upon Respondent's conduct in litigation that he brought on behalf of his client against a condominium association board, its board members, and other individuals and entities, as well as in a separate bankruptcy proceeding involving the same client. Following a six-day hearing, the Hearing Board found that the Administrator proved by clear and convincing evidence that Respondent filed and maintained frivolous litigation; made false statements of material fact or law to a tribunal; used means in representing a client that had no substantial purpose other than to embarrass, delay, or burden a third party; engaged in conduct prejudicial to the administration of justice; made statements with reckless disregard for their truth or falsity concerning the integrity of a judge; failed to inform a tribunal of all material facts known to him that would enable the tribunal to make an informed decision in an *ex parte* proceeding; assisted a client in conduct that he knew to be fraudulent; and engaged in dishonesty in connection with the bankruptcy proceeding. For this misconduct, and considering the aggravation and mitigation present in the matter, the Hearing Board recommended that Respondent be suspended for one year and until he successfully completes the ARDC Professionalism Seminar.

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

In the Matter of: **JOHN STEPHEN XYDAKIS,** Attorney-Respondent, No. 6258004.	Commission No. 2021PR00104

REPORT AND RECOMMENDATION OF THE HEARING BOARD

SUMMARY

The Administrator brought a three-count complaint against Respondent based upon Respondent's conduct in litigation that he brought on behalf of his client against a condominium association board, its board members, and other individuals and entities, as well as in a separate bankruptcy proceeding involving the same client. Following a six-day hearing, the Hearing Board found that the Administrator proved by clear and convincing evidence that Respondent filed and maintained frivolous litigation; made false statements of material fact or law to a tribunal; used means in representing a client that had no substantial purpose other than to embarrass, delay, or burden a third party; engaged in conduct prejudicial to the administration of justice; made statements with reckless disregard for their truth or falsity concerning the integrity of a judge; failed to inform a tribunal of all material facts known to him that would enable the tribunal to make an informed decision in an *ex parte* proceeding; assisted a client in conduct that he knew to be fraudulent; and engaged in dishonesty in connection with the bankruptcy proceeding. It recommended that Respondent be suspended for one year and until he successfully completes the ARDC Professionalism Seminar.

FILED

June 02, 2025

ARDC CLERK

INTRODUCTION

The hearing in this matter was held at the Chicago office of the ARDC on May 13, 14, 15, 16, 19, and 20, 2024, before a panel of the Hearing Board consisting of Rebecca J. McDade, Chair, Michael Casey, and Brian Duff. Matthew D. Lango and Peter T. Rotskoff represented the Administrator. Respondent was present and represented himself.

PLEADINGS AND MISCONDUCT ALLEGED

On November 3, 2023, the Administrator filed a three-count amended complaint against Respondent. Count I charged Respondent with (1) bringing or defending a proceeding, or asserting or controverting an issue therein, with no basis for doing so that is not frivolous; (2) making statements of material fact or law to a tribunal which the lawyer knows are false; (3) using means in representing a client that have no substantial purpose other than to embarrass, delay, or burden a third person; (4) engaging in conduct that is prejudicial to the administration of justice; and (5) making statements with reckless disregard as to their truth or falsity concerning the integrity of a judge, in violation of Illinois Rules of Professional Conduct 3.1, 3.3(a)(1), 4.4(a), 8.4(d), and 8.2(a), respectively, arising from his bringing and maintaining lawsuits on behalf of his client against a condominium association board and other individuals and entities.

Count II charged Respondent with (1) engaging in conduct that is prejudicial to the administration of justice and (2) failing to inform a tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision in an *ex parte* proceeding, in violation of Illinois Rules of Professional Conduct 8.4(d) and 3.3(d), respectively, based upon allegations that he failed to inform a judge that his opposing counsel would be late to a motion hearing and objected to his motion.

Count III charged Respondent with (1) assisting a client in conduct that Respondent knew to be criminal or fraudulent and (2) engaging in conduct involving fraud, dishonesty, deceit, or

misrepresentation, in violation of Illinois Rules of Professional Conduct 1.2(d) and 8.4(c), respectively, based upon allegations that he reduced or purported to reduce his client's membership interest in an Illinois limited liability company without the permission of the bankruptcy court or the United States Trustee and for no consideration, and backdated and made other changes to the limited liability company's operating agreement to allow the limited liability company to obtain a loan for which it was not otherwise eligible.

In his Answer, Respondent admitted some of the factual allegations and denied others, and denied engaging in any misconduct.

EVIDENCE

The Administrator presented the testimony of nine witnesses. Administrator's Exhibits 1, 3, 4, 7-11, 17-19, 22, 23, 27, 30, 31, 33, 39-44, 48-50, 52, 53, 55, 57-60, 62, 64, 66-70, 72, 73, 75, 77-85, 87-97, and 107-109 were admitted into evidence. (Tr. 91, 93, 101, 113, 141, 179, 194, 198, 217, 324, 337, 339, 341, 345, 349-50, 450, 483, 589-90, 1204, 1389.)

Respondent testified on his own behalf and presented the testimony of nine additional witnesses. Respondent's Exhibits 44-63, 67, 69-71, 73, 81-98, 100-103, 108, 109, 114-116, 118-136, 145, and 151-154 were admitted into evidence. (Tr. 141, 217, 367, 453, 394, 483, 484, 525, 1283-87, 1289-90, 1293-96, 1300; Order dated June 21, 2024; Order dated July 8, 2024.)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In attorney disciplinary proceedings, the Administrator has the burden of proving the charges of misconduct by clear and convincing evidence. In re Winthrop, 219 Ill. 2d 526, 542, 848 N.E.2d 961 (2006). Clear and convincing evidence requires a high level of certainty, which is greater than a preponderance of the evidence but less stringent than proof beyond a reasonable doubt. People v. Williams, 143 Ill. 2d 477, 484-85, 577 N.E.2d 762 (1991). In determining whether the Administrator has met that burden, it is the responsibility of this hearing panel to determine

the credibility of witnesses, weigh and resolve conflicting testimony, and make factual findings based upon all of the evidence. Winthrop, 219 Ill. 2d at 542-43. As the trier of fact, we may consider circumstantial evidence and draw reasonable inferences from the evidence presented. In re Green, 07 SH 109, M.R. 23617 (March 16, 2010) (Review Bd. at 14-15) (citing In re Discipio, 163 Ill. 2d 515, 524, 645N.E.2d 906 (1994); In re Krasner, 32 Ill. 2d 121, 127, 204 N.E.2d 10 (1965)).

I. In Count I, the Administrator charged Respondent with filing and maintaining frivolous litigation and other misconduct based upon his actions in representing a client in litigation in Cook County Circuit Court.

A. Summary

The Administrator proved that Respondent brought and maintained frivolous litigation on behalf of his client; made statements of fact or law to a tribunal that he knew were false; used means in representing a client that had no substantial purpose other than to embarrass, delay, or burden a third person; engaged in conduct that is prejudicial to the administration of justice; and made statements about the integrity of a judge with reckless disregard as to their truth or falsity.

B. Admitted Facts and Evidence Considered

Respondent's Background

Respondent was 60 years old at the time of his hearing. He graduated from the John Marshall Law School *magna cum laude*. Upon graduation, he began practicing in a solo practice, and has always been a solo practitioner. He began litigating in 2000. (Tr. 927-28, 930.)

Admissions in Answer and Undisputed Facts in Court Documents

Spiegel Litigation

In the fall of 2015, the president of the board of directors of the 1618 Sheridan Road Condominium Association ("Association") resigned. At that time, Marshall Spiegel was serving as secretary of the Association's board and Valerie Hall was serving as treasurer. Following the

president's resignation, Spiegel declared himself acting president, over Hall's objections. (Ans. at par. 2.)

On October 22, 2015, Respondent filed a complaint on behalf of Spiegel, the Association, and Chicago Title Trust Co.,[1] seeking to remove Hall from the Association's board of directors. The complaint alleged that, because Hall's condominium unit was owned by a trust rather than by Hall herself, she was not considered a unit owner and therefore could not be a board member. The lawsuit, filed in the Chancery Division of Cook County Circuit Court, was docketed as case number 15 CH 15594. (Ans. at par. 4; Adm. Ex. 1.)

On October 26, 2015, Respondent filed a second lawsuit on behalf of the same plaintiffs for defamation, invasion of privacy, and breach of contract against Hall. The second lawsuit, filed in the Law Division of Cook County Circuit Court, was docketed as case number 15 L 10817, and, like the first, sought to remove Hall from the Association's board. It also added a new defendant and additional counts, including allegations that Hall wrongfully accused Spiegel of stealing her suitcases and filed a false police report in which she accused Spiegel of taking lawn furniture. (Ans. at par. 6; Adm. Ex. 3.)

On October 30, 2015, Respondent filed a first amended complaint in case number 15 L 10817, adding two new defendants and additional counts. (Ans. at par. 7; Adm. Ex. 4.) On November 2, 2015, Hall filed an answer to the first amended complaint, and attached the deed to her condominium unit. She also filed a counterclaim in which she sought a declaration that, among other things, she was a unit owner and therefore qualified to sit on the Association board; that all of the board's actions following the former president's resignation were proper; and that Respondent was not the Association's authorized legal counsel and therefore had no authority to act on behalf of the Association. (Ans. at par. 8; Resp. Ex. 57.) Also on November 2, 2015, Respondent voluntarily dismissed case number 15 CH 15594. (Ans. at par. 5.)

On November 24, 2015, Respondent filed a second amended complaint in case number 15 L 10817, removing the Association as a plaintiff and adding an additional defendant and new counts, including allegations that one of the defendant unit owners spied on Spiegel and moved large water cooler bottles in front of Spiegel's door. (Adm. Ex. 7.) On December 2, 2015, Respondent filed a counter and third-party complaint on behalf of the plaintiffs in case number 15 L 10817 against Hall, her counsel, and the Association's counsel, alleging that they interfered with Spiegel's business expectancy with Respondent by filing a counterclaim that caused Spiegel's insurance carrier to refuse to hire Respondent to defend Spiegel, which caused Spiegel to have to expend his own funds. The next day, Respondent filed a third amended complaint against the same five defendants named in the second amended complaint but adding additional counts, including allegations that one of the defendants installed horizontal blinds without prior board approval. (Ans. at par. 9; Adm. Exs. 8, 9.)

On December 31, 2015, the Association filed a complaint for declaratory and injunctive Relief against Spiegel in the Chancery Division of Cook County Circuit Court, docketed as case number 15 CH 18825. (Ans. at par. 11.) On January 11, 2016, the Association moved the court for a temporary restraining order (TRO) to restrain Spiegel from continuing to prevent the board from functioning. The court granted the Association's TRO. (Ans. at pars. 11-13; Adm. Ex. 10.)

On February 8, 2016, Respondent filed a fourth amended complaint in case number 15 L 10817, which alleged 25 counts against 10 defendants, including Hall's counsel and the Association's counsel. As to the attorney-defendants, the fourth amended complaint contained the same allegations regarding interference with business expectancy that were raised in the earlier-filed counter and third-party complaint. (Ans. at pars. 15, 16; Adm. Ex. 17.)

On April 8, 2016, Respondent filed an additional lawsuit in the Law Division of Cook County Circuit Court, which was docketed as case number 16 L 3564. (Ans. at par. 17.) In that

lawsuit, Respondent brought claims on behalf of Spiegel against his neighbors, Corrine and William McClintic, alleging that the McClintics were seeking to rent their unit in the 1618 Sheridan Road building when they were not permitted to do so under the condominium declarations, and that, as a result, Spiegel suffered at least $50,000 in damages. Respondent later filed a first amended complaint in that matter, adding additional defendants and counts. (Ans. at par. 18; Adm. Exs. 18, 19.)

On May 27, 2016, the Association, the Association board, and other residents who were parties to the Spiegel litigation moved to consolidate the three active Cook County cases. On September 28, 2016, the trial court consolidated cases 15 CH 18825 and 16 L 3564 into case 15 L 10817. (Ans. at par. 19.)

On June 14, 2017, Judge Moira Johnson granted the defendants' motions to dismiss all 25 counts of the fourth amended complaint in the 15 L 10817 case on the basis that none of the claims stated a cause of action, and ordered Respondent to seek leave of the court to replead any amended complaint. Judge Johnson also struck all 33 counts of the first amended complaint in case number 16 L 3564. (Ans. at par. 20; Adm. Ex. 22 at 70-79; Adm. Ex. 23.)

On August 14, 2017, Respondent filed a motion for leave to file a fifth amended complaint, which he titled "First Consolidated Law Division Complaint." The proposed fifth amended complaint, which combined case numbers 15 L 10817 and 16 L 3564, named 16 separate defendants, contained 99 counts, and consisted of 1,436 paragraphs. (Ans. at par. 23; Adm. Ex. 27.)[2]

After an administrative reassignment and several motions for substitution of judge (SOJ), the matter was eventually assigned to Judge Margaret Ann Brennan. Shortly thereafter, Respondent filed another SOJ motion on behalf of Chicago Title Trust Co., but Judge Brennan

denied his motion, finding that Chicago Title Trust Co. had already received an SOJ. (Ans. at pars. 22, 24, 25.)

On February 8, 2018, Judge Brennan denied Spiegel's motion for leave to replead the complaint. (Ans. at par. 26; Adm. Ex. 31.) A few weeks later, Respondent filed a petition for recusal or substitution of Judge Brennan for cause, alleging that Judge Brennan had engaged in multiple ex parte communications. (Ans. at par. 27; Adm. Ex. 33.) In May 2018, the judge assigned to hear the petition for recusal or substitution denied it, as well as Respondent's subsequently filed motion for reconsideration. (Ans. at par. 29.) In July 2018, Judge Brennan denied Respondent's motion to reconsider the denial of leave to replead the complaint. (Ans. at par. 30.)

In the meantime, between May 9 and July 27, 2018, the parties filed four separate petitions for sanctions under Illinois Supreme Court Rule 137. Spiegel sought sanctions against all of the defendants and their counsel, and most of the defendants and their counsel sought sanctions against Spiegel and Respondent. (Ans. at par. 31; Adm. Exs. 39-42.)

In August and September 2018, Respondent filed multiple motions to disqualify Judge Brennan based on Judge Brennan's alleged ex parte communications, among other things. Judge Brennan denied the motions to disqualify. In addition, in October and November, Respondent filed two additional SOJ motions based upon the pending Rule 137 sanction petitions, both of which Judge Brennan denied. (Ans. at pars. 32-38; Adm. Exs. 44, 48, 49, 50, 52, 53.)

Sanctions Against Respondent and Spiegel

On March 29, 2019, Judge Brennan ruled on the petitions for sanctions. She denied Spiegel's petition for sanctions and granted the defendants' petitions for sanctions, imposing over $1 million in sanctions against Spiegel and Respondent. (Ans. at par. 39; Adm. Ex. 55.) Spiegel and Respondent appealed the sanctions awards. The appellate court initially entered an order affirming the judgment of the trial court, but later issued an order vacating its earlier decision,

finding that it lacked jurisdiction over the matter because petitions for additional sanctions against Respondent and Spiegel were still pending in the trial court. The appellate court remanded the case to the trial court for further proceedings on the sanctions awards. (Ans. at par. 41; Adm. Exs. 57, 58.)

Respondent's Conduct After Sanctions Awards

Following entry of the orders imposing sanctions on Spiegel and Respondent, a number of news outlets and online publications ran stories about the sanctions awards. In April 2020, Respondent filed nine separate complaints on behalf of The Law Offices of John Xydakis, P.C. and himself, individually, against various publications, alleging that their reporting about the sanctions award against him was defamatory. One of the complaints was against the Chicago Daily Law Bulletin. The Chicago Daily Law Bulletin's article quoted attorneys John Schriver and Eugene Murphy, whom Respondent also named as defendants in that lawsuit. In May 2021, the court granted a motion to dismiss filed by Schriver and his law firm, and the case was dismissed in its entirety with prejudice. The remaining eight cases were either dismissed for want of prosecution or voluntarily dismissed by Respondent. (Ans. at pars. 43-53; Adm. Exs. 59-60, 62, 64, 66-70, 72-73, 75.)

Witness Testimony

Valerie Hall

Valerie Hall is a resident of the condominium building at 1618 Sheridan Road. When she purchased her condominium in 2013, she received a special warranty deed transferring the property to "Valerie W. Hall, as Trustee of the Valerie W. Hall 1996 Trust dated 10/22/96." (Tr. 10001; Adm. Ex. 107.)

Hall was elected to the Association board as treasurer in February 2014. At that time, Frank Gerlits was president and Spiegel was secretary. Gerlits left the board at some point prior to

October 2015. After Gerlits stepped down, Spiegel declared himself board president, and fired the Association's property manager and lawyer. All of the owners convened a meeting and voted to add a third board member. (Tr. 102-105.)

Spiegel asked Respondent to come to an Association board meeting in October 2015. At the meeting, Respondent stood up and told Hall that she was not a legal member of the board and had no right to be on it. Shortly thereafter, Spiegel filed a lawsuit against Hall seeking to remove her from the board. Hall disagreed. She had read the bylaws for the Association and believed she could serve on the board. Specifically, Article IX, Subarticle IV, Section 1 of the Declaration[3] for the Association stated:

> [E]ach member of the Board shall be one of the Unit Owners; provided, however, if a Unit Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any designated agent of such corporation, partnership, trust or other legal entity or any beneficiary of any such trust shall be eligible to serve as a member of the Board.

(Tr. 105-108; Adm. Ex. 1 at 21.) Because her condominium was owned by a trust of which she was trustee, Hall "thought [she] was a perfectly legitimate board member." In addition, she was voted to be the board's treasurer unanimously, including by Spiegel. (Tr. 109.)

Respondent and Spiegel began demanding that Hall produce copies of her trust documents to them. Hall sought advice from the lawyer who drafted the document creating the Valerie W. Hall 1996 Trust ("Hall Trust"), Donna Morgan of Mayer Brown LLP. Morgan told Hall that Respondent and Spiegel did not need to have the entire trust document, and provided an affidavit explaining that she had prepared all of the documents related to the Hall Trust; that the Hall Trust was in full force and effect; that the trustees of the Hall Trust were Valerie and her husband William; and that the sole current beneficiary of the Hall Trust was Valerie. The Halls' lawyer provided the affidavit to Respondent and Spiegel, but they continued to demand to see Hall's trust documents. (Tr. 109-14; see also Adm. Ex. 108.)

John T. Schriver

John T. "Jack" Schriver has been an Illinois trial attorney since 1971. He represented Valerie and William Hall, as well as his law firm, his partner, and himself, in the Spiegel litigation. He also resides in one of the condominiums at 1618 Sheridan Road. (Tr. 171-72.)

Schriver testified that the initial complaint that Respondent filed in the Chancery Division on behalf of Spiegel against Valerie Hall sought to remove her as a director of the Association board and to cancel an Association meeting that was scheduled for later that week. Spiegel claimed that the Halls' condominium was owned by the Hall Trust rather than by Hall herself, and therefore that she could not sit on the board. Schriver did not believe that to be a meritorious claim. A few days after that complaint was filed, the court held a hearing and refused to issue a TRO to block the scheduled board meeting. Respondent withdrew the Chancery Division complaint and filed a new complaint in the Law Division, again naming Hall as a defendant and adding another defendant, Keith Wood, the property manager for 1618 Sheridan Road. (Tr. 172-74, 180; Adm. Exs. 1, 2.)

Schriver testified that Respondent filed multiple amended complaints, each time naming more parties – including, at some point, Schriver, his law partner, and his law firm. In response, Schriver sent Respondent two letters and Schriver's law partner sent Respondent a third letter in which they pointed out the deficiencies in the complaints, provided authority for their positions, and stated that they would seek sanctions if Respondent proceeded with the complaints. They received no response to their letters. (Tr. 174-75, 176-82, 204, 206; Adm. Ex. 39 at 11-22.)

In June 2017, Judge Moira Johnson held a three-hour hearing on the various defendants' motions to dismiss the fourth amended complaint. After hearing argument from the parties on each count, Judge Johnson ruled that each count failed to state a claim pursuant to 735 ILCS 5/2-615.

She also ruled that Respondent was not permitted to file another complaint without leave of court. Respondent then drafted what, in essence, was a sixth complaint. (Tr. 182, 207.)

By that time, the case had been transferred to Judge Brennan. After Respondent's motions for substitution of judge were denied because his clients had already exhausted their challenges to the judge, he filed motions seeking to have Judge Brennan removed for cause based on his claims that she had engaged in *ex parte* communications with one of the defense lawyers. The motions were heard by another judge, who denied them and transferred the case back to Judge Brennan. (Tr. 183-84.) Schriver testified that, in his many years as a litigator, he had never experienced a situation where an opposing counsel sought as vigorously as Respondent did to have a judge removed from a case. (Tr. 185.)

After Judge Brennan denied Respondent's motion for leave to file another amended complaint, all of the defendants sought sanctions against Respondent and Spiegel. Schriver testified that, in his many years of trial practice, he had never filed a petition for sanctions against anybody before the Spiegel lawsuits, and he did not do so lightly. On March 29, 2019, Judge Brennan granted defendants' sanctions motions and awarded them sanctions. The defendants eventually filed supplemental sanctions motions, and the judge to whom the case was transferred upon Judge Brennan's retirement awarded additional sanctions to the defendants. (Tr. 178, 184, 188-91; Adm. Ex. 55.)

Following the sanctions awards, the Chicago Daily Law Bulletin and several other publications published a story about the significant amount of sanctions awarded and, in the stories, quoted Schriver and another defense attorney, Gene Murphy, about the case. Respondent filed defamation and false light lawsuits against the publications and, based upon the quotes provided by Schriver and Murphy, against them as well. The lawsuit against the Chicago Daily

Law Bulletin, Schriver, and Murphy was dismissed with prejudice. (Tr. 196-98; Adm. Ex. 66; Adm. Ex. 67.)[4]

Eugene Murphy

Eugene "Gene" Murphy has been practicing law in Illinois for 37 years, most of that time as a litigator. He started his own firm 12 or 13 years ago and focuses on business litigation. (Tr. 503-504.) He represented the Association and, at times, individual condominium owners in the Spiegel litigation. (Tr. 505-506.)

Murphy represented William and Corinne McClintic, whom Respondent, on behalf of Spiegel, sued in a standalone Law Division case. Murphy testified that cases filed in the Law Division seek money damages over $50,000, whereas cases filed in the Chancery Division seek equitable relief. (Tr. 507-11; Resp. Ex. 45.)

Murphy testified that the McClintics bought a condominium in the 1618 Sheridan Road building, and Spiegel believed they were going to rent it, so he sued to try to prohibit them from renting the property. The complaint alleged that they were considering renting their unit, not that they actually had rented it. The complaint also sought compensatory damages, and attached an affidavit signed by Respondent asserting that the total money damages in the case exceeded $50,000. Murphy "absolutely" did not believe that Respondent had any basis for claiming that Spiegel was damaged in the amount of $50,000 or more as a result of the McClintics' considering renting their unit. (Tr. 512-14; Resp. Ex. 45.)

Murphy testified that it was "a very common tactic" of Respondent to "personally attack" a judge who ruled against him or an attorney who disagreed with him. He testified that every attorney on the case was personally sued by Respondent, himself included, and some were sued two or three times. When a judge would rule against him and his client, Respondent "would attack the judge in an effort to create a hostile atmosphere and then he could argue somehow that the

judge was prejudiced against him. He absolutely did that in front of Judge Brennan," where Respondent alleged that Judge Brennan was unduly prejudiced against him, and had engaged in *ex parte* communications with Murphy. (Tr. 516-17.)

Murphy testified that he never had any *ex parte* communications with Judge Brennan or anyone on her staff. He further testified that he does not consider communications with a judge's staff about administrative issues, such as when a motion might be heard or when an appearance might be necessary, to be *ex parte* communications even if the other side is not present, because those communications are not about anything of substance related to the case but are merely about calendar-related information. (Tr. 520-21.)

After the sanctions against Respondent and Spiegel were issued, a reporter from the Chicago Daily Law Bulletin interviewed Murphy and Jack Schriver and asked for comments on the sanctions award. Murphy's comment "was something like, I think with a ruling like this out there, it'll have a chilling effect on inappropriate litigation and filing bad lawsuits on behalf of … clients by bad lawyers." Respondent sued Murphy, Schriver, and the Chicago Daily Law Bulletin; that lawsuit was dismissed with prejudice. (Tr. 522.)

On cross-examination, Respondent reviewed Murphy's billing invoices, noting that several billing entries referenced conversations with "judge's clerk." (Tr. 549, 551-53; Resp. Ex. 44, at 42.) Murphy testified that his understanding about *ex parte* communications is "very simple" and "very clear" – an attorney cannot talk to court personnel about the substance of any case. He further testified that any conversations he would have had with any court personnel, including those referenced in his billing invoices, would have been administrative in nature. He testified that "never once did [he] ever discuss with a clerk the substance of the case," and that he "would never put … a clerk in that kind of position of talking to them about a case and backdooring a judge. You don't do that." (Tr. 556-57, 562, 567.)

Murphy testified that Respondent raised his claims regarding *ex parte* communications between Murphy and Judge Brennan or her staff after Respondent was unsuccessful in attempting to remove Judge Brennan from the case through a motion for substitution of judge. (Tr. 585.)

Stipulation regarding testimony of Judge Margaret Brennan

In lieu of the Administrator's presenting Judge Brennan to testify at hearing, Respondent stipulated that, if called to testify, Judge Brennan would deny engaging in any *ex parte* communications with respect to the Cook County litigation described in Count I of the Complaint. (Tr. 331.)

Michael Kim

Michael Kim has practiced law in Illinois since 1977, primarily in the area of condominium and homeowners law, and handles both transactional and litigation matters. He served as counsel to the Association from about 1999 through the time period relevant to this matter. In that role, he advised the Association board regarding governance questions arising under the Association's organizing documents. (Tr. 251-52.)

Kim testified that, when the Association's president retired in the fall of 2015, Spiegel asserted that he was acting president of the Association. Kim found that peculiar because neither the declarations nor any other document related to the Association provided for a designation or position of acting president. After declaring himself acting president, Spiegel terminated Kim and his firm and sought to retain Respondent as Association counsel. (Tr. 254-56.)

Prior to declaring himself acting president, Spiegel never raised any concern to Kim about Hall's eligibility to serve on the Association board. However, after declaring himself acting president, Spiegel challenged Hall's status as a unit owner and her eligibility to serve on the board. After Spiegel's challenge, Kim reviewed the by-laws regarding board eligibility. He determined that the by-laws expressly addressed the situation where a unit owner is an entity rather than an

individual, and provided that a representative of the entity, such as an agent or beneficiary of a trust, was permitted to serve on the board. Thus, he had no concerns about Hall's eligibility to serve on the Association board. (Tr. 256-58, 287-88.)

Alexander Arezina

Respondent presented Alexander Arezina as an expert in condominium law. Arezina has been an Illinois attorney for 26 years, and practices in the areas of insurance disputes and condominium law. He has handled a significant amount of litigation related to condominium board disputes, in which he has represented both the condominium board or association and individual directors or members. (Tr. 790-92.)

Arezina opined that Valerie Hall's status as trustee of the Hall Trust would not necessarily mean that she would qualify as a unit owner, and that the special warranty deed alone would not be sufficient to show that she met the definition of a unit owner as set forth in the Association by-laws, because there were some inconsistencies about the Hall Trust, including the lack of a designated-agent form and the fact that the sole beneficiary was also the sole trustee.[5] (Tr. 805-807.) However, he acknowledged that he "wouldn't even have asked for [a designated agent form] in a non-litigious, non-contentious environment." (Tr. 915-16.) He also opined that it was not unreasonable for Spiegel to continually contest Hall's status as a unit owner and therefore her eligibility to serve on the Association board, particularly given the large fine that the Association had imposed on Spiegel, and that seeing the affidavit from Hall's attorney and the warranty deed would not preclude that. (Tr. 810-12, 824, 828-29.)

Respondent

Spiegel litigation[6]

At the outset of his representation of Spiegel in 2015, Respondent sought to prove that Hall was ineligible to serve on the Association board. In October 2015, there were two people on the

Association board – Spiegel and Hall. Respondent started wondering if "there [was] a way where Ms. Hall would not be a unit owner and she couldn't try to kick Mr. Spiegel off the board or do anything else." He was "looking for [Hall's] ineligibility [to serve on the Association board], but … had not come to a conclusion at that time that she was ineligible[;] that took a lot of research." (Tr. 1080, 1210.)

On October 22, 2015, Respondent filed Spiegel's initial complaint against Hall. That one-count complaint, which was filed in the Chancery Division of the Cook County Circuit Court, sought an injunction declaring that Hall was not qualified to sit on the Association board. (Tr. 1057-58; Adm. Ex. 1.) Respondent voluntarily dismissed that complaint a few weeks after filing it. (Tr. 1058; Adm. Ex. 2.)

On October 26, Respondent filed another complaint, again seeking a declaration that Hall was not qualified to sit on the Association board, but also adding an additional defendant and four additional counts. (Tr. 1061-62; Adm. Ex. 3; Resp. Ex. 60.) Respondent testified that he amended the complaint to add the additional defendant rather than bringing a new case against the additional defendant to make it easier for everyone else, not to make it more difficult. (Tr. 1063-64.)

Between October 30, 2015 and February 8, 2016, Respondent filed the first, second, third, and fourth amended complaints. The first amended complaint added two new defendants and four additional counts. (Tr. 1064-65; Adm. Ex. 4; Resp. Ex. 63.) Respondent testified that the second amended complaint, which added four new counts, "wasn't a cure from the first amended complaint, which had never been ruled on." Rather, it "was being amended … because new actions were being taken [against Spiegel by the defendants]." (Tr. 1072; Adm. Ex. 7; Resp. Ex. 61.) The third amended complaint contained 16 counts against five defendants, and the fourth amended complaint contained 25 counts against 10 defendants. (Tr. 1078-79; Adm. Exs. 9, 17; Resp. Exs.

46, 49.) Respondent testified that he sought, and was granted, leave of court to file the first through fourth amended complaints. (Tr. 1077-77; Resp. Exs. 47, 51, 59, 62.)

Respondent testified that he first saw the special warranty deed for the Halls' condominium unit in November 2015 and, shortly thereafter, saw the Mayer Brown affidavit regarding the Hall Trust. (Tr. 1259; see also Adm. Ex. 10 at 93.) He acknowledged that no court had ever found Hall to be ineligible to serve on the board. Nonetheless, up until the day the Spiegel case was dismissed, Respondent maintained the position that "if you don't see the trust instrument, there is no way to tell whether she is the unit owner." (Tr. 1089, 1211.)

Respondent testified that Judge Johnson dismissed the fourth amended complaint under Section 2-615 of the Illinois Code of Civil Procedure, which addresses pleading defects rather than the merits of the case – for example, where a complaint needs to state five elements in support of a claim but only states four. According to Respondent, Judge Johnson took issue with how the fourth amended complaint was pled, primarily with the repeated incorporation of the same factual allegations into multiple counts. (Tr. 1135-37.)

Respondent then sought leave to file the fifth amended complaint, which, by agreement of the parties, combined the allegations in the fourth amended complaint in case number 15 L 10817 with the allegations in the McClintic complaint in case number 16 L 3564. Respondent testified that, in the fifth amended complaint, he complied with Judge Johnson's instructions to include all factual allegations in each count and to separate allegations against individual defendants such that each count contained allegations against only one defendant rather than against multiple defendants. Respondent testified that doing as Judge Johnson instructed significantly increased the length of the complaint, and that he documented his objection to this approach in footnotes in the complaint. (Tr. 1145-50.)

McClintic lawsuit

Respondent testified that the McClintics, a husband and wife, bought a condominium in the 1618 Sheridan Road building in 2015, but never moved into the unit. According to Respondent, they did not intend to occupy the unit, but rather intended to lease it, which was prohibited by the condominium declarations at that time. (Tr. 1163-64.)

Respondent testified that Spiegel saw "numerous prospective renters" tour the condominium, many with children. Respondent testified that, "if there are children and all of these other people that were there, they would certainly be a bother to Mr. Spiegel and invade his private enjoyment" of his ground-floor unit, which was adjacent to the building's backyard, and of the building's pool, of which Spiegel was the main user. (Tr. 1164-65.)

According to Respondent, the "whole process" of people coming through the building and looking at the pool and common area, which happened at least once a week, "violated Mr. Spiegel's quiet enjoyment of the building." Respondent believed this was a violation of the condominium declarations. He brought the claim on behalf of Spiegel against the McClintics because it was "a nuisance for Mr. Spiegel to have all of these people parading around the building, coming to the pool. And they were prospective renters who probably shouldn't have been there to begin with…." (Tr. 1166-67.)

Respondent testified that Illinois Supreme Court Rule 222(b) requires an affidavit to be attached to the initial complaint stating whether or not the plaintiff is seeking damages greater than $50,000, and that he believed that the value of the lawsuit to Spiegel "was certainly $50,000 or more," because Spiegel could seek attorney's fees, and if the McClintics "leased the unit and it was found they couldn't lease the unit or it had caused problems, [Spiegel] would at least be able to maybe recoup some of the rent that was paid, or that would have been paid back." Spiegel also "didn't want his unit devalued by having renters." (Tr. 1167-69.)

Thus, Respondent, on behalf of Spiegel, filed a declaratory-judgement complaint against the McClintics asking the court to determine that they could not rent their unit. Respondent believed the complaint had a "very sound basis in fact and law." He attached the Rule 222(b) affidavit to the initial complaint because, if the court declared that the McClintics could not rent the unit, any rent payments being made to the McClintics would have been going to Spiegel as well. Respondent did not think there was anything baseless about that. (Tr. 1175-76.)

Respondent testified that Spiegel was damaged as a result of the McClintics thinking about renting their unit because the real estate agent was "coming in and out with prospective renters." Respondent further testified that, if someone had been allowed to rent the McClintics' unit, Spiegel's damages could be $50,000 or more based on the amount by which the value of his unit would decline "by having young renters with kids" or "young and college people" there. He also sought attorney's fees. (Tr. 1216-17.) Respondent acknowledged that he did not know if the condominium declarations or any other relevant document referenced any limitations on the age of residents or precluded children or college-aged individuals from living in a unit. (Tr. 1258.)

Allegations of ex parte *communications against Judge Brennan*

After the Cook County litigation was transferred to Judge Brennan, Respondent, on behalf of Spiegel, filed a motion for substitution of judge, which allows a party to take a substitution of judge for any reason. Judge Brennan denied the motion because Spiegel had already taken a substitution of judge. (Tr. 1090-91, 1203.)

Thereafter, during a court appearance in February 2018, Judge Brennan told Respondent that he had not listened to Judge Johnson or anyone else. Respondent was "befuddled" by that, and wondered why Judge Brennan would say that he had not listened to anyone else. When the parties were back in front of Judge Brennan in March 2018, he asked her to disclose what, if any,

communication took place outside of court relating to the allegations in the complaint, and what she meant by "anyone else." Judge Brennan responded:

> I did not speak with counsel at all. I mean this is an allegation that you have made. But I did not speak with counsel at all concerning anything about this case. …. I have not spoken with counsel about this. I have had conversations about various colleges my daughter is looking at and we talked about other things. But I don't recall ever speaking with counsel at all about this case. I don't do that. In my 16 years, counsel, on the bench, I have never done that. So, you know, I struggle with what you are trying to point to because it's just not my nature to do that.

(Tr. 1092, 1094-95; Resp. Ex. 154 at 3.)

Respondent found it "odd" that, at first, Judge Brennan said she did not speak with counsel at all, and then said she did not speak with counsel about the case. He felt that Judge Brennan was receiving information from others beyond what she had received through court filings. He began "to be very suspicious" because he had not felt any hostility from Judge Johnson, but was feeling that Judge Brennan was "extremely hostile" toward him even though she had no experience with the case. (Tr. 1095-96.)

Respondent believed that Judge Brennan had talked to Gene Murphy, because they both had college-aged kids and Murphy also had another case in front of Judge Brennan. (Tr. 1099-1100.) Respondent submitted a FOIA request for, and received, phone records that included the phones in Judge Brennan's chambers. He also received phone records from Murphy. According to Respondent, the phone records showed several short phone calls from Murphy to what Respondent described as Brennan's law clerk, and from Brennan's chambers to Murphy's phone number. (Tr. 1100, 1103-1106.)

At that point, he "was really suspicious" that "something was going on." (Tr. 1106-1107.) Then, the defendants in the Cook County litigation filed their motion for sanctions, to which they attached billing records. The billing records contained some references to conversations with the "judge's clerk." After Respondent complained about purported conversations between Judge

Brennan and Murphy, Murphy submitted a second affidavit in which he stated that each of the conversations reflected in his billing records were merely inquiries about scheduled court dates and changes thereto. (Tr. 1109-11; Resp. Ex. 44; Resp. Ex. 56, at 7.)

Respondent testified that his initial basis for alleging that Judge Brennan had engaged in *ex parte* communications was that she said something like "you haven't listened to this person or anyone else," and he "was kind of getting the feeling like she knew too much [for] just coming on the case, like somebody had been feeding information behind the scenes." He "had a feeling" that Judge Brennan had engaged in *ex parte* communications, and believed he had a good-faith basis for alleging that she had engaged in *ex parte* communications based on the transcript from the February 2018 hearing and Murphy's billing invoices. (Tr. 1204, 1219-20.)

Defamation Cases

After the court denied leave to file the fifth amended complaint, the court ordered sanctions of more than $1.1 million against Spiegel and Respondent. Newspapers "picked up that story," and Respondent began looking into whether newspapers who published stories about the sanctions could be held liable for defamation. Based upon his research, he believed he could sue the newspapers even if they were merely repeating allegedly defamatory statements. Because the newspaper stories were all very similar, he thought he could choose to bring one complaint against multiple defendants or separate complaints against each defendant, and he chose the latter. (Tr. 1126-29.)

Respondent testified that the newspapers had "republish[ed] basically the same story with the same words on it." The story "really bothered [him] because what they were saying … was [that he] had filed complaints that had been dismissed and [he] kept refiling another complaint

adding new defendants, and that complaint was dismissed. And [he] kept doing that … until finally [he] got to 1,263 [*sic*] paragraphs, 99 count complaint." (Tr. 1131-32.)

Respondent felt the story "never gave the reader any sort of context" because the cases were not dismissed by a judge's ruling. Rather, he had made voluntary amendments. But the newspapers portrayed what had happened as if each complaint had been dismissed and Respondent kept repleading the same counts and adding the same or new defendants. Respondent felt that "it was really defamatory to say that about an attorney because what you are saying is that guy doesn't know what the heck he's doing," especially with respect to the Chicago Daily Law Bulletin story, which the other newspapers repeated or reprinted. He thus filed suit against the publications. (Tr. 1132.)

The article on which Respondent's complaint against the Chicago Daily Law Bulletin was based stated, in part:

> Spiegel's initial request for a temporary restraining order was denied, but he and his attorney, sole practitioner, John Stephen Xydakis, filed several more complaints, each naming new defendants, all of which were dismissed by various judges. Among their 385 separate filings was a 99-count, 223-page, 1436-paragraph fifth amended complaint.

Respondent testified that that statement was "absolutely" defamatory, because the only complaint that was dismissed was the fourth amended complaint. None of the complaints that preceded the fourth amended complaint was dismissed, and the fifth amended complaint was not dismissed; rather, it was not allowed to be filed. (Tr. 1190-91, 1192-93; Adm. Ex. 59.)

In Respondent's lawsuit against the Chicago Daily Law Bulletin, which also named Schriver, Murphy, and their law firms as defendants, Judge Kubasiak granted the motion to dismiss filed by Schriver and his law firm, and dismissed the entire complaint with prejudice. (Tr. 1132-33, 1137-38; Adm. Ex. 67.) Following Judge Kubasiak's ruling, Respondent decided that he was not going to be able to prove damages, and would "take [the] ruling and live with it." (Tr. 1148.)

Respondent called Kimberly Blair, attorney for one of the defamation defendants, and told her that he was going to dismiss the rest of the lawsuits because the stories were very similar, and he respected Judge Kubasiak's ruling. (Tr. 1139.) None of the defendants in the defamation cases sought sanctions against Respondent, and "[t]here was never any talk that … this was a frivolous pleading." (Tr. 1138.)

Court Proceedings and Rulings

Judge Moira Johnson's dismissal of fourth amended complaint

On June 14, 2017, Judge Moira Johnson held a hearing on the various defendants' motions to dismiss the claims against them as set forth in the fourth amended complaint. Judge Johnson addressed the counts in sequential order, from Count 1 through Count 25, and, for each count, allowed the defense attorneys to argue in support of dismissal and Respondent to argue against dismissal. The crux of the defendants' arguments for dismissal was that Respondent, on behalf of Spiegel, had failed to allege facts that would establish the necessary elements of the claims alleged in the complaint. Judge Johnson dismissed all 25 counts for failure to state a claim under Illinois Rule of Civil Procedure 2-615, agreeing with the defendants' arguments that the complaint failed to plead all of the elements of the claims and/or failed to allege facts necessary to support a cause of action. (Adm. Ex. 22 at 7-70.)

With respect to a few counts, Judge Johnson went into more detail about her reasoning. As to Count 15, defense counsel argued that it was unfair for the defendants and their counsel "to have to pick through [Respondent's] numerous pages of cut-and-pasted facts and try to figure out what he's talking about." Judge Johnson agreed, noting that the plaintiff had not abided by the requirements for concise statements of fact set forth in 2-603, and instead had set forth "numerous facts, commingl[ed] theories, and then expect[ed] each counsel to sift through paragraphs 1 through 48 and figure out which of the facts are applicable to this count." (Id. at 41-42.)

As to Count 24, defense counsel again argued that the complaint failed to allege facts that would support each element of the claim. Respondent, in turn, argued that he incorporated facts by reference, and that he was permitted to do that under 2-603. The judge disagreed, stating:

> [T]he caselaw is clear you cannot muddle and commingle all kinds of different claims and tort and breach of contract and intentional interference with business expectations and so forth in a group of paragraphs and reiterate them and reallege them and expect in every single count somebody goes through whatever those words are [to] try to figure out what the facts are to support your claim. That's not what 603 stands for.
>
> In addition, you cannot and are not allowed to bring counts joining the defendants in one count.

(Id. at 65.)

After ruling on each of the 25 counts, Judge Johnson concluded: "[T]he court finds that the fourth amended complaint is wholly conclusory and lacking in specific relevant and factual details necessary to state a cause of action in each and every count." She gave Respondent 28 days to replead, with the caveat that he was required to file a motion for leave to file whatever complaint he was planning to file. (Id. at 70-71, 73.)

Respondent asked the judge for an "advisory opinion" on how he should replead the claims that were just dismissed. She declined, stating: "I've almost hear[d] you say several times today that I should dismiss this with prejudice because you don't know what it is that you need to do to replead." She then told Respondent: "If you do a careful reading of the motions to dismiss along with 603, I think you should have enough guidance." (Id. at 75-75.)

Finally, Judge Johnson struck the first amended complaint in case number 16 L 3564 without prejudice, to allow Spiegel to file an amended complaint that also incorporated those allegations if he so chose. (Id. at 78.)

Judge Margaret Brennan's denial of leave to file fifth amended complaint

On February 8, 2018, after the consolidated litigation was transferred to Judge Margaret Brennan, Judge Brennan held a hearing on Spiegel's motion for leave to file the fifth amended complaint. At the outset of arguments on the motion, Respondent told Judge Brennan that a lot of "the 99 counts … had to do with Judge Johnson's ruling that somehow all of the allegations need to be pled in each count, which we think was error." (Adm. Ex. 31 at 9.) Judge Brennan asked Respondent to focus on how the "proposed amended complaint addresses the concerns raised by Judge Johnson as well as meeting all the ... factors on being a proper pleading to go forward." (Id. at 23.) Respondent then presented his arguments on why the case should go forward. (Id. at 24-32.)

In response, defense counsel argued that Judge Johnson dismissed each of the claims in the fourth amended complaint because they failed to state a claim under 2-615, and that the new pleading did not correct the errors of the prior pleading but merely repeated the same allegations and the same causes of action. It therefore suffered from the same defects as the fourth amended complaint and still failed to allege facts that would establish the elements of each claim. (Id. at 32-41, 43.)

Judge Brennan stated that she had had an opportunity to go through the proposed pleading, which consisted of over 220 pages, 99 counts, and 1,436 paragraphs, and that "[r]ight from the get-go, that's violative of section 2-603 about a plain, concise statement of the facts to support a cause of action. So for that reason alone, your pleading is defective." (Id. at 49.)

She then addressed "all the additional reasons," noting that the matter was still in the pleading stage because Respondent, on behalf of Spiegel, had not yet pled a decent cause of action. She stated: "You didn't listen to Judge Johnson, you haven't listened to anyone else, and you're bringing a frivolous complaint before this Court." She noted that this was Respondent's sixth

opportunity to plead these causes of action, yet "they are still deficient and they are frivolous." Judge Brennan noted that, "in the face of [Judge Johnson's] very clear admonitions," Respondent, on behalf of Spiegel, had not only not corrected that which he was supposed to have corrected, but "piled it on." (Id. at 49-51.)

Hearing on petition for recusal or substitution of Judge Brennan for cause

On March 19, 2018, Judge Brennan held a hearing on, among other things, a petition for recusal or substitution for cause filed by Respondent on behalf of Spiegel. At the outset of the hearing, Judge Brennan told the parties that she was going to have the petition assigned to another judge in the Law Division, who would determine whether or not it should be granted. Respondent then asked Judge Brennan to "disclose what if any communication took place outside of court relating to the allegation." Judge Brennan responded:

> I did not speak with counsel at all. I mean this is an allegation that you have made. But I did not speak with counsel at all concerning anything about this case. …I don't know where you are coming from with this. But it's the allegations that you have made and that's why another judge will look at this. But I have not spoken with counsel about this. I have had conversations about various colleges my daughter is looking at and we talked about other things. But I don't recall ever speaking with counsel at all about this case. I don't do that. In my 16 years, counsel, on the bench, I have never done that. So, you know, I struggle with what you are trying to point to because it's just not my nature to do that. … I have not spoken with counsels [*sic*] about this case at all.

(Id. at 2-4.)

Judge Brennan's award of sanctions to parties sued by Spiegel

In multiple orders dated March 29, 2019, Judge Brennan ruled on the parties' various motions seeking sanctions. In the order awarding sanctions to Valerie Hall and her law firm, Judge Brennan noted that Hall answered the first amended complaint by denying all material allegations and providing a copy of the warranty deed naming her as the owner of the trust. Judge Brennan thus found that, as of November 2, 2015, Spiegel and Respondent were on notice that the claim

that Hall could not be a board member because she was not a unit owner was not well-grounded in fact. Yet, "Spiegel and [Respondent] continued to pursue their claims," and "continued to double down and filed additional pleadings and nam[ed] additional parties," including William Hall and the Halls' attorneys and their law firm. (Adm. Ex. 55 at 1.)

Judge Brennan found that the litigation tactics of Spiegel and Respondent warranted an award of monetary sanctions. She found that Spiegel had "engaged in a pattern of abuse, committed for an improper purpose to harass, delay and increase the cost of litigation." (Id. at 3.) She found that the following specific actions of Spiegel and Respondent warranted sanctions:

> 1. Persisting in his argument that Valerie Hall was not an owner and therefore lacked capacity to serv[e] on the condominium association's board even after having been provided clear proof in a Warranty Deed.
>
> 2. In response to Hall's counsel advising that the various complaints violate rule 137, Spiegel doubled down and filed a fourth amended complaint that asserted 25 claims against 10 defendants.
>
> 3. The filing of the duplicative lawsuit in 16 L 3564, filed entirely to harass, increased costs and delay.
>
> 4. Despite being admonished by Judge Johnson, Judge Novak, and Judge Flynn, Spiegel filed a 99 Count, 223 page and 1,436 paragraph 5th amended complaint which had been mislabeled as a first amended complaint. That iteration repleaded previously dismissed claims without substantive modification….

(Id. at 3-4.)

Judge Brennan found that "[t]he mess that has typified Spiegel's pleadings, motions and briefs across the multiple lawsuits has been used to create confusion, evade decision, deceive the court and ultimately harass the litigants;" that these actions "amount to an improper purpose;" and that "Spiegel, enabled by his counsel, determinedly chose the tactic of abusive litigation." (Id. at 4.)

In another order awarding sanctions to most of the other defendants, Judge Brennan stated:

> Spiegel and [Respondent] have shown complete disregard for the judicial process through their egregious conduct. The pleadings … and motions filed and signed by [Respondent] are frivolous and unfounded. [Respondent], on behalf of Spiegel, filed several amended complaints, evidently none of which sought to correct the errors of its predecessors. Instead, the complaints became lengthier and more cumbersome.

C. Analysis and Conclusions

Rule 3.1

At the outset of our analysis, we note that what began as a simple and straightforward complaint against Hall over her right to serve on the Association board rapidly devolved into acrimonious and sprawling litigation over a multitude of issues, including grievances about lawn furniture, water bottles, blinds, and suitcases, and against a number of defendants, including the attorneys who represented the other defendants. However, other than as context for what occurred in the underlying litigation, we have not considered the specific allegations contained in the various complaints filed by Respondent in determining whether he violated Rule 3.1 because, after much discussion during the hearing, the Administrator narrowed the charges in Count I by omitting the words "but not limited to" in subparagraphs a, b, and e of paragraph 55 of the Complaint and specifying the precise conduct that the Administrator complains of in those subparagraphs.

Thus, the Administrator alleges that Respondent violated Rule 3.1 not because the allegations in his various complaints were frivolous, but because, after the fourth amended complaint was found to be deficient by Judge Johnson, Respondent sought to file a fifth amended complaint that made no substantive modifications to correct the deficiencies identified by Judge Johnson. (Tr. 1123-24, 1304.) The Administrator further alleges that Respondent also violated Rule 3.1 by filing the defamation lawsuits against the nine publications that reported on the

sanctions awards, plus Murphy, Schriver, and Schriver's law firm. We find that the Administrator proved the former but not the latter.

Rule 3.1 provides that a lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous. Ill. R. Prof'l Cond. 3.1. A pleading, or a position asserted in a proceeding, is frivolous where there is no objectively reasonable basis in law or fact for the pleading or position at the time of filing. In re Stolfo, 2016PR00133, M.R. 29728 (Mar. 19, 2019) (Hearing Bd. at 10) (citation omitted). In applying this objective standard in determining whether a pleading or position is frivolous, we ask what was reasonable for an attorney to believe under the circumstances at the time of the filing. In re Greanias, 01 CH 117, M.R. 19079 (Jan. 20, 2004) (Hearing Bd. at 44). A pleading or position will be found to be frivolous if a reasonably prudent attorney acting in good faith would not have brought the action or asserted the position. Stolfo, 2016PR00133 (Hearing Bd. at 10); In re Balog, 98 CH 80 (Hearing Bd. (reprimand), Apr. 26, 2000, at 11). An attorney does not have sufficient grounds to file a pleading or assert a position simply because the attorney "honestly believed" the case was well-grounded in fact and law. Greanias, 01 CH 117 (Hearing Bd. at 44) (citations omitted).

In addition, hearing panels often take note of whether or not an attorney's filings resulted in adverse court rulings or sanctions against the attorney. See, e.g., In re Witter, 09 CH 50, M.R. 25283 (May 18, 2012) (Hearing Bd. at 33); In re Bulger, 02 CH 40, M.R. 19550 (Sept. 27, 2004) (Hearing Bd. at 10-11). Such rulings, however, are not binding upon us. See In re Owens, 144 Ill. 2d 372, 379, 581 N.E.2d 372 (1991) ("Although a civil judgment may not be the only factor of consideration of a Hearing Board, it nevertheless may be a component in the greater whole of the Board's decision").

In this matter, we have considered relevant court rulings in the Spiegel litigation, in addition to the voluminous documentary evidence and extensive testimonial evidence presented by the parties over the course of the six-day hearing. Having carefully considered all of that evidence, we find that the Administrator proved that Respondent violated Rule 3.1 by seeking leave to file the fifth amended complaint without correcting the pleading deficiencies that led the fourth amended complaint to be dismissed.

Judge Brennan undertook a thorough analysis of the claims Respondent brought on behalf of Spiegel in the fifth amended complaint. She noted that the matter was still in the pleading stage because Respondent, on behalf of Spiegel, had not yet pled a decent cause of action. She stated: "You didn't listen to Judge Johnson, you haven't listened to anyone else, and you're bringing a frivolous complaint before this Court." She noted that this was Respondent's sixth opportunity to plead these claims, yet "they are still deficient and they are frivolous." (Adm. Ex. 31 at 49-50.) She noted that, "in the face of [Judge Johnson's] very clear admonitions," Respondent, on behalf of Spiegel, had not only not corrected that which he was supposed to have corrected, but "piled it on." (Id. at 51.)

Moreover, in her order awarding sanctions to the defendants, Judge Brennan found that Spiegel had "engaged in a pattern of abuse, committed for an improper purpose to harass, delay and increase the cost of litigation." (Adm. Ex. 55 at 3.) With respect to the fifth amended complaint, Judge Brennan stated: "Despite being admonished by Judge Johnson, Judge Novak, and Judge Flynn, Spiegel filed a 99 Count, 223 page and 1,436 paragraph 5th amended complaint which had been mislabeled as a first amended complaint. That iteration repleaded previously dismissed claims without substantive modification." (Id. at 3-4.) She found that "[t]he mess that has typified Spiegel's pleadings, motions and briefs across the multiple lawsuits has been used to create confusion, evade decision, deceive the court and ultimately harass the litigants;" that these

actions "amount to an improper purpose;" and that "Spiegel, enabled by his counsel, determinedly chose the tactic of abusive litigation." (Id. at 4.)

We have reviewed and compared the fourth amended complaint and the proposed fifth amended complaint, and have thoroughly read the transcripts of the June 14, 2017 hearing before Judge Johnson and February 8, 2018 hearing before Judge Brennan. Based upon our independent review of the relevant documents and court proceedings, we agree with Judge Brennan's analysis and conclusion that Respondent, on behalf of Spiegel, brought frivolous litigation by seeking leave to file the fifth amended complaint without making substantive changes to the claims alleged in the fourth amended complaint.

Respondent testified that Judge Johnson dismissed the fourth amended complaint because of how it was pled – primarily that he incorporated the same factual allegations into multiple counts rather than re-stating those facts in each count, and named multiple defendants in some counts. He claimed that he was simply following Judge Johnson's instructions in drafting the fifth amended complaint, and that doing so is what made the fifth amended complaint so long. (See Tr. 1145-50.)

We are not persuaded by Respondent's testimony that he was simply following Judge Johnson's directions in structuring the fifth amended complaint in the way that he did. We are incredulous that an experienced litigator would not understand that his claims were being dismissed either because they were baseless as a matter of law or did not sufficiently allege the necessary facts to establish the elements of the claims. We therefore did not find his testimony to be credible on this subject.

Furthermore, it is abundantly clear from reading the transcript of the June 14, 2017 hearing that Judge Johnson agreed with the arguments of the defense counsel that each count should be dismissed not because of how the complaint was structured but because it failed to state the elements of each claim or the facts necessary to establish those elements. As Judge Johnson clearly

and unequivocally stated: "[T]he court finds that the fourth amended complaint is wholly conclusory and lacking in specific relevant and factual details necessary to state a cause of action in each and every count." (Adm. Ex. 22 at 70-71.)

In fact, it was only with respect to Count 15 that Judge Johnson mentioned the incorporation of previously stated facts in the count, and only with respect to Count 24 that she told Respondent he could not combine defendants in a single count. (See Adm. Ex. 22 at 41-42, 65.) Yet, Respondent inexplicably latched onto those almost-offhand statements as the sole basis for Judge Johnson's dismissal of all 25 counts of the fourth amended complaint. In so doing, he ignored the bulk of defense counsel's arguments and Judge Johnson's rulings, made over the course of a three-hour hearing on the motions to dismiss.

Even if Respondent truly did not understand why Judge Johnson dismissed the claims in the fourth amended complaint and therefore believed that the fifth amended complaint corrected the deficiencies found by Judge Johnson, we still find that he violated Rule 3.1. Comment 2 to Rule 3.1 requires lawyers to "inform themselves about the facts of their clients' cases and the applicable law and determine that they can make good-faith arguments in support of their clients' positions." We find that a reasonably prudent attorney faced with the glaring deficiencies pointed out by the defendants and Judge Johnson would have understood that he had no good-faith arguments in support of those claims as alleged in the fourth amended complaint, and either corrected the multitude of obvious errors or abandoned claims that were legally and/or factually unsustainable. But Respondent did neither; he simply realleged the same claims without substantively changing them. By that conduct, we find he violated Rule 3.1(a).

However, we do not reach the same conclusion with respect to Respondent's filing of the nine defamation complaints. The evidence showed that the article published in the Chicago Daily Law Bulletin, which other media outlets repeated, incorrectly stated that courts had dismissed all

of the complaints that Respondent had filed on behalf of Spiegel. As Respondent pointed out, only the fourth amended complaint was actually dismissed by a court. We also note that the defendants in the defamation cases did not seek, and the courts did not impose, sanctions against him. See Witter, 09 CH 50 (Hearing Bd. at 33) (finding no Rule 3.1 violation and noting it was "significant that the various courts and judges who heard these underlying matters did not sanction Respondent for filing these actions or pursuing these claims"); Bulger, 02 CH 40 (Hearing Bd. at 10-11 (finding no Rule 3.1 violation and noting that opposing counsel did not seek and court did not impose sanctions against attorney).

We take no position on the merits of the nine lawsuits, one of which was dismissed with prejudice by the court. Nor do we suggest that all attorneys in Respondent's position would have taken the same approach that he did – and we suspect most would not. We simply find that the Administrator did not prove that it was objectively unreasonable for Respondent to file the defamation lawsuits after seeing a significant misstatement in the articles about the Spiegel litigation. We therefore find that the Administrator failed to prove that Respondent's filing of the defamation lawsuits rose to the level of bringing frivolous litigation in violation of Rule 3.1.

Rule 3.3(a)(1)

The Administrator charged Respondent with violating Rule 3.3(a)(1) by persisting in the argument that Valerie Hall was not a condominium unit owner and lacked capacity to serve on the Association's board after receiving clear proof to the contrary, and advancing baseless arguments that Judge Brennan engaged in improper *ex parte* communications. We find that the Administrator proved the former but not the latter.

Rule 3.3(a)(1) provides that "[a] lawyer shall not knowingly … make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer." Ill. R. Prof'l Cond. 3.3(a)(1). "Knowing" refers to "actual

knowledge of the fact in question," and "a person's knowledge may be inferred from circumstances." Ill. R. Prof'l Cond. R. 1.0(f).

Respondent spent a significant amount of time testifying about the Hall deed, but we found little of his testimony on this subject to be credible. His purported reasons for challenging the validity of Hall's condominium ownership were convoluted and confusing, with no reasonable basis in fact or law, and most of his testimony constituted improper legal argument that seemed designed to obfuscate rather than illuminate the issues.

However, Respondent provided some testimony that helps to explain his persistent attacks on Hall's right to serve on the Association board. He testified that, in October 2015, there were only two people on the Association board – Spiegel and Hall – and Respondent started wondering if there was "a way where Ms. Hall would not be a unit owner" so that she could not try to kick Spiegel off of the board "or do anything else." Respondent thus "look[ed] for ineligibility." (Tr. 1080, 1210.)

The inference we draw from Respondent's testimony is that he began with the conclusion he wanted to reach, and then worked backwards to try to develop arguments that would justify that conclusion, regardless of the actual facts that were presented to him. From the outset of the Spiegel litigation, Respondent was searching for a way to kick Hall off the board for the benefit of Spiegel, who, over Hall's objection, had unilaterally declared himself acting president of the board. The argument that she was not a unit owner was simply a pretext to remove her from the board.

But even if Respondent initially believed that he had a valid basis for challenging Hall's eligibility to serve on the board, we find that, as of November 2015, he had actual knowledge that he was wrong. It was at that time that he saw the special warranty deed, which established that the Halls' unit was owned by the Hall Trust, and Donna Morgan's affidavit, which established that

the Hall Trust was a valid trust, and that Valerie and William Hall were trustees and Valerie was beneficiary.

We do not accept Respondent's byzantine arguments that the Association's Declaration, which includes its By-Laws, precluded Hall from serving on the Association board. In fact, the By-Laws expressly allow a trust to be a unit owner and, in such a case, for the trust's beneficiary or designated agent to serve on the board.

Nor do we accept the opinion proffered by Respondent's expert, Alexander Arezina. While we qualified Arezina as an expert on condominium law, we did not find his testimony particularly persuasive or helpful. In particular, it suffers from the same defect as Respondent's various complaints filed on behalf of Spiegel and Respondent's arguments at hearing, in that it ignores the plain and unambiguous text of the special warranty deed and the Association By-Laws. Arezina's tortuous testimony regarding why Respondent, on behalf of Spiegel, was justified in seeking more information about the Hall trust seemed intended to create ambiguity where there is none.

Moreover, Arezina's suggestion that a designated-agent form might not have been necessary in a "non-litigious, non-contentious environment" but that Hall should have filled one out, presumably because she was in a litigious and contentious environment, is the epitome of circular reasoning. It was Respondent's attack on Hall's eligibility to serve on the Association board that created the litigious, contentious environment in the first place. This logical fallacy is yet another reason why we did not find Arezina's testimony particularly helpful or persuasive.

In short, Arezina's opinion that Respondent was justified in the actions he took against Hall, including filing the initial complaint against her and maintaining it even after he received proof that she was eligible to serve on the Association board, defies common sense and contradicts the plain meaning of the condominium documents at issue in this matter. It therefore did not

convince us that Respondent was justified in persisting in his attacks on Hall's eligibility to serve on the Association board.

On the other hand, we found highly credible and persuasive the testimony of Hall, Schriver, and Kim regarding the Hall Trust, ownership of the Halls' condominium unit, Hall's eligibility to serve on the board under the applicable Association By-Laws, and Schriver's communications with Respondent regarding the Hall Trust. Moreover, their testimony is supported by documentary evidence in the record, such as Morgan's affidavit regarding the Hall Trust and Schriver's contemporaneous letters to Respondent explaining why his claims against Hall lacked merit. Their testimony buttresses our finding that Respondent knew, no later than November 2015, that his attacks on Hall's eligibility to serve on the board were utterly without merit.

We need not be naïve or impractical in appraising an attorney's conduct. In re Holz, 125 Ill. 2d 546, 555, 533 N.E.2d 818 (1988) (citations omitted). We find that the evidence clearly and convincingly shows that, as of November 2015 if not earlier, Respondent knew that his attack on Hall's unit ownership and eligibility to serve on the Association board was legally and factually baseless; yet, he maintained those claims against Hall until Judge Brennan denied him leave to file the fifth amended complaint in February 2018. By this conduct, he violated Rule 3.3(a)(1).

However, we cannot make the same finding with respect to Respondent's allegations that Judge Brennan engaged in *ex parte* communications. Rule 3.3(a)(1) includes a specific mental state requirement – the attorney must act knowingly, where "knowingly" means "actual knowledge of the fact in question." In re Quade, 2014PR00076 (Hearing Bd. at 13). Keeping in mind that we may infer a person's knowledge from the circumstances, we nonetheless find that the Administrator presented insufficient evidence to prove that Respondent had actual knowledge that his statements that Judge Brennan had engaged in *ex parte* communications were false.

Rule 4.4(a)

The Administrator charged Respondent with violating Rule 4.4(a) based upon his filing of the lawsuit against the McClintics. At hearing, the Administrator clarified that the crux of this charge is that Respondent, on behalf of Spiegel, filed a lawsuit in the Law Division seeking damages of $50,000 or more because the McClintics were thinking about renting their unit, instead of in the Chancery Division, where he would have sought only injunctive or equitable relief. (See Tr. 1180.) We find that the Administrator proved this charge.

In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person. Ill. R. Prof'l. Conduct 4.4(a) (2010). We consider Respondent's behavior and its purpose to determine whether he violated this rule. Stolfo, 2016PR00133.

Respondent testified that the McClintics intended to lease their condominium unit, which was prohibited by the condominium declarations; that they "paraded a host of prospective renters through the building, including children;" and that, "if there are children and all of these other people that were there, they would certainly be a bother to Mr. Spiegel and invade his private enjoyment" of his unit. He thus filed a complaint on behalf of Spiegel against the McClintics asking the court to determine that they could not rent their condominium unit. (Tr. 1163-67, 1175.)

The complaint also sought damages in excess of $50,000. Respondent testified that, if the McClintics leased their unit and if a court found that they were not permitted to lease their unit, Spiegel might be entitled to any rent payments that were going to the McClintics, as well as attorney's fees. Respondent further testified that Spiegel's damages could be $50,000 or more based on the amount by which the value of his unit would decline "by having renters with young kids" or college-aged people there, notwithstanding that he did not know if the condominium

declarations precluded children or college-aged individuals from living in a unit. (Tr. 1167-69, 1175-76, 1216-17, 1258; see also Resp. Ex. 45 at 5.)

As a preliminary matter, we note that the lawsuit against the McClintics was predicated on the premise that the condominium declarations prohibited the McClintics from renting their unit. However, the evidence before us suggests otherwise. The declarations attached as Exhibit A to the various complaints filed by Respondent are the only version of the declarations admitted into evidence, and they expressly permit unit owners to lease their units, subject to certain exceptions not relevant here. (See, e.g., Adm. Ex. 17 at 41.) Accordingly, the lawsuit against the McClintics rested on a premise plainly contradicted by the condominium declarations.

Moreover, Respondent's testimony established that he had no legitimate basis to claim $50,000 or more in damages. The entire premise of the claim against the McClintics was speculative; damages *might* occur *if* the McClintics rented their unit to renters that Spiegel found undesirable. But at the time Respondent filed the initial complaint and, later, the first amended complaint in the Law Division, the McClintics had not rented their unit. Moreover, Respondent did not know if the By-Laws or any other condominium documents imposed any age restrictions on residents, and therefore had no basis whatsoever for claiming damages based upon the possibility that children or college-aged individuals would invade Spiegel's private enjoyment or decrease the value of Spiegel's residence. Thus, Spiegel had no legitimate claim to any amount of damages, much less $50,000.

Respondent also testified that Spiegel suffered emotional-distress damages because prospective renters toured the building at least once a week. But Spiegel's actual complaint against the McClintics contained no such allegations, which appear to be Respondent's retroactive justification for filing the McClintic complaint in the Law Division rather than in the Chancery Division.

It also is apparent from the face of the McClintic complaint itself that Respondent had no basis to claim damages in excess of $50,000. The complaint focused solely on the possibility that the McClintics could rent their condominium unit, alleging that "the McClintics ***seek*** to rent their unit;" that "***[p]resumably***, the renters ***will also be seeking*** to use the building's pool and common areas;" that "Spiegel ***will*** be directly affected … by any renters;" and the McClintics' "renting of their unit ***will*** devalue Spiegel's unit." (Resp. Ex. 45 at 3 (emphasis added).) While those speculative allegations may have withstood scrutiny in a lawsuit filed in the Chancery Division seeking only declaratory and injunctive relief, they provide no basis whatsoever for a lawsuit filed in the Law Division seeking damages in excess of $50,000.

Ultimately, Respondent, on behalf of Spiegel, chose to sue the McClintics in the Law Division, which is limited to cases seeking damages in excess of $50,000, simply because the McClintics were thinking about renting their unit. We find that his filing the lawsuit against the McClintics in the Law Division, and seeking substantial damages from them, was a transparent attempt to harass and burden them, and had no other legitimate purpose. We therefore find that the Administrator proved that Respondent violated Rule 4.4(a).

Rule 8.2(a)

The Administrator charged Respondent with violating Rule 8.2(a) by alleging that Judge Margaret Brennan engaged in unauthorized *ex parte* communications when he had no basis in fact or law for making such allegations. We find that the Administrator proved this charge.

Rule 8.2(a) prohibits a lawyer from making a statement with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge. Ill. R. Prof'l Cond. 8.2(a). Reckless disregard is an objective standard. Even if a respondent genuinely believed his statement to be true, it may constitute a Rule 8.2(a) violation if he had no reasonable basis in fact for believing

the statement he made. In re Amu, 2011PR00106, M.R. 26545 (May 16, 2104) (Hearing Bd. at 8); In re Denison, 2013PR00001, M.R. 27522 (Sept. 21, 2015) (Hearing Bd. at 29).

The record is devoid of any evidence whatsoever that Judge Brennan engaged in *ex parte* communications. Even Respondent's own testimony shows that, at most, he became suspicious that Judge Brennan may have communicated with another attorney when, at a hearing in February 2018, she told him that he had not listened to Judge Johnson or anyone else, and then, in another hearing in March 2018, first said that she had not spoken with counsel at all and then said that she had not spoken with counsel about the case. (See Tr. 1092, 1094-95.)

But mere suspicion is an insufficient basis for an attack on the integrity of a judge. "A reasonable belief must be based on objective facts. Thus, subjective belief, suspicion, speculation, or conjecture does not constitute a reasonable belief." In re Walker, 2014PR00132, M.R. 28453 (March 20, 2017) (Hearing Bd. at 21); see also Greanias, 01 SH 117 (Hearing Bd. at 43, 57) (attorney had "no factual or evidentiary basis" for her allegations, which were "no more than conjecture and personal belief;" she therefore made the allegations with reckless disregard for their truth or falsity). Moreover, it is clear from even a cursory reading of the transcript of the February 2018 hearing that Judge Brennan was referring to Respondent's failure to abide by previous judges' rulings when she said he did not listen to Judge Johnson or anyone else.

In addition, at the March 2018 hearing, and in stipulated testimony in this matter, Judge Brennan unequivocally denied that she had engaged in *ex parte* communications with any of the defense counsel. Similarly, Gene Murphy, the defense counsel with whom Respondent claims Judge Brennan communicated, denied having any *ex parte* communications with Judge Brennan or any of her staff. He explained that he may have had brief conversations with the judge's clerk about administrative matters, but never talked about the substance of the case with the judge or any of her staff. He further testified that he would never do such a thing. We found Murphy to be

credible and accept his testimony that he never engaged in *ex parte* communications with Judge Brennan or any of her staff.

The documentary evidence presented by Respondent does not alter our finding. At most, it shows that there were a few short phone calls between Murphy and Judge Brennan's chambers, and that Murphy noted conversations with "judge's clerk" on his billing statements. That evidence is consistent with Murphy's testimony that he occasionally contacted Judge Brennan's chambers about administrative matters, such as when a motion would be heard.

Because there is no objective evidence in the record that Judge Brennan engaged in *ex parte* communications, we find that Respondent had no reasonable basis for believing his statements to be true. He therefore recklessly disregarded the truth in making his false accusation, and in so doing, violated Rule 8.2(a).

Rule 8.4(d)

The Administrator charged Respondent with violating Rule 8.4(d) by filing and attempting to maintain frivolous litigation in the Spiegel litigation. We find the Administrator proved this charge.

Illinois Rule of Professional Conduct 8.4(d) provides that it is misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice. An attorney's conduct is considered prejudicial to the administration of justice if it has an impact on the representation of a client or the outcome of a case, undermines the judicial process, or jeopardizes a client's interests. In re Storment, 203 Ill. 2d 378, 399, 786 N.E.2d 963 (2002). Even if the underlying case is not harmed, the administration of justice is prejudiced if an attorney's misconduct causes additional work for judges or other attorneys, or causes additional proceedings to be held. In re Haime, 2014PR00153, M.R. 28532 (March 20, 2017) (Hearing Bd. at 16-17).

Based upon our findings that Respondent violated Rule 3.1, and based upon the totality of the circumstances relating to Respondent's filings and tactics in the Spiegel litigation, we also find that he engaged in conduct prejudicial to the administration of justice by wasting the time, money, and other resources of opposing parties, opposing counsel, and the judicial system by bringing and pursuing baseless and frivolous claims. It is apparent from the court documents and transcripts in the record that Respondent's excessive and oppressive litigation tactics, particularly his filing of the motion seeking leave to file the fifth amended complaint, required the parties and court to expend resources to address his motion and various filings. Among other things, the defendants were required to prepare written responses to and attend another lengthy hearing on the motion for leave to file the fifth amended complaint, and the court was required to hold a hearing and handle a subsequent motion for reconsideration. We therefore find that the Administrator proved by clear and convincing evidence that Respondent violated Rule 8.4(d).

II. In Count II, the Administrator charged Respondent with engaging in conduct prejudicial to the administration of justice and failing to inform a tribunal of all material facts known to him that would enable the tribunal to make an informed decision by failing to inform the court that his opposing counsel objected to a motion for extension of time and would be late to the hearing.

A. Summary

The Administrator proved that Respondent violated Rule 3.3(d) and Rule 8.4(d) by failing to inform the court that his opposing counsel objected to his motion to extend time and would be late for the motion hearing.

B. Admitted Facts and Evidence Considered

Admissions in Answer

In October 2014, Respondent filed a declaratory judgment complaint on behalf of Spiegel against the Village of Wilmette ("Wilmette"), related to an ordinance-violation citation. During

litigation, Respondent added Wilmette's law firm, Tressler, LLP, as a defendant. (Ans. at pars. 56, 57.)

In September 2017, Tressler filed a motion to dismiss the complaint and for sanctions. The briefing schedule required Respondent to file a response on or before October 20, 2017, and Tressler to reply by November 3, 2017. On October 20, 2017, Respondent filed a motion for extension of time to respond to Tressler's motion to dismiss, on the ground that Wilmette and Spiegel were set for a pre-trial conference on November 21, 2017 to "resolve this case." Respondent did not include in the motion that Tressler had not agreed to participate in a pre-trial conference in order to resolve any of the claims Spiegel had against Tressler. (Ans. at pars. 58, 59, 60.)

The motion for extension of time was scheduled to be heard before the court on October 27, 2017, at 9:30 a.m. On October 27, Respondent presented his motion at 9:30 a.m. Tressler's counsel was not present at that time. The court granted the motion. Respondent drafted an order indicating that the motion was granted and left court. The court later reversed its earlier ruling and denied the extension of time. (Ans. at pars. 61, 63, 67, 69.)

Witness Testimony

Judge Kathleen Pantle

Judge Kathleen Pantle was a judge in Cook County Circuit Court from December 1998 to July 2018. She presided over the case that Spiegel brought against Wilmette and Tressler. During the course of that litigation, Tressler filed motions to dismiss and for sanctions against Spiegel. After Judge Pantle set a briefing schedule and oral argument for Tressler's motions, Respondent filed a motion for extension of time to respond to the motions, requesting that the briefing on the motions be stayed or for a 21-day extension of time to respond to the motions. The basis of his

motion was that a pretrial conference was scheduled, and the pretrial conference would resolve the case. (Tr. 333-39; Adm. Ex. 77; Adm. Ex. 78.)

When Respondent appeared before Judge Pantle on his motion for extension of time, his opposing counsel was not present, and Respondent did not indicate whether or not his opposing counsel had a position on his motion for extension of time. Because it was an unremarkable motion and Judge Pantle agreed that there was no point in making the parties brief the motions if the case was going to settle, she granted Respondent's motion for extension of time (Tr. 339-41; Adm. Ex. 79.) It was not unusual to have people request additional time, and she would grant such motions freely. (Tr. 354.)

Shortly after the motion call had ended and Judge Pantle had left the bench, her court clerk told her that Tressler's counsel, Stacey Wilkins, had arrived in the courtroom. Wilkins told Judge Pantle that she had informed Respondent that she was going to be late for court that day and that Tressler objected to his motion for extension of time. Wilkins told Judge Pantle that the settlement conference was solely between Wilmette and Spiegel and that Tressler had not agreed to participate in the settlement conference. Because Tressler's portion of the case was not going to be part of the settlement conference, there was no need for an extension of time and Tressler wanted to be heard on its motion to dismiss. (Tr. 341-43.)

Judge Pantle told Wilkins to try to get hold of Respondent to get him back to court so that they could resolve the issue regarding his motion. Judge Pantle went back on the bench at 10 a.m. and asked Wilkins if she had tried to reach Respondent. Wilkins responded that she had called and left voicemail messages for him, but had not received a response from him. (Tr. 344.)

Judge Pantle vacated the order that she had previously entered because Respondent had misled her. In his motion, the only reason Respondent had provided for his request for an extension of time was that the upcoming settlement conference would resolve the case, but that reason was

no longer valid because the settlement conference would not resolve the case. At best, it would only resolve the issues between Wilmette and Spiegel, but not the issues involving Tressler. Judge Pantle also was very upset about Respondent not telling her that Wilkins would be late for court. (Tr. 344-45; Adm. Ex. 80.)

After Judge Pantle entered the order vacating her original order and denying Respondent's motion for extension of time, Respondent filed two motions before the presiding judge of the Chancery Division asking him to order Judge Pantle's disqualification. The presiding judge denied the motions. Respondent also filed a motion before Judge Pantle accusing her of having an *ex parte* conversation with Wilkins and asking her to recuse herself. She held a hearing on his motion and subsequently issued an order in which she agreed to recuse herself. In that order, Judge Pantle explained that she had two lawyers telling her two different things, and that she had to make findings of fact and decide whom to believe, and she believed Ms. Wilkins. Nonetheless, she decided to recuse herself because the matter was taking up a lot of the parties' time and money. (Tr. 346-48, 371; Adm. Ex. 81; Adm. Ex. 85.)

Judge Pantle testified that she had to take time away from other cases to deal with Respondent's conduct and various motions. (Tr. 351.)

Stacey Wilkins

Stacey Wilkins is an Illinois attorney who has been licensed since 2009. She is currently a partner at Tressler, where she has worked since August 2016. Tressler represented Wilmette in both a federal court case and a Cook County Circuit Court case that Spiegel had brought against Wilmette. At some point, Spiegel added claims against Tressler in the Cook County case based upon its representation of Wilmette. Wilkins represented Tressler in the Cook County case before Judge Pantle. (Tr. 374-75, 388.)

In September 2017, Tressler filed motions to dismiss and for sanctions in the case before Judge Pantle. Tressler's motions to dismiss and for sanctions, which Wilkins drafted, argued that there was no good-faith basis for Tressler being in the lawsuit. On October 25, 2017, Wilkins saw Respondent at a hearing in Spiegel's federal case against Wilmette. Wilkins told Respondent that she had received his motion for extension of time to file a response to Tressler's motions, which was noticed to be heard two days later on October 27. She told him she was very frustrated by his motion because the case had already been going on for a long time. In addition, the basis for his motion was that there was an upcoming pretrial settlement conference in the case, but Tressler was not going to participate in the pretrial settlement conference. She thus told him that Tressler objected to his motion and that there was no reason to delay briefing on Tressler's motions because the pretrial settlement conference had absolutely nothing to do with Tressler. She also told him that she had another case up at the same time that his motion was scheduled to be heard and asked him to have Judge Pantle pass the case until she could get to the courtroom. Respondent agreed that he would pass the case. (Tr. 376-79.)

Wilkins arrived at Judge Pantle's courtroom five to seven minutes after the motion call was scheduled to begin. She looked around the courtroom but did not see Respondent. She went up to the court clerk to advise her that she was there and that they could go ahead with the motion call. The court clerk told Wilkins that an order granting the motion for extension of time had already been entered. Wilkins told the court clerk that she had told Respondent that she objected to the motion and was going to be late to the call. The court clerk told her Respondent had left. Wilkins made multiple attempts to call Respondent but got no answer, so left a message. (Tr. 379-80.)

In the meantime, the court clerk told Judge Pantle what had happened. Judge Pantle came out into the courtroom and told Wilkins to try to get a hold of Respondent and she would recall the case. Wilkins showed Judge Pantle and the court clerk the call log that documented her attempts

to reach Respondent, and explained their conversation two days earlier at the Dirksen Federal Building. After giving Respondent time to return Wilkins' calls and come back to the court, which he did not do, Wilkins drafted and Judge Pantle entered an order vacating the first order and denying the motion for extension of time. (Tr. 380-81; Adm. Ex. 80.)

Wilkins testified that Respondent's actions resulted in hearing dates being entered and continued and the parties having to do additional briefing. (Tr. 383.)

Respondent

Respondent testified that he and Wilkins were in court on the federal case and walked out of the courtroom together and started to "chit-chat." Respondent said something like, "I will see you on Friday," referring to the hearing date on the motion to extend time that he had filed in the Cook County case to see if the parties could settle the case. Wilkins told him she did not get a copy of the motion, and Respondent said he would send it to her. Wilkins, who represented Tressler in the Cook County lawsuit, told Respondent that her client would not be part of the settlement discussion; the firm would be there on behalf of Wilmette, but not on behalf of itself. (Tr. 1151-53.)

Respondent testified that he did not know if she told him that she was not going to be at the hearing on the motion to extend time or was going to be late, and that, if she did, he did not hear it. But he remembered the end of the conversation, which was basically that the case would not settle if Tressler were not part of it, and that he would "see [Wilkins] over there" on his motion to extend time. (Tr. 1154-55.)

Respondent had been in front of Judge Pantle at least a dozen times, and "she would always grant an extension of time." (Tr. 1155.) On the day his motion was scheduled to be heard, he showed up at court and waited for the case to be called. The clerk called the case; he said he had filed a motion to extend time; Judge Pantle granted the motion; Respondent drafted the order; and

Judge Pantle signed off on it. (Tr. 1156.) He walked out of the courtroom thinking that it was "not a big deal" that Wilkins did not show up, and that she or somebody else from Tressler would "show up at the settlement conference." (Tr. 1156-57.)

Respondent walked out of court at about 9:40 a.m. and took care of other court business, including a 10 a.m. court call in another courtroom. He testified that, if Wilkins had told him she was going to be late, he would not have had a problem with it because the judge would have granted his motion anyway. (Tr. 1157.)

Respondent testified that he never received any phone calls from Wilkins on that day. He may not have had a cell phone at that time or Wilkins may not have had his cell phone number. He never got any notice that she showed up after his motion was granted and objected to it. He found out the following Monday when he received a copy of the order vacating the previous order and denying his motion. (Tr. 1158.)

Respondent went back in front of Judge Pantle with a motion to vacate the order drafted by Tressler, which Judge Pantle denied. He then asked Judge Pantle to recuse herself because she had made findings against Respondent when he was not in court. At first, she declined. Later, after Respondent filed a motion seeking recusal, Judge Pantle decided it was best that she recuse herself from the case. (Tr. 1160.)

C. Analysis and Conclusions

Rule 3.3(d)

Illinois Rule of Professional Conduct 3.3(d) provides that, in an *ex parte* proceeding, a lawyer shall inform the tribunal of all material facts knows to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse. We find that Respondent violated Rule 3.3(d) by failing to inform Judge Pantle that his opposing counsel would be late for the motion hearing and objected to his motion to extend time.

In reaching our misconduct finding, we necessarily had to make credibility determinations and resolve conflicting facts because Respondent's testimony directly contradicted that of Judge Pantle and Wilkins in key respects. We found both Judge Pantle and Wilkins to be credible witnesses. They each provided detailed, clear, and unwavering testimony about the events surrounding Respondent's motion to extend time, and they testified consistently with each other.

In contrast, on the subject of the allegations in Count II, we found much of Respondent's testimony to be evasive, inconsistent, and self-serving. We find it implausible that Respondent heard and remembered all of the details of his conversation with Wilkins in the halls of the Dirksen Building except her statement that she would be late to court – the one subject that is relevant to his disciplinary proceeding.

We also are dubious of Respondent's testimony that, if he had heard Wilkins say that she would be late to court, he would have had "no problem" holding the case for her so that she could appear and object to his motion, because Judge Pantle would have granted the motion anyway. If Wilkins had appeared and objected to Respondent's motion on the ground that Tressler was not part of any settlement discussions, it is possible that Judge Pantle would have denied the motion, particularly given that the motion was premised on a misrepresentation regarding the case settlement. Respondent benefited from Wilkins' absence because it increased the chances that his motion would be granted and decreased the chances that his misrepresentation regarding the settlement conference would be uncovered, which we believe provided motivation for him to withhold from Judge Pantle the information that Wilkins shared with him.

Moreover, Respondent testified that, prior to the hearing on his motion to dismiss, Wilkins told him that Tressler would not be a part of the settlement discussion. Thus, even if he did not hear Wilkins state that she would be late to court, he essentially acknowledged that he did not disclose to Judge Pantle that the basis of his motion was untrue.

Wilkins' credible testimony established that, in their conversation at the Dirksen Building, she told Respondent that she objected to his motion to extend time but would be late to court, and asked him to have Judge Pantle pass the matter until she arrived at court. Judge Pantle's credible testimony established that Respondent did not inform her that Wilkins objected to his motion and would be late to the hearing, and did not ask her to pass the case until Wilkins could participate in the hearing. Instead, he withheld those material facts and allowed the hearing to proceed in Wilkins' absence. His actions violated Rule 3.3(d).

Rule 8.4(d)

Illinois Rule of Professional Conduct 8.4(d) provides that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice. An attorney's conduct is considered prejudicial to the administration of justice if it has an impact on the representation of a client or the outcome of a case, undermines the judicial process, or jeopardizes a client's interests. Storment, 203 Ill. 2d at 399. Even if the underlying case is not harmed, the administration of justice is prejudiced if an attorney's misconduct causes additional work for judges or other attorneys, or causes additional proceedings to be held. Haime, 2014PR00153 (Hearing Bd. at 16-17).

We find that the Administrator proved by clear and convincing evidence that Respondent violated Rule 8.4(d). As we noted above, we found the testimony of Judge Pantle and Wilkins to be credible, and their testimony established that Respondent's failure to inform Judge Pantle that Wilkins objected to his motion and would be late for the motion call caused additional work for both the court and the Tressler firm. Respondent's conduct therefore prejudiced the administration of justice in violation of Rule 8.4(d).

III. In Count III, the Administrator charged Respondent with assisting a client in conduct that Respondent knew to be criminal or fraudulent and engaging in dishonesty in connection with his conduct in the Spiegel bankruptcy.

A. Sumary

The Administrator proved that Respondent violated Rules 1.2(d) and 8.4(c) by assisting Spiegel in conduct that Respondent knew to be fraudulent by backdating the revised operating agreement for Greenleaf to March 30, 2018.

B. Admitted Facts and Evidence Considered

Admissions in Answer

On December 16, 2020, following entry of the sanctions awards against Spiegel and Respondent, Spiegel filed a petition for Chapter 11 bankruptcy in the United States Bankruptcy Court for the Northern District of Illinois. At the outset of his bankruptcy, Spiegel filed with the bankruptcy court a list of unsecured creditors that included, among others, the Association and the other individuals and attorneys who were the recipients of the sanctions awards against Spiegel. (Ans. at pars. 71, 72.)

Respondent was aware that Spiegel had an interest in an entity known as 1116-22 Greenleaf Building, LLC ("Greenleaf"). In the operating agreement for Greenleaf, which was executed on or about March 30, 2018, Spiegel was listed as the managing member of Greenleaf, with his son Matthew as a member with "authority to manage" Greenleaf. (Ans. at pars. 75, 76.)

After Spiegel filed for bankruptcy in December 2020, Respondent continued to represent Spiegel in matters both related and unrelated to the bankruptcy, including assisting Spiegel in his efforts to obtain a loan against the 1116-22 Greenleaf property. In late 2021, Respondent, on behalf of Spiegel, engaged in email correspondence with mortgage broker Dean Giannakopoulos and others about changes that would need to be made to documents related to Greenleaf in order to

obtain a loan. Respondent agreed to make these changes on Spiegel's behalf. (Ans. at pars. 77, 79, 82.)

Witness Testimony

Mary Gretchen Silver

Mary Gretchen Silver is a trial attorney with the United States Trustee's Office ("United States Trustee"), which is part of the United States Department of Justice. Silver testified that the United States Trustee is the watchdog of the bankruptcy system. It monitors the conduct and pleadings of all creditors, debtors, and other parties participating in bankruptcy proceedings for compliance with the bankruptcy code and rules. She has been with the United States Trustee since 2002. She also is licensed to practice law in Illinois. (Tr. 400-401.)

As the trial attorney assigned to oversee Spiegel's bankruptcy case, Silver reviewed Spiegel's schedules, estate, and financial affairs, and monitored the bankruptcy proceedings. She testified that there was some initial confusion about Spiegel's interest in Greenleaf, but Silver eventually learned that, as of the date of his bankruptcy filing, Spiegel had a .025 percent membership interest in Greenleaf. With respect to his bankruptcy, Spiegel's membership interest was considered to be an asset. (Tr. 401-403.)

Silver testified that Spiegel became a debtor in possession following his Chapter 11 filing, and therefore took on a fiduciary obligation on behalf of his creditors and certain duties under the bankruptcy code. A debtor in possession is required to act in the best interest of creditors to maximize the value of the estate's assets. The debtor is allowed to continue operations and conduct financial transactions in the ordinary course of business, but if the debtor does anything out of the ordinary, then he is required to seek prior court authorization before transferring an asset out of the estate. (Tr. 403-405.)

In July or August 2023, Silver learned that Spiegel had transferred assets out of his estate without court permission. The transaction involved a loan made by lender ReadyCap to Greenleaf. Silver testified that, before filing for bankruptcy, Spiegel contacted a loan broker about obtaining a loan on behalf of Greenleaf and started the loan process. After he filed for bankruptcy, Spiegel disclosed to the loan broker that he had filed an individual Chapter 11 petition, which led the broker to indicate that, in order to go forward with the loan, Spiegel could not be involved in the management of Greenleaf, which would have to be controlled by Spiegel's son Matthew. (Tr. 405-407, 415.)

Eleven months after he initially contacted the loan broker, Spiegel contacted the loan broker again to restart the process of obtaining the loan on behalf of Greenleaf. (Tr. 407.) After those talks restarted, Greenleaf's management structure and Spiegel's ownership interest in Greenleaf were changed in order to facilitate Greenleaf qualifying for the loan. Silver testified that Spiegel's interest was "decreased by more than half with no apparent consideration and without prior court permission," and, because his membership interest was an asset in the bankruptcy, he was required to seek leave of court to decrease it. (Tr. 408.)

It was the United States Trustee's position that Spiegel's failure to obtain prior court authorization was a violation of his fiduciary duty and statutory duties under the bankruptcy code, that he knew he needed prior authorization because he had sought prior authorization for other acts, and therefore that his actions were dishonest. The United States Trustee thus filed a motion requesting that Spiegel be removed as the debtor in possession and that a trustee be appointed in his stead to move forward with the bankruptcy case. The bankruptcy court held a trial on the motion, but had not yet issued its decision at the time of Respondent's hearing. (Tr. 410-11, 412-13, 422; Adm. Ex. 103.)

Nicholas Dwayne

Nicholas Dwayne is an Illinois lawyer licensed since 2012. He practices in the area of bankruptcy. He testified that, in a Chapter 11 case like Spiegel's, the United States Trustee appoints a committee of unsecured creditors, which is charged with protecting the interests of all unsecured creditors. In the Spiegel bankruptcy case, the Unsecured Creditors Committee ("UCC") was comprised of three individuals who represented unit owners in the 1618 Sheridan Road building. He has represented the UCC in the Spiegel bankruptcy proceedings since 2021. (Tr. 431-33, 437.)

Dwayne testified that the Spiegel bankruptcy case has been "extremely litigious." Ultimately, the UCC moved to convert the case from a Chapter 11 to a Chapter 7. In a voluntary petition under Chapter 11, the debtor remains a debtor in possession, which means that he controls the assets of his estate and administers it in the way he chooses. A debtor in a Chapter 7 proceeding is not a debtor in possession, but rather is replaced by a disinterested trustee who is tasked with liquidating the assets of the estate and distributing them on a *pro rata* basis to the creditors. (Tr. 434-35.)

Dwayne testified that Greenleaf was formed by Spiegel on March 30, 2018. Upon its creation, Spiegel and his son Matthew entered into an operating agreement, also dated March 30, 2018, pursuant to which Matthew received a 99.975 percent membership interest and Spiegel received a .025 percent membership interest. Greenleaf received the beneficial interest in an Illinois land trust that held title to a 28-unit apartment building at 1116-22 Greenleaf in Wilmette. Greenleaf distributed 100 percent of the net profits generated from the property to Spiegel, even though he had "an ostensible" .025 percent interest. (Tr. 435-36; see also Resp. Ex. 81.) In addition, according to the original operating agreement, Greenleaf was member-managed and therefore allowed both Spiegel and Matthew to exercise management authority over Greenleaf. (Tr. 437.)

At some point after he began representing the UCC, Dwayne learned that Greenleaf had obtained a loan against and secured by the 1116-22 Greenleaf property. The loan closed in January 2022, and Dwayne learned about it after the closing. At that time, the UCC had already moved to convert the Chapter 11 to a Chapter 7. After learning of the loan, the UCC used discovery tools available to it to determine who the lender and mortgage broker were, and eventually deposed the mortgage broker's representative, Dean Giannakopoulos. (Tr. 439-40.)

Through that deposition, the UCC learned that Giannakopoulos had been working with Spiegel prior to Spiegel's filing the Chapter 11 bankruptcy case, and had provided a quote on a loan a few days before Spiegel filed the Chapter 11 petition. Then, shortly after the bankruptcy case was filed and Giannakopoulos found out about it, he told Spiegel that the bankruptcy case prevented Spiegel from sponsoring the loan and that he would have to rearrange the borrowing entity to have only Matthew, as a non-debtor, on the loan. About ten months later, in October 2021, Spiegel again reached out to Giannakopoulos and said he would like to start over with Matthew as the face of the loan. From there, the underwriting process began and culminated with the closing of the loan in January 2022. (Tr. 440-41.)

According to Dwayne, the operating agreement had to be changed in order for the loan to be obtained because the underwriting protocols for the loan required each of the managing members of the borrowing entity to submit a personal financial statement and a personal guarantee for the loan. However, the lender would not accept a personal guarantee from someone in bankruptcy. Thus, Spiegel could not hold any interest that would require him to give a personal guarantee for the loan. (Tr. 441-42.)

Dwayne testified that "[t]hey drafted a new operating agreement to comply with the underwriting protocols to avoid Marshall having to be a personal guarantor on the loan," but did not put the word "amended," "superseded," or anything else on the new operating agreement that

would have indicated that it had been modified. "And they dated the operating agreement the same date as the original operating agreement, March 30, 2018, long prior to the bankruptcy." The individuals who made changes to the operating agreement and other documents related to Greenleaf included Respondent. (Tr. 443.)

The final signed version of the revised operating agreement was dated March 30, 2018, and was not labeled as amended. It was submitted as part of Greenleaf's application to get a loan of $1.8 million, which Dwayne believes ran afoul of Spiegel's obligations under bankruptcy law. Among other things, it was a violation of Bankruptcy Code section 363, which requires a debtor in possession to give prior notice and receive court approval before engaging in any material transaction that is outside of the ordinary course of business. In this case, the changes to the Greenleaf operating agreement that reduced Marshall's membership interest and removed him as a manager constituted a transaction outside of the ordinary course of business, for which prior notice and court approval was required. However, Spiegel did not file such a motion with respect to the changes to the operating agreement, even though he had previously filed two other motions under section 363. (Tr. 445-46, 451-52.)

Dwayne testified that attorney David Lloyd filed the bankruptcy petition on behalf of Spiegel and was subsequently retained by the estate as Spiegel's bankruptcy counsel, and that Lloyd represented Spiegel at the time Spiegel was obtaining the loan from Ready Cap. He testified that Lloyd did not contact him at any point about the changes to the operating agreement. (Tr. 463, 469.)

Regarding the significance of the change to the operating agreement that eliminated Spiegel's managing power, Dwayne testified that "[t]he bankruptcy case is premised upon Matthew Spiegel's ostensible control [of] and title to this Greenleaf property," which otherwise would be the only asset of any value in Spiegel's bankruptcy estate. By eliminating Marshall's

managing power and transferring it to Matthew, "[t]he ruse that they're propagating is that Matthew owns it, controls it. It's wholly outside of the estate. And therefore, the creditors can't capture any of the value unless and pursuant to however Matthew decides." But the UCC's position is that "it's really Marshall deciding. He controls Greenleaf through effective control of his son." (Tr. 480.)

Nickolas Dallas

Nickolas Dallas has been an Illinois attorney since 1976. He is in private practice and focuses on representing small businesses, particularly in tax matters. He represents Spiegel in tax and accounting matters, including in connection with the 1116-22 Greenleaf property, which initially was held in an Illinois land trust of which Spiegel was beneficiary. On Dallas' advice, Spiegel formed and transferred the beneficial interest in the property to Greenleaf. (Tr. 599-602.)

On March 30, 2018, Dallas filed articles of incorporation with the Illinois Secretary of State to establish Greenleaf. He also drafted the operating agreement for Greenleaf by downloading a form off of the internet and adapting it to provide for a "split interest," such that Matthew had a 99.9 percent interest in the property and Spiegel had a .1 percent interest, but "with the flip flop of [Spiegel] getting 99.9% of the net income or losses and Matt getting .1%," which is "how the tax returns have been prepared from 2018 to the present."[7] Since 2018, Dallas has filed the tax returns for Greenleaf as well as for Spiegel and Matthew. (Tr. 601-603, 608.)

Dallas testified that he was involved in the ReadyCap loan from the beginning. Greenleaf was the borrower; Dean Giannakopoulos from Marcus & Millichap was the mortgage broker; and Dallas was an agent for the title company, attended the closing with Matthew, and represented Greenleaf at the closing. (Tr. 608, 610-11, 621-22.)

Dallas made some initial modifications to the original operating agreement and then submitted it to Giannakopoulos and Respondent, and from that point on, they made the changes

and Dallas had no further involvement other than being copied on emails. (Tr. 647.) On December 16, 2021, Dallas sent an email to multiple people, including Respondent, Giannakopoulos, and Lloyd, attaching "a Word File revision of the 1116-22 Greenleaf Building LLC Operating Agreement which makes Matthew the sole Managing Member." Dallas testified that the lender wanted changes made to the operating agreement and articles of organization removing Spiegel as managing member and making Matthew managing member by default. (Tr. 610-11, 614; Resp. Ex. 120.)

Giannakopoulos responded in an email that also copied Respondent and Lloyd in which Giannakopoulos asked if Spiegel's interest could be .01 percent instead of .025 percent. Dallas testified that he does not know the reason for the request, and that, in the email, Giannakopoulos did not "offer any constructive reason for wanting it that way." (Tr. 616-17; Resp. Ex. 122.)

Later on December 16, Respondent sent an email to Dallas on which Lloyd and others were copied and in which Respondent stated: "[Spiegel] absolutely has to be taken off the IL Sec of State Articles of Organization." Dallas testified that Spiegel was on the Illinois Secretary of State articles of organization from 2018, and, at the lender's request, that needed to be changed. He also testified that there was never any communication from Lloyd that Marshall could not be removed as manager of Greenleaf or that his membership interest could not be decreased without bankruptcy court approval. (Tr. 614-15, 617-19; Resp. Ex. 125.)

Dallas testified that Respondent's role in the "bankruptcy chain of emails" was making revisions to the operating agreement. He initially testified that he did not recall seeing the revisions as they were being made. However, when presented with exhibits containing emails from Respondent to Dallas attaching several of the revisions, Dallas acknowledged receiving the emails. His recollection is that Respondent and Giannakopoulos were working on the revisions, and that

all of the changes were made at the request of the mortgage broker or lender. (Tr. 619-21; Resp. Exs. 126, 128, 129.)

Dallas reviewed the final version of the revised operating agreement that was submitted to the lender. He knows that March 30, 2018 was the date of the original operating agreement, but "wouldn't have necessarily noted" that the version of the operating agreement that was submitted to the lender had the same date. He also did not recall if the version that was submitted to the lender was marked as an amended operating agreement. (Tr. 646-48.)

Dean Giannakopoulos

Giannakopoulos is senior managing director for Marcus & Millichap Capital, where he has worked as a mortgage broker for 13 years. He met Spiegel in 2018 or 2019, when Spiegel sought to refinance the 1116-22 Greenleaf property. Spiegel paused that transaction, but later contacted Giannakopoulos to restart the loan application. (Tr. 653-55.)

Giannakopoulos eventually brokered a loan from lender ReadyCap Financial. He testified that it is common for the lender to request changes to loan documents to conform the documents to what the lender requires. He also testified that, from the beginning of the loan process, the lender knew Marshall was in bankruptcy. (Tr. 656-57, 681-82, 695.)

Giannakopoulos testified about multiple email communications sent on December 16, 2021 regarding revisions to the Greenleaf operating agreement, including an email from Dallas, on which Giannakopoulos was copied, that attached a revision to the Greenleaf operating agreement that made Matthew the sole managing member. Giannakopoulos testified that the "lender advised us that Matthew needed to be the managing member [of Greenleaf] and Marshall could not because of Marshall's bankruptcy." At the time this email was sent, the lender knew that Marshall was in bankruptcy and that Matthew was going to become the sole managing member of Greenleaf. (Tr. 658-59; Resp. Ex. 120.)

Giannakopoulos sent a reply email to Dallas, on which Respondent was copied, writing: "Hi Nick. Thank you for sending. At the initial onset, Marshall was .01%, not .025%. Can that be modified to .01% as has been reflected to the lender?" Giannakopoulos explained that, at the beginning of the transaction, it was conveyed to him that Spiegel had .01 percent ownership, not .025 percent ownership, and he represented the .01 membership interest to the lender. When he found out that it was actually .025 percent, he asked that Spiegel's ownership interest be changed to .01 percent because he wanted to "stay consistent" with what he had already represented to the lender. He did not consider it to be a material change because Spiegel was not going to be on the loan. Lloyd was copied on the email. At no point after this email did Lloyd contact him and tell him that bankruptcy court approval was needed to change Spiegel's ownership interest in Greenleaf. (Tr. 661-62; Resp. Ex. 122.)

Giannakopoulos testified that revision 1 of the operating agreement had the word "amended" on it and a redline through "March 30, 2018." (Tr. 665-66, 669; Resp. Exs. 94, 123.) After seeing this revision, Giannakopoulos asked Respondent: "Does it need to say amended? We were hoping to have a clean operating agreement." Giannakopoulos did not explain why he asked Respondent that question, other than reiterating the hope for a clean agreement. (Tr. 667-69; Resp. Ex. 126.)

Giannakopoulos sent revision 1 to Eli Smith, a representative of ReadyCap, telling Smith that "[t]he operating agreement is dated in 2018, and will show Matt's ownership. That will be the proof." Giannakopoulos testified that, by "proof," he meant proof of the length of time that Matthew had ownership in the property. (Tr. 662-63; Resp. Ex. 123.)

Respondent sent revision 2, in which he removed the word "amended" and removed the redline through "March 30, 2018," to Giannakopoulos. (Tr. 670; Resp. Exs. 95, 126.) Revision 4

also did not have the word "amended" on it and was dated March 30, 2018. Giannakopoulos sent revision 4 to Smith at ReadyCap. (Tr. 671-72; Resp. Exs. 97, 127.)

Giannakopoulos testified that neither Dallas nor Lloyd contacted him regarding needing bankruptcy court approval to make changes to the operating agreement. In addition, the lender saw both revision 1, which contained the word "amended" and had a redline through "March 30, 2018," and revision 4, which did not, and the lender never voiced any objection to Giannakopoulos about removing "amended" from the operating agreement or leaving the March 30, 2018 date on the operating agreement. (Tr. 673-77.) However, Giannakopoulos acknowledged that the lender's legal counsel did not see any version of the operating agreement prior to revision 4, and therefore would not have seen the word "amended" or any of the other changes that were made prior to revision 4. (Tr. 698.)

The final version of the revised operating agreement states: "This agreement is executed as of the date and year written above." That date and year is March 30, 2018. (Tr. 691-92; Resp. Ex. 135.)

David Lloyd[8]

From the inception of Spiegel's Chapter 11 case through the end of 2022, David Lloyd served as Spiegel's bankruptcy counsel. Lloyd testified that Spiegel believed he needed a loan, which either Greenleaf or his son Matthew would obtain and then lend part of the loan proceeds to Spiegel, in order to pay expenses incurred in the bankruptcy case and to fund a Chapter 11 plan of reorganization to pay his creditors. (Resp. Ex. 153 at 5-6.)

Lloyd was copied on "a good number of emails" in December 2021 regarding the loan. He testified that the revisions to the Greenleaf operating agreement, including removing Marshall as managing member, were done at the request of the lender. (Id. at 7-9.) The lender knew Marshall

was in bankruptcy, and wanted changes to the operating agreement and articles of organization to reflect that Marshall did not have control over Greenleaf. (Id. at 9.)

According to Lloyd, the revision reducing Marshall's interest in Greenleaf from .025 percent to .01 percent was immaterial, because the Chapter 11 plan that Lloyd, on behalf of Spiegel, had proposed would have paid all creditors in full, as if Spiegel and not Greenleaf owned the 1116-22 Greenleaf property. Thus, whether Marshall "was owner of .01% or .025% or 1% of [Greenleaf] had absolutely no effect on the Chapter 11." (Id. at 10-12.)

However, Lloyd acknowledged that the change in Spiegel's interest should have been brought to the bankruptcy court for approval, because the debtor's transfer of any asset outside of the ordinary course of business should be brought to the bankruptcy court for approval. (Id. at 12, 19.) Asked why he did not do so, Lloyd responded:

> Perhaps I should've. I think I was focused on change in the management structure of the LLC, which definitely does not require approval of the bankruptcy [court]. And if it crossed my mind, I probably considered it such a de minimis transfer that I would put it aside and get around to getting it approved later. It probably should've been approved, but I'll take the heat on that.

(Id. at 13.)

Respondent

Respondent testified that he has some bankruptcy experience, but only peripheral to his litigation work, as when he has had to collect a judgment against a defendant who files for bankruptcy. (Tr. 937-38.) When Spiegel asked Respondent to get involved in the bankruptcy proceedings to help Matthew or Greenleaf, Respondent did so. He represented Matthew in one or two depositions taken by the UCC and in a 2004 Examination; he appeared before the bankruptcy court on behalf of Greenleaf; and he filed an appeal on behalf of Spiegel. (Tr. 1230-32, 1236.) He helped Spiegel with his bankruptcy proceedings through 2023. (Tr. 1209.) But David Lloyd was Spiegel's bankruptcy attorney, and Respondent always thought that Lloyd was the one who

monitored the case, made sure Spiegel acted in accordance with bankruptcy law, and "would have handled any problem" that arose with respect to the bankruptcy. (Tr. 947-48, 997.)

When Spiegel asked Respondent to make changes to the Greenleaf operating agreement, Respondent agreed to do so. He was not compensated for his work on revising the operating agreement; he did it as a favor to Spiegel because neither Spiegel nor Matthew was proficient in Microsoft Word. Respondent was simply adding or deleting things based on what the mortgage broker and lender wanted, and "really didn't think anything of it at [that] point," because he "knew from the correspondence in the emails" that the changes were being made so that Spiegel could obtain a loan to pay his Chapter 11 expenses. In addition, Respondent was not Greenleaf's attorney or Spiegel's bankruptcy attorney. (Tr. 947-48, 959-63, 978-80.)

Respondent testified that he "wasn't the one [who] started all of this." On December 13, Dallas began making changes to the operating agreement. Respondent was copied on the emails about the changes. On December 16, Giannakopoulos emailed Dallas and copied Respondent and Lloyd, among others. It was at this point that Respondent became involved because "they wanted changes quicker than … [Dallas] was doing." (Tr. 966-67; Resp. Exs. 121, 122.)

Respondent testified that all of the changes to the operating agreement were done at the request of the lender, that the parties wanted the revisions back "really quickly," and that he made whatever changes the parties wanted. Respondent has done other transactions where he conformed documents to what the lender required, and that it is "not a big deal" when the lender asks that documents be conformed to what it wants; he views it as "standard practice," not "doing something underhanded." He could understand that, in Spiegel's case, the lender wanted to avoid Spiegel having management authority given his bankruptcy. He believed that, "if that's what the lender wants, that's fine," and that he was not "committing fraud, [if] that's what the lender wants." (Tr. 970-71, 973.)

Respondent testified that, in drafting his first revision to the operating agreement, he added the word "amended" to the title and crossed out "March 30, 2018," in addition to making other changes. (Tr. 972-73; Resp. Ex. 123; Resp. Ex. 94.) He then received an email from Giannakopoulos in which Giannakopoulos asked, "Does it need to say amended? We were hoping to have a clean operating agreement." (Tr. 974; Resp. Ex. 126.) Respondent did not "think anything of" this request because he knew that Giannakopoulos was going back to the lender and the lender was "telling him no, this doesn't conform, no, have them do that." Respondent surmised that Giannakopoulos wanted "one final agreement that include[d] everything in it," which Respondent thought "wasn't a big deal since that's what the lender required." In addition, because the lender had the original operating agreement and articles of organization from 2018, omitting the word "amended" from the revised operating agreement was a "non-issue" to Respondent. (Tr. 975-76.)

In subsequent revisions, Respondent made additional changes requested by the lender through Giannakopoulos, including removing the word "amended" from the document heading and removing the redline through "March 30, 2018." He sent those revisions to Giannakopoulos. (Tr. 976-78; Resp. Exs. 95, 96, 97, 127, 129, 130.)

Respondent testified that revisions 5 and 6 had different signature blocks, with revision 5 having lines for the date and witness signature, and revision 6 having no date or signature lines.[9] He sent both versions to the Spiegels and Giannakopoulos and told them to choose which version they wanted, because, to him, it was "not a big deal." (Tr. 981-82.) In the end, the parties chose the version without the date at the bottom, but Respondent did not believe that was an issue because he knew that the lender knew that Greenleaf was formed and the initial operating agreement was entered into in March 2018. In addition, the lender's attorneys reviewed the operating agreement revisions and "could have said, no, you have to put that this was originally not signed on this date," but they did not ask for that. (Tr. 982, 984-86.)

Respondent testified that Lloyd was copied on all of the emails because the whole purpose of the loan was to pay Spiegel's bankruptcy expenses. At no time did Lloyd bring to anyone's attention that bankruptcy court approval was needed to make changes to the operating agreement. Respondent had "no inkling absolutely whatsoever" that somebody was engaging in bankruptcy fraud. He never thought there would be any issue with any of the changes to the operating agreement, especially because Lloyd was copied on the emails about the revisions. (Tr. 966-67, 980.)

C. Analysis and Conclusions

Rule 1.2(d)

The Administrator alleges that Respondent violated Rule 1.2(d) by assisting Spiegel in conduct that Respondent knew to be fraudulent by backdating the revised operating agreement for Greenleaf to March 30, 2018; reducing, or purporting to reduce, Spiegel's membership interest without permission of the bankruptcy court or the United States Trustee and for no consideration; and changing the Greenleaf operating agreement to obtain a loan for which it was not otherwise eligible.[10] We find that the Administrator proved that Respondent violated Rule 1.2(d).

Rule 1.2(d) provides that a lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent. Ill. R. Prof'l Conduct 1.2(d). "Knows" denotes actual knowledge of the fact in question, which may be inferred from the circumstances. Ill. R. Prof'l. Conduct 1.0(f). Fraud is broadly defined as any conduct, statement, or omission that is calculated to deceive, regardless of whether the deception is successful. In re Segall, 117 Ill. 2d 1, 7, 509 N.E.2d 988 (1987).

We found credible the testimony of Silver and Dwayne, which established that Spiegel was perpetrating a fraud on the bankruptcy court by modifying the Greenleaf operating agreement so that Greenleaf could obtain a loan for Spiegel's benefit but concealing the timing of the

modifications from the bankruptcy court and UCC. Based upon their testimony, it is clear that, had Spiegel sought approval to reduce his Greenleaf membership interest and transfer sole management authority of Greenleaf to Matthew, Silver and Dwayne would have objected. We thus draw the logical inference that Spiegel took those actions anyway, but backdated the operating agreement to conceal the timing of the changes in an attempt to accomplish what he likely could not have accomplished had he sought approval from the bankruptcy court.

We did not find Respondent's testimony to be entirely credible on the subject of his involvement in revising the Greenleaf operating agreement. In his direct examination, Respondent downplayed his involvement in Spiegel's bankruptcy proceeding, and did not fully acknowledge the work he performed for Spiegel, Matthew, and Greenleaf until the Administrator questioned him on cross-examination. He also repeatedly attempted to minimize his role in the revisions to the operating agreement. On cross-examination, Respondent was evasive and tried to avoid answering the Administrator's questions rather than affirm or clarify his direct testimony. In particular, we find implausible his claim that he had no "inkling" that he was doing anything wrong by revising the Greenleaf operating agreement. Common sense dictates that, if the Spiegels and their counsel believed that what they were doing was honest and legitimate, they would have had no need to backdate the revised operating agreement.

We similarly did not find Dallas' testimony to be particularly helpful. Dallas repeatedly disavowed any knowledge of why changes were being made to the operating agreement. We find his purported lack of knowledge, or at the very least his lack of curiosity, implausible, given that he was Spiegel's attorney, advised Spiegel at the inception of Greenleaf, and drafted the original operating agreement for Greenleaf. While we found Giannakopoulos generally credible, his vague statement that he wanted a "clean agreement" shed no light on why the revised operating agreement was backdated to March 30, 2018 and contained no indication that it had been amended.

We also note that much of Respondent's testimony, and that of the witnesses he presented, focused on what the lender knew. But as Administrator's counsel stated at hearing, Count III does not allege fraud on the lender but rather fraud on the bankruptcy court. Consequently, what the lender knew is largely irrelevant to this count.

Based on witness testimony, relevant documents, and the reasonable inferences we have drawn from the evidence, we conclude that Respondent knowingly assisted Spiegel in his bankruptcy fraud by revising the Greenleaf operating agreement, backdating it to March 30, 2018, and failing to provide any indication that the operating agreement had been recently amended. Respondent's actions created the impression that the 2021 revisions to the operating agreement were in the original operating agreement when Respondent knew that was not true. It is apparent that no one other than those involved in the revisions would know that the Greenleaf operating agreement that was used to obtain the loan was not, in fact, the original operating agreement from March 2018, but rather was an amended operating agreement from December 2021. We find that Respondent backdated the revised operating agreement knowing that the purpose of doing so was to conceal the fact that the amendments occurred after Spiegel initiated his Chapter 11 proceedings, and that his conduct was inherently deceptive. See In re Stern, 124 Ill. 2d 310, 315, 529 N.E.2d 562 (1988) (noting that "motive and intent are rarely proved by direct evidence, but rather must be inferred from conduct and the surrounding circumstances," and finding that a false date on a document evidenced "an element of dishonesty and deceitfulness").

We were not persuaded by Respondent's arguments that he was just doing what others asked him to do. Respondent was not absolved of his ethical obligations simply because he was following the instructions of others in revising the operating agreement. See In re Himmel, 125 Ill. 2d 531, 539, 533 N.E.2d 790 (1988) (holding that "[a] lawyer may not choose to circumvent the rules by simply asserting that his client asked him to do so"); see also Ill. R. Prof'l Cond. 5.2(a) (a

"lawyer is bound by the Rules of Professional Conduct notwithstanding that the lawyer acted at the direction of another person").

Nor does it matter that Respondent's role was limited to making the revisions, that he was not Spiegel's bankruptcy attorney, or that other lawyers were copied on the emails and presumably knew about the revisions to the operating agreement. The evidence established that Respondent represented Spiegel, Matthew, and Greenleaf in some aspects of the bankruptcy case, and his participation in revising the operating agreement was extensive. Even with the involvement of other attorneys, as an attorney representing a client, he still had an obligation to conduct himself ethically. See, e.g., In re Bless, 2010PR00133, M.R. 27134 (March 12, 2015) (Hearing Bd. at 18) (citing In re Imming, 131 Ill. 2d 239, 253, 545 N.E.2d 715 (1989) (neither attorney's more limited role nor the fact that he was not the only attorney representing the client in a matter diminished his ethical duties).

Finally, it makes no difference that Respondent was not getting paid for his work. He still had an obligation to comply with the Illinois Rules of Professional Conduct. See, e.g., In re Cooper, 2014PR00166, M.R. 28490 (March 20, 2017) (disciplining attorney for unauthorized practice of law, even though he collected no fees for the work he did while removed from the Master Roll).

Accordingly, we find the Administrator established by clear and convincing evidence that Respondent violated Rule 1.2(d) by altering the Greenleaf operating agreement and backdating it to conceal the fact that the agreement was revised in December 2021.

Rule 8.4(c)

The Administrator alleges that Respondent violated Rule 8.4(c) by engaging in the same conduct that is at the heart of the Rule 1.2(d) allegation, as recounted above. Rule 8.4(c) provides that it is misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation. Ill. R. Prof'l Conduct 8.4(c). Dishonesty includes any conduct, statement, or

omission that is calculated to deceive, including the suppression of truth and the suggestion of what is false. In re Gerard, 132 Ill. 2d 508, 528, 548 N.E.2d 1051 (1989).

Because we found that Respondent violated Rule 1.2(d) by assisting Spiegel in conduct that Respondent knew was fraudulent, we also find the Administrator established by clear and convincing evidence that Respondent violated Rule 8.4(c).

EVIDENCE IN MITIGATION AND AGGRAVATION

Mitigation

Respondent testified about how this disciplinary proceeding has impacted how he would practice law in the future, including that he would never sue another attorney; if he were to bring a defamation claim, it would have to "be on better ground;" he has "learned not to bring these kind of [cases]" and "will never … deal with these cases again;" and he is not sure he "will deal with a Spiegel case again because there's too many animosities going on." (Tr. 1387-88.) However, he also testified that, as of the time of his hearing, he was still representing Spiegel for free in some matters. (Tr. 1209.)

Aggravation

Respondent has been a litigator since 2000. (Tr. 930.)

Valerie Hall testified that she and her husband have lived in the 1618 Sheridan Road condominium building for 10 years, and that the first year was wonderful, but "then the lawsuits started coming in." When she received the first lawsuit, she "was hysterical" and "very upset" because she had never been sued or been in court. She testified that the lawsuits filed by Respondent on behalf of his client have "really taken a toll on both my husband and me, not only us, but our kids." She testified that she is "very distraught," and that she is "afraid to go to the condo now" and is "afraid that everything [she does, she is] going to get sued for." (Tr. 117-19.)

William Hall, Valerie's husband, testified that he has personally paid between $200,000 and $300,000 above the amount that was covered by the sanctions awards in defense of himself and his wife during the course of the Spiegel litigation. In addition, the Association assessed the residents additional fees to pay for the defense of the litigation, and his share of those assessments was "probably another $100,000 or so." William also testified that the Spiegel litigation has "affected [his] wife terribly emotionally." He testified that "[s]he's afraid to come into the building" and that "[i]t's had an emotional toll on her." (Tr. 155-56.)

Character Witnesses

Judge Kathleen Pantle testified that Respondent had appeared before her in other matters before the Wilmette/Tressler case and that he was always professional, and she never had any problems with him. (Tr. 352.)

Cynthia Kisser is an Illinois attorney. She has been licensed since 2000 and practices primarily in the area of personal injury, as well as some business law. She met Respondent in 2021, through an online forum that members of the Illinois Trial Bar Association started using to communicate during the pandemic. Kisser testified that Respondent contributed about 950 posts in the online forum, usually in response to requests for help or information from other attorneys. He also shared work product such as motions *in limine* with the forum members, and gave a presentation on using medical billing codes in medical malpractice cases. Kisser opined that her interactions with Respondent and her observation of his interactions with the Illinois trial bar members demonstrate "a real respect for the law" and an "understanding of the need to be accurate and careful in your statements of law." (Tr. 711-17, 720.)

Judge Lee Preston served as a Cook County Circuit Court judge for over 18 years. Respondent appeared before him "many times," including several trials. Judge Preston testified that Respondent "was among a short list of lawyers ... that whatever he told the court I could put

in the bank." He further testified that, if Respondent was asked a question, he would accurately respond, which the judge appreciated. He also noted that Respondent "was an incredibly hard-working lawyer" who was always professional and courteous with the judge and, from what the judge could see, with other attorneys as well. Preston testified that Respondent was "very assertive" on behalf of his clients, but always respectful to the court, and never acted disrespectfully or unethically in Preston's courtroom, nor submitted any filings that the judge thought were false or frivolous. (Tr. 758-60.)

Kimberly Blair has been an Illinois attorney for 24 years. She is currently a partner at Wilson Elser LLP in Chicago, and the co-chair of Wilson Elser's national professional liability practice team. Over the past 24 years, Blair has been opposing counsel to Respondent in about 10 to 12 cases. While some of those cases were contentious, she and Respondent "always got along very professionally," and Respondent never acted unprofessionally in front of a judge or toward her. Although they had disagreements about the merits of arguments, she never found any of Respondent's filings to be untruthful or misleading. (Tr. 763-64, 771-72.)

Thomas Frances Courtney is an Illinois attorney with a law practice in Palos Heights, Illinois. He has known Respondent for about 25 to 30 years. They met at John Marshall Law School. In the time that Courtney has known Respondent, he has never heard anybody question Respondent's veracity. He believes Respondent is "a wonderful attorney" who takes "very difficult cases." He has observed Respondent interact with judges in "dozens and dozens" of cases and has never seen Respondent be disrespectful to any of the judges; rather, he believes that Respondent acted professionally and respectfully toward all of the judges. (Tr. 775, 779-80.)

Judge John Callahan served as a Cook County Circuit Court judge from 2009 to 2022. From 2013 to 2019, he handled motion call, where he would periodically "run into" Respondent. Judge Callahan testified that, during those six years when he encountered Respondent on a number

of cases, he never had any concerns about Respondent's truthfulness or veracity, or about whether or not Respondent's filings were well-based in fact or law. He further testified that there was never a time when Respondent acted disrespectfully toward him, other court personnel, or opposing counsel. (Tr. 920-23.)

Judge Daniel Kubasiak is a Cook County Circuit Court judge. Respondent has been appearing before Judge Kubasiak for at least six years. During that time, Judge Kubasiak observed Respondent conduct his business and represent his clients in an appropriate manner, and never felt that Respondent treated him disrespectfully or made any untrue representations. (Tr. 1344-46.)

Prior Discipline

Respondent has not been previously disciplined.

RECOMMENDATION

A. Summary

Based upon the nature of Respondent's misconduct, and considering the mitigating and aggravating factors, the Hearing Board recommends that Respondent be suspended for one year and until he completes the ARDC Professionalism Seminar.

B. Analysis and Conclusions

The Administrator requested that Respondent be suspended for two years and until further order of the Court. Respondent presented no argument on sanction, instead arguing only that the Administrator did not prove that he committed misconduct.

In determining appropriate discipline, we are mindful that the purpose of these proceedings is not to punish the attorney but rather to safeguard the public, maintain the integrity of the profession, and protect the administration of justice from reproach. Edmonds, 2014 IL 117696, ¶ 90. We also consider the deterrent value of attorney discipline and "the need to impress upon others the significant repercussions of errors such as those committed by" Respondent. In re

Discipio, 163 Ill. 2d 515, 528, 645 N.E.2d 906 (1994) (citing In re Imming, 131 Ill. 2d 239, 261, 545 N.E.2d 715 (1989)). Finally, we seek to recommend a sanction that is consistent with sanctions imposed in similar cases, In re Timpone, 157 Ill. 2d 178, 197, 623 N.E.2d 300 (1993), while also recognizing that each case is unique and must be decided on its own facts. Mulroe, 2011 IL 111378, ¶ 25.

In arriving at our recommendation, we consider those circumstances that may aggravate or mitigate the misconduct. In re Gorecki, 208 Ill. 2d 350, 802 N.E.2d 1194 (2003). In aggravation, Respondent's conduct caused substantial harm to all of the defendants in the Spiegel litigation, and particularly Valerie Hall, whom he relentlessly attacked on behalf of his client for years, causing her a great deal of mental anguish and stress. He also caused significant harm to the courts and entire legal system through his blind pursuit of his client's personal vendetta against the client's neighbors and their attorneys. On behalf of his client, Respondent used litigation not as a remedy but as a weapon.

Respondent engaged in a pattern of misconduct that spanned six years. Furthermore, much of his behavior during his disciplinary proceeding mirrored his conduct in the Spiegel litigation. Prior to hearing, he filed an unusually high volume of pleadings, motions, and subpoenas, and repeatedly sought to delay the proceedings. During his hearing, he persisted in questioning witnesses about inadmissible topics after objections were sustained, and refused to abandon baseless arguments that were ruled irrelevant or otherwise inappropriate by the hearing panel chair. Finally, while Respondent showed a modicum of recognition that he should have handled some things differently during the course of the Spiegel litigation, he did not seem to recognize or at least acknowledge that his conduct caused harm to the Spiegel defendants, or show any remorse for that harm.

In mitigation, we find that Respondent has practiced for 25 years without being disciplined and that, other than in the litigation underlying this disciplinary matter, he has a good reputation in the legal community. Had Respondent engaged in similar misconduct in other matters or been previously disciplined, we might have felt compelled to recommend a suspension until further order. But that is not the case here. Frankly, we are baffled why Respondent, an experienced and apparently well-regarded lawyer, would sacrifice his ethical obligations and risk his law license on behalf of a single client. Yet he did, and for that, we believe that a lengthy suspension from the practice of law is warranted.

However, we reject the sanction requested by the Administrator. Based on Respondent's misconduct, and considering the aggravating and mitigating factors, we find that a two-year suspension that continues until further order of the Court is neither warranted nor supported by relevant precedent. We have examined all of the cases cited by the Administrator and conclude that they are largely inapposite to this matter, in that they involve significantly more egregious misconduct or aggravation. See, e.g., In re Mann, 06 CH 38, M.R. 23935 (Sept. 20, 2010); In re Gomez, 2020PR00064, M.R. 31256 (Sept. 21, 2022); In re Novoselsky, 2015PR00007, M.R. 30416 (Sept. 21, 2020); In re Messner, 2021PR00094, M.R. 32210 (May 23, 2024).

In particular, we decline to impose a suspension that continues until further order of the Court, which is the most severe sanction other than disbarment, and is typically reserved for cases involving issues of mental health or substance abuse, a disregard of ARDC proceedings, or other factors that call into question the attorney's ongoing fitness to practice law. In re Forrest, 2012PR00011, M.R. 26358 (Jan. 17, 2014) (Hearing Bd. at 32-33). While we have some concerns about Respondent's failure to acknowledge his misconduct and express remorse for the harm it caused, we also recognize that a respondent has a right to mount a defense that includes arguing that he did nothing wrong, which is what Respondent did in this matter. See, e.g., In re Grosky, 96

CH 624, M.R. 15043 (Sept. 28, 1998) (Review Bd. at 10-11) ("[R]espondents should not be penalized for having defended themselves…. The respondent is entitled to disagree with, and to present evidence, in good faith, to contradict the Administrator's position, without risking a harsher sanction … for having done so"). Based upon that recognition, combined with the mitigating factors, we find that the Administrator has not proved that a suspension until further order is warranted under the specific circumstances of this matter.

Rather, we find that a one-year suspension is commensurate with Respondent's misconduct and supported by precedent. Recognizing that each disciplinary case has unique facts and circumstances, we found guidance for our recommendation in the following cases.

In In re Stolfo, 2016PR00133, M.R. 20978 (March 19, 2019), an attorney representing a client in a lawsuit persisted for years in pursuing claims that, early on in the lawsuit, were foreclosed by his client's testimony. For this conduct, courts imposed sanctions totaling more than $200,000, none of which he paid. Instead, he filed numerous motions and appeals seeking to frustrate the collection of the sanctions judgment. The Hearing Board found that the attorney filed frivolous pleadings, took actions that had no other purpose than to delay proceedings or burden his opponent, and engaged in conduct prejudicial to the administration of justice. In aggravation, the attorney's misconduct, which spanned more than 13 years, continued even after a disciplinary complaint was filed against him. The Court suspended the attorney for six months and until he successfully completed the ARDC Professionalism Seminar and paid the sanctions judgment.

In In re Cohn, 2018PR00109 (Review Bd., Oct. 9, 2020), M.R. 030545 (Jan. 21, 2021), the attorney made false statements concerning a judge's integrity by claiming that the judge was acting out of anger where there was no factual basis for making the statements attacking the judge. The attorney also used abusive language to opposing counsel. In aggravation, the attorney failed to fully acknowledge his wrongdoing or its impact; failed to express sincere remorse; and attempted

to rationalize his misconduct, which included blaming the judge. The Court suspended the attorney for six months and until he completed the ARDC Professionalism Seminar.

In In re Stewart, 2012PR00121, M.R. 27633 (Nov. 17, 2015), the attorney notarized a signature on a marital settlement agreement without actually witnessing the signature, then elicited false testimony from his client regarding the marital settlement agreement during a hearing on a proposed judgment for dissolution of marriage. He also made a false statement to the court. The Hearing Board found that the attorney assisted his client in conduct the attorney knew was criminal or fraudulent; made false statements to the court; knowingly elicited false testimony from his client; engaged in dishonest conduct; and engaged in conduct prejudicial to the administration of justice. In aggravation, the attorney was not candid with the hearing panel, and had been previously disciplined for similar misconduct. The Court suspended the attorney for six months.

In In re Barry, 09 SH 05, M.R. 24439 (Mar. 21, 2011), the attorney made multiple false statements in pleadings, motions, and at a hearing regarding the medical condition and his representation of his client's estranged husband. He also filed a "Petition for Adjudication of Disability and for Appointment of a Guardian" without any factual or legal basis for the pleading, which required his opposing counsel to spend 25 hours of work to obtain dismissal of the baseless motion. In aggravation, the attorney received a nine-month suspension seven years earlier for almost identical misconduct. In mitigation, he engaged in community service and *pro bono* work, and presented several character witnesses. The Court suspended the attorney for one year.

None of the foregoing cases involves all of the misconduct alleged in this matter, but each case involves some of the alleged misconduct. The cases nonetheless guide our sanction recommendation, which is not a mathematical calculation based upon the number of rules Respondent has violated, but rather is based on our assessment of his misconduct as a whole. See In re Gerard, 132 Ill. 2d 507, 532, 548 N.E.2d 1051 (1989) ("When sanctioning respondent, ... we

do not count the number of ethical rules which he violated concurrently by the same conduct, and increase the severity of the sanction the higher that number is. Instead, we analyze and pass judgment upon the unethical nature of respondent's conduct as a whole").

The nature of the misconduct in the foregoing cases is, on balance, more egregious than Respondent's. For example, Respondent brought and maintained frivolous litigation by seeking leave to file the fifth amended complaint without correcting the deficiencies in the fourth amended complaint. In addition, he took actions that had no substantial purpose other than to embarrass, delay, or burden the McClintics by filing the lawsuit against them in the Law Division rather than the Chancery Division. Both actions are unacceptable, but they are a far cry from the 13-year span of frivolous litigation in which the attorney in Stolfo engaged. We also do not condone Respondent's baseless claims that Judge Brennan engaged in *ex parte* communications, but the attorney in Cohn not only attacked a judge's integrity in multiple court filings, but also used vulgar and abusive language toward his opposing counsel.

Respondent's assistance to Spiegel in connection with defrauding the bankruptcy court consisted of revising the Greenleaf operating agreement. We rejected Respondent's attempt to evade responsibility for his participation in the fraud, but we also recognize that he was not the architect of the scheme and had a fairly limited role in perpetrating it, particularly given that he was not Spiegel's bankruptcy attorney. In Stewart, in contrast, the attorney made numerous false statements to a court and elicited false testimony from his client in order to assist his client perpetrate a fraud. Similarly, the attorney in Barry made multiple false statements to a court, filed a frivolous pleading, and, in aggravation, had previously engaged in similar misconduct.

However, Respondent's cumulative misconduct is extensive and serious, with some mitigation but also significant aggravation, which leads us to conclude that a suspension longer than the six-month suspensions imposed in Stolfo, Cohn, and Stewart would be warranted.

Consequently, we recommend that Respondent be suspended for one year. Moreover, we believe that he would benefit from a review of his ethical obligations before resuming law practice. Therefore, we also recommend that he be required to complete the ARDC Professionalism Seminar before being permitted to practice law again.

Accordingly, we recommend that Respondent be suspended for one year and until he successfully completes the ARDC Professionalism Seminar.

Respectfully submitted,

Rebecca J. McDade
Michael V. Casey
Brian B. Duff

CERTIFICATION

I, Michelle M. Thome, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, hereby certifies that the foregoing is a true copy of the Report and Recommendation of the Hearing Board, approved by each Panel member, entered in the above entitled cause of record filed in my office on June 2, 2025.

/s/ Michelle M. Thome
Michelle M. Thome, Clerk of the
Attorney Registration and Disciplinary
Commission of the Supreme Court of Illinois

4901-1127-9688, v. 1

[1] According to the complaint, Chicago Title Trust Co. was the trustee of the trust that owned Spiegel's condominium unit at 1618 Sheridan Road. (Adm. Ex. 1 at 2.)

[2] For the sake of simplicity as well as accuracy, we will refer to the First Consolidated Law Division Complaint as the fifth amended complaint.

[3] Witnesses and some court documents use the terms "condo documents," "declaration," "declarations," and "by-laws" interchangeably. Based upon our review of the exhibits, it appears that all of the foregoing references describe the same document, officially titled "Third Amendment to the Declaration of Condominium Ownership and of Easements, Restrictions, Covenants and By-Laws for 1618 Sheridan Road." (See Adm. Ex. 1 at 6 *et seq*.) Article IX of the Declaration sets forth the Association's by-laws. (See id. at 18.) In discussing the Declaration and

By-Laws, we will generally use the terminology used by the witness, unless more specificity is required for clarity.

[4] After this lawsuit was dismissed with prejudice, Respondent either voluntarily dismissed or allowed to be non-suited the other lawsuits.

[5] Arezina's statement that the sole beneficiary was also the sole trustee of the Hall Trust is incorrect. Both William and Valerie Hall were trustees and Valerie was the beneficiary of the Hall Trust. If she were to become incapacitated, William also would be a beneficiary, and upon her death, he would be sole beneficiary. (See Adm. Ex. 108.)

[6] Respondent testified at length about the various interactions between Spiegel and the other residents of 1618 Sheridan Road that led to Respondent's filing, on Spiegel's behalf, the initial lawsuit against Valerie Hall and the subsequent claims against the Association board, its members, and their attorneys. (*See, e.g.*, Tr. 1044-57.) We have considered this testimony in reaching our findings, but do not recount it here because it is largely irrelevant to the allegations in Count I, which, as discussed in the Analysis section below, the Administrator substantially narrowed at hearing. He also testified at length about the basis of his challenge to Hall's ownership of her unit and therefore her right to serve on the Association board. Again, while we have considered all of Respondent's testimony on this subject, we do not recount it here because most of it amounted to legal argument rather than evidence.

[7] After reviewing the original operating agreement, Dallas noted that his recollection of the ownership-interest percentages was mistaken, and that the agreement reflects that Matthew had a 99.975 percent interest and Marshall had a .025 percent interest. (Tr. 603.)

[8] David Lloyd did not testify at Respondent's disciplinary hearing, but the transcript of his April 24, 2024 deposition testimony in this matter was admitted into evidence. (See Resp. Ex. 153.)

[9] Respondent's testimony about revisions 5 and 6 is incorrect. Both revisions contain signature blocks, and neither revision contains a date line in the signature block. Revision 5 has a clause preceding the signature block that revision 6 does not, but that clause merely states: "In witness whereof, the Members to this Agreement execute this Operating Agreement as of the date and year first above written…." The only date that appears in revision 5 is on the first page, and is March 30, 2018. (Compare Resp. Ex. 135 and Resp. Ex. 136.)

[10] During Respondent's hearing, the Administrator's counsel clarified that Count III does not allege fraud on the lender, but rather fraud on the bankruptcy court. (Tr. 633, 639.)