



Presents

Commanding the Room: Strategic Communication & Conflict Management for Women in Law

March 11, 2025
1:00 pm - 2:00 pm

Presenter: Robyn Hatcher
Moderator: Michele S. Mirman, Esq.



Robyn Hatcher is a dynamic, keynote speaker, communication expert & consultant. As a former actor & soap opera writer for the iconic shows, *All My Children* & *One Life to Live*, she once got paid to create drama. Now she is passionate about helping organizations and individuals improve productivity and engagement by lessening the drama in their workplace and their life. A lifelong learner, Robyn is a Certified Speaking Professional: Certified Neuro Linguistic Programming Practitioner & Exactly What to Say Certified.

Robyn has successfully spoken to, trained and coached thousands of business

professionals from Fortune 500 companies and noteworthy brands like - UBS, Equitable, Alliance Bernstein, Morgan Stanley, JP Morgan, Raymond James, Lifetime Television, PayPal, Spotify, Con Edison, Hewlett Packard and many others.

In 2019, Robyn received recognition as one of the 21 women of the 21st Century by Ewomen's News. Her book, *Standing Ovation Presentations*, introduces her unique communication-style system called ActorTypes – a game-changer for those looking to master their communication.

Fun Fact - Because of her long running TV commercial for the New York Times, Robyn was parodied by none other than Hallie Berry on *Saturday Night Live*!

In addition to her speaking career, Robyn was also a managing partner with the Practice Management Consultants, LLC, where she and her team of Subject Matter Experts (SMEs) support Financial Services Firms on diversity & inclusion, sales & communication, and leadership & learning.

Robyn has written several screenplays and was a staff writer for ABC's iconic shows *One Life to Live* and *All My Children*.

In 2019, Robyn received recognition as one of the 21 women of the 21st Century by Ewomen's News. Her book, *Standing Ovation Presentations*, introduces her unique communication-style system called ActorTypes – a game-changer for those looking to master their communication skills. When she's not on stage, Robyn lives in New York City with her husband, Ken Becker. And she's the proud mom of Nolan Becker – a former minor league baseball pitcher, Yale and Wharton grad.



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Biography

Michele S. Mirman, Esq., has been a practicing trial attorney for 47 years and is the founder and head of her own seven-attorney plaintiff's medical malpractice, personal injury and construction firm, Mirman, Markovits & Landau, P.C., which she established in 1991. She has represented over 10,000 New Yorkers in all manner of cases, including bullying, failure to protect from assaults and rapes, road design, subway, bus and car accidents, and general liability cases.

Ms. Mirman is a former President of the Brooklyn Women's Bar Association and the New York State Trial Lawyers Association and is the current President of the Brooklyn Women's Bar Association Foundation, which she helped found. She has lectured on trial tactics, running a firm, prosecuting personal injury cases, and women's medical malpractice cases.

Ms. Mirman has helped create scholarships for law school students through the Brooklyn Women's Bar Association Foundation and for college students through the Mirman Family Foundation. As a member of *AllinBklyn*, a Brooklyn women's giving circle, Ms. Mirman supports Brooklyn charities that provide training and jobs for Brooklynites, and for the past ten years, Ms. Mirman has been a trustee of the Lower East Side Tenement Museum, which celebrates the achievements and contributions that immigrants have made to our country. She is also the President of Bear Givers, Org., a non-profit that seeks to empower disabled children through art shows that they contribute to and through kindness programs that they participate in.

She is admitted to the bars of New York, New Jersey, California, Connecticut, Florida, Washington D.C., and the Federal Court of New Jersey, the Eastern and Southern Districts of New York, and the Supreme Court of the State of New York.

Materials

- Standing Ovation Presentations by Robyn Hatcher, Chapter Excerpt
Vocal Chapter Excerpt
- Discover Your Attorney Actor Types by Robyn Hatcher
- New York State Unified Court System – Rules of Professional Conduct
Rule 1.1 Competence
Rule 8.4 (c)(e) and (h) Misconduct
- 22 NYCRR Part 1200, Appendix A STANDARDS OF CIVILITY As Amended January 24, 2020
- Matter of Manchada
2024 NY Slip Op 05833
November 21, 2024
A. D. 1st Department)
- Hindlin v Prescription Songs LLC
2022 NY Slip Op 32601 (U)
July 30, 2022
Supreme Court, New York
Index No. 651974/2018
Judge: Andrea Masley

ROBYN HATCHER

STANDING OVATION PRESENTATIONS

**DISCOVER YOUR COMMUNICATION
"ACTORTYPE" AND LET IT SHINE**

**REVISED
TO INCLUDE
VIRTUAL
PRESENTING**

CHAPTER EXCERPT

YOUR SOUNDTRACK

VOICE AND VOCAL TONE

The birth of the talkies is the basis for the movies *Singin' in the Rain* and *The Artist*. Both movies illustrate how with the birth of talkies, many Hollywood actors became unemployable. Why? Because Hollywood knew all too well how much gets communicated through the tone of the voice. Hollywood knew that certain stars would not be as credible or likable to audiences once audiences heard the actors speak.

What Makes up the Vocal Element of Communication?

When we talk about vocal quality or tone, we're talking about:

- **Volume**—Is it too loud or too soft?
- **Resonance**—Is there a rich, full tone to the voice? Or Is it thin and tinny?
- **Pitch**—Is it deep with low tones like Barry White's, or higher pitched?
- **Articulation**—Are the individual sounds clearly pronounced, or are they soft and mushed together?
- **Intonation**—Is there variety in the tones, or does every word come out with the same tonality—monotone? This is also where accents, regionalisms, and dialects come into play.
- **Pace**—Do the words tumble out quickly, or do they come out very slowly?

A combination of all these qualities makes up your soundtrack. When one of these factors becomes distracting to your listener, you run the risk of losing credibility and/or likeability, just like some silent film stars did. Although it's commonly said that the eyes are the windows to the soul, I once heard

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someone state the voice is the window of the heart. I love that thought. I find it to be absolutely true. The depth of your character, strength of your convictions, and connectedness to your purpose can all be communicated through the tone of your voice.

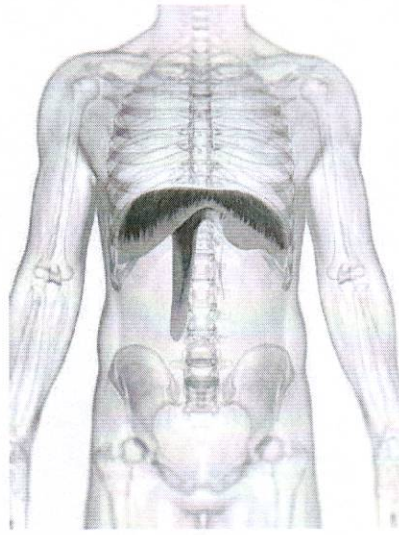
Tuning Up Your Tone

Improving your vocal tone can be just as important as improving your muscle tone. It can also require just as much work. Despite what they tell you on infomercials if you want to build healthy, strong muscles, there is no magic bullet. Going from flabby to buff requires hours of consistently doing strenuous, repetitive exercises. Changing your vocal tone requires the same amount of consistency and dedication. But it can be done. I know because I did it. As a child, as if being called “Shai” wasn’t bad enough, I was also told that I had a high-pitched voice. My family called it a “fry” voice. (I have no idea where that came from.)

With the acting I did in high school, my voice had taken on a slightly deeper tone. But it was when I went to college and majored in theatre that my voice was really given a workout. As a theatre major, I had mandatory voice and diction classes three times a week at eight o’clock in the morning for four years! We did drills and exercises targeting each of the six elements that I listed above. After four years of training, it is safe to say that my voice is no longer cute or high-pitched. I am happy to report that my voice is now often the first thing people notice and remember about me. I’ve also done radio commercials and film voice work based on the quality of my voice.

I know firsthand that having a strong, clear, powerful voice is a surefire way to get and hold people’s attention. It is unbelievable how many times I have been able to get my point across during noisy, chaotic meetings or meandering discussions purely by using the power of my voice.

So what did I learn in my early-morning voice and diction classes that turned my “fry” voice into a power voice? The first and most important thing I learned was how to speak from the diaphragm.



The **diaphragm** is a sheet of muscle extending across the bottom of your rib cage. In order to produce and support a strong, powerful voice, the diaphragm muscle needs to be strong and flexible. Many people (notably women)) bypass their diaphragms and use their throat muscles and vocal cords to produce sound. This often leads to a higher-pitched, thinner sound. Males are typically better at engaging their diaphragms for reasons I have yet to discover, but

everyone can benefit from strengthening this muscle so that their voices are supported, full, and easily projected.

I always knew how important speaking from the diaphragm was, and for years talked about how using your diaphragm during long presentations keeps you from hurting your throat. Then I was given the “opportunity” to put this theory to the test. The day before a big presentation, I felt a chest cold settling in. By midafternoon, I had a full-blown case of laryngitis. My throat was infected, and it was very difficult to speak. I ran to the store and bought every medication I could find, and rested my voice for the rest of the night. The next morning the infection had made my voice very tight sounding and full of cracks and breaks. Since it was not possible to cancel or postpone the presentation, I went in anyway. When it was time to present, instead of using my throat, I used my stomach muscles to push air through my diaphragm to produce a resonant, though very husky, sound. I got through the whole presentation without having to tax my infected

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vocal cords. That day taught me exactly just how important having a strong diaphragm is.

Below are some of the breathing exercises designed to engage and strengthen the diaphragm muscle. But just as reading about sit-ups won't get you a six-pack, reading about strengthening your diaphragm won't improve your tone. It's important for you to work on these exercises at least two to three times a week. To hear examples of the exercises and for a complete guided vocal workout, pick up a copy of my *Vocal Workout* CD, available on Amazon, Spotify, and on my website: www.RobynHatcher.com



Try It Out:

Diaphragmatic Breathing:

This is a basic breathing exercise similar to breathing exercises in yoga, meditation, or Pilates.

Do this exercise in front of a mirror so that you can see your rib cage expanding.

- Place your hands around your lower rib cage, thumbs hugging the back ribs, fingers pointing towards the front.
- Inhale deeply through your nose, filling your belly first, then your chest.
- Feel your ribcage push against your hands as it expands. This is caused by your diaphragm muscle expanding and dropping as the air pushes against it. If you are in front of a mirror, you should be able to see your hands move away from each other.
- Your shoulders should not rise when you breathe in. If you notice your shoulders up by your ears, you're holding on to too much tension. Breathe out and try it again and think of the air expanding, not lifting.

- Now exhale, letting the air out very slowly. Keeping your hands on your rib cage, make sure it remains expanded until all the air has been released. Watch your hands and make sure they remain separated.
- When all the air has been released, collapse your ribcage and then breathe in again.
- Repeat several times until it feels easy to breathe this way.

Diaphragm Push-Ups:

This exercise strengthens your diaphragm muscle so that it can better support your breath and produce richer, stronger tones. This is especially helpful for women who want to add resonance and richness to their voices and for men who want to sound stronger and more confident.

- Place two of your fingers in the center of your rib cage. You should feel a soft indentation.
- Repeat the above breathing exercise, but instead of slowly letting the air out, press your stomach muscles in to send the air up through your diaphragm and let out a series of short “ha” sounds. This should be a staccato sound that feels like it is coming from the center of your chest. You should not experience any throat tension as you make this sound.
- As you let out the short staccato “ha” sounds, you should be able to feel a muscle moving in and out through the soft indentation in your chest. That is your diaphragm muscle in action.
- If you are not sure if you are getting the right sound, try letting out a deep sigh. When we let out a deep sigh, the sound that escapes is usually produced by our diaphragm. Once you feel the vibration that happens in your diaphragm when you sigh, go back and try to do the exercise from that place.
- Do several sets of diaphragm push-ups daily, and I guarantee that you will begin to notice a richer tone to your voice.

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Volume / Projection

It's infuriating to sit through a lecture or presentation and not be able to hear the speaker clearly. If you've ever been in that situation, I'm sure you have observed or have even been the lone audience member who chooses to address the situation. "SPEAK UP!" they shout as if the speaker has committed a personal affront. And "in fact," he has. Audience members have many other things to do besides attend your meeting or presentation. It can feel disrespectful and insulting if the speaker uses a volume that carries only to the front two rows. Be cognizant of the fact that when you are doing a presentation or speaking at a meeting, you should not speak at the same volume as you would during a personal, one-on-one conversation. There needs to be a different energy, and part of that energy should be achieved by raising your volume. I am not suggesting you yell or strain your voice. The most effective way to raise your volume and produce the additional energy you need for meetings or presentations is to speak from your diaphragm and not your throat.

If you've done the above exercises, you will now be able to locate, activate, and strengthen your diaphragm muscle. Try the following exercise to practice using your newfound diaphragm to project your voice over longer distances without straining your throat or vocal chords.



Try It Out:

Projection Practice

Caution: You might want to do the following exercises when home alone.

- Take a breath using diaphragmatic breathing; instead of exhaling, say the sentence: "*We have exceeded our goal for the quarter*" (or any other line you choose).
- Now, repeat the phrase as if you are speaking from a stage to a large crowd 20-30 feet in front of you. Really visualize your voice

shooting out and hitting a wall in the far distance. If you happen to be in a tiny room, face a window and imagine your voice shooting into the building next door or across the street.

- Make sure the sound is coming from the diaphragm and not the throat. You should be able to feel the difference based on the amount of tension in your neck and throat. If you feel strain or tension, you are using your throat muscles and not your diaphragm. Keep trying until you can feel the difference.
- Now try doing this WHILE also doing **The Chop** gesture we spoke about in the last chapter. Using **The Chop** can help strengthen your vocal tone.
- When you think you've spoken as loudly as possible, try to go one decibel louder. I'm sure you have it in you!

During a Presentation:

Imagine sending your voice to the last person in the last row. Your goal, with any presentation, should be to affect everyone within earshot. If you put your attention to making sure the last row hears you, your projection will most likely be adequate. In rare cases, audience members will complain that the speaker is too loud. That complaint is usually due to the fact that the speaker has limited vocal variety and/or resonance, so the audience feels as though they are being shouted at OR that the microphone is much livelier than the speaker realized.

And remember, presentations are two-way streets. If you don't know whether you are being heard or whether you are speaking too loudly—ASK!

What about Microphones?

It's difficult to give general advice for microphone use as there are hundreds of different types of microphones. Hand-held, body mike (lavalier), standing mike, directional mike, and the list goes on. And each type of mic comes in many amplifications.

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If you are speaking somewhere where you are going to be using a microphone (and if you are speaking to more than 20 people, I suggest you use one.), see if you can get an opportunity to test the equipment beforehand. Some are extremely sensitive. You can practically whisper in the direction of the microphone and be heard. Others, you have to speak directly into the “live” part of the mic or your voice will not be amplified. It’s very difficult for you to know if the mic is effective on your own.

Most venues will have a sound technician working with the presenters, so get to your presentation early enough to ask them how “live” the microphone is and whether you can do a soundcheck. They will probably be sure to test you for “levels” before you begin.

If there is no technician and/or you are not able to practice with the equipment beforehand, be sure to check in with your audience before you launch into your presentation. Be sure to be confident in the way you ask and not apologetic. You are asking because you don’t want them to miss a word of what you are saying. “*How’s the volume?*” vs. “*Can you hear me okay?*” If you forget to ask, make sure you are paying close enough attention to your audience to notice if anyone is straining to hear or covering their ears.

Microphone or no microphone, you still need to speak from your diaphragm. Using your diaphragm muscles protects your throat from overuse and abuse and creates a much more resonant, powerful, and pleasant sound.

Vocal Resonance

Resonance (noun) the quality in a sound of being deep, full, and reverberating. (*Oxford Languages*)

When we talk about vocal resonance for speaking, we are talking about the sound or amplification of your voice as it vibrates in three different areas

of your body: the chest, the nose, and the facial mask (the area behind your face).

When you hear voices that sound thin, shrill, or nasal, it is because the vocal sound is vibrating primarily in only one or two of the three areas. In order to have an interesting resonant voice, it is important to learn how to make sound vibrate in all three of your vocal resonators.



Try It Out:

Resonance Exercise

The following exercise provoked a lot of laughter and resistance when I first learned it in college, but in time, my thin, high-pitched voice morphed into the resonant voice I have today. I no longer make fun of this exercise and use it regularly with clients. It is designed to activate and warm up all three of the vocal resonators.

- Take a deep diaphragmatic breath in.
- Place your hands on either side of your nose and repeat the sound “NEE” pushing the air towards your nasal cavity.

“NEE, NEE, NEE”

Feel your nasal cavity vibrate?

Now move your hands to just underneath your chin and repeat the sound “NOO”: “NOO NOO NOO”

- Feel for the vibration of your vocal folds, which should vibrate within the entire facial mask.
- Next, place your hands on your chest and say “NAH” “NAH, NAH, NAH!”

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You should feel your chest vibrate. The goal is to produce a full, rich sound from your chest and diaphragm. Make sure your throat is relaxed with no strain or tension.

Repeat this exercise going up and down in pitch to add variety to your tone. For a full and resonant voice, it is important to activate all of these resonators when you speak. By doing this exercise, you can strengthen and activate the resonators that are weak.

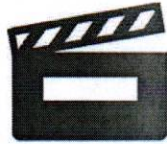
The Rain in Spain—Articulation and Pronunciation

Having a strong, resonant voice is only half the battle. You still have to be able to pronounce words so that people can easily understand them.

To fully metamorphose from ugly duckling to swan, Eliza Doolittle (*My Fair Lady*), Billie Dawn (*Born Yesterday*), and many other movie heroines are subjected to hours of grueling articulation exercises. And let's not leave out Colin Firth (*The King's Speech*). In the above examples, our Heroes also had accents, speech impediments, and dialects to overcome. However, many native speakers with no discernible dialect, accent, or impediment are still difficult to understand because of poor articulation.

Poor articulation can often be attributed to weakness, underdevelopment, or "laziness" in the muscles of the **lips** and the **tongue**. Yes, they have muscles too! These muscles need to be toned in order to do their jobs effectively. And just like arms, legs, and diaphragms, the tongue and the lip muscles can get stronger with exercise.

My first year in pronunciation classes, I was accused of having a "lazy tongue." I am not making this up. My family already had told me I had a high-pitched voice, and here my diction teacher tells me I have a lazy tongue! Fortunately, I was able to whip my lazy tongue into shape through some of the following exercises.



Try It Out:

The Warm-Up

Horse Flutters—AKA Giving the Raspberry

- Take a deep breath.
- Force air through your lips, making a “BRRR” sound.
- Let the sound vibrate energy to your lips.
- Go up and down in pitch to add musicality.

Tongue Flutters—AKA Spanish “R”

- Roll the tongue, vibrating it against the alveolar ridge, making an “r” sound.
- Go up and down in pitch.

I realize that, genetically, some people aren’t able to do this. If you are one of them, skip to the next exercise.

The Work-Out

Now that your tongue and lips are warmed up let’s put them to work. Below is a series of Articulation Drills. These drills are designed to engage the muscles of your lips, tongue, and mouth that are involved in making challenging vowel and consonant combinations.

You may find some more difficult than others. The degree of difficulty will vary depending on where you were raised and what pronunciation habits you have developed. Regardless of whether or not you find a drill challenging, it is a good idea to work on all of the sentences to strengthen and tone your instrument.

My personal favorite and most universally helpful drill is:

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“THE TEETH, THE LIPS, THE TIP OF THE TONGUE.”

If you don't do any other of the drills regularly, you should use this drill before you have to give a speech or presentation.

To get the most out of this exercise and all the exercises to follow, it is important to overly exaggerate the formation of the sounds. For example, to make the “T” sound, the tip of your tongue should tense and touch the ridge right behind your top teeth with a force strong enough to move the flame of a candle.

For the “th” sound, make sure the tip of the tongue is forcefully pushing air between the teeth.

Also, work the final “P.” The letter P (along with the letters K and T) is called a plosive. Make sure it explodes with a burst of air.

Of course, in normal speech, I'm not advising you to exaggerate like I'm suggesting here, but this is a workout. We lift ten -pound weights at the gym to prepare us to lift five-pound bags of groceries.

Once you feel comfortable clearly and precisely articulating this sentence, work on seeing how quickly you can repeat it ten times in a row, with the same precision and clarity.

More Articulation Drills:

Below are a few more challenging sentences to practice with. Be sure to exaggerate each sound and finish each word. I've listed the consonant combinations that are being targeted in each sentence, but make sure to clearly articulate even the nontargeted consonants.

(SH, S)

If you wish to speak clearly, just practice sincerely
Sally sells seashells by the seashore.

Standing Ovation Presentations

(STS, SPS, SKS)

She will suggest some more tasks
Shelly grasps the risk of asking for the disks.

(L IN FRONT OF FRONT VOWELS)

I felt a chill in the newly built hotel
I still feel ill will from Bill
Phil revealed his guilt

(TR, DR, STR)

I will try to draft an attractive construction contract
He has extraordinary strength and is extremely industrious

(KT)

She asked me to connect her to neglected districts
He worked hard and liked to reflect on his mistakes

(NG)

The angry gangster strangled him with a hanger.
She keeps insisting on speaking English all morning long.

(BEGINNING S)

Steve straightened out the style of his speech.
He stares at his screen and studies statistics.

(T FOLLOWED BY L AND N)

He'd written a title settlement for the gentlemen I'd forgotten the
metal buttons rattled.

Of course, you can also practice with traditional tongue twisters, for instance:

If peter piper picked a peck of pickled peppers, how many pickled
peppers did peter piper pick?

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The Cork Exercise

Here's an additional exercise I highly recommend if you know that you have problems with enunciation and articulation. It's going to sound odd, and you will most likely feel very silly doing it, but be thankful that you're doing it in the privacy of your home and not in a class—as I did and as my students now do. You may recognize versions of this exercise if you've seen either *The King's Speech* or *The Great Debaters*.

You will need a wine cork and a napkin or paper towel.

Place the wine cork lengthwise between your top and bottom teeth. If you have a small mouth, you can cut the cork a bit. But you want to have the feeling of your mouth being stretched to its capacity. Your lips, with a lot of work, should be able to close over the cork. Keep the tip of your tongue pressed against the bottom of the cork. Do not move it. Now choose something to read. It could be a draft of a speech you're working on, or it could be the morning newspaper. Read it **WITH THE CORK IN YOUR MOUTH**, keeping the tongue pressed against the bottom of your cork. Yes, it is going to sound ridiculous and virtually impossible to understand. It's supposed to.

After reading several sentences, remove the cork. (By now, you may have figured out that the paper towel is for wiping away the excess saliva that gets produced by doing this exercise.) Now, read the same passage again. You should be able to notice how easily your tongue moves from sound to sound. You may also notice that your throat has relaxed, giving you a warmer, richer tone. Tape yourself doing this exercise and see if you can hear the difference.

Your Sound Is Music

Stress, Pitch, and Intonation

A common problem for speakers and a complaint of listeners is that a presentation is delivered in a **MONOTONE**. Monotone, as the word implies,

means that every word is expressed using pretty much the same pitch, volume, and tone. Speaking in a monotone doesn't give the listener clues as to what word or words you want to emphasize—what words or thoughts you think are important. It also doesn't enable the listener to feel your passion. Using a monotone will make you and your presentation seem boring and monotonous, even if the material is interesting. It's a surefire way to put your audience to sleep.

To me, a speech or presentation can be compared to a great piece of music. In music, there are high notes, low notes, sustained notes, staccato notes, loud horns, and soft violins. Imagine a symphony in which every note is played the same way.

Sound in movies is also extremely important. Every movie award show has several categories devoted to sound. And it's not just about being able to hear the actors' voices—the entire mood of a film can be dictated by the “score” that the director chooses to play under or through each scene. Sometimes those scores are so subtle we may not even notice them, and sometimes they are so intrusive as to be distracting.

In daily speech, most of us “score” our conversations naturally. When we are excited about something, our listener knows this by the way the pitch of our voice rises. When we really want to make sure someone understands what we say, we might say a word louder, linger over it longer, or pause before and after it.

However, I have found when clients start to deliver a speech or engage in a business conversation or presentation, all that natural emphasis disappears. All I hear are words. One after another, with no clue as to whether one word or word cluster has more importance than any other.

It is important when making a presentation to pay attention to emphasis, intonation, and stress. A sound designer can enhance or distract from your movie going experience based on what music he chooses in a particular

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scene. Similarly, as a presenter, how you choose to emphasize your “focus words” or “focus thought” groups enhances or detracts from your listeners’ experience.

Focus words and focus thought groups are the words or thoughts that you really want your listeners to pay attention to. They can be scored in the following ways:

- Pausing before and after the word
- Raising or lowering the volume
- Raising or lowering pitch
- Stressing each syllable in a word
- Slowing down or speeding up

Of course, it would be unrealistic to think you will be able to sit down and score every presentation or conversation you have before you deliver it. Yes, Prince Albert did it in the *King’s Speech*, but most of us don’t have that kind of time, such a dedicated coach, or, frankly, such high stakes. There is an easier way to train your voice to be more expressive: by using the same techniques actors use.

Actors become skilled at communicating various emotions by repeatedly working on emotional scenes and monologues. You can work on adding variety and passion to your speech in the same way. On the following pages, you will find several speeches from famous films. Each speech taps into strong emotions. Work on these short speeches while paying attention to the techniques I’ve just described: pausing, changing pitch, changing volume, changing pace, and elongating or shortening syllables. Don’t be afraid to have it sound like “bad acting.” You’re not competing for an Oscar; you’re just trying to train your “instrument.” By practicing intense, almost over-the-top emphasis on strong and passionate emotion, your voice will attack your own communication in new, creative, and more expressive ways.

VOICE PRODUCTION SKILL BUILDERS

Chose a paragraph from the speeches below. You can use this exercise in two ways.

1. Get a recording of the original actor and practice using the exact phrasing and tonality that the actor used.
2. Do not try to imitate the actor, but imagine circumstances under which you might use a speech like the one you chose. Then, using your own emotions and choosing the focus words you feel are important, practice the speech and decide: Where will I pause and for how long? Which words/word groups should be louder, softer, faster, slower?

HAVE FUN!!!

I use this exercise with all of my clients and at all my trainings. It is extremely effective. One client came to work with me because she had just launched a new business, and she was about to go to a huge conference for venture capitalists. This woman is one of the sweetest and most compassionate people I know; she is naturally soft-spoken and, although extremely accomplished and intelligent, can come off as self-effacing and shy. As we worked on her business pitch, I felt a definite spark was missing. When you're asking people to invest in a fledgling company, you need to have some kind of fire behind you. We worked first on punching up the word choice and on creating emotional engagement (more about that in the next section), but still her delivery lacked something. So I pulled out Michael Douglas's "Greed" Speech from the movie *Wall Street* and had her read through it. At first, it was coming across just like she is: nice and compassionate. Not at all like Gordon Gekko. So I pushed her a bit (okay, maybe I pushed her a lot) and encouraged her to put herself in Gordon Gekko's shoes. He really thinks he's right and that these people who don't agree with him are complete idiots. After several attempts, she got in touch with her inner Gekko. Then, when I had her do her pitch again ... WOW! It was full of fire and passion. Did she become evil or arrogant or sleazy like Michael Douglass was in the movie?

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No, but what she did become was a stronger, more confident, more assertive her. That's what we're aiming for with this exercise.

A common misconception many people have is that if they use a strong, powerful voice, they might be perceived as mean, bitchy, or aggressive. In my experience of working to elevate people's vocal quality, that rarely is the case. If you are intrinsically a compassionate, well-intentioned, trustworthy individual, and if your other nonverbal skills communicate those qualities, a strong, powerful voice will only make you seem more confident, assertive, and competent.

Practice Speeches

Mutiny on the Bounty: Franchot Tone

These men don't ask for comfort. They don't ask for safety ... They ask only (for) the freedom that England expects for every man. If one man among you believed that—one man! —he could command the fleets of England. He could sweep the seas for England if he called his men to their duty, not by flaying their backs but by lifting their hearts.

Mr. Deeds Goes to Town: Gary Cooper

From what I can see, no matter what system of government we have, there will always be leaders and always be followers. It's like the road out in front of my house. It's on a steep hill. Every day I watch the cars climbing up. Some go lickety-split up that hill on high, some have to shift into second, and some sputter and shake and slip back to the bottom again. Same cars, same gasoline, yet some make it and some don't. And I say the fellas who can make the hill on high should stop once in a while and help those who can't. That's all I'm trying to do with this money. Help the fellas who can't make the hill on high.

The Life of Emile Zola: Paul Muni

Not only is an innocent man crying out for justice, but more—much more—a great nation is in desperate danger of forfeiting her honor. Do not take upon yourselves a fault, the burden of which you will forever bear in history. A judicial blunder has been committed! The condemnation of an innocent man induced the acquittal of a guilty man. And now, today, you're asked to condemn me because I rebelled on seeing our country embarked on this terrible course. At this solemn moment in the presence of this tribunal, which is the representative of human justice, before you gentlemen of the jury, before France, before the whole world, I swear that Dreyfus is innocent. By my 40 years of work, by all that I have won, by all that I have written to spread the spirit of France, I swear that Dreyfus is innocent. May all that melt away. May my name perish if Dreyfus be not innocent. He is innocent.

Stage Door: Katharine Hepburn

I've learned something about love that I never knew before. You speak of love when it's too late. Help should come to people when they need it. Why are we always so helpful to each other when it's no longer any use? ... This is my home. This is where I belong. Love was in this house once, and for me, it will always be here, nowhere else ... One should always listen closely when people say goodbye because sometimes they're, they're really saying farewell.

Mr. Smith Goes to Washington: James Stewart

Great principles don't get lost once they come to light. They're right here. You just have to see them again ... You think I'm licked. You all think I'm licked. Well, I'm not licked. And I'm going to stay right here and fight for this lost cause, even if this room gets filled with lies like these, and the Taylors and all their armies come marching into this place. Somebody will listen to me.

Robyn Hatcher

Network: Peter Finch

I want you to get MAD! I don't want you to protest. I don't want you to riot—I don't want you to write to your congressman because I wouldn't know what to tell you to write. I don't know what to do about the depression and the inflation and the Russians and the crime in the street. All I know is that first, you've got to get mad. (shouting) You've got to say: "I'm a human being, god-dammit! My life has value!" So I want you to get up now. I want all of you to get up out of your chairs. I want you to get up right now and go to the window. Open it, and stick your head out, and yell: "I'm mad as hell, and I'm not going to take this anymore! ... "

Network: Faye Dunaway

... the American people want somebody to articulate their rage for them. I've been telling you people since I took this job six months ago that I want angry shows. I don't want conventional programming on this network. I want counter-culture. I want anti-establishment. Now, I don't want to play butch boss with you people. But when I took over this department, it had the worst programming record in television history. This network hasn't one show in the top twenty. This network is an industry joke. We better start putting together one winner for next September. I want a show developed based on the activities of a terrorist group.

Million Dollar Baby: Hilary Swank

I'm 32, Mr. Dunn, and I'm here celebrating the fact that I spent another year scraping dishes and waitressing which is what I've been doing since 13, and according to you, I'll be 37 before I can even throw a decent punch, which I have to admit, after working on this speed bag for a month may be the God's simple truth. Other truth is, my brother's in prison, my sister cheats on welfare by pretending one of her babies is still alive, my daddy's dead, and my momma weighs 312 pounds. If I was thinking straight, I'd go back home, find a used trailer, buy a deep fryer and some Oreos. Problem

is, this is the only thing I ever felt good doing. If I'm too old for this, then I got nothing. That enough truth to suit you?

Mrs. Miniver: Henry Wilcoxon

... Why in all conscience should these be the ones to suffer? Children, old people, a young girl at the height of her loveliness. Why these? Are these our soldiers? Are these our fighters? Why should they be sacrificed? I shall tell you why. Because this is not only a war of soldiers in uniform. It is a war of the people, of all the people, and it must be fought not only on the battlefield, but in the cities and in the villages, in the factories and on the farms, in the home, and in the heart of every man, woman, and child who loves freedom! Well, we have buried our dead, but we shall not forget them. Instead, they will inspire us with an unbreakable determination to free ourselves and those who come after us from the tyranny and terror that threaten to strike us down. This is the people's war! It is our war! We are the fighters! Fight it then! Fight it with all that is in us, and may God defend the right!

Adam's Rib: Katherine Hepburn

... and so the question here is equality before the law—regardless of religion, color, wealth, or as in this instance, sex ... Law, like man, is composed of two parts. Just as man is body and soul, so is the law letter and spirit. The law says, 'Thou shalt not kill.' Yet men have killed and proved a reason and been set free. Self-defense—defense of others, of wife, of children, and home. If a thief breaks into your house and you shoot him, the law will not deal harshly with you. Nor, indeed, should it. So here, you are asked to judge not whether or not these acts were committed but to what extent they were justified.

An unwritten law stands back of a man who fights to defend his home. Apply this same law to this maltreated wife and neglected woman. We ask you no more—Equality! ... Consider this unfortunate woman's act as though you yourselves had each committed it. Every living being is capable of attack if sufficiently provoked. Assault lies dormant within us all. It requires only

Robyn Hatcher

circumstance to set it in violent motion. I ask you for a verdict of not guilty. There was no murder attempt here—only a pathetic attempt to save a home.

Network: Peter Finch

You people and sixty-two million other Americans are listening to me right now because less than three percent of you people read books. Because less than fifteen percent of you read newspapers. Because the only truth you know is what you get over this tube. Right now, there is a whole, an entire generation that never knew anything that didn't come out of this tube. This tube is the gospel, the ultimate revelation. This tube can make or break Presidents, Popes, Prime Ministers. This tube is the most awesome, god—damned force in the whole godless world ...

We deal in illusions, man. None of it is true! But you people sit there day after day, night after night, all ages, colors, and creeds—we're all you know. You're beginning to believe the illusions we're spinning here. You're beginning to think that the tube is reality and that your own lives are unreal. You do whatever the tube tells you. You dress like the tube; you eat like the tube; you raise your children like the tube. You even think like the tube. This is mass madness—you maniacs. In God's name, you people are the real thing. We are the illusion. So turn off your television sets. Turn them off now. Turn them off right now. Turn them off and leave them off. Turn them off right in the middle of this sentence. I am speaking to you now. Turn them off!"

Network: Beatrice Straight

Get out, go anywhere you want, go to a hotel, go live with her, and don't come back! Because, after 25 years of building a home and raising a family and all the senseless pain that we have inflicted on each other, I'm damned if I'm going to stand here and have you tell me you're in love with somebody else! Because this isn't a convention weekend with your secretary, is it? Or—or some broad that you picked up after three belts of booze. This is your

great winter romance, isn't it? Your last roar of passion before you settle into your emeritus years. Is that what's left for me? Is that my share? She gets the winter passion, and I get the dotage? What am I supposed to do? Am I supposed to sit at home knitting and purling while you slink back like some penitent drunk? I'm your wife, damn it! And, if you can't work up a winter passion for me, the least I require is respect and allegiance! (sobbing) I hurt! Don't you understand that? I hurt badly!

Wall Street: Michael Douglas

I am not a destroyer of companies. I am a liberator of them.

The point is, ladies and gentleman, that greed—for lack of a better word—is good. Greed is right. Greed works. Greed clarifies, cuts through, and captures the essence of the evolutionary spirit. Greed, in all of its forms—greed for life, for money, for love, knowledge—has marked the upward surge of mankind. And Greed—you mark my words—will not only save Teldar Paper but that other malfunctioning corporation called the USA. Thank you very much.”

Lean on Me: Morgan Freeman

You tried it your way for years. And your students can't even get past the Minimum Basic Skills Test. That means they can hardly read!! They've given me less than one year, one school year, to turn this place around, to get those test scores up, so the State will not take us over to perform the tasks which you have failed to do! To educate our children! Forget about the way it used to be. This is not a damn democracy. We are in a state of emergency, and my word is law. There's only one boss in this place, and that's me. Are there any questions?

I want all of you to take a good look at these people on the risers behind me. These people have been here up to five years and done absolutely nothing. These people are drug dealers and drug users. They have taken up

Robyn Hatcher

space; they have disrupted the school; they have harassed your teachers, and they have intimidated you. Well, times are about to change. You will not be bothered in Joe Clark's school. These people are incorrigible. And since none of them can graduate anyway, you are all expurgated. You are dismissed! You are out of here forever! I wish you well ... My motto is simple: If you do not succeed in life, I don't want you to blame your parents. I don't want you to blame the white man! I want you to blame yourselves. The responsibility is yours!

A Few Good Men: Jack Nicholson

You can't handle the truth! Son, we live in a world that has walls, and those walls have to be guarded by men with guns. Who's gonna do it? You? You, Lieutenant Weinberg? I have a greater responsibility than you can possibly fathom. You weep for Santiago, and you curse the Marines. You have that luxury. You have the luxury of not knowing what I know—that Santiago's death, while tragic, probably saved lives, and my existence, while grotesque and incomprehensible to you, saves lives. You don't want the truth because deep down in places you don't talk about at parties, you want me on that wall—you need me on that wall. We use words like "honor," "code," "loyalty." We use these words as the backbone of a life spent defending something. You use them as a punch line. I have neither the time nor the inclination to explain myself to a man who rises and sleeps under the blanket of the very freedom that I provide and then questions the manner in which I provide it. I would rather you just said "thank you" and went on your way. Otherwise, I suggest you pick up a weapon and stand the post. Either way, I don't give a damn what you think you are entitled to!

Staying in Character

There's a term in acting called "breaking," which is short for "breaking character." Breaking character means that in the middle of a scene, an actor

stops behaving as his character would behave and behaves as himself. I'm sure you've seen it happen on *Saturday Night Live* and other comedy shows.

The cast of *The Carol Burnett Show* used to be famous for breaking character. In the middle of a pseudo-serious scene, Harvey Korman would get the giggles and start behaving like Harvey Korman with the giggles instead of Rhett Butler talking to Scarlett O'Hara. This works okay and often adds to the humor in sketch comedies, but as you can imagine, it's the kiss of death in a serious show or in a movie. The opposite of breaking character is called "staying in character." As presenters and communicators, it is important to establish and stay in character from your entrance to your exit.

A friend and client of mine is a fabulous jazz singer. When she opens her mouth to sing, she is sultry, sexy, and confident. However, for years she would "break character" every time she had to deliver her introduction or between-set banter. Her Super Model/Super Hero Torch Singer became an Ingénue/Whiz Kid chatterbox. She over-shared, was overly self-effacing and spoke with an unconfident tone and cadence. We worked on her vocal tone and helped her to own the qualities and strengths that she exemplified in her singing. Then we created powerful and succinct content that she felt confident about delivering and that would be in character with the singer that her audiences came to see. The next time she performed, friends were amazed at the difference. One close friend who has known and followed her for years said that she felt like she was at a party that the singer had hosted. Oddly enough, that was *exactly* one of the images I gave the singer to imagine.

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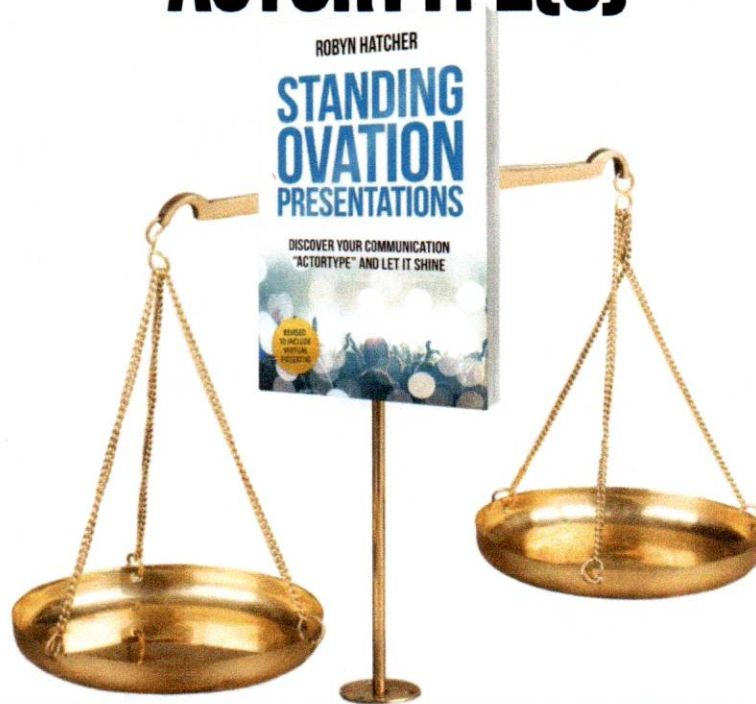
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WHIZ KID



SUPERHERO

SUPPORTING CHARACTER TYPES



COMIC



SUPERMODEL



INGENUUE



CURMUDGEON



VILLAIN



THE HERO

QUALITIES

Reliable
Commanding
Often the face of a case
Naturally draws respect and leads with confidence.

FATAL FLAWS

May rely too much on charisma instead of focusing on legal argument.
Overextend themselves by taking on too much responsibility.

DIRECTORS NOTES:

- ✓ How can you bring those characteristics forward in your conversations & negotiations?
- ✓ Find opportunities to let clients & jurors connect.
- ✓ Share real challenges you've faced and overcome to humanize your role and build trust.

THE BUDDY

QUALITIES

Approachable, empathetic,
Great listener
Clients feel supported and understood

FATAL FLAWS

Risks being overly accommodating being perceived as a pushover.
May overextend in sharing stories, potentially losing listener's patience.

DIRECTORS NOTES:

- ✓ Keep your storytelling concise to maintain focus during legal arguments or client discussions.
- ✓ Practice setting clear boundaries
- ✓ Use a firm tone to emphasize critical points without losing the warmth that defines your approach



THE SUPERHERO

QUALITIES

Resilient, driven
Fiercely protective of justice;
Known for tackling challenging cases with gusto.

FATAL FLAWS

Intensity may overwhelm clients or colleagues
Your "fix-it" mindset can alienate others.

DIRECTORS NOTES:

- ✓ Embrace pauses
- ✓ Engage in active listening during discussions to foster collaboration.
- ✓ Balance passion with reflection

THE WHIZ KID

QUALITIES

Analytical, brilliant
Thrives on legal research and intricate problem-solving
Well-prepared, organized, and detail-oriented.

FATAL FLAWS

May miss emotional connection with juries, come across as a "know-it-all,"
Can appear detached
Overwhelm others with too much information or "legalese"

DIRECTORS NOTES:

- ✓ Simplify complex concepts when presenting to juries or clients.
- ✓ Connect facts to stories to make your case compelling.
- ✓ Maintain strong body language & eye contact

THE SUPERMODEL

QUALITIES

Polished, poised, and exuding confidence;
Commands attention through presentation and demeanor

FATAL FLAWS

Risks being seen as style over substance or unapproachable
Can present as - "It's all about me" not the client

DIRECTOR'S NOTES: Ensure your arguments are as compelling as your presence. Use inclusive language to make others feel valued and included.

THE VILLAIN

QUALITIES

Bold, assertive, and unafraid to challenge norms;
Excels in high-stakes litigation

FATAL FLAWS

Risks alienating others by being too aggressive or confrontational

DIRECTOR'S NOTES: Temper intensity with moments of levity or warmth. Practice humility to foster cooperation among colleagues and clients.

THE CURMUDGEON

QUALITIES

Grounded, insightful, and highly pragmatic;
Offers seasoned advice and a no-nonsense approach.

FATAL FLAWS

Risks being perceived as overly critical or resistant to new ideas
Lack of attention to appearance can detract from presentation and communication

DIRECTOR'S NOTES: Celebrate small wins and acknowledge team efforts. Practice open-mindedness to foster innovation and collaboration.

THE COMIC

QUALITIES

Witty, engaging, and adept at diffusing tension;
Keeps morale high in the office or courtroom

FATAL FLAWS

Humor might overshadow seriousness of a case or alienate those expecting professionalism
Not always detail oriented

DIRECTOR'S NOTES: Use humor sparingly to support—not detract from—your arguments. Build in moments of seriousness to balance your approach.

THE GENIE

QUALITIES

Fresh, enthusiastic, and brings a unique, optimistic perspective to cases
Plays by the rules
Eternal Optimist; Does not allow him/herself to become bitter or jaded when things go wrong

FATAL FLAWS

Can struggle with asserting authority or being taken seriously by seasoned colleagues.
Trusts people that may not deserve their trust
May not realize the seriousness of certain situations

DIRECTOR'S NOTES: Assert your expertise confidently. Align optimism with preparation to demonstrate capability and reliability.

**WHAT IS YOUR MAIN CHARACTER ACTORTYPE?
WHAT IS ONE OF YOUR SUPPORTING ACTORTYPE(S)?**



- **Is there a Fatal Flaw you are guilty of?**
- **What can you do to address it?**

rest, negotiation, arbitration, mediation or any other representation involving a specific party or parties.

- (m) "Partner" denotes a member of a partnership, a shareholder in a law firm organized as a professional legal corporation or a member of an association authorized to practice law.
- (n) "Person" includes an individual, a corporation, an association, a trust, a partnership, and any other organization or entity.
- (o) "Professional legal corporation" means a corporation, or an association treated as a corporation, authorized by law to practice law for profit.
- (p) "Qualified legal assistance organization" means an office or organization of one of the four types listed in Rule 7.2(b)(1)-(4) that meets all of the requirements thereof.
- (q) "Reasonable" or "reasonably," when used in relation to conduct by a lawyer, denotes the conduct of a reasonably prudent and competent lawyer. When used in the context of conflict of interest determinations, "reasonable lawyer" denotes a lawyer acting from the perspective of a reasonably prudent and competent lawyer who is personally disinterested in commencing or continuing the representation.
- (r) "Reasonable belief" or "reasonably believes," when used in reference to a lawyer, denotes that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable.
- (s) "Reasonably should know," when used in reference to a lawyer, denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question.
- (t) "Screened" or "screening" denotes the isolation of a lawyer from any participation in a matter through the timely imposition of procedures within a firm that are reasonably adequate under the circumstances to protect information that the isolated lawyer or the firm is obligated to protect under these Rules or other law.
- (u) "Sexual relations" denotes sexual intercourse or the

touching of an intimate part of the lawyer or another person for the purpose of sexual arousal, sexual gratification or sexual abuse.

- (v) "State" includes the District of Columbia, Puerto Rico, and other federal territories and possessions.
- (w) "Tribunal" denotes a court, an arbitrator in an arbitration proceeding or a legislative body, administrative agency or other body acting in an adjudicative capacity. A legislative body, administrative agency or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a legal judgment directly affecting a party's interests in a particular matter.
- (x) "Writing" or "written" denotes a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photocopying, photography, audio or video recording and email. A "signed" writing includes an electronic sound, symbol or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing.

RULE 1.1:

COMPETENCE

- (a) A lawyer should provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.
- (b) A lawyer shall not handle a legal matter that the lawyer knows or should know that the lawyer is not competent to handle, without associating with a lawyer who is competent to handle it.
- (c) lawyer shall not intentionally:
 - (1) fail to seek the objectives of the client through reasonably available means permitted by law and these Rules; or
 - (2) prejudice or damage the client during the course of the representation except as permitted or required by these Rules.

or

- (2) information gained by a lawyer or judge while participating in a bona fide lawyer assistance program.

RULE 8.4:

MISCONDUCT

A lawyer or law firm shall not:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) engage in illegal conduct that adversely reflects on the lawyer's honesty, trustworthiness or fitness as a lawyer;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability:
 - (1) to influence improperly or upon irrelevant grounds any tribunal, legislative body or public official; or
 - (2) to achieve results using means that violate these Rules or other law;
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law;
- (g) unlawfully discriminate in the practice of law, including in hiring, promoting or otherwise determining conditions of employment on the basis of age, race, creed, color, national origin, sex, disability, marital status or sexual orientation. Where there is a tribunal with jurisdiction to hear a complaint, if timely brought, other than a Departmental Disciplinary Committee, a complaint based on unlawful discrimination shall be brought before such tribunal in the first instance. A certified copy of a determination by such a tribunal, which has become final and enforceable and as to which the

right to judicial or appellate review has been exhausted, finding that the lawyer has engaged in an unlawful discriminatory practice shall constitute prima facie evidence of professional misconduct in a disciplinary proceeding; or

- (h) engage in any other conduct that adversely reflects on the lawyer's fitness as a lawyer.

RULE 8.5:

DISCIPLINARY AUTHORITY AND CHOICE OF LAW

- (a) A lawyer admitted to practice in this state is subject to the disciplinary authority of this state, regardless of where the lawyer's conduct occurs. A lawyer may be subject to the disciplinary authority of both this state and another jurisdiction where the lawyer is admitted for the same conduct.
- (b) In any exercise of the disciplinary authority of this state, the rules of professional conduct to be applied shall be as follows:
 - (1) For conduct in connection with a proceeding in a court before which a lawyer has been admitted to practice (either generally or for purposes of that proceeding), the rules to be applied shall be the rules of the jurisdiction in which the court sits, unless the rules of the court provide otherwise; and
 - (2) For any other conduct:
 - (i) If the lawyer is licensed to practice only in this state, the rules to be applied shall be the rules of this state, and
 - (ii) If the lawyer is licensed to practice in this state and another jurisdiction, the rules to be applied shall be the rules of the admitting jurisdiction in which the lawyer principally practices; provided, however, that if particular conduct clearly has its predominant effect in another jurisdiction in which the lawyer is licensed to practice, the rules of that jurisdiction shall be applied to that conduct.

22 NYCRR Part 1200, Appendix A
STANDARDS OF CIVILITY
As Amended January 24, 2020

PREAMBLE

The New York State Standards of Civility for the legal profession set forth principles of behavior to which the bar, the bench and court employees should aspire. (The term "court" as used herein also may refer to any other tribunal, as appropriate.) They are not intended as rules to be enforced by sanction or disciplinary action, nor are they intended to supplement or modify the Rules Governing Judicial Conduct, the Rules of Professional Conduct or any other applicable rule or requirement governing conduct. Instead they are a set of guidelines intended to encourage lawyers, judges and court personnel to observe principles of civility and decorum, and to confirm the legal profession's rightful status as an honorable and respected profession where courtesy and civility are observed as a matter of course.

The Standards of Civility are divided into two main sections, one that is generally applicable but also contains a number of items specifically directed to the litigation setting, and one that is more specifically directed to transactional and other non-litigation settings. The first section, in turn, is divided into four parts: lawyers' duties to other lawyers, litigants, witnesses and others; lawyers' duties to the court and court personnel; court's duties to lawyers, parties and witnesses; and court personnel's duties to lawyers and litigants. There is also a Statement of Client's Rights appended to the Standards of Civility.

As lawyers, judges, court employees and officers of the court, and as attorneys generally, we are all essential participants in the judicial process. That process cannot work effectively to serve the public unless we first treat each other with courtesy, respect and civility.

SECTION 1 – GENERAL STANDARDS

LAWYERS' DUTIES TO OTHER LAWYERS, LITIGANTS WITNESSES AND CERTAIN OTHERS

I. Lawyers should be courteous and civil in all professional dealings with other persons.

- A. Lawyers should act in a civil manner regardless of the ill feelings that their clients may have toward others.
- B. Lawyers can disagree without being disagreeable. Effective representation does not require antagonistic or acrimonious behavior. Whether orally or in writing, lawyers should avoid vulgar language, disparaging personal remarks or acrimony toward other counsel, parties or witnesses.
- C. Lawyers should not engage in conduct intended primarily to harass or humiliate witnesses.
- D. Lawyers should require that persons under their supervision conduct themselves with courtesy and civility.

II. When consistent with their clients' interests, lawyers should cooperate with opposing counsel in an effort to avoid litigation and to resolve litigation that has already commenced.

A. Lawyers should avoid unnecessary motion practice or other judicial intervention by negotiating and agreeing with other counsel whenever it is practicable to do so.

B. Lawyers should allow themselves sufficient time to resolve any dispute or disagreement by communicating with one another and imposing reasonable and meaningful deadlines in light of the nature and status of the case.

III. A lawyer should respect the schedule and commitments of opposing counsel, consistent with protection of the client's interests.

A. In the absence of a court order, a lawyer should agree to reasonable requests for extensions of time or for waiver of procedural formalities when the legitimate interests of the client will not be adversely affected.

B. Upon request coupled with the simple representation by counsel that more time is required, the first request for an extension to respond to pleadings ordinarily should be granted as a matter of courtesy.

C. A lawyer should not attach unfair or extraneous conditions to extensions of time. A lawyer is entitled to impose conditions appropriate to preserve rights that an extension might otherwise jeopardize, and may request, but should not unreasonably insist on, reciprocal scheduling concessions.

D. A lawyer should endeavor to consult with other counsel regarding scheduling matters in a good faith effort to avoid scheduling conflicts. A lawyer should likewise cooperate with opposing counsel when scheduling changes are requested, provided the interests of his or her client will not be jeopardized.

E. A lawyer should notify other counsel and, if appropriate, the court and other persons at the earliest possible time when hearings, depositions, meetings or conferences are to be canceled or postponed.

IV. Responding to communications.

A lawyer should promptly return telephone calls and electronic communications and answer correspondence reasonably requiring a response, as appropriate. (For the avoidance of doubt, the foregoing refers to communications in connection with matters in which the lawyer is engaged, not to unsolicited communications.) A lawyer has broad discretion as to the manner and time in which to respond and need not necessarily follow the same means or format as the original communication or the manner requested in the original communication.

V. The timing and manner of service of papers should not be designed to cause disadvantage to the party receiving the papers.

- A. Papers should not be served in a manner designed to take advantage of an opponent's known absence from the office.
- B. Papers should not be served at a time or in a manner designed to inconvenience an adversary.
- C. Unless specifically authorized by law or rule, a lawyer should not submit papers to the court without serving copies of all such papers upon opposing counsel in such a manner that opposing counsel will receive them before or contemporaneously with the submission to the court.

VI. A lawyer should not use any aspect of the litigation process, including discovery and motion practice, as a means of harassment or for the purpose of unnecessarily prolonging litigation or increasing litigation expenses.

- A. A lawyer should avoid discovery that is not necessary to obtain facts or perpetuate testimony or that is designed to place an undue burden or expense on a party.
- B. A lawyer should respond to discovery requests reasonably and not strain to interpret the request so as to avoid disclosure of relevant and non-privileged information.

VII. In depositions and other proceedings, and in negotiations, lawyers should conduct themselves with dignity and refrain from engaging in acts of rudeness and disrespect.

- A. Lawyers should not engage in any conduct during a deposition that would not be appropriate in the presence of a judge.
- B. Lawyers should advise their clients and witnesses of the proper conduct expected of them in court, depositions and conferences, and make reasonable efforts to prevent clients and witnesses from causing disorder or disruption.
- C. A lawyer should not obstruct questioning during a deposition or object to deposition questions unless necessary.
- D. Lawyers should ask only those questions they reasonably believe are necessary for the prosecution or defense of an action. Lawyers should refrain from asking repetitive or argumentative questions and from making self-serving statements.

VIII. A lawyer should adhere to all express promises and agreements with other counsel, whether oral or in writing, and to agreements implied by the circumstances or by local customs.

IX. Lawyers should not mislead.

- A. A lawyer should not falsely hold out the possibility of settlement as a means for adjourning discovery or delaying trial.
- B. A lawyer should not ascribe a position to another counsel that counsel has not taken or otherwise seek to create an unjustified inference based on counsel's statements or conduct.
- C. In preparing written versions of agreements and court orders, a lawyer should attempt to correctly reflect the agreement of the parties or the direction of the court.

X. Lawyers should be mindful of the need to protect the standing of the legal profession in the eyes of the public. Accordingly, lawyers should bring the New York State Standards of Civility to the attention of other lawyers when appropriate.

LAWYERS' DUTIES TO THE COURT AND COURT PERSONNEL

I. A lawyer is both an officer of the court and an advocate. As such, the lawyer should always strive to uphold the honor and dignity of the profession, avoid disorder and disruption in the courtroom, and maintain a respectful attitude toward the court.

- A. Lawyers should speak and write civilly and respectfully in all communications with the court and court personnel.
- B. Lawyers should use their best efforts to dissuade clients and witnesses from causing disorder or disruption in the courtroom.
- C. Lawyers should be punctual and prepared for all court appearances; if delayed, the lawyer should notify the court and counsel whenever possible.

II. Court personnel are an integral part of the justice system and should be treated with courtesy and respect at all times.

JUDGES' DUTIES TO LAWYERS, PARTIES AND WITNESSES

I. A Judge should be patient, courteous and civil to lawyers, parties and witnesses.

- A. A Judge should maintain control over the proceedings and insure that they are conducted in a civil manner.
- B. Judges should not employ hostile, demeaning or humiliating words in opinions or in written or oral communications with lawyers, parties or witnesses
- C. Judges should, to the extent consistent with the efficient conduct of litigation and other demands on the court, be considerate of the schedules of lawyers, parties and witnesses when scheduling hearings, meetings or conferences.

D. Judges should be punctual in convening all trials, hearings, meetings and conferences; if delayed, they should notify counsel when possible.

E. Judges should make all reasonable efforts to decide promptly all matters presented to them for decision.

F. Judges should use their best efforts to insure that court personnel under their direction act civilly toward lawyers, parties and witnesses.

DUTIES OF COURT PERSONNEL TO THE COURT, LAWYERS AND LITIGANTS

I. Court personnel should be courteous, patient and respectful while providing prompt, efficient and helpful service to all persons having business with the courts.

A. Court employees should respond promptly and helpfully to requests for assistance or information.

B. Court employees should respect the judge's directions concerning the procedures and atmosphere that the judge wishes to maintain in his or her courtroom.

SECTION 2 - STANDARDS FOR TRANSACTIONAL/NON-LITIGATION SETTINGS

INTRODUCTION

Section 1 of the Standards of Civility, while in many respects applicable to attorney conduct generally, in certain respects addresses the practice of law in the setting of litigation and other formal adversary proceedings, where conduct is governed by a variety of specific procedural rules of order and may be supervised by a judge or other similar official. This Section 2, which is more directed to transactional and other non-litigation settings, should be read with Section 1 as one integrated whole for a profession that has multiple facets and spheres of activity.

The differences in practice between lawyers' roles and the expectations in litigation and other settings can sometimes be significant. Although fewer formal rules of conduct and decorum apply outside of the litigation setting, lawyers conducting transactional work should keep Section 1 of Standards of Civility in mind, along with the following additional items.

ADDITIONAL TRANSACTIONAL/NON-LITIGATION STANDARDS

I. A lawyer should balance the requirements and directions of the client in terms of timing with a reasonable solicitude for other parties. Unless the client specifically instructs to the contrary, a lawyer should not impose deadlines that are more onerous than necessary or appropriate to achieve legitimate commercial and other client-related outcomes.

II. A lawyer should focus on the importance of politeness and decorum, taking into account all relevant facts and circumstances, including such elements as the formality of the setting, the sensitivities of those present and the interests of the client.

III. Where an agreement or proposal is tentative or is subject to approval or to further review by a lawyer or by a client, the lawyer should be careful not to proceed without proper authorization or otherwise imply that authority from the client has been obtained when such is not the case.

STATEMENT OF CLIENT'S RIGHTS
22 NYCRR 1210.1

Section 1210.1. Posting

Every attorney with an office located in the State of New York shall insure that there is posted in that office, in a manner visible to clients of the attorney, a statement of client's rights in the form set forth below. Attorneys in offices that provide legal services without fee may delete from the statement those provisions dealing with fees. The statement shall contain the following:

STATEMENT OF CLIENT'S RIGHTS

1. You are entitled to be treated with courtesy and consideration at all times by your lawyer and the other lawyers and nonlawyer personnel in your lawyer's office.
2. You are entitled to have your attorney handle your legal matter competently and diligently, in accordance with the highest standards of the profession. If you are not satisfied with how your matter is being handled, you have the right to discharge your attorney and terminate the attorney-client relationship at any time. Court approval may be required in some matters, and your attorney may have a claim against you for the value of services rendered to you up to the point of discharge.
3. You are entitled to your lawyer's independent professional judgment and undivided loyalty uncompromised by conflicts of interest.
4. You are entitled to be charged reasonable fees and expenses and to have your lawyer explain before or within a reasonable time after commencement of the representation how the fees and expenses will be computed and the manner and frequency of billing. You are entitled to request and receive a written itemized bill from your attorney at reasonable intervals. You may refuse to enter into any arrangement for fees and expenses that you find unsatisfactory. In the event of a fee dispute, you may have the right to seek arbitration; your attorney will provide you with the necessary information regarding arbitration in the event of a fee dispute, or upon your request.
5. You are entitled to have your questions and concerns addressed promptly and to receive a prompt reply to your letters, telephone calls, emails, faxes, and other communications.
6. You are entitled to be kept reasonably informed as to the status of your matter and are entitled to have your attorney promptly comply with your reasonable requests for information, including your requests for copies of papers relevant to the matter. You are entitled to sufficient information to allow you to participate meaningfully in the development of your matter and make informed decisions regarding the representation.
7. You are entitled to have your legitimate objectives respected by your attorney. In particular, the decision of whether to settle your matter is yours and not your lawyer's. Court approval of a settlement is required in some matters.

8. You have the right to privacy in your communications with your lawyer and to have your confidential information preserved by your lawyer to the extent required by law.
9. You are entitled to have your attorney conduct himself or herself ethically in accordance with the New York Rules of Professional Conduct.
10. You may not be refused representation on the basis of race, creed, color, religion, sex, sexual orientation, gender identity, gender expression, age, national origin, or disability.

Matter of Manchanda

Matter of Manchanda

2024 NY Slip Op 05833

Decided on November 21, 2024

Appellate Division, First Department

Per Curiam

Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.

This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided and Entered: November 21, 2024 SUPREME COURT, APPELLATE DIVISION First Judicial Department

Present — Hon. Dianne T. Renwick

Presiding Justice

Peter H. Moulton Lizbeth González Tanya R. Kennedy Saliann Scarpulla
Justices.

Motion No. 2024-03792, 2024-03805 Case No. 2023-05258

[*1] In the Matter of Rahul Dev Manchanda an Attorney and Counselor-at-Law: Attorney Grievance Committee for the First Judicial Department, Petitioner, Rahul Dev Manchanda (OCA Atty. Reg. No. 4025714), Respondent.

Disciplinary proceedings instituted by the Attorney Grievance Committee for the First Judicial Department. Respondent, Rahul Dev Manchanda, was admitted to the Bar of the State of New York at a Term of the Appellate Division of the Supreme Court for the Second Judicial Department March 13, 2002.

Jorge Dopico, Chief Attorney, Attorney Grievance Committee, New York (Remi E. Shea, of counsel), for petitioner.

Respondent pro se.

Per Curiam

Respondent Rahul Dev Manchanda was admitted to the practice of law in the State of New York by the Second Judicial Department on March 13, 2002. At all times relevant to this proceeding, his registered business address on file with the Office of Court Administration was within the First Judicial Department.

Nature of Proceedings

The disciplinary charges stem from the Attorney Grievance Committee's (AGC) sua sponte investigation of respondent after he filed three complaints with the AGC and the Human Rights Council in 2021, each containing racist and anti-Semitic language. In response to the AGC's email asking that he respond to the allegations of misconduct, respondent replied again using racist and anti-Semitic rhetoric. The AGC then undertook a retrospective review of respondent's previous court filings and prior complaints filed with it, which revealed:

"[R]espondent's long-standing history of verbally attacking and disparaging members of the judiciary, the bar, and the public in the context of litigation, in complaints filed with the [AGC] and other agencies . . . and in reviews/complaints filed anonymously [online] Respondent has also disclosed confidential information about clients in response to negative Google reviews and repeatedly filed non-meritorious frivolous, vexatious, or clearly meritless appeals, motions, or other papers."

Pursuant to its investigations, the AGC served respondent with a petition that included the following charges. In the first charge, the AGC alleged that respondent violated Rules of Professional Conduct (22 NYCRR 1200.0) (RPC) rule 8.4 (d) (a lawyer shall not "engage in conduct that is prejudicial to the administration of justice") by repeatedly making unfounded allegations of corruption by members of the judiciary. This charge arose out of legal documents that respondent prepared and filed in state and federal courts attacking members of the judiciary, using "foul and vile language" to challenge their integrity, specifically:

a federal civil rights action (later dismissed as frivolous) that respondent filed in the District of Connecticut against, among others, New York, and Connecticut judges (stemming from a custody dispute in which respondent was engaged with his ex-wife), in which he accused the defendants of engaging in criminal and sexually abusive behavior;

a federal civil rights action that respondent filed in the Southern District [*2]of New York against federal immigration officials, during which respondent leveled racist and anti-Semitic attacks against the presiding judge and others); an action that respondent filed in Supreme Court, New York County, in which he launched ad hominem attacks against the New York City Human Resources Administration;

an action filed *against* respondent in Supreme Court, New York County (stemming from a harassment campaign that respondent allegedly waged), in which the plaintiff was awarded costs on a discovery motion against respondent; respondent made anti-Semitic attacks in his motion in this Court for a stay, then tried to remove the action to the Southern District of New York, where (and in the U.S. Court of Appeals for the Second Circuit on appeal) he again leveled anti-Semitic attacks; and,

a federal action that respondent filed in the Southern District of New York against a federal bankruptcy judge (also in the Southern District of New York), in which respondent again leveled anti-Semitic attacks.

In the second charge, the AGC alleged that respondent violated RPC rule 8.4 (h) (a lawyer shall not "engage in any other conduct that adversely reflects on the lawyer's fitness as a lawyer") by repeatedly making racist, anti-Semitic, homophobic, and misogynistic statements about members of the judiciary and the bar in complaints to the AGC and other agencies. This charge arose out of "offensive language" that respondent used not only to publicly criticize members of the judiciary within the context of litigation but also in complaints filed with the AGC and other agencies, specifically:

a general complaint that respondent filed with the Commission on Judicial Conduct (CJC) in which he made racist attacks;

complaints that respondent filed with the AGC against Attorneys A, B, and C, in which he made anti-Semitic attacks;

a general complaint that respondent filed with the AGC in which he made anti-Semitic attacks;

a complaint that respondent filed with the CJC against a Justice of this Court, in which he made anti-Semitic and racist attacks;

a complaint that respondent filed with the Office of the United Nations High Commissioner for Human Rights, in which he made anti-Semitic and racist attacks; and,

a complaint that respondent filed with the Administrative Office of the U.S. Courts, in which he made anti-Semitic attacks.

The third and fourth charges are related; the AGC alleged that respondent violated RPC rule 1.6(a) ("A lawyer shall not knowingly reveal confidential information . . . or use such information to the disadvantage of a client or for the advantage of the lawyer or a third person . . ."), by knowingly revealing confidential information about his clients in response to negative Google reviews, and RPC rule 8.4 (h) (a lawyer shall not "engage in any other conduct that adversely reflects on the lawyer's fitness as a lawyer") by using offensive language in those responses. These charges arose out of:

homophobic attacks, based on privileged [*3]information, launched by respondent against client A.S.;
racist attacks, based on privileged information, launched by respondent against client E.W.;
attacks, based on privileged information, launched by respondent against client
N.A.; and

attacks, based on privileged information, launched by respondent against client M.H.A.

In the fifth charge, the AGC alleged that respondent violated RPC rule 8.4 (h) (a lawyer shall not "engage in any other conduct that adversely reflects on the lawyer's fitness as a lawyer") by making racist, anti-Semitic, homophobic, and misogynistic statements while holding himself out as a well-trained and extremely experienced lawyer in 20 years in Manhattan, New York City.

The sixth charge is not summarized here because the Referee did not recommend sustaining the charge and the AGC does not seek to disaffirm that recommendation. Accordingly, the allegations and evidence as they pertain to this charge are no longer relevant.

Finally, the seventh and eight charges are related; the AGC alleged that respondent violated RPC rule 3.1 (a) ("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"), by repeatedly filing non-meritorious, frivolous, vexatious, or clearly meritless appeals, motions, or other papers, and RPC rule 8.4 (d) (a lawyer shall not "engage in conduct that is prejudicial to the administration of justice") through the same conduct. These charges arose out of respondent being "repeatedly warned against filing non-meritorious, frivolous, duplicative, vexatious, meritless appeals, motions, or other papers." Respondent has been so warned in numerous courts by federal and state judges in the Southern District of New York, Second Circuit, and the First Department.

Relevant Prior Procedural History

It is worth reviewing the long and tortured procedural history of these disciplinary proceedings because it reveals a concerted effort by respondent to thwart and delay the proceedings. After the AGC filed its petition of charges in this case, in October 2023, respondent answered and moved to dismiss the petition. Soon thereafter, respondent commenced a federal action in the Southern District of New York against an AGC staff attorney and the AGC chief counsel, among others. On November 3, 2023, respondent amended his complaint to name the NYPD and the FBI NYC Field Office as defendants.

On November 13, 2023, respondent's law firm filed for chapter 7 bankruptcy. According to respondent, the bankruptcy proceeding resulted in an automatic stay of the disciplinary proceedings under 11 USC § 362. By letter dated November 15, 2023, the AGC disputed respondent's representation and asserted that no bankruptcy stay was in place. Respondent replied by letter also dated November 15, 2023, contesting the AGC's representations.

On November 21, 2023, respondent separately moved (1) to hold a AGC staff attorney in contempt [*4]and, in effect, to sanction the attorney for frivolous conduct. In an order entered December 22, 2023, the U.S. District Court for the Southern District of New York (John P. Cronan, J.) sua sponte (1) dismissed respondent's claims that sought to initiate a criminal prosecution of defendants or others; (2) dismissed respondent's "claims against the United States, including the FBI, on sovereign immunity grounds, other than any claims brought under the Federal Tort Claims Act" (FTCA); (3) ordered respondent to show cause that he had complied with the FTCA's administrative exhaustion requirements, and (4) gave respondent notice of its intent to dismiss various of his claims, and to deny him leave to replead any dismissed claims for futility reasons (*see Manchanda v Reardon*, 2023 WL 8879226, 2023 US Dist LEXIS 229806 [SD NY, Dec. 22, 2023]). In an order entered January 2, 2024, the same court gave respondent further notice of its intent to dismiss his FTCA claims (*see Manchanda v Reardon*, 2024 WL 259776, 2024 US Dist LEXIS 14687 [SD NY, Jan. 2, 2024]). In an order entered February 1, 2024, the same court, among other things, dismissed respondent's federal claims, declined to exercise supplemental jurisdiction over his state law claims, and denied respondent leave to amend his complaint on futility grounds (*see Manchanda v Reardon*, 2024 WL 382116, 2024 US Dist LEXIS 18025 [SD NY, Feb. 1, 2024]). Respondent appealed the dismissal of his case to the Second Circuit.

On February 23, 2024, respondent tried to file counterclaims against several AGC attorneys and the AGC, for malicious prosecution, abuse of process, computer trespass, conversion of computer data, violation of the federal wiretapping act, and tortious interference with new contracts/business, seeking \$20 million in compensatory and punitive damages on each count.

By email and letter dated February 24, 2024, respondent applied to hold all proceedings before the Referee in this matter at this Court's courthouse. In an unpublished order entered March 1, 2024, this Court referred the application to the Referee. In a ruling dated the same date, the Referee denied the application.

On March 6, 2024, respondent moved to disqualify the Referee, alleging, among other things, bias on the basis of the Referee's religion and sexual orientation, using the same kind of anti-Semitic, homophobic, and misogynistic language that the AGC had accused him of using in its petition of charges.

On March 21, 2024, respondent moved for a stay of this proceeding pending the determination of his appeal to the Second Circuit in his federal case and applied for an interim stay pending the determination of his motion. On March 27, 2024, this Court denied the application. Similarly, in an unpublished order entered April 5, 2024, this Court denied respondent's motion to disqualify the Referee, and restrained and enjoined him from filing any additional motions or applications in this Court with respect to this disciplinary [*5]matter without prior leave of this Court.

Undeterred, on April 18, 2024, respondent attempted to commence a CPLR article 78 proceeding in Supreme Court, New York County, against the Referee and others. On April 30, 2024, the court (Judy H. Kim, J.) declined to sign respondent's proposed order to show cause. On May 8, 2024, respondent moved for a default judgment against the respondents in the proceeding.

In an order entered August 14, 2024, the U.S. Court of Appeals for the Second Circuit dismissed respondent's appeal from the dismissal of his federal case against the AGC, denied his motions for a stay and leave to file a surreply, and ordered him to show cause why a leave-to-file and monetary sanction should not be imposed (*Manchanda v Reardon*, 2024 WL 4196867, 2024 US APP LEXIS 23655 [2d Cir, Aug. 14, 2024]), cert denied ___ US ___ 2024 WL 4743697 [2024].^[FN1] The Court held that respondent's appeal "include[d] numerous anti-Semitic and racist statements, directly against [its prior] warnings" (2024 WL 4196867, *1, , 2024 US APP LEXIS 23655, *3).

Referee's Liability Findings and Sanctions Recommendations

Meanwhile, in an unpublished order entered February 7, 2024, this Court granted AGC's petition of charges to the extent of appointing a Referee, to hear and report on the charges, making such findings of fact and conclusions of law, and recommending such disciplinary sanction, if any, as may be appropriate.^[FN2] A hearing on liability was conducted on April 11, 2024, and May 10, 2024. During the hearing, the AGC called one witness, presented documentary evidence, and cross-examined respondent regarding such documentary evidence. Respondent did not testify on his own behalf at the hearing, nor presented any witness or documentary evidence. The Referee issued a report finding that the AGC had proven all the charges outlined above and that the appropriate sanction should be disbarment. The specific findings are summarized as follows:

First, the Referee found incredible respondent's claim, espoused during cross examination by the AGC, that he either did not author or at least did not remember authoring the questionable language included in the court documents submitted to court on his behalf and in the books he purportedly authored. At the outset of the liability phase of the hearing, the AGC presented respondent with several of the documents annexed to its petition of charges, which the Referee received in evidence, to ask him questions about them. Throughout these lines of questioning, respondent claimed either not to have authored the documents, that he did not remember authoring or filing the documents, that he did not fully read them, or that someone else — his staff, editors of his books, or his ethics attorneys — wrote or filed them on his behalf, despite the documents having his email address, signature, or firm information on them. The Referee found respondent's answers to these questions to be evasive, rambling, incoherent, combative, implausible[*6], and, ultimately, incredible, and concluded that he had, in fact, authored and filed the documents referenced by the AGC.

Second, the Referee rejected respondent's claim that he was being targeted for political reasons. During testimony, which the Referee characterized as rambling and often incoherent, respondent testified about being an informant for the FBI or the CIA and made attempts to tie some of his current problems to a ruling that a federal judge made years ago relating to Iran's connection to the September 11 attack. However, as the Referee observed, "respondent contended that he could not discuss the details because it was CIA related, but argued that he was being targeted for political reasons." The Referee found that this testimony made absolutely no sense, and respondent offered not a shred of evidence that anyone in the federal or state judiciary was ruling against him because of his political beliefs or his alleged government connections. Even if respondent, at one point, had some government connection, the Referee wrote, it would not allow him to make unfounded, racist, and offensive remarks about multiple judges, attorneys, and court personnel.

Third, the Referee found credible the testimony of an attorney formerly employed by respondent and whom the AGC presented to corroborate the claim that the offensive and unsupported allegations included in the documents submitted were either created or approved by respondent. The former employee testified that "he did not file anything without respondent's approval, and he did not have access to [r]espondent's computer password. He did not use [r]espondent's electronic signature/stamp to sign things for [r]espondent." The Referee found it incredible "that [r]espondent would let [the former employee,] whom [respondent] contended was a problematic employee, file things without his permission and without reviewing them." Ultimately, the Referee rejected "respondent's claim that [his former employee's] testimony was retaliation against respondent or an attempt to cover up his own misconduct, particularly where the AGC had dismissed respondent's complaint against" the former employee, who had found employment elsewhere.

Fourth, the Referee rejected respondent's denial of the objectionable statements he made while holding himself out as a well-trained and extremely experienced lawyer in 20 years in Manhattan, New York City. The Referee found respondent's explanations to be ludicrous and nonsensical.

Fifth, the Referee also rejected respondent's attempt to minimize his objectionable response to the negative internet reviews of respondent. As the Referee noted, when he was asked about client A.S., respondent initially said that he did not recall who this individual was because he talks to a lot of people. After further questioning, however, respondent admitted that he had filed a complaint against A.S. because he thought A.S. was trying to engage in immigration fraud by entering into a "fake[*7]" same-sex marriage. The Referee noted that this assertion was impossible to reconcile with respondent's firm sending a retainer to the client. Respondent explained that he thought people were being sent to his office to "entrap" him into filing false asylum claims, which again would be inconsistent with sending A.S. a retainer and asking him to make a legal fee payment.

Finally, the Referee rejected respondent's attempt to shift responsibility to someone else regarding the offensive language and privileged information contained in his written answer to A.S. review. As the Referee noted, respondent claimed that he had search optimization people who he paid to fight online reviews. The Referee found it unbelievable that a hired firm would post such an offensive response to improve respondent's online presence. Furthermore, the Referee found, respondent failed to explain why such a firm would provide details of the representation — something only respondent or his employees would have known. The Referee also noted that respondent gave inconsistent testimony, stating that he consulted ethics attorneys about what he could write in response, but then backtracked, saying he that would not write such things. In the Referee's view, respondent's "shifting and often incomprehensible testimony" did not convince the Referee that someone else wrote the response; instead, the Referee believed that he wrote the posting as owner of the firm. The Referee also rejected respondent's inconsistent explanations that ethics attorneys had reviewed the response to E.W.'s review but that he did not recall writing the response. Respondent's response to M.H.A.'s review, the Referee wrote, followed the same pattern.

As to the appropriate sanction, the Referee did not find any mitigating circumstance. As to aggravation, the Referee noted that respondent was previously the subject of three separate admonitions: first for using discourteous language in an email to a client; then for threatening to bring charges against a client after the

client disputed a fee; and, finally, for pleading guilty to menacing in the third degree (Penal Law § 120.15), a class B misdemeanor. The Referee also considered, in aggravation, the filing injunction that this Court issued against respondent in connection with this disciplinary matter, and "[r]espondent's wasted and frivolous efforts to repeatedly try and get the disciplinary matter moved to federal court" Finally, in aggravation, the Referee noted respondent's contradictory, confusing, and incredible testimony throughout the hearing, his claims of ignorance and persistent efforts to shift blame to others, his unqualified lack of remorse or compassion. In ultimately agreeing with the AGC that disbarment was the appropriate sanction, the Referee, a retired judge, commented that in her many years as a judge, she had never seen an attorney who made the type of outrageous comments that were proven here, and that the record of frivolous filings [*8] was overwhelming.

Motion To Disaffirm and Cross-Motion To Confirm

Respondent moves to disaffirm the Referee's report and recommendation. Immediately in his motion, respondent makes the same kind of racist and anti-Semitic claims that he has made throughout this proceeding, argues that he is being unfairly persecuted by the AGC, which is itself being controlled by oppressive minority groups, and insists that such persecution has followed him since his divorce. He makes anti-Semitic, homophobic, misogynistic, and racist attacks against the Referee and the AGC staff attorneys as well. Respondent reiterates that the AGC has done nothing to discipline the other lawyers who worked for him and, he claims, committed misconduct; complains about the way that the AGC has litigated this case; and stresses that there is nothing unethical about pointing out biased, discriminatory, unethical, and illegal conduct. Respondent contends that the AGC did not prove any of the charges against him, and that its proffered evidence proves the decades-long crusade being waged against him. Merely dismissing the charges against him is not enough; respondent demands that this Court fashion a better remedy for the AGC's hysterical campaign against him, including costs, attorney's fees, and sanctions, and a filing injunction against the AGC. In support of his motion, respondent submits, among other things, a redlined copy of the Referee's report, with notes in the margins responding to specific findings.

The AGC cross-moves to confirm the Referee's report and recommendation. In opposition to respondent's motion, the AGC describes it as "nothing more than a continued showcase of respondent's spiteful attacks that should be considered in aggravation. They are inflammatory outbursts, unworthy of any serious consideration."

Discussion

On a motion to affirm a Referee's report and recommendation, this Court must review the Referee's report and determine whether the Referee properly found, by a fair preponderance of the evidence, each essential element of the charges (*Matter of Zappin*, 160 AD3d 1, 7 [1st Dept 2018], appeal dismissed 32 NY3d 946 [2018], lv denied 32 NY3d 915 [2019] quoting Rules for Atty Disciplinary Matters [22 NYCRR] § 1240.8 [b] [1]). The Referee's credibility determinations are afforded great weight, since the Referee was in a superior position to observe the witnesses and their demeanor, and to hear their testimony (*see e.g. Matter of Antzoulatos*, 210 AD3d 31, 37 [2d Dept 2022]). Upon a finding that an attorney has committed professional misconduct, "[t]his Court may impose discipline or take other action that is authorized by law and, in the

discretion of the Court, is appropriate to protect the public, maintain the honor and integrity of the profession, or deter others from committing similar misconduct" (22 NYCRR 1240.8 [b] [2]).

Initially, we find that the Referee's liability findings sustaining the charges are fully supported by the record. As to charges [*9]one and two, the AGC established, by a fair preponderance of the evidence, that respondent has, for years, filed both documents containing unacceptably bigoted language in state and federal courts as well as complaints with a panoply of state, federal, and international agencies, thereby establishing respondent's violation of RPC rules 8.4 (d) and (h), namely, that he engaged in conduct that, respectively, was "prejudicial to the administration of justice" and "adversely reflect[ed] on . . . [his] fitness as a lawyer." Further, the Referee's finding that respondent testified incredibly when he denied having authored the relevant documents is well supported by the record.

As to charges three and four, the AGC also established, by a fair preponderance of the evidence, that respondent both used intolerably vile and foul language and divulged privileged information when responding to clients' complaints about him online, thereby establishing his violation of RPC rule 1.6, forbidding lawyers from "knowingly reveal[ing] confidential information . . . or us[ing] such information to the disadvantage of a client or for the advantage of the lawyer," as well as RPC rule 8.4(h). The Referee's rejection, as unbelievable, of respondent's claims not to have authored those responses or to have obtained approval for the language that he used in those responses is amply supported by the record.

As to charge five, the AGC also established, by a fair preponderance of the evidence, that respondent used racist, anti-Semitic, homophobic, and misogynistic statements while holding himself out as a well-trained and extremely experienced lawyer in 20 years in Manhattan, New York City, thereby violating RPC rule 8.4(h). Again, the Referee properly rejected respondent's disingenuous, nonsensical claims that he did not know the statements to be objectionable until the liability hearing.

Finally, as to charges seven and eight, the AGC also established, by a fair preponderance of the evidence, that respondent repeatedly made meritless, frivolous, and vexatious arguments well beyond the point at which he should have known better, thereby establishing his violation of RPC rule 3.1 (a) ("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") and rule 8.4 (d). Respondent's targets for such filings have grown to include this very disciplinary proceeding and collateral attacks that he has launched on it in state and federal courts. He has shown no intention of stopping or slowing down such filings, even in the face of disbarment by this Court or sanctions in the Second Circuit.

As to the sanction, the Referee's disbarment recommendation is amply supported by the record. Respondent's misconduct is unbecoming of an attorney and counselor-at-law in this State. There does not appear to be any reported case in which the attorney's misconduct similarly rose to the virulence that [*10]respondent has demonstrated well before and all throughout this disciplinary proceeding. Words fail to capture the severity and extent of his bigotry. The conduct here is simply shocking and outrageous.

Lawyers are expected, among other things, to "be courteous and civil in all professional dealings with other persons" (NY Rules of Prof Conduct, Standards of Civility [22 NYCRR part 1200, Appendix A] § 1 [Lawyers'

Duties To Other Lawyers, Litigants, Witnesses And Certain Others] [I]); to "act in a civil manner regardless of the ill feelings that [they or] their clients may have toward others" (*id.* at [I][A]); to "disagree without being disagreeable" and without "antagonistic or acrimonious behavior," and to "avoid vulgar language, disparaging personal remarks [,] or acrimony toward other counsel, parties or witnesses" (*id.* at [I][B]); not to "engage in conduct intended primarily to harass or humiliate witnesses" (*id.* at [I][C]); not to "use any aspect of the litigation process . . . as a means of harassment" (*id.* at [VI]); and, to "conduct themselves with dignity and refrain from engaging in acts of rudeness and disrespect" (*id.* at [VII]). Respondent's misconduct evinces not only flagrant disregard for these standards of civility, but contempt for and rejection of them.

Accordingly, the AGC's cross-motion to confirm the Referee's report and recommendation should be granted, and respondent disbarred from the practice of law and his name stricken from the roll of attorneys and counselors-at-law in the State of New York until further order of this Court. Respondent's motion to disaffirm the Referee's report and recommendation should be denied.

All concur.

Wherefore, it is Ordered that the motion by respondent Rahul Dev Manchanda to disaffirm the Referee's report and recommendation is denied, and

It is further Ordered that the cross-motion by the Attorney Grievance Committee for the First Judicial Department for an order pursuant to 22 NYCRR 1240.8(b) and 603.8-a(t) disbaring respondent, Rahul Dev Manchanda, is granted, and respondent is disbarred, and his name stricken from the roll of attorney in the State of New York, effective the date hereof and until further order of this Court, and

It is further Ordered that, pursuant to Judiciary Law § 90, respondent Rahul Dev Manchanda, is commanded to desist and refrain from (1) the practice of law in any form, either as principal or agent, clerk or employee of another, (2) appearing as an attorney or counselor-at-law before any court, Judge, Justice, board, commission or other public authority, (3) giving to another an opinion as to the law or its application or any advice in relation thereto, and (4) holding himself out in any way as an attorney and counselor-at-law; and

It is further Ordered that respondent Rahul Dev Manchanda, shall comply with the rules governing the conduct of disbarred or suspended attorneys (see 22 NYCRR 1240.15), which are made part hereof; and

It is further Ordered that if [*11]respondent, Rahul Dev Manchanda, has been issued a secure pass by the Office of Court Administration, it shall be returned forthwith.

Entered: November 21, 2024

Footnotes

Footnote 1: Respondent responded by letter dated August 24, 2024. On or about September 11, 2024, respondent petitioned the Supreme Court of the United States for a writ of certiorari to the Second Circuit to

review its August 14, 2024, order.

Footnote 2: By the same order this Court denied respondent's motion to dismiss, his motion to hold an AGC attorney in contempt and to sanction the attorney for frivolous conduct, and his supplemental motion to dismiss.

Some case metadata and case summaries were written with the help of AI, which can produce inaccuracies. You should read the full case before relying on it for legal research purposes.

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Hindlin v Prescription Songs LLC
2022 NY Slip Op 32601(U)
July 30, 2022
Supreme Court, New York County
Docket Number: Index No. 651974/2018
Judge: Andrea Masley
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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

-----X
JACOB HINDLIN,

Plaintiff,

- v -

PRESCRIPTION SONGS LLC, KASZ MONEY, INC.,
ADVANCED ALTERNATIVE MEDIA, INC., KING,
HOLMES, PATERNO & SORIANO, LLP, MARK BEAVEN,
PETER PATERNO, NONSTOP MANAGEMENT, LLC, and
LUCILLE SONGS, INC.,

Defendants.
-----X

INDEX NO. 651974/2018

MOTION DATE _____

MOTION SEQ. NO. 025

**DECISION + ORDER ON
MOTION**

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 025) 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 1018, 1019, 1020

were read on this motion to/for

SANCTIONS

Upon the foregoing documents, it is

Defendants move by order to show cause for the following relief:

(1) imposing sanctions, pursuant to 22 NYCRR § 130-1.1(a), in the form of an order for David Rosenberg of Marcus Rosenberg & Diamond, LLP and Andrew Goodman of Foster Garvey P.C. to: (a) reimburse defendants for the attorneys' fees that defendants have incurred and will incur in connection with the briefing and argument of this Order to Show Cause; (b) reimburse defendants for the attorneys' fees and costs (including court reporter, videographer, and transcript costs) incurred by defendants in connection with the deposition of Ms. Hindlin on May 18, 2022; and (c) pay for 100% of the costs and fees for a private referee to supervise the resumption of Ms. Hindlin's deposition on two separate days;

(2) for a protective order under CPLR 3103 to bar further excessive and improper speaking objections and instructions by Rosenberg and Goodman; and

(3) for a protective order under CPLR 3103 to prevent Rosenberg and Goodman from abusive and unprofessional behavior in the deposition of Ms. Hindlin.¹

¹ Despite the serious nature of this motion, the court was compelled to cancel argument on the motion when Rosenberg, an experienced and well-respected member of the
651974/2018 HINDLIN, JACOB KASHER vs. PRESCRIPTION SONGS LLC
Motion No. 025

This motion arises from the May 18, 2022 deposition of Jaime Hindlin, the sole owner and President of Counterclaim Defendant Nonstop Management LLC (Nonstop) and spouse of plaintiff.² The claims against Nonstop include conversion of funds, equitable accounting, constructive trust, unjust enrichment, tortious interference, and aiding and abetting conversion. (NYSCEF 483, KMI's Amended Counterclaims ¶¶ 51-103³.) Ms. Hindlin's testimony is relevant as Nonstop is plaintiff's manager. (*Id.* ¶ 2.) Moreover, Ms. Hindlin worked for plaintiff Prescription where she was plaintiff's direct contact at Prescription during the relevant time. (*Id.* ¶ 6.) The deposition transcript of 175 pages speaks for itself and need not be repeated. (NYSCEF 961, Transcript.⁴) Suffice it to say that Rosenberg, counsel to the witness, interjected 187 times with improper speaking objections and/or colloquy, while Goodman, counsel for plaintiff, interjected 114 times with improper speaking objections and/or colloquy. Counsel instructed the witness not to answer 30 questions without any lawful basis.

Upon review of the transcript, the court immediately appointed Hon. Karla Moskowitz (ret.) to supervise the deposition. (NYSCEF 965, Order; *Orner v Mount Sinai Hosp.*, 305 AD2d 307, 309–310 [1st Dept 2003].) The court wishes to publicly thank Justice Moskowitz and Tyear Middleton, Esq. of the NYCLA Special Masters Program⁵ both of whom volunteered to assist the court in this matter.⁶ The court was informed by

commercial bar, allegedly could not sign on to Teams. Rosenberg's affirmation which consists of quoting the transcript without any citations is not helpful. Rather, the deposition transcript speaks for itself.

² This deposition was held in abeyance until the end of discovery based on a January 20, 2021 doctor's note from Ms. Hindlin's treating physician. (NYSCEF571, Doctor's Note.) Defendants moved to compel Ms. Hindlin's deposition, and the court granted the request, finding Ms. Hindlin's deposition necessary as she is the only person with knowledge. (NYSCEF 928, Decision and Order [Mot. Seq. No. 016].) The court ordered that the deposition take over the course of two days for limited periods of time with breaks as requested by Ms. Hindlin. (*Id.*) The court notes that a new doctor's note was not provided updating the court on Ms. Hindlin's medical status.

³ The court notes that this document is filed under temporary seal with a redacted copy filed at NYSCEF 482; however, there is no order permitting the sealing of this document. The filing party is directed to seek such relief.

⁴ This document is also filed under temporary seal without court order.

⁵ <https://www.nycla.org/pdf/NYCLA%20Special%20Masters%20Sworn%20In%20Press%20Release.pdf>

⁶ The court notes that unlike the federal courts and some state courts, New York courts do not have the authority to direct the parties to pay for a special master. (See e.g. FRCP Rule 53, Masters.) This case illustrates why such authority is crucial to a well-functioning court system.

Justice Moskowitz on June 21, 2022 that the deposition had concluded. However, conclusion of the deposition does not absolve Goodman or Rosenberg of attempting to thwart this deposition.

“Society at large, and the legal community in particular, is increasingly less tolerant of sharp practices and sharp behavior that verges on harassment. It is a question of enlightened self-interest for lawyers and their clients to be tough yet civil.” (Hon. Lawrence K. Marks, Jeremy Feinberg and Laura Smith, § 86:1 Scope note, 4C NY Prac, Com Litig in New York State Courts § 86:1 [5th ed.].) During depositions, lawyers are expected to “conduct themselves with dignity and refrain from engaging in acts of rudeness and disrespect.” (*Id.* § 86:16 Discovery—Depositions.) Accordingly, the court presumes that all attorneys, including Goodman and Rosenberg, two extremely experienced attorneys⁷, are familiar with the rules governing depositions.

To review, CPLR 3113 sets forth the procedures for depositions and provides:

“(c) Examination and cross-examination. Examination and cross-examination of deponents shall proceed as permitted in the trial of actions in open court, except that a nonparty deponent's counsel may participate in the deposition and make objections on behalf of his or her client in the same manner as counsel for a party. When the deposition of a party is taken at the instance of an adverse party, the deponent may be cross-examined by his or her own attorney. Cross-examination need not be limited to the subject matter of the examination in chief.”

Section 221.1. Objections at depositions, 22 NYCRR 221.1 provides:

(a) *Objections in general.* No objections shall be made at a deposition except those which, pursuant to subdivision (b), (c) or (d) of Rule 3115 of the Civil Practice Law and Rules, would be waived if not interposed, and except in compliance with subdivision (e) of such rule. All objections made at a deposition shall be noted by the officer before whom the deposition is taken, and the answer shall be given and the deposition shall proceed subject to the objections and to the right of a person to apply for appropriate relief pursuant to article 31 of the CPLR.

(b) *Speaking objections restricted.* Every objection raised during a deposition shall be stated succinctly and framed so as not to suggest an answer to the deponent and, at the request of the questioning attorney, shall include a clear statement as to any defect in form or other basis of error or irregularity. Except to the extent permitted by CPLR Rule 3115 or by this rule, during the course of

⁷ Goodman has been practicing for over 40 years according to his firm bio. <https://www.foster.com/people-andrew-goodman>. Rosenberg has been practicing for over 40 years according to his firm bio. <http://www.realtylaw.org/attorney-profiles/david-rosenberg-esq/>

the examination persons in attendance shall not make statements or comments that interfere with the questioning.

However, even if they were unfamiliar with the rules, Goodman and Rosenberg were reminded and warned by Special Master Mark Alcott who was supervising discovery in this matter. In March 2021, Rosenberg appeared as counsel for plaintiff's business manager, Zareh Bandari. Upon review of the transcript, Special Master Mark Alcott found that Goodman and Rosenberg improperly instructed the witness not to answer, and that "Plaintiff's counsel and the Deponent's counsel collectively intervened with arguments, speeches and aggressive colloquy 325 times in a 255-page transcript. That is far too often for counsel defending a deposition." (NYSCEF 953, Twelfth Report of Special Master at 5.) Special Master Alcott directed the deposition to resume, with an opportunity for defendants' counsel to ask those questions that had been blocked and stated that "[c]ounsel objecting to a question at the resumption of this deposition or at any future depositions must confine themselves to a terse statement of objection on a particular ground. . . . The question must be answered unless a refusal to answer or an instruction not to answer is permissible within the strict parameters of the applicable Uniform Rule." (*Id.*)

This is not the first time Goodman has exhibited this type of unprofessional, bullying behavior in this action, though it was only brought to this court's attention with this motion. (See e.g., NYSCEF 954, December 22, 2020 Jacob Hindlin Deposition Tr at 91:3-5 [Goodman: "You are not very good at asking questions, but you are very good at interrupting others."], 95:23 [Goodman: "You are really obnoxious"]; NYSCEF 955, December 23, 2020 Lukasz Gottwald Deposition Tr. at 79:14-15 [Goodman: "wipe that silly smile off your face"]; NYSCEF 956, February 12, 2021 Bruce Scavuzzo Deposition Tr. at 85:4-5 [Goodman: "you're a joke"], 105:10-22 [Goodman: "You have no knowledge of the law at all. You're a joke.... you're nonsense."]; NYSCEF 559, Special Master Conference Tr at 29:15-24 [Special Master: "Ok, Mr. Montclare. You are on mute sir... You've got to unmute yourself." Montclare: "I said it's nice to see you again..." Goodman: "You could have stayed on mute Paul. That would have been fine"].)

"A lawyer's duty to refrain from uncivil and abusive behavior is not diminished because the site of the proceeding is a deposition room, or law office, rather than a courtroom." (*Corsini v U-Haul Intern.*, 212 AD2d 288, 291 [1st Dept. 1995] [citations omitted]; see also *Adams v Rizzo*, 13 Misc 3d 1235(A), n 27, 2006 NY Slip Op 52135[U] [Sup Ct, Onondaga County 2006] [Counsel's "conduct in interrupting defense counsel's examination and advancing self-serving questions of the witness would never be tolerated by this court *at trial* and is patently improper at a deposition."].)

The court rejects Goodman's defenses. Goodman was not the witness's attorney, and he did not protect the witness; he incited her. (See e.g. NYSCEF 961, Tr at 62:8-63:22.) Moreover, Albertson's question "Is Nonstop a music publisher?" is not offensive by any measure or calculated to physically harm Ms. Hindlin in any way as Goodman implied. (*Id.* at 62:5-63:2.) "At depositions, as in court, lawyers are expected

to 'advise their clients and witnesses of the proper conduct expected of them ... and make reasonable efforts to prevent clients and witnesses from causing disorder or disruption.'" (4C NY Prac, Com Litig in New York State Courts § 86:16.) Attorneys must model civility for their clients. Otherwise, the attorney will incite the witness, as occurred in this case, necessitating that the deposition be retaken. (*Orner v Mount Sinai Hosp.*, 305 AD2d 307, 309 [1st Dept. 2003] [where a lawyer's "sardonic and unprofessional" attitude toward the counsel conducting a deposition fostered "an uncooperative attitude from [the deponent]."]]. Counsel are expected to intervene when a witness exhibits offensive conduct as the witness did here. (See *GMAC Bank v HTFC Corp.*, 248 FRD 182, 195 [D Pa 2008] [Court imposed \$29,000 sanction jointly and severally on attorney and client despite the "severe and repeated nature" of the client's misconduct, the attorney "persistently failed to intercede and correct" his client's "abusive, obstructive, and evasive behavior." Further, "when [the attorney] did speak, he either incorrectly directed the witness not to answer, dared opposing counsel to file a motion to compel, or even joined in [his client]'s offensive conduct."].)

As to their attacks on Jacob Albertson, Esq., who was taking the deposition on behalf of defendants, plaintiff's justification is rejected. Generally, inartful or imperfect deposition questions "[do] not give [opposing] counsel license to react impatiently nor interfere. (*Orner*, 305 AD2d at 309.) Nevertheless, Albertson's questions were neither inartful nor imperfect. Opposing counsel's constant objections otherwise do not make it so.

Rosenberg's affirmation only underscores his improper objections. Rosenberg's objections began on page 13 of the transcript, only 6 pages after Albertson's first question. Rosenberg's first objection "That's not her testimony" was incorrect. (NYSCEF 961, tr at 13:3.) Albertson asked "And so you said that you were an A&R assistant and also A&R. When did you become A&R?" (*Id.* at 12:23-25.) In fact, Ms. Hindlin testified "I worked at Warner Brother Record as an A&R assistant and then an A&R. (*Id.* at 11:18-19.) Accusations of Albertson's alleged harassment began on page 39 while accusations of abuse began on page 76. Upon review of Albertson's questions, the court finds that they were not harassing or abusive. However, the objections were.

The Spousal Privilege does not shield counsel's improper conduct. The proper procedure is to state the objection without any colloquy. (22 NYCRR 221.1.)

Improper deposition behavior not only thwarts the deposition but tarnishes the profession. Offensive and abusive language by attorneys in the guise of zealous advocacy is plainly improper, unprofessional, and unacceptable. "An attorney who demonstrates a lack of civility, good manners and common courtesy taint the image of the legal profession and, consequently, the legal system, which was created and designed to resolve differences and disputes in a civil manner." (*Laddcap Value Partners, LP v Lowenstein Sandler P.C.*, 18 Misc 3d 1130[A], 1130A, 2007 NY Slip Op 52538[U], *7-8 [Sup Ct, NY County 2007], citing *Matter of McAlevy*, 69 NJ 349, 354 [1976].) "[S]ociety's primary interest in the resolution of civil disputes is that they be

settled in a peaceful, orderly, and impartial manner.” (*People v Fagan*, 104 AD2d 252, 255 [4th Dept 1984].)

The court orders that Goodman’s and Rosenberg’s uncivil and obstructive behavior will stop now. By any measure, their repeated conduct is sanctionable. A warning by Special Master Alcott was apparently not sufficient. While dismissal, the ultimate penalty, has not been requested, the court notes that gamesmanship and dilatory tactics during discovery, such as those exhibited here, have resulted in dismissal. (*See Arts4All, Ltd. v Hancock*, 54 AD3d 286 [1st Dept 2008].)

As a result of their concerted efforts to thwart this deposition, even after a warning following a prior deposition in this case, Goodman and Rosenberg are sanctioned. First, they shall, within 10 days of receipt of defendants’ affirmation of services, reimburse defendants the attorneys’ fees and expenses defendants incurred on May 18, 2022 and for making this motion. Second, Rosenberg and Goodman shall each pay the Fund for Client Protection. Rosenberg is sanctioned \$2,000 (\$1,000 for this action which is doubled because he did not respect Special Master Alcott’s warning). Goodman, who was not representing the deponent shall pay \$10,000 as the penalty for the harm he has done to the profession after being cautioned by Special Master Alcott not to do so. The court finds Goodman’s language regarding “beating your wife” particularly reprehensible. (NYSCEF 961, Tr 55:16.) These sanctions are also appropriate because Justice Moskowitz volunteered her time; counsel were not directed to pay for her services as a penalty. (*See Oi Tai Chan v Society of Shaolin Temple*, 30 Misc 3d 244, 255-56 [Sup Ct, Queens County 2010].) To ensure this conduct is not repeated, Goodman and Rosenberg shall each attend a CLE on civility within 30 days of the date of this decision and submit to the court an affirmation attesting to their attendance and whether they complied with this court’s order that they read the standards of civility.⁸ (NYSCEF 965, May 26, 2022 [Attachment: Order with Standards of Civility].)

Accordingly, it is

ORDERED that Goodman and Rosenberg shall conduct themselves in this case in a civil manner; and it is further

ORDERED that Goodman shall pay the Lawyer’s Fund for Client Protection, 119 Washington Avenue, Albany, New York, 12210, \$10,000 within 10 days of the date of this order; and it is further

ORDERED that Rosenberg shall pay the fund for client protection \$2,000 within 10 days of the date of this order; and it is further

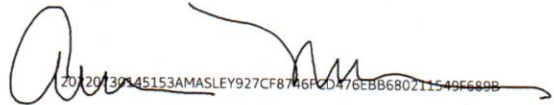
⁸ Counsel are referred to the NYS Bar Association which sponsors a regular CLE on civility taught by Vince Syracuse, Esq. The transcript in this matter, with appropriate redactions, will be shared with Mr. Syracuse for use in his seminar as an example of uncivil sanctionable behavior.

ORDERED that written proof of the payment of this sanction shall be provided to the court by e-mail (SFC-Part48@nycourts.gov) and opposing counsel within 30 days of the date of this order; and it is further

ORDERED that, in accordance with 22 NYCRR 130-1.3, a copy of this order will be sent by the Part to the Lawyer's Fund for Client Protection; and it is further

ORDERED that Goodman and Rosenberg shall reimburse defendants' attorneys' fees and expenses in filing this motion and their costs associated with the May 18, 2022 deposition within 10 days of receipt of the affirmation of services. Rosenberg and Goodman are jointly and severally liable for this sanction; and it is further

ORDERED that Goodman and Rosenberg shall each attend a CLE on civility within 30 days of the date of this decision and submit to the court an affirmation attesting to their attendance and whether they complied with this court's order that they read the standards of civility.



7/30/2022

DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

APPLICATION:

CHECK IF APPROPRIATE:

☐
☒
☐
☐

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

☐ DENIED

☒
☐
☐
☐

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

☐ OTHER

☐ REFERENCE