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

IN RE: B. Chadwick Rickman, BPR #017534, Respondent, An Attorney Licensed to Practice Law in Tennessee (Knox County)

DOCKET NO. 2018-2810-2-WM

ORDER

This cause came on before a Hearing Panel of this Tennessee Board of Professional Responsibility ("the Board") on the 21st day of September, 2021, upon the Board's Petition for Discipline; the Answer of the Respondent, B. Chadwick Rickman ("Mr. Rickman"), testimony in open court, arguments and statements of counsel, from all of which the Hearing Panel issues the following Findings of Fact and Conclusions of Law:

STATEMENT OF THE CASE

1. This is a disciplinary proceeding against Respondent, B. Chadwick Rickman an attorney licensed to practice law in Tennessee. Mr. Rickman was licensed to practice in 1995.

2. On January 4, 2018, the Tennessee Board of Professional Responsibility (the "Board") filed a Petition for Discipline against the Respondent, B. Chadwick Rickman.

3. On May 24, 2018, Mr. Rickman filed his Answer to the Petition for Discipline.

4. On May 24, 2018, a Motion for More Definite Statement was filed by Mr. Rickman's counsel.

5. On July 6, 2018, the Board filed an Amended Petition for Discipline.

6. Mr. Rickman's Amended Answer to the Amended Petition for Discipline was filed on July 5, 2019.

7. The Final Hearing was held on September 21, 2021. The Board called two witnesses, Mr. Rickman, and Judge Don R. Ash. Mr. Rickman called one additional witness, Ms. Kim Nelson.

FINDINGS OF FACTS

The Petition for Discipline alleged conduct detailed in the report by informant, Judge Don R. Ash, that occurred during Mr. Rickman's representation of his employer, Loring Justice, also an attorney, in the matter of *Kim Nelson v. Loring Justice*, Case No. 16002 (Roane County Juvenile Court). The Board alleged that four motions signed and filed by Mr. Rickman make accusations against a sitting Judge and impugning the Judge's integrity.

After considering the testimony and evidence introduced at the Final Hearing, the Hearing Panel makes the following findings of fact and conclusions of law:

File No. 52601-2-PS – Informant – Judge Don R. Ash

8. Mr. Rickman represented Loring Justice in a contentious custody case in which the main issue was whether Mr. Justice should receive unsupervised parenting time with his minor son.

9. Throughout the case, the printed names of Mr. Justice and Mr. Rickman appeared in the signature block of all the relevant motions, although they bore only Mr. Rickman's

handwritten signature. [Trial Exhibits 1, 2, 4, and 7]

10. The Honorable Don R. Ash was assigned to preside over Mr. Justice's case in the Juvenile Court of Roane County, Tennessee. [Tr. p. 17:21 – 23, pp, 117:22 – 118:3]

11. At the time of the trial, Judge Ash was a Senior Judge with a great deal of experience in Juvenile matters. [Tr. 117:6 - 3]

12. Judge Ash's judicial career began in 1994 and is distinguished with various leadership roles as a Judge, a co-author of a book regarding children of divorce, and serving as part of the faculty at the Nashville School of Law and the Nashville Judicial College teaching divorce law, judicial ethics, self-representing litigants and trial management. [Tr. 118:9 – 119:6]

13. The Board alleges the following statements in the motions violate the Rules of Professional Conduct:

December 6, 2016 - Motion for Expanded Holiday Co-Parenting

> "The Court repeatedly is confused or pretends that the burden of proof is on Defendant to show some change has occurred. The Court persistently articulates differing and nebulous standards for Defendant to transcend and then changes them when Defendant does." [emphasis added].

December 6, 2016 - Motion to Strike Report of Dr. James Murray

a. "The appearance, perhaps not the reality, but the appearance is the Court is deliberately stacking the record to assist its favored party, the plaintiff." [emphasis added].

b. "The Court simply knows better than this as we all do and such an aberrant decision is evidence the Court has profound disdain for Defendant such the Court cannot see the best interests of Noah."

December 30, 2016 - Defendant's Motion for Interlocutory Appeal by Permission of the Trial Court under Tenn. R. App. 9 of the Trial Court's December 9, 2015 Order

a. "Plaintiff is holding Noah hostage for money, which is child abuse, **and the Court refuses to speak to this issue to any significant degree**." [emphasis in

original]

b. "Further, rather than adopting the posture of a neutral Judge, the Court attempts to hijack the presentation of Defendant's case, and as discussed below, attempts to intimidate witnesses."

c. "**Will even the Court contend it has met the standard of 'detachment' and 'aloofness' that are part of the American rule**?" [emphasis in original]

d. "Respectfully, it is straight up bizarre to use Rule 403 in a bench trial and this is proof positive the Court has lost its way." [emphasis added].

e. "In these circumstances, it is not improper to describe this level of bizarreness in a case involving child welfare as a farce."

f. "In these circumstances, any Judge thinking properly would insist on greater formality than normal, rather than chatting Ms. Nelson up about their mutual friend, 'Gerald,' among other things."

g. "At this point, a reasonable outside observer would find an appearance of bias or there would be grounds for disqualification for the appearance of a lack of competence if the Court knows no better than this."

h. "It would appear to a reasonable outside observer the Court is simply playing a shell game with a child." [emphasis added].

i. "The Court yelled a denial at Dr. Brown of her recommendation Noah's mother undergo individual psychotherapy to achieve Noah's best interests."

j. "This is such a loss of judgment a reasonable outside observer would find the proceedings to have the appearance of corruption." [emphasis added].

k. "The Court's demeanor is so hostile as to preclude a fair trial."

l. "A Judge that ignores inappropriate touching of a witness while testifying is a Judge who **appears** to be in the bag." [emphasis in original]

m. "When a Court's persistent demeanor is less in the nature of Learned Hand or Oliver Wendell Homes and more Yosemite Sam, particularly in a matter involving child welfare, the Court cannot continue to preside and this Court ought to allow interlocutory appeal to determine if the appellate court can assist it is (sic) resolving this case." [emphasis added].

n. "*Which of the three or four inconsistent stories the Court told about this is true?*" [italics in original].

o. "...the Court bizarrely went off the record and chatted up Ms. Nelson."

p. "It would be no burden on the Court to change venue but the Court stubbornly refuses, fostering the appearance of corruption in a case in which we already have documented judicial corruption (former Judge Austin), Judge Brewer's 'conflict of interest' and an opiate infused witness, Dr. Nordquist." [emphasis added].

q. "It would appear to a reasonable outside observer that something is wrong with the Court. These are not personal attacks on the Court but recordation of the events of this bizarre proceeding necessary for interlocutory appeal."

r. "In short, it is about appearances and here, in the words of the United States Court of Appeals, the appearances regarding the integrity of this proceeding are as pungent as 'the force of a five-week old, unrefrigerated dead fish.'"

s. "The absurdity of this is palpable."

t. "The Court appears as a bully who has 'issues' with the defense or relative to the Plaintiff and attempts to intimidate against zealous advocacy for Noah's welfare."

u. "Then, the Court rudely, abruptly, and disparagingly denied Defendant's motion..."

v. "However, the Court addressed her as one would address the Queen of England if they were ambassador to the Court of St. James. This is bizarre given her weirdly conflicting testimony and it is NOT THE ROLE OF A COURT TO PLAY MASTER OF CEREMONIES. The Court has precious little time for hearings and trial for Noah; it creates an appearance of impropriety and it wastes what time it will allow with overly effusive speeches that do not help anything and hurt when contrasted with the maltreatment of witnesses who furnish defense favorable information." [emphasis in original].

w. "But, to this Court, with an opportunity for a soliloquy, Judge Humphrey is the reincarnation of Louis Brandeis."

x. "...Loring crossed a line: he made a fool out of Judge Humphrey on the witness stand and Judges stick together; just read the soliloquy."

y. "...the Court is more interested in making the Roane County courthouse crowd happy and receiving their daily smiles than he is in caring for Noah's best interests."

z. "Also, in another way, this soliloquy is problematic: to an outside observer it would appear the Court may be using this as backdoor self-glorification or for secondary gain." [emphasis added].

aa. "...the appearance is the Court has a secondary gain from being perceived as a

'good man' by the Roane County courthouse gallery."

bb. "In so ruling, the Court articulated yet another, differing, nebulous and ever-shifting standard…"

cc. "Once again, the Court uses the *ipso facto* fallacy that is the province of tyrants: *it is so because I say it is so*, without explanation."

dd. "An interlocutory appeal is justified because to all appearances the Court runs from certain evidence as if it is the Black Plague." [emphasis added].

ee. "WILL THE COURT PLEASE ADDRESS THIS CASE LAW? IF IT WILL NOT, CAN THE COURT POSSIBLY CONTEND INTERLOCUTORY APPEAL IS NOT JUSTIFIED?" [emphasis in original].

ff. "The appearance of judicial misadministration and the bizarre, crawling, years-long trial structure, coupled with the corruption of Judges Austin and Humphrey (or possibly just significant incompetence by Judge Humphrey, indistinguishable from active corruption) joined with the Court chatting up Ms. Nelson off the record and attached with the fact the Court will not comment on Ms. Nelson attempting to SELL UNSUPERVISED TIME WITH NOAH, is so grave it is a violation of Noah and Loring's federal civil rights under color of state law." [emphasis in original].

gg. "Again, it does not create an appearance of objectivity when the Court runs from certain issues as if they are the Ebola virus." (page 38)

hh. "By suppressing this evidence, the Court has sanctioned child abuse…" [emphasis added].

ii. "Also, again, the appearance is of a pungent smell. On the evidence in this brief, no party or lawyer can be intimidated by a Court into remaining silent and accepting 'gas lighting' or an 'Emperor's New Clothes,' scenario."

March 8, 2017 - Defendant's Amended Motion to Recuse with Motions for Disclosure and other Motions Incorporated

a. "Again, it does not create an appearance of objectivity when the Court runs from certain issues as if they are the Ebola virus."

b. "It is yet another false claim of dishonesty by the Court, demonstrating it is inappropriate as a matter of appearance if not fact, for the Court to continue hearing this case. The strong appearance is if the Court cared as much about Noah's mother lying about attempting to sell time with him as the Court does about falsely accusing

Defendant and his counsel, Noah would be much better off. Further, it is evident or at least it would be thought by an outside onlooker, caught in apparent lies about reading the entirety of Dr. Nordquist's deposition and on the amount of time Mr. Rickman had spent examining Ms. Guerrero, the Court is embittered and either consciously or unconsciously 'creating' veracity issues about Defendant and Defendant's counsel, due to the ego injury the Court has suffered by the apparent revelation by them of its own recurrent dishonesty…" [emphasis added].

c. "For the Court to suggest, it might call Noah as a witness here, given the Court's denied, but obvious, antipathy for his Father, shows such a loss of judgment by the trial court that it ought to recuse. Noah should not be sacrificed as a means in the Court's efforts to assist Noah's mother against his Father. This is sick and abusive like the deliberate ignorance of the human trafficking Noah's mother and her attorneys have attempted to broker regarding Noah."

14. On December 15, 2016, during a telephonic motion hearing in which Mr. Rickman participated, Judge Ash directed Mr. Rickman and Mr. Justice to cease from including pejorative statements in the filings they filed with the Court. [Trial Exhibit 3, p. 8:10 – 10:14]

15. At the hearing of December 15, 2016, Judge Ash stated, "I am begging you to please refrain from inappropriate conduct and putting these things in pleadings." [Trial Exhibit 3, p. 10:12-17]

16. Mr. Rickman filed the Motion for Interlocutory Appeal on December 30, 2015, after Judge Ash directed Mr. Rickman and Mr. Justice to cease from using pejorative language in their filings in the December 15, 2016 hearing. [Tr 34:9 – 35:18]

17. Judge Ash filed the Order denying Defendant's Motion for Interlocutory Appeal on February 10, 2017 noting:

> Specifically, during a December 15, 2016 hearing, the Court again asked Mr. Rickman and Mr. Justice to refrain from including negative comments about the Court in their pleadings. The Motion for Interlocutory Appeal was filed approximately two weeks later. In utter disregard of the Court's directive, Defendant's Motion for Interlocutory Appeal again includes

derogatory references to the Court and its rulings . . .

[Trial Exhibit 5, p. 3]

18. After discussing various statements in the motions Mr. Rickman signed and filed, Judge Ash's Order of February 10, 2017 states:

> In any event, to be clear, the conduct of these attorneys will in no way influence the final ruling of this Court. Mr. Rickman and Mr. Justice are specifically ordered to refrain from making negative or offensive comments about this Court and its rulings, either by illustration or otherwise, both in court and in future pleadings. [emphasis added]
>
> [Trial Exhibit 5, pp. 10-11]

19. Mr. Rickman filed the Amended Motion to Recuse on March 8, 2017 after Judge Ash's Order on Defendant's Motion for Interlocutory Appeal of February 10, 2017. [Tr. 65:13-16]

20. Mr. Rickman testified he signed all four motions and that he filed the motions with the Court. [Tr. pp. 18:12 – 19:18; 25:3 – 20; 34:18 – 35:18; 65:19 – 66:25]

21. Mr. Rickman testified that Mr. Justice wrote the four motions and that Mr. Justice required him to sign and file the motions. [Tr 105:13-18]

22. Mr. Rickman testified if he did not file the motions, he believed Mr. Justice would reduce his pay or terminate him and Mr. Rickman was greatly concerned that he would not be able to find employment elsewhere. [Tr 101:7 – 102:12].

23. Mr. Rickman testified Mr. Justice assured him there was case law that supported the language in the motions was not violative of the Rules of Professional Responsibility as long as they were qualified with language such as "the appearance of . . ." or "to a reasonable outside observer." [Tr. 104:24 -105:2; 110:14-19]

24. Mr. Rickman testified he may have read the case Mr. Justice gave him, but he did no research or investigation of the applicable rules or the case to which Mr. Justice referred which indicated the statements were not inappropriate. [Tr. 40:24 – 42:25; 47:2-20]

25. Judge Ash testified Mr. Rickman and Mr. Justice worked together in the case, talked together, passed notes back and forth on cross-examination and direct and that Mr. Rickman never disavowed the statements in the four motions he signed and filed with the Court. [Tr. 128:5 -15]

26. Judge Ash testified he knew going into the case it was contentious and there was a lot of tension. [Tr. 119:20 – 120:13]

27. Judge Ash testified both Mr. Justice and Mr. Rickman argued the case, and both participated equally in the case and if Mr. Rickman signed a motion he assumed they both read it, because he was going to read it. [Tr. 121:6 – 25]

28. Judge Ash testified he asked Mr. Rickman and Mr. Justice several times in orders and several other times in court to stop including the pejorative language in the filings, but "[i]t just never stopped." [Tr. 121:18-25]

29. Judge Ash testified as to the personal nature of the statements in the motions and

his concern that it created a record accusing him of being incompetent, a liar, not knowing the law or running from the law like it was the Black Plague. Judge Ash felt he needed to get into the record that he "was a decent person. . ." [Tr. 122:14 – 123:12]

30. Judge Ash testified he assumed the strategy of filing the insulting language in the motions was to attempt to force Judge Ash to recuse himself or provoke him to conduct that would warrant recusal. [Tr. 123:13 – 124:17]

31. Judge Ash testified if Mr. Rickman had filed one or two motions and stopped after being admonished in his orders, he would not have sent information about his conduct to the Board. Judge Ash explained his concern was that the pejorative language contained in filings continued in the motions filed after he ordered Mr. Rickman to stop. [Tr. 127:9 – 13]

32. Ms. Nelson testified Mr. Justice told her his intent was to financially and emotionally break her. She described his "shock and awe campaign to try to break her." [132:17 – 133:2; 135:18 – 136:6]

33. Ms. Nelson testified on behalf of Mr. Rickman because she had compassion for him, as she too had been bullied by Loring Justice and he can make a person feel like the person has no choice as Mr. Justice is very controlling, vindictive and a bad person. [Tr. 139:12 -140:12]

34. Ms. Nelson testified the day of the Final Hearing was the first time she had heard Mr. Rickman express remorse. [Tr. 141:24 – 142:1]

35. Ms. Nelson testified she believed the Plaintiff's strategy was to get Judge Ash to recuse himself. [Tr. 142:5-18]

36. Ms. Nelson testified Judge Ash did not conduct himself in the manner described in the four motions that Mr. Rickman signed and filed with the Court. [Tr. 146:1 – 148:4]

37. Ms. Nelson testified she would not have signed the four motions that Mr. Rickman signed, and she would have disavowed the statements in the motions. [Tr. 149:15 – 21; 151:1-7]

CONCLUSIONS OF LAW

38. 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)).

39. 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)).

40. 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)). The Board alleges that the acts and omissions by Mr. Rickman constitute ethical misconduct in violation of the relevant portions

of the Rules of Professional Conduct 3.5(e), 8.4(a) and 8.4(d).

41. The Panel finds the Tennessee Supreme Court's decision in *Board of Professional Responsibility v. Parrish*, 556 S.W.3d 153, 167 (Tenn. 2018) in which the Court affirmed a Hearing Panel and Court's finding that derogatory statements in court filings violated RPC 3.5(e), 8.2(a)(1), 8.4(a) and 8.4(d) is generally controlling in this matter.

42. Mr. Rickman contends that he did not draft the offensive motions and filed them at the direction of Loring Justice. He admits, however, that he reviewed the documents and willingly signed his name as attorney of record. The Hearing Panel takes note of Comment 1 of RPC 5.2 which provides:

> Although a lawyer is not relieved of responsibility for a violation by the fact that the lawyer acted at the direction of a supervisor, that fact may be relevant in determining whether a lawyer had the knowledge required to render conduct a violation of the Rules. For example, if a subordinate filed a frivolous pleading at the direction of a supervisor, the subordinate would not be guilty of a professional violation unless the subordinate knew of the document's frivolous character.

43. Mr. Rickman contends he was assured by Loring Justice that Mr. Justice had completed all the necessary research, and the motions, as drafted, did not violate the Rules of Professional Conduct because of the way the language in the motions was styled.

44. The Board and Mr. Rickman draw the Panel's attention to Comment 2 of RPC 5.2 as particularly appropriate:

> When lawyers in a supervisor-subordinate relationship encounter a matter involving professional judgment as to ethical duty, the supervisor may assume responsibility for making the judgment. Otherwise, a consistent course of action or position could not be taken. If the question can reasonably be answered only one way, the duty of both lawyers is clear, and they are equally responsible for fulfilling it. However, if the question is reasonably arguable, someone has to decide upon the course of action. That authority ordinarily reposes in the subordinate lawyer's supervisor, in

> another lawyer who has primary responsibility for the representation, or in a lawyer who has authority to resolve such matters on behalf of the firm, and a subordinate may be guided accordingly. For example, if a question arises whether the interests of two clients conflict under RPC 1.7, the supervisor's reasonable resolution of the question should protect the subordinate professionally if the resolution is subsequently challenged. [emphasis added]

45. Mr. Rickman contends the appropriateness of the comments was a question that was reasonably arguable. However, the Panel finds his appeal to the Comments 1 and 2 of RPC 5.2 unconvincing, because Mr. Rickman is not a novice attorney having been licensed to practice law in 1995. A reasonable attorney with his experience would clearly know the statements were inappropriate. Accordingly, the Hearing Panel finds the issue of appropriateness of the statements is not a question that is reasonably arguable.

46. Mr. Rickman did not investigate the law and rules that supposedly supported Mr. Justice's assurances that the motions were proper – even after Judge Ash's directives that the conduct was to stop.

47. The Board submitted the Arizona case of *In re Alexander* as instructive for the Hearing Panel. In that case, the Supreme Court of Arizona opined "[a]n attorney who signs the pleading cannot simply delegate to forwarding co-counsel his duty of reasonable inquiry." The Court opined compliance with rules "turns on whether [the attorney] sufficiently inform[s] herself about the applicable facts and law to make good faith and nonfrivolous arguments. . ." *In re Alexander*, 300 P.3d 536, 541(Ariz. 2013). The Hearing Panel finds the Court's decision in *In re Alexander* is instructive when reading RPC 5.2(a) and (b), which provides:

> (a) A lawyer is bound by the Rules of Professional Conduct notwithstanding that the lawyer acted at the direction of another person.
>
> (b) A subordinate lawyer does not violate the Rules of Professional Conduct if

that lawyer acts in accordance with a supervisory lawyer's *reasonable resolution of an arguable question of professional duty.*

48. To an attorney with the experience of Mr. Rickman, the language itself indicates there was not an arguable question of professional duty in signing and filing the motions. Even if the motions did present an arguable question of professional duty, Mr. Rickman failed to sufficiently inform himself of the applicable facts and law. This is particularly true here, where Judge Ash warned him specifically prior to filing the Motion for Interlocutory Appeal, the most egregious of the three motions.

49. The Hearing Panel finds Mr. Rickman's reliance upon the assurances of Mr. Justice that the language in the motions was not inappropriate and the threat of termination if he did not sign and file them do not absolve him of his conduct.

Rule 3.5(e)
IMPARTIALITY AND DECORUM OF THE TRIBUNAL

A lawyer shall not:

(e) engage in conduct intended to disrupt a tribunal.

50. By his order entered April 18, 2017 regarding the Defendant's Amended Motion to Recuse with Motions for Disclosure and other Motions Incorporated, Judge Ash expressly found that motion was "brought for the improper purposes of harassment, delay and to needlessly increase litigation costs." [Trial Exhibit 8, page 1]. A reasonable objective person would agree.

51. Comment [5] of Rule 3.5 states, "The advocate's function is to present evidence and argument so that the cause may be decided according to law. Refraining from abusive or obstreperous conduct is corollary of the advocate's right to speak on behalf of litigants."

52. Comment [5] further states, "An advocate can present the cause, protect the record for subsequent review, and preserve professional integrity by patient firmness no less effectively than by belligerence or theatrics."

53. Mr. Rickman demonstrated clear belligerence in signing and filing the Motion for Interlocutory Appeal two weeks after Judge Ash ordered him to cease including derogatory statements.

54. By signing and filing the four motions, Mr. Rickman was acting in concert with Mr. Justice in his strategy of "shock and awe" to "break" Ms. Nelson in attempting to force Judge Ash to recuse himself or to provoke him to conduct warranting recusal and thereby protracting the litigation. This is conduct intended to disrupt a tribunal.

55. The statements in the four motions Mr. Rickman signed and filed clearly constitute "abusive and obstreperous conduct" which was intended to disrupt the custody proceeding in the Juvenile Court. *Hancock v. Board of Professional Responsibility of the Supreme Court of Tennessee*, 447 S.W.3d 844, 852-53 (Tenn. 2014) (holding that an attorney's email to a bankruptcy judge who denied his fee request and in which he called the judge a "bully and a clown" was a violation of RPC 3.5(e) as conduct intended to disrupt a tribunal).

56. After reviewing the motions, Mr. Rickman acted intentionally by signing and filing them and arguing at least two of the motions.

57. By his actions, Mr. Rickman intentionally approved and adopted the language used in the motions which was accusatory and designed to harass Judge Ash and secure a recusal so that the litigation could be prolonged.

58. Even if he was assured by Mr. Justice that the motions were not outside the bounds of civility and not a violation of the Rules of Professional Responsibility, he was clearly warned otherwise by Judge Ash on December 15, 2016 and February 10, 2017. Mr. Rickman chose to ignore Judge Ash's explicit orders and acted with knowledge by signing and filing the Motion of Interlocutory Appeal and the Amended Motion to Recuse.

59. Mr. Rickman was aware of the nature of the pleadings he signed and filed, and knowingly made the decision to endorse and adopt the language used, even after Judge Ash's admonitions to refrain from such behavior. Mr. Rickman's knowing and intentional acts clearly disrupted the tribunal in the underlying case. Mr. Rickman's acts caused injury in the time taken in the proceeding to address it and the disruption of the proceedings created by the inflammatory language in the motions.

60. Based upon the evidence presented and the record as a whole, the Hearing Panel finds by a preponderance of the evidence, Mr. Rickman violated RPC 3.5(e).

Rule 8.2(a)(1)
JUDICIAL AND LEGAL OFFICIALS

> (a) A lawyer shall not make a statement that the lawyer knows to be false or that is made with reckless disregard as to its truth or falsity concerning the qualifications or integrity of the following persons:
>
> (1) a judge.

61. RPC 8.2 prohibits an attorney from making false statements about the integrity or qualifications of a Judge because "these statements 'unfairly undermine public confidence in the administration of justice." *See* Comment 1 of RPC 8.2 and *Hancock,* S.W.3d at 854.

62. Mr. Rickman signed and filed motions that included statements and language with no regard as to the truth or falsity concerning the integrity of Judge Ash. By making the statements in documents filed with the Court, the statements were clearly published to a third party. *See Hancock*, 447 S.W.3d at 855.

63. Mr. Rickman signed and filed motions with statements impugning the integrity of the Court. The language in the four motions is similar to language in the statements described in the *Parrish* case where the Court affirmed the Respondent's conduct violated RPC 8.2(a)(1). Some of the statements use qualifying language such as "the *appearance*" or "to an outside observer." The Panel finds using the qualifying language does not absolve Mr. Rickman of adopting the language and notes that other statements in the motions do not contain qualifying language:

> "The Court simply knows better than this as we all do and such an aberrant decision is evidence the Court has profound disdain for Defendant such the Court cannot see the best interests of Noah."
>
> "Further, rather than adopting the posture of a neutral Judge, the Court attempts to hijack the presentation of Defendant's case, and as discussed below, attempts to intimidate witnesses."
>
> "The Court's demeanor is so hostile as to preclude a fair trial."
>
> "Again, it does not create an appearance of objectivity when the Court runs from certain issues as if they are the Ebola virus"
>
> "By suppressing this evidence, the Court has sanctioned child abuse. . ."
>
> "*Which of the three or four inconsistent stories the Court told about this is true?*"
>
> "There are numerous examples of the trial Judge belligerently hijacking the proceedings when they are going well for Defendant in contravention of the American rule. . ."
>
> "When a Court's persistent demeanor is less in the nature of Learned Hand or Oliver Wendell Homes and more Yosemite Sam . . ."

". . . the Court is embittered and either consciously or unconsciously 'creating' veracity issues about Defendant and Defendant's counsel, due to the ego injury the Court has suffered by the apparent revelation by them of its own recurrent dishonesty. . ."

64. The language in the motions Mr. Rickman signed and filed were insulting to and harassing of Judge Ash.

65. Even if Mr. Rickman believed Judge Ash issued erroneous rulings, that did not justify the "use of disrespectful, unprofessional or indecorous language to the court." *Bailey v. Board of Professional Responsibility*, 441 S.W.3d 223, 234) (Tenn. 2014) (quoting *In re Moncier*, 550 F.Supp.2d 768, 807 (E.D. Tenn. 2008).

66. Although it is appropriate for a lawyer to point out the Court's errors in a brief, "it is not acceptable for the attorney to 'insert matters which are defamatory, scandalous, impertinent and untrue' into a brief, and the court will not 'tolerate, either orally or by brief, … abuse of the…judge…" *Ward v. Univ. of the South*, 354 S.W.2d 246, 249 (1962) (cited by *Parrish* 556 S.W.3d at 165).

67. A reasonable attorney would not believe there was a factual basis for many of the statements made in the four motions that Mr. Rickman signed and filed with the Court.

68. RPC 1.0(f) provides "knows" denotes "actual awareness of the fact in question. A person's knowledge may be inferred from circumstances."

69. The Hearing Panel infers Mr. Rickman's knowledge of the falsity of the statements because Mr. Rickman knew the strategy in filing the four offensive motions was to force Judge Ash to recuse himself and further delay the proceeding.

70. The Hearing Panel infers Rickman's knowledge, because a reasonable attorney would not believe the offensive statements made in the four motions are true. *Parrish*, 556

S.W.3d 153 at 167; *See also James A. Dunlap Jr. v. Board of Professional Responsibility*, 595 S.W.3d 593, 609-10 (Tenn. 2020).

71. A reasonable attorney would not believe there was a reasonable factual basis to state that Judge Ash, given his experience and expertise as a Senior Judge, 1) "sanctioned child abuse;" 2) "runs from certain evidence as if it is the Black Plague;" 3) "is more interested in making the Roane County courthouse crowd happy and receiving their daily smiles than he is in caring for Noah's best interests;" 4) "simply playing a shell game with a child;" or 5) "demonstrates a demeanor "less in the nature of Learned Hand or Oliver Wendell Homes and more Yosemite Sam."

72. Mr. Rickman either knew the statements in the motions were false or he made the statements with reckless disregard as to the truth or falsity concerning the qualifications or integrity of Judge Ash with the intent to deceive the appellate court and to "unfairly undermine public confidence in the administration of justice." RPC 8.2, Comment 1.

73. The statements contained in the four motions "unfairly undermine public confidence in the administration of justice". RPC 8.2, Comment 1.

74. By signing and filing the motions, Mr. Rickman adopted the statements in them that he either knew to be false or showed reckless disregard as to the truth or falsity concerning the qualifications or integrity of Judge Ash with the intent to cause Judge Ash to recuse himself or to deceive the appellate court.

75. Based upon the evidence presented and the record as a whole, the Hearing Panel finds by a preponderance of the evidence, Mr. Rickman violated RPC 8.2(a)(1).

Rule 8.4(a) and (d)
MISCONDUCT

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;

(d) engage in conduct that is prejudicial to the administration of justice;

76. Violation of the aforementioned Rules of Professional Conduct constitutes a violation of RPC 8.4(a), Misconduct.

77. RPC 8.4(d) provides that conduct that is prejudicial to the administration of justice is prohibited. Here, as in *Parrish*, pejorative statements in motions filed with the Court are conduct that is prejudicial the administration of justice, particularly when at least two of the motions were filed after admonitions from the Court to cease from such conduct.

78. Mr. Rickman signed and filed motions that were prejudicial to the administration of justice and demonstrated reckless disregard as to the truth or falsity concerning the qualifications or integrity of a sitting Judge before whom he was appearing with and for Mr. Justice.

79. Based upon the evidence presented and the record as a whole, the Hearing Panel finds by a preponderance of the evidence, Mr. Rickman violated 8.4(a) and (d).

APPLICATION OF THE ABA STANDARDS

Pursuant to Tenn. Sup. Ct. R. 9, § 8.4, the appropriate discipline must be based upon application of the ABA Standards for Imposing Lawyer Sanctions, ("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."

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*, 447 S.W.3d at 857 (length of an attorney's suspension, however, depends in large part on the aggravating and mitigating circumstances).

80. Based upon the facts and misconduct previously cited, the Hearing Panel finds the following ABA Standards applicable and relevant to its determination of the appropriate discipline to be imposed upon Mr. Rickman:

> 6.12 Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.
>
> 6.22 Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or

potential interference with a legal proceeding.

7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty as a professional and causes injury or potential injury to a client, the public, or the legal system.

81. Mr. Rickman was consciously aware of the nature of the motions he signed and filed, and knowingly adopted and approved the language in the motions, even after being warned by Judge Ash. He was not negligent in his actions.

82. Further, the statements against Judge Ash in the motions signed and filed by Mr. Rickman were prejudicial to the administration of justice and served to significantly undermine the integrity and public confidence in the administration of justice. *See Parrish*, 556 S.W.3d at 168-69.

83. Mr. Rickman knowingly signed and filed the four motions containing false statements about Judge Ash to cause a potentially adverse effect on the legal proceeding.

84. Mr. Rickman knew when he signed and filed the Motion for Interlocutory Appeal and the Amended Motion to Recuse that it was a violation of the Court's order and caused potential interference with the legal proceeding.

85. Mr. Rickman knowingly signed and filed the motions in violation of his duty as a professional and cause injury to the legal system.

86. The Hearing Panel finds the appropriate sanction for Mr. Rickman's violations of RPC 3.5(e), 8.2(a) and 8.4(a) and (d) is a significant suspension. ABA Standard 2.3 provides that a suspension should be for a period of at least six months.

AGGRAVATING AND MITIGATING CIRCUMSTANCES

Having determined suspension is the appropriate baseline sanction, the Panel must consider the existence of any aggravating or mitigating factors and their applicability to this disciplinary matter. 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. Justice:

Aggravating Circumstances

The Panel finds the following aggravating circumstances justify an increase in the degree of discipline to be imposed against Mr. Rickman:

1. Mr. Rickman previously received a private informal admonition on March 13, 2017 for an oral statement about Judge Ash in this case.

2. Mr. Rickman's conduct in signing and filing four separate motions even after being warned by the court constitutes a pattern of misconduct.

3. Mr. Rickman demonstrated remorse on the day of his Final Hearing but prior to the trial refused to acknowledge the wrongful nature of his conduct, and his conduct facilitated and endorsed making accusations against a sitting Judge.

4. Mr. Rickman has substantial experience in the practice of law having been first licensed in Tennessee since 1995.

Mitigating Circumstances

The Panel finds the following mitigating circumstances that may justify a reduction in the degree of discipline to be imposed against Mr. Rickman:

1. Personal or emotional problems Mr. Rickman experienced during the period of conduct. Mr. Rickman testified that he was ultimately terminated by Mr. Justice, and that he had

a difficult time finding work. He further said that he had to file for bankruptcy, lost his house, and the turmoil caused the breakup of his marriage.

JUDGMENT

Based upon the testimony and evidence presented at the Final Hearing, application of the Rules of Professional Conduct, and consideration of the applicable ABA Standards and the aggravating and mitigating circumstances in this matter, the Hearing Panel finds by a preponderance of the evidence that Mr. Rickman committed disciplinary misconduct and should be suspended from the practice of law for one year pursuant to Tenn. Sup. Ct. R. 9, § 12.1.

ENTERED ON THIS THE 18th DAY OF November 2021.

John E. Eldridge

John Eldridge, Panel Chair

Marshall H. Peterson, by permission JEE

Marshall H. Peterson, Panel Member

Victoria B. Tillman, by permission JEE

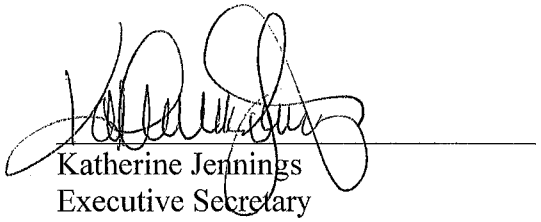
Victoria B. Tillman, Panel Member

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, B. Chadwick Rickman, c/o Gregory Brown, Counsel, 900 South Gay Street, Suite 2102, Knoxville, TN 37902, by U.S. First Class Mail, and hand-delivered to Joseph K. Byrd, Disciplinary Counsel, on this the 23rd day of November 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.