

NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

Gary Pisner
Applicant

v.

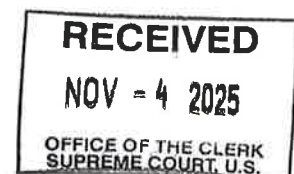
The Attorney Grievance Commission of MD

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**APPLICATION FOR AN EXTENTION TO FILE A PETITION FOR CERTIORARI
PURSUANT TO RULE 13.5**

Gary Pisner, the Applicant herein, who is the Appellant in a case now before the Federal 4th Circuit (Case No. 25-1262) and to the filings of a Petition for Certiorari, related to a parallel opinion in the Maryland Supreme Court (SCM-AG-0023-2023 and Exhibit A) and order (see Exhibit C) issued by the Maryland Supreme Court. Applicant respectfully applies to this Court for a sixty (60) day extension, under this Court's Rule 13.5, from what would be the ninety (90) day deadline (November 18, 2025) for filing a Petition for Certiorari, with this Court, which would be the first business day after January 17, 2026.



A. Background

1. Proceedings Below

This relates to a disciplinary matter, where one party, the Attorney Grievance Commission of Maryland (hereinafter “Maryland Bar Counsel”) issued an order disbaring this Applicant in March 2025, for a matter that is now before the 4th Federal Circuit. In July, the Maryland Supreme Court, issued an opinion (see Exhibit A), which contained many errors and inconsistencies, that were contradicted by the record, and which appear to have been inherited from Counsel for the Respondent’s draft, of its finding of Facts and conclusions of law.

Given the obvious errors, Pisner moved for reconsideration (see Exhibit B). Although the proposed error corrections in the opinion were clearly supported by the record along with the contradictory findings, the court refused to correct its errors in its opinion, without explanation (see Exhibit C).

2. Why are there two proceedings.

The reason this matter has been before the 4th Circuit is because neither the Montgomery County Maryland Circuit Court, which claimed that it lacked jurisdiction to hear constitutional due process issues, such as lack of notice, refusal to disclose exculpatory evidence, and prosecutorial misconduct, because the court lacked subject matter jurisdiction, that being the purview of the Maryland Supreme Court , so upon transferring the case to the Maryland Supreme Court, the Supreme Court also, for no cited reasons, also refused to hear any argument or permit briefing on the constitutional due process omissions.¹

¹ Attempts to get the federal courts to issue a stay were undermined by the ability by Respondent to

Even more disturbing is that the record contained sufficient evidence to support prosecutorial misconduct and clear evidence of concealing exculpatory evidence. This refusal to address any of the many due process failures resulted in a remand to the federal courts, where this matter has been since late 2024.

Instead of addressing those constitutional issues, the Court used the document that was the product of the prosecutorial misconduct that was largely the product of the Maryland Bar Counsel, who, pursuant to a similar matter, had been forced to resign days prior to the service of Bar Counsel's Petition service on Applicant.

3. Why the 60-day extension is necessary

There is a possibility that the matter before the 4th Circuit, given the potential outcomes, may make a Petition for Certiorari moot or may require additions or amendments to the questions presented to this Court, especially given the novel position of the Maryland Bar Counsel, i.e., that disciplinary proceedings for lawyers, do not require constitutional due process because of the special relationship between the court and lawyers: Obviously, this theory has no support in the caselaw and, would if accepted by the 4th circuit it would raise new constitutional questions. Clearly, there are no guarantees that this matter would be resolved at the federal level by early 2026, but there might be enough clarity to proceed in an informed manner.

B. Appellant Exercised Due Diligence

This Application was filed with this Court over 10 days prior to what would have been the statutory filing deadline.

WHEREFORE, Applicant Pisner applies to this Court for a sixty (60) day extension, under this Court's Rule 13.5, from what would be the ninety (90) day deadline (November 18, 2025) for filing a Petition for Certiorari, with this Court, which would be the first business day after January 17, 2026.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Gary Pisner", written over a horizontal line.

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CERTIFICATION

Applicant Gary Pisner, pro se, has served a copy of this 762-word application on counsel of record—the Maryland Bar Counsel, on November 3, 2025, by mail.

A handwritten signature in cursive script, appearing to read "Gary Pisner", written over a horizontal line.

Attorney Grievance Commission of Maryland v. Gary Pisner, AG No. 23, September Term, 2023. Opinion by Killough, J.

ATTORNEY MISCONDUCT – DISCIPLINE – DISBARMENT – Respondent Gary Pisner violated Maryland Attorneys’ Rules of Professional Conduct 1.1 (Competence), 1.15 (Safekeeping Property), 3.1 (Meritorious Claims and Contentions), 3.4 (Fairness to Opposing Party and Attorney), and 8.4(a) and (d) (Misconduct). These violations arose from Respondent’s representation of himself in various matters relating to the Marion E. Pisner Revocable Trust in which he engaged in the intentional misappropriation of trust assets, failed to comply with court orders, and engaged in a persistent pattern of vexatious and frivolous litigation, causing harm to others, and burdening the judicial system.

The Supreme Court of Maryland ordered that Respondent be disbarred.

Circuit Court for Montgomery County
Case No.: C-15-CV-23-004631
Argued: March 3, 2025

IN THE SUPREME COURT
OF MARYLAND

AG No. 23

September Term, 2023

ATTORNEY GRIEVANCE COMMISSION
OF MARYLAND

v.

GARY PISNER

Fader, C.J.
Watts
Booth
Biran
Gould
Eaves
Killough,

JJ.

Opinion by Killough, J.

Filed: July 14, 2025

The Attorney Grievance Commission of Maryland (the “Commission”), through Bar Counsel (hereinafter referred to collectively as “Petitioner”), filed a Petition for Disciplinary or Remedial Action (the “Petition”) against Respondent, Gary Pisner. Petitioner charged Mr. Pisner with violating several provisions of the Maryland Attorneys’ Rules of Professional Conduct,¹ specifically: Rule 1.1 (Competence), Rule 1.15 (Safekeeping Property), Rule 3.1 (Meritorious Claims and Contentions), Rule 3.4 (Fairness to Opposing Party and Attorney), and Rule 8.4(a) and (d) (Misconduct).

The misconduct that is the focus of this disciplinary proceeding stems from Respondent’s conduct in connection with a series of legal disputes involving the Marion E. Pisner Revocable Trust, a trust he shares with his sister, Marla Pisner Rubinstein. By order dated December 14, 2023, this Court designated the Honorable Louis M. Leibowitz (the “Hearing Judge”) of the Circuit Court for Montgomery County to consider the matter against Respondent and render findings of fact and conclusions of law. A two-day evidentiary hearing was held on June 10 and 14, 2024, and upon consideration of the evidence presented, the Hearing Judge found, by clear and convincing evidence, that Respondent violated each rule of professional conduct as alleged by Petitioner: Rules 1.1, 1.15, 3.1, 3.4, and 8.4(a) and (d). Petitioner did not file any exceptions and recommends

¹ Effective July 1, 2016, the Maryland Lawyers’ Rules of Professional Conduct were (“MLRPC”) renamed the Maryland Attorneys’ Rules of Professional Conduct (“MARPC”) and recodified without substantive changes in Title 19 of the Maryland Rules. The conduct in this case spans both before and after the recodification. For ease of reference, we use the shorter MLRPC-style citations (e.g., Rule 1.1 rather than Maryland Rule 19-301.1).

that the Respondent be disbarred. Respondent filed exceptions on September 18, 2024. After oral argument, on March 5, 2025, we ordered Respondent disbarred.

We explain the reasons for that sanction here, agree with the facts and conclusions reached by the Hearing Judge, and overrule the exceptions filed by Respondent.

I.

FINDINGS OF FACT

We summarize below the Hearing Judge's findings of fact.

Respondent was admitted to the Maryland Bar on June 14, 1989, and, at all times, was an attorney in good standing in the State. Respondent also holds law licenses from the Commonwealth of Pennsylvania, the Commonwealth of Virginia, and the District of Columbia.

The Marion E. Pisner Revocable Trust (the "Trust" or the "Pisner Trust") was established on December 12, 2008, in Montgomery County, Maryland. Upon the death of the settlor, Marion E. Pisner, on January 2, 2009, her children—Respondent and Marla Pisner Rubinstein—became the beneficiaries and co-trustees of the Pisner Trust. Pisner Trust assets included several residential properties located in Maryland and Washington, D.C., as well as funds held in accounts at BB&T,² TD Bank, and SunBank.

In the fall of 2010, Respondent and Ms. Rubinstein met in Bel Air, Maryland, to conduct an audit of the Pisner Trust's finances (the "Bel Air Meeting"). Although they

² In 2019, BB&T merged with SunTrust Banks. The merged company officially became known as Truist Financial Corporation. The Truist account (formerly BB&T account) was opened by Marion Pisner before her death in 2009.

disagreed on certain details of the meeting, both agreed that Ms. Rubinstein confronted Respondent about his use of Trust funds for personal expenses, and that Respondent promised to provide documentation regarding those expenditures. They also agreed that Ms. Rubinstein would assume day-to-day management of the Trust going forward. However, according to Ms. Rubinstein, Respondent never provided the documentation or financial information necessary for her to fulfill that role.

The Hearing Judge found Respondent's testimony regarding the Bel Air Meeting to be inconsistent. Respondent initially testified that he had provided Ms. Rubinstein with all relevant Trust documents, stating that she "walked out of the meeting with all the documents. Everything." Later, however, he acknowledged—and Ms. Rubinstein confirmed—that he had brought only a ledger to the meeting. Based on these inconsistencies, the Hearing Judge concluded that Respondent did not, in fact, relinquish control of the Pisner Trust to Ms. Rubinstein following the Bel Air meeting.

The ledger maintained by Respondent reflects approximately 70 personal transactions between November 2009 and August 2013. These include tens of thousands of dollars in payments related to Respondent's divorce, personal credit card charges, and self-designated "loans" from the Trust. Ms. Rubinstein had no access to the Trust's bank accounts and was unaware of these transactions until she obtained the relevant bank statements from BB&T during the litigation described below.

A.

***Marion E. Pisner Trust v. Rubinstein Case No. 427983V
in the Circuit Court for Montgomery County***

On December 13, 2016, Respondent, identifying himself as “Attorney for & Co-Trustee of the Marion E. Pisner Trust,” filed a Petition for a Declaration of Rights under Md. Code Ann., Cts. & Jud. Proc. § 3-408 in the Circuit Court for Montgomery County. He asserted that, in his view, the Pisner Trust had “ceased to function” in accordance with its terms and requested that the court provide “binding guidance” on its administration. Respondent signed the petition both as counsel and co-trustee.

In response, on May 24, 2017, Judge Sharon Burrell issued a Show Cause Order to Ms. Rubinstein. On July 31, 2017, Ms. Rubinstein filed a substantive response requesting an independent audit of the Pisner Trust from its inception. She cited Respondent’s failure to cooperate with an accounting and his refusal to provide personal credit card statements. She further alleged that Respondent had used Trust funds for personal expenses, including attorney’s fees related to his divorce.

On cross-examination in this disciplinary matter, Respondent admitted to using Pisner Trust assets for personal obligations but testified that he had previously loaned the Trust money, suggesting that some of the withdrawn funds were owed to him. However, he presented no documentation to support this claim, and the Hearing Judge did not find it credible.

On August 24, 2017, Judge Anne K. Albright issued a second Show Cause Order, directing both parties to explain why the court should not assume judicial control of the

Pisner Trust and remove them as co-trustees. Ms. Rubinstein responded substantively; Respondent, by contrast, did not respond on the merits, and instead filed a motion to strike Ms. Rubinstein's response.

At the Show Cause hearing on September 28, 2017, Judge Albright removed both parties as co-trustees and appointed Robert McCarthy, Esq., as successor trustee. Mr. McCarthy had no prior relationship with either party.

On November 13, 2017, Respondent filed an interlocutory appeal of Judge Albright's order and moved for reconsideration and a stay. Both motions were denied on January 16, 2018. The Appellate Court of Maryland dismissed the appeal on February 21, 2018, and this Court subsequently denied *certiorari*.

Judge Albright also granted Mr. McCarthy's request to hire an accountant and expand the scope of the audit. A status hearing was set for January 25, 2018. On the eve of the hearing, Respondent filed another interlocutory appeal and sought a stay. The Appellate Court assumed jurisdiction, halting the hearing.

On January 26, 2018, Mr. McCarthy mailed a letter to Respondent at his residence in Fairfax, Virginia, again requesting Trust documentation and advising that his conduct potentially violated the Maryland Attorneys' Rules of Professional Conduct. Respondent replied with documents that Mr. McCarthy deemed unresponsive. Mr. McCarthy thereafter filed a suggestion of contempt on February 1, 2018.

On February 9, 2018, the court issued a Show Cause Order requiring Respondent to appear on March 15, 2018, to explain why he should not be held in contempt. Instead of responding on the merits, Respondent filed a three-part motion seeking a more definite

statement, a continuance, and access to trustee records. Judge Ronald Rubin denied the motion in full on April 13, 2018.

On March 5, 2018, Respondent filed an Answer to the contempt petition, asserting that he had produced 81 documents and was under no obligation to produce more. Mr. McCarthy responded by reiterating his request for full compliance with the October 2, 2017 order. Two days before the contempt hearing, on April 2, 2018, Respondent submitted an affidavit in support of his motions and in opposition to the contempt petition, affirming under penalty of perjury that the documents provided in January 2018 were the only documents in his possession dating back to January 2015.

The contempt hearing was held on April 4, 2018, before Judge Harry C. Storm. Judge Storm denied the contempt petition on the ground that the court's October 2, 2017, order lacked specificity. Judge Storm ordered Respondent and Ms. Rubinstein to produce, "in paper format or electronically, [certain] documents within Gary Pisner or Marla Rubinstein's possession, custody, control or access related to the [Pisner Trust] for the period January 1, 2009 – October 2, 2017," by April 27, 2018.

Before the April 27 deadline, on April 24, 2018, Respondent moved to remove Mr. McCarthy as substitute trustee, alleging a "breach of trust" based on Mr. McCarthy's interpretation of his fiduciary duties. Judge Jill R. Cummins denied Respondent's motion on May 21, 2018.

Respondent failed to meet the court's deadline to produce documents, and on April 30, Mr. McCarthy filed a renewed contempt petition seeking incarceration. The court issued another Show Cause Order on May 4, 2018, requiring Respondent to respond and

appear on June 7, 2018. Again, rather than substantively responding, Respondent filed a motion for a more definite statement, asserting that he had produced everything he “deemed” responsive. In total, he provided Mr. McCarthy with 944 pages of documents. The court denied the motion on June 6, 2018.

Judge Michael D. Mason presided over the June 7, 2018, hearing. After taking testimony from Respondent, Judge Mason found him in contempt, noting that Respondent had failed to provide source documents or ledgers and stating that it was “inconceivable” that, as an attorney and fiduciary of the estate, he would not retain documentation supporting Trust expenditures. Judge Mason imposed a 60-day sentence but stayed execution until July 20, 2018, to allow Respondent another opportunity to comply.

On July 11, 2018, Respondent filed a notice of appeal and a motion for reconsideration of Judge Mason’s June 7 contempt finding, asserting that he had fully complied with the court’s orders and alleging that Mr. McCarthy’s accountant, Dana Evans, made false statements during the contempt hearing. At a follow-up hearing on July 20, 2018, Judge Mason reaffirmed the contempt finding and denied Respondent’s motion for reconsideration but, at Mr. McCarthy’s request, declined to impose the 60-day incarceration sentence.

On November 19, 2018, Respondent filed a notice of appeal challenging eleven separate orders. While those appeals were pending, Mr. McCarthy moved for approval of the final Pisner Trust distribution. Mr. McCarthy argued that Respondent’s failure to

maintain records violated his duties under Md. Code Ann., Est. & Trusts (“ET”) § 14.5-802(b).³

Mr. McCarthy proposed distributing the Pisner Trust’s remaining net balance—minus \$50,000—to Ms. Rubinstein, with the withheld amount to be released to Respondent upon execution of a general release and cessation of further litigation.

On February 19, 2019, Respondent filed a notice of opposition to the proposed distribution, asserting that it was based on “false” facts. He again accused Mr. McCarthy and Ms. Evans of ethical violations and of improperly dissipating approximately \$500,000 in Trust funds.

On March 11, 2019, the circuit court mailed notice of the distribution hearing to all parties, including to Respondent at his long-standing address in Fairfax, Virginia—the

³ Section 14.5-802 of the Maryland Trust Act states, in pertinent part:

(b) Subject to the rights of persons dealing with or assisting the trustee as provided in § 14.5-909 of this title, a sale, an encumbrance, or any other transaction involving the investment or management of trust property entered into by the trustee for the personal account of the trustee or which is otherwise affected by a conflict between the fiduciary and personal interests of the trustee is voidable by a beneficiary affected by the transaction unless:

- (1) The transaction was authorized by the terms of the trust;
- (2) The transaction was approved by the court;
- (3) The beneficiary did not commence a judicial proceeding within the time allowed by law;
- (4) The beneficiary consented to the conduct of the trustee, ratified the transaction, or released the trustee in compliance with § 14.5-907 of this title; or
- (5) The transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming the trustee.

Md. Code Ann., Est. & Trusts § 14.5-802(b).

same address he had consistently used throughout the proceedings. Despite having received notice, Respondent did not attend the hearing.

At the hearing, both Mr. McCarthy and Ms. Rubinstein testified. Relying on their testimony and noting Respondent's prior contempt findings, Judge James A. Bonifant concluded that an inference could be drawn that Respondent had wrongfully distributed excess funds to himself. The court found that Mr. McCarthy's proposed distribution was appropriate and long overdue, stating: "10 years while this has been pending . . . that is just totally inappropriate. It's time for this matter to come to a close." Accordingly, Judge Bonifant granted the motion to approve the Pisner Trust distribution and memorialized his findings in an order signed on April 9, 2019.

On April 11, 2019, Mr. McCarthy filed a response to Respondent's previously filed notice of appeal (dated November 19, 2018), moving to strike it from the record. In response, Respondent filed a 15-page pleading titled "Answer to Robert McCarthy's Motion to Strike Notice of Appeal, Request for Reconsideration of this Court's Order of April 9, 2019, with a Request for a Stay, If Necessary." In that filing, Respondent renewed claims previously rejected by the court, reasserted his authority as the Trust's attorney, and alleged that both Mr. McCarthy and Ms. Rubinstein had perjured themselves at the June 7 contempt hearing. Judge Bonifant denied Respondent's motion for reconsideration without a hearing on May 21, 2019.

In the interim, on May 13, 2019, Respondent filed another notice of appeal to the Appellate Court, incorporating the April 9, 2019 order along with the eleven previously

challenged orders. The Appellate Court later consolidated the pending appeals into a single case.

On June 11, 2019, Judge Robert A. Greenberg issued a Show Cause Order requiring Respondent to explain in writing why the appeal should not be dismissed for failure to comply with the rules. On June 24, 2019, Respondent filed a response that largely reiterated the same arguments presented in his April 29, 2019 Answer. He also moved to recuse Judge Greenberg, citing his role as administrative judge of the Montgomery County Circuit Court and his history of appointing Mr. McCarthy in other estates and trusts cases. On August 9, 2019, Judge Greenberg denied Respondent's motion to recuse and set a hearing on the motion to strike.

B.

Proceedings Before the Appellate Court of Maryland

On March 18, 2020, the Appellate Court issued an unreported opinion thoroughly reviewing and affirming each of the challenged rulings, including the contempt finding against Respondent. *Pisner v. McCarthy*, Nos. 1037 and 3041, Sept. Term, 2018, 2020 WL 1303623 (Mar. 18, 2020). Respondent filed a motion for reconsideration and a petition for writ of *certiorari* to this Court, which we denied on July 20, 2020. *Pisner v. McCarthy*, 469 Md. 670 (2020).

Following these denials, Respondent sent a letter to the Clerk of the Appellate Court of Maryland criticizing the opinion's structure and alleging "procedural failure." The Clerk responded that the Appellate Court would not comment further and noted Respondent's failure to copy opposing counsel.

C.

Proceedings Before the Superior Court of the District of Columbia

While the trust litigation remained pending in the Maryland state courts, Respondent, in his personal capacity, initiated a separate lawsuit against Ms. Rubinstein in the Superior Court for the District of Columbia on January 14, 2019. *Pisner v. Rubinstein*, No. 2019 CA 000229 B (D.C. Super. Ct.). The complaint asserted claims for breach of contract, fraud, abuse of process, defamation, and breach of fiduciary duty. The abuse of process claim was based entirely on Ms. Rubinstein's filings in the Montgomery County Circuit Court—filings made in response to Respondent's own earlier suit.

As a result, Ms. Rubinstein retained counsel and, on April 18, 2019, moved to dismiss the case, arguing that the District of Columbia was an improper forum in light of the still-active litigation in Maryland. Judge Florence Y. Pan granted the motion to dismiss at a hearing held on June 14, 2019. Respondent sought reconsideration on July 12, 2019, and filed a notice of appeal three days later. On August 7, 2019, Judge Pan denied the motion for reconsideration, noting that Respondent had failed to articulate any procedural or legal basis for relief. The District of Columbia Court of Appeals affirmed the dismissal in an unpublished per curiam opinion issued on February 25, 2021. *Pisner v. Rubinstein*, 246 A.3d 156 (D.C. 2021).

D.

***Pisner v. Rubinstein in the U.S. District
Court for the District of Maryland***

On January 4, 2021—approximately six weeks before the D.C. Court of Appeals issued its opinion—Respondent filed a second lawsuit against Ms. Rubinstein, this time in the U.S. District Court for the District of Maryland. *See Pisner v. Rubinstein*, No. CV TDC-21-0020, 2022 WL 294826 (D. Md. Jan. 31, 2022), *aff'd*, No. 22-1294, 2022 WL 3681660 (4th Cir. Aug. 25, 2022). The allegations were nearly identical to those asserted in the earlier D.C. case. This time, Respondent sought \$3.7 million in compensatory damages and \$2 million in punitive damages.

Ms. Rubinstein again retained counsel and moved to dismiss, arguing that the claims were either resolved or precluded by the ongoing Montgomery County litigation. Rather than substantively responding, Respondent filed a motion to strike the motion to dismiss.

On January 31, 2022, Judge Theodore D. Chuang granted Ms. Rubinstein’s motion to dismiss, holding that the breach of contract and fiduciary duty claims were barred by *res judicata*, and that the remaining claims failed to state a plausible basis for relief.

In response, Respondent filed a notice of appeal to the U.S. Court of Appeals for the Fourth Circuit on March 16, 2022. The following day, he filed a 37-page submission styled as “objections” to Judge Chuang’s ruling, accusing the court of “judicial lethargy” and misapplication of the law. The Fourth Circuit affirmed the dismissal in a one-paragraph per curiam opinion, finding “no reversible error.” *Pisner v. Rubinstein*, No. 22-1294, 2022 WL 3681660, at *1 (4th Cir. Aug. 25, 2022).

E.

*Pisner v. McCarthy et al. in the U.S. District
Court for the District of Maryland*

On January 5, 2022, Respondent initiated another lawsuit in the U.S. District Court for the District of Maryland, this time naming Mr. McCarthy, Kevin McCarthy (Mr. McCarthy's law partner and son), and Ms. Evans as defendants.⁴

The complaint largely recycled claims Respondent had previously raised in the Montgomery County proceedings. All three defendants moved to dismiss, arguing that the claims were barred by *res judicata* and collateral estoppel and otherwise failed to state a claim upon which relief could be granted.

On September 26, 2022, Judge George Hazel issued a memorandum opinion granting the motions to dismiss. *Pisner v. McCarthy*, 630 F. Supp. 3d 690 (D. Md. 2022), *aff'd*, No. 23-1655, 2024 WL 1615012 (4th Cir. Apr. 15, 2024). The court concluded that Respondent's claims were both legally barred and substantively deficient.

Following the dismissal, on December 27, 2022, Respondent filed a "motion for relief" pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. Judge Stephanie A. Gallagher denied the motion in a written opinion issued on March 27, 2023. Respondent then filed a motion to alter or amend that ruling, which the court also denied on May 17, 2023. On June 16, 2023, Respondent noted an appeal to the Fourth Circuit. An

⁴ The Hearing Judge specifically noted that Kevin McCarthy had no meaningful involvement in the underlying Montgomery County litigation but was nonetheless named as a defendant.

unpublished per curiam opinion was filed on April 15, 2024, affirming Judge Gallagher's decision.

II.

HEARING JUDGE'S CONCLUSIONS OF LAW

The Hearing Judge concluded that Respondent violated MARPC 1.1, 1.15, 3.1, 3.4, and 8.4(a) and (d). Petitioner did not file exceptions. Respondent noted several exceptions to both the Hearing Judge's findings of fact and conclusions of law.

III.

STANDARD OF REVIEW

"This Court has original and complete jurisdiction in an attorney disciplinary proceeding and conducts an independent review of the record." *Attorney Grievance Commission v. Portillo*, 473 Md. 584, 598-99 (2021) (quoting *Attorney Grievance Commission v. Hoerauf*, 469 Md. 179, 207-08 (2020)). Pursuant to Md. Rule 19-728(b), Respondent filed exceptions to the Hearing Judge's factual findings and conclusions of law, however, we leave undisturbed the Hearing Judge's findings of fact "unless those findings are clearly erroneous." *See id.* Md. Rule 19-740(b)(2)(B) provides:

[This Court] shall determine whether the findings of fact have been proved by the requisite standard of proof set out in [Md.] Rule 19-727(c). Th[is] Court may confine its review to the findings of fact challenged by the exceptions. Th[is] Court shall give due regard to the opportunity of the Hearing Judge to assess the credibility of witnesses.

We assess the Hearing Judge's legal conclusions under a *de novo* standard of review. *Attorney Grievance Commission v. Moody*, 457 Md. 90, 110 (2017); Md. Rule 19-

740(b)(1) (“The [Supreme Court of Maryland] shall review [*de novo*] the circuit court judge’s conclusions of law.”). We retain “the ultimate authority to decide whether a lawyer has violated the professional rules.” *Attorney Grievance Commission v. Harrington*, 367 Md. 36, 49 (2001) (citation modified). Respondent’s exceptions are addressed below.

IV.

EXCEPTIONS

Pursuant to Maryland Rule 19-728(b), “each party may (1) file exceptions to the findings and conclusions of the hearing judge, (2) recommendations concerning the appropriate disposition under Rule 19-740 (c), and (3) a statement of costs to which the party may be entitled under Rule 19-709.” Here, Respondent filed a 70-page document titled “Exceptions.” Respondent’s Exceptions primarily challenge the Hearing Judge’s factual findings and procedural rulings but do not meaningfully address the merits of the misconduct or the appropriate sanction. He disputes the sufficiency of the disciplinary petition, alleges investigatory and discovery misconduct, and contests the credibility of witnesses, yet he offers no evidence to support these claims. Respondent’s contentions in the Exceptions fall into four broad categories: (1) the sufficiency of the Petition for disciplinary charges; (2) alleged misconduct by Petitioner during its investigation; (3) alleged discovery deficiencies; and (4) challenges to the Hearing Judge’s factual findings. Each exception lacks merit and is overruled.⁵

⁵ As noted herein, Respondent’s contentions in the Exceptions primarily challenge the Hearing Judge’s factual findings and procedural rulings. As we discuss herein, we overrule the Respondent’s exceptions to the Hearing Judge’s findings of fact and

1. Sufficiency of the Petition

Respondent first argues that the Petition failed to provide sufficient notice of the charges against him.

A disciplinary petition is a notice pleading and is “deemed sufficient [s]o long as the petition informs the attorney of the misconduct charged in language which is clear and sufficiently specific to enable the attorney to prepare a defense.” *Attorney Grievance Commission v. McDonald*, 437 Md. 1, 43 (2014) (quoting *Attorney Grievance Commission v. Tanko*, 408 Md. 404, 420-21 (2009)). This Court requires no particular form or detail beyond this threshold. *Id.* A review of the Petition in this case reveals that the charges were clearly and sufficiently pleaded.

The Petition states, in relevant part:

58. Between January 2009 and 2017, the Respondent disbursed \$1,383,486.83 to Ms. Rubinstein and disbursed an additional \$1,976,750.72. Of the \$1,976,750.72, \$1,158,217.05 was disbursed to the Respondent or for the Respondent’s benefit and the remaining \$818,533.67 was unaccounted for – the Respondent claimed that the funds were disbursed for the benefit of the Trust. Because the Respondent failed to provide any proof to substantiate his claims, the entire \$1,976,750.72 was charged toward the Respondent’s share.

59. While acting as attorney and co-trustee of the Trust, the Respondent failed to properly account for the funds disbursed from the Trust, including failing to maintain appropriate records to substantiate the purpose of disbursements made from the Trust and disbursing funds to himself in excess to those distributed to Ms. Rubinstein.

procedural rulings. To the extent that Respondent’s 70 pages of exceptions are directed to any conclusions of law, they are also overruled.

We have held that even where a petition is not the “model of clarity,” if the allegations make clear the alleged wrongdoing, then the petition will be deemed sufficient. *See Tanko*, 408 Md. at 422. These paragraphs more than clear this threshold. These paragraphs alone make clear the alleged misconduct and describe how said conduct violates professional standards. We overrule this exception.

2. Allegations of Investigative Misconduct

Respondent next asserts that Petitioner engaged in misconduct during its investigation, including the claim that the substitute trustee, Mr. McCarthy, drafted the Petition. This allegation is unsupported by the record. Bar Counsel represented in the Commission’s reply that Bar Counsel “drafted, signed and filed” the Petition in December 2023.

Respondent also alleges an improper relationship between Mr. McCarthy and former Bar Counsel. However, he offers no evidentiary support, and the record contains none. These allegations were raised before the Hearing Judge and explored during Respondent’s cross-examination of Mr. McCarthy. In response, Mr. McCarthy testified that Bar Counsel had previously prosecuted a disciplinary matter in which he was reprimanded: “I do not consider [Bar Counsel] a dear friend of mine in any stretch of the imagination. Then she became Bar Counsel, and I’ve had no relationship with her since that hearing 11 years ago.”

The Hearing Judge considered and rejected these allegations, finding Respondent’s testimony to be “incredible”:

This Court notes that Respondent testified and argued that Mr. McCarthy had it out for him, alternately because Mr. McCarthy was conspiring with Ms. Rubinstein or because Mr. McCarthy assisted the Attorney Grievance Commission in consideration of more lenient treatment in his own unspecified Attorney Grievance Commission investigations. Respondent did not produce any evidence of any of these things. Accordingly, this Court finds that Respondent's allegations on this front were meritless. However, none of this Court's findings rely on Mr. McCarthy's credibility. His testimony was largely duplicative of the court records in the various cases filed by Respondent. Other evidence of the Commissions' allegations was corroborated throughout the case, including by Respondent's own admissions.

We likewise find Respondent's allegations to be without merit and overrule this exception.

3. Alleged Discovery Deficiencies

Respondent contends that Bar Counsel failed to comply with discovery obligations and withheld exculpatory evidence. He further alleges that Mr. McCarthy conspired with the Commission and Bar Counsel to conceal such evidence. These allegations are unsupported by the record. Respondent offers no documentary or testimonial evidence to substantiate claims of misconduct or collusion.

In contrast, Petitioner affirms that every allegation set forth in the Petition was supported by documentary evidence, and the Hearing Judge found that all relevant materials were disclosed to Respondent during discovery and introduced at the hearing. Respondent was also afforded ample opportunity to cross-examine both Bar Counsel and Mr. McCarthy and did so extensively. The Hearing Judge explicitly rejected Respondent's misconduct allegations, finding his testimony not credible.

We have also explained that “[w]e will not substitute our judgment for the judgment of the hearing judge with regard to credibility determinations.” *Attorney Grievance Commission v. Bonner*, 477 Md. 576, 613-14 (2022). Considering the absence of corroborating evidence and the Hearing Judge’s credibility determinations, we overrule this exception.

4. Exceptions to the Hearing Judge’s Factual Findings

Respondent’s remaining exceptions to the Hearing Judge’s factual findings are similarly unavailing. “If the hearing judge’s factual findings are not clearly erroneous and the conclusions drawn from them are supported by the facts found, exceptions to conclusions of law will be overruled.” *Tanko*, 408 Md. at 419.

Respondent’s exceptions span over 40 pages but do not identify any clear error. Instead, he offers alternative interpretations of the evidence or reiterates arguments already rejected by the lower courts.

Respondent challenges the Hearing Judge’s conclusion that he intentionally misappropriated Pisner Trust assets, arguing that there is no evidence that he intended to permanently deprive his sister of funds or that he acted secretly for personal gain. He contends that the Hearing Judge failed to consider relevant testimony and alternative explanations for disputed expenditures, including his belief that the payments were permissible distributions or reimbursements.

Respondent also contests the Hearing Judge’s credibility determinations, particularly his reliance on the testimony of Ms. Rubinstein and Mr. McCarthy. He claims that their statements were conclusory and self-serving, and that Mr. McCarthy lacked

personal knowledge of the transactions at issue. He further contends that the court failed to explain why it did not credit certain evidence, including bank records and his own testimony.

Finally, Respondent takes exception to the Hearing Judge's findings that he failed to maintain Trust records and knowingly disobeyed court orders. He asserts that he produced all documents in his possession and made reasonable efforts to obtain others from third parties, including a former accountant. He denies willful disobedience, maintaining that any noncompliance was due to circumstances beyond his control.

These arguments do not render the Hearing Judge's findings clearly erroneous. As we have consistently held, challenges that merely offer alternative interpretations of the record or reiterate arguments previously rejected do not suffice to disturb findings supported by clear and convincing evidence. *See Attorney Grievance Commission v. Vanderlinde*, 364 Md. 376, 384 (2001). "[T]he hearing judge is entitled to 'pick and choose which evidence to rely upon' from a conflicting array when determining findings of fact." *Attorney Grievance Commission v. Kane*, 465 Md. 667, 676 n.4 (2019) (quoting *Attorney Grievance Commission v. Guida*, 391 Md. 33, 50 (2006)). The Hearing Judge was similarly entitled to credit Ms. Rubinstein's and Mr. McCarthy's testimony over Respondent's testimony, *see Bonner*, 477 Md. at 613. We therefore overrule these exceptions.

V.

CONCLUSIONS OF LAW

Based on our independent review of the record, we agree with the Hearing Judge's legal conclusions that Respondent violated MARPC 1.1, 1.15, 3.1, 3.4, and 8.4(a) and (d).

Rule 1.1 - Competence

The Hearing Judge found by clear and convincing evidence that Respondent violated Rule 1.1 by (1) failing to maintain financial records during his tenure as attorney for the Pisner Trust, and (2) refusing to produce those records when ordered by the court.

Rule 1.1 provides: "An attorney shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation." This Court has recognized that "sound record-keeping is an essential part of competent representation, and [that] an attorney's failure to keep or produce records can itself lead to a violation of the M[A]RPC." *Attorney Grievance Commission v. London*, 427 Md. 328, 345 (2012).

Following the death of Marion Pisner in 2009, Respondent assumed responsibility for the administration of the Pisner Trust and served as its attorney. He retained exclusive control over the Trust's records and operations. Respondent managed the Pisner Trust's accounting software, received bank statements, prepared and filed tax returns, and oversaw the management of Trust-owned properties. He alone had access to the Pisner Trust's financial documentation.

Despite holding himself out as the Pisner Trust's legal representative and fiduciary, Respondent failed to maintain adequate records of Pisner Trust transactions and refused to

produce the required documentation when ordered by the court. His refusal significantly impeded the efforts of the court-appointed substitute trustee, Mr. McCarthy, to complete a fiduciary accounting of the Trust and fulfill the duties assigned by the court.

The Hearing Judge appropriately analogized the Respondent's conduct to that of the attorney in *Attorney Grievance Commission v. Woolery*, where we held that an attorney violated Rule 1.1 by failing to disclose material information about estate assets in his possession. 462 Md. 209, 232-33 (2018). We emphasized that the attorney's withholding of information obstructed the special administrator's ability to perform a fiduciary accounting—an additional violation of Rule 1.1. *Id.* at 232.

Respondent's misconduct here was similarly obstructive. By his own admission, Respondent actively concealed Pisner Trust records to avoid disclosing them during his divorce proceedings. Respondent also testified that he transferred the records to an accountant for "safekeeping" during the litigation so that his former spouse could not obtain them. Even after the divorce concluded in 2010, Respondent never attempted to retrieve those records. Despite multiple opportunities—including informal requests and three separate court orders—Respondent failed to produce sufficient documentation to permit an accounting of the Pisner Trust.

The Hearing Judge further concluded that Respondent's fiduciary obligations as a trustee, governed by ET §§ 14-405(e)(1) and (i), imposed a separate and continuing duty to maintain complete records of all Pisner Trust property and transactions. We agree with the Hearing Judge that Respondent violated of Rule 1.1. At bottom, Respondent had an obligation to preserve and organize the Pisner Trust's financial records in a manner that

would ensure accessibility and his decision to withhold, obscure, or destroy these records constituted a clear violation of the duty of competent representation.

Rule 1.15 - Safekeeping Property

The Hearing Judge concluded that Respondent violated Rule 1.15(a) by failing to maintain adequate records and by disbursing Trust funds to himself for personal use without authorization or consent from his co-trustee, Ms. Rubinstein.

Rule 1.15(a) requires attorneys to properly safeguard client or third-party property in their possession. To comply with the rule, such property must be kept separate from the attorney's personal property, complete and accurate records of all funds and other assets must be created and maintained, and those records must be preserved for at least five years.

In *Woolery*, we held that an attorney violates Rule 1.15 by depositing estate funds into a personal attorney trust account and later using those funds for litigation expenses and self-reimbursement, without authorization. 462 Md. at 241. We explained in *Woolery* that an attorney misappropriates funds when he disburses funds to himself that he was not authorized to collect or retain. *Id.* at 243.

In the instant matter, Pisner Trust records, once obtained, revealed that Respondent received distributions in excess of his share: in 2009, he distributed approximately \$1.19 million to himself while Ms. Rubinstein received \$1.06 million, and in 2010, he received \$136,410.93 despite a lack of supporting source documentation, while Ms. Rubinstein received \$54,894.78. The record further demonstrated that many of these unauthorized distributions were used for personal expenses, including legal fees, credit card payments,

and educational costs, none of which were justified or approved. We agree with the Hearing Judge's conclusion that Respondent violated Rule 1.15.

Rule 3.1 - Meritorious Claims and Contentions

The Hearing Judge found, by clear and convincing evidence, that Respondent violated Rule 3.1, which provides:

An attorney shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes, for example, a good faith argument for an extension, modification or reversal of existing law. An attorney may nevertheless so defend the proceeding as to require that every element of the moving party's case be established.

Comment 1 to Rule 3.1 explains: "The advocate has a duty to use legal procedure for the fullest benefit of the client's cause, but also a duty not to abuse legal procedure." Here, Respondent repeatedly misused the judicial system by initiating four separate lawsuits, filing more than eighteen motions and appeals across three jurisdictions, and advancing legal theories that lacked merit. In nearly every instance, his filings were denied, and he demonstrated a pattern of continuing litigation after adverse rulings, often accompanied by accusations that the courts had engaged in "improper" legal work.

The Hearing Judge compared Respondent's conduct to that which we held sanctionable in *Attorney Grievance Commission v. Mixter*, where we held that Rule 3.1 is violated where an attorney continued to litigate a matter after the absence of a good faith basis for the matter became apparent. 441 Md. 416, 511 (2015). Respondent's behavior

here is analogous. He persisted in litigation despite repeated adverse rulings, and frequently reasserted claims that had already been adjudicated.

Similarly, in *Attorney Grievance Commission v. Sloane*, we sustained a Rule 3.1 violation where the respondent raised baseless issues that had already been ruled upon. 483 Md. 131, 157 (2023). Similar conduct is reflected in Respondent's filings in this case.

The Hearing Judge identified a specific pattern in Respondent's litigation: when unsuccessful in Maryland state court, Respondent filed a nearly identical suit in the District of Columbia Superior Court. When that was unsuccessful, Respondent filed the same claims again in the U.S. District Court for the District of Maryland.

Respondent pursued identical claims in multiple forums without curing a plainly fatal legal defect, indicating an absence of any good faith basis for relief and no effort to seek a legitimate change in the law.

These violations were not without consequence. The Hearing Judge found that Respondent's frivolous filings caused actual harm to others. Ms. Rubinstein incurred substantial legal expenses in defending multiple actions.⁶ Mr. McCarthy and Ms. Evans both experienced increased liability insurance premiums as a result of being named in the litigation. While Respondent failed in every action, he imposed significant financial and

⁶ Ms. Rubinstein testified that she spent approximately \$130,000 in legal fees. However, the Hearing Judge explained that she provided no corroboration of that amount. Consequently, the court made no findings as to the amount of fees Ms. Rubinstein incurred or paid. The Hearing Judge made clear, however, that "[t]he amount is hardly the point. That she had to pay anything to defend multiple frivolous lawsuits and appeals is an aggravating factor."

emotional burdens on the other parties and expended judicial resources in multiple jurisdictions.

Accordingly, based on these findings, the Hearing Judge concluded that Respondent violated Rule 3.1 by initiating and maintaining multiple meritless proceedings in bad faith, and by continuing to litigate matters long after he had lost on the merits. We agree that Respondent's conduct constituted an abuse of the judicial process and caused concrete harm to opposing parties and the courts in violation of Rule 3.1.

Rule 3.4 - Fairness to Opposing Party and Attorney

The Hearing Judge found, by clear and convincing evidence, that Respondent violated Rule 3.4(c), which prohibits attorneys from knowingly disobeying a tribunal's directives unless they make an open refusal based on a good faith belief that no valid obligation exists. In this case, Respondent was ordered by multiple judges—Judge Albright, Judge Storm, and Judge Mason—to produce specific documents relating to the Pisner Trust, in a matter that Respondent himself had initiated. Despite these orders, Respondent failed to provide the required documentation and was ultimately held in contempt of court by Judge Mason.

In *Attorney Grievance Commission v. Storch*, the attorney failed to produce estate property at a court hearing, left the hearing without permission, and was held in contempt by the court. 445 Md. 82, 86-87 (2015). Despite multiple opportunities, the attorney never turned over the estate property. We held that her repeated failure to follow explicit court orders demonstrated a knowing disobedience toward court orders and rules and constituted a clear violation of Rule 3.4(c). *Id.* at 89-90.

In the instant matter, Judge Mason emphasized the gravity of Respondent's misconduct, stating it was "inconceivable" that an attorney and fiduciary would not retain the source documents related to trust disbursements. Judge Mason also found it implausible that Respondent, as both a trustee and attorney, did not maintain documentation to demonstrate that expenditures were made on behalf of the Pisner Trust, rather than for personal use.

Throughout more than eighteen months of litigation, Respondent made no meaningful attempt to comply with the court's discovery orders. He testified that he believed he had already turned over the appropriate documents and made no effort—even in the face of potential incarceration—to retrieve responsive documents. The Hearing Judge found that Respondent never seriously attempted to obtain or produce the required documents, and that this prolonged noncompliance constituted a knowing violation of a tribunal's order in contravention of Rule 3.4(c). *See Attorney Grievance Commission v. Edwards*, 462 Md. 642, 704 (2019) (holding that an attorney violates Rule 3.4(c) by repeatedly failing to produce documents as directed by court order).

Rule 8.4 - Misconduct

The Hearing Judge concluded that Respondent's conduct also violated Rule 8.4, which governs attorney misconduct. Pursuant to Rule 8.4 (a) and (d), it is professional misconduct to violate the Rules of Professional Conduct and to engage in conduct prejudicial to the administration of justice. Respondent violated both subsections by breaching multiple ethics rules, including Rule 1.1 (competence), Rule 1.15 (safekeeping property), Rule 3.1 (meritorious claims), and Rule 3.4 (fairness to opposing party and

attorney). Based upon our *de novo* review, we agree with the Hearing Judge's conclusion that Respondent's failure to comply with multiple discovery orders violated Rule 3.4(c).

Respondent repeatedly made baseless accusations and pursued frivolous litigation against Ms. Rubinstein, Mr. McCarthy, Ms. Evans, and even Mr. McCarthy's son (Kevin McCarthy)—which the Hearing Judge noted had nothing to do with Respondent's alleged grievances against Mr. McCarthy. Respondent's claims lacked any factual or legal foundation and were often resubmitted after being rejected by trial and appellate courts. The Hearing Judge also found that Respondent misappropriated Pisner Trust assets for personal use, failed to maintain proper records, and concealed assets in a divorce proceeding in Virginia by evading a discovery order. By engaging in this pattern of conduct, the court concluded that Respondent not only violated specific ethical rules but also committed serious acts of professional misconduct that undermined the integrity of the legal system. Based upon our independent review of the record, we agree with the Hearing Judge's assessment that Respondent's conduct was prejudicial to the administration of justice in violation of Rule 8.4(d).

VI.

SANCTION

The primary purpose of attorney discipline in Maryland is to protect the public, not to punish the attorney. *Attorney Grievance Commission v. Rheinstein*, 466 Md. 648, 720 (2020) (quoting *Attorney Grievance Commission v. Hodes*, 441 Md. 136, 205 (2014)). Sanctions serve this purpose by deterring similar misconduct and by removing attorneys who are unfit to practice law. *Attorney Grievance Commission v. Framm*, 449 Md. 620,

665 (2016). In determining the appropriate sanction, this Court considers the nature and severity of the misconduct, the attorney's mental state, the actual or potential harm caused, and any relevant aggravating or mitigating factors. *Attorney Grievance Commission v. Taniform*, 482 Md. 272, 316 (2022).

Aggravating and Mitigating Factors

During an attorney grievance matter, the circuit court may consider the existence of aggravating and mitigating factors. In *Attorney Grievance Commission v. Shuler*, we articulated the following aggravating factors that should be considered in an attorney disciplinary proceeding:

(1) prior attorney discipline; (2) a dishonest or selfish motive; (3) a pattern of misconduct; (4) multiple violations of the M[A]RPC; (5) bad faith obstruction of the attorney discipline proceeding by intentionally failing to comply with the Maryland Rules or orders of this Court []; (6) submission of false evidence, false statements, or other deceptive practices during the attorney discipline proceeding; (7) a refusal to acknowledge the misconduct's wrongful nature; (8) the victim's vulnerability; (9) substantial experience in the practice of law; (10) indifference to making restitution or rectifying the misconduct's consequences; (11) illegal conduct, including that involving the use of controlled substances; and (12) likelihood of repetition of the misconduct.

443 Md. 494, 506-07 (2015) (alterations in original omitted). Petitioner has the burden of proving aggravating factors by clear and convincing evidence. Md. Rule 19-727(c).

Petitioner alleged the existence of the following aggravating factors, as articulated and numbered by this Court in *Shuler*: (2) a dishonest or selfish motive; (3) a pattern of misconduct; (4) multiple violations; (7) refusal to acknowledge the wrongful nature of the conduct; and (9) substantial experience in the practice of law.

The Hearing Judge found clear and convincing evidence to establish each of the alleged aggravating factors. Respondent displayed a selfish motive since the death of Marion Pisner in 2009 by misappropriating trust funds for his personal expenses. Between February 2009 and July 2010, "when it is undisputed that Respondent was managing the day-to-day activities of the Trust," there was a pattern of misconduct and multiple offenses evidenced by Respondent's repeated misappropriation of trust funds, frivolous litigation and motion practice to prevent the appointment of a successor trustee and, when one was appointed, to prevent that trustee "from gaining access to the Trust records or outright retaliating against Ms. Rubinstein, Mr. McCarthy, and/or Ms. Evans for attempting to enforce valid court orders against Respondent and obtain access to the financial records for the Trust." The consequences of Respondent's actions were severe. Ms. Rubinstein incurred substantial legal fees as a result of Respondent's frivolous litigation and Mr. McCarthy's and Ms. Evans's liability insurance premiums rose. Respondent demonstrated a pattern of misconduct through his multitude of civil suits against Ms. Rubinstein in both state and federal court in both Maryland and the District of Columbia. Respondent repeatedly made frivolous claims in multiple jurisdictions that were not supported by any facts and not sustained by the law. Respondent's misconduct violated Rule 3.1 (Meritorious Claims and Contentions) and Rule 3.4. (Fairness to Opposing Party and Attorney). The Hearing Judge found that the Respondent did not demonstrate any remorse for either his personal use of funds contained in the Pisner Trust or for his frivolous filings.

Finally, the Hearing Judge found that Respondent has substantial experience in the practice of law, having been a member of the Maryland bar since June 14, 1989, and having

obtained bar membership in the Commonwealths of Pennsylvania and Virginia and the District of Columbia.

This Court “always consider[s]” mitigating factors “in deciding a disposition in an Attorney Grievance case.” *Attorney Grievance Commission v. Coppola*, 419 Md. 370, 401 (2011). In *Hodes*, we provided a list of possible mitigating factors:

absence of a prior disciplinary record; absence of a dishonest or selfish motive; personal or emotional problems; timely good faith efforts to make restitution or to rectify consequences of misconduct; full and free disclosure to disciplinary board or cooperative attitude toward proceedings; inexperience in the practice of law; character or reputation; physical or mental disability or impairment; delay in disciplinary proceedings; interim rehabilitation; imposition of other penalties or sanctions; remorse; and finally, remoteness of prior offenses.

441 Md. at 209 (citation omitted). Respondent has the burden of proving mitigating factors by a preponderance of evidence. Md. Rule 19-727(c).

We find that Respondent established the mitigating factor of absence of prior attorney disciplinary history.

Turning to the sanction, Respondent committed numerous and serious violations of the MARPC, including intentional misappropriation of Trust assets, failure to safeguard client property, frivolous and vexatious litigation, disobedience of court orders, and conduct prejudicial to the administration of justice. These violations, considered both individually and in the aggregate, demonstrate that Respondent is unfit to continue practicing law in this State.

The Hearing Judge found, by clear and convincing evidence, that Respondent used his position as a trustee to exert exclusive control over the Pisner Trust, failed to maintain

adequate financial records, and misappropriated Trust assets for personal use. These findings were supported by testimony, accounting records, and judicial inferences drawn by multiple judges who reviewed the matter. Respondent's failure to provide documentation—particularly source records for substantial distributions to himself—violated both his fiduciary duties under trust law and his ethical obligations under Rule 1.15. The misappropriation included the use of Trust funds for personal expenses, including credit card payments, tuition, and legal fees.

We further credit the Hearing Judge's finding that Respondent failed to comply with multiple court orders directing him to produce Pisner Trust documents, resulting in a contempt finding by the circuit court. Respondent admitted under oath that he made no meaningful attempt to retrieve the requested documents and did not undertake reasonable efforts to comply with discovery obligations. This conduct supports a violation of Rule 3.4(c). *See Edwards*, 462 Md. at 704 (holding that failure to comply with court orders constitutes a violation of Rule 3.4(c)).

In addition to his financial misconduct, Respondent engaged in a sustained pattern of litigation conduct that the Hearing Judge concluded was frivolous and intended to obstruct or delay resolution of the underlying trust dispute. Respondent filed actions and appeals in Maryland, the District of Columbia, and federal court, asserting claims that had already been adjudicated or were barred by *res judicata* or collateral estoppel. The Hearing Judge found that Respondent's filings lacked a good faith basis in law or fact and violated Rule 3.1. The record reflects that Respondent did not prevail on a single substantive claim across these proceedings, despite the expenditure of significant judicial

and party resources.

We also agree with the Hearing Judge's findings that Respondent's conduct caused tangible harm to multiple parties, including his co-trustee, who incurred substantial legal fees, and two professionals whose liability insurance premiums increased due to the ongoing litigation. Moreover, Respondent's actions taxed judicial resources across multiple forums and delayed resolution of the trust proceedings for more than a decade.

The Hearing Judge identified five aggravating factors supported by the record and one mitigating factor—the absence of prior disciplinary history. In this case, the aggravating factors compel the conclusion that disbarment is warranted. This Court has consistently held that intentional misappropriation of client or fiduciary funds is among the most serious professional violations and typically warrants disbarment. *Woolery*, 462 Md. at 254-55. Likewise, attorneys who persist in vexatious litigation or misuse the judicial process in violation of Rule 3.1 may also face disbarment, particularly when such conduct is compounded by other serious violations. *See Rheinstein*, 466 Md. at 722-23; *Attorney Grievance Commission v. Smith-Scott*, 469 Md. 281, 324 (2020). Respondent's misuse of the legal process did not occur in a single case or over a brief period; rather, it spanned nearly a decade, involved two jurisdictions, and extended across multiple state and federal courts.

Nowhere in his Exceptions did Respondent address what the appropriate sanction should be or explain why his admitted misconduct—use of Trust funds for personal expenses, failure to produce trust records, non-compliance with the October 2, 2017 court order culminating in contempt, and repeated filings barred by *res judicata* or collateral

estoppel—falls outside the scope of sanctionable conduct under the MARPC. As reflected in the Respondent’s 70-page Exceptions, and as the Hearing Judge expressly found at the hearing, Respondent neither acknowledged any wrongdoing nor demonstrated remorse at any point during these proceedings. The absence of remorse weighs heavily against mitigation. We have long recognized that a lack of contrition is a significant aggravating factor, for it allays nothing as to “the likelihood of a repetition of the conduct.” *Attorney Grievance Commission v. Kovacic*, 389 Md. 233, 240 (2005); *cf. Attorney Grievance Commission v. McClain*, 373 Md. 196, 212 (2003) (“[A]n attorney’s voluntary termination of the charged misconduct, when accompanied by an appreciation of the serious impropriety of that past conduct and remorse for it, may be evidence that the attorney will not again engage in such misconduct.”).

Although indefinite suspension has been imposed in some cases involving frivolous litigation, those cases did not involve intentional misappropriation of client or fiduciary funds. *See Attorney Grievance Commission v. Whitted*, 487 Md. 501 (2024).⁷ Considering the totality of his conduct, the serious harm inflicted, the presence of multiple aggravating factors, and a dearth of mitigating factors, we conclude that disbarment is the only sanction adequate to protect the public and preserve confidence in the profession. Respondent’s actions are fundamentally incompatible with the responsibilities of an

⁷ Unlike the attorney in *Whitted*, who engaged in abusive litigation conduct but did not misuse entrusted funds, Respondent here committed one of the most egregious violations of professional responsibility—knowingly converting trust property for personal use. That fundamental breach of fiduciary duty, when combined with repeated misuse of the courts, compels disbarment.

attorney licensed to practice law in this State.

VII.

CONCLUSION

For the reasons discussed above, we concluded in a March 5, 2025 order that Respondent violated Rules of Professional Conduct 1.1 (Competence), 1.15 (Safekeeping Property), 3.1 (Meritorious Claims and Contentions), 3.4 (Fairness to Opposing Party and Attorney), and 8.4(a) and (d) (Misconduct), and ordered that Respondent be disbarred.

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EXHIBIT B

ATTORNEY GREVEINCE
COMMISSION OF MARYLAND

Petitioner
vs.

GARY STEVEN PISNER
Respondent

IN THE SUPREME COURT OF MARYLAND
SCM-AG-0023-2023

IN THE CIRCUIT COURT OF
MONTGOMERY COUNTY

Case No. C-15-CV-23-004631

MOTION FOR RECONSIDERATION OF THIS
COURT'S OPINION OF JULY 14, 2025, PURSUANT TO MD RULE

8-605

COMES NOW Respondent Pisner, (hereinafter "Pisner") Pro Se, hereby respectfully moves this Court to reconsider its Opinion of July 14, 2025. This Motion is timely under Md Rule 8-605 because it has been filed within the 30 days post-opinion and falls under (see Md. Rule 8-605(b)(1), 605(b)(2)) and 8-605(b)(3).

I. Concurrent Proceedings

This court declined to hear the constitutional due process issues that existed in this case (see Pisner's Motion to establish a Briefing Schedule of August 8, 2024, which was denied and remanded to

federal court, those due process issues are being addressed by the Federal 4th Circuit and the issue of this court's order of March 5, 2025, where Pisner was improperly disbarred before the outstanding due process issues were addressed: A petition for Certiorari has been filed with the U.S. Supreme Court.

So those constitutional issues are before the Federal Courts, but, as will be shown, the July 13, opinion has its own problems, i.e., the stated facts in the opinion, which appear to be largely taken from Bar Counsel's draft finding of facts and conclusions of law, which were accepted at the Circuit Court level, and which was used by this court. The record does not support the alleged gross factual errors.

II. Correcting the Facts

1. The ledger

In exhibit 1, the "Marion E. Pisner Revokable Trust Agreement" paragraph 2(a) in 2008 named two beneficiaries unless they violated. Rubinstein and Pisner paragraph 6(e) of exhibit 1, in which case that person would no longer be a beneficiary. For the Trustees there were Pisner and Marla Rubinstein (hereinafter "Rubinstein." See paragraph 3(b).

Each CoTrustee has a duty to maintain the documents in

charge. There has never been any caselaw presented that requires each CoTrustee to maintain duplicates of the entire trust file and as such the maintenance of the documentation was divided between Rubinstein, Pisner and the Trust Accountant, who needed to prepare tax payments and fulfil the requirements of 6(a)(1). That included paying the \$132, 000 estate tax and paying off outstanding debts.

1. The BB&T ledger

The BB&T account ledger was maintained by Pisner and that was simply a response to overdrafts occurring every month for the first year because two people were writing checks. That was not an encumbrance because the bank statements went to Rubinstein. One can see that for the Belair meeting, it was Rubinstein that brought the bank statements and that was because statements were sent to the granter's house as was every other correspondence, in addition, the personal property of the granter was controlled by Rubinstein because she owned the house that the Granter lived in; in addition, Rubinstein controlled personal property of the trust because that property was in the Granter's house which had been transferred to

Rubinstein via paragraph 6(1)(c) of the Trust agreement; moreover, the stock certificates and bonds were in the Granter's house so Rubinstein held those too (the Granter's house was 10718 Douglas Avenue, Silver Spring MD and that is the reason why Pisner had so few documents, especially after the Belair meeting because the new account that became the default TD Bank account seeded with the entire contents of the BB&T account, which was \$28,000. The BB&T account after the TD account became vestigial, mainly used for collecting rent in the houses that were owned in the Baltimore Metro area and paying for maintenance in those houses. The Baltimore houses lost money. The Maryland and Virginia houses were distributed equally, and they ceased to be money makers for the trust.

1. **Court findings regarding the BB&T account is misleading.** The court states that:

The ledger maintained by Respondent reflects approximately 70 personal transactions between November 2009 and August 2013. These include tens of thousands of dollars in payments related to Respondent's divorce, personal credit card charges, and self-designated "loans" from the Trust.

Given that Pisner was a beneficiary, it should not surprise anyone that there were these distributions to Pisner.

The Hearing Judge found Respondent's testimony regarding the Bel Air Meeting to be inconsistent. Respondent initially testified that he had provided Ms. Rubinstein with all relevant Trust documents, stating that she "walked out of the meeting with all the documents. Everything." Later, however, he acknowledged—and Ms. Rubinstein confirmed—that he had brought only a ledger to the meeting.

On page 3 of this court states the following:

The Hearing Judge found Respondent's testimony regarding the Bel Air Meeting to be inconsistent. Respondent initially testified that he had provided Ms. Rubinstein with all relevant Trust documents, stating that she "walked out of the meeting with all the documents. Everything." Later, however, he acknowledged—and Ms. Rubinstein confirmed—that he had brought only a ledger to the meeting. Based on these inconsistencies, the Hearing Judge concluded that Respondent did not, in fact, relinquish control of the Pisner Trust to Ms. Rubinstein following the Bel Air meeting.

Reviewing the Circuit Court Transcript, 14 -24 P 73 19) the problem is clear. In the transcript Pisner said:

I brought to that meeting a printout of the ledger, and that was it. Marla Rubenstein had every other document in her possession. She had everything. She had the bank statements. She had everything. I had nothing. I had sent her my credit card statements, she had them. She

had been working on them for about a week. That's why we set it up a week -- a week after the settlement. She had to write up on a

One can see that the Author simply failed to check the transcript.

In the opinion we have a second mistake, where the court states:

The ledger maintained by Respondent reflects approximately 70 personal transactions between November 2009 and August 2013. These include tens of thousands of dollars in payments related to Respondent's divorce, personal credit card charges, and self-designated "loans" from the Trust. Ms. Rubinstein had no access to the Trust's bank accounts and was unaware of these transactions until she obtained the relevant bank statements from BB&T during the litigation described below.

First thing to note, during the Circuit Court trial (this is in the Transcript and in the opinion, there were three Trust accounts- the BB&T account, the TD account after the Belair audit, and the SunTrust bank account, which used to pay the taxes, like the \$132, 000 estate tax and those debts. Pisner has no access to the TD bank account, nor did he receive statements: This was consistent with the Belair Agreement that Rubinstein would run the trust. Ironically, during discovery, there were no statements, no tax payments, no checks from tenants- nothing and given that Rubinstein was a CoTrustee, she had a duty to maintain her records; one would also expect that the stock documents were be available- but nothing; appraisals of personal property -nothing.

The Circuit Court looked at the actual number of distributions using McCarthy's accountant's numbers from their exhibit:

BY THE COURT:

Q Okay. I'm looking at Petitioner's Exhibit 47, bates number 403, reimbursement for educational expenses, or what?

A Yeah.

\$3,600?

A Distributions to Marla Pisner Rubinstein. This is from the BB&T account adding -- I see.

A -- 10,138 comes out to 54,000.

Q Right, almost 55,000.

A Right.

Okay. What else do you want to tell me?

So, that was being done back and forth. If you, if you look at the, in fact, the Sun Trust on account of transaction, it says 16-723.

What page are we talking about?

The same one.

Q I'm sorry, \$49,000 is what?

A Is, is my, the amount of money I took out for education, for legal fees and for loans was 49,000 something,

like 800, and Marla took out 54,894; and based on the 2010

audit that we did, we were about \$2,300 off between the two of us.

Q Your number 49,800 is as of 2010?

A This was pre, this was, this was what came out during the audit in 2010.

Q Right.

A So, it didn't include anything after the audit.

Q Meaning after the Belair meeting is --

A After the Belair meeting, remember, Marla told me I couldn't do anything.

So the alleged 92 transactions that Pisner took (don't know what was included) are not particularly useful given that both beneficiaries were taking distributions from the trust before the Belair audit- that was in distributions and loans. Under the trust agreement that was proper. As you can see using the accountant's own numbers show that Pisner received \$\$49,000 and Rubinstein received \$54,000.

Please Note: transcript 14-24 p 192, the court states:

Mr. Pisner put on some, I don't know if I can find evidence that perhaps \$133,000 of it was not mishandled or that was actually paid in taxes. Let's assume for a moment that at least as to that money, I think maybe the, the Commission didn't meet its burden of clear and convincing evidence.

The Court opinion appears the have mistakenly failed to deduct the \$133,000 in estate taxes. Treating that as a distribution is to much, even for the Circuit court.

First, the court indicated that on July 31, 2017, Rubinstein filed a "response.": The "response" had not been served so Pisner had no idea what had been filed. What the court does not acknowledge is that on September 25, 2017, that July 31, 2017, was recanted and Rubinstein's request for the appointed trusted was withdrawn. (see Exhibit 2)

As you can see, she claimed that she had not received credit card statement, which she had before the Belair meeting, but at the next hearing all the

credit cards were presented to Rubinstein and to the court, also with correspondences which proved that Rubinstein had receive the credit card statements shortly before the Belair audit:

09/28/2077 #:S MOTTON, APPROPRTATE RELTEF
TYPE: MOTION STATUS: DENIED
PL,AINTIFF'S ORAL MOTTON TO SEAL PLAINTIFF'S
(ALBRIGHT, J.)
Judge: A ALBRIGHT
og/28/2ott #35 MOTION, WITHDRAW (CASE NOT CLOSED)
TYPE: MOTION STATUS: GRANTED
PLAINTIFF'S ORAL MOTION TO WITHDRAW PLAINTIFF'S
WITH LEAVE OF THE COURT. (ALBRIGHT, J.)
Judge: A ALBRTGHT
oe/28/20L7 #37 EXHrBrr SHEET FrLED
TYPE: DOCKET
EXHIBIT SHEET, FILED.
,Judge: A ALBRIGHT
os / 28 / 2017 #3 B COURT SETS 684 RI
TYPE: DOCKET
couRT (ALBRIGFIT, J.) SETS A STATUS HEARTNG ON NOVEMBER
22,
1 : 3 O P. M. F'OR 1 HOUR BEFORE THIS MEMBER OF THE BENCH.
,Judge: A ALBRIGHT

The 9/28/ Motion to Withdraw, allowed Pisner to withdraw his credid card related exhibits because of the extensive confidential information and because of Rubinstein's documented failure to comply with confidential agreements: Rubinstein's claims about credit cards were debunked. One should also note that given that after Exhibit 2 was filed by Rubinstein, no beneficiary wanted a new trustee appointed, so both Pisner and

• Rubinstein waited for a response from the court and that response was not issued until 1/18/2025: Those filings has not been delt with by the court for months.

1/18/2018 c #60 ORDER, STRTKE 481, DH
TYPE: RULING STATUS: DENTED MOTION: 23
MODIFICATION ORDER OF COURT (ALBRIGHT, J.) THAT
PLAINTIFF'S MOTION TO
STRIKE THE RUBINSTEIN RESPONSE TO THE TRUST'S PETTTION
FOR A
DECLARATION RIGHTS PURSUANT TO SECTTON 3-408 (DOCKET
ENTRY NO. 23) IS
DENIED, ENTERED. (COPIES MAILED)
Judge: A ALBRIGHT

Why0t/1-8/zorc #60 oRDER, STRTKE 481, DH
TYPE: RULING STATUS: DENTED MOTION: 23
MODIFICATION ORDER OF COURT (ALBRIGHT, J.) THAT
PLAINTIFF'S MOTION TO
STRIKE THE RUBINSTEIN RESPONSE TO THE TRUST'S PETTTION
FOR A
DECLARATION RIGHTS PURSUANT TO SECTTON 3-408 (DOCKET
ENTRY NO. 23) IS
DENIED, ENTERED. (COPIES MAILED)
Judge: A ALBRIGHT

0t/tB/201-B #51 ORDER, LEAVE TO 802 DH

TYPE: RULING STATUS: GRANTED MOTION: 27

MODIFICATTON ORDER OF COURT (ALBRTGHT, ,J.) THAT
DEFENDANT'S MOTTON FOR

LEAVE TO ACCEPT LATE FILING OF MOTION TO STRTKE FOR
DOCKET 25 (DOCKET

ENTRY NO. 27) IS GRANTED, ENTERED. (COPIES MAILED)

Judge: A ALBRIGHT

0t/18/zota #52 Order, RECONSTDERATTON t7s4 DH

TYPE: RULING STATUS: DENIED MOTION: 44
MODIFICATION ORDER OF COURT (ALBRIGHT, J.) THAT
PLAINTIFF'S REQUEST
FOR RECONSIDERATION OF THE COURT'S OCTOBER 2, AND A9,
2077 ORDERS AND
NOTICE OF OBJECTIONS FOR APPEALS TO THE MARYLAND
COURT OF SPECIAL
APPEALS (DOCKET ENTRY NO. 44) IS DENIED, ENTERED.
(COPIES MAILED)
JUDGE: A ALBRIGHT
01-18/2019 ORDER, FOR APPROPRIATE RELIEF 977 DH
TYPE: RULING STATUS: DENIED MOTION: 45
MODIFICATION ORDER OF COURT (ALBRIGHT, J.) THAT
PLAINTIFF'S MOTION FOR
STAY (DOCKET ENTRY NO. 45) IS DENIED, ENTERED. (COPIES
MAILED) were we waiting:

1. The Trust

The Trust assets vanish.

On January 14, 2019 Pisner filed a complaint because of evidence that
McCarthy was disposing of assets and that the properties all in the District
of Columbia were being transferred to Rubinstein or the proceeds of the
sales were being paid to Rubinstein: Rubinstein had put out for rent signs
and the real estate agent indicated that the owner was Marla Pisner's
personal trust and that had been the case since late 2017.

In late 2017

McCarthy, the trustee, refused to communicate with Pisner, the beneficiary

1. The contempt issues.

Pisner had supplied three years of as required of records as required in Judge Albright's order required Pisner to supply trust documents back to January 2015, this was what Judge Albright had ordered.

McCarthy had a fiduciary duty to communicate with the trust's beneficiary. The order coming from April 8, 2018, hearing required Pisner and Rubinstein to supply trust documents back 10 years rather than just 3 as was required by the court.

Pisner served every document that he had in compliance with Judge Storm's order.

Along with the documents Pisner requested that McCarthy notify him of any deficiencies so he could correct those deficiencies, Pisner was never contacted before 11 AM the next business day, without reviewing the thousands of pages of documents, McCarthy filed a suggestion of contempt contrary to his fiduciary duty. Pisner had no idea what was missing.

On June 7, 2018, there was a hearing before Judge Mason, but there was a problem, the accountant claimed that she had not received documents that she had received. Her false statement under oath regarding Pisner, the beneficiary of the trust, resulted in Pisner being found in contempt. That order finding Pisner in contempt contained a paragraph requiring McCarthy

to serve Pisner by email any document that Pisner had supplied by a deadline. Once Pisner received those documents, it was clear that the accountant's claim that Pisner had failed to supply documents was false because the documents that McCarthy had returned to Pisner contained every document that the Accountant had testified, under oath, that they had not received. Based on the Pisner filed a Motion for reconsideration with irrefutable evidence, including documents that McCarthy's accountant had committed perjury (See Exhibit 3).

Judge Masion, on July 20, 2028, indicated that he was leaving the matter to the appellate court.

So, the Accountant's perjured testimony, which McCarthy now knew to be false, rather than disclose this to the court. That is why the Petitioner's attempt to conceal the source of the numbers that they used was so improper. Moreover, Petitioner was aware of this, and it did nothing,

1. The Maryland Appellate Court

The opinion miscarriages what happened in the appellate court. Pisner was faced with a problem, i.e. McCarthy practiced in three jurisdictions: Baltimore City, Baltimore County, and Montgomery County. There were certain odd characteristics in the proceeding that were unusual. First, there was no real appeal because McCarthy, in his reply brief in the appeal had

made alternative questions for review that were unrelated to the appeal and the court used his- so the appeal issues were not addressed at all. Next, even stranger was the fact that the judge had complained about Pisner not having an opening brief, but the court had barred the filling of the opening brief via order, finally the court praised McCarthy's expertise in Trust and Estate law in its opinions. Finally, the judge that was allegedly writing the opinion was from Baltimore County, and researching the matter, I had to determine if Pisner had a recusal problem or a law clerk/contractor problem. It was reasonable to ask for information from the clerk's office: perfectly reasonable.

1. The D.C. Superior Court

The opinion is confusing in the Rubinstein filed a Motion to Dismiss after long delays. There were multiple grounds for dismissal raised and all were rejected, but Rubinstein was facing a Motion to Compel and Rubinstein and McCarthy's approach was to secretly clean up the record of the Maryland Circuit Court, by getting an order issued by a circuit court judge, while the court had no jurisdiction to sanitize the Maryland Circuit Court record and maybe get the D.C. Superior Court Case settled for \$50,000 of Pisner's money. The problem was that it was on the record that the trust has no assets in late 2017; this is how McCarthy and Rubinstein dealt with the

problem with documentation being acquired through discovery. The Court received a copy of the distribution order months after the case was filed. Judge Pan assumed that there were still ongoing proceedings in Maryland and that is why the court ordered the case refiled in Maryland.

1. The Federal Courts

It was the D.C. Superior Court and the D.C. Court of Appeals that encouraged Pisner to refile in Maryland. In fact, the Court of Appeals retained jurisdiction over the case, to protect Pisner from statutory bars.

The Maryland Federal District Court

What happened with Rubinstein is simple. A scheduling order was issued by the court, which required approval for motions. Rubinstein submitted a motion to dismiss with hundreds of pages of attachments, including the contempt order, which was acquired through perjury and the distribution order from the circuit court, which was done ex parte, based on the perjured testimony contempt order, while an appeal was underway, so the court lacked jurisdiction. Pisner requested a Fed. Rul. Evid. 201 (e) hearing – it was denied. The Motion to Dismiss that had been heard in D.C., which had ruled on every ground for dismissal alleged in Rubinstein's new Motion to Dismiss had already been ruled on, so there was collateral estoppel, but the court would not let Pisner use the D, C, court's opinion- inexplicable.

The 4th Circuit's opinion was terse- "it's a trust matter." Not very informative.

As for the District Court case against McCarthy, that case is before the U.S. Supreme Court, so it is non final, despite what is alleged in the opinion.

CONCLUSION

So for these matters, disregarding the Due Process issues, which are now in the Federal 4th Circuit Court of Appeals, there are numerous factual errors that need correction, please consider correcting those errors.

Given the word limits Pisner could not address the legal argument, which also has numerous errors.

August 11, 2025

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EXHIBIT C

E-FILED
Gregory Hilton, Clerk,
Supreme Court of Maryland
8/20/2025 8:33 AM

ATTORNEY GRIEVANCE
COMMISSION OF MARYLAND

v.

GARY PISNER

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IN THE

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SUPREME COURT

*

OF MARYLAND

*

AG No. 23

*

September Term, 2023

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ORDER

Upon consideration of Respondent's motion for reconsideration of the Court's opinion and disposition in this matter, it is this 20th day of August 2025, by the Supreme Court of Maryland

ORDERED that the motion for reconsideration is denied.



/s/ Matthew J. Fader
Chief Justice

CERTIFICATE OF SERVICE

I certify that I have served a copy of this notice on Counsel for Petitioner today, on August 11, 2025, electronically and I certify that this filing has 3,264 words.

Gary Pisner