

No. 17A756

In The
Supreme Court Of The United States

ZBIGNIEW S. ROZBICKI,
Petitioner,

v.

CHIEF DISCIPLINARY COUNSEL,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES SUPREME COURT
FOR THE CONNECTICUT SUPREME COURT

APPENDIX

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EXHIBIT 1.....30-53

167 A.3d 351 (2017)

326 Conn. 686

CHIEF DISCIPLINARY COUNSEL

v.

ZBIGNIEW S. ROZBICKI

(SC 19796).

Supreme Court of Connecticut.

Argued May 2, 2017.

Officially released September 5, 2017.

Presentment by the plaintiff for alleged professional misconduct by the defendant, brought to the Superior Court in the judicial district of Litchfield and transferred to the judicial district of Hartford, where the court, *Robaina, J.*, denied the defendant's motion to dismiss; thereafter the matter was tried to the court, *Robaina, J.*; judgment suspending the defendant from the practice of law for four years, from which the defendant appealed. *Affirmed.*

Zbigniew S. Rozbicki, self-represented, the appellant (defendant).

Leanne M. Larson, assistant chief disciplinary counsel, for the appellee (plaintiff).

Rogers, C. J., and Palmer, Eveleigh, McDonald,
Robinson, D'Auria and Vertefeuille, Js.

354*354 ROBINSON, J.

The defendant, Zbigniew S. Rozbicki, an Attorney, appeals^[1] from the judgment of the trial court, rendered following presentment by the plaintiff, Chief Disciplinary Counsel, concluding that he had violated rules 3.1, 8.2 (a), and 8.4 (4) of the Rules of 355*355 Professional Conduct^[2] and suspending him from the practice of law for a period of four years. In challenging the trial court's judgment, the defendant raises a multitude of claims, including the following: (1) that the trial court violated his constitutional right to due process; (2) that the allegations in the presentment were barred under the doctrines of res judicata and collateral estoppel; (3) that the plaintiff failed to prove professional misconduct by clear and convincing evidence; and (4) that the trial court abused its discretion in imposing a four year suspension without considering certain factors set forth in the American Bar Association's Standards for Imposing Lawyer Sanctions (standards). We disagree and, accordingly, affirm the judgment of the trial court.

The record reveals the following relevant facts and procedural history. The grievance arises from the defendant's accusations of judicial bias, prejudice, and partiality against two judges of the Superior Court, namely, Judge Vincent E. Roche and Judge John A. Danaher. The accusations were made in various motions, memoranda, and oral argument submitted and presented by the defendant throughout extensive litigation relating to his position as an executor of the estate of Kathleen

Gisselbrecht (decedent).^[3] The defendant filed several actions against members of the decedent's family, two of which are most relevant to the present appeal.

In the first case, the defendant appealed from a decision of the Probate Court regarding his final accounting as executor of the estate. See *Rozbicki v. Gisselbrecht*, Superior Court, judicial district of Litchfield, Docket No. CV-10-5007246-S, 2014 WL 1012676 (February 10, 2014). In that case, the defendant filed a motion to stay certain orders pending resolution of a separate but related matter. That motion was denied by Judge Roche. In response, the defendant filed a motion to disqualify Judge Roche, accusing him of failing "to adhere to basic principles of judicial impartiality...." In an affidavit filed in support of that motion, the defendant averred that Judge Roche's ruling indicated "a transformation of a judge who has a duty to be impartial, to a judge who appears to be an advocate"^[4] The defendant subsequently moved to disqualify Attorney J. Michael Sconyers, who represented certain members of the decedent's family. Judge Danaher denied that motion. In response, 356*356 the defendant moved to disqualify Judge Danaher, claiming partiality, bias, and prejudice. Judge Danaher also denied that motion. In the second case, the defendant alleged that the successor executor of the decedent's estate improperly denied a \$20,000 claim in connection with a loan that the defendant had allegedly made to the decedent. See *Rozbicki v. Gisselbrecht*, Superior Court, Judicial District of Litchfield, Docket No. CV-10-6001830-S, 2011 WL 7029771 (December 19, 2011). In that case, the defendant filed another motion to disqualify Attorney Sconyers, which Judge Danaher denied. The defendant thereafter made an

oral motion to disqualify Judge Danaher, which was also denied. The defendant subsequently filed a written motion to disqualify Judge Danaher, claiming "bias, prejudice, and partiality" Judge Danaher later denied this motion in a detailed memorandum of decision.

On December 19, 2011, Judge Roche granted the executor's motion for summary judgment regarding the defendant's claims for fees and payment of the \$20,000 loan. See *Rozbicki v. Gisselbrecht*, supra, Superior Court, Docket No. CV-10-6001830-S. The defendant subsequently moved to reargue a previous decision by Judge Danaher denying, inter alia, a motion for an order of compliance in connection with a dispute regarding a deposition. In his motion to reargue, the defendant claimed that Judge Danaher's decision (1) was "ridden with indications of a bias and prejudice ... so blatant and beyond the parameters of judicial authority and responsibility that the decision cannot legally or ethically be sanctioned," (2) demonstrated "abuse of judicial power to prejudge matters and cases not before the court and raises substantial issues of impropriety and partiality," (3) "manifested a bias and prejudice to the [defendant] and harassment [that] violated [his] constitutional right of access to the courts and [to] a fair trial," (4) brought the "judiciary into disrepute," and (5) indicated an intent "to affect and impair the outcome of other pending cases"

The defendant then filed an objection to a motion for an order regarding certain deposition costs filed by opposing counsel. In that objection, the defendant accused Judge Danaher of bias, prejudice, judicial impropriety, abuse of judicial authority, and judicial misconduct. The defendant subsequently moved to reargue Judge Roche's decision granting

summary judgment. In that motion to reargue, the defendant again accused Judge Danaher of acting extrajudicially and in a biased manner. Thereafter, the defendant filed a motion to "vacate [an] extrajudicial order," accusing Judge Danaher of becoming an advocate for the opposing party, evoking profound bias and prejudice, failing to uphold and apply the law, failing to be fair and impartial, and taking a personal interest in the proceedings.

In response to these serious and repetitive accusations against Judges Roche and Danaher, Attorney Sconyers filed a grievance against the defendant with the Statewide Grievance Committee on January 11, 2012. After a hearing, the Litchfield Judicial District Grievance Panel determined that there was probable cause to believe that the defendant had violated the Rules of Professional Conduct. The matter was presented to the Statewide Grievance Committee at a hearing on February 5, 2013, during which the defendant, represented by counsel, testified. Thirty-seven exhibits were admitted during that proceeding, and both the defendant and the plaintiff filed a post hearing brief. On July 26, 2013, the Statewide Grievance Committee found, by clear and convincing evidence, that the defendant's "improper, 357*357 baseless accusations" against Judges Roche and Danaher violated rules 3.1, 8.2 (a), and 8.4 (4) of the Rules of Professional Conduct. The Statewide Grievance Committee directed the plaintiff to file a presentment against the defendant including the violations of those rules, and to seek the imposition of any sanction the court deemed appropriate. In the presentment complaint, the plaintiff accused the defendant of violating rules 3.1, 8.2 (a), and 8.4 (4) of the Rules of Professional Conduct by making

"baseless accusations" against Judges Roche and Danaher. The plaintiff cited the defendant's history of professional discipline, including his presentment in two cases in 1987, which resulted in a three month suspension from the practice of law in 1992, a reprimand in 2006, and his presentment in two cases in 2011, which resulted in a two year suspension from the practice of law.

Presentment proceedings were held before the trial court.^[5] In a memorandum of decision dated June 16, 2015, the trial court found, by clear and convincing evidence, that the defendant had violated rules 3.1, 8.2 (a), and 8.4 (4) of the Rules of Professional Conduct. The trial court relied on Ansell v. Statewide Grievance Committee, 87 Conn.App. 376, 384, 865 A.2d 1215 (2005), in rejecting the defendant's defenses of collateral estoppel and res judicata, which were based on the argument that, because the conduct underlying the presentment allegations occurred in the presence of Judges Roche and Danaher, and those courts declined to take further action, despite the authority to do so, the defendant was absolved of any unethical conduct. Similarly, the trial court relied on Chief Disciplinary Counsel v. Rozbicki, 150 Conn.App. 472, 91 A.3d 932, cert. denied, 314 Conn. 931, 102 A.3d 83 (2014), in rejecting the defendant's argument that the plaintiff lacked standing to bring the presentment.

Specifically, the trial court found, by clear and convincing evidence, that the defendant's accusations against Judges Roche and Danaher lacked good faith and, thus, violated rule 3.1 of the Rules of Professional Conduct. Likewise, the trial court found, by clear and convincing evidence, that the defendant lacked "a good faith basis" for making statements in support of his various motions for

disqualification and other pleadings that attacked the integrity of the court and had, therefore, violated rule 8.2 of the Rules of Professional Conduct.

Finally, the trial court found, by clear and convincing evidence, that the defendant had violated rule 8.4 (4) of the Rules of Professional Conduct on the basis of his "relentless and repetitive attack on the integrity of the court ... [which] appear[ed] to be personal." Having determined that the defendant had violated the Rules of Professional Conduct, the trial court turned to the standards promulgated by the American Bar Association to determine the appropriate sanction. After considering these standards, the trial court suspended the defendant from the practice of law for four years. This appeal followed. See footnote 1 of this opinion.

On appeal, the defendant has asserted, inter alia, the following four claims: (1) that the trial court violated his right to due process by allowing the plaintiff to admit extrinsic and irrelevant evidence regarding his previous disciplinary record; (2) that the allegations against him were barred under the doctrines of res judicata and collateral estoppel because Judges Roche 358*358 and Danaher failed to act pursuant to rule 2.15 of the Code of Judicial Conduct;^[6] (3) that the plaintiff failed to establish, by clear and convincing evidence, that he violated the Rules of Professional Conduct; and (4) that the trial court abused its discretion by suspending him from the practice of law for four years.^[7] We address each of these claims in turn. Additional relevant facts and procedural history will be set forth as necessary.

I

The defendant first claims that the trial court deprived him of his right to due process^[8] by

allowing the plaintiff to admit extrinsic and irrelevant evidence on issues beyond those presented to the Statewide Grievance Committee. Specifically, the defendant contends that the presentment complaint did not provide adequate notice of the specific factual charges against him, namely, his prior professional misconduct. In response, the plaintiff contends that a presentment proceeding is a trial de novo, and, as such, the trial court is not bound by the findings of the Statewide Grievance Committee. Additionally, the plaintiff argues that, because presentment proceedings are not a criminal or civil trial, the complaint need not be as precise as one expected in criminal or civil complaints, and that, therefore, the trial court has greater discretion to consider any evidence received at the presentment proceeding in order to determine an appropriate sanction. For the reasons which follow, we conclude that the defendant is unable to prevail on his due process claim.

359*359 "It is well settled that [o]ur case law and rules of practice generally limit [an appellate] court's review to issues that are distinctly raised at trial.... [O]nly in [the] most exceptional circumstances can and will this court consider a claim, constitutional or otherwise, that has not been raised and decided in the trial court.... The reason for the rule is obvious: to permit a party to raise a claim on appeal that has not been raised at trial — after it is too late for the trial court or the opposing party to address the claim — would encourage trial by ambush, which is unfair to both the trial court and the opposing party." (Citations omitted; internal quotation marks omitted.) *Blumberg Associates Worldwide, Inc. v. Brown & Brown of Connecticut, Inc.*, 311 Conn. 123, 142, 84 A.3d 840 (2014). However, it also is well settled that a defendant may prevail on an

unpreserved claim when: "(1) the record is adequate to review the alleged claim of error; (2) the claim is of constitutional magnitude alleging the violation of a fundamental right; (3) the alleged constitutional violation ... exists and ... deprived the defendant of a fair trial; and (4) if subject to harmless error analysis, the state has failed to demonstrate harmlessness of the alleged constitutional violation beyond a reasonable doubt." (Footnote omitted.) State v. Golding, 213 Conn. 233, 239-40, 567 A.2d 823 (1989); see In re Yasiel R., 317 Conn. 773, 781, 120 A.3d 1188 (2015) (modifying third prong of *Golding*).

In reviewing the defendant's due process claim under *Golding*,^[9] we begin by noting that his brief specifically argues the following: "[The plaintiff] devoted thirty-one paragraphs [of the presentment complaint] to a history of allegations relating to a previous grievance. None of the thirty-one paragraphs [was] part of the Statewide Grievance Committee's findings, the local panel's findings, or the reasons for [Attorney] Sconyers' grievance." The defendant then notes that, notwithstanding his objection, the trial court allowed evidence supporting the allegations in the complaint to be presented. The defendant then claims the following: "[The plaintiff] specifically narrowed the issues in the presentment, on the record, when the [defendant] raised his objection to [the plaintiff's] attempt to admit extrinsic, irrelevant and prejudicial evidence during the proceedings. The issues were narrowed to the same issues directed by the Statewide Grievance Committee to be included in the presentment." Finally, the defendant claims that "[t]he inclusion of the expanded broad factual allegations, beyond the 360*360 narrow issues limited in the presentment, would not have provided the appellant

with adequate notice of the specific factual charges, which the trial court considered for the first time in its decision."

In his brief discussion of this claim, it does not appear that the defendant identified or alluded to any way in which the trial court's consideration of evidence regarding his prior misconduct deprived him of a fair trial. The decision of the Statewide Grievance Committee expressly referenced the defendant's previous professional misconduct. Specifically, in concluding that the defendant's conduct warranted a presentment, that decision listed the following aggravating factors: "prior disciplinary history; a pattern of misconduct, multiple offenses and a refusal to acknowledge the wrongful nature of the conduct." In addition, the decision noted that "the [defendant] is currently serving a two year suspension as a result of a [prior] disciplinary order" Thus, the defendant was provided with ample notice that his previous misconduct could be raised at the presentment proceeding. Consequently, we conclude that the defendant has failed to demonstrate a due process violation that deprived him of a fair trial as required under the third prong of *Golding* and, therefore, cannot prevail on his unpreserved claim.

II

We next address the defendant's claim that, because his alleged misconduct occurred before two different judges who chose not to take action against him pursuant to rule 2.15 of the Code of Judicial Conduct; see footnote 6 of this opinion; he was absolved of any unethical conduct. As a result, the defendant contends that the doctrines of res judicata^[10] and collateral estoppel^[11] precluded the

trial court from considering his alleged misconduct in the present case. In response, the plaintiff contends that, when a violation of the Rules of Professional Conduct occurs before a judge of the Superior Court, an attorney is not automatically absolved of unethical conduct by that judge's subsequent inaction. The plaintiff further argues that a judge's decision not to refer an attorney to disciplinary authorities does not preclude subsequent institution of the disciplinary process.

Finally, the plaintiff contends that the principles of res judicata and collateral estoppel do not apply to cases in which a judge has not 361*361 referred a possible disciplinary issue to the Statewide Grievance Committee. We agree with the plaintiff and conclude that the doctrines of res judicata and collateral estoppel do not bar the allegations of professional misconduct in the present case.

In reviewing this claim, we note that the Appellate Court previously considered this issue in Ansell v. Statewide Grievance Committee, supra, 87 Conn.App. 376, 865 A.2d 1215. In that case, the attorney claimed that the failure of judges to reprimand her in response to certain in court conduct constituted clear and convincing evidence of a determination that no misconduct had occurred. *Id.*, at 383-84, 865 A.2d 1215. In addressing this argument, the Appellate Court distinguished the Superior Court, which has "inherent authority to regulate attorney conduct," from grievance panels and reviewing committees, which are authorized "to investigate allegations of attorney misconduct and to make determinations of probable cause." (Internal quotation marks omitted.) *Id.*, at 384, 865 A.2d 1215. Citing Practice Book § 2-45, the Appellate Court explained that "[w]hen the misconduct occurs in the

actual presence of the court, the [Statewide Grievance Committee] shall defer ... *if the court chooses to exercise its jurisdiction.*" (Emphasis in original; internal quotation marks omitted.) Id. Accordingly, the Appellate Court concluded that "the courts chose not to exercise their disciplinary power, and the [Statewide Grievance Committee], exercising the power delegated to it, properly undertook to investigate and to evaluate the alleged misconduct." Id., at 385, 865 A.2d 1215. Although we are not bound by rulings of the Appellate Court, we are persuaded by its analysis of this issue. See Commission on Human Rights & Opportunities ex rel. Arnold v. Forvil, 302 Conn. 263, 271, 25 A.3d 632 (2011). Accordingly, we disagree with the defendant's claim that the silence of Judges Roche and Danaher in the wake of the defendant's actions must be interpreted in a manner that absolves the defendant of any professional misconduct. Thus, because no judicial authority has previously ruled on the question of whether the defendant's actions violated the Rules of Professional Conduct, the doctrines of res judicata and collateral estoppel do not apply. Put another way, in concluding that the defendant's conduct violated the Rules of Professional Conduct, the trial court in the present case did not consider issues previously litigated and decided. Accordingly, we conclude that those doctrines do not bar the allegations of misconduct made against the defendant.

III

We next address the defendant's claim that the trial court improperly found that the plaintiff presented clear and convincing evidence of violations of rules 3.1, 8.2 (a), and 8.4 (4) of the Rules of

Professional Conduct. The defendant contends that (1) his various motions and memoranda regarding Judges Roche and Danaher contained no abusive comments or accusations criticizing their abilities or competency, (2) Judge Danaher accused him of lying, which "created an atmosphere of discord" that called for disqualification, and (3) his allegations against Judges Roche and Danaher were made on a good faith belief of bias and prejudice. In response, the plaintiff argues that clear and convincing evidence of the defendant's professional misconduct was introduced through both documents and testimony. We agree with the plaintiff and conclude that the trial court's findings of misconduct are supported by clear and convincing evidence.

The standard of review of a trial court's judgment in the context of 362*362 attorney grievance proceedings is well settled. "The trial court conducts the presentment hearing de novo.... In determining whether the evidence on the record supports the trial court's conclusion, our scope of review is of a limited nature.... All of our cases agree that the trial court has ... wide discretion [A] reviewing court must defer to the discretion of the fact finder, whether it be the trial court or the committee, because the fact finder is in the best position to evaluate the evidence and the demeanor of the parties.... [E]very reasonable presumption should be given in favor of the correctness of the court's ruling.... Judicial discretion is always a legal discretion. Its abuse will not be interfered with on appeal to this court except in a case of manifest abuse and where injustice appears to have been done." (Citations omitted; footnote omitted; internal quotation marks omitted.) Statewide Grievance Committee v. Egbarin, 61 Conn.App. 445, 458-59,

767 A.2d 732, cert. denied, 255 Conn. 949, 769 A.2d 64 (2001).

In order to impose sanctions, the trial court must find that an attorney has violated the Rules of Professional Conduct by clear and convincing evidence. *Shelton v. Statewide Grievance Committee*, 277 Conn. 99, 109-10, 890 A.2d 104 (2006). "Clear and convincing proof is a demanding standard denot[ing] a degree of belief that lies between the belief that is required to find the truth or existence of the [fact in issue] in an ordinary civil action and the belief that is required to find guilt in a criminal prosecution.... [The burden] is sustained if evidence induces in the mind of the trier a reasonable belief that the facts asserted are highly probably true, that the probability that they are true or exist is substantially greater than the probability that they are false or do not exist." (Internal quotation marks omitted.) *Id.*, at 110, 890 A.2d 104. We review each of the trial court's findings of misconduct in turn.

Rule 3.1 of the Rules of Professional Conduct provides in relevant part: "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, which includes a good faith argument for an extension, modification or reversal of existing law...." The commentary to this rule clarifies what is considered to be a frivolous action, providing that an "action is frivolous ... if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by a good faith argument for an extension, modification or reversal of existing law...." Rules of Professional Conduct 3.1, commentary; see also, e.g., *Rozbicki v. Statewide Grievance Committee*, 111 Conn.App. 239, 240-41,

958 A.2d 812 (2008)(frivolously filing motion to disqualify opposing counsel by citing his sexual affair with client and describing couple's child as illegitimate violated rule 3.1), cert. denied, 290 Conn. 908, 964 A.2d 544 (2009); Brunswick v. Statewide Grievance Committee, 103 Conn.App. 601, 614-18, 931 A.2d 319 (alleging partiality of arbitrators without any support violated rule 3.1), cert. denied, 284 Conn. 929, 934 A.2d 244 (2007).

In the present case, as to rule 3.1 of the Rules of Professional Conduct, the trial court found that the defendant's actions amounted to frivolous, baseless accusations against Judges Roche and Danaher and that these assertions were not made in good faith. The trial court found that there was clear and convincing evidence demonstrating that the defendant "repeatedly impugned the integrity" of Judges Roche and Danaher and "made a significant number of allegations as to judicial misconduct, judicial bias, judicial prejudice, and judicial self-interest." In examining these accusations, 363*363 the trial court found that the defendant offered no good faith basis for them, and that his allegations were meritless and without support. The trial court noted that many of the defendant's pleadings were filed shortly after an adverse ruling or decision. Ultimately, the trial court concluded that "[t]he sweeping, unfounded and oft repeated accusations alleging judicial misconduct, judicial bias, judicial prejudice, judicial harassment are found by clear and convincing evidence to be lacking in good faith and, as such, violated rule 3.1...." Rule 8.2 (a) of the Rules of Professional Conduct provides in relevant part: "A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or

falsity concerning the qualifications or integrity of a judge" See also, e.g., Notopoulos v. Statewide Grievance Committee, 277 Conn. 218, 228-31, 890 A.2d 509 (accusing judge of extorting money, resorting to threats, and lining pockets with client's funds without factual support violated rule 8.2 [a]), cert. denied, 549 U.S. 823, 127 S.Ct. 157, 166 L.Ed.2d 39 (2006); Burton v. Mottolese, 267 Conn. 1, 51-52, 835 A.2d 998 (2003) (conclusory and unsubstantiated allegations of trial court's gender bias violated rule 8.2 [a]), cert. denied, 541 U.S. 1073, 124 S.Ct. 2422, 158 L.Ed.2d 983 (2004).

In the present case, as to rule 8.2 (a) of the Rules of Professional Conduct, the trial court found, by clear and convincing evidence, that the defendant's lack of a good faith basis for his statements impugning the integrity of Judges Roche and Danaher constituted misconduct. The trial court clarified that the basis for this violation "is not the fact that the motions [were] made or that they [were] repeated. Instead it is the unsupported, baseless allegations of judicial impropriety which make [the defendant's conduct] improper." See also, e.g., Disciplinary Counsel v. Serafinowicz, 160 Conn.App. 92, 95-97, 123 A.3d 1279 (attorney's disparaging remarks about judge to press accusing him of bias violated rule 8.2 [a]), cert. denied, 319 Conn. 953, 125 A.3d 531 (2015).

Finally, rule 8.4 of the Rules of Professional Conduct provides in relevant part: "It is professional misconduct for a lawyer to ... (4) [e]ngage in conduct that is prejudicial to the administration of justice...." The commentary to this rule provides that "[a] pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation." Rules of Professional Conduct 8.4, commentary; see also,

e.g., Statewide Grievance Committee v. Burton, 299 Conn. 405, 409-15, 10 A.3d 507 (2011) (submitting letters to Chief Justice accusing Superior Court judges of judicial corruption with no factual support violated rule 8.4 [4]); Notopoulos v. Statewide Grievance Committee, supra, 277 Conn. at 236-37, 890 A.2d 509 (making disparaging, baseless remarks against judge violated rule 8.4 [4]); Disciplinary Counsel v. Serafinowicz, supra, 160 Conn.App. 92-97, 123 A.3d 1279 (attorney's disparaging remarks to press accusing judge of bias violated rule 8.4 [4]).

In the present case, as to rule 8.4 (4) of the Rules of Professional Conduct, the trial court found, by clear and convincing evidence, that the defendant's relentless and repetitive attacks on the integrity of Judges Roche and Danaher constituted a violation of this rule. The trial court considered the findings made by the court in the defendant's prior disciplinary matter as part of a pattern of repeated offenses. Ultimately, the trial court found "that throughout each of the [actions] that were brought, the prosecutions, the appeals, [the] numerous frivolous and baseless repetitive 364*364 motions for disqualification of both [opposing] counsel and [judges], the pattern of accusations of wrongdoing, of misconduct, of bias, of accusing others of harassing him, and of unethical conduct have prejudiced the administration of justice."

After reviewing the record in the present case, we conclude that ample evidence exists supporting the trial court's findings and conclusions. The record contains countless motions, memoranda, and arguments made by the defendant disparaging Judges Roche and Danaher for no apparent reason beyond the fact that those judges ruled in opposition to him. Not only did the defendant call into question the impartiality of Judges Roche and Danaher, but

he also called into question their competency as judges and questioned the integrity of the Judicial Branch. See, e.g., Notopoulos v. Statewide Grievance Committee, supra, 277 Conn. at 236-37, 890 A.2d 509. We conclude that the trial court's factual findings and conclusions are supported by clear and convincing evidence and, therefore, we decline to disturb them on appeal.

IV

We next address the defendant's claim that the trial court abused its discretion by suspending him from the practice of law for four years. Specifically, the defendant contends that the plaintiff presented no evidence of his prior disciplinary history other than unsworn, erroneous claims. The defendant also claims that the plaintiff presented no evidence that his offenses were frequent. Finally, the defendant claims that the trial court ignored certain mitigating factors described in standards promulgated by the American Bar Association. In response, the plaintiff contends that the trial court properly considered the standards in determining the appropriate sanction for the defendant's misconduct. The plaintiff also contends that the defendant himself testified about his prior misconduct, which the trial court properly considered in determining the appropriate sanction. Finally, the plaintiff argues that the trial court acted well within the bounds of its discretion in suspending the defendant from the practice of law for four years. We agree with the plaintiff. "The trial court possesses inherent judicial power, derived from judicial responsibility for the administration of justice, to exercise sound discretion to determine what sanction to impose in light of the entire record before it.... It is well

established that in sanctioning an attorney for violations of the Rules of Professional Conduct, courts are, as they should be, left free to act as may in each case seem best in this matter of most important concern to them and to the administration of justice.... Whether this court would have imposed a different sanction is not relevant. Rather, we must determine whether the trial court abused its discretion in determining the nature of the sanction.... We may reverse the court's decision [in sanctioning an attorney] only if that decision was unreasonable, unconscionable or arbitrary, and was made without proper consideration of the facts and law pertaining to the matter submitted." (Citations omitted; internal quotation marks omitted.) Statewide Grievance Committee v. Egbarin, supra, 61 Conn.App. at 459-60, 767 A.2d 732.

As this court has previously noted, the standards, which were promulgated by the American Bar Association, "provide that, after a finding of misconduct, a court should consider: (1) the nature of the duty violated; (2) the attorney's mental state; (3) the potential or actual injury stemming from the attorney's misconduct; and (4) the existence of aggravating or mitigating factors.... The [s]tandards list the following ³⁶⁵as aggravating factors: (a) prior disciplinary offenses; (b) dishonest or selfish motive; (c) a pattern of misconduct; (d) multiple offenses; (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency; (f) submission of false evidence, false statements, or other deceptive practices during the disciplinary process; (g) refusal to acknowledge wrongful nature of conduct; (h) vulnerability of victim; (i) substantial experience in the practice of law; [and] (j)

indifference to making restitution.... The [s]tandards list the following as mitigating factors: (a) absence of a prior disciplinary record; (b) absence of a dishonest or selfish motive; (c) personal or emotional problems; (d) timely good faith effort to make restitution or to rectify consequences of misconduct; (e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings; (f) inexperience in the practice of law; (g) character or reputation; (h) physical or mental disability or impairment; (i) delay in disciplinary proceedings; (j) interim rehabilitation; (k) imposition of other penalties or sanctions; (l) remorse; [and] (m) remoteness of prior offenses."

(Internal quotation marks

omitted.) *Burton v. Mottolese*, *supra*, 267 Conn. at 55-56, 835 A.2d 998; see also American Bar Association, Standards for Imposing Lawyer Sanctions (1986) Standards 3:0, 9.22, and 9.32.

The memorandum of decision demonstrates that the trial court considered the various standards, including the relevant aggravating and mitigating factors, in arriving at its final determination of an appropriate sanction for the defendant's misconduct. In its decision, the trial court determined that the defendant's offenses were aggravated by the following factors: (1) the nature and repetition of the misconduct, as evidenced by the various motions, memoranda, and oral arguments included within the record; (2) the defendant's self-interested mental state; (3) the fact that the defendant's actions undermined the credibility of, and confidence in, the judiciary; (4) the defendant's lack of awareness regarding the nature of his offenses; and (5) the defendant's prior disciplinary history. The court then considered the length of the defendant's career as a mitigating factor. Given the great amount of discretion that we afford to trial courts in the context

of attorney grievance proceedings, we conclude that the trial court did not abuse its discretion by ordering that the defendant be suspended from the practice of law for a period of four years.

We note that the defendant's brief raises numerous additional arguments in passing. After having examined these remaining claims carefully, we conclude that they are without merit.

The judgment is affirmed.

In this opinion the other justices concurred.

[1] The defendant appealed from the judgment of the trial court to the Appellate Court, and we transferred the appeal to this court pursuant to General Statutes § 51-199 (c) and Practice Book § 65-1.

[2] Rule 3.1 of the Rules of Professional Conduct provides in relevant part: "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, which includes a good faith argument for an extension, modification or reversal of existing law...."

Rule 8.2 (a) of the Rules of Professional Conduct provides in relevant part: "A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge"

Rule 8.4 of the Rules of Professional Conduct provides in relevant part: "It is professional misconduct for a lawyer to ... (4) [e]ngage in conduct that is prejudicial to the administration of justice"

[3] The defendant initially was appointed executor of the estate of the decedent, who had been his friend. However, after the defendant filed a complaint against members of the decedent's family to recover certain life insurance proceeds, those family

members hired Attorney J. Michael Sconyers to represent them in the handling of the estate and ultimately removed the defendant as executor of the decedent's estate. We note that a more detailed summary of facts regarding the defendant's involvement with this estate is set forth in Chief Disciplinary Counsel v. Rozbicki, 150 Conn.App. 472, 475-77, 91 A.3d 932, cert. denied, 314 Conn. 931, 102 A.3d 83 (2014).

[4] The record does not indicate the resolution of this motion.

[5] For the sake of clarity, we note that all references to the trial court hereinafter are to Judge Robaina unless otherwise specified.

[6] Rule 2.15 of the Code of Judicial Conduct provides in relevant part: "(b) A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall take appropriate action including informing the appropriate authority....

"(d) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct shall take appropriate action...."

[7] The defendant also contends, without providing us the benefit of adequate briefing, that the trial court lacked subject matter jurisdiction insofar as the plaintiff lacked standing to bring a presentment complaint because the reviewing committee did not first submit its proposed decision to the Statewide Grievance Committee for final approval and, as such, no final judgment was issued. "We cannot dispose of this issue via inadequate briefing rules... because the issue of standing implicates subject matter jurisdiction, and may be raised at any time,

including by the court sua sponte." (Citation omitted.) Horner v. Bagnell, 324 Conn. 695, 705 n.11, 154 A.3d 975 (2017).

In reviewing this claim, we note that the defendant previously and unsuccessfully raised this exact issue in Chief Disciplinary Counsel v. Rozbicki, supra, 150 Conn.App. at 479-81, 91 A.3d 932. There, the Appellate Court determined that the defendant's claim was based on an interpretation of the applicable statutes in a vacuum, without regard to certain amendments to our rules of practice. *Id.*, at 480, 91 A.3d 932. Although we are not bound by decisions of the Appellate Court, we are persuaded by its analysis on this issue. See Commission on Human Rights & Opportunities ex rel. Arnold v. Forvil, 302 Conn. 263, 271, 25 A.3d 632 (2011). Thus, the jurisdictional claim is controlled by the Appellate Court's reasoning, the correctness of which the defendant does not challenge. Accordingly, we conclude that the defendant's jurisdictional claim is without merit.

[8] It is not clear from the defendant's briefing whether his due process claim is predicated on the state or federal constitution. However, because he "has not provided an independent analysis of this issue under State v. Geisler, 222 Conn. 672, 684-86, 610 A.2d 1225 (1992), we deem abandoned any state constitutional due process claim.... Accordingly, we analyze the defendant's due process claim under the federal constitution only." (Citation omitted.) State v. Skok, 318 Conn. 699, 702 n.3, 122 A.3d 608 (2015).

[9] The trial court's memorandum of decision did not address or decide the defendant's due process claim regarding his lack of proper notice of the charges against him. The defendant also did not raise this claim in his memorandum of law in support of his

motion for reargument. As such, we conclude that the defendant failed to adequately preserve this claim for appeal.

"[T]o obtain review of an unpreserved claim pursuant to [*Golding*], a defendant need only raise that claim in his main brief, wherein he must present a record that is [adequate] for review and affirmatively [demonstrate] that his claim is indeed a violation of a fundamental constitutional right." (Internal quotation marks omitted.) *State v. Elson*, 311 Conn. 726, 754-55, 91 A.3d 862 (2014). As such, a party's failure to request *Golding* review does not preclude consideration of his constitutional claim, if that claim otherwise was properly briefed, identified relevant constitutional authorities, and was founded on an adequate record for review. *Id.*, at 755, 91 A.3d 862.

The defendant failed to seek review of his unpreserved claim under *State v. Golding*, supra, 213 Conn. at 239-40, 567 A.2d 823. Accordingly, we examine the defendant's brief to determine whether his claim nevertheless is reviewable under *Golding* pursuant to *State v. Elson*, supra, 311 Conn. at 754-55, 91 A.3d 862.

[10] "Res judicata, or claim preclusion, express[es] no more than the fundamental principle that once a matter has been fully and fairly litigated, and finally decided, it comes to rest.... Generally, for res judicata to apply, four elements must be met: (1) the judgment must have been rendered on the merits by a court of competent jurisdiction; (2) the parties to the prior and subsequent actions must be the same or in privity; (3) there must have been an adequate opportunity to litigate the matter fully; and (4) the same underlying claim must be at issue.... Res judicata bars the relitigation of claims actually made

in the prior action as well as any claims that might have been made there." (Citations omitted; internal quotation marks omitted.) Wheeler v. Beachcroft, LLC, 320 Conn. 146, 156-57, 129 A.3d 677 (2016).

[11] "The common-law doctrine of collateral estoppel, or issue preclusion, embodies a judicial policy in favor of judicial economy, the stability of former judgments and finality.... Collateral estoppel, or issue preclusion, is that aspect of res judicata which prohibits the relitigation of an issue when that issue was actually litigated and necessarily determined in a prior action between the same parties upon a different claim.... For an issue to be subject to collateral estoppel, it must have been fully and fairly litigated in the first action. It also must have been actually decided and the decision must have been necessary to the judgment." (Internal quotation marks omitted.) Lighthouse Landings, Inc. v. Connecticut Light & Power Co., 300 Conn. 325, 343-44, 15 A.3d 601 (2011).

EXHIBIT 2.....54-72

HHD-CV13-6046975 SUPERIOR COURT

CHIEF DISCIPLINARY J.D. OF HARTFORD
COUNSEL

VS. AT HARTFORD

ZBIGNIEW S. ROZBICKI JUNE 16, 2015

CORRECTED MEMORANDUM OF DECISION

The office of the Chief Disciplinary Counsel brings this action in three counts against Zbigniew Rozbicki seeking findings and disciplinary

sanctions pursuant to the Rules of Professional Conduct. The presentment alleges violations of Sections 3.1, 8.2(a) and 8.4 (4) of the Rules of Professional Conduct.¹

The respondent has moved to dismiss the presentment and puts forth several arguments in support of his motion. To begin with, the respondent claims that the conduct underlying the allegations of the presentment occurred in the actual presence of the courts which adjudicated the several motions which form the basis for the complaints, and as such those courts would have had the power to take appropriate disciplinary action. He argues that the court did not do so., deprives this Court of the ability to review it after the fact, based on the principles of res judicata and collateral estoppel. That argument has been previously raised under similar circumstances and has been rejected by the appellate court.

¹ Rules of Professional Conduct, **Rule 3.1** is entitled Meritorious Claims and Contentions. It states that: "A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good-faith argument for an extension, modification or reversal of existing law." Rule **8.2(a)** is entitled "Judicial and legal officials." It states that "a lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of the judge, adjudicatory officer or public legal officer,..." Rule **8.4. Misconduct.** It is professional misconduct for a lawyer to: (4) Engage in conduct that is prejudicial to the administration of justice.

"Although [counsel's] conduct occurred before the Superior Court, the courts did not choose to exercise their inherent authority, and neither the trial court nor we can properly infer from the courts' silence a determination of no misconduct. *Ansell v. Statewide Grievance Committee*, 87 Conn. App. 376, 865 A.2d 1215 (2005).

The respondent also claims that the disciplinary counsel has no standing as a party in a presentment, and cannot initiate a claim of misconduct which has not been found by the statewide grievance committee. Again, this argument has been raised and dismissed by the Appellate Court. *Chief Disciplinary Counsel v. Rozbicki*, 150 Conn. App. 472 (2014).

Factual Findings

By clear and convincing evidence, the court finds the following:

The genesis of this case is the relationship between Rozbicki and Kathleen Gisselbrecht, who is now deceased. Kathlee Gisselbrecht was employed by Rozbicki for many years up until the time of her death in 2007 in the capacity of legal secretary/office manager. They also enjoyed a close personal relationship dating back to their school days. Her last will and testament provided that Rozbicki be appointed as executor. It also provided for distribution of real property to several relatives, instruction as to the disposition of a life insurance policy, and distribution of the residue of her estate.

The life insurance policy mentioned in the will is referred to as the "Allstate life insurance policy" and had a face value of \$100,000. The will provided that the proceeds be used to "pay the

remaining balance owing on my mortgage at 40 Ridgebrook Rd., Torrington, Connecticut." It further provided that the sum of \$20,000 be paid to Rozbicki which amount was identified as money he lent her for the purchase of that same real estate. However, at the time she died, the policy was not payable to the estate, but instead to Edward M. Gisselbrecht and Ann Marie Rozsas, who were among Kathleen Gisselbrecht's siblings. Upon her death, the policy was paid to them and they did not use the proceeds of the policy to pay the obligation to Rozbicki which had been listed in the will.

In his capacity as the executor of Kathleen Gisselbrecht's estate, Rozbicki sued Edward M. Gisselbrecht and Ann Marie Rozsas in the Superior Court, for the judicial district of Litchfield alleging breach of contract, unjust enrichment, conversion, and a breach of their fiduciary duty.² That lawsuit is hereinafter referred to as "Rozbicki I". The filing of that suit led to conflicts between Rozbicki and other family members/beneficiaries of the will in that they did not support the decision to file. In response, other members of the family hired an attorney, Michael Sconyers, who sought to remove Rozbicki as executor. Eventually, Rozbicki was removed as executor of the estate by order of the probate court. Rozbicki filed a motion to recuse the probate judge after the judge ordered his removal, which motion alleged, among other things, "a history of hostility and bad feelings" between the judge and Rozbicki, as well as "bias, hostility, undue interference, and judicial misconduct". The

² CV-08-5004460

probate judge subsequently recused himself, without acting on the motion to disqualify. The new executor withdrew the "Rozbicki I" lawsuit.

Rozbicki filed an appeal to the Superior Court of the probate judge's decision to remove him as executor³. That lawsuit is hereinafter referred to as "Rozbicki II". He also filed a motion to disqualify opposing counsel (Sconyers) alleging a conflict of interest, which motion was denied. In the allegations of the Complaint in this case, he stated that the Probate Judge's finding that Rozbicki did not want to settle the underlying estate was "reckless, self-serving and without any basis in fact or law." In the meantime, the probate judge who had taken over for the recused probate judge filed a memorandum of decision as to Rozbicki's proposed final account. An appeal of that decision was taken to the Superior Court.⁴ ("Rozbicki III"). Upon the filing of that action, Rozbicki filed a motion for stay in order to await the decision in the matter of "Rozbicki I" which was still pending at the time. That motion was denied by the court (*Roche, J*) which decision resulted in a motion for disqualification of the judge. In the affidavit in support of that motion, Rozbicki alleged that the denial of the motion for stay "constitutes a blatant abuse of discretion and a violation of the plaintiff's constitutional and statutory rights...." He further stated that by denying the motion for stay, the court has "failed to adhere to the basic principles of judicial impartiality and championed the defendant's cause." The affidavit also stated that "the rulings made by

³ CV09-4008602

⁴ CV10-5007246

Judge Roche not only give the appearance of partiality but indicate a transformation of a judge who has a duty to be impartial, to a judge who appears to be an advocate, to the prejudice of the appellant's interest." Finally, the affidavit suggested that since Rozbicki had taken an appeal from a decision of Judge Roche's in an entirely unrelated matter, the judge's impartiality was affected. In his testimony before this court, Rozbicki said that the fact that there was no objection to the motion for stay and it was nonetheless denied led him to believe that there was bias on the part of the judge.

In the aforementioned appeal from the decision denying the accounting ("Rozbicki III"), Rozbicki again moved to disqualify defendants counsel, Sconyers. In that motion, the previous allegations were repeated, and it was also alleged that defendants counsel would be an indispensable witness to the issues which were to be decided. When the motion to disqualify counsel was denied, Rozbicki moved for disqualification of the judge who entered that decision. In the affidavit in support of that motion to disqualify, he claimed that the actions of the court in ruling on the motion to disqualify counsel were such that he "reasonably believes [they] brought in serious question the judges impartiality and that [the judge] had a personal bias or prejudice concerning the plaintiff within the meaning and application of rule 2.2 and rule 2.3 of the code of judicial conduct." The affidavit also suggested that the court was biased because a different, also unrelated, matter was under appeal. The affidavit alleged that the court's behavior in the unrelated matter "lends a suspicious texture to issues of [the judge's] partiality, bias, and prejudice... "

Ultimately, "Rozbicki III" was decided by the trial court (*Dooley, J*). An appeal followed and the decision of the trial court was affirmed.⁵

The next lawsuit, "Rozbicki IV"⁶ was a lawsuit commenced by Rozbicki against Eugene Gisselbrecht claiming the \$20,000 debt which was mentioned in the will. That claim had been presented against the estate but denied. Again, "Rozbicki IV" contained a motion to disqualify defendants counsel, Sconyers. After that motion was denied, as it had been each other time, Rozbicki again moved to disqualify the judge who decided it. Following that, a series of motions relating to discovery and other matters were filed by both Rozbicki and counsel for the defendants. Among other things, the motions contained a series of allegations with respect to each other's misconduct. A motion for compliance was filed by Rozbicki which was denied by the court (*Danaher, J*). In his motion to vacate the court's order, Rozbicki alleges that the ruling is "inherently biased and prejudicial to the plaintiff." Shortly thereafter, he filed a motion for the disqualification of Judge Danaher. The allegations in the affidavit in support of that motion repeated earlier allegations that the judge was biased, prejudiced and was not impartial with respect to Rozbicki. The court issued a written decision with respect to that motion in which explained in detailed fashion the reasons for its earlier ruling on the motion for compliance, and observed that "the plaintiffs conclusion that the court's ruling was the product of bias and

⁵ *Rozbicki v. Gisselbrecht*, 155 Conn. App. 371 (2015)

⁶ LLI CV10 6001830prejudice is rank speculation

based on nothing more than the fact that the court did not rule in his favor." The motion was denied. A motion for reargument based on "judicial misconduct" followed. In that motion, Rozbicki stated that the decision is "replicate [sic] and written with indications of a bias and prejudice which has surfaced on previous occasions in which plaintiff has moved for Judge Danaher's recusal....

The decision issued on December 5, 2011 is so blatant and beyond the parameters of judicial authority and responsibility, that the decision cannot legally or ethically be sanctioned. It exceeds all parameters of the issues which were presented in claim." The motion went on to allege that the court has "manifested a bias and prejudice to the plaintiff and harassment which violated the plaintiff's constitutional right of access to the courts and a fair trial." A subsequent motion for disqualification was made as to Judge Danaher making similar allegations. In a motion seeking reargument of Judge Roche's decision as to summary judgment in "Rozbicki IV", Rozbicki stated that there was "error or sloppy analysis on the judge's part." In the matter of Disciplinary Counsel v. Rozbicki⁷ a presentment was brought which alleged a number of violations of the Rules of Professional Conduct. The basis for the presentment was Rozbicki's conduct in the administration of the Kathleen Gisselbrecht estate. Following a trial, the court (*Upson, J*) found three separate violations of The Rules of Professional Conduct Sec. 1.7(a) (2) in that Rozbicki placed his own interest in securing his personal claim over his fiduciary responsibilities

⁷ CV 11-6004519

and took actions motivated by personal interest that materially limited his ability to represent the beneficiaries of the estate. The court found a violation of Rule 1.3 in that he failed to diligently represent the interests of the estate. The court found violations of Rules 1.2 (a) and 1.4(a)(2) based on Rozbicki's failure to reasonably consult with

the client and failure to abide by the client's decision. The court found violations of Rules 1.4(b) and 2.1 based on Rozbicki's failure to explain the matter sufficiently to his clients to permit them to make informed decisions. The court found that Rozbicki violated Rule 4.4(a) based on a finding that he filed a lawsuit with no substantial purpose "other than to harass, embarrass and burden Ann-Marie Rozsas and Edward Gisselbrecht and to delay the administration of the estate." The court also found that Rozbicki's actions in sending certain correspondence served no substantial purpose other than to harass the beneficiaries of the estate. The court also found that Rozbicki violated Rule 8.4(4) by misappropriating funds without court approval and by engaging in "rude, harassing and hostile conduct" toward several beneficiaries and opposing counsel. Further the court found that Rozbicki made misleading statements to it as to statements made by beneficiaries of the estate. The court found that in the probate matter, "Attorney Rozbicki demonstrated a pattern of misconduct, resulting in multiple violations of the Rules of Professional Conduct." The court ultimately suspended Rozbicki

⁸ The decision was appealed and affirmed. *Chief Disciplinary Counsel v. Rozbicki*, 150 Conn. App. 472 (2014); Cert. Denied at 314 Conn. 931 (2014)

for a period of two years, with other orders.⁸

Following this decision, Rozbicki filed a motion entitled "Motion for Mistrial, Motion to Set Aside Judgment Based on Judicial Misconduct and Motion for a New Trial". In this motion, Rozbicki alleged that "the proceedings conducted by Upson, Trial Referee, can best be described as highly prejudicial to the administration of justice 'which strike at the very core of judicial integrity and tends to undermine public confidence in the established judiciary ... " He further

stated that "the bias, prejudice, and advocacy which Upson, Trial Referee's conduct, implicates a violation of the basic concepts of a fair trial and constitutes plain error. .. " By way of supplementing the claims in the motion, Rozbicki testified that in approximately 1967 or 1968 while an attorney at Hartford Legal Aid, he had tried to get Upson fired, when Upson was a young lawyer. This, he felt, may have led to some bias on the judge's part. Rozbicki acknowledged upon cross-examination that he was unsure whether Upson was aware of this or not. He did not otherwise offer any good faith basis or reasonable explanation for why he had alleged bias and prejudice and misconduct on the judge's part.

Discussion

"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, which includes a good-faith argument for an extension, modification or reversal of existing law ... " Rule 3.1 Meritorious Claims and Contentions, Rules of

Professional Conduct. The commentary clarifies this rule by saying that "the advocate has a duty to use legal procedure for the full list of benefit of the client's cause, but also a duty not to abuse legal procedure...

The filing of an action or defense or similar action taken for a client is not frivolous merely because the facts have not first been fully substantiated or because the lawyer expects to develop vital evidence only by discovery. What is required of lawyers, however, is that they inform themselves about the facts of their clients' cases and the applicable law and determine that they can make good-faith arguments in

support of their clients' positions. Such action is not frivolous even though the lawyer believes that the clients' position ultimately will not prevail. The action is frivolous, however, if the lawyer is unable either to make a good-faith argument on the merits of the action taken or to support the action taken by a good-faith argument for an extension, modification or reversal of existing law." (Emphasis added.)

In the actions taken by Rozbicki in his own right or as the executor of the Gisselbrecht estate, he has repeatedly impugned the integrity of the court. He has made a significant number of allegations as to judicial misconduct, judicial bias, judicial prejudice and judicial self-interest. He has accused the court on several occasions of championing the cause of the opposing party. He has accused the court of harassment. He has been insulting to the court in the tone and the content of his statements.

Rozbicki offers no good faith basis for having done so. His claims that the judges would harbor some resentment against him because he

has taken an appeal in an unrelated matter are completely without foundation. The court notes that the decisions of trial judges are appealed on a regular basis. To be affirmed or overturned is an everyday occurrence for a trial judge. To suggest that a trial judge would harbor resentment against a lawyer for having prosecuted a successful appeal is to suggest that a trial judge would place their own gratification in being affirmed above the importance of having the correct decision in a case. There is no support for these claims. They are meritless and have nothing to bolster them other than Rozbicki's contention.

His argument that the court shows bias against him when it fails to grant a motion which has no objection filed against it ignores the simple fact that the court is under an obligation to examine and decide motions independently. It is neither the rule nor the expectation that every unopposed motion will be granted. "It is axiomatic, however, that an adverse or unfavorable ruling is not, in itself, evidence of judicial bias against a litigant. See *Burns v. Quinnipiac University*, 120 Conn. App. 311, 317, 991 A.2d 666, cert. denied, 297 Conn. 906, 995 A.2d 634 (2010). "Moreover, the fact that a trial court rules adversely to a litigant, even if some of these rulings were determined on appeal to have been erroneous, [still] does not demonstrate personal bias." (Internal quotation marks omitted.) *Id.* Although we reverse several rulings of the court, these rulings do not evince judicial bias against the defendant. *Traystman v. Traystman*, 141 Conn. App. 789, 803, 62 A.3d 1149 (2013).

It is noteworthy that many of Rozbicki's pleadings which contain accusations of wrongdoing were filed shortly after an adverse ruling or decision. The pleadings and motions which comprise many of the exhibits in this presentment show a pattern of accusation, insult and disparagement against the court in response to adverse rulings. The sweeping, unfounded and oft repeated accusations alleging judicial misconduct, judicial bias, judicial prejudice, judicial harassment are found by clear and convincing evidence to be lacking in good faith and as such violate Rule 3.1 of the Rules of Professional Conduct.

Rozbicki's lack of a good faith basis for making the statements cited above in support of this motions for disqualification and other pleadings which attack the integrity of the court are also found, by clear and convincing evidence, to constitute a violation of Rule 8.2, which states that "[a] lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge ... " In considering the commentary to that rule, it suggests that lawyers have a role in maintaining the fair and independent administration of justice, and as such, they "are encouraged to continue traditional efforts to defend judges and courts unjustly criticized." Rozbicki's pattern of repeated accusations alleging improper, biased and even unethical conduct is a violation of this Rule.

Rozbicki argues that his obligation to file these motions repeatedly, even in the same case, are required by the rules, and further that his right to do so is constitutionally protected.

Neither Rule 8.2 nor Rule 3.1 is affected by Rozbicki's claim that he was obligated to repeat his motions for disqualification. To begin with, his claim the repetition is required has no support in the law. Even assuming a valid requirement for the filing of repetitive motions to disqualify, it should be clear that the basis for the violation of the rules is not the fact that the motions are made or that they are repeated. Instead it is the unsupported, baseless allegations of judicial impropriety which make them improper. Finally, the rules are not suspended by the exercise of a constitutional right or privilege under the circumstances presented here.⁹

The court further finds, by clear and convincing evidence, that Rozbicki has violated Rule 8.4(4) of the Rules of Professional Conduct which states that it is professional misconduct to engage in conduct that is prejudicial to the administration of justice. The basis for that finding is again, Rozbicki's relentless and repetitive attack on the integrity of the court. His perseverance, unfortunately, does not arise from a loyalty to a client or a worthy cause or the defense of a legal principle. Instead, it appears to be personal. The findings made by the court in the prior disciplinary matter, which include his having been found in a number of different contexts to have made disparaging remarks against attorneys and beneficiaries of the estate

⁹ The Rule 3.1 commentary recognizes the potential conflict between the rule and the constitutional scope of the lawyer's obligation in representing a defendant in a criminal matter. No such conflict which would support a subordination of the rule exists here.

for which he had been appointed executor, having been found to have acted in a conflict of interest, having been found to have acted in a manner motivated by self interest, having been found having acted in a manner which delayed the administration of the estate he was entrusted with, having been found to have acted in a hostile and unprofessional manner, having been found to have acted in a manner which abused the legal process and sought to embarrass delay or burden another person, and having been found to have engaged in harassing behavior can generally be applied to the allegations in this matter. The commentary to Rule 8.4 states, in part "[a] pattern of repeated offenses, even ones of minor significance when considered separately, can indicate an indifference to legal obligation." Rozbicki's pattern of behavior violates Rule 8.4(4). The court finds, by clear and convincing evidence, that throughout each of the lawsuits that were brought, the prosecutions, the appeals, there numerous frivolous and baseless repetitive motions for disqualification of both counsel and the court, the pattern of accusations of wrongdoing, of misconduct, of bias, of accusing others of harassing him, and of unethical conduct have prejudiced the administration of justice.

Sanction

The American Bar Association Standards For Lawyer Sanctions (Standards) have often been used in determining the appropriate discipline for violations of the Rules of Professional Conduct. While they have not been officially adopted as rules by the Judges of the Superior Court, the Standards have frequently

been cited appropriate guidelines. See for example *Statewide Grievance Committee v. Spirer*, 247 Conn. 762, 782, 725 A.2d 948 (1999). See also *Statewide Grievance Committee v. Shluger*, 230 Conn. 668, 673 n. 10, 646 A.2d 781 (1994). Section 3.0 of the Standards states that "[i]n imposing a sanction after a finding of lawyer misconduct, a court should consider the following factors: (a) the duty violated; (b) the lawyer's mental state; and (c) the actual or potential injury caused by the lawyer's misconduct; and (d) the existence of aggravating or mitigating factors." Section 9.0 of the ABA Standards states that "[a]fter misconduct has been established, aggravating and mitigating circumstances may be considered in deciding what sanction to impose." ¹⁰ The court has considered the factors as outlined above. The offenses are aggravated by reason of their very nature and the fact that they are repeated so often. They are also aggravated by the lawyer's mental state which appears to be personal and self interested in nature. In addition, the actions undermine credibility and confidence in the judiciary. Rozbicki, even now, seems to lack awareness of the nature of his offenses or their effect. Indeed, he is unaware that he has committed any offense. The Court has also considered Rozbicki's prior disciplinary history which includes a reprimand and suspensions. In mitigation, the court has considered the length of his career.

¹⁰ The section 9.22 aggravating factors include: (a) prior disciplinary offenses; (b) dishonest or selfish motive; (c) a pattern of misconduct; (d) multiple offenses; (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to

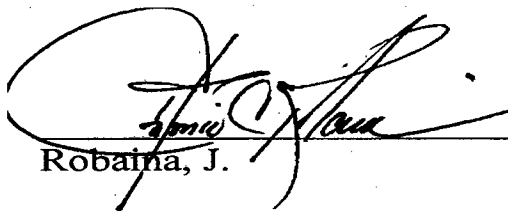
comply with the rules or orders of the disciplinary agency; (f) submission of false evidence, false statements, or other deceptive practices during the disciplinary process; (g) refusal to acknowledge wrongful nature of conduct; (h) vulnerability of victim; (i) substantial experience in the practice of law; (i) indifference to making restitution; (k) illegal conduct, including that involving the use of controlled substances. The section 9.32 mitigating factor include: 1. absence of a prior disciplinary record; 2. absence of a dishonest or selfish motive; 3. personal or emotional problems; 4. timely good faith effort to make restitution or to rectify consequences of misconduct; 5. full and free disclosure to disciplinary boards or cooperative attitude 6. inexperience in the practice of law; 7. character or reputation; 8. physical disability; 9. mental disability or chemical dependency including alcoholism or drug abuse when: (1) there is medical evidence that the respondent is affected by a chemical dependency or mental disability; (2) the chemical dependency or mental disability caused the misconduct;

(3) the respondent's recovery from the chemical dependency or mental disability is demonstrated by a meaningful and sustained period of successful rehabilitation; and

(4) the recovery arrested the misconduct and recurrence of that misconduct is unlikely; 10. delay in disciplinary proceedings; 11. imposition of other penalties or sanctions; 12. remorse; 13. remoteness of prior offenses.

Accordingly, the court hereby orders the suspension from the practice of law of the respondent, Zbigniew S. Rozbicki, for a period of

four years. The court orders that any future application for reinstatement shall be filed pursuant to Section 2-53 the Practice Book.



Robaina, J.

FOR CLERK

Docket Number - HHD-CV-13-6046975

Case Name – Chief Disciplinary Counsel v. Rozbicki

Amended Memorandum of Decision dated 6/16/15

File Sealed: yes_____ no__√__

Memo Sealed: yes_____ no__√__

This Memorandum of Decision may be released to
the Reporter of Judicial Decisions for publication.
__√__

This Memorandum of Decision may
NOT be released to the Reporter of
Judicial Decisions for publication.____

EXHIBIT 3.....72-82

STATEWIDE GRIEVANCE COMMITTEE

J. MICHAEL SCONYERS
COMPLAINANT

VS. GRIEVANCE COMPLAINT
#12-0029

ZBIGNIEW S. ROZBICKI
RESPONDENT

DECISION

Pursuant to Practice Book §2-35, the undersigned, duly appointed reviewing committee of the Statewide Grievance Committee, conducted a hearing at the Superior Court, 300 Grand Street, Waterbury, Connecticut on February 5, 2013. The hearing addressed the record of the complaint filed on January 11, 2012, and the probable cause determination filed by the Litchfield Judicial District Grievance panel on March 20, 2012, finding that there existed probable cause that the Respondent violated Rules 3.1, 3.3(a)(1), 8.2(a), and 8.4(3) of the Rules of Professional Conduct.

Notice of the hearing was mailed to the Complainant, to the Office of the Chief Disciplinary Counsel, and to the Respondent on January 2, 2013. Pursuant to Practice Book §2-35(d), First Assistant Disciplinary Counsel Suzanne B. Sutton pursued the matter before this reviewing committee. The Complainant appeared at the hearing and testified. The Respondent appeared represented by Attorney William J. St. John, Jr. and testified. The Committee also heard testimony from Attorney Ruth Dwyer. Thirty-seven exhibits were received into evidence. Disciplinary Counsel and the Respondent each filed a post-hearing brief.

Reviewing committee member Attorney Joseph Foti was not available for the hearing. Since his participation was not waived, Attorney Foti reviewed the record, including the transcript of the hearing, and participated in this decision.

This reviewing committee makes the following findings of fact by clear and convincing evidence:

The Respondent employed Kathleen Gisselbrecht in his law office for many years and was named as Ms. Gisselbrecht's Executor in her 1989

will. The Respondent was also a named beneficiary in the will of a portion of Ms. Gisselbrecht's life insurance proceeds. These proceeds were to repay a loan from the Respondent to Ms. Gisselbrecht so that she could place a down payment on a home. Sometime prior to her death, however, Ms. Gisselbrecht designated her brother, Edward M. Gisselbrecht, Jr., and her sister, Ann Marie Rozsas, as "First Class Beneficiaries" of the life insurance proceeds and they were paid the proceeds from the policy. Following Ms. Gisselbrecht's death in 2007, the Respondent was not paid from the life insurance proceeds as they were paid directly by the insurer to her brother and sister. This led to the first of many disputes between the Respondent and the beneficiaries and multiple litigations. In 2008, the Respondent, in his capacity as Executor, sued Mr. Gisselbrecht and Ms. Rozsas for the return of the life insurance proceeds so that he could be reimbursed the funds he advanced to the decedent. Rozbicki v. Gisselbrecht, Docket Number LLI-CV-08-05004460 ("Rozbicki I"). The Respondent was removed as Executor of Ms. Gisselbrecht's estate by the Torrington Probate Court in June of 2009. The probate court denied the Respondent's request to be repaid the money he lent Kathleen Gisselbrecht. Eugene Gisselbrecht, the subsequently appointed Executor, withdrew Rozbicki I.

On or around June 29, 2009, the Respondent commenced a lawsuit against Eugene Gisselbrecht to contest his removal as Executor of Ms. Gisselbrecht's estate. Rozbicki v. Gisselbrecht, et al. Docket Number LLI-CV-09-60008602 ("Rozbicki II"). Thereafter, the case appeared on the dormancy list with a dismissal date of December 9, 2011 and a deadline for the filing of a motion to exempt on November 9, 2011. On December 9th, the Respondent

filed a motion to exempt the case from dormancy. In his motion, the Respondent indicated that the basis for the motion was the “[a] trial of the case has been duly scheduled.” This statement was untrue. At the time of the motion, the pleadings were not closed and the matter was not scheduled for trial. The court denied the motion and dismissed the complaint due to dormancy.

On February 6, 2012, the Respondent filed a motion to open the dormancy dismissal, indicating that a clerical error led to the failure to have the pleadings closed. Although the court, *Pickard, J.*, determined that the erroneous statement in the motion to exempt were not meant to mislead, the court denied the motion to open by memorandum of decision dated February 29, 2012. In its decision, the court cited the Respondent’s negligence in determining the proper status of Rozbicki II and the prejudice to the defendants if the motion were granted.

In September of 2010, the Respondent filed an appeal of an August 13, 2010 decision of the Torrington Probate Court that, among other things, denied his claim to be paid \$20,000 under the provisions of Kathleen Gisselbrecht’s will. Rozbicki v. Gisselbrecht, et al., Docket Number LL-CV-10-5007246 (“Rozbicki III”). This lawsuit was preceded by a February, 2010 lawsuit against Eugne Gisselbrecht, Rosbicki v. Gisselbrecht, Docket Number LLI-CV-6001830 (“Rozbicki IV”) to challenge Mr. Gisselbrecht’s decision to withdraw Rozbicki I and to claim that certain disbursements made by Mr. Gisselbrecht as estate Executor were improper. In addition to claiming the return of the money the Respondent claimed to have lent to Kathleen Gisselbrecht, Rozbicki, Rozbicki IV and other damages.

In Rozbicki III, the Respondent moved to stay the lawsuit pending the disposition of an appeal of a decision by the probate court. On or around September 29, 2010, the court, *Roche, J.*, denied the motion. In response, on or around October 19, 2010, the Respondent moved to reargue the motion and also filed a motion, accompanied by an affidavit, calling for Judge Roche's disqualification. Both the motion to reargue and the affidavit claimed that by denying the motion for stay, Judge Roche "failed to adhere to the basic principles of judicial impartiality, and championed the defendants' cause;" and showed "partiality and bias." Additionally, the affidavit claimed "[t]he rulings made by Judge Roche not only give the appearance of partiality but indicate (sic) a transformation of a judge who has a duty to be impartial, to a judge who appears to be an advocate, to the prejudice of the appellant's interest." The Respondent offered no evidence to support the charges of partiality, bias and advocacy he levied against Judge Roche.

In Rozbicki IV, the Respondent appeared in court on September 6, 2011 to argue various motions. At the time of the argument, the Respondent made an oral motion for the disqualification of the court, *Danaher, J.*, which was denied. On September 7, 2011, the Respondent filed a motion for order of compliance related to a discovery dispute with the defendants, which was denied by Judge Danaher. On September 30, 2011, in response to Judge Danaher's denial of the September 7th motion, the Respondent filed a written motion to disqualify Judge Danaher with a supporting affidavit. The affidavit alleged that Judge Danaher's denial of the motion for order of compliance evidenced "bias, prejudice and partiality...prohibited by Rules 2.2, 2.3 and 2.11 of

the Code of Judicial Conduct.” Much like the motions and affidavit filed by the Respondent in Rozbicki III, neither the motion nor the affidavit offered any independent justification for the charges made by the Respondent against the court apart from the Respondent’s bare claim that the denial of the motion for order of compliance constituted “bias, prejudice and partiality,” and the Respondent’s observation in the affidavit that “[t]his is the last of a series of motions which have been filed to recuse Judge Danaher based on the undersigned’s accusation that Judge Danaher has a personal bias and prejudice concerning the undersigned, both as a party and as an attorney representing clients.” The motion was denied in a detailed memorandum of decision by Judge Danaher dated October 18, 2011, which provided a history of the various motions to disqualify in Rozbicki III and V and concluded that the motions were based on “rank speculation” in response to adverse rulings, and nothing more.

On or around October 28, 2011, the Respondent moved for an order of compliance in Rozbicki IV regarding a discovery dispute over the deposition of Eugene Gisselbrecht. The motion accompanied by a supporting affidavit, also sought a continuance of argument on a motion for summary judgment filed by the defense in that case, claiming that completion of a deposition was necessary to respond to the motion. On November 30, 2011, the court, *Danaher, J.*, denied the motions for compliance and for continuance and halted further depositions of Eugene Guisselbrecht. On December 19, 2011, the court, *Roche, J.*, issued a memorandum of decision granting the motion for summary judgment.

On or around December 27, 2011, the Respondent filed a “Motion for Reargument

Pursuant to §11-12 C.P.B. and Motion to Vacate Order Because of Judicial Misconduct.” The motion related to Judge Danaher’s November 30, 2011 decision, which the Respondent claimed was issued on December 5th. In the motion, the Respondent alleged that Judge Danaher’s decision, among other things:

1. was ridden with indications of a bias and prejudice which has surfaced on previous occasions in which the plaintiff has moved for Judge Danaher’s recusal;”
2. was “so blatant and beyond the parameters of judicial authority and responsibility, that the decision cannot legally or ethically be sanctioned;”
3. “fail[ed] to observe the high standards of conduct required by the Code of Judicial conduct (sic) and demonstrate[ed] the abuse of judicial power to prejudge matters and cases not before the court and rais[ed] substantial issues of impropriety and partiality;”
4. “manifested a bias and prejudice to the plaintiff and harassment which violated the plaintiff’s constitutional right of access to the courts and a fair trial;”
5. “manifested a bias and a prejudice that it not only impairs the fairness of the proceeding and brings the judiciary into disrepute, and imparts irrelevant reference to the plaintiff’s personal characteristics” (sic); and
6. “indicat[ed] a violation of Rule 2.10 [of the Code of Judicial Conduct] in that it [was] intended to affect and impair the outcome of other pending cases before the court.”

The Respondent incorporated these claims against Judge Danaher into a subsequent objection to a motion filed by the defendants to recover the

expenses of the Eugene Gisselbrecht deposition, which was dated December 30, 2011. Neither the December 27th motion for reargument nor the December 30th objection offered any independent proof to support the Respondent's charges against Judge Danaher.

We note that the grievance panel found probable cause that the statements contained in the motion to exempt from dormancy in Rozbicki II violated Rules 8.2(a) and 8.4(3) of the Rules of Professional Conduct. The grievance panel also found probable cause that the various statements about partiality and bias in the Respondent's pleadings filed in Rozbicki III and IV violated Rules 3.1 and 3.3(a)(a) of the Rules of Professional Conduct. It is clear from the context of the record that the grievance panel erred in applying Rule 8.2(a) to the statements made in connection with the motion to exempt in Rozbicki II and in applying Rule 3.3(a)(1) to the claims of partiality and bias made in Rozbicki III and IV. Accordingly we cannot find a violation of those rules as they apply to the particular facts found in support of the probable cause findings. We do find, and discuss below, that there is clear and convincing evidence that the Respondent violated Rule 8.2(a) of the Rules of Professional Conduct in the pleadings he filed accusing judicial officials of partiality, bias, advocacy and violations of the Code of Judicial conduct.

We are also unable to conclude that the misstatements made in the motion to exempt from dormancy in Rozbicki II violated Rule 8.4(3) of the Rules of Professional Conduct. Although the Respondent's claim in his motion that Rozbicki II should be exempt from dormancy because "[a] trial of the case has been duly scheduled" was untrue, we cannot conclude by clear and convincing evidence

that the misstatement constituted fraud, deceit, or misrepresentation because the only evidence before us was that the Respondent confused the status of

Rozbicki II with other similar proceedings then pending in the court. While we observe that even innocent misstatements can violate Rule 8.4(3), which contains no scienter requirement, we note that Rozbicki II was ultimately dismissed by the court on dormancy and the Respondent's subsequent motion to open was denied. In the decision denying the motion to open, the court noted that the misstatement contained in the motion to exempt was not designed to mislead and we are therefore satisfied that further action is not warranted on this matter.

We do find by clear and convincing evidence that the Respondent's statements contained various pleadings filed in Rozbicki III and IV that called into question Judges Roche's and Danaher's impartiality and integrity and accusing them of violations of the Codes of Judicial Conduct, involved serious unethical conduct, in violation of Rule 3.1 of the Rules of Professional Conduct. A lawyer is an officer of the court and a charge of partiality and bias levied against a judge is serious business and should not be made lightly. "Of all the charges that might be leveled against one sworn to administer justice and to faithfully and impartially discharge and perform all the duties incumbent upon me...a charge of bias must be deemed at or near the very top in seriousness, bias kills the very soul of judging-fairness." Wendt v. Wendt, 59 Conn. App. 656, 693, cert. denied, 255 Conn. 918(2000). It is particularly troubling when, as here, the allegations are made with no evidence to support them.

Repeatedly, the Respondent's response to an adverse decision by the court in Rozbicki III and IV

was to file a motion for disqualification or some other pleading in which he disparaged the integrity of the judge with blanket, conclusory allegations of misconduct with absolutely no supporting evidence. It is axiomatic, however, that an adverse ruling, in and of itself, is no evidence of bias on the court's part. State v. Fullwood, 194 Conn. 573, 581-582(1984); Wendt, supra, at 694. There is nothing in the record to support the Respondent's repeated charges against Judges Roche and Danaher that their decisions adverse to him evidence partiality, bias, advocacy for the Respondent's opponent, or violations of the Code of Judicial Conduct. We agree with Judge Danaher's conclusion in one of the several decisions denying the Respondent's motions for disqualification that these claims were "rank speculation" and nothing more. When a lawyer makes unsupported charges of bias against a judge, discipline is appropriate. Burton v. Mottolese, 267 Conn. 1, 48-50 (2003).

We conclude that there is clear and convincing evidence that the Respondent's improper baseless accusations against Judges Roche and Danaher violated Rule 3.1 of the Rules of Professional Conduct. Additionally, we conclude that there is clear and convincing evidence that these improper, baseless allegations against Judges Roche and Danaher violated Rule 3.1 of the Rules of Professional Conduct. Additionally, we conclude that there is clear and convincing evidence that these improper, baseless allegations against Judges Roche and Danaher also violated Rules 8.2(a) and 8.4(4) of the Rules of Professional Conduct.

We further conclude that the Respondent's conduct warrants a presentment. In reaching this decision, we note that apart from the seriousness of the misconduct found here, there are several

aggravating factors as outlined in the American Bar Association's "Standards for Imposing Lawyer Sanctions," including a prior disciplinary history, a pattern of misconduct, multiple offenses and a refusal to acknowledge the wrongful nature of the conduct. Additionally, the Respondent is currently serving a two year suspension as a result of a disciplinary order in Chief Disciplinary Counsel v. Rozbicki, Docket Number LLI-CV-6004519.

Accordingly, we direct Disciplinary Counsel to file a presentment against the Respondent for the imposition of whatever discipline the Court deems appropriate. Because the presentment is a trial de novo, we direct the Disciplinary Counsel to include in the presentment the violations of Rules 8.2(a) and 8.4(4) of the Rules of Professional conduct in addition to the violation of Rule 3.1 of the Rules of Professional Conduct.

(9)
mp

DECISION DATE: 7/26/13

Grievance Complaint #12-0029
Decision

Attorney Noble F. Allen

Attorney Joseph D. Foti

Ms. Joan Gill

EXHIBIT 4.....83-85

**SUPERIOR COURT DOCKET NO.
HHD-CV-13-6046975-S**

**CHIEF DISCIPLINARY : (APPELLATE COURT)
COUNSEL :**

**VS. : SUPERIOR COURT
: J.D. OF HARTFORD**

ZBIGNIEW S. ROZBICKI : SEPTEMBER 22, 2015

PRELIMINARY STATEMENT OF ISSUES

The Appellant intends to present the following issues on this appeal:

I. Was the defendant deprived of due process and his administrative remedies by the trial court's denial of his Motion to Dismiss based on the Subcommittee/Reviewing Committee's failure to comply with §51-90h C.G.S. which provides that its proposed decision must be submitted to the Statewide Grievance Committee which shall review the record before its subcommittee and any statements filed with it before it issues its decision for presentment, thus depriving the trial court of jurisdiction?

II. Did the trial court deprive the defendant of substantive and procedural constitutional protection to free speech, due process, and equal protection of the law by its finding of misconduct that the defendant filed and presented motions to disqualify a judge based on undisputed evidence that the judge falsely accused the defendant of lying when there were no allegations in

the defendant's motion of derogatory or demeaning comments, false statements, or reckless statements which satisfied the criteria set forth by the Supreme Court in Notopoulos v. S.G.C., 277 Conn. 218, 236 to undermine the administration of justice?

III. Whether the trial court's finding, and conclusions of misconduct violated the defendant's constitutional rights to due process, a fair trial, free speech, access to the courts and against double jeopardy when it based its findings and conclusions on incompetent, equivocal, speculative, and inadmissible evidence which was barred by res judicata, collateral estoppel, and protected under the principles of absolute immunity and privilege in judicial proceedings?

IV. Whether the trial court's consideration of evidence and claims which were adjudicated in other proceedings and which it ruled would not be a part of the captioned presentment and which were beyond disciplinary counsel's authority to include, beyond the confines of the Statewide Grievance Committee's decision, violated the defendant's fundamental constitutional rights guaranteed by the U.S. and Connecticut Constitutions, to deprive the defendant of liberty and property without due process of law in violation of the Fifth and Fourteenth Amendments of the U.S. Constitutions?

V. Whether the issues and evidence tried by the court were already considered and tried on the evidence by judges in the actual proceedings from which the grievance complaint arose and which the Statewide Grievance Committee decided and thus the trial court from which this appeal followed, was barred by the principles of res judicata, collateral estoppel, judicial estoppel, and equitable estoppel to make conclusions and findings in the

absence of hearing any evidence which led the initial trial judges to make no findings of misconduct?

VI. Whether the trial court erred in suspending the defendant for four years when there was no evidence to support its findings and when such findings and conclusions were unsupported by the evidence and in violation of a citizen's broad latitude to criticize judges under the U.S. Supreme Court's decision in New York Times v. Sullivan, 376 U.S. 254, who are deemed to be "public officials" with no special privileges?

DEFENDANT-APPELLANT

By _____
Zbigniew S. Rozbicki
Pro Se

EXHIBIT 5.....85-88

STATE OF CONNECTICUT
SUPREME COURT

S.C. 19796

CHIEF DISCIPLINARY COUNSEL

VS.

ZBIGNIEW S. ROZBICKI

BRIEF OF RESPONDENT-APPELLANT
(WITH APPENDIX)

TO BE ARGUED BY: FOR THE
 RESPONDENT
 APPELLANT
ZBIGNIEW S. ROZBICKI ZBIGNIEW S. ROZBICKI
PRO SE PRO SE
 100 EAST MAIN STREET
 P.O. BOX 419
 TORRINGTON, CT 06790
 TEL. 860-489-0469

CONCLUSION AND CLAIM FOR RELIEF

There is no reasonable conclusion but that there are no grounds for disturbing the multiple trial courts' decisions in which no violation of the Rules of Professional Conduct and no misconduct was found in the proceeding leading to the presentment. The presentment trial court may not substitute its own opinion three years after the issues were fully tried by the courts which were responsible under the applicable law and Code of Judicial conduct to determine whether the appellant was guilty of misconduct.

The presentment trial court as well as the Statewide Grievance Committee ignored and refused to consider critical constitutional challenges and applicable principles of law as if no such defenses were raised.

The Presentment Court's de facto finding that the motions for recusal, constitute a violation of 8.4(4) because such "engage in conduct that is prejudicial to the administration of justice"... is a clear example of a "formula for the repression of expression," without any reference that such finding cleared the hurdles of the First Amendment protection.

It is the business of the court to adjudicate motions for recusal, in its duty to administer justice. The Presentment Court's conclusion that by engaging the court in its duty to adjudicate a challenge to its disqualification is prejudicial to the administration of justice, is within the Supreme Court's words in the N.Y. Times v. Sullivan decision, a "formula for the repression of expression."

"Lawyers are specially situated to assess the official performance of judges and other judicial and legal officers. Accordingly, both constitutional law and sound social polity require that lawyers have broad latitude in criticizing such officers. Under the rule of New York Times v. Sullivan, 376 U.S. 254 (1964), and its progeny, judges and other public legal officers are "public officials, so that an action by a judge or public legal officer against a lawyer for damages for defamation would require a showing of actual malice." Similar considerations should also lead to application of the standard in New York Times v. Sullivan in lawyer-discipline cases.

Disqualification of a trial judge is not dependent upon proof of actual bias. See Daley v. Conn. Bar Assn., 184 Conn. 21 (1981). The controlling standard is whether a reasonable person who is aware of all the circumstances surrounding the judicial proceeding would question the judge's impartiality. Papa v. New Haven Fed. of Teachers, 186 Conn. 725, 745-46 (1982).

Based on a history of embroilment in rulings and comments by Judge Danaher and Judge Roche, the appellant "was aware of all the circumstances surrounding the judicial proceedings from which he had reason to question the judges' impartiality."

The appellant respectfully prays for the court to reverse the judgment of the trial court with

direction to enter an order dismissing the
presentment complaint with prejudice.

RESPECTFULLY SUBMITTED,

APPELLANT
ZBIGNIEW S. ROZBICKI

Zbigniew S. Rozbicki
Pro Se
100 East Main Street
P.O. Box 419
Torrington, CT 06790
Telephone: 860-489-0469

EXHIBIT 6.....88-89

PORTION OF CERTIFIED TRANSCRIPT OF
PROCEEDINGS ON MAY 28, 2013 IN CONN.
SUPREME COURT'S APPENDIX TO BRIEF,
JUDGE DANAHER ACCUSING PETITIONER
OF FALSEHOOD

PAGE 11:

16 MR. ROZBICKI: May I respond, judge?
17 THE COURT: I know you have ruled,
18 MR. ROZBICKI: Well, if your Honor
pleases.
19 THE COURT: I have ruled, counsel--the
matter
20 is concluded.
21 MR. ROZBICKI: I know you have ruled,
but I just
22 want to put on the record something very
important

23 I observed you, you did not read the affidavit
24 in support of the motion to disqualify, you did
not
25 read the memorandum. As I watched you,
from the time
26 that I handed you the motion in opposition to
the
27 motion for contempt you have not looked at
it. I

PAGE 12:

1 have handed you—you claim that you
considered the
2 motion for contempt in my opposition to the
motion
3 for contempt and my memorandum of law.
You haven't
4 looked at that.
5 THE COURT: Those statements are false,
counsel,
6 and the record will reflect that. I read each of
the
7 documents you provided to me.
8 MR. ROZBICKI: Well, if your Honor—
9 THE COURT: The matter is concluded,
remove
10 yourself.
11 (Matter concluded.)

(Transcript of Proceeding on May 28, 2013, pp. 11 &
12;)

EXHIBIT 7.....90-91

DOCKET NO.

LLI-CV-10-5007246S : SUPERIOR COURT

ZBIGNIEW S. ROZBICKI: J.D. OF LITCHFIELD

VS. : AT LITCHFIELD

EUGENE M.

GISSELBRECHT,

EXECUTOR, ET AL : APRIL 28, 2011

**MOTION FOR DISQUALIFICATION OF JUDICIAL
AUTHORITY**

1. The undersigned, pursuant to §1-22 and §1-23 C.P.B. respectfully moves to disqualify the judicial authority (Danaher, J.) from acting in any matter in the above entitled in which the undersigned is a pro se party as well as in his capacity as an attorney in the above entitled, and in any and all cases coming before the Court in which the undersigned is an attorney of record, representing his clients, and the Hon. Danaher, Jr. is assigned to adjudicate such matters.

2. Disqualification is sought challenging Judge Danaher's bias, prejudice, and partiality as evidenced during the proceedings and described in the plaintiff's supporting Affidavit.

3. The undersigned submits herewith, an Affidavit setting forth the facts relied upon to show the grounds for disqualification with a certificate that this Motion is made in good faith.

CERTIFICATE OF GOOD FAITH

The undersigned certifies that the appended Motion To Disqualify the Hon. Danaher, Jr. is being filed in good faith.

Zbigniew S. Rozbicki
Commissioner of the Superior
Court

ORDER

The foregoing Motion, having been presented,
IT IS HEREBY ORDERED:

GRANTED/DENIED.

BY THE COURT

CERTIFICATION

THIS IS TO CERTIFY that a copy of the foregoing was sent on the 28th day of April, 2011, first class mail, postage prepaid, to the following:

Ruth C. Nadeau, Esq.
Ackerly Brown LLP
P.O. Box 815
Bantam, CT 06750

Zbigniew S. Rozbicki
Commissioner of the
Superior Court