IN DISCIPLINARY DISTRICT V OF THE BOARD OF PROFESSIONAL RESPONSIBILITY OF THE SUPREME COURT OF TENNESSEE

IN RE: **BRIAN PHILIP MANOOKIAN, BPR #026455, Respondent, An Attorney Licensed to Practice Law in Tennessee**

DOCKET NO. 2017-2805-5-WM

HEARING PANEL REPORT AND RECOMMENDATION

The Tennessee Supreme Court previously found that Brian Manookian posed a substantial threat to the public. Order of Temp. Suspension, In re: Brian Phillip Manookian, BPR #026455, No. M2018-01711-SC-BAR-BP.

Mr. Manookian has been the subject of numerous complaints to the Board of Professional Responsibility. Results of the complaints have ranged from a private information admonition to a private reprimand to suspension of his law license. Current charges before this Panel include but are not limited to impugning the integrity of a sitting Circuit Court Judge by publishing explosive and salacious information, and publishing statements that are insulting to a member of the Bar. However, after hearing all of the evidence, weighing the credibility of the witnesses, and closely examining the Proposed Findings of Fact and Conclusions of Law submitted by both parties, this Panel is much more concerned about serious threats made by Mr. Manookian to both lawyers and non-lawyers, as well as his lack of candor towards a Court that ultimately led to a mother temporarily losing custody of her child.

One of the threats Mr. Manookian made was to the daughter of his landlord, Ashley Cavazos. In her capacity as her mother's property manager, Ms. Cavazos understandably believed that Mr. Manookian had abandoned a rental house that was owned by her parents. As such, she took some of Mr. Manookian's belongings from the home. At the beginning of a conversation

with Mr. Manookian (a conversation that Ms. Cavazos recorded), Ms. Cavazos informed him that she was out of town but that she would return the items to him. In response, Mr. Manookian countered with a bevy of serious and chilling threats---including threats against Ms. Cavazos' parents and her child.

> You're guilty of felony theft, and you're gonna to go to fucking jail, and it's gonna have a major effect on your custody issues if these things aren't returned to me immediately...Do you know who you're fucking with, Ashley?...You're never gonna see your kid again...I'm gonna ruin your fucking life. Do you know who I am? I'm not the guy you steal from...I'm the wrong motherfucking dude to steal from. When we get off the phone, you need to Google my name...Do you know what I do to people who do way less than this to me? Like there are judges that have fucked with me that are in federal penitentiary right now...Do you know what the legal definition of theft is? You don't just get to say, 'Oh, I was storing it.'.... I'll fucking represent your ex-husband for free, if I need to. You know what I'm gonna do to your life?...You're going to jail. Where's your daughter?...I'm gonna find out where you are right now. Somewhere where your dad is. I'll figure out who your dad is...Oh, I've been to jail. It's not a fun place. You're going. That's fine. When we get off the phone, you start looking behind you because the race is on. I'm gonna figure out who your dad is, what hospital he's in. You know what I do for a living? I sue hospitals. I'll figure out who your dad is. I'll figure out where you are. Your mom's gonna tell me 'cause I'm gonna call her up right now, and left her know exactly what you did, and what she's on the fucking hook for, and what Gary's on the fucking hook for. Your mom's gonna go to jail too. You're never gonna see your kid again.

At a court hearing addressing custody of Ms. Cavozos' minor child less than a month after he made the above threats, Mr. Manookian testified under oath that he never made any threats against Ms. Cavazos. The impact of his perjury (as was found by Judge Smith) was to take from Ms. Cavazos the custody of her minor child for a period of time and cause her significant suffering.

Less than a year later, Mr. Manookian sent an email to opposing counsel, Dan Puryear, that included links about Mr. Puryear's wife. Notably, similar threats had been made in the past to other lawyers opposing Mr. Manookian---threats which ultimately led to the suspension of his law license. Mr. Puryear was so terrified that he sent his two children to stay at his brother's house, filed a police report, installed additional security at his home and office, carried a golf club between

his office and car for protection, installed a doorbell outside of his office, and filed a restraining order (which was granted), among other things.

This Panel believes that these above described threats, and Mr. Manookian's perjury before Judge Smith, provide separate and distinct reasons for Mr. Manookian's disbarment.

Procedural Background

Brian Philip Manookian is an attorney licensed to practice law in Tennessee in 2007. On August 6, 2020, a Third Supplemental Petition for Discipline was filed by the Board of Professional Responsibility containing complaints from Phillip North, Esq. (File No. 60939-5-SC); William Daniel Leader, Esq. (File No. 58075-5-SC); William Daniel Leader, Esq. (File No. 59125-5-SC); Thomas A. Wiseman, Esq. (File No. 61201-5-SC); Daniel Hays Puryear, Esq. (File No. 61627-5-SC) and Karla C. Miller, Esq. and the Board (File No. 60938-5-SC) and served upon Mr. Manookian. Mr. Manookian filed an answer to the Third Supplemental Petition for Discipline on January 8, 2021.

A final hearing was held May 10-14, 2021. Prior to the start of the proof, the Panel dismissed that portion of the complaint by William Daniel Leader (File No. 59125-5-SC) alleging violations of Rules of Professional Conduct (RPC) 8.2(a)(1) and 8.4(d).

At the conclusion of the Board's case in chief, the Panel dismissed a portion of the complaint filed by Karla C. Miller and the Board (File No. 60938-5-SC) alleging violations of Rules of Professional Conduct (RPC) 4.4(a) and 8.4(b). The Panel also dismissed, in toto, the complaint filed by Phillip North (File No. 60939-5-SC). At the conclusion of the hearing, the parties, by agreement, waived closing argument and proposed findings of fact and conclusions of law were to be submitted to the Panel on or before May 28, 2020.

The parties submitted their respective proposed findings and conclusions on June 10, 2021.

On July 9, 2021, Mr. Manookian filed a Motion for Leave to Seek Limited Post-Hearing Document Production. The Board filed a Response on July 23, 2021. The Hearing Panel denied said Motion based on Meehan v. Board of Professional Responsibility, 584 S.W.3d 403, 416, which held that there is no authority under Rule 9 for a hearing panel to base its recommended sanction on a review of sanctions imposed in similar cases.

Having observed the testimony of the witnesses, examined the records and exhibits, and reviewed the transcript, this Hearing Panel makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

File No. 60938-5-SC – Complaint of Board and Karla C. Miller, Esq.

A. Threats Against Ashley Cavazos

On or about February 11, 2015, Mr. Manookian executed a lease concerning residential property located at 201 Robin Hill Road, Nashville, Tennessee, 37205, and owned by Ashley Cavazos' parents. (Tr. of Proceedings, pp. 469; 630; Exhibit C-7). Ashley Cavazos managed all the rental properties owned by her parents, including 201 Robin Hill and was authorized to enter the rental properties as part of her duties. (Tr. of Proceedings, pp. 469-70; 661; 695).

During 2016 through 2018, Ashley Cavazos carried out a number of managerial duties on her parents' rental properties, including advertising, marketing, communicating with contractors and overseeing maintenance and repairs at the property, preparing leases, preparing for and showing the property to perspective tenants, inspecting the properties, collecting rent and helping

with bookkeeping. (Tr. of Proceedings, pp. 470-71). As part of her property management duties, Ashley Cavazos oversaw 201 Robin Hill in 2018. (Tr. of Proceedings, p. 481).

In March or April of 2018, Ashley Cavazos visited the property with a contractor making repairs to the home and spoke with Mr. Manookian. (Tr. of Proceedings, pp. 480-81). Ashley Cavazos had previously visited 201 Robin Hill on one or two occasions and interacted with Mr. Manookian. (Tr. of Proceedings, p. 482). Ashley Cavazos had also spoken to with Mr. Manookian on other occasions including when he inquired about renting 201 Robin Hill (Tr. of Proceedings, pp. 636-38).

Mr. Manookian conceded he had moved out of 201 Robin Hill property by July 2, 2018, and Ashley Cavazos was correct when she testified, the electricity at the property was off for three (3) months, the grass got high, and she found spoiled meat in the refrigerator. (Tr. of Proceedings, pp. 822-25).

In August or September of 2018, Ms. Cavazos was notified that 201 Robin Hill was in violation of certain provisions of the Metropolitan Nashville Code regulating the permissible height of grass and weeds and took pictures of the lawn. (Tr. of Proceedings, pp. 482-484; Exhibit C-9). In September or October of 2018, Ashley Cavazos inspected 201 Robin Hill and found water service to the property had been turned off, power service to the property had been turned off, maggots in the refrigerator, spoiled meat in the freezer, toilets were stained, bathtubs were moldy, and air filters were filthy. (Tr. of Proceedings, pp. 486-92). She took pictures reflecting the disrepair and disgusting living conditions she observed at 201 Robin Hill in October and November of 2018. (Tr. of Proceedings, pp. 488-92; Exhibit C-9). It was clear that no one was living in the home.

As of November 17, 2018, Mr. Manookian had not paid rent for October and November 2018 and was in arrears in the amount of $10,562.00. (Tr. of Proceedings, p. 494-97; 664; Exhibit C-12).

On November 17, 2018, Ashley Cavazos entered 201 Robin Hill, determined the property had been abandoned by Mr. Manookian and began removing items of personality in preparation for a new tenant and transported the property to her home for security purposes. (Tr. of Proceedings, pp. 497-500; 658-60; 669-70; 694). When Ashley Cavazos learned Mr. Manookian had contacted her mother to inquire about the property removed from 201 Robin Hill, Ms. Cavazos immediately called Mr. Manookian on November 20, 2018, to inform him she had the property and would arrange a time to return the property to him. (Tr. of Proceedings, pp. 503; 505; 656-57; 675-76).

Ashley Cavazos recorded the November 20, 2018, phone call with Mr. Manookian. (Tr. of Proceedings, p. 505). Prior to the November 20, 2018, phone call, Mr. Manookian was aware Ashley Cavazos was involved in a post-divorce dispute with her ex-husband, Cory Mason, pending in the Fourth Circuit Court for Davidson County. (Tr. of Proceedings, pp. 727-28). Ashley Cavazos was the primary residential parent for her daughter, and in September of 2018, she filed an amended petition in the Fourth Circuit Court for Davidson County seeking to modify the parenting plan and suspend her ex-husband's parenting time. (Tr. of Proceedings, pp. 354; 378). Ashley Cavazos was represented by Karla Miller in the post-divorce litigation pending in the Fourth Circuit Court for Davidson County. (Tr. of Proceedings, pp. 354).

The recorded phone call reflects Ashley Cavazos informed Mr. Manookian she had removed the items because she thought he abandoned the home, that she had stored everything, that she was out of town, and that she would return the items to Mr. Manookian. (Tr. of

Proceedings, pp. 508-09; Exhibit C-5). The panel finds that the recorded conversation is terrifying. (Exhibit C-5). In it, as previously noted, Mr. Manookian repeatedly threatened Ms. Cavazos.

Notably, on September 21, 2018, Brian Manookian was temporarily suspended from the practice of law based on a finding by the Supreme Court of Tennessee that he posed a threat of substantial harm to the public. Only one month later did he make the following threats:

- "You're never gonna see your kid again."
- "I'm gonna ruin your fucking life. Do you know who I am? I'm not the guy you steal from."
- "Like, last night, I thought somebody had come in here, I thought it was, I was about ready to kill that guy."
- "I'm the wrong motherfucking dude to steal from. When we get off the phone, you need to Google my name...Do you know what I do to people who do way less than this to me? Like there are judges that have fucked with me that are in federal penitentiary right now."
- "Do you know what the legal definition of theft is? You don't just get to say, 'Oh, I was storing it.'.... I'll fucking represent your ex-husband for free, if I need to. You know what I'm gonna do to your life?"
- "You're going to jail. Where's your daughter?"
- "You might be going to jail...I'm gonna find out where you are right now. Somewhere where your dad is. I'll figure out who your dad is."
- "Oh, I've been to jail. It's not a fun place. You're going. That's fine. When we get off the phone, you start looking behind you because the race is on. I'm gonna figure out who your dad is, what hospital he's in. You know what I do for a living? I sue hospitals. I'll figure out who your dad is. I'll figure out where you are. Your mom's gonna tell me 'cause I'm gonna call her up right now, and left her know exactly what you did, and what she's on the fucking hook for, and what Gary's on the fucking hook for. Your mom's gonna go to jail too. You're never gonna see your kid again."
- "You're a drug addict, probably."

Then, towards the end of the lengthy conversation in which he screams at Ms. Cavezos, and she is justifiably petrified and in tears, he tries to calm her for a moment and says, "Ashley,

stop. Just stop. I just wanna talk to Ashley for a second. This is not Brian being a lawyer, all right? This is Brian talking to somebody whose mother he cares about. Ashley, stop."

In fact, Mr. Manookian followed up on some of his threats by contacting the police on November 20, 2018. He then facilitated the issuance of a criminal complaint against Ashley Cavazos for theft of property from 201 Robin Hill and filed a civil suit against Ms. Cavazos on November 29, 2018. (Tr. of Proceedings, p. 509; 841-42; 844-45; 930-31). Ashley Cavazos surrendered herself to the police, was fingerprinted and appeared in the criminal court several times for hearings. (Tr. of Proceedings, pp. 510-11).

After the November 20, 2018 phone call, Mr. Manookian contacted Ashley Cavazos ex-husband and informed him Ms. Cavazos had been charged with felony aggravated burglary. (Tr. of Proceedings, pp. 516; 662; 813-14).

Shortly after the November 20, 2018 phone call, Karla Miller, attorney for Ashley Cavazos, was notified that Ms. Cavazos' ex-husband planned to seek a Temporary Restraining Order against her client supported by the affidavit of Mr. Manookian. (Tr. of Proceedings, pp. 355-56). On November 29, 2018, Ashley Cavazos' ex-husband filed a counter-petition seeking a temporary restraining order against Ms. Cavazos and attached the Affidavit of Mr. Brian P. Manookian as Exhibit A to the counter-petition. (Exhibit C-1).

Not only did Mr. Manookian personally notify Cory Mason of the aggravated burglary charges and provide an affidavit in support of Father's Counter-Petition to Modify Parenting Plan, Mr. Manookian also agreed to testify at the December 13, 2018, TRO hearing.

As a result of Mr. Manookian inserting himself into Ashley Cavazos' post-divorce action, Judge Philip E. Smith issued a Temporary Restraining Order against Ashley Cavazos on November 30, 2018 and scheduled a hearing for December 13, 2018. (Tr. of Proceedings, pp. 358-

59; 374-75; 377; Exhibit C-2). As a result of the issuance of the temporary restraining order on November 30, 2018, Ashley Cavazos temporarily lost custody of her five-year old daughter. (Tr. of Proceedings, p. 377).

Mr. Manookian was subpoenaed to bring his recording of the November 20, 2018, phone call with Ashley Cavazos to the December 13, 2018 hearing. (Tr. of Proceedings, pp. 384-85; Exhibit C-3). Although Mr. Manookian had the ability to extract the recording and twenty-three (23) days to do so, Mr. Manookian did not comply with the subpoena and produce his recording of the November 20, 2018 phone call at the December 13, 2018 hearing. (Tr. of Proceedings, pp. 385; 716-19; 815-17).

Mr. Manookian was sworn in and testified under oath at the December 13, 2018 hearing about a conversation he had with Ashley Cavazos twenty-three (23) days previously. (Tr. of Proceedings, p. 813; Exhibit C-4). At the December 13, 2018 hearing, Mr. Manookian denied, under oath, he threatened Ashley Cavazos that he would call her ex-husband and make sure she never saw her child again. (Exhibit C-4, p. 13, L.22-25). He also claimed that he did not know how to extract the recording from the firm's phone system and that, while his paralegal could do it, he was in trial in Rutherford County.

Thereafter, Karla Miller played for the Court a recording of the phone call with Mr. Manookian that Ashley Cavazos had preserved. (Exhibit C-5). Karla Miller had the audio recording transcribed and she personally compared the written transcript with the audio recording to ensure it accurately reflected the contents of the audio recording. (Tr. of Proceedings, p. 440). The recording contradicted Mr. Manookian's sworn testimony and confirmed that he repeatedly threatened to call Ashley Cavazos' ex-husband and/or threatened Ms. Cavazos would never see her child again. (Exhibit C-5; Exhibit C-6, Time Stamp 2:14, 3:24, 4:39, 5:42, 11:10, 16:56).

As a result of Mr. Manookian's testimony, Judge Smith allowed the Temporary Restraining Order to remain in effect; however, Judge Smith reconsidered the testimony and scheduled a second hearing for December 18, 2018. (Exhibit C-14). At the December 18, 2018, hearing, Judge Smith found that it would give "zero weight to the testimony of Mr. Manookian", and that he had "butted his nose right into this lawsuit" and presented perjured testimony to the Court. Judge Smith dissolved the Temporary Restraining Order and restored custody to Ms. Cavazos consistent with the previous parenting order. (Exhibit C-14). Judge Smith entered an Order on February 11, 2019, finding Mr. Manookian had clearly abandoned 201 Robin Hill and lied to the Court when he denied threatening to get involved in the post-divorce case and, in fact, he involved himself in the case when he called Ashley Cavazos' ex-husband. (Exhibit C-14).

As a result of Mr. Manookian's testimony on December 13, 2018, which Judge Smith found perjurious, Ashley Cavazos lost custody of her daughter for a period of three (3) weeks and was denied visitation with her child for a period of two (2) weeks. (Tr. of Proceedings, pp. 377; 517; Exhibit C-14). Ashley Cavazos testified she was severely affected by the loss of custody of her daughter, suffered panic attacks, suffered emotional trauma, that her daughter cried and begged her to come home, and that she relieves the trauma every Thanksgiving and Christmas holiday when this matter occurred. (Tr. of Proceedings, pp. 530-31; 653; 662).

Ashley Cavazos also testified that Mr. Manookian failed to appear at any of her criminal hearings, and she was successful in having the criminal and civil cases dismissed. (Tr. of Proceedings, p. 511).

The panel finds the testimony of Ms. Cavazos to be both truthful and compelling.

B. <u>Commission of Perjury</u>

On December 13, 2018, Mr. Manookian was sworn in and testified under oath at a hearing before Judge Phil Smith (Davidson County Fourth Circuit Court Judge) in the case of Mason v. Mason, Civil No. 15D-1682. Ashley Cavazos (formerly Mason) was the primary residential parent for her daughter, and in September of 2018, she had filed a petition with the Court seeking to modify the existing parenting plan and suspend her ex-husband's parenting time. (Tr. of Proceedings, pp. 354; 378). Ashley Cavazos was represented by Karla Miller in this proceeding. (Tr. of Proceedings, pp. 354).

The hearing on December 18, 2018 was on the Cross-Petition to Modify Parenting Plan filed by Cory Mason. Cory Mason is Ashley Cavazos' ex-husband.

Mr. Manookian was called to testify about a conversation he had with Ashley Cavazos Mason twenty-three (23) days previously. (Tr. of Proceedings, p. 813; Exhibit C-4). Mr. Manookian had previously executed an Affidavit supporting Cory Mason's Cross-Petition to Modify Parenting Plan.

At the December 13, 2018 hearing, Mr. Manookian denied, under oath, that he threatened Ashley Cavazos. Karla Miller, counsel to Ashley Cavazos Mason, and Mr. Manookian had the following exchange:

Ms. Miller: Mr. Manookian, you actually threatened Ashley Cavazos that you would call her ex-husband and make sure she never saw her child again, didn't you?

Mr. Manookian: No

[Exhibit C-4, page 16, lines 22-25]

Thereafter, Karla Miller played for the Court a recording of the phone call with Mr. Manookian that Ashley Cavazos had preserved. (Exhibit C-5). Karla Miller had the audio recording transcribed and she personally compared the written transcript with the audio recording to ensure it accurately reflected the contents of the audio recording. (Tr. of Proceedings, p. 440). The recording contains the following statements by Mr. Manookian:

> You're guilty of felony theft, and you're gonna to go to fucking jail, and it's gonna have a major effect on your custody issues if these things aren't returned to me immediately...Do you know who you're fucking with, Ashley?...You're never gonna see your kid again...I'm gonna ruin your fucking life. Do you know who I am? I'm not the guy you steal from...I'm the wrong motherfucking dude to steal from. When we get off the phone, you need to Google my name...Do you know what I do to people who do way less than this to me? Like there are judges that have fucked with me that are in federal penitentiary right now...Do you know what the legal definition of theft is? You don't just get to say, 'Oh, I was storing it.'.... I'll fucking represent your ex-husband for free, if I need to. You know what I'm gonna do to your life?...You're going to jail. Where's your daughter?...I'm gonna find out where you are right now. Somewhere where your dad is. I'll figure out who your dad is...Oh, I've been to jail. It's not a fun place. You're going. That's fine. When we get off the phone, you start looking behind you because the race is on. I'm gonna figure out who your dad is, what hospital he's in. You know what I do for a living? I sue hospitals. I'll figure out who your dad is. I'll figure out where you are. Your mom's gonna tell me 'cause I'm gonna call her up right now, and left her know exactly what you did, and what she's on the fucking hook for, and what Gary's on the fucking hook for. Your mom's gonna go to jail too. ***You're never gonna see your kid again. [Emphasis added]***

(Exhibit C-5; Exhibit C-6, Time Stamp 2:14, 3:24, 4:39, 5:42, 11:10, 16:56).

At the conclusion of the December 13, 2018 hearing, Judge Smith allowed the Temporary Restraining Order to remain in place. Ashley Cavazos lost custody of her child.

However, Judge Smith reconsidered the testimony and scheduled a second hearing for December 18, 2018. (Exhibit C-14). At that hearing, Judge Smith and re-established the previously approved parenting plan and awarded Ashley Cavazos with custody of the minor child. An Order

was eventually entered on February 11, 2019 to memorialize the December 18, 2018 hearing; in it, Judge Smith found:

> 3. On cross examination, Mr. Manookian testified that he did not have the recording of the phone call between himself and Mother. He admitted he called her a *** but denied he threatened to get involved in this lawsuit. He denied screaming at Mother during their phone call.
>
> 10. In light of the testimony of Mr. Manookian on December 13, 2018, the testimony of Mother on December 18, 2018 and text messages introduced during Mother's testimony, ***Mr. Manookian's testimony is perjurious***.
>
> 12. ***Mr. Manookian lied*** when he denied threatening to get involved in this instant lawsuit, in fact, Mr. Manookian involved himself in this lawsuit when he called Father.
>
> 13. The Court will not believe one word of Mr. Manookian's testimony. The Court will give zero weight to the testimony of Mr. Manookian.
>
> ***[Emphasis added]***

The Panel agrees with the findings of Judge Smith. It is utterly amazing that a lawyer (even a suspended one) would testify, under oath, falsely. This is particularly the case given the personal importance of the matter before the Court (i.e., the custody of a minor child). The Panel surmises that Mr. Manookian lied intentionally (as the background events indicate) in order to hide his animus toward Ashley Cavazos and inflict maximum pain on Ms. Cavazos.

In order to give context to Mr. Manookian's perjury, the events leading up to his testimony are important. They are recounted in detail in part A, above. These events lead the Panel to conclude that the false testimony of Mr. Manookian on December 13, 2018 were not just a matter of inadvertence, but was calculated to inflict pain and suffering on Ms. Cavazos (in retribution for the affront Mr. Manookian felt she committed in dealing with the rental house at 201 Robin Drive).

As a result of Mr. Manookian's testimony on December 13, 2018, which Judge Smith found perjurious, Ashley Cavazos lost custody of her daughter for a period of three (3) weeks and was denied visitation with her child for a period of two (2) weeks. (Tr. of Proceedings, pp. 377;

517; Exhibit C-14). Ashley Cavazos testified she was severely affected by the loss of custody of her daughter, suffered panic attacks, suffered emotional trauma, that her daughter cried and begged her to come home, and that she relives the trauma every Thanksgiving and Christmas holiday when this matter occurred. (Tr. of Proceedings, pp. 530-31; 653; 662).

Daniel Hayes Puryear, Esq. - File No. 61627-5-SC

Dan Puryear is a Tennessee licensed lawyer who is certified as a creditor's rights specialist. (Tr. of Proceedings, pp. 26-27). Mr. Puryear was retained in early 2019 by Dean and Sandra Chase to collect a judgment entered against Mr. Manookian and others by the Circuit Court of Williamson County in a case styled *David Chase v. Chris Stewart, et. al.*, Docket Number 2015-200. (Tr. of Proceedings, pp. 28-29, 31).

At the time Mr. Puryear was retained, he was made aware of emails Mr. Manookian had sent to Phillip North and C. J. Gideon as well as the experience the lawyers for Mr. and Ms. Chase had with Mr. Manookian in *David Chase v. Chris Stewart, et. al.*, Docket Number 2015-200. (Tr. of Proceedings, pp. 26-27). On April 25, 2019, Mr. Puryear filed "Complaint to Subject Property, Issue Writs of Execution and Distringas/Fieri Facias, Appoint a Receiver to Collect Choses in Action and for Injunctive Relief." (Exhibit A-1). On April 25, 2019, Mr. Puryear also filed "Motion to Subject Property, Issue Writs of Execution and Distringas/Fieri Facias, Appoint a Receiver to Collect Choses in Action and for Injunctive Relief." (Exhibit A-2). The Motion filed on April 25, 2019, was heard on May 23, 2019. (Tr. of Proceedings, p. 40).

Shortly before the May 23, 2019 hearing. Mr. Puryear received a phone call from Mr. Manookian. (Tr. of Proceedings, p. 37). Mr. Puryear was anticipating the worst when he received the call; however, Mr. Manookian was polite during the conversation. (Tr. of Proceedings, p. 37).

Following the May 23, 2019 hearing, the Court granted a receiver and ordered the defendants to file sworn statements of assets with the Court within thirty (30) days from May 23, 2019. (Tr. of Proceedings, p. 38). Mr. Puryear submitted an order to the Court and sent an email to the defendants with the order attached on May 29, 2019. (Tr. of Proceedings, p. 38; Exhibit A-3).

On the same day, Mr. Puryear sent an email to Mr. Manookian advising he had discovered he had the wrong address on the certificate of service and asked if Mr. Manookian wanted a hard copy sent to him or whether service by email would suffice. (Tr. of Proceedings, pp. 40-41; Exhibit A-3; May 29, 2019, email from Puryear to Manookian). Mr. Manookian responded: "You need to effectuate service in accordance with the rules." (Tr. of Proceedings, pp. 41-42; Exhibit A-3; May 29, 2019 email from Manookian to Puryear).

The order submitted by Mr. Puryear was not entered until June 20, 2019. (Tr. of Proceedings, p. 39). By email dated July 9, 2019, Mr. Puryear reminded the defendants he had not received the sworn statements of assets required by the Court's order and asked that they be provided no later than "this Friday." (Tr. of Proceedings, p. 42; July 9, 2019, email from Puryear). Shortly thereafter, counsel for one of the defendants, Mark Hammervold, contacted Mr. Puryear and the two began negotiations for a protective order for his client. (Tr. of Proceedings, pp. 42-43). Several emails were exchanged between Mr. Puryear and Mr. Hammervold about the proposed protective order. (Tr. of Proceedings, pp. 43-44; Exhibit A-3; emails dated July 11, 2019, July 12, 2019, and July 19, 2019).

On July 22, 2019, Mr. Hammervold sent an email to Mr. Puryear about the proposed protective order and copied the other defendants on the email, including Mr. Manookian. (Exhibit A-3; July 22, 2019 email from Hammervold to Puryear with copies to other defendants). Seeing that the other defendants were copied on the email, Mr. Puryear responded to everyone, and

suggested dates to discuss the issue with Mr. Hammervold. (Tr. of Proceedings, pp. 45-46). Mr. Puryear also added a note to Mr. Manookian reminding him that he had not received his sworn statement. (Tr. of Proceedings, p. 46; Exhibit A-3; July 22, 2019 email from Puryear to Hammervold with copies to other defendants). Mr. Manookian responded that that he would provide the documents upon entry of the protective order being negotiated. (Exhibit A-3; July 22, 2019 email from Manookian to Puryear with copies to other defendants).

On the same day, Mr. Puryear responded to Mr. Manookian only, informing him that he was negotiating the protective order with Mr. Hammervold's clients only, and reminding him that Mr. Manookian had instructed that he, Mr. Puryear, comply with the rules of Rules of Civil Procedure. (Tr. of Proceedings, pp. 47-48; Exhibit A-3; July 22, 2019 email from Puryear to Manookian).

Approximately thirteen (13) minutes later, Mr. Manookian sent an email stating "Fairly certain this is them. Will let you know when the TLOxp comes back. Typical low-level collections attorney operating out of virtual space." (Tr. of Proceedings, p. 48; Exhibit A-3; July 22, 2019 email from Manookian to Puryear). The email from Mr. Manookian included links to three web pages. (Tr. of Proceedings, p. 49).

Mr. Hammervold responded to the email stating "I don't need to be copied on these emails between Brian and Dan that don't involve Hammervold PLC." (Tr. of Proceedings, p. 49; Exhibit A-3; July 22, 2019 email from Exhibit A-3; July 22, 2019 email from Exhibit A-3; July 22, 2019 email from Manookian).

Within a few minutes after Mr. Hammervold's email was sent, Mr. Manookian sent an email to all the parties in the previous email string stating: "This email was not intended for anyone

on this thread. Please delete and send confirmation of the same." (Tr. of Proceedings, p. 50; Exhibit A-3; July 22, 2019 email from Manookian to Puryear).

The first link on the July 22, 2019 email from Mr. Manookian was to a web page that featured Mr. Puryear's wife in her role as an Episcopal Priest and articles she had written for the Covenant. (Tr. of Proceedings, p. 49; Exhibit A-4). The first page of Exhibit A-4 contains a picture of Mrs. Puryear with a brief biography that concludes that she loves staying home with her husband, Dan, and their two young children. (Tr. of Proceedings, pp. 49-50, 51-52; Exhibit A-4). The second link on the July 22, 2019, email from Mr. Manookian was to search results from the Nashville Assessor of Property's office of property owned by people in Nashville with the last name Puryear and included the property of Dan Puryear. (Tr. of Proceedings, p. 50; Exhibit A-5). The third link on the July 22, 2019 email from Mr. Manookian was to search results of Zillow showing a picture of Mr. Puryear's home. (Tr. of Proceedings, pp. 50,53; Exhibit A-6).

Mr. Puryear testified that he was upset when he opened the links in Mr. Manookian's May 22, 2019 email. (Tr. of Proceedings, pp. 52, 54-61). Mr. Puryear testified that he interpreted the May 22, 2019 email from Mr. Manookian as the same type of threatening email Mr. Manookian had previously sent to Mr. Gideon and Mr. North in which Mr. Manookian referenced family members that were not involved in the cases Mr. Manookian was litigating. (Tr. of Proceedings, pp. 54, 55). Before Mr. Puryear undertook the case on behalf of Mr. and Ms. Chase, he was aware of emails sent by Mr. Manookian to C. J. Gideon and Phillip North. (Tr. of Proceedings, p. 33). Specifically, Mr. Puryear knew about the email to Phillip North in which Mr. Manookian told Mr. North that Mr. Manookian knew where Mr. North lived and what kind of car his wife drove which Mr. Puryear described as "creepy" and the type of thing that "you just kind of get chills running down your spine when you hear that." (Tr. of Proceedings, p. 33). Mr. Puryear also knew

about the email Mr. Manookian sent to C. J. Gideon about Mr. Gideon's daughter which was "the way a Mafia guy sends a letter that says, Hey, it's a nice place you've got here. Shame if something happens to it." (Tr. of Proceedings, p. 34).

Mr. Puryear noted that his wife had nothing to do with the lawsuit he had filed against Mr. Manookian and others and there was no reason anyone should be sending a picture of his wife and information about his home to anyone. (Tr. of Proceedings, p. 49). He interpreted Mr. Manookian's email stating that the previous email was not intended for anyone on the email thread as potentially more threatening, because he could not understand why anyone else would need the information. (Tr. of Proceedings, p. 55).

The Hearing Panel believes Mr. Puryear and finds his testimony to be compelling. In fact, not only did Mr. Puryear believe that Mr. Manookian's email was threatening, he took actions to protect his family. On the evening of July 22, 2019, he sent his two children to stay at his brother's house. (Tr. of Proceedings, p. 59). He called the police to file a report. (Tr. of Proceedings, p. 60).

Mr. Puryear installed additional security at his home and office. (Tr. of Proceedings, pp. 68-69). He was given a specific parking space at his office that is recorded and well-lit, and he carried a golf club between his office and car for several weeks if not months. (Tr. of Proceedings, p. 69). He circulated Mr. Manookian's photograph to individuals at his office building and asked that he be informed if Mr. Manookian came to the building. (Tr. of Proceedings, p. 69). He had a doorbell installed outside of his office. (Tr. of Proceedings, p. 69). He informed his client that two attorneys would be attending future hearings in the case and temporarily had his co-counsel take the lead so his personal judgment would not interfere with his representation. (Tr. of Proceedings, p. 70).

On July 30, 2019, Mr. Puryear filed a motion for a temporary restraining order. (Tr. of Proceedings, p. 62; Exhibit A-7).

The Court entered a temporary restraining order on July 31, 2019. (Tr. of Proceedings, p. 63; Exhibit A-8) and a hearing for a temporary injunction was conducted on August 14, 2019. (Exhibit A-9).

The Court granted the temporary injunction by order entered on August 21, 2019. (Exhibit A-10).

Mr. Puryear testified that there is never a day he does not think about the experience, he sought professional help dealing with the anxiety it caused, and he continues to receive assistance with his anxiety. (Tr. of Proceedings, p. 70).

Mr. Puryear denied that his email to Mr. Manookian on May 23, 2019, was similar to the email Mr. Manookian sent to him on July 22, 2019, which included links to his wife's bio, property tax records and photograph of his home. (Tr. of Proceedings, pp. 81-84).

On cross examination, Mr. Puryear acknowledged that the July 22, 2019 email sent by Mr. Manookian with the links to his wife, property tax records and home photographs contained public information. (Tr. of Proceedings, pp. 98-99). Even though the links in the July 22, 2019, email revealed public information, Mr. Puryear testified that the information had nothing to do with the civil action he filed and served no substantial purpose. (Tr. of Proceedings, pp. 112-113). Mr. Puryear also acknowledged that the July 22, 2019 email did not specifically threaten him or his family, but it was an implied threat. (Tr. of Proceedings, p. 11).

The Panel finds Mr. Puryear to be credible.

Mr. Manookian testified that the July 22, 2019 email he sent to Mr. Puryear and others that included links to Mr. Puryear's wife's biography, property tax records and a photograph of his

house was only meant for Mr. Manookian's wife because he thought his wife might know Mr. Puryear's wife. (Tr. of Proceedings, p. 958). He explained that his wife was upset about being named in the collection action filed by Mr. Puryear and both he and his wife wanted to find out more about the lawyers involved. (Tr. of Proceedings, p. 958). He testified that he had undertaken an investigation to find out who Daniel Puryear was, and that he frequently does so when he is not familiar with opposing counsel. (Tr. of Proceedings, p. 958).

Mr. Manookian also testified that the Puryear email was intended for Mr. Manookian's wife; that it does not contain any threats; and it consists of truthful, publicly available information. (Tr. of Proceedings, p. 958). Mr. Manookian testified that he feels bad about intimidating Mr. Puryear and stated that was not his intention. (Tr. of Proceedings, p. 959).

The Panel does not find Mr. Manookian to be credible. As evidenced by past Board complaints against him, including one previously before this Panel, he has a history of sending threating emails to opposing counsel. Specifically, as Mr. Puryear correctly noted, Mr. Manookian previously sent the same type of threatening email to Mr. Gideon and Mr. North. Those emails also referenced family members that were not involved in the cases Mr. Manookian was litigating. In the email to Phillip North, Mr. Manookian stated that he knew where Mr. North lived and what kind of car his wife drove. In his email to C. J. Gideon, Mr. Manookian made a veiled threat to the career of Mr. Gideon's daughter. Despite Mr. Manookian's claim that "this is not a threat," the words he used still have the effect and impact of a threat just the same. We are reminded of the saying that "If something acts like a duck, quacks like a duck and swims like a duck, it's a duck". Despite numerous claims brought against him for similar actions, Mr. Manookian was undeterred and continued his reprehensible conduct to the point where it seemly became a pattern and practice.

File No. 61201-5-SC- Informant – Thomas A. Wiseman, Esq.

Mr. Wiseman is a licensed Tennessee lawyer who primarily handles medical malpractice defense work. (Tr. of Proceedings, pp. 178-179). For a period of time several years ago, Mr. Manookian worked at the same firm as Mr. Wiseman with C. J. Gideon. (Tr. of Proceedings, p. 180). In May 2019, Mr. Manookian contacted Mr. Wiseman requesting a meeting to discuss pre-litigation a claim that Mr. Manookian had against Mr. Wiseman's client, Vanderbilt. (Tr. of Proceedings, pp. 180; 904). Mr. Wiseman contacted Ms. Bledsoe and told her that Mr. Manookian wanted to discuss settlement of a case that was in pre-litigation. (Tr. of Proceedings, p. 328).

Sandy Bledsoe serves as the Vice President for Risk Management and Insurance Management and manages the property and casualty insurance program for the medical center, including claims, worker's compensation, professional liability, premises liability and enterprise risk management. (Tr. of Proceedings, p. 326). She has held the title of Vice President for Risk Management and Insurance Management since 2016, served as head of the department since 2011 and worked in risk management for over 35 years. (Tr. of Proceedings, pp. 327; 329). She and Mr. Wiseman had been discussing the case and believed Vanderbilt had no liability. (Tr. of Proceedings, pp. 328-329).

Mr. Wiseman responded to Mr. Manookian that he and Sandy Bledsoe would meet with him at Mr. Manookian's office on June 6, 2019, to discuss the pre-litigation claim. (Tr. of Proceedings, pp. 181-183). Mr. Manookian suggested that they also discuss two cases that had already been filed. (Tr. of Proceedings, p. 906). Meetings such as the one proposed by Mr. Manookian are not uncommon, and Ms. Bledsoe and Mr. Wiseman concluded they should meet with Mr. Manookian in an effort to avoid suit. (Tr. of Proceedings, pp. 182; 329).

Prior to the June 6, 2019 meeting, Mr. Manookian had not had any substantiative communication with Sandy Bledsoe other than receiving letters from her confirming receipt of pre-suit notices. (Tr. of Proceedings, p. 904).

Ms. Bledsoe testified she negotiates with plaintiff's lawyers at times; however, once outside counsel is retained, all communication goes through outside counsel, and medical malpractice cases are typically assigned to outside counsel. (Tr. of Proceedings, pp. 350; 327-28).

The meeting took place at Mr. Manookian's office on June 6, 2019, and lasted about an hour. (Tr. of Proceedings, p. 330). The meeting was initially cordial; however, Mr. Wiseman and Ms. Bledsoe testified Mr. Manookian's tone changed abruptly during the meeting, and he became "more inflammatory and bit more confrontational." (Tr. of Proceedings, pp. 183; 330). Mr. Wiseman and Ms. Bledsoe testified that at the conclusion of the meeting it was expected that additional information would be provided by Mr. Wiseman to Mr. Manookian. (Tr. of Proceedings, pp. 184; 331).

Ms. Bledsoe never had an understanding that she would communicate directly with Mr. Manookian, and she never gave Mr. Manookian permission to contact her directly. (Tr. of Proceedings, pp. 331; 336). Mr. Wiseman never gave Mr. Manookian permission to speak with Ms. Bledsoe outside of the June 6, 2019 meeting. (Tr. of Proceedings, pp. 189-190). That evening, Mr. Manookian sent two emails to Mr. Wiseman and Ms. Bledsoe at 5:45 and 6:20 p.m. (Tr. of Proceedings, pp. 184-185; Exhibit D-1). Mr. Wiseman did not see the emails until later that evening and contacted Ms. Bledsoe about them. (Tr. of Proceedings, p. 185). Mr. Wiseman noted the tone of the emails was aggressive and was concerned that they had been sent to Ms. Bledsoe. (Tr. of Proceedings, p. 186). Mr. Wiseman reaffirmed his prior sworn testimony that the 5:45 p.m. email was intended to bypass defense counsel and ensure delivery of a not so veiled

threat to Vanderbilt University Medical Center and further testified the email was intended to cause Ms. Bledsoe concern about the substance of the cases and their value based upon a "scandalous way of characterizing things. (Tr. of Proceedings, pp. 188; 191-94; Exhibit D-2).

Mr. Wiseman testified the 6:20 p.m. email addressed to "Sandy" threatened Ms. Bledsoe and her employment and further disparaged him and his former law partner, Dixie Cooper. (Tr. of Proceedings, pp. 188-89). Mr. Wiseman testified the content of the 6:20 p.m. email was completely unrelated to the facts of the cases at issue, and the email did not represent any attempt to resolve any of the cases. (Tr. of Proceedings, p. 217). Mr. Wiseman reaffirmed his prior sworn testimony that the 6:20 p.m. email was intended to bypass defense counsel, deliver a personal threat to Ms. Bledsoe and undermine my professional relationship with Vanderbilt University Medical Center and Ms. Bledsoe." (Tr. of Proceedings, p. 191; 194; Exhibit D-2). Mr. Wiseman testified he had never seen a communication like the 6:20 p.m. email Mr. Manookian sent to Ms. Bledsoe, was shocked that Mr. Manookian had included Ms. Bledsoe in the emails, and thought it was inappropriate and unethical to send such a message to his client. (Tr. of Proceedings, pp. 187-88; 195).

Ms. Bledsoe was at a social engagement the evening of June 6, 2019, when she reviewed a text message from Mr. Wiseman and read the June 6, 2019, 5:45 and 6:20 p.m. emails from Mr. Manookian. (Tr. of Proceedings, p. 332). Ms. Bledsoe testified the 5:45 p.m. email was more aggressive and inflammatory than she expected, and she had never seen received a communication as inflammatory as the 5:45 p.m. email. (Tr. of Proceedings, pp. 332-33). Ms. Bledsoe testified she had never received a communication like the 6:20 p.m. email from anyone, including plaintiff lawyers, and it shocked her and left her speechless. (Tr. of Proceedings, p. 334). Ms. Bledsoe testified she considered the 6:20 p.m. email as a threat and an attempt to intimidate her, and it

caused a pit in her stomach and prevented her from sleeping well that night. (Tr. of Proceedings, p. 334).

During the June 6, 2019 meeting, Mr. Manookian asked Ms. Bledsoe if she knew Craig Bledsoe, who is her husband, because Mr. Manookian had him as a professor when he attended David Lipscomb. (Tr. of Proceedings, p. 337). Ms. Bledsoe did not think much of it at the time, but after she received the emails, Ms. Bledsoe became concerned about what Mr. Manookian had done to connect her to her husband. (Tr. of Proceedings, p. 338).

Ms. Bledsoe spoke with Mr. Wiseman the next morning on her way to work to meet with her boss, Mr. Regier. (Tr. of Proceedings, p. 335). Although Ms. Bledsoe stated she objectively was not concerned about her position with Vanderbilt, when she met with Mr. Regier, she was visibly upset and cried during the meeting. (Tr. of Proceedings, pp. 349; 345).

Ms. Bledsoe testified the June 6, 2019 emails were "unsettling" to her, and she still thinks about the matter two years later. (Tr. of Proceedings, p. 335).

Michael Regier has been engaged in the legal profession for 36 years, spent the past 26 years as general counsel for four different healthcare organizations, and has been employed as general counsel and secretary of Vanderbilt University Medical Center since February 2016. (Tr. of Proceedings, p. 237). As general counsel and secretary, Mr. Regier leads the office of legal affairs, the office of risk management and insurance management and the office of corporate compliance, and Sandy Bledsoe reports to him. (Tr. of Proceedings, p. 238).

Mr. Regier testified he met with Ms. Bledsoe On June 7, 2019, and reviewed the June 6, 2019 emails received from Mr. Manookian. (Tr. of Proceedings, p. 238). Mr. Regier testified the 6:20 p.m. June 6, 2019 email was an implied threat "to deal with me (Mr. Manookian) or else" and misjudging him would lead to the loss of employment. (Tr. of Proceedings, p. 239). Mr. Regier

testified that at their meeting to discuss the emails, Ms. Bledsoe was concerned about losing her job if the case did not go as Vanderbilt wanted and was "actually in tears" during the meeting. (Tr. of Proceedings, pp. 239-40). Mr. Regier spent a good bit of time reassuring Ms. Bledsoe about her employment and her approach to the case. (Tr. of Proceedings, p. 240).

Mr. Regier filed a complaint with the Board of Professional Responsibility, because he believed the email was unprofessional, inappropriate, and not something that a member of the bar should do or be able to do. (Tr. of Proceedings, p. 241). Mr. Regier has seen aggressive attorney tactics in his job, but he "has never had another attorney who was near [his] organization do something like this." (Tr. of Proceedings, p. 241). According to Mr. Manookian, he believed he had consent and authorization from Mr. Wiseman to communicate with Ms. Bledsoe after the June 6, 2019 meeting. (Tr. of Proceedings, pp. 911-912).

In June 2019, Mr. Manookian initially claimed he was authorized to communicate with Ms. Bledsoe because Mr. Wiseman's had inserted Ms. Bledsoe into the email chain setting the June 6, 2019 meeting, thereby, implying Mr. Wiseman had authorized Mr. Manookian to speak with Ms. Bledsoe. (Tr. of Proceedings, p. 192).

In response to Mr. Manookian's assertion, Mr. Wiseman filed a second affidavit with the Board of Professional Responsibility dated June 20, 2019, demonstrating Mr. Manookian was the person responsible for adding Ms. Bledsoe in the email chain. (Tr. of Proceedings, pp. 191-92; Exhibit D-3). Mr. Wiseman explained that he intentionally deleted Ms. Bledsoe from the email chain, but he did not instruct Mr. Manookian to cease copying Ms. Bledsoe, because he thought at the time that his office had inadvertently added Ms. Bledsoe to the email chain. (Tr. of Proceedings, pp. 210-211).

At the disciplinary hearing, Mr. Manookian conceded he was responsible for adding Ms. Bledsoe to the email chain when he confirmed the time and place of the meeting. (Tr. of Proceedings, p. 210). At the disciplinary hearing, Mr. Manookian justified his continued communications with Ms. Bledsoe on the fact Mr. Wiseman included Sandy Bledsoe in the June 6, 2019, meeting; Mr. Wiseman never withdrew his consent; and the two (2) emails were sent within 2 hours of the meeting. (Tr. of Proceedings, pp. 913-915). Mr. Manookian further justified sending the two emails because he had decided to be fairly aggressive in pursuing settlement in the DaSilva case due to the financial circumstances of his clients, and the emails had a substantial purpose which was to move the case toward settlement. (Tr. of Proceedings, pp. 903-04; 916).

The Panel finds the testimony of Mr. Wiseman, Ms. Bledsoe and Mr. Reiger to be very credible.

William Daniel Leader, Esq. - File No. 58075-5-SC

William D. Leader, Jr., is an attorney licensed to practice law in Tennessee since 1981 and served as counsel for Phillip North in a declaratory judgment action filed by Mr. Manookian against Mr. North in the Davidson County Circuit Court. (Tr. of Proceedings, pp. 118; 120; 121). Mr. Leader entered his appearance as counsel of record for Mr. North in June of 2018. (Tr. of Proceedings, p.120).

On August 4, 2018, at 12:29 p.m., Mr. Manookian received an email from Steve North notifying Mr. Manookian that his allegations regarding the content of their telephone conversation were not accurate. (Exhibit B-1). On August 4, 2018, at 1:56 p.m., Mr. Manookian responded by email to Steve North and twenty-seven (27) other individuals, including Mr. Leader and several members of the media, purporting to recount the contents of the telephone call. (Exhibit B-1; Tr. of Proceedings, pp. 123-24; 128). The subject line of Mr. Manookian's August 4, 2018, 1:56 p.m.

email stated "Shao v. Smith, et.al. (Corruption Allegations / North Family Drama)" and referenced two attachments.

Although Mr. Leader was one of the recipients of the 12:29 p.m. and 1:56 p.m. August 4, 2018 emails, Mr. Leader had no involvement in *Shao v. Smith*, and neither email had any relevance to the *Manookian v. North* declaratory judgment action pending in the Circuit Court for Davidson County. (Tr. of Proceedings, pp.122-23). Mr. Leader found the statements in the 1:56 p.m. August 4, 2018 email shocking, slanderous, inaccurate, incorrect and mean-spirited and was totally dumbfounded any attorney would publish such language about a sitting judge in an email. (Tr. of Proceedings, pp. 124-25). Mr. Leader found the statements in the 1:56 p.m. August 4, 2018 email published to the press simply an effort to paint Judge Brothers in a bad light, embarrass him and subject him to public ridicule. (Tr. of Proceedings, p. 125). Mr. Leader found the 1:56 p.m. August 4, 2018 email written in a manner to purport to be true and carry an imprimatur of legitimacy. (Tr. of Proceedings, pp. 126-27). Mr. Leader found the 1:56 p.m. August 4, 2018 email did not objectively read as simply a recounting of a conversation with Steve North and cited a number of statements and insinuations added to the email by Mr. Manookian. (Tr. of Proceedings, pp. 136-38).

Mr. Leader testified that the voicemail recording Mr. Manookian attached to the 1:56 p.m. August 4, 2018 email did not confirm any of the statements published by Mr. Manookian in his email, and that Mr. Manookian never provided any proof to Mr. Leader verifying the facts published by Mr. Manookian. (Tr. of Proceedings, pp. 141-42). The Panel finds Mr. Leader's testimony to be xredible.

Mr. Manookian admitted he had no personal knowledge as to the truth or falsity of the contents of Paragraph 3 of the June 20, 2018 email. (Tr. of Proceedings, p. 752). Mr. Manookian

admitted he had no personal knowledge as to the truth or falsity of the contents of the June 20, 2018 email purportedly provided by Steve North. (Tr. of Proceedings, p. 753). Mr. Manookian admitted he received the 12:29 p.m. August 4, 2018, email from Steve North, prior to sending his 1:56 p.m. August 4, 2018 email. (Tr. of Proceedings, p. 758). Mr. Manookian admitted that Steve North was the sole source of the information Mr. Manookian attributed to him in the 1:56 p.m. August 4, 2018 email. (Tr. of Proceedings, p. 746).

The 12:29 p.m. August 4, 2018, email from Steve North to Mr. Manookian states "I have seen your allegations about the content of our "confidential" telephone conversation. I believe that such allegations are not accurate. I insist that if you are in possession of any recording of that conversation that you furnish me a copy immediately." (Exhibit B-1). Mr. Manookian could not say what allegations Mr. North was referring to but believed he may have been referring to a prior email Mr. Manookian had sent. (Tr. of Proceedings, pp. 759; 947-48).

Prior to June 20, 2018, Mr. Manookian had not spoken to or met Mr. Steve North and was not familiar with his voice. (Exhibit F-1, pp. 516-517). Mr. Manookian was immediately advised by his partner on June 20, 2018, to get confirmation of the voice recording, but made no effort to do so until August 3, 2018, when he sent an email to Mr. Phillip North and nineteen (19) other individuals. (Exhibit F-1, pp. 403-404; 409-410). Although a number of people were available to Mr. Manookian to confirm Mr. Steve North's voice, Mr. Manookian chose to contact only Mr. Phillip North. (Exhibit F-1, pp. 404-406). Mr. Manookian never sent the recording to anyone for confirmation other than Mr. Phillip North. (Exhibit F-1, pp. 404-405). Thus, the recording of Mr. Steve North was not confirmed by Mr. Manookian when he sent the email on August 4, 2018.

Mr. Manookian testified that he called Mr. Steve North and recorded the hour plus long conversation; however, the recorded conversation was erased or written over by Mr. Manookian

or others in his office. (Exhibit F-1, pp. 394-395; 518-520). Mr. Manookian could not identify who erased the recording or when it was written over. (Exhibit F-1, p. 519). Prior to the recording being erased or written over, Mr. Manookian testified he could not recall ever listening to the recording of the June 20, 2018 phone conversation with Mr. Steve North. (Exhibit F-1, p. 522). Mr. Manookian testified that he sent the emails on August 3 and 4, 2018, in an attempt to confirm the identity of Mr. Steve North as the caller prior to circulating the contents of the call, because the content of the call was explosive and salacious. (Exhibit F-1, p. 406). Mr. Manookian testified he wanted to assure himself it was Mr. Steve North before he repeated the salacious details. (Exhibit F-1, p. 406). However, Mr. Manookian published and circulated the explosive and salacious statements about Judge Brothers without confirming the identity of Mr. Steve North. (Exhibit F-1, pp. 410).

The explosive and salacious statements published and circulated by Mr. Manookian from the purported June 20, 2018 recording were generated from Mr. Manookian's recollection of the purported June 20, 2018 conversation with Mr. Steve North. (Exhibit F-1, pp. 520-521).

Mr. Manookian did not contact Judge Gayden despite being a close personal friend who Mr. Manookian believed would have likely verified the corruption allegations made by Mr. Steve North. (Exhibit F-1, pp. 551-553). In fact, during that forty-four-day period between June 20, 2018, and August 3, 2018, Mr. Manookian failed to confirm the truth or falsity of the explosive and salacious statements he published beginning August 3, 2018. (Exhibit F-1, pp. 531-533). Mr. Manookian never confirmed the allegations of corruption he published, and in fact, Judge Gayden previously testified Judge Brothers was not corrupt and he had never offered such an opinion to Mr. Manookian. (Exhibit F-1, pp. 543-547, 560).

Tom Brothers, Judge of the Circuit Court for Davidson County, testified he only became aware of the 1:56 p.m. August 4, 2018 email on January 29, 2021, when he was contacted about providing his deposition to Mr. Manookian and was not aware of the offending email when he testified previously in May of 2020. (Tr. of Proceedings, pp. 542-543). Judge Brothers testified that he found the derogatory statements in the 1:56 p.m. August 4, 2018 email to be hurtful, disgusting, repugnant, highly offensive, loathsome lies and absolutely false. (Tr. of Proceedings, pp. 544; 552; 554; 556; 568; 578). After reading the 1:56 p.m. August 4, 2018 email, Judge Brothers testified he had zero respect for Mr. Manookian; their professional relationship was absolutely unrepairable; he would recuse himself from any future case assigned to his court involving Mr. Manookian; and Mr. Manookian lacked the moral character and fitness to practice law. (Tr. of Proceedings, pp. 578-80).

Judge Brothers testified the 1:56 p.m. August 4, 2018 email appeared to be retaliation for efforts Judge Brothers made previously to correct Mr. Manookian's unprofessional conduct in the Shao case, and it hurt his soul that Mr. Manookian would be so depraved and vicious as to maliciously attempt to smear his character and reputation by spewing such vile, outrageous and salacious lies and gossip to a large group of lawyers and members of the press. (Tr. of Proceedings, pp. 544; 575; 577-78). Judge Brothers found no substantial purpose for Mr. Manookian to circulate the derogatory statements and gossip to numerous lawyers who appear regularly in his court or to the media other than to engage in a personal attack in an attempt to embarrass him and ruin his reputation. (Tr. of Proceedings, pp. 545; 549; 553; 575).

Judge Brothers further testified he did not know Steve North very well; only knew Steve North professionally but not well; he never socialized with Steve North; Mr. North had nothing to do with his personal life; Mr. North had no basis for making any statement regarding Judge

Brothers' personal life; there was no basis for anyone to believe something Steve North may have said regarding Judge Brothers' personal life; and it would be inappropriate to rely upon such statements from Mr. North. (Tr. of Proceedings, pp. 562; 564; 566; 576-77).

With regard to the statement by Mr. Manookian that Judge Brothers "avoided conviction on a technicality" in his 1993 federal criminal trial, Judge Brothers testified that he was acquitted by a jury after a three (3) week trial and not on some procedural motion or ruling. (Tr. of Proceedings, pp. 587-93).

Mr. Manookian never located the purported recording of his conversation with Steve North and has made no further search for the purported recording. (Tr. of Proceedings, pp. 753-54). After the purported June 20, 2018, conversation with Steve North, Mr. Manookian made no complaint to the District Attorney for Davidson County, the United States Attorney or the Court of Judiciary. (Tr. of Proceedings, p. 754).

This Panel finds the testimony to Judge Brothers to be credible.

William Daniel Leader, Esq. - File No. 59125-5-SC

On November 14, 2018, the Board received information from William Leader regarding an email sent by Brian Manookian making statements referring to Gino Bulso, Esq. (Third Supp. Pet. for Discipline, pp. 8-11). The gravamen of the Board's complaint was that Mr. Manookian's statements were published with "no substantial purpose other than to insult, demean, disparage, embarrass, burden, and/or intimidate opposing counsel in [a] pending action." (Third Supp. Pet. for Discipline, pp. 8-11, at Paras. 65 and 73).

Gino Bulso testified that he ran for public office and for office as an elected public official in 2018. (Tr. of Proceedings, p. 164). At the time Mr. Bulso received the email that was the subject of File No. 59125-5-SC (hereinafter "the Bulso Email"), Mr. Bulso had recently stood for election

as a public official. (Tr. of Proceedings, p. 165). Mr. Bulso considers himself a supporter of Donald Trump, and he ran for public office on a platform where he advised potential voters that he supported Donald Trump. (Tr. of Proceedings, pp. 165-166.). Mr. Bulso has no opinion on whether Mr. Manookian is entitled to the opinion that Donald Trump is a racist. (Tr. of Proceedings, p. 166). Mr. Bulso does not dispute that Mr. Manookian lived in the political district in 2018 in which Mr. Bulso ran as a candidate for public office. (Tr. of Proceedings, pp. 166-167).

Mr. Bulso agrees that he received an email shortly after receiving the Bulso Email advising him to delete the Bulso Email and that it was not intended for him. (Tr. of Proceedings, p. 167). Mr. Bulso testified that he has inadvertently sent emails that he did not intend the recipient to receive. (Tr. of Proceedings, p. 170). Mr. Bulso testified that he lent his campaign personal funds. (Tr. of Proceedings, p. 170). Mr. Bulso testified that he lost the election that was discussed in the Bulso Email. (Tr. of Proceedings, p. 170).

Mr. Bulso testified that not all of the statements in the Bulso Email are statements of fact. (Tr. of Proceedings, p. 172). Mr. Bulso believes that the statement that he is "a complete douchebag" is a statement of fact and admitted that he has no understanding of what, under First Amendment law, constitutes a statement of fact versus a statement of opinion. (Tr. of Proceedings, p. 173).

Mr. Manookian testified that the Bulso Email was not intended to be sent to Gino Bulso and that he instructed Gino Bulso to delete the email. (Tr. of Proceedings, p. 953). Mr. Manookian testified that he has strong opinions on politics, and is particularly critical of President Trump and candidates for office that support President Trump. (Tr. of Proceedings, p. 953). Mr. Manookian testified that his understanding about Gino Bulso and his political campaign was that Mr. Bulso was a Republican candidate who supported Donald Trump. (Tr. of Proceedings, p. 953). He also

testified that Mr. Bulso had made Mr. Bulso politics a central point of public debate and public scrutiny by running for elected office. (Tr. of Proceedings, p. 953-954).

Mr. Manookian testified that the Bulso Email was not in representation of a client in any matter or means. (Tr. of Proceedings, p. 954), and that the Bulso Email reflects his opinion of Gino Bulso as a candidate for public office, and that nothing in his email is dishonest, fraudulent deceitful, or a misrepresentation. Rather, the Bulso Email consists of Mr. Manookian's opinions. (Tr. of Proceedings, p. 956).

CONCLUSIONS OF LAW

The jurisdiction and authority of this Panel is derived from Tenn. Sup. Ct. R. 9, and the specific provisions prescribed therein. Attorneys admitted to practice law in Tennessee are subject to the disciplinary jurisdiction of the Supreme Court, the Board of Professional Responsibility, the Hearing Committee, hereinafter established, and the Circuit and Chancery Courts. (Tenn. Sup. Ct. R. 9, § 8 (2014)). The license to practice law in this state is a privilege, and it is the duty of every recipient of that privilege to conduct himself or herself at all times in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law. (Tenn. Sup. Ct. R. 9, § 1 (2014)). Acts or omissions by an attorney, individually or in concert with any other person, which violate the Rules of Professional Conduct of the State of Tennessee constitute misconduct and grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. (Tenn. Sup. Ct. R. 9, § 11 (2014)).

Credibility

Questions concerning the credibility of witnesses and the weight and value to be afforded the evidence, as well as all factual issues raised by the evidence, are resolved by the trier of fact.

State v. Bland, 958 S.W.2d 651, 659 (Tenn. 1997). The particular trait of truthfulness is always an issue when a witness testifies. Thus, in contrast to the use of character evidence to show conformity with a trait such as violence or peacefulness, reputation and opinion evidence is always admissible to attack a witness's credibility. *State v. West*, 844 S.W.2d 144, 149 (Tenn. 1992). Courts have long acknowledged the significance of observing and hearing a witness prior to assess his or her credibility.

The Panel has previously determined that Mr. Manookian has a reputation for being an untruthful and dishonest person. The Panel, having heard further testimony from the witnesses in this disciplinary matter, reaffirms its previous findings as to credibility.

Rules of Professional Responsibility

Mr. Manookian argues that however "insulting, offensive and humiliation" one believes his speech to be, it is not on par with committing serious crimes, injuring vulnerable victims, or stealing from one's clients. See Proposed Findings of Fact and Conclusions of Law at p. 44. The Panel finds that any severe discipline based solely on "insulting, offensive and humiliating" words would be unwarranted. However, the actions of Mr. Manookian were not simply insulting, offensive or humiliating. In fact, the Panel finds that his actions involving Ms. Cavazos and his actions involving Mr. Puryear, especially when coupled with the Tennessee Supreme Court's finding that he posed a substantial and significant risk to the public, and that he had been warned multiple times but failed to change his actions, each provide separate and distinct claims against him that warrant disbarment.

Three Rules of Professional Conduct govern this matter:

1. Rule 8.4, which states that it is professional misconduct for a lawyer to a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another; c) engage in conduct

involving dishonesty, fraud, deceit, or misrepresentation; and (d) engage in conduct that is prejudicial to the administration of justice.

2. Rule 3.3(a)(1), "Candor Towards the Tribunal", which states that a lawyer shall not knowingly make a false statement of fact or law to a tribunal.

3. Rule 4.4(a)(1) "Respect for the Rights of Third Persons", which states that, in representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person or knowingly use methods of obtaining evidence that violate the legal rights of such a person. "Responsibility to a client requires a lawyer to subordinate the interests of others to those of the client, but that responsibility does not imply that a lawyer may disregard the rights of third persons." RPC 4.4, comment 1. The only limitation in the Rule is that the conduct must take place in the representation of a client. It does not limit the location and can clearly be violated by conduct that takes place outside the courtroom. Simply stated, in contrast to RPC 8.2, RPC 4.4 does not protect the "state's interest", rather it protects the interests of individuals. The rule's reference to third persons makes clear that it applies to lawyers' conduct directed at anyone other than the lawyer's client, including court personnel, jurors, lawyers, parties, witnesses, and others.

File No. 60938-5-SC – Complaint of Board and Karla C. Miller, Esq.

On September 21, 2018, Brian Manookian was temporarily suspended from the practice of law based on a finding by the Supreme Court of Tennessee that he posed a threat of substantial harm to the public. Only one month later did he make the following threats:

- "You're never gonna see your kid again."
- "I'm gonna ruin your fucking life. Do you know who I am? I'm not the guy you steal from."
- "Like, last night, I thought somebody had come in here, I thought it was, I was about ready to kill that guy."
- "I'm the wrong motherfucking dude to steal from. When we get off the phone, you need to Google my name…Do you know what I do to people who do way less than this to me? Like there are judges that have fucked with me that are in federal penitentiary right now."
- "Do you know what the legal definition of theft is? You don't just get to say, 'Oh, I was storing it.'…. I'll fucking represent your ex-husband for free, if I need to. You know what I'm gonna do to your life?"

- "You're going to jail. Where's your daughter?"

- "You might be going to jail...I'm gonna find out where you are right now. Somewhere where your dad is. I'll figure out who your dad is."

- "Oh, I've been to jail. It's not a fun place. You're going. That's fine. When we get off the phone, you start looking behind you because the race is on. I'm gonna figure out who your dad is, what hospital he's in. You know what I do for a living? I sue hospitals. I'll figure out who your dad is. I'll figure out where you are. Your mom's gonna tell me 'cause I'm gonna call her up right now, and left her know exactly what you did, and what she's on the fucking hook for, and what Gary's on the fucking hook for. Your mom's gonna go to jail too. You're never gonna see your kid again."

- "You're a drug addict, probably."

A number of separate and distinct actions violated Rule 8.4. They include:

1. The threat that Ms. Cavazos was never going to see her child again was dishonest and prejudicial to the administration of justice. At no point could Mr. Manookian actually have believed that the actions of Ms. Cavazos would result in her never seeing her child again. Instead, he was simply using his power as an attorney to unjustly invoke terror in a layperson.

2. The threat that Mr. Manookian was going to "represent her ex-husband for free" involved dishonesty and misrepresentation (aside from the fact that he was currently suspended from the practice of law), and was prejudicial to the administration of justice.

3. The threat that Ms. Cavazos' mother was going to jail was conduct that was deceitful and dishonest, and prejudicial to the administration of justice.

4. Mr. Manookian also violated RPC 8.4(c) when he testified falsely on December 13, 2018 and misled Judge Smith regarding the circumstances surrounding 201 Robin Hill including, the condition of the property, the failure to pay rent for October to December, and the physical abandonment of the property on July 2, 2018. As evidenced by the February 11, 2019 Order, the temporary restraining order was unnecessarily extended to December 18, 2018, due to Mr. Manookian's false and misleading testimony before Judge Smith.

Mr. Manookian also violated Rule 3.3 when he appeared in the Fourth Circuit Court for Davidson County on December 13, 2018 and provided sworn testimony to Judge Philip Smith regarding a November 20, 2018 telephone call he recorded with Ashley Cavazos. (Tr. of

Proceedings, p. 813; Exhibit C-4). While under oath, Mr. Manookian was directly asked if he had threatened Ashley Cavazos that he would call her ex-husband and make sure she never saw her child again. (Exhibit C-4, p. 13, L.22-25). Mr. Manookian denied making any such threat. Prior to providing his sworn testimony, Mr. Manookian had been subpoenaed to bring his recording of the conversation; however, he did not comply with the subpoena. Consequently, when Mr. Manookian testified on December 13, 2018, he knew his recording of the conversation was not available to be played for the Court.

After denying during cross-examination that he threatened Ashley Cavazos, counsel for Ms. Cavazos revealed that Ms. Cavazos had also recorded the November 20, 2018 telephone conversation. The Panel, having had the benefit of reviewing the terrifying twenty-six (26) plus minute recording, finds Mr. Manookian repeatedly threatened to contact Ms. Cavazos' ex-husband and/or make sure she never saw her child again. (Exhibit C-5; Exhibit C-6, Time Stamp 2:14, 3:24, 4:39, 5:42, 11:10, 16:56). The number of threats in conjunction with the tone and tenor of Mr. Manookian during the call leads the Panel to conclude that Mr. Manookian well knew when he testified that his denial was a false statement to Judge Smith. The Panel, having reviewed the transcript of the December 13, 2018, hearing, finds Mr. Manookian should have corrected his testimony but did not do so. (Exhibit C-4).

While the Panel is not bound to any findings by Judge Smith, in his February 11, 2019 Order, he makes clear that Mr. Manookian misled the Court when he testified on December 13, 2018. The Panel, having heard the testimony of the witnesses and reviewed the evidence introduced in the present disciplinary action, also finds Mr. Manookian misled Judge Smith when he omitted and/or colored material facts during his testimony concerning the condition of the property, his failure to pay rent from October to December, and his physical abandonment of the

property beginning July 2, 2018. The consequences of Mr. Manookian's misconduct caused actual and serious injury to Ashley Cavazos and her daughter, interfered with pending litigation in the Fourth Circuit Court and was prejudicial to the administration of justice.

Daniel Hayes Puryear, Esq. - File No. 61627-5-SC

The Hearing Panel finds the July 22, 2019 email to Mr. Puryear violated Rule 4.4(a)(1) "Respect for the Rights of Third Persons", as it had no substantial purpose other than to threaten and intimidate Mr. Puryear in the action he filed against Mr. Manookian pending in the Circuit Court for Williamson County.

Mr. Puryear testified that, as a result of receiving the email, he initiated measures to enhance security at his home and office, and temporarily removed himself as lead counsel in the case to make sure decisions about the case were not influenced by his reaction to the email. He also informed his clients that two lawyers would attend future hearings which increased the cost to his clients. The experience caused Mr. Puryear to seek counseling which he continues to receive two years later.

Mr. Manookian insists the email was meant only for his wife, and he had no intent to intimidate or threaten Mr. Puryear and his family. He points out that he only sent links to public information, and the email contained no threatening or intimidating language. He also sent a follow-up email to recipients of the email with the three hyperlinks in which he stated: "This email was not intended for anyone on this thread."

The Panel rejects this argument. It defies common sense that Mr. Manookian would send the email to all lawyers in the email chain, when he intended to send it to his wife, who was not included in the email chain. Simply arguing that "he didn't mean to" is a transparent attempt to

distance himself from his unethical conduct and create plausible deniability. Mr. Manookian used this tactic in the previous email.

The Hearing Panel also rejects the argument that the July 22, 2019 email was not threatening or intimidating. As Mr. Puryear testified, it reminded him of the email Mr. Manookian sent to C. J. Gideon about Mr. Gideon's daughter which was "the way a Mafia guy sends a letter that says, 'Hey, it's a nice place you've got here. Shame if something happens to it.'" Sending the email to Mr. Puryear and the other lawyers in the email chain served no substantial purpose other than to intimidate and threaten Mr. Puryear and his wife, and it clearly had that effect. Mr. Manookian's argument that he was not threatening Mr. Puryear and his wife is consistent with the argument he made regarding the email he sent to C. J. Gideon about Mr. Gideon's daughter and rings hollow. It was a veiled threat and had no substantial purpose in the litigation.

Mr. Manookian testified at trial that he was not representing a client, because he was trying to talk with his wife. Mr. Manookian was a named defendant in the case brought by Mr. Puryear, and the email thread related to issues about the case in which Mr. Manookian was representing himself. As noted above, the Hearing Panel does not believe Mr. Manookian's testimony that he intended the email for his wife only. This argument is without merit. See *Barrett v. Virginia State Bar ex rel. Second Dist. Comm.*, 272 Va. 260, 267–68, 634 S.E.2d 341, 345 (2006) (It would be a manifest absurdity and a distortion of these Rules if a lawyer representing himself commits an act that violates the Rules but is able to escape accountability for such violation solely because the lawyer is representing himself.)[1]

[1] The Hearing Panel finds the June 6, 2019 emails to Mr. Wiseman and Ms. Bledsoe had no substantial purpose other than to threaten, intimidate, demean, embarrass, harass, and distract Ms. Bledsoe. However, the Panel does not believe that Mr. Manookian's actions with regards to Ms. Bledsoe, or, for that matter, Judge Brothers, would warrant disbarment.

Cases from other jurisdictions are instructive. In *Kentucky Bar Ass'n v. Reeves*, 62 S.W.3d 360 (Ky. 2001) a lawyer violated RPC 4.4(a)(1) based on a threatening letter he sent to Hilliard/Lyons on behalf of his client, Ms. Grinstead. The letter demanded that Hilliard/Lyons terminate Samuel Dickinson, the son of the judge who was presiding over his own post-divorce case, and the account executive of Ms. Grinstead's investments. The lawyer wanted the judge to recuse himself. Ms. Grinstead accused Samuel Dickinson of improperly transferring funds from the account at the request of her husband and breaching his fiduciary duty. The Kentucky Supreme Court affirmed the finding that Mr. Reeves violated RPC 4.4.

> Although Respondent was entitled to inquire about the stock accounts on behalf of Grinstead, the fact remains that the means that he chose to contact Hilliard/Lyons, (the letter) exceeded the bounds of legitimate representation and demands for relief. He knew or should have known it was beyond available legal relief to demand that Hilliard Lyons terminate Samuel Dickinson. Respondent's personal animus toward the Dickinson family became apparent in the last paragraph on the second page of the letter.
>
> *Kentucky Bar Ass'n v. Reeves*, 62 S.W.3d at 365.

In re Comfort, 159 P.3d 1011 (Kan. 2007) involved a lawyer who sent a threatening and embarrassing letter to another lawyer and shared it with third parties. The lawyer who received the letter testified:

> [H]e had "never seen a letter like this," that "accused another lawyer—and without any real basis for doing so—of things like, you know, being a spy, and doing things that I felt they had absolutely no basis for making those allegations. And just deriding me professionally and personally. Yes, I was—I was insulted.... I felt like I had been slandered."
>
> *In re Comfort,* 159 P.3d at 1021

The Kansas Supreme Court upheld the lower court's finding that the lawyer's conduct violated Rule 4.4(a)(1). "The rule clearly proscribes conduct, and the dissemination or publication of a letter designed to embarrass is a 'means' explicitly contemplated by the rule." *Id.*

In re Pyle, 91 P.3d 1222 (Kan. 2004) the Court held that a lawyer violated RPC 4.4 by writing a letter to opposing counsel threatening to file a disciplinary complaint against him if he didn't settle the case within 20 days. The Court held that the lawyer's conduct constituted violations of the Rules of Professional Conduct prohibiting a lawyer from using means that have no substantial purpose other than to embarrass, delay, or burden a third person while representing a client, and engaging in conduct that is prejudicial to the administration of justice.

The emails sent by Mr. Manookian to opposing counsel and others violated RPC 8.4(d) because they were prejudicial to the administration of justice. They were intended to, and did, distract opposing counsel from the underlying case. Mr. Puryear sought and obtained a restraining order against Mr. Manookian prohibiting him from threatening Mr. Puryear and his family. Mr. Bulso sought and obtained a restraining order against Mr. Manookian prohibiting him from making any further communications to counsel and parties in this case, and in any case in which he is involved in this judicial district, that threaten, insult, disparage, embarrass, or degrade such counsel, litigant, or any family member thereof. Judge Brothers testified that he would now recuse himself from presiding over any future litigation involving Mr. Manookian and that any future professional relationship with Mr. Manookian would be impossible.

APPLICATION OF THE ABA STANDARDS

Pursuant to Tenn. Sup. Ct. R. 9, § 15.4(a), "[i]f the hearing panel finds one or more grounds for discipline of the respondent attorney, the hearing panel's judgment shall specify the type of discipline imposed: disbarment (Section 12.1), suspension (Section 12.2), or public censure (Section 12.4)." In imposing a sanction after a finding of lawyer misconduct, the Panel should consider the following factors: (a) the duty violated; (b) the lawyer's mental state; (c) the actual or potential injury caused by the lawyer's misconduct; and d) the existence of aggravating or

mitigating factors. (ABA Standard 3.0). Under the ABA Standards, intent is defined as "the conscious objective or purpose to accomplish a particular result" and knowledge is defined as "the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result."

ABA Standards for Imposing Lawyer Sanctions are guideposts for determining the appropriate level of discipline for attorney misconduct. *Lockett v. Bd. of Prof'l Responsibility*, 380 S.W.3d 19, 26 (Tenn.2012). The ABA Standards are not designed to propose a specific sanction for each of the myriad of fact patterns in cases of lawyer misconduct, and a hearing panel may consider the full panoply of sanctions applicable to lawyer misconduct even if a particular ABA Standard does not explicitly describe the fact pattern in question. *Bd. of Prof'l Responsibility v. Daniel*, 549 S.W.3d 90, 100 (Tenn. 2018). In cases where lawyer misconduct seems to fall between presumptive sanctions or within multiple ABA Standards identifying different presumptive sanctions, hearing panels and the Supreme Court are able and authorized to make an ultimate determination on the appropriate sanction. *Id.* at * 102. Under such circumstances, hearing panels should identify all relevant ABA Standards and then determine a sanction within the range of the presumptive sanctions identified in the relevant ABA Standards. *Id.* The ABA Standards suggest the appropriate baseline sanction and aggravating and mitigating factors provide a basis for increasing or reducing the sanction imposed. ABA Standard 3.0. See also *Hancock v. Bd. of Prof'l Responsibility*, 447 S.W.3d 844, 857 (Tenn. 2014) (length of an attorney's suspension, however, depends in large part on the aggravating and mitigating circumstances)

Violations of RPC 4.4 are addressed generally by ABA Standard 6.0 and specifically by 6.2. ABA Standard 6.0 addresses violations of duties owed to the legal system and states, in part, that "Lawyers are officers of the court, and the public expects lawyers to abide by the legal rules

of substance and procedure which affect the administration of justice." "Ethical standards require that a lawyer refrain threatening .... criminal prosecution (DR7-105); or otherwise interfering with a legal process (Rules .... 4.4 ...)." The evidence presented reflects Mr. Manookian knowingly sent emails to opposing counsel and filed pleadings in the representation of a client intending to personally threaten, embarrass, insult, demean and intimidate opposing counsel or others. Based upon the foregoing, ABA Standard 6.21 is the baseline sanction.

ABA Standard 6.21 addresses conduct in which the attorney acted knowingly with the intent to obtain a benefit for the lawyer or another and caused serious or potentially serious injury to a party or interference with a legal proceeding. As commentary to ABA Standard 6.2 makes clear, "Lawyers should be disbarred for intentionally misusing the judicial process to benefit the lawyer or another when the lawyer's conduct causes injury or potentially serious injury to a party, or serious or potentially serious interference with a legal proceeding." Conduct such as shouting at and verbally abusing witnesses and opposing counsel, undertaking an action to harass another and generally using offensive tactics is conduct address by ABA Standard 6.2. See *In re Crumpacker*, 269 Ind. 630, 383 N.E. 2d 36 (1978) (attorney disbarred, in part, for calling opposing counsel dense, a culprit, so lacking in mental capacity as not being able to find his way to the toilet, too big for his britches, a skunk, a jack-leg, lazy, tricky, unfit to practice law, and a little yellow son-of-a-bitch).

Under Standard 6.21, disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a legal proceeding.

Under 6.31, disbarment is generally appropriate when a lawyer:

(a) intentionally tampers with a witness and causes serious or potentially serious injury to a party, or causes significant or potentially significant interference with the outcome of the legal proceeding; or

(c) improperly communicates with someone in the legal system other than a witness, judge, or juror with the intent to influence or affect the outcome of the proceeding, and causes significant or potentially significant interference with the outcome of the legal proceeding.

Violations of RPC 3.3 and 8.4(d) are addressed generally by ABA Standard 6.0 and specifically by 6.1. ABA Standard 6.0 addresses violations of duties owed to the legal system and states, in part, that "Lawyers are officers of the court, and the public expects lawyers to abide by the legal rules of substance and procedure which affect the administration of justice." "Lawyers must always operate within the bounds of the law, and cannot create or use false evidence, or make a false statement of material fact (Rules 3.3) .... Ethical standards require that a lawyer refrain from .... interfering with a legal process." The evidence presented reflects Mr. Manookian made a false statement of fact and improperly withheld material information during his sworn testimony before Judge Smith on December 13, 2018, and his misconduct caused serious injury to a party and significant adverse effect on the legal proceeding. Based upon the foregoing, ABA Standard 6.11 is the baseline sanction.

Under 5.11, disbarment is generally appropriate when:

(a) a lawyer engages in serious criminal conduct a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses; or

(b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

Violations of RPC 8.4(c) are addressed generally by ABA Standard 5.0 and specifically by 5.11. ABA Standard 5.0 addresses violations of duties owed to the public and states, in part, that "The most fundamental duty which a lawyer owes to the public is the duty to maintain the standards of personal integrity upon which the community relies. The Public expects the lawyer to be honest and to abide by the law; public confidence in the integrity of officers of the court is undermined when lawyers engage in illegal conduct (Rules ... 8.4(c) ...). Comment 5 to RPC 8.4 states that "Paragraph (c) prohibits lawyers from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. Such conduct reflects adversely on the lawyer's fitness to practice law." Mr. Manookian intentionally provided false testimony and withheld material information from Judge Smith during his sworn testimony on December 13, 2018, and intentionally interfered with the administration of justice in the Fourth Circuit Court for Davidson County.

AGGRAVATING AND MITIGATING CIRCUMSTANCES

Pursuant to ABA Standard 9.22, the following aggravating factors were considered by the Hearing Panel to determine the appropriate discipline to be imposed against Mr. Manookian:

Prior Discipline:

Mr. Manookian received a Private Informal Admonition on August 12, 2014. Mr. Manookian contacted his wife, who was represented by counsel, and encouraged her to file a Notice and proposed Order of Voluntary Dismissal in their divorce action in violation of RPC 4.2. Mr. Manookian received a Private Reprimand on October 28, 2015. Mr. Manookian was convicted of a misdemeanor violation of the Food, Drug and Cosmetic Act in violation of RPC 8.4(d). He also received a two year suspension and remained suspended by the Tennessee Supreme Court, who, again, found that Mr. Manookian posed a substantial threat to the public.

Despite multiple charges and multiple opportunities to change directions, Mr. Manookian has displayed a custom and habit of threatening opposing counsel and third parties for no reasonably legitimate purpose other than to intimidate them.

Substantial Experience:

Mr. Manookian's substantial experience, having been licensed in Tennessee in 2007 is an aggravating circumstance.

Refusal to Acknowledge Wrongful Nature of Conduct:

Mr. Manookian has never acknowledged that his conduct in this matter was unethical, and in fact, he asserts that the Tennessee Supreme Court cannot sanction him for his conduct in this disciplinary action.

Pursuant to ABA Standard 9.32, mitigating factors were considered by the Hearing Panel, and the Panel finds no mitigating factors applicable in this disciplinary matter.

JUDGMENT

They must now, however, yield their power in a manner that Based upon the facts in this action, the application of the Rules of Professional Conduct and considering the ABA Standards, the Hearing Panel finds by a preponderance of the evidence that Mr. Manookian committed disciplinary misconduct and should be disbarred from the practice of law pursuant to Tenn. Sup. Ct. R. 9, § 12.1/12.2. The Panel finds that Mr. Manookian's (i) threats and actions with regards to Ms. Cavazos, (ii) Mr. Manookian's commission of perjury before Judge Smith, and (iii) Mr. Manookian's threats and actions with regards to Mr. Puryear present three (3) separate and distinct reasons, each of which is sufficient on its own for Mr. Manokian's disbarment. As such, the Panel finds it unnecessary to render judgment with regards to the additional charges.

ENTERED ON THIS THE 25th DAY OF AUGUST, 2021.

Claiborne K. McLemore, III, Panel Chair

Robert Charles Bigelow, Panel Member with permission

John Baird, Panel Member with permission

NOTICE

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33 (2014) by filing a Petition for Review in the Circuit or Chancery Court within sixty (60) days of the date of entry of the hearing panel's judgment.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to Respondent, Brian Philip Manookian, P.O. Box 150229, by U.S. First Class Mail, and hand-delivered to Russell Willis, Disciplinary Counsel, on this the 25th day of August 2021.

Katherine Jennings
Executive Secretary

NOTICE

This judgment may be appealed by filing a Petition for Review in the appropriate Circuit or Chancery Court in accordance with Tenn. Sup. Ct. R. 9, § 33.