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Brodsky gets interim suspension to go with prior federal timeout

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Filing pleadings that revealed a client's business secrets, divulging emails that contained a divorcing couple's confidential mental health information and launching into what one judge called an "unhinged attack" on an expert witness are among the disciplinary charges facing Chicago attorney Joel A. Brodsky.

The Illinois Supreme Court this week suspended Brodsky, a sole practitioner, on an interim basis for his conduct in three cases. One of those cases, in which he baselessly accused opposing counsel and an expert witness of criminal acts, earned the attorney a separate U.S. District Court suspension two months ago.

The Supreme Court's interim suspension order issued Wednesday was effective immediately.

Brodsky denies all allegations of misconduct and maintains he is not a threat to the public.

"All [Brodsky] asks for is an opportunity to present his case to the Hearing Board before this [c]ourt considers the extreme and perhaps career ending step of entering an interim suspension," Brodsky's attorney, sole practitioner Samuel J. Manella, wrote in his response to the Attorney Registration & Disciplinary Commission pending complaint, which was filed in August 2018.

The ARDC administrator can petition the Illinois Supreme Court to suspend an attorney while disciplinary proceedings are pending if "the attorney-respondent has committed a violation of the Rules of Professional Conduct threatening irreparable injury to the public, his or her clients, or to the orderly administration of justice; and there appears to be persuasive evidence to support the charges."

The allegations in Count 1 of the ARDC's three count complaint overlap with the charges that led U.S. District Judge Virginia M. Kendall to order \$50,000 in sanctions against Brodsky in March 2018.

Kendall presided over a case, beginning in 2016, where Brodsky represented an used car dealership, S&M Auto Brokers, that was sued by Donaldson Twyman, who purchased an SUV and was allegedly not told about the vehicle's accident history. Twyman was represented by Peter S. Lubin, a partner at Lubin Austermuehle P.C.

Kendall described Brodsky's attacks against Lubin as "unprofessional, contemptuous and antagonistic behavior," which included "false accusations and inappropriate diatribes in pleadings, where he repeatedly accused opposing counsel of lying, extortion, attempting to create a false record and repeatedly requested sanctions without any good-faith basis," according to her March 2018 order imposing sanctions.

Kendall also accused Brodsky of making unfounded allegations and an "unhinged attack" against a plaintiff witness, Donald Szczesniak.

Kendall's order asked the committee to consider discipline for Brodsky within the Northern District of Illinois.

In April 2018, Brodsky appealed Kendall's order to the 7th U.S. Circuit Court of Appeals, which affirmed the \$50,000 fine. This April, the U.S. District Court suspended Brodsky for one year. Earlier this month, the same committee reduced Brodsky's suspension to six months after Brodsky paid the \$50,000 sanction.

Count 1 of the complaint alleges Brodsky's baseless accusations against Lubin and Szczesniak amounted to frivolous pleading that had no basis in law or fact, and had "no substantial purpose other than to embarrass, delay, or burden a third person."

In an email to the Law Bulletin, Lubin said: "The legal community is fortunate to have a jurist like Judge Kendall who had the temerity to say this stops here. In her sanctions decision, Judge Kendall made a strong stand for civility in our profession and the sanctity of judicial proceedings. The Illinois Supreme Court wisely followed Judge Kendall's lead. The Supreme Court's decision suspending Mr. Brodsky will protect future legal proceedings from suffering from the type of abuse of process, and incivility that Judge Kendall and the Seventh Circuit found occurred in the *Twyman* case."

Count 2 of the complaint involves his representation of Gamon Plus Inc. and Gamon International in a patent infringement case along with New York attorney Andrew Tiajolloff beginning in September 2014.

Gamon, Brodsky and Tiajolloff entered into a supplemental retainer agreement in January 2015 with Raymond P. Niro Jr., Kyle D. Wallenberg, and Matthew G. McAndrews, of Niro, McAndrews, Dowell & Grossman LLC.

Count 2 alleges Brodsky filed pleadings that revealed Gamon's confidential business information and communications subject to attorney-client privilege. Count 2 also accuses Brodsky of seeking to disqualify Niro, McAndrews, Dowell, & Grossman from representing Gamon without the client's consent, and failing to withdraw as attorney at the client's request.

McAndrews declined to comment.

The charges in Count 3 relate to Brodsky's representation, beginning in November 2016, of a man, S.F., in his divorce proceedings from his spouse, G.F.

In December 2016, S.F. and G.F. agreed to seek counseling with a psychologist. Following the first session, the psychologist sent S.F. and G.F. an email that outlined their discussion during the session of a preliminary parenting agreement.

S.F. forwarded Brodsky the email from the psychologist, and in January 2017, Brodsky filed a motion that contained a copy of the email.

In August 2017, Brodsky sent an email to opposing counsel, and copied S.F. and G.F. on the email, that stated, among other things, that G.F. is “very mentally sick” and “in need of serious help.”

Count 3 charges Brodsky with committing a criminal act by disclosing confidential mental health information contained in the psychologist’s email. He is also charged with communicating with G.F., instead of her attorney, by copying G.F. on the email, which had “no substantial purpose other than to embarrass, delay, or burden a third person.”

Brodsky earned his J.D. in 1982 at DePaul University College of Law and was admitted to the Illinois bar that year. He was suspended for three months in 2004 for keeping a client’s estate proceeds in the form of cash in his home rather than the estate’s account.

Manella did not respond to a request for comment.

This case is *In re Joel Alan Brodsky*, 18 PR 64.

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