NO: X06-UWY-CV18-6046436-S	: SUPERIOR COURT
ERICA LAFFERTY	: COMPLEX LITIGATION DOCKET
v.	: AT WATERBURY, CONNECTICUT
ALEX EMERIC JONES	: January 5, 2023

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NO: X06-UWY-CV18-6046437-S	: SUPERIOR COURT
WILLIAM SHERLACH	: COMPLEX LITIGATION DOCKET
v.	: AT WATERBURY, CONNECTICUT
ALEX EMERIC JONES	: January 5, 2023

. . . . . .

NO: X06-UWY-CV18-6046438-S	: SUPERIOR COURT
WILLIAM SHERLACH	: COMPLEX LITIGATION DOCKET
v.	: AT WATERBURY, CONNECTICUT
ALEX EMERIC JONES	: January 5, 2023

MEMORANDUM OF DECISION RE ORDER TO SHOW CAUSE
ATTORNEY NORMAN PATTIS JURIS #408681

This matter arises out of an Order to Show Cause issued by the court on August 4, 2022, to address whether Attorney Norman Pattis (the respondent) violated certain rules of professional conduct arising out of the improper disclosure of confidential medical and other records. Following hearings on August 10,

2022, August 17, 2022, and August 25, 2022, where the respondent was present and represented by counsel, and having considered the evidence and briefs, the court finds as follows.[1]

In the three consolidated cases giving rise to the Order to Show Cause, the plaintiffs, various immediate family members of victims and a first responder to the December 14,2012 Sandy Hook school shooting, brought suit against the defendants, Alex Emric Jones and Free Speech Systems, LLC(FSS).[2]

On February 22, 2019, the court granted the motion for protective order filed by the Jones defendants[3], which allowed, inter alia, the plaintiffs' medical and/or mental health records

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[1] Although the respondent invoked his right to remain silent under the Fifth Amendment to the United States Constitution in response to the questioning of Disciplinary Counsel, the court found the facts based on the evidence that was presented, without drawing any adverse inferences.

[2] Although there were many additional defendants when these cases were originally brought, the only remaining defendants at the time of the show cause hearing were Jones and FSS. They will collectively be referred to as "the defendants" and separately by their names when appropriate. The former related defendants were Infowars, LLC, Infowars Health, LLC and Prison Planet TV, LLC (Infowars defendants).

[3] At that time, the Infowars defendants were in the case.

to be designated as confidential.[4] The court order limited the use of such confidential information.[5] On June 16, 2021, the court granted, without objection, the plaintiffs' motion to modify the protective order to create a Highly Confidential-

[4] The order limited access to confidential information to the following individuals in this case and all cases consolidated with this case: "All counsel of record, including staff persons employed by such counsel; the parties, but only to the extent reasonably necessary to the litigation of this case; any consultant, investigator or expert (collectively "Expert") who is assisting in the preparation and/or trial of this action, but only to the extent reasonably necessary to enable such Expert to render such assistance; any deponent or witness who is reasonably believed to have been eligible to have access to Confidential Information by virtue of his or her employment or other affiliation with the Designating Party, and other non-party witnesses deposed in this case but only for the time reasonably necessary to question the witness; court reporters, videographers and outside vendors performing litigation support services for parties in this case; counsel who are presently representing clients in a case against any one or more of the Defendants, which arises out of the same or similar set of facts, transactions or occurrences, provided that before disclosing Confidential Information to such counsel, such Defendant (1) must receive notice of the intention to disclose Confidential Information to such counsel; (2) must have the opportunity to move for a protective order in the case in which counsel is involved; and (3) a ruling on the motion for protective order must be issued; and the Court and its personnel."

[5] The protective order stated as follows: "Except to the extent expressly authorized by this Protective Order, Confidential Information shall not be used or disclosed for any purpose other than the preparation and trial of this case, all cases consolidated with this case, and in any appeal taken from any order or judgment herein." This "Limitations on Use" provision can be found in the subsequent modifications to the protective order.

Attorneys Eyes Only designation.[6] [7] Finally, on June 15,2022, the court granted by consent a final modification to the order of protection, adding "sensitive information of parties or witnesses, which is ordinarily kept confidential" as a category

[6] The motion stated as justification for the modification the fact that the Jones defendants were seeking the plaintiffs' highly personal information such as medical histories and psychiatric records; abusive litigation tactics; and the propensity of Jones to make the plaintiffs' personal information a topic on his show.

[7] The modified protective order limited access to Highly Confidential-Attorneys Eyes information to counsel of record, and staff persons employed by such counsel who reasonably need to handle such information; outside consulting experts or testifying expert witnesses, but only to the extent reasonably necessary; any deponent or witness who is reasonably believed to have been eligible to have access to Confidential Information by virtue of his or her employment or other affiliation with the Designating Party, and other non-party witnesses deposed in this case but only for the time reasonably necessary to question the witness, and only to the extent such questioning is reasonably necessary; court reporters, videographers and outside vendors performing litigation support services for parties in this case; and the court and its personnel. The only sharing provision in the order allowed "(c)ounsel who are presently representing clients in a case against any one or more of the defendants" to share confidential information with each other, that is, counsel representing plaintiffs in cases against a Jones defendant.

of information which could be designated as confidential[8] [9] All three versions of the protective order required that "(a)ll persons having access to Confidential Information" to "maintain it in a safe and secure manner."

Utilizing a database management firm to ensure that discovery materials were protected and secure, the plaintiffs, beginning in October of 2021, began a rolling production. This

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[8] The plaintiffs', in their June 13, 2022 Motion to Modify the Protective Order, stated as follows: "During the course of discovery, sensitive personal information, which would normally be kept confidential, especially in a case of this degree of public exposure, has been disclosed and/or discovered." The plaintiffs were concerned that Jones, or other Jones defendants, would use their personal information publicly, given their view of the conduct of Jones during the course of the litigation.

[9] The order limited access to Highly Confidential-Attorneys Eyes Only information to the same individuals as the prior order, adding the words "in this action" to further define "counsel of record": " a. Counsel of record in this action, and staff persons employed by such counsel who reasonably need to handle such information; b. Outside consulting experts or testifying expert witnesses, but only to the extent reasonably necessary. Any Party choosing to show such material to such expert shall have the duty to reasonably ensure that such person observes the terms of this Protective Order and shall be responsible upon breach of such duty for the failure of such person to observe the terms of this Protective Order. c. Any deponent or witness who is reasonably believed to have been eligible to have access to Confidential Information by virtue of his or her employment or other affiliation with the Designating Party, and other non-party witnesses deposed in this case but only for the time reasonably necessary to question the witness, and only to the extent such questioning is reasonably necessary; d. Court reporters, videographers and outside vendors performing litigation support services for parties in this case; and The Court and its personnel. No such information shall be disclosed to any other party or person."

rolling production was released every two weeks, and continued through June of 2022. Every document that was released was reviewed by one of the plaintiffs' attorneys. All discovery materials were provided to the Jones defendants electronically via link, which could be downloaded. The offices of plaintiffs' counsel as well as their vendor had measures in place to keep the materials secure. Medical records, deposition transcripts, and employment, financial, and professional records were among the records of the plaintiffs that were designated as Highly Confidential-Attorneys Eyes Only. The plaintiffs produced over 390,000 pages of discovery materials, approximately 4000 of which were the plaintiffs' medical records.

The concerns of the court with protecting the plaintiffs' medical and confidential information were made painfully clear to the respondent early in the discovery process, when he filed a motion to depose Hillary Clinton, improperly using information designated as Highly Confidential-Attorneys Eyes Only. Most unusually, the respondent filed the motion containing the Highly

Confidential-Attorneys Eyes Only information as the deposition was taking place. In fact, the motion to depose Clinton was filed during the very first of the plaintiffs' depositions. In ruling on the plaintiffs' motion for sanctions filed in response, the court, on August 5, 2021, entered in part the following order: "Given the cavalier actions and willful misconduct of Infowars in filing protected deposition information during the actual deposition, this court has grave concerns that their actions, in the future, will have a chilling effect on the testimony of witnesses who would be rightfully concerned that their confidential information, including their psychiatric and medical histories, would be made available to the public. The court will address sanctions at a future hearing." Beginning in June of 2021, both the court and the plaintiffs clearly expressed their concerns with respect to protecting the plaintiffs' mental health and other medical and confidential information.

In late February of 2022, the respondent contacted Andino Reynal, a Texas attorney, regarding Reynal's potential representation of Jones and related defendants in five cases pending in Texas.[10] [11] The expectation was that Reynal would also be working on the three consolidated Connecticut cases, and that the two would collaborate on the Texas and Connecticut cases. In March of 2022, approximately six weeks prior to the then trial date in Texas, Reynal filed an appearance in the Texas Sandy Hook defamation lawsuit brought by Scarlett Lewis and Neil Heslin (Texas case). Reynal was the tenth lawyer for the Jones defendants in the Texas case, initially appearing as co-counsel with Jacquelyn Blott. Blott gave Reynal the files for all five of the Jones defendants' pending Texas cases.

Reynal continued to communicate with the respondent, and he requested the text messages produced by the Jones defendants in Connecticut as well as the Jones defendants' Connecticut

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[10] The respondent had recently re-appeared in the Connecticut cases, replacing Attorney Jay Wolman for the second time.

[11] Reynal is the subject of a separate show cause hearing ordered by this court.

deposition transcripts. Neither Reynal nor his office ever requested from the respondent, or from anyone else, the Connecticut plaintiffs' medical, tax, employment or financial records. Reynal's focus was on preparing for the upcoming Texas trial, which did not require him to review the Connecticut plaintiffs' records.

On April 13, 2022 and April 14, 2022, emails were exchanged between the respondent, Texas attorney Kyung Lee and Wolman, regarding "Randazza emails." [12] On April 17, 2022, on the eve of trial in the Texas case, Lee filed a petition for bankruptcy on behalf of the Infowars defendants in the U.S. Bankruptcy Court, Southern District of Texas (the InfoW bankruptcy case.) [13] Plaintiffs' counsel in the Texas and Connecticut Sandy Hook cases filed motions to dismiss the InfoW bankruptcy case, as did the U.S. Trustee. On April 18, 2022, adversary proceedings

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[12] Marc Randazza is an attorney admitted in Nevada whose application for pro hac vice in the Connecticut cases was denied by the court on July 7,2020. Randazza and a Shelby Jordan were copied on the emails.

[13] Charles Rubio of Parkins and Rubio and R.J. Shannon also filed notices of appearance in the InfoW bankruptcy case.

were filed in the U.S. Bankruptcy Court, District of Connecticut (Bridgeport)(the Connecticut adversary proceedings), and the three consolidated Connecticut cases were removed to bankruptcy court.[14]

On May 2, 2022, Lee emailed Wolman and Randazza, reporting on the status of the InfoW bankruptcy case, reporting that Reynal and Jordan had provided him with the discovery in the Texas case, and stating that when he had asked the respondent and Atkinson about the Connecticut discovery, Atkinson recommended that Lee contact Wolman and Randazza directly, as the transfer from Wolman and Randazza to the respondent and Atkinson was corrupted[15]. Lee asked Wolman to provide him with all the Connecticut discovery "by and for each side," in light of the changing number of lawyers representing the Jones

[14] On May 1, 2022, Shannon filed a motion to appear pro hac vice on behalf of the debtors, the Infowars defendants, in the Connecticut adversary proceedings; Attorney Cameron Atkinson, the respondent' associate, was the sponsoring attorney. The motion was not granted.

[15] Randazza was not counsel of record in the three consolidated Connecticut cases and as such was not authorized to possess the Connecticut plaintiffs' confidential information. How Randazza improperly came into possession of the materials was not addressed at the show cause hearing and remains an open issue at this time.

defendants and the status of discovery in both Texas and Connecticut. Lee gave no thought as to what the Connecticut discovery would include, and although he asked for everything, he had no need for the Connecticut plaintiffs' mental health or other medical records.

Half an hour later, Wolman responded to Lee by email, stating that on March 28, 2022, he had given Atkinson a new SSD drive with several hundred gigabytes, which Atkinson confirmed worked[16]. Wolman suggested that Atkinson's office Fed Ex the hard drive to Lee, and noted that Lee would need to get the Connecticut plaintiffs' recent compliance from "Norm's team." Six minutes later, Wolman emailed Lee again, copying the same five individuals including the respondent and Atkinson, warning that in light of this court's protective order, Lee might not be authorized to access the Connecticut plaintiffs' confidential documents[17].

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[16] The respondent, Jordan, Randazza, Adam Rodriguez (of Lee's firm), and Atkinson were all copied on the email.
[17] The entirety of the email is as follows:

Lee responded to Wolman five minutes later, copying the same five individuals including the respondent and Atkinson, thanking Wolman and confirming that he would "look into the confidentiality situation in the Connecticut litigation." A few minutes later, Lee emailed Rodriguez, asking him to locate the confidentiality order, and asking the respondent and Atkinson if they knew what Wolman was referring to[18]. Shortly thereafter, Lee responded to Wolman's email, confirming that he would follow through with Atkinson and the respondent. Later that morning, Rodriguez emailed Lee, (copying Atkinson, the respondent, Schwartz, Shannon, Battaglia, and Jordan),

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Kyung,
I should also add a caveat (and a word of precaution to Norm) before the drive or other files are sent to you. Under the confidentiality order in the CT case, I'm not confident you're eligible to receive documents marked by the plaintiffs as Confidential or AEO. As I am not counsel of record, I don't feel comfortable making any decisions that would implicate the order and potentially expose the clients to any liability.

Sincerely,
Jay Wolman

[18] Atkinson, the respondent, one Marc Schwartz, Shannon, one R. Battaglia, and Jordan were copied on the email.

attaching the Connecticut protective orders, and highlighting the Highly Confidential-Attorneys Eyes Only language.

Neither the respondent nor anyone from his firm advised of the existence of the protective order, asked Lee to sign a confidentiality order, or responded to Wolman's warning or Lee's inquiry about the protective order. Similarly, neither the respondent nor anyone from his firm informed Lee that they were sending him the Connecticut plaintiffs' mental health records, medical records, or other such sensitive information. Instead, shortly after this May 2,2022 email exchange, Lee received at his Houston office a white external hard drive in a bubble wrap envelope, along with an undated cover letter from Atkinson to Lee, enclosing the hard drive—the same hard drive that the respondent and Atkinson had obtained from Randazza and Wolman. Neither the envelope nor the hard drive was designated or marked in any way as confidential or protected by court order, despite the fact that the hard drive contained the Connecticut plaintiffs' Highly Confidential-Attorneys Eyes Only medical

records and discovery. The cover letter was similarly silent. Lee was unsuccessful in his efforts to download the hard drive.

On May 6, 2022, plaintiffs' counsel in both the Texas and Connecticut cases notified Lee of their intention to withdraw their claims against the three InfoW debtors. On May 31, 2022, the respondent moved to withdraw his and Atkinson's appearances in the Connecticut cases, representing that they had been discharged.[19] [20] On June 1, 2022, the Connecticut cases were

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[19] The motion to withdraw appearance was "withdrawn" on June 20,2022.

[20] In response to the respondent's motion to withdraw appearance, the court entered, in part, the following order, reciting the history of appearances for the Jones defendants up to that point:

> 6/28/18-3/1/19 Wolman appears for all Jones defendants
>
> 3/1/19 Pattis & Smith replaces Wolman, appearing for all Jones defendants
>
> 2/24/20 Latronica also appears for all Jones defendants
>
> 5/4/20 Latronica files Motion to Withdraw Appearance
>
> 5/4/20 Pattis & Smith files Motion to Withdraw Appearance
>
> 5/28/20 Both Motions to Withdraw Appearance are withdrawn
>
> 6/24/20 Pattis & Smith files a second Motion to Withdraw Appearance (motion not pursued)

remanded back to state court[21]. On June 6, 2022, the Bankruptcy Court for the Southern District of Texas dismissed the InfoW bankruptcy by agreement of the parties including the U.S. Trustee.

7/7/20 Wolman replaces both Pattis & Smith and Latronica

6/28/21 Pattis & Smith adds an appearance but only for the Jones LLCs

2/17/22 Pattis(individually) replaces Wolman but now appears for all Jones defendants including Alex Jones

3/8/22 Atkinson appears for all Jones defendants

3/8/22 Pattis & Smith appears for all Jones defendants

5/31/22 Pattis & Smith filed their third Motion to Withdraw Appearance."

The court further indicated that "(o)n March 9, 2022, the court entered an order stating that '(a)ll appearing counsel shall remain as appearing counsel in these consolidated matters, unless a motion to withdraw appearance has been granted by the court. As an example, in lieu of appearances will not remove appearing counsel from the case. Additionally, the clerk will not act on an application to withdraw appearance.' Today, in light of these disturbing circumstances, the court enters the following additional order. Attorney Atkinson, Attorney Pattis, and the law firm of Pattis & Smith are ordered to continue representing the remaining Jones defendants until the court has adjudicated this motion. See Rules of Professional Conduct 1.16(3)". Subsequent to this order, On July 25, 2022, following the filing of a motion to withdraw appearance, Atkinson was permitted to withdraw from the case.

[21] The Texas case was also remanded back to Texas state court.

Sometime between June 1, 2022 and June 15, 2022, at the end of a meeting in FSS' conference room in Austin, Lee handed the hard drive, unmarked, unaltered, and with no envelope, to Reynal.[22] It did not occur to Lee to inform Reynal that the hard drive contained the Connecticut plaintiffs' Highly Confidential-Attorneys Eyes Only information, and Reynal was not asked to sign any confidentiality agreement. Reynal, concerned with what the Jones defendants had produced in Texas compared to what they had produced in Connecticut, subsequently transferred it to his own internal hard drive system.[23] Despite the fact that the hard drive still contained the Connecticut plaintiffs' Highly Confidential-Attorneys Eyes Only documents, absolutely no care was taken to safeguard the information or to document the details of the transfer of the hard drive. Lee

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[22] Like Lee, Reynal was prohibited from possessing the Connecticut plaintiffs' medical records and other Highly Confidential Attorneys Eyes Only materials as he was not an attorney of record in the Connecticut cases.

[23] In December of 2021, Reynal's firm upgraded their firm security from drop-box to an internal drive system and the office was trained on the new system, which allow the user to generate a link to information they wanted to share.

testified that someone from either Reynal or the respondent's law firm asked him to transfer the hard drive to Reynal, and Reynal testified that he either asked for the hard drive or Lee volunteered it. On June 15, 2022, Atkinson emailed Lee, asking Lee to "make the disc available" to Reynal. Lee responded by saying that he had already given it to Reynal. A day or two later, at the request of the respondent's office, Reynal had the hard drive shipped back to the respondent.[24] Thus, the Connecticut plaintiffs' sensitive information which should have been safeguarded and which was also protected by the court order was carelessly passed around from one unauthorized person to another, without regard for the protective order, and with no effort to safeguard the Connecticut plaintiffs' sensitive, confidential documents. The confidential, court protected medical and other records of the Connecticut plaintiffs were improperly and unsafely transmitted at the direction of the

[24] Incredibly, both Lee and Reynal deny ever looking at the materials.

respondent to Lee, and then improperly and unsafely transferred by Lee to Reynal, with the respondent's approval.

On July 6, 2022, the respondent filed an application for Reynal to appear pro hac vice in the Connecticut cases. The application was granted on July 20, 2022, with certain restrictions and the requirement that Reynal file an appearance by July 30, 2022. On July 26, 2022, the court granted the respondent's oral motion to "withdraw" Reynal's pro hac admission, before Reynal filed his appearance.

In the meantime, on July 22, 2022, Reynal's assistant, at his request, emailed Mark Bankston, lead counsel in the Texas case, with a link to a "gofile.me" archive containing supplemental production. However, the link that was sent mistakenly provided access to other materials, including Jones' previously undisclosed text messages, as well as the Connecticut plaintiffs' Highly Confidential-Attorneys Eyes Only medical records and discovery. The directory consisted of an unusually large number of highly disorganized folders and files. Bankston,

having concluded that the materials contained the Connecticut plaintiffs' confidential documents as well as the respondent's work product, stopped his review and emailed Reynal, alerting Reynal that the documents appeared to include records of the Connecticut plaintiffs and confidential and work product documents.[25]

The following morning, Reynal responded to Bankston by email, telling him to disregard the link, indicating that a mistake had been made. Reynal instructed his assistant to deactivate the link, but did not address with Bankston the documents that Bankston's office had already downloaded.

On July 24, 2022, Bankston called Attorney Christopher Mattei, counsel for the Connecticut plaintiffs, alerting him of Reynal's potential disclosure of the Connecticut plaintiffs'

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[25] The email in its entirety is as follows:
I forwarded this email to my paralegal to download this production. He asked me to take a look because it was a huge amount of material he was downloading, and he wanted me to verify that he needed to download all of it. I looked through the directories and they seemed to contain a lot of confidential information, such as depositions and records relating to the Lafferty plaintiffs, and material which appears to be work product or confidential. My assumption is now that you did not intend to send us this? Let me know if I am correct.

confidential documents. Bankston informed Mattei that under Tex.R.Civ.P.193.3, the inadvertent production rule, Bankston was prohibited from examining the records until the ten day "clawback" period in the rule had expired. Bankston reassured Mattei that he had sequestered the records and would delete them once he came across them.[26] On July 28, 2022, Mattei emailed Reynal, stating that Reynal remained bound by the court's protective order, despite Reynal's not having filed an appearance; the respondent was copied on this email.

On July 29, 2022, FSS filed for bankruptcy in the U.S. Bankruptcy Court, Southern District of Texas, on the eve of the Connecticut trial which was scheduled to commence jury selection on August 2, 2022. On August 2, 2022, Jones and FSS removed the remnants of the Connecticut cases to the U.S. Bankruptcy Court, District of Connecticut.[27]

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[26] Under the rule, Reynal had ten days from the July 22,2022 notification by Bankston to identify the material inadvertently produced and assert a privilege.

[27] On August 8, 2022, Shannon filed a motion to appear pro hac vice for the debtor FSS, in this latest Connecticut adversary proceeding; the motion was granted.

The ten-day clawback period ended on August 1, and on August 2, the privilege having been waived, Bankston and his staff reviewed the materials, confirmed that the Connecticut plaintiffs' confidential documents had been transmitted to them, and deleted them.[28] [29] On August 3, 2022, during his cross examination of Jones in the Texas case, and to Reynal's surprise, Bankston used several text messages from Jones' phone contained in the documents inadvertently produced by Reynal. Reynal subsequently reviewed the Connecticut protective order for the first time.[30] That same day, Mattei emailed Reynal regarding Reynal's disclosure to Bankston and his staff, requesting that Reynal provide him with an itemized list of the

[28] Had Reynal identified the Lafferty documents or any other inadvertently produced documents and timely asserted a privilege, Bankston would have been required under the rule to surrender all copies of all inadvertently produced documents pending a ruling by the court in Texas.

[29] Pursuant to the sharing provision in the protective order, plaintiffs' counsel had previously, and properly, shared other documents with Bankston. There was no evidence that the records sent by Reynal to Bankston had all been previously shared with Bankston by plaintiffs' counsel, which would not matter anyway under the terms of the protective order.

[30] The Texas court had issued a similar protective order, although there were very few confidential records in the Texas lawsuit.

documents, the date he received them, the identity of anyone who had access to them, and confirmation of their destruction.[31] An hour after that email, the respondent texted Mattei, stating "Chris. Give me a call. I learned moments ago that my office may have violated protective order. Norm."

After trial ended for the day in Texas, Bankston telephoned Mattei, confirming that he had deleted the Connecticut plaintiffs' confidential documents. That evening, Reynal emailed Mattei, copying the respondent, indicating that he was "deeply troubled" by the "inadvertent disclosure." Five minutes later, Mattei responded, copying the respondent on the email, and reiterating the steps he wanted taken. The respondent then texted Mattei, stating "Hey. So Texas counsel mistakenly turned over stuff to Texas. Do you recall Zimmerman's ever having downloaded Alex's text messages?"

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[31] Bankston was not counsel of record in the Connecticut case and was prohibited from receiving the Connecticut plaintiffs' Highly Confidential-Attorneys Eyes Only records from any of Jones' defense counsel. Bankston was the third lawyer, after Lee and Reynal, to whom the Connecticut plaintiffs' confidential records were improperly disseminated.

On August 4, Reynal filed an emergency motion for protective order in Texas regarding the inadvertent production.[32] That morning, Mattei emailed the respondent, pointing out that Reynal was never counsel of record in the Connecticut cases and as such was barred from accessing the Connecticut plaintiffs' confidential information, and requesting further details from the respondent.[33] The respondent emailed Mattei back an hour later, conceding that Reynal was not counsel of record in this case, but positing that Reynal

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[32] The motion was denied, as the court found that the privilege had been waived under Tex.R.Civ.P.193.3. The court gave Reynal 24 hours within which to designate any documents as confidential, but Reynal did not make any such confidential designations.

[33] The entirety of the email is as follows:

Norm,

I write to follow up on our requests for detailed information concerning your and your office's handling of our clients' confidential information. To date, you have not provided me with a response remotely sufficient to assess the extent to which my clients' information was or remains at risk. I reiterate my request for an affidavit detailing the following:

1. The dates on which you transmitted Confidential Information to Attorneys Lee, Reynal, and/or their staff;
2. The manner in which you transmitted the Confidential Information;
3. An itemized list of the documents containing Confidential Information;
4. The identities of any individuals who had access to or to whom you transmitted the Confidential Information;
5. The disposition of any Confidential Information in the transferees' possession.

I request that you provide the affidavit to me by no later than COB tomorrow.

Thanks

was "working on the defense of this case and related cases" and therefore authorized to access the records. The respondent explained that they gave Reynal and Lee a copy of their file, that Lee turned his over to Reynal, and that the respondent had asked Reynal to return the file to the respondent. The respondent stated "I directed an associate to send our files to the two attorneys who requested them to defend Alex. I did not direct the associate to withhold the (Connecticut plaintiffs) information. If that is an error, responsibility for it falls on my shoulders." [34] A few minutes later, the respondent forwarded to Mattei an email from Reynal to the respondent, expressing Reynal's embarrassment, and reporting that Bankston represented to the Texas court that he had destroyed the Lafferty plaintiffs' records. Mattei then informed Reynal by email that according to the respondent, the materials that

[34]The respondent also explained that pursuant to the Texas court order, he was directing that every Connecticut plaintiffs' deposition, medical record, employment record or any other record provided by the Connecticut plaintiffs in discovery be designated as confidential and Attorneys Eyes Only. As discussed above, this was never done.

Reynal had been given by Lee were the confidential materials that the respondent had given to Lee, and he requested a sworn affidavit from Reynal. Mattei also emailed the respondent, requesting sworn affidavits from Reynal and Lee. Reynal emailed Mattei, stating that he was returning all the files to the respondent[35], that he had not shared the materials with anyone outside his firm, and that as he was awaiting the verdict in the Texas case, he could not prepare the requested affidavit.

On August 8, Mattei emailed Reynal, and then both the respondent and the respondent's attorney, reiterating his request for a detailed affidavit. Reynal responded by email the following day, indicating that he was now represented by counsel, and Mattei immediately emailed Reynal's counsel, repeating his request for an affidavit.

As indicated above, the show cause hearings were conducted on August 10,2022, August 17, 2022, and August 25, 2022.

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[35] At the time of Reynal's testimony on August 25, 2022, the copy of the hard drive remained on Reynal's computer.

Pre-trial discovery, including written discovery aimed at obtaining a plaintiff's medical, financial, and other such records, is the standard practice in civil cases by which a defendant can uncover facts and evidence. Discovery proceeds under the authority of the rules of the court, and counsel remain officers of the court during the discovery process, accountable to the court at all times. The litigants, their counsel, and the court expect that protected information uncovered during discovery, including personal identifying information such as social security numbers, and personal medical records such as mental health records, will be safeguarded and not disseminated. Litigants routinely turn over their most private and sensitive information to opposing counsel who are total strangers, and reasonably expect that opposing counsel will safeguard the information without even the need for a protective order. Indeed, our civil system of justice is premised on the trustworthiness of lawyers-officers of the

court—and we all rely on our lawyers to keep our information secure and safe.

Just as counsel remain officers of the court, the court has responsibilities as well. Here, the court's obligations are twofold. As always, the court is tasked with the responsibility of overseeing attorney conduct. Additionally, the court is obligated to supervise the discovery process so as to ensure the integrity of our adversarial system of justice.[36] While Connecticut law recognizes the fundamental importance of full and fair discovery in civil cases, such discovery must be conducted in good faith. And, importantly, even opponents have

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[36] "Indeed, for matters relating to courtroom conduct, judges have primary jurisdiction over lawyers who do not meet their obligations as officers of the court". *Corona v Day Kimball Healthcare,* Superior Court, Judicial District of Hartford, Complex Litigation Docket, 2018 WL 4955691 (Sept. 20, 2018, Moukawsher, J.)(suspending defense counsel following a show cause hearing for disruptive deposition conduct). See also *Picard v. Guilford House, LLC*, 178 Conn. App. 134(2017)(trial court properly sanctioned counsel for inappropriate conduct at the deposition of a non-party witness; sanctions were not barred by the fact that counsel had been reprimanded as a result of a grievance filed by opposing counsel based on the same misconduct); *Medina v. Statewide Grievance Committee*, Superior Court, Judicial District of Hartford at Hartford, 2017 WL 6803094 (December 1, 2017, Robaina, J.)(denying appeal from sanction of reprimand arising out of the service of deposition notices).

rights in our adversarial system that a lawyer is obligated to recognize and respect. That is, while our adversarial system is based on the marshaling of evidence in a competitive manner, improper tactics are prohibited. As stated in the Preamble to the Rules of Professional Conduct, "(a) lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice...Compliance with the Rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public opinion and finally, when necessary, upon enforcement through disciplinary proceedings". The Rules of Professional Conduct set limits on acceptable conduct so as to ensure the integrity of our adversarial system of justice.

The respondent was obligated to safeguard the plaintiffs' sensitive information by identifying it as such, and, when transmitting such information to an authorized recipient,

informing the recipient accordingly. Furthermore, the respondent was bound to comply with the provisions of the protective order, which were clear and unambiguous. The respondent was on notice of the need to safeguard the records by virtue of the court's written order stating the court's "grave concerns" that the Connecticut plaintiffs' confidential mental health and other medical records would be improperly disseminated, plaintiffs' counsel's repeated concerns, both orally and in writing, regarding their clients' confidential information, and Wolman's written warning to the respondent on March 28, 2022. Despite all of this, the respondent, incredibly, knowingly released the records to Lee and Reynal. Not only did he improperly release the records to Lee and Reynal, but he did so carelessly, taking no steps to designate the materials as protected by court order, mark them as confidential, or inform the recipients that they were in possession of sensitive and protected documents. Ultimately, the respondent's improper dissemination of the records, in conjunction with his failure

to maintain the records in a safe and secure manner, led to the Connecticut plaintiffs' most private information being improperly released to Lee, Reynal, and then Bankston, none of whom were counsel of record in any of the three Connecticut cases.

Rule 1.1. Competence

Rule 1.1 of the Rules of Professional Conduct states that "(a) lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation." The Official Commentary states in part that with respect to "Thoroughness and Preparation," "(c)ompetent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions

ordinarily require more extensive treatment than matters of lesser complexity and consequence." The Official Commentary explains that with regard to "Legal Knowledge and Skill," "(i)n determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question. In many instances, the required proficiency is that of a general practitioner". On "Maintaining Competence," the Official Commentary provides that "(t)o maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and

education and comply with all continuing legal education requirements to which the lawyer is subject."

In order to competently represent a client involved in civil litigation, an attorney must be able to responsibly engage in the discovery process, which routinely requires an attorney to safely maintain and securely transmit confidential materials such as medical records, personal identifying information such as social security numbers, and account numbers for financial institutions. This obligation to safeguard such sensitive information extends not only to a client's discovery materials, but to discovery materials produced by other parties. Additionally, when the court has issued a protective order in a case, a competent attorney must be familiar with its terms. Here, the respondent failed to provide even the minimal amount of attention and care required when it came to handling the plaintiffs' sensitive discovery materials.

The respondent violated Rule 1.1 by not giving the required attention to the plaintiffs' confidential records by failing to

designate the records in such a way that they were identified as sensitive medical records; by failing to designate the records in such a way that they were identified by court order as Highly Confidential-Attorneys Eyes Only records; by improperly disseminating the records to Lee, who was not authorized to receive them under the terms of the protective order; by improperly disseminating the records to Reynal, who was not authorized to receive them under the terms of the protective order; and by failing to inform Lee and Reynal both that the records were sensitive and that the records were protected by court order, such that Lee and Reynal could take appropriate steps to safeguard the records.

At a basic level, attorneys must competently and appropriately handle the discovery of sensitive materials in civil cases. Otherwise, our civil system, in which discovery of sensitive information is customary and routine, would simply collapse. Litigants would understandably be unwilling to turn over the sensitive, confidential or protected information that

would be needed to fully and fairly litigate a civil case without the assurance that the attorneys, as officers of the court, would safeguard their information[37].

The court finds by clear and convincing evidence that the respondent, in the course of his representation of the Jones' defendants, failed to act competently in the handling of the Connecticut plaintiffs' confidential records in violation of Rule 1.1, exposing the respondents' clients to possible sanctions, and resulting in harm to the plaintiffs, whose confidential records were distributed without their consent.

Rule 1.15 Safekeeping Property

Rule 1.15(b) provides in relevant part that "(a)lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property...Other property shall be

[37] While the cases at issue, pending on the court's Complex Litigation docket, were high profile with significant legal issues and clearly fall within the "major litigation and complex transactions" contemplated by the Official Commentary, the complexity of the case played no part in the respondent's misconduct. The obligation to safeguard sensitive records is a basic one.

identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of seven years after termination of the representation". The Official Commentary provides that "(a) lawyer should hold property of others with the care required of a professional fiduciary." While typically this rule is applied to monetary funds and co-mingling of funds, the rule expressly refers to "other property"-property other than money—and extends to property of third persons which would include the plaintiffs. The respondent failed to safeguard the plaintiffs' property by failing to designate the records in such a way that they were identified as sensitive medical records; by failing to designate the records in such a way that they were identified by court order as Highly Confidential-Attorneys Eyes Only records; by improperly disseminating the records to Lee, who was not authorized to receive them under the terms of the protective order; by improperly disseminating the records to Reynal, who

was not authorized to receive them under the terms of the protective order; and by failing to inform Lee and Reynal both that the records were sensitive and that the records were protected by court order, such that Lee and Reynal could take appropriate steps to safeguard the records.

The court finds by clear and convincing evidence that the respondent, in contravention of Rule 1.15(b), violated his obligation to safeguard the plaintiffs' property.

Rule 3.4. Fairness to Opposing Party and Counsel

Rule 3.4(3), Fairness to Opposing Party and Counsel, provides in relevant part that "(a) lawyer shall not (k)nowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists."[38] The court flatly rejects the respondent's arguments in his brief that any non-compliance with the protective order was an inadvertent mistake or misinterpretation of the

[38] Rule 1.0 defines knowingly as "actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances."

protective order. The respondent, who on August 3,2022, admitted that his office may have violated the protective order, was unconcerned with the plaintiffs' confidential information, as evidenced by his use of same in his motion to depose Clinton, and by his total disregard of Lee's question to him about the protective order.

The court finds by clear and convincing evidence that the respondent knowingly disobeyed the protective order by failing to keep the records in a safe and secure manner and by releasing the protected records to Lee and Reynal, both unauthorized recipients, in violation of Rule 3.4(3).

Rule 5.1. Responsibilities of Partners, Managers, and Supervisory Lawyers

Rule 5.1(b), Responsibilities of Partners, Managers, and Supervisory Lawyers, states that "(a) lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct." 5.1(c) provides that "(a) lawyer shall be responsible for another lawyer's violation of the Rules of

Professional Conduct if:(1) The lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or (2) The lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action." The Official Commentary explains that subsection (b) "applies to lawyers who have supervisory authority over the work of other lawyers in a firm." It further states that"(s)ubsection (c) expresses a general principle of personal responsibility for acts of another... Subsection (c)(2) defines the duty of a partner or other lawyer having comparable managerial authority in a law firm, as well as a lawyer who has direct supervisory authority over performance of specific legal work by another lawyer. Whether a lawyer has supervisory authority in particular circumstances is a question of fact. Partners and lawyers with comparable authority have at least indirect responsibility for

all work being done by the firm, while a partner or manager in charge of a particular matter ordinarily also has supervisory responsibility for the work of other firm lawyers engaged in the matter. Appropriate remedial action by a partner or managing lawyer would depend on the immediacy of that lawyer's involvement and the seriousness of the misconduct. A supervisor is required to intervene to prevent avoidable consequences of misconduct if the supervisor knows that the misconduct occurred".

Atkinson, an associate at the respondent's firm and a member of his "team," transferred the confidential documents to Lee at the direction of the respondent. The respondent admitted in his August 4, 2022 email to Mattei that he directed "an associate" to send their files to "the two attorneys who requested them" and that he did not instruct the associate to withhold the Connecticut plaintiffs' confidential information.

The court finds by clear and convincing evidence that the respondent violated Rules 5.1(b) and 5.1(c) by directing his

associate to transfer the plaintiffs' protected records to Lee and Reynal, both unauthorized recipients, without proper safeguards and without properly notifying Lee and Reynal that the plaintiffs' sensitive and protected information was being transferred. Additionally, the court finds by clear and convincing evidence that the respondent violated Rule 5.1(c) as the respondent, as sponsoring attorney for Reynal, assumed responsibility for Reynal's actions in connection with said records—specifically, Reynal's failure to "clawback" the records-- that the respondent had improperly transmitted to Reynal.[39]

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[39] Reynal was admitted to practice in Connecticut pro hac vice by this court on July 20, 2022, and at that point the respondent, as the sponsoring attorney, assumed full responsibility for the actions of Reynal in connection with the matters. Had Reynal filed an appearance, he would have been counsel of record in these actions and as such authorized at that point to receive the plaintiffs' confidential records. In fact, the respondent skirted the rules and allowed Reynal access to the confidential records before Reynal filed an appearance--in fact, before the respondent even filed the application for pro hac vice. The respondent cannot escape responsibility here for Reynal's actions in connection with plaintiffs' protected records, when the respondent was the sponsoring attorney for Reynal, allowed Reynal to have the records before Reynal was counsel of record, and took no action to retrieve the records following the July 26, 2022 "withdrawal" of Reynal's pro hac admission.

Rule 8.4. Misconduct

Rule 8.4(4) provides in relevant part that "(i)t is professional misconduct for a lawyer to...(e)ngage in conduct that is prejudicial to the administration of justice. "[R]ule 8.4 (4) casts a wide net over an assortment of attorney misconduct. O'Brien v. Superior Court, 105 Conn. App. 774, 805, 939 A.2d 1223 (DiPentima, J., concurring in part and dissenting in part), cert. denied, 287 Conn. 901, 947 A.2d 342 (2008).

The court finds by clear and convincing evidence that the respondent's abject failure to safeguard the plaintiffs' sensitive records, as well as the respondent's inexcusable disregard and violation of the clear and unambiguous terms of the protective order, which limited access to the plaintiffs' Highly Confidential-Attorneys Eyes Only documents to counsel of record in the Connecticut state court actions, and which limited the use of said records to "the preparation and trial of this case, all cases consolidated with this case, and in any appeal taken from any order or judgment herein" violated Rule 8.4.

"An attorney as an officer of the court in the administration of justice, is continually accountable to it for the manner in which he exercises the privilege which has been accorded him. His admission is upon the implied condition that his continued enjoyment of the right conferred is dependent upon his remaining a fit and safe person to exercise it, so that when he, by misconduct in any capacity, discloses that he has become or is an unfit or unsafe person to be entrusted with the responsibilities and obligations of an attorney, his right to continue in the enjoyment of his professional privilege may and ought to be declared forfeited." *In re Peck,* 88 Conn. 447, 450, 91 A.2d 274 (1914). An attorney must conduct himself or herself in a manner that comports with the proper functioning of the judicial system." (Internal quotation marks omitted.) *Notopoulos* v. *Statewide Grievance Committee,* 277 Conn. 218, 232, 890 A.2d 509, cert. denied, 549 U.S. 823, 127 S.Ct. 157, 166 L.Ed.2d 39 (2006).

"If a court disciplines an attorney, it does so not to mete out punishment to an offender, but [so] that the administration of justice may be safeguarded and the courts and the public protected from the misconduct or unfitness of those who are licensed to perform the important functions of the legal profession." (Internal quotation marks omitted.) *Statewide Grievance Committee* v. *Shluger,* 230 Conn. 668, 674-75 (1994).

Connecticut courts have utilized the American Bar Association's Standards for Imposing Lawyer Sanctions as a guide for assessing appropriate discipline, and the Connecticut Supreme Court has approved this approach. *Burton* v. *Mottolese, supra,* 267 Conn. 55. The standards provide that the court, after a finding of misconduct, should consider "(1) the nature of the duty violated; (2) the attorney's mental state; (3) the potential or actual injury stemming from the attorney's misconduct; and (4) the existence of aggravating or mitigating factors." A.B.A., Standards for Imposing Lawyer Sanctions (1986) Standard 3.0; Listed as aggravating factors are "(a) prior

disciplinary offenses; (b) dishonest or selfish motive; (c) a pattern of misconduct; (d) multiple offenses; (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency; (f) submission of false evidence, false statements, or other deceptive practices during the disciplinary process; (g) refusal to acknowledge wrongful nature of conduct; (h) vulnerability of victim; (i) substantial experience in the practice of law; (j) indifference to making restitution and (k) illegal conduct, including the involving the use of controlled substances." A.B.A., Standards for Imposing Lawyer Sanctions (1986) Standard 9.22.

Listed as mitigating factors are "(a) absence of a prior disciplinary record; (b) absence of a dishonest or selfish motive; (c) personal or emotional problems; (d) timely good faith effort to make restitution or to rectify consequences of misconduct; (e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings; (f) inexperience in

the practice of law; (g) character or reputation; (h) physical disability; (i) mental disability or chemical dependency including alcoholism or drug abuse when: (1) there is medical evidence that the respondent is affected by a chemical dependency or mental disability; (2) the chemical dependency or mental disability caused the misconduct; (3) the respondent's recovery from the chemical dependency or mental disability is demonstrated by a meaningful and sustained period of successful rehabilitation; and (4) the recovery arrested the misconduct and recurrence of that misconduct is unlikely; (j) delay in disciplinary proceedings; (k) imposition of other penalties or sanctions; (l) remorse; [and] (m) remoteness of prior offenses." A.B.A., Standards for Imposing Lawyer Sanctions (1986) Standard 9.32.

Having found misconduct on the part of the respondent, the court now assesses the appropriate discipline. The duties implicated, to the plaintiffs and the legal system, are important ones. The respondent had an obligation to safeguard

the plaintiffs' sensitive medical and financial information obtained during discovery. The court agrees with Disciplinary Counsel that the respondent's breach of this duty should be observed in the context of the litigation; here, the plaintiffs were seeking redress against the defendants for personal attacks in a hotly contested case.[40] The respondent's breach of that duty subverts proper legal procedure, has a chilling effect on the exchange of discovery and is antithetical to the proper administration of justice. With respect to the respondent's mental state, the court has found that the respondent acted knowingly and intentionally in disregard of both his obligations as an officer of the court to protect the plaintiffs' sensitive information, and in violating the protective order. With respect

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[40] This case has an unique history. Before the misconduct involving the plaintiffs' sensitive records, the unusual aspects of the case included threats made by Jones to plaintiffs' counsel, reported threats made against the court by individuals on the defendant Infowars, LLC. website, discovery materials produced by the Jones defendants which contained images of child pornography, the respondent's aforementioned violation of the protective order with regard to the Clinton deposition, and the Jones defendants' failure to comply with court orders regarding discovery which resulted in a default against them.

to actual or potential injury, the plaintiffs' sensitive, protected records were passed around to Lee, then to Reynal, then to Bankston, without their consent. In addition to the actual harm the plaintiffs suffered by the unauthorized dissemination of the medical and other records, the potential harm is stunning, as suggested by Disciplinary Counsel. As it was, the unauthorized disclosure to Bankston was revealed on the record in a public trial in Texas that was livestreamed, and easily could have been made part of the record in the Texas case, or otherwise disseminated because the materials were not identifiable as confidential, sensitive, or protected. In short, there is both actual and potential injury here.

Turning to mitigating factors, the respondent has no prior public disciplinary record, and there is an absence of a dishonest or selfish motive. The court attributes some minimal credit for the respondent's initial disclosure to plaintiffs' counsel, although that disclosure fell far short. The court declines to credit as a mitigating factor good reputation or

character, despite the witnesses who testified on the respondents' behalf, given the court's own observations regarding the respondent's character during the course of this proceeding.

There are several aggravating factors. The respondent was the subject of a grievance arising out of this litigation where, after a public hearing, the reviewing committee was critical of the respondent's level of diligence in connection with an affidavit filed with the court, concluding that the respondent was "sloppy with regard to the execution of the affidavit and that he exercised bad judgment." Danbury Judicial District Grievance Panel v Norman A. Pattis, #19037. An additional aggravating factor is the respondent's failure to acknowledge the wrongful nature of the conduct by invoking the Fifth Amendment and electing not to answer the questions of Disciplinary Counsel. Another aggravating factor is the vulnerability of the plaintiffs, whose personal, sensitive information was disseminated without their consent in a case

where the claim was that they were victimized already by the Jones defendants. Finally, the court considers as an aggravating factor the respondent's substantial experience in the practice of law. He has been a member of the Connecticut bar for nearly thirty years, having been admitted in 1993. Simply put, given his experience, there is no acceptable excuse for his misconduct.

We cannot expect our system of justice or our attorneys to be perfect but we can expect fundamental fairness and decency. There was no fairness or decency in the treatment of the plaintiffs' most sensitive and personal information, and no excuse for the respondent's misconduct. For these reasons, the court agrees with the recommendation of Disciplinary Counsel and hereby orders that the respondent is suspended from the practice of law in the State of Connecticut for a period of six months.

BY THE COURT

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Bellis, J.