Notice: This opinion is subject to formal revision before publication in the Atlantic and Maryland Reporters. Users are requested to notify the Clerk of the Court of any formal errors so that corrections may be made before the bound volumes go to press.

**DISTRICT OF COLUMBIA
COURT OF APPEALS**

No. 20-BG-583

IN RE LARRY E. KLAYMAN, RESPONDENT.

A Suspended Member of the Bar
of the District of Columbia Court of Appeals
(Bar Registration No. 334581)

On Report and Recommendation
of the Board on Professional Responsibility

(17-BD-063; DDN-028-11)

(Argued June 16, 2022 Decided September 15, 2022)

Melissa Isaak for respondent.

Myles V. Lynk, Senior Assistant Disciplinary Counsel, with whom *Hamilton P. Fox, III*, Disciplinary Counsel, was on the brief, for petitioner.

Before BLACKBURNE-RIGSBY, *Chief Judge*, and BECKWITH and MCLEESE, *Associate Judges*.

PER CURIAM: The Board on Professional Responsibility concluded that respondent Larry E. Klayman violated numerous District of Columbia Rules of Professional Conduct during his representation of former client E.S. The Board recommended that Mr. Klayman

be suspended for eighteen months, with a requirement that he show fitness before being permitted to return to the practice of law. We accept the Board's conclusion that Mr. Klayman violated the Rules of Professional Conduct, and we adopt the Board's recommended sanction.

I. Factual Background

In sum, the evidence presented by Disciplinary Counsel to the Hearing Committee was as follows. The evidence largely consisted of E.S.'s testimony but also included numerous documents, including written correspondence between E.S. and Mr. Klayman.

E.S. met Mr. Klayman in 2009, while she was covering a story for Voice of America (VOA). E.S. told Mr. Klayman that she was being sexually harassed by her cohost and that after she reported the harassment to her supervisor, she was transferred to a different position. Early in 2010, Mr. Klayman and E.S. agreed that he would represent her in a case against VOA. E.S. did not believe that Mr. Klayman provided her with a written document setting out the scope and nature of the representation. Mr. Klayman and E.S. agreed that Mr. Klayman would work on a contingent basis, receiving forty percent of any award E.S. won. Mr. Klayman later unilaterally increased his fee to fifty percent.

Mr. Klayman initially attempted to negotiate a settlement with VOA. After the negotiations were unsuccessful, Mr. Klayman encouraged E.S. to move from the District of Columbia to Los Angeles, assuring her

that he could get her transferred to the VOA office in Los Angeles. Mr. Klayman paid for the move and for E.S.'s living expenses in Los Angeles. E.S. and Mr. Klayman agreed that the money Mr. Klayman was providing would be paid out of any award E.S. won, in addition to the contingency fee. VOA denied E.S.'s request for a transfer, at which point Mr. Klayman filed a civil suit against E.S.'s alleged harasser and supervisors.

E.S. had wanted her case to be "very quietly handled," with as few people as possible finding out about the harassment. She explained her concerns about publicity to Mr. Klayman, and he initially respected her wishes. Mr. Klayman later began to pursue a strategy designed to draw attention to E.S.'s case. For example, shortly after filing suit against E.S.'s harasser and supervisors, Mr. Klayman filed suit against the members of VOA's governing board, the Broadcasting Board of Governors (BBG). The BBG included prominent public figures, particularly then-Secretary of State Hillary Rodham Clinton. E.S. did not agree to the BBG suit, worrying that the case "was getting too big" and preferring to focus on her harasser and supervisors. Mr. Klayman subsequently filed motions to disqualify the district-court judge who had been assigned to both of E.S.'s cases, arguing that the judge was politically biased against him. Mr. Klayman also wrote numerous articles mentioning E.S.'s case and providing confidential information about E.S. Although E.S. was initially "completely against" the articles, she

ultimately agreed to the publicity after Mr. Klayman explained that it would help her case.

In April 2010, Mr. Klayman began to repeatedly express romantic feelings towards E.S. Mr. Klayman told E.S. that he loved her, and E.S. replied that he was her attorney and they could only be friends. For months thereafter, Mr. Klayman kept saying that "he wanted to have a relationship with [E.S.] and [E.S. kept] saying no, and it was ongoing and ongoing and it wouldn't stop . . . it was very, very, very uncomfortable" for E.S. For example, Mr. Klayman sent an email to E.S. saying "You are . . . the only woman I've ever really loved. . . . [W]hen I walk down the street . . . and see an attractive woman, my thoughts immediately flip to you. I see no one else. . . . My loving you has given me true meaning in my life."

E.S. believed that Mr. Klayman's feelings for her were causing him to act unprofessionally in his representation, which Mr. Klayman himself acknowledged in writing several times. For example, in one letter, Mr. Klayman said that "I do truly love [E.S]. . . . [A]nd my own emotions have rendered me non-functional even as a lawyer." In an email, Mr. Klayman said "It[']s very hard to be a lawyer and feel so much for your client." In a second email, Mr. Klayman said that he had "not been able to function lately, because [he was] out there so far emotionally and got nothing back," and that E.S. would "get better legal representation with someone else . . . who does not have an emotional conflict and can keep his mind clear."

In July 2010, E.S. wrote to Mr. Klayman and directed him to withdraw the case against the BBG, which was by then the only active case. Several days later, E.S. wrote to an executive at VOA stating that she had "instructed Larry Klayman to withdraw any and all civil actions that he may have filed in my name and that he is no longer representing me." This letter was not sent directly to Mr. Klayman, but by the next day he had received a copy. Mr. Klayman, however, did not dismiss the entirety of the case against the BBG. He also continued to act on E.S.'s behalf. For example, after the trial court granted defendants' motion to dismiss the BBG case, Mr. Klayman filed a motion to reconsider.

In November 2010, because Mr. Klayman continued to contact her about her case, E.S wrote another letter to him reiterating his termination. That letter was incorrectly addressed, and Mr. Klayman testified that he did not receive it. E.S. wrote to Mr. Klayman a third time in January 2011, stating that he was "not representing [her] in any way or shape." Mr. Klayman replied to E.S., implying that she had not written the email and explaining that he "[could not] allow her legal rights and obligations to be compromised or lost altogether." Several days later, Mr. Klayman filed a notice of appeal in the BBG case, despite not having had any communication with E.S. about filing the appeal. E.S. later personally filed a notice of appeal in that case.

Mr. Klayman's testimony was contrary to E.S.'s in many respects. Generally, Mr. Klayman testified that

E.S. was seeking revenge against him because she was angry that her case had not gone well. Mr. Klayman denied having any romantic intentions toward E.S. To the extent he did have feelings for E.S., they "actually made [him] work harder" on her behalf. Mr. Klayman also contested the existence of a contingent fee agreement. Mr. Klayman testified that he consulted with E.S. about his actions in the case, such as filing the disqualification motion. Finally, he acknowledged E.S.'s initial reluctance to pursue publicity but testified that she later agreed to do so. He denied pressuring E.S. on the issue.

Mr. Klayman offered testimony from several other witnesses. Gloria Allred, a women's rights attorney, testified that she and Mr. Klayman had discussed E.S.'s case and that she had twice declined to take E.S.'s case. Former Judge Stanley Sporkin testified that he had found Mr. Klayman to be an honest and ethical lawyer and had no reason to doubt Mr. Klayman's character. Former Judge Sporkin also testified that he and Mr. Klayman had discussed E.S.'s case and that he had agreed with aspects of Mr. Klayman's litigation strategy. Timothy Shamble, who was E.S.'s union representative at VOA, testified, among other things, that E.S. had agreed to publicize her case and had herself distributed one of the articles Mr. Klayman wrote about her case at a VOA event. Keya Dash, a family friend, testified that Mr. Klayman did not seek a romantic relationship with E.S., although Mr. Dash was unaware of the emails that Mr. Klayman had sent E.S. stating that he loved her. Finally, Joshua Ashley

Klayman, Mr. Klayman's sister, testified that E.S. agreed with Mr. Klayman's publicity strategy and that Mr. Klayman was not in love with E.S.

II. Procedural Background

In 2010, E.S. filed a complaint with Disciplinary Counsel, alleging that Mr. Klayman was harassing her even though she had terminated his representation of her. Disciplinary counsel notified Mr. Klayman of the complaint and began to investigate, but apparently lost contact with E.S. for several years. Counsel brought charges in 2017.

After the evidentiary hearing, the Hearing Committee issued a lengthy report and recommendation. The Hearing Committee largely credited E.S.'s testimony over that of Mr. Klayman. The Hearing Committee concluded that Mr. Klayman had committed numerous disciplinary violations. Specifically, the Hearing Committee concluded that Mr. Klayman violated: (1) D.C. R. Prof. Cond. 1.2(a) (lawyer shall abide by client's decisions as to objectives of representation and shall consult with client as to means used) and 1.4(b) (lawyer shall appropriately explain matter to client), by, among other things, failing to inform E.S. before taking important steps in the litigation, including the filing of the motion to disqualify, and refusing to dismiss the BBG suit as E.S. had directed; (2) D.C. R. Prof. Cond. 1.5(b) (requiring written agreement regarding representation) and (c) (contingent fee agreement shall be in writing), by not entering into a written

fee agreement with E.S.; (3) D.C. R. Prof. Cond. 1.6(a)(1) and (a)(3) (lawyer shall not reveal client confidence or secret for lawyer's advantage), by disclosing E.S.'s secrets, without her informed consent, in the articles he wrote, and making these disclosures for personal gain; (4) D.C. R. Prof. Cond. 1.7(b)(4) (lawyer shall not represent client if lawyer's professional judgment will be or reasonably may be adversely affected by personal interest), by, among other things, representing E.S. without informing her about the conflicts of interest created by his feelings for her, his animus towards the Clinton family and the district-court judge, and his desire for publicity; and (5) D.C. R. Prof. Cond. 1.16(a)(3) (discharged lawyer shall withdraw from representation), by continuing to act on E.S.'s behalf after she terminated the representation. The Hearing Committee recommended that Mr. Klayman be suspended for thirty-three months and that he be required to demonstrate fitness to practice law before being reinstated.

The Board largely adopted the findings and recommendations of the Hearing Committee, with several exceptions. First, the Board's analysis of the Rule 1.4(b) violation differed from the Hearing Committee's. The Board concluded that Mr. Klayman had violated that rule because his communications with E.S. about his feelings for her were not "the kind of communication . . . that a client ought to receive from her lawyer" and had "drowned out" any legitimate communications about E.S.'s case. Second, the Board noted that Mr. Klayman appeared to concede a violation of Rule

1.5(b), but the Board did not explicitly find a violation of that Rule. Third, the Board concluded that Mr. Klayman's personal interest in E.S., not his animosity towards the Clintons and the trial judge or his interest in publicity, provided the sole basis for the conflict-of-interest violation. Fourth, the Board recommended an eighteen-month suspension with a fitness requirement.

After the Board issued its Report and Recommendation, this court issued an order to show cause why Mr. Klayman should not be temporarily suspended pending final action by this court. *See* D.C. Bar R. XI, § 9(g)(1) (if Board recommends suspension of one year or more, court will issue order to show cause why attorney should not be temporarily suspended pending final action by court); *id.* (to avoid temporary suspension, attorney bears burden of showing substantial likelihood of success on merits). Mr. Klayman opposed the temporary suspension, but this court ordered a temporary suspension in January 2021. The court also denied Mr. Klayman's motion to reconsider. Mr. Klayman subsequently filed additional challenges in this court to his temporary suspension. By separate order, we deny those challenges as moot in light of this decision adopting the sanction of suspension recommended by the Board.

Mr. Klayman also filed a federal lawsuit challenging his temporary suspension. *Klayman v. Blackburne-Rigsby*, No. 21-0409, 2021 WL 2652335, at *1 (D.D.C. June 28, 2021). The federal district court denied relief, and the United States Court of Appeals for the District

of Columbia Circuit summarily affirmed. *Id.* at *3; *Klayman v. Blackburne-Rigsby*, No. 21-7069, 2022 WL 298933, at *1 (D.C. Cir. Jan. 20, 2022) (per curiam).

Under D.C. Bar R. XI, § 9(g)(4), an attorney who is temporarily suspended pending final action by this court is required to comply with the requirements of D.C. Bar R. XI, § 14. Among other things, § 14 requires suspended attorneys (1) to notify clients and adverse parties of the suspension; and (2) to file an affidavit with the court, the Board, and Disciplinary Counsel stating that the attorney has complied with the order of suspension and the requirements of § 14. D.C. Bar R. XI, § 14(a)-(c), (g). The order temporarily suspending Mr. Klayman directed Mr. Klayman's attention to those requirements. The temporary suspension order also advised Mr. Klayman that his eligibility for reinstatement after suspension was tied to compliance with the requirements of § 14. *See* D.C. Bar R. XI, § 16(c) ("[A] suspended attorney shall not be eligible for reinstatement until a period of time equal to the period of suspension shall have elapsed following the attorney's compliance with section 14. . . ."). In February 2021, Disciplinary Counsel advised the court that Mr. Klayman had failed to file the required affidavit. As of the date of this opinion, Mr. Klayman apparently still has not submitted the required affidavit.

III. Delay

Mr. Klayman argues that the court should dismiss this matter because of the seven-year delay in bringing

charges. We agree that the delay in this case was very unfortunate. We have held, however, that "mere delay in the disciplinary process generally does not provide a legitimate ground for dismissal of the complaint," because "[t]he public interest in regulating members of the bar takes precedence over the attorney's interest in having claims speedily resolved." *In re Morrell*, 684 A.2d 361, 368 (D.C. 1996); *see also*, *e.g.*, *In re Pearson*, 228 A.3d 417, 427 n.13 (D.C. 2020) (per curiam) ("It clearly is not an ideal practice to delay prosecutions for seven years, but even troubling and inexcusable delays, without more, will not rise to a due process violation that requires dismissal.") (brackets and internal quotation marks omitted). Rather, undue delay "must be coupled with actual prejudice in order to justify dismissal." *In re Pearson*, 228 A.3d at 427 n.13 (internal quotation marks omitted). To warrant dismissal, the undue delay must have "substantially impaired" Mr. Klayman's ability to defend against the charges filed by Disciplinary Counsel. *In re Fay*, 111 A.3d 1025, 1032 (D.C. 2015) (per curiam).

The Board denied Mr. Klayman's request for dismissal, concluding that Mr. Klayman had failed to show prejudice sufficient to warrant dismissal. Our cases do not appear to make clear whether our review on this issue is deferential or de novo, and the parties have not addressed that issue. We need not decide the issue, because we agree with the Board's conclusion.

Mr. Klayman alleges that he was prejudiced in four ways. First, he points to an intended expert witness, Professor Ronald Rotunda, who passed away

before the hearing. As the Board explained, however, Professor Rotunda's expert report was admitted into evidence. Moreover, as the Board further explained, Professor Rotunda's expected testimony was focused primarily on legal issues, such as when delay in disciplinary prosecution warrants dismissal. The proper function of such testimony would have been limited at best. *See Steele v. D.C. Tiger Mkt.*, 854 A.2d 175, 181 (D.C. 2004) ("[A]n expert may not state [an] opinion as to legal standards nor may [the expert] state legal conclusions drawn by applying the law to the facts.") (internal quotations marks omitted). Finally, Mr. Klayman provided no information about any efforts he may have made to obtain a replacement expert.

Second, Mr. Klayman notes that E.S.'s psychologist, Dr. Arlene Aviera, became unavailable to testify due to illness. The record contains written documentation from Dr. Aviera about E.S.'s condition and correspondence from Mr. Klayman to Dr. Aviera. The availability of those materials mitigates the effect of Dr. Aviera's unavailability. Mr. Klayman also testified about his communications with Dr. Aviera. Mr. Klayman accurately points out that he attempted to take a deposition of Dr. Aviera in advance of the hearing, but the Hearing Committee denied that request. The Hearing Committee reasonably denied the request, however, because Mr. Klayman had failed to concretely describe what additional information Mr. Klayman would seek in a deposition. Moreover, the evidence that Mr. Klayman now claims he would have sought to elicit from Dr. Aviera – such as that E.S. was a difficult client

and that E.S.'s psychological problems were not caused by Mr. Klayman – does not appear to be of substantial importance.

Third, Mr. Klayman asserts that his memory had faded over the years, as had E.S.'s. We agree with the Hearing Committee, however, that neither E.S. nor Mr. Klayman displayed significant gaps in their memory of material facts.

Finally, Mr. Klayman claims that he lost or discarded documents that would have been helpful to his defense. We note that Mr. Klayman was on notice of the disciplinary complaint by 2011, and he therefore could have been expected to retain any relevant documents until that matter was explicitly resolved. *Cf. In re Ekekwe-Kauffman*, 210 A.3d 775, 786 (D.C. 2019) (per curiam) (attorney's claim of lost documents "is unpersuasive in light of the fact that [the attorney] was aware of the potential for misconduct charges"). In any event, Mr. Klayman has not in this court identified specific lost documents or their relevance.

In sum, we conclude that Mr. Klayman has failed to show that the delay in this case caused him substantial prejudice warranting dismissal. To the extent Mr. Klayman suggests that this court should not require such a showing, we are bound by the contrary holdings of our prior cases. *See*, *e.g.*, *In re Ekekwe-Kauffman*, 210 A.3d at 785 n.12 (declining to apply doctrine of laches in disciplinary proceedings, in light of prior precedent applying due-process framework to determine when dismissal is warranted on basis of delay).

IV. Alleged Bias

Mr. Klayman argues that the Office of Disciplinary Counsel, the Hearing Committee, the Board, this court, and others are all biased against him. For example, Mr. Klayman argues that (1) the district-court judge who handled the federal suits Mr. Klayman filed on E.S.'s behalf is "highly partisan and to the far left"; (2) the Office of Disciplinary Counsel and the Board are "managed by leftist pro-Clinton Democrats"; (3) one member of the Hearing Committee is a "communist" and another is a "deferential ultra-leftist"; (4) the entire disciplinary proceeding has been "highly partisan"; (5) the Office of Disciplinary Counsel is engaged in a "dogmatic and unrelenting . . . jihad" to remove Mr. Klayman from the practice of law; (6) members of the Hearing Committee "exhibited great vitriol toward Mr. Klayman"; (7) the Board "exhibited . . . open animus and bias against Mr. Klayman"; (8) "men are frequently disbelieved but women more often than not get off scot free when they lie to tribunals"; and (9) this court has prejudged this matter, suffers from a conflict of interest in the matter, and temporarily suspended Mr. Klayman "strategically to harm Mr. Klayman's reputation." The record, however, does not support Mr. Klayman's repeated assertions of bias.

V. Other Disciplinary Proceedings

Mr. Klayman repeatedly argues that it was inappropriate for Disciplinary Counsel to move forward with charges in this case, because disciplinary

authorities in Pennsylvania and Florida long ago dismissed the claims of misconduct in this case as baseless. We are not persuaded by that argument.

First, the record provides no direct information about the resolution of any disciplinary proceedings in Pennsylvania and Florida regarding the allegations in this case. There is some evidence that E.S. brought complaints to those authorities. Mr. Klayman also presented evidence that he has not been disciplined in those jurisdictions. It is unclear, however, whether complaints actually were brought in those jurisdictions, and if so, how those matters were resolved. For example, it may be that those jurisdictions choose to await resolution of the complaint in the District of Columbia, where the conduct at issue appears to have primarily occurred. *Cf., e.g.*, *In re Krapacs*, 245 A.3d 959, 959 (D.C. 2021) (per curiam) (noting that District of Columbia disciplinary proceeding had been stayed pending final resolution of disciplinary proceeding in Florida).

Second, in any event, it is unclear whether the District of Columbia disciplinary authorities or this court would be required to give binding effect to any determination that might have been reached in another jurisdiction as to the propriety of Mr. Klayman's conduct. *Cf., e.g.*, *In re Robbins*, 192 A.3d 558, 565-66 & n.7 (D.C. 2018) (per curiam) (declining to give preclusive effect in disciplinary proceedings to determination of Virginia court in Virginia disciplinary proceeding, because, among other things, disciplinary counsel did not

participate in Virginia proceeding and Virginia court relied on inferior record).

VI. Disciplinary Violations

Mr. Klayman challenges the Board's conclusion that he committed numerous disciplinary violations. We agree with the Board that each of the violations at issue was supported by the record.

We "accept the findings of fact made by the Board unless they are unsupported by substantial evidence of record." D.C. Bar R. XI, § 9(h)(1). We review legal conclusions de novo. *In re Cleaver-Bascombe*, 892 A.2d 396, 401-02 (D.C. 2006).

A. Credibility

Most broadly, Mr. Klayman takes issue with the decision of the Hearing Committee and the Board to largely credit E.S.'s testimony rather than that of Mr. Klayman. We are required, however, to "place great weight on credibility determinations made by the Board and the Hearing Committee because of the Hearing Committee's unique opportunity to observe the witnesses and assess their demeanor." *In re Pearson*, 228 A.3d at 423 (internal quotation marks omitted). We see no adequate basis upon which to overturn the credibility determinations made by the Hearing Committee and the Board.

It is true that E.S.'s testimony on various issues was impeached or contradicted by other evidence. For

example, although E.S. testified that she wanted to limit the publicity surrounding her case, there was evidence that she ultimately agreed to publicity and even in one instance publicly distributed information about the case. E.S. also testified that she was opposed to the suit against the BBG, which is arguably inconsistent with her later decision to personally file a notice of appeal after the case was dismissed. It is also true, however, that Mr. Klayman's testimony was impeached and contradicted on critical points. For example, Mr. Klayman testified that he had no romantic intentions toward E.S., but the record contains numerous emails from him where he declared that he was in love with E.S., going so far as to state that she was "the only woman [he had] ever really loved." Similarly, Mr. Klayman testified that he was representing E.S. pro bono and did not have a fee arrangement with her. In an email to E.S., however, Mr. Klayman said that "50 percent of any recovery is fair and that is what I require."

We conclude that the Hearing Committee and the Board acted reasonably by choosing to largely credit E.S.'s testimony over that of Mr. Klayman.

B. Specific Rule Violations

Many of Mr. Klayman's challenges to the findings of specific rule violations rest on Mr. Klayman's version of the facts. As we have explained, however, we must accept the factual findings of the Hearing Committee and the Board if those findings are "supported by substantial evidence in the record as a whole." *In re*

Godette, 919 A.2d 1157, 1163 (D.C. 2007). That is true even if "there might also be substantial evidence to support a contrary finding." *Id.* (internal quotation marks omitted). Having reviewed the record, we conclude that substantial evidence supports the Board's conclusion that Mr. Klayman violated the rules at issue.

1. Conflict of Interest

The Board concluded that Mr. Klayman violated D.C. R. Prof. Cond. 1.7(b)(4) by representing E.S. when his professional judgment was adversely affected by his personal interest in E.S. The record amply supports that conclusion.

Whether or not his feelings for E.S. were sexual or romantic in nature, Mr. Klayman indisputably had strong feelings for E.S. For example, he wrote that he had "fall[en] in love with [E.S.]," would always love her, and was "feeling real pain" because she did not share his feelings. Additionally, Mr. Klayman sent emails acknowledging that his feelings for E.S. interfered with his ability to represent her. For example, he wrote that his own "emotions [had] rendered [him] non-functional even as a lawyer." The record thus supports the Hearing Committee's conclusion, echoed by the Board, that Mr. Klayman had strong feelings for E.S. and that those feelings created a conflict of interest in violation of Rule 1.7(b)(4).

As Mr. Klayman suggests, some potential conflicts of interest can be waived if the client provides

informed consent. D.C. R. Prof. Cond. 1.7(c)(1). Even if the client consents, however, the lawyer must "reasonably believe[] that the lawyer will be able to provide competent and diligent representation" to the client. D.C. R. Prof. Cond. 1.7(c)(2). In light of his own statements, Mr. Klayman could not have reasonably believed that his professional judgment was unimpaired and that he could provide competent and diligent representation. Moreover, the record supports the conclusion that Mr. Klayman's feelings for E.S. did adversely affect his representation of E.S. For example, E.S. testified that she terminated Mr. Klayman's representation in part because he was not able to act professionally towards her and his contacts with her had become abusive. We therefore agree with the Board that Mr. Klayman's representation of E.S. while he had strong personal feelings towards her violated the rule.

2. Failure to Abide by Client's Wishes

D.C. R. Prof. Cond. Rule 1.2(a) requires a lawyer to "abide by a client's decisions concerning the objectives of representation" and to "consult with the client as to the means by which they are to be pursued." The Board concluded that Mr. Klayman violated this rule in two ways: by seeking publicity contrary to E.S.'s wishes and by refusing to dismiss the BBG lawsuit as E.S. directed. We agree with the Board's conclusion on the latter point and therefore see no need to address the first.

Mr. Klayman argues that by not dismissing the entirety of the suit against BBG he was abiding by E.S.'s stated wishes. That argument is contradicted, however, by the plain language of E.S.'s July 2010 email, which directed Mr. Klayman to "withdraw all the pending lawsuits that are on my behalf and/or in my name." Mr. Klayman also argues that he did not believe the letters instructing him to dismiss the BBG case and cease representation of E.S. reflected E.S.'s true wishes, pointing to the fact that E.S. ultimately appealed the trial court's decision in the BBG case. E.S.'s later appeal is not necessarily inconsistent with her desiring to dismiss the case at the time she instructed Mr. Klayman to do so. Moreover, the Hearing Committee reasonably did not credit Mr. Klayman's claim that he did not believe that the direction to dismiss the case was from E.S.

3. Revealing and Using Client Secrets

The Board concluded that Mr. Klayman violated D.C. R. Prof. Cond. 1.6(a)(1) (revealing client confidence or secret) and (a)(3) (using client confidence or secret for advantage of lawyer). Specifically, the Board concluded that Mr. Klayman's publicity campaign resulted in the public disclosure of confidential information about E.S. and that Mr. Klayman had not obtained informed consent from E.S. The Hearing Committee concluded that those disclosures were for Mr. Klayman's own advantage because the publicity lauded Mr. Klayman's own actions in handling E.S.'s cases, raising Mr. Klayman's professional profile.

Mr. Klayman argues that E.S. eventually consented to the publicity about her cases and her personal life. *See* D.C. R. Prof. Cond. 1.6(e)(1) (permitting disclosure of client confidence or secret with client's informed consent). Even assuming that is true, the Hearing Committee and the Board both concluded that E.S. did not give informed consent, but rather acquiesced in Mr. Klayman's views on the topic without having the benefit of adequate advice from Mr. Klayman. We conclude that the record supports those conclusions. *See generally* D.C. R. Prof. Cond. R. 1.0(e) ("'Informed Consent' denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct."). We also note that several of the articles that Mr. Klayman wrote were published after July 2010, when E.S. terminated Mr. Klayman's representation. We agree with the Hearing Committee that Mr. Klayman did not have E.S.'s informed consent to such publication, because E.S. had by that point terminated Mr. Klayman's representation of her.

Mr. Klayman notes that he attempted to provide the Board with a video that he contends showed that E.S. was trying to publicize her claims. The Board refused to consider that video, because the motion bringing the video to the Board's attention was received after the Board's recommendation was pending in this court. Although Mr. Klayman argues in passing that the Board's ruling on this issue was incorrect, he does

not address the Board's reasoning or provide a specific argument as to why the Board's ruling was incorrect under applicable principles of law. Because this issue has not been adequately presented for our review, we decline to address it. *See PHCDC1, LLC v. Evans & Joyce Willoughby Trust*, 257 A.3d 1039, 1043 (D.C. 2021) ("[Appellant], however, has not briefed that issue with adequate specificity, having failed to identify specific disputes of fact or issues of law that support reversal of the trial court's ruling.").

4. Explaining Matters to Client

The Board concluded that Mr. Klayman violated D.C. R. Prof. Cond. 1.4(b), which requires a lawyer to "explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." As previously noted, the Board reasoned that Mr. Klayman's barrage of communications with E.S. about his feelings for her were not "the kind of communication . . . that a client ought to receive from her lawyer" and "drowned out" any legitimate communications about E.S.'s case.

Mr. Klayman challenges the Board's reasoning, but we need not resolve that issue. The Hearing Committee based its conclusion of a Rule 1.4(b) violation on specific instances in which the Hearing Committee found that Mr. Klayman did not consult with E.S. before taking important steps in the litigation, including filing the motion to disqualify the district-court judge. The record supports that conclusion.

5. Absence of Written Fee Agreement

The Board concluded that Mr. Klayman violated D.C. R. Prof. Cond. 1.5(c) (requiring written fee agreement in contingent-fee case). Specifically, the Board credited E.S.'s testimony that there was a contingent fee agreement between Mr. Klayman and E.S.

Mr. Klayman disputes the existence of a contingent fee agreement, relying on his own testimony. The Board, however, reasonably credited E.S.'s testimony over Mr. Klayman's on this point, particularly given the email that Mr. Klayman sent demanding a contingent fee.

The Board noted that Mr. Klayman did not appear to contest the Hearing Committee's determination that Mr. Klayman violated D.C. R. Prof. Cond. 1.5(b), by failing to obtain a written agreement memorializing the terms of the representation. The Board, however, did not explicitly state its own conclusion on that issue. Although Mr. Klayman does not appear to specifically dispute in this court that he violated R. 1.5(b), we see no need to address that issue given the other violations that we uphold.

6. Failure to Cease Representation

Finally, the Board concluded that Mr. Klayman violated D.C. R. Prof. Cond. 1.16(a)(3) (lawyer shall withdraw when discharged). Mr. Klayman himself acknowledges that he continued to take action in E.S.'s case even after she discharged him as her lawyer. Mr.

Klayman argues that he did not receive some of the communications in which E.S. terminated his representation, but he concededly received at least one. Mr. Klayman also argues that he did not believe that E.S. actually wanted him to stop representing her, and instead believed that the communication at issue was actually sent by someone else. The Hearing Committee reasonably declined to credit this argument, finding that Mr. Klayman was aware of his termination by August 5, 2010, at the latest.

In sum, we accept the Board's conclusions that Mr. Klayman violated Rules 1.2(a), 1.4(b), 1.5(c), 1.6(a)(1), 1.6(a)(3), 1.7(b)(4), and 1.16(a)(3).

VII. Sanction

Mr. Klayman challenges the Board's recommended sanction of an eighteen-month suspension with a fitness requirement. When determining the appropriate sanction, we "adopt the recommended disposition of the Board unless to do so would foster a tendency toward inconsistent dispositions for comparable conduct or would otherwise be unwarranted." D.C. Bar R. XI, § 9(h)(1) (internal quotation marks omitted). "The Board's recommended sanction comes to us with a strong presumption in favor of its imposition." *In re McClure*, 144 A.3d 570, 572 (D.C. 2016) (per curiam) (internal quotation marks omitted). "To require proof of fitness as a condition of reinstatement after suspension, the record in the disciplinary proceeding must contain clear and convincing evidence

that casts a serious doubt upon the attorney's continuing fitness to practice law." *In re Peters*, 149 A.3d 253, 260 (D.C. 2016) (per curiam) (internal quotation marks omitted).

Mr. Klayman challenges the proposed sanction in two ways. First, he argues that the record does not support the proposed sanction because the record does not support the findings of misconduct. For the reasons we have already given, we conclude to the contrary.

Second, Mr. Klayman argues that the imposition of a fitness requirement would be at odds with our decision in *In re Klayman*, 228 A.3d 713 (D.C. 2020) (per curiam). In that case, this court concluded that Mr. Klayman violated D.C. R. Prof. Cond. 1.9, which generally prohibits conflicts of interest involving former clients. *In re Klayman*, 228 A.3d at 715-19. Specifically, the court concluded that Mr. Klayman acted impermissibly, and vindictively, by representing parties in suits brought against an organization where Mr. Klayman had previously served as general counsel. *Id.* The court imposed a ninety-day suspension but accepted the Board's recommendation against imposition of a fitness requirement. *Id.* at 719. The court explained that the disciplinary violations in that case, though serious, did not leave the court "with serious doubt or real skepticism that Mr. Klayman can practice ethically." *Id.* (brackets and internal quotation marks omitted). The court's holding in that case rested on the record and disciplinary violations in that case. That conclusion sheds no significant light on the question of whether the record and disciplinary violations in this case

warrant a fitness requirement. We agree with the Board that Mr. Klayman's many serious disciplinary violations in this case warrant the imposition of a fitness requirement.

VIII. Failure to File § 14(g) Affidavit

Finally, Mr. Klayman argues that he had no duty to file an affidavit attesting to his compliance with the rules governing suspended attorneys. D.C. Bar R. XI, § 14(g). Specifically, Mr. Klayman contends that a § 14(g) affidavit is only required after a final disciplinary order. We disagree. As previously noted, D.C. Bar R. XI, § 9(g)(4) explicitly states that an attorney temporarily suspended pending final action by the court must comply with the requirements of § 14.

For the foregoing reasons, respondent Larry E. Klayman is hereby suspended from the practice of law in the District of Columbia for eighteen months, with reinstatement conditioned on demonstrating fitness to practice law. We note that Mr. Klayman could not be reinstated until eighteen months after he "files an affidavit that fully complies with the requirements of D.C. Bar R. XI, § 14(g)." *In re Moats*, 275 A.3d 890, 891 (D.C. 2022) (per curiam); D.C. Bar R. XI, § 16(c) ("[A] suspended attorney shall not be eligible for reinstatement until a period of time equal to the period of suspension shall have elapsed following the attorney's compliance with section 14. . . .").

So ordered.

District of Columbia
Court of Appeals

No. 20-BG-583

IN RE LARRY E. KLAYMAN A suspended member of the Bar of the District of Columbia Court of Appeals **Bar Registration No. 334581**	**2017 BD 063** **2011 DDN 028**

BEFORE: Blackburne-Rigsby, Chief Judge; Beckwith, Easterly, McLeese, Deahl, and Howard, Associate Judges.

ORDER

(Filed Oct. 6, 2022)

On consideration of respondent's petition for rehearing en bane, and respondent's motion to stay the appeal; and it appearing that the majority of the judges of this court has voted to deny the petition for rehearing en banc, it is

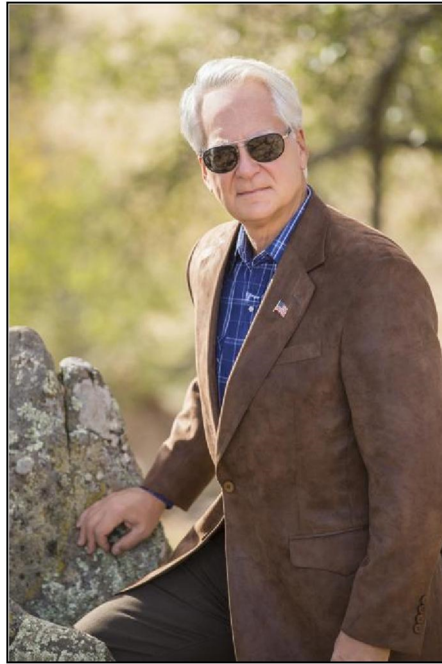
ORDERED that the petition for rehearing en banc is denied. It is

FURTHER ORDERED that the respondent's motion to stay the appeal is denied.

PER CURIAM

Associate Judges Glickman and AliKhan did not participate in this case.

About Larry Klayman



Larry Klayman, founder of Judicial Watch and Freedom Watch, is known for his strong public interest advocacy in furtherance of ethics in government and individual freedoms and liberties. During his tenure at Judicial Watch, he obtained a court ruling that Bill Clinton committed a crime, the first lawyer ever to have done so against an American president. Larry became so famous for fighting corruption in the government and the legal profession that the NBC hit drama series "West Wing" created a character after him: Harry Klaypool of Freedom Watch. His character was played by actor John Diehl.

In 2004, Larry ran for the U.S. Senate as a Republican in Florida's primary. After the race ended, he founded Freedom Watch.

Larry graduated from Duke University with honors in political science and French literature. Later, he received a law degree from Emory University. During the administration of President Ronald Reagan, Larry was a Justice Department prosecutor and was on the trial team that succeeded in breaking up the telephone monopoly of AT&T, thereby creating competition in the telecommunications industry.

Between Duke and Emory, Larry worked for U.S. Senator Richard Schweiker (R-Pa.) during the Watergate era. He has also studied abroad and was a stagiaire for the Commission of the European Union in its Competition Directorate in Brussels, Belgium. During law school, Larry also worked for the U.S. International Trade Commission in Washington, D.C.

Larry speaks four languages—English, French, Italian, and Spanish—and is an international lawyer, among his many areas of legal expertise and practice.

The author of two books, *Fatal Neglect* and *Whores: Why and How I Came to Fight the Establishment*, Larry has a third book in the works dealing with the breakdown of our political and legal systems. His current book, *Whores*, is on now sale at WND.com, Amazon.com, BarnesandNoble.com, Borders.com, and all major stores and booksellers.

Larry is a frequent commentator on television and radio, as well as a weekly columnist, on Friday, for WND.com. He also writes a regular blog for Newsmax called "Klayman's Court."

Larry has been credited as being the inspiration for the Tea Party movement. (See "Larry Klayman - The One Man TEA Party," by Dr. Richard Swier, http://fwusa.org/KFA)

[SEAL] **Support the work of Freedom Watch at www.FreedomWatchUSA.org**

IN THE DISTRICT OF COLUMBIA COURT OF APPEALS

In the Matter of: **LARRY E. KLAYMAN, ESQ.** **Respondent.** **A Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 334581)**	**No. 20-BG-583** **Board Docket No: 17-BD-063** **BDN: 2011-D028**

RESPONDENT LARRY KLAYMAN'S PETITION FOR REHEARING EN BANC

Dated:
September 29, 2022

Respectfully submitted,

/s/ Melissa Isaak

Melissa Isaak, Esq.
2815-B Zelda Road
Montgomery, AL 36106
Tel: 334-262-8200
Melissa@protectingmen.com

Counsel for Respondent

/s/ Larry Klayman

Larry Klayman. Esq.
7050 W. Palmetto Park Road
Boca Raton, FL, 33433
Tel: 561-558-5336
leklayman@gmail.com

Co-Counsel Pro Se

INTRODUCTION

On September 15, 2022, the three judge panel (hereafter "the Panel") who presided over this case since October 2020, nearly 24 months ago, issued an order (the "Order"), devoid of even one actual record cite, suspending Respondent Larry Klayman ("Mr. Klayman") for another 18 months with a reinstatement requirement despite the fact that Mr. Klayman had already been temporarily suspended, without due process as set forth in prior pleadings, for 20 months. Altogether, this would make a grand total of 38 months, plus a reinstatement requirement that could take years to adjudicate, given the bias and past practices of the Office of Disciplinary Counsel ("ODC"), the Board on Professional Responsibility ("Board"). This unconscionable conduct creates more than a strong inference that the Panel acted to effectively end Mr. Klayman's legal career in the District of Columbia, a clear violation of the Panel's judicial oath of office. 28 U.S.C. § 453.

Perhaps most egregious is the fact that the Panel essentially adopted wholesale and rubber stamped the Report and Recommendation ("Report") of the Board, writing that "[w]e accept the Board's conclusion that Mr. Klayman violated the Rules of Professional Conduct, and we adopt the Board's recommended sanction," "[w]e 'accept the findings of fact made by the Board unless they are unsupported by substantial evidence of record,'" "[o]ur cases do not appear to make clear whether our review on this issue is deferential or de novo . . . We need not decide the issue, because we

agree with the Board's conclusion," and "[w]e conclude that the Hearing Committee and the Board acted reasonably by choosing to largely credit E.S.'s testimony over that of Mr. Klayman. Order at 2,13,18,20. If the Panel was going to ignore Mr. Klayman's facts, witnesses, and arguments, then why did it take nearly 20 months to issue a decision? If its intention was to rubber stamp the Report, it could have done so immediately. The only explanation is that the Panel was acting punitively and wanted to extend Mr. Klayman's "temporary suspension" period. Even more, the Order is also factually and legally deficient, and does not contain **one record cite** to even attempt to justify its findings. This shows that there was no bona fide review of the record, which is the same as when Mr. Klayman opposed temporary suspension and moved for rehearing. The Order is wholly conclusory, which is the byproduct of the Panel deciding to ignore Mr. Klayman's facts, witnesses, and unrefuted testimony.

Evidencing its pre-determined mindset, the Panel writes at page 2 of the Order that "the evidence largely consisted of E.S.'s testimony but also included numerous documents, including written communications between E.S. and Mr. Klayman." Completely omitted is the fact that Mr. Klayman presented 7 distinguished and well-respected independent material witnesses, including himself, at the initial hearing, albeit before a biased and skewed Ad Hoc Hearing Committee (hereafter "AHHC"), in contrast to only Ms. Elham Sataki's consistently false and impeached testimony. One witness in particular, Tim Shamble ("Mr. Shamble"), the

president and representative of complainant Ms. Elham Sataki's ("Ms. Sataki") union at Voice of America, gave unimpeached and weighty testimony that Mr. Sataki had at every step of the legal representation been fully informed, had approved the use of publicity to try to coax a settlement with VOA, and then when that failed, approved of all of the litigation and publicity that had ensued. PFF 11,53,128. He also testified that he had never seen someone work as diligently for any client as Mr. Klayman, and he had recommended him to other VOA employees who needed legal representation concerning what has been ranked the worst agency in the federal government. PFF 6.

Even more, the Panel imposed a reinstatement requirement even though in a recent earlier case this court had found, "**we are not left with "[s]erious doubt" or "real skepticism" that Mr. Klayman can practice ethically. . . . Accordingly, we decline to impose a fitness requirement.**" *In re Klayman*, 228 A.3d 713,719 (D.C. 2020). Given that this case was over 12 years old at the time of the final suspension order, the Panel's finding that somehow Mr. Klayman should be subject to reinstatement now, after an earlier recent finding that he was fit to practice law – and never a finding of any dishonesty - makes no sense substantively, other than pure retaliation and an intention to effectively remove him from the practice of law in D.C. Finally, the icing of the cake of the bias that emanates from this case is that Ms. Sataki's identity is protected with reference to her as only E.S., while Mr. Klayman's name and reputation are dragged

through the proverbial mud, underscoring gender and ideological bias as discussed below.

In light of how this Court has recently dealt with far more serious alleged violations of the District of Columbia Rules of Professional Conduct, and in particular the Kevin Clinesmith ("Clinesmith") matter – a Trump hater and Justice Department lawyer who pled guilty to a felony of falsifying an FBI affidavit which gave rise to the Russian collusion investigation of Trump but who "got off' with a slap on the wrist with no reinstatement requirement – it is clear that the Panel has condoned and engaged in selective prosecution of someone who has been a public advocate for conservative causes. *In re Clinesmith*, 258 A.3d 161 (D.C. 2021). In sum, the Order must be subject to a bona fide *en banc* review, not only for the benefit of Mr. Klayman, but to uphold the integrity of this Court, which has been called into serious question by the conduct of the Panel, as set forth above.

LEGAL ARGUMENT

A. THE PANEL'S FACTUAL BACKGROUND IS UNSUPPORTED

There are at least two prominent factual and egregious errors in the recitation of facts by the panel. *First* involves that finding that Ms. Sataki " . . . explained her concerns about publicity to Mr. Klayman, he initially respected her wishes." Order at 3. This is completely untrue, as the record shows that Mr. Klayman and Mr. Shamble, on Ms. Sataki's behalf, tried long and

hard to settle Ms. Sataki's case with VOA management and only when the case did not quickly settle, did Ms. Sataki, along with Mr. Shamble and Mr. Klayman all agreed that adverse publicity for VOA could coax a settlement. PFF 170, Tr. 775, PFF 91, PFF 24 Thus, at all material times, Ms. Sataki agreed to the use of publicity and even herself distributed materials in this regard. PFF 24. As the final "nail in the coffin," Ms. Sataki even went on Iranian television in Los Angeles, revealing intimate facts about herself and her legal efforts with VOA and in the courts. App. 0119 – 0122. Unsurprisingly, Ms. Sataki did not disclose this to the AHHC and Mr. Klayman's defense team had to find this themselves. This clearly fraudulent conduct was obviously done in concert with ODC, who must have known about this crucial evidence and chose not to disclose it. That the Panel refused a motion to remand this matter back to the Board to open the record to review this video shows its inherent bias on this and other issues. *See* Board Order of Oct. 2, 2020.

Second, with regard to allegations of Mr. Klayman wanting a romantic relationship - which demonstrably is not in the record and in fact he told her the contrary, PFF 79 - when it appeared to him that the attorney client relationship was suffering, he referred Ms. Sataki to famed woman's rights lawyer and friend Gloria Allred as well as a VOA experienced lawyer Tim Shea. PFF 78. But Ms. Sataki did not want other counsel and asked Mr. Klayman to remain her counsel. PFF 78. This omission that Mr. Klayman told Ms. Sataki get

other representation shows that the record was ignored by the Panel. PFF 36.

These falsities are exacerbated by the Panel's baseless assertion the Mr. Klayman "encouraged" Ms. Sataki to move to Los Angeles. The record – including Ms. Sataki's own testimony – shows Ms. Sataki demanded that Mr. Klayman get her to Los Angeles, under the threat of committing suicide. PFF 109. Tr. 981-92.

What also was ignored was Ms. Sataki's abusive behavior toward Mr. Klayman, even disparaging his religious beliefs as a messianic Jew, and accusing him of taking bribes to throw her case. PFF 163, BCSX 38. It was behavior such as this which caused Mr. Klayman sadness as he did care for Ms. Sataki and why he referred her to other legal counsel. In addition to this, Ms. Sataki, attempting to take advantage of Mr. Klayman, asked him to buy her a new Mercedes. PFF 62.

Finally, the panel dismisses the testimony of the Honorable Stanley Sporkin, who while being in bad health, took it upon himself to travel and testify on Mr. Klayman's behalf. He testified under oath that Mr. Klayman had appeared in cases before him, and he came to see Mr. Klayman as an honest and ethical person that had no reason to doubt Mr. Klayman's character. PFF 188. And, as importantly, Judge Sporkin testified that had discussed Mr. Klayman's case strategy with Mr. Klayman and agreed with it. PFF 191. While the Panel was forced to concede this, they gave

it zero weight, showing their outcome determinative mindset.

B. THE PANEL'S PROCEDURAL BACKGROUND AND SECTION ON DELAY IS UNSUPPORTED BY THE RECORD

While having to admit that the ODC sat on a Complaint for 7 years, it still throws the book at Mr. Klayman despite the fact that under the policy of ODC, Ms. Sataki's complaint had long since been abandoned. PFF 169. Indeed, during the interim 7 years, both Florida and Pennsylvania had dismissed Ms. Sataki's identical complaint, PFF 43, and thus Mr. Klayman believed that the matter was no longer pending before ODC. As a result, he discarded records of the dismissals. It is well established that case records need only be kept for five years.[1] Importantly both Florida and Pennsylvania purge their filed after 5 years, and thus Mr. Klayman submitted proof of no disciplinary record as a result of Ms. Sataki's complaint, supporting the fact that the complaint was dismissed by these state bars. And, in this regard, laches is disregarded by the Panel, but it must be addressed since every other reputable bar association enforces this fundamental principle. It is unconscionable that a Complaint can sit for literally 7 years and be resurrected at ODC's pleasure to attempt to remove Mr. Klayman from the practice of

[1] https://www.dcbar.org/For-Lawyers/Legal-Ethics/Ethics-Opinions-210-Present/Ethics-Opinion-283#footnote11

law when it decides that his conservative public interest advocacy is not to its liking.

C. THE DELAY DID CAUSE SEVERE PREJUDICE

Summarily dismissing the prejudice caused by 12-year delay in this case, however wrongly, the Panel cavalierly wrote "[w]e agree that the delay in this case was very unfortunate." To brush off this delay again speaks volumes about the Panel's outcome determinative mindset and failure to adhere to its oath of office.

First, over the 7-year delay, thinking that the matter was over particularly given dismissals by state bars in Florida and Pennsylvania, Mr. Klayman discarded case records, including letters dismissing identical Sataki complaints.

Second, during the protracted saga, Professor Ronald Rotunda, the most renowned professional ethics expert, sadly passed away and only an initial letter he wrote to ODC arguing against an investigation, came into the record. RX 5. This letter was not, contrary to the false characterization of the panel, a formal expert opinion. Professor Rotunda's non-presence at the hearing before the AHHC prevented him from rebutting the testimony of ODC's "expert," Joel Bennett, among other relevant issues. Dr. Aviera, had she been able to testify and produce records, would have shown that Mr. Klayman, who himself paid for Ms. Sataki's consultations, was well intentioned and diligent in his legal representation, among other key issues.

But when Mr. Klayman had moved to depose Dr. Aviera early on in the case after it was instituted, the AHHC denied this reasonable request, along with a motion to depose Ms. Sataki. *See* Motion to Notice and Have Issued Subpoenas Duces Tecum to Take the Depositions of Elham Sataki and Arlene Aviera [Dkt. 33]. The AHHC, then stated that Mr. Klayman could renew his motion at the hearing, and despite ODC showing up at the twelfth hour on the day of the hearing with "new" documents from Ms. Sataki and Dr. Aviera, PFF 84, Mr. Klayman's renewed motion was quickly denied by a hostile AHHC. Tr. 18.

D. THERE WERE NO SERIOUS ETHICAL VIOLATIONS

The expressed modus operandi inherent in these proceedings is that a Respondent must confess to ethics violations to get a lesser sentence. But when Mr. Klayman is only guilty of deeply caring about and loving his client and does everything in his power to try to help her and seeks along with her union representative, as a team, to protect and preserve her legal rights when she goes "AWOL," no good deed goes unturned. As for the Panel's "rubber stamped," unsupported, conclusory findings—with incredibly no record cites—Mr. Klayman attaches his proposed findings of fact and conclusions of law. Exhibit 1.

1. Ms. Sataki Has No Credibility Based on Her Own Admissions and Impeached Testimony, and OCR Investigative Findings that She Lied About Alleged Sexual Harassment and Workplace Retaliation.

The Panel egregiously erred by not giving any weight to the countless times that Ms. Sataki lied and was thoroughly impeached, including but not limited to (1) her claims of sexual harassment and workplace retaliation being found by the Office of Civil Rights ("OCR") to be outright false—thereby evidencing that she fraudulently induced Mr. Klayman into representing her, PFF 155; (2) lying about wanting Mr. Klayman to drop her cases, and then filing a notice of appeal and asking ODC to prosecute her claims, PFF 67, 155; (3) being forced to admit that she approved of publicizing her case, and personally participating in doing so, and fraudulently concealing the fact that she went on Iranian television and gave an intimate interview about her and her case! PFF 170, Tr. 775, PFF 91, PFF 24, App. 0119 – 0122. These are just a few of the countless examples in the record.

2. Alleged Specific Rules Violations Are Manufactured Without Factual or Legal Bases

i. Alleged Conflict of Interest

The panel writes, in an overt effort to smear Mr. Klayman, injecting the nonexistent premise of sexual

harassment which was never even alleged or testified to by Ms. Sataki, that "[w]hether or not his feelings were sexual or romantic in nature, Mr. Klayman had strong feeling for E.S. For example, he wrote that he had 'fallen in love with (E.S.). would always love her and was feeling real pain," because she did not share his feelings. Order at 20. The last part of this statement is totally false and made up, as Mr. Klayman never wrote that he was feeling real pain "because she did not share his feelings." The record clearly reflects that when Ms. Sataki, who had become more than self-centered and abusive, while at the same time asking Mr. Klayman to buy her a car, PFF 62, that it was ethical and prudent for him to suggest that she find other counsel, as legal representation became untenable. Indeed, Mr. Klayman realized that both parties needed to move on and that is why he took Ms. Sataki to lawyers Gloria Allred and Tim Shea. PFF 78. In any event, "emotional interest," and caring for a client is irrefutably **<u>not</u>** an ethics violation under the District of Columbia Rules of Professional Conduct. Otherwise, a lawyer could not represent his spouse in a legal proceeding. This alleged violation is no more than biased, contrived, and completely manufactured rubbish, to be most diplomatic! Thus, there was no violation of Rule 1.7!

ii. Mr. Klayman Did Not Fail to Abide Ms. Sataki's Wishes

As the record confirms, Ms. Sataki's so-called wishes were adhered to at every step of the

representation, including publicity. Things were handled quietly initially was because it was agreed that attempted settlement was the best course of action. Only when that failed was the use publicity discussed, and irrefutably agreed to by Ms. Sataki. PFF 170, Tr. 775, PFF 91, PFF 24. So too was the decision to file suit against VOA's Board of Governors, which included a friend of Mr. Klayman, Blanquita Collum, as well as Hillary Clinton. PFF 95. The AHHC made much of the fact that she was sued along with the rest of the Board under *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971), thus underscoring their leftist anti-conservative bias. And, as set forth above, there is no clear and convincing evidence in the record that Mr. Klayman knew that Ms. Sataki allegedly wanted to dismiss her cases, which is clearly shown in the record. PFF 67 – 71. Most telling is that many years later, 7 to be exact, after ODC sent out its private investigator to hunt down Ms. Sataki she asked ODC if they could continue to litigate her claims! PFF 155. Thus, there was no violation of Rule 1.2.

iii. Mr. Klayman Did Not Reveal Client Confidences

Notwithstanding that Ms. Sataki was forced to admit that she approved the publicity and participated directly in distributing it, PFF 170, Tr. 775, PFF 91, PFF 24, is that she herself went on Iranian television to broadcast the same alleged confidential facts. App. 0119 – 0122. Thus, there was no violation of Rule 1.6.

iv. Mr. Klayman Did Explain Matters to Ms. Sataki

One of the most non-sensical and bizarre findings of the Panel is that Mr. Klayman violated Rule 1.4(b) by filing a motion to disqualify Judge Kotelly. Not only is a lawyer permitted some discretion in litigation, but the record also clearly reflects that Ms. Sataki was fully informed of this motion and did not object. PFF 66. There was no violation of Rule 1.4

v. Absence of a Written Fee Agreement

The panel chose to sidestep this issue, probably because a myriad of emails from Mr. Klayman stated that he was representing Ms. Sataki free of charge. PFF 47, 74. The issue of the contingency only arose when Ms. Sataki became more abusive, rejected other counsel to represent her, but wanted to continue with Mr. Klayman as her lawyer. PFF 152. Thus, there was no violation of Rule 1.5(b).

vi. There Was No Failure to Cease Representation

As set forth above, Mr. Klayman simply chose to protect Ms. Sataki's legal rights, as she had a right of appeal from the OCR's findings that she had manufactured her sexual harassment and workplace retaliation claims. PFF 72. This was the ethical thing to do, and thus, there was no violation of Rule 1.2.

E. SANCTION

As set forth above, it is irrefutable that Mr. Klayman has already egregiously served a "temporary" suspension of 20 months –longer than the ordered suspension of 18 months by the Panel. And, there was absolutely no reason for the Panel to take 20 months to issue its fatally flawed and completely conclusory Opinion if it was just going to adopt wholesale and rubber stamp the Board's Report in any event. This was just an intentional act to lengthen Mr. Klayman's suspension.

Furthermore, with regard to Mr. Klayman not filing an affidavit under D.C. Bar R. XI, § 9(g)(4), he made it clear that he was challenging the unconstitutional temporary suspension by the panel and indeed had instituted suit this regard as to its illegality. *Klayman v. Blackburne Rigsby et al*, 21-cv-409 (D.D.C.) Most crucially, the Panel chose to overlook sworn statements by Mr. Klayman he had 100% complied with the temporary suspension order and did not represent clients in D.C. during this period, as he respected the temporary suspension order, however unconstitutional it was. *See* Post Hearing Brief, Ex. 10, Exhibit 2. The Panel thus puts form over substance, while this Court looked the other way when Clinesmith, a convicted lying felon and admitted leftist Trump hater, did not comply with this rule. *In re Clinesmith*, 258 A.3d 161 (D.C. 2021). In that case, Clinesmith—the former senior FBI lawyer who dishonestly falsified a surveillance document in the Trump-Russia investigation and who pled guilty to felony charges—also did not submit any affidavit

under Rule 14(g) for five (5) months after he was suspended. Despite this, not only did the D.C. Bar Disciplinary apparatus including this Court fast-track if not whitewash his case—clearly in order to minimize his temporary suspension period, in stark contrast to the nearly 20 months that Mr. Klayman was "temporarily suspended"—the Court let Clinesmith off with "time served" in just seven (7) months, and of course with no reinstatement requirement. In doing so, the Court adopted wholesale the skewed findings of the Board and Hearing Committee. This is particularly egregious in that "[t]he Committee determined this was a serious crime in violation of D.C. Bar R. XI, § 10(d), but not one involving moral turpitude, either per se or on the specific facts." *Id.* This is completely non-sensical – how can a "serious crime" of falsifying evidence not involve moral turpitude? Of course, it appears the Court knew full well what it was doing, writing that "[t]his decision is non-precedential." *Id.* The Court would not want this preferential selective treatment to be afforded to those who hold differing political beliefs. Attached hereto is an article which discloses the Clinesmith whitewash by ODC, the Board, and ultimately this Court. Exhibit 3. The key difference, other than the fact that Clinesmith committed a felony over doctoring a false affidavit, which offense would ordinarily result in total disbarment, is that Mr. Klayman is pro-Trump and a conservative activist, while Clinesmith is ideologically akin to the leftist and Democrat leadership of the DC Bar disciplinary apparatus. And, Mr. Klayman, unlike Clinesmith, has never been found to have been dishonest.

Lastly, a reinstatement provision is unjustified where in a recent case this Court found, "**we are not left with "[s]erious doubt" or "real skepticism" that Mr. Klayman can practice ethically.**" *In re Klayman*, 228 A.3d 713, 719 (D.C. 2020). Then there is the testimony of Judge Sporkin And the acts complained of here are now over 12 years old, so to conjure up reinstatement in a case which any other reputable bar would have dismissed for laches is a travesty of justice.

CONCLUSION

Based on the foregoing, there must be a full, bona fide *en banc* review of this case, as there has been a gross miscarriage of justice and fundamental fairness by the Panel. **Notwithstanding no clear and convincing evidence of serious ethics violations, Mr. Klayman should have been found to have done "time served," a more worthy "sentence" for him than occurred with the dishonest convicted felon Clinesmith**. In the interim, the Court must stay the patently flawed Order of the Panel. If this bona fide review does not occur, this matter will not end here, as Mr. Klayman will be forced to seek relief under D.C.

Sup. Ct. Rule 60 and a petition for writ of mandamus before the Supreme Court.

Dated:
September 29, 2022

Respectfully submitted,

/s/ Melissa Isaak
Melissa Isaak, Esq.
2815-B Zelda Road
Montgomery, AL 36106
Tel: 334-262-8200
Melissa@protectingmen.com

Counsel for Respondent

/s/ Larry Klayman
Larry Klayman. Esq.
7050 W. Palmetto Park Road
Boca Raton, FL, 33433
Tel: 561-558-5336
leklayman@gmail.com

Co-Counsel Pro Se

[Certificate Of Service Omitted]

EXHIBIT 1

APPENDIX – PROPOSED FINDINGS OF FACT

Tim Shamble

1. Mr. Shamble has been with VOA since 1996, and he is currently the local union president, AFG Local 1812, a title he has held since 2000. Tr. 881.

2. Mr. Shamble was the union representative who was consulted by Ms. Sataki and Mr. Klayman with

regard to Ms. Sataki's claims of workplace sexual harassment and workplace retaliation at VOA. RX 1, RX 5.

3. Mr. Shamble declared under oath that Mr. Klayman was very diligent in attempting to represent Ms. Sataki, putting in many hours, and Mr. Klayman did not, to his knowledge, compromise any of Ms. Sataki's rights. RX 1, RX 5.

4. Mr. Shamble declared under oath that communication became very difficult and nearly non-existent with Ms. Sataki. When he and Mr. Klayman would try to contact Ms. Sataki, we usually got no response, even for months. RX 1, RX 5.

5. Mr. Shamble declared under oath that during these periods of no communication from Ms. Sataki, Mr. Klayman attempted to protect Ms. Sataki's rights so that they would not be forfeited. It is Mr. Shamble's opinion that Mr. Klayman acted professionally and ethically by trying to protect Ms. Sataki's rights even after she would not communicate with him RX 1, RX 5. Ms. Sataki admits that she knew Mr. Klayman and Mr. Shamble tried to reach her. Tr. 539.

6. Mr. Shamble declared under oath that he had given Mr. Klayman's name and number as a reference to at least one other aggrieved VOA employees who requested the name of an aggressive attorney, as he was impressed by Mr. Klayman's willingness to doggedly defend Ms. Sataki under difficult circumstances. RX 1, RX 5. Tr. 902.

7. Mr. Shamble declared under oath that the BBG, of which VOA is a subcomponent has been ranked the worst agency in government, and is very difficult to negotiate any settlement with because of its management's attitude and approach to employees. RX 1, RX 5.

8. Mr. Shamble declared under oath that it did not appear to him that Mr. Klayman was representing Ms. Sataki to promote his own interests, but rather to protect Ms. Sataki's. Mr. Klayman appeared very dedicated to Ms. Sataki's interests. RX 1, RX 5. "I've had several employees that have hired attorneys, and they have asked for the union to cooperate with them and to, you know, help them with their cases. But, in all honesty, I've never seen one go as far and as dedicated as Mr. Klayman was towards Ms. Sataki. I felt like he went above and beyond." Tr. 903- 04.

9. Mr. Shamble declared under oath that he was aware that public relations avenues were used to try to prod VOA into a settlement. RX 5. Tr. 892.

10. Mr. Shamble declared under oath that he was present at at least one meeting between Mr. Klayman and Ms. Sataki where the use of public relations, such as press articles and news stories to describe and publicize the alleged harassment that Ms. Sataki had experienced at VOA was discussed. The idea was that public relations could push BBG into a settlement given their track record of being difficult to settle with. RX 5.

11. There is an email between Mr. Klayman, Ms. Sataki and two other VOA broadcasters who Mr. Klayman was also seeking to help, about an interview with the Los Angeles Times. RX 5. Tr. 906-07. Ms. Sataki admits she never sent anything back to Mr. Klayman or Ms. Shamble saying that she did not want to do the interview. Tr. 403.

12. Mr. Shamble declared under oath that he was not aware that any public relations about Ms. Sataki's situation were anything but positive and complimentary about her. RX 5. Tr. 895.

13. Mr. Shamble, in the course of his duties and responsibilities as local union president, met Ms. Sataki around 2009. Tr. 882-82. Ms. Sataki alleged to Mr. Shamble that her harasser was Mehdi Falahati ("Mr. Falahati"), who was the co-host. Tr. 883.

14. At that time, Mr. Shamble observed that there were at least two factions at VOA – those who supported the Shah and those who support the mullahs – and that Ms. Sataki seemed to be with the pro-Shah faction. Tr. 883-84.

15. VOA had a very difficult reputation for negotiating. Ms. Sataki knew this. Tr. 368.

> They are very hard-edged. We've won – matter of fact, we've won several cases and they still don't knowledge it. If fact, we won a case where they have been illegally hiring noncitizens. We won that arbitration. They appealed that up to the FRA. They lost the FRA, then they appealed it to the Court of Appeals, and

> eventually had to withdraw their appeal, and they still won't abide by that decision. That's just an example of the type of management they are Tr. 884.

16. A 2009 articled by Joe Davidson in The Washington Post discussing the Open-Ended Survey showed that "the Broadcasting Board of Governors is at the very bottom. Employees don't rank them very high." Tr. 885-86, RSX 3. They have "consistently been worst or next to worst throughout the federal government." Tr. 886-87.

17. After meeting with Ms. Sataki, Mr. Shamble discussed how to proceed on her case, including filing a grievance or an EEO (aka OCR) complaint. Mr. Shamble contacted Labor Relations, but they were not willing to reach a fair settlement. Tr. 887. This was consistent with Mr. Shamble's experience dealing with VOA.

18. Ms. Sataki wanted to move to Los Angeles to work. "One of the solutions that [Ms. Sataki] had filed was possibly working out of the Los Angeles Bureau, bureau of broadcasting." Tr. 888. Ms. Sataki felt a good solution was to work out of Los Angeles. "Yeah, she wanted to – she thought that was a good solution to work out of Los Angeles." Tr. 892.

19. Ms. Sataki, Mr. Klayman, and Mr. Shamble met on several occasions. Tr. 890.

20. Mr. Shamble, Mr. Klayman, and Ms. Sataki agreed to try to settle Ms. Sataki's claims first before pursing litigation. Tr. 890.

21. In attempting settlement, Mr. Shamble and Mr. Klayman met with the BBG and their general counsel, and the response was very negative. Tr. 891. This was consistent with Mr. Shamble's previous experience with them.

22. The BBG offered to put Ms. Sataki in the Persian service or in Central News, but Ms. Sataki told them that she wasn't comfortable being around her alleged harasser or working strictly in English. Tr. 891-92. Tr. 916-17. RX25. Ms. Sataki declined this offer. Tr. 917.

23. Based on Mr. Shamble's extensive experience, publicity was a helpful tool in dealing with an agency as notoriously difficult as VOA. "We've done it. It's something that you can use to pressure managers, if they're intractable, you know, to try to get them to come to some sort of agreement. We have our own website, so we use it, too." Tr. 893.

24. Mr. Shamble and Ms. Sataki went together on one occasion to publicize her situation. "I remember one time. The VOA was on the mall here in Washington, some kind of public – it might have been a recruitment fair or something. But we had an article and both her and I were distributing it to people in the vicinity, tried to let people know and to let the agency know that, you know, we were going to publicize this." Tr. 893. The article that both Mr. Shamble and Ms. Sataki distributed was called ""Government War on a Freedom Loving

Beauty. Exclusive, Larry Klayman Goes to Bat for Harassed Broadcaster Fighting for a Free Iran." Tr. 894. RX 1.

25. During the course of attempted settlement, Mr. Klayman and Mr. Shamble learned that "we were trying to settle it through a member of the Board of Governors by the name of Blanquita Collum." ("Ms. Collum"). Tr. 911. Ms. Collum was a friend of Mr. Klayman, and Mr. Shamble and Ms. Sataki were aware of this fact. Tr. 911, Tr. 389.

26. Then Secretary of State Hillary Clinton was on the BBG at the time that Mr. Klayman and Mr. Shamble were trying to reach a settlement. Tr. 912,388. Ms. Sataki admits that she was aware that Secretary of State Hillary Clinton was included as a defendant in the BBG *Bivens* action because Mrs. Clinton was at the time "the number one governor sitting over that board." Tr. 479, 481.

27. Ms. Sataki was aware that Mr. Klayman and Mr. Shamble took actions with regard to congressmen and senators to try to get them to intercede. Tr. 454. They include John Boehner, Tom Coburn of Oklahoma, who was on the Foreign Affairs Committee at VOA, and John McCain. Tr. 912-14. During meetings with these Senators, Mr. Klayman and Mr. Shamble took press materials to give to them and Ms. Sataki did not object to this publicizing, even though she was aware that they were taking those meetings. Tr. 913-14.

28. Mr. Shamble was aware of the fact that " when Ms. Sataki went out on leave to Los Angeles that she

had a nervous breakdown, for lack of a better word, and went to see doctors?" Tr. 915. RX 24. Mr. Shamble asked for reasonable medical accommodation on behalf of Ms. Sataki, RX 26, which the agency denied. Tr. 916.

29. Mr. Shamble was aware that Mr. Klayman filed a complaint with OCR on behalf of Ms. Sataki. Tr. 918. Mr. Shamble was troubled by the investigation conducted by OCR. Tr. 919, RX 17. "They seemed to be stalling coming to some sort of resolution, and that was blocking any further progress in the case . . . that there were witnesses [on Ms. Sataki's behalf] that were claiming they were being harassed." Tr. 919-20.

30. Mr. Shamble wrote a letter to Lanny Breuer, Assistant Attorney General, Criminal Division of the Department of Justice about witness tampering. Tr. 920, RX 17. In response, Mr. Breuer referred Mr. Shamble to the Federal Bureau of Investigation. Tr. 921, RX 17.

31. Mr. Shamble wrote a letter dated January 4, 2011 to Ms. Delia Johnson, the director of OCR asking that OCR some to some kind of conclusion and reach a final decision. Tr. 922, RX 18. Ms. Johnson responded on January 5, 2011 informing that Mr. Shamble could proceed, before issuing a final finding denying Ms. Sataki relief. Tr. 922, RX 18.

32. After a negative final decision from OCR, a complainant has the option to pursue a Title VII action in the courts. Tr. 923. RX 18.

33. Upon receiving the final decision from OCR, Mr. Shamble and Mr. Klayman tried to contact Ms. Sataki

to inform her that she had the option to pursue legal action in the courts and that none of her legal rights were forfeited. Tr. 924-27.

34. Mr. Shamble testified that Ms. Sataki had his contact information and she could always contact him at any time. Tr. 927.

35. Mr. Shamble was copied, but Mr. Klayman was not, on a letter from Ms. Sataki to Mr. Danforth Austin dated August 4, 2010. Tr. 928. RX 21. Mr. Shamble was not consulted by Ms. Sataki before the letter was sent to Mr. Austin. Tr. 928.

36. Mr. Klayman asked Mr. Shamble for the name of another lawyer that might be able to help Ms. Sataki. Tr. 929. Mr. Shamble provided Mr. Klayman with Tim Shea's name Tr. 929.

37. Ms. Sataki did not contact Mr. Shamble until well after Mr. Klayman and Mr. Shamble had tried to contact her, and well after the January 23, 2011 email that was sent to her. Tr. 932.

38. Mr. Shamble testified that the signature on the OCR Complaint appeared to be Ms. Sataki's signature. RX 20, Tr. 933.

39. Mr. Shamble and Mr. Klayman had discussed being assigned Judge Kotelly in the court case against BBG and that Judge Kotelly "didn't have a very favorable opinion of [Mr. Klayman] or your politics or the way that you conduct your business." Tr. 934. Mr. Klayman informed Mr. Shamble that Judge Kotelly could be a problem in the case. Tr. 934-35.

Larry Klayman

40. Mr. Klayman, a former lawyer at the Department of Justice, and the founder of both Judicial Watch and Freedom Watch and a private practitioner, has considerable experience in administrative law and litigation, such as OCR cases, and has handled employment cases throughout his career and in his private practice. Tr. 947-963.

41. Mr. Klayman has continuously been a member of good standing of The Florida Bar (for 41 years) as well as the District of Columbia Bar (36 years) and is presently inactive in Pennsylvania. Tr. 964. RX 22.

42. The supplemental complaint of Ms. Sataki represents at paragraph C that identical complaints were filed in Pennsylvania and Florida. Tr. 968. BCX 23.

43. Pennsylvania and Florida disciplinary records show that these identical complaints were dismissed by these bars many years ago, as Mr. Klayman has no disciplinary record in this regard. Tr. 969-971. RX23 (Florida); RX 30 (Pennsylvania).

44. Mr. Klayman, thinking that the identical DC complaint had also dismissed, his records of the representation of Ms. Sataki were either discarded or lost, as Mr. Klayman was only notified six years after the supplemental complaint's filing that this matter was still active. Tr. 971.

45. Mr. Klayman met Ms. Sataki in the fall of 2009 on the Capitol Mall. He was there with an Iranian client to attend a rally in support of Iranian freedom. Ms.

Sataki was there broadcasting for VOA. After Mr. Klayman introduced himself, Ms. Sataki ran over to him and gave him her card with her personal cell phone number on it and asked him to call her. Tr. 323,974-975.

46. Mr. Klayman called Ms. Sataki and left a message. Eventually Ms. Sataki called back and they arranged to meet at Clyde's restaurant in Georgetown. Mr. Klayman got there first and when Ms. Sataki arrived she kissed Mr. Klayman on the cheek at the bar. Tr. 326. Mr. Klayman had asked Ms. Sataki to dinner in a personal capacity. Tr. 325,976.

47. After about five to ten minutes of getting personally acquainted, Mr. Sataki "broke down in tears and grabbed my hand and said, 'Larry, I really have big problems. I've been sexually harassed by my co-anchor, . . . she described it, Mehdi Falahati and before that I was unfairly criticized for my abilities and I need help. And, I said, well I will try to help you, and you know, I'll do it out of friendship. We're now friends." Mr. Klayman told Ms. Sataki he would legally represent her *pro bono* . Tr. 326-27,976-977.

48. Ms. Sataki admits that during their dinner she said that she wanted to be transferred to Los Angeles because she had spent a number of years there was was more comfortable there. Tr. 335.

49. Mr. Klayman sympathized with Ms. Sataki as he too was going through a hard time in his life, both personally and financially. Tr. 978.

50. Ms. Sataki then introduced Mr. Klayman to her union president and representative at VOA, Tim Shamble. He advised that VOA was very difficult to settle claims with, but that we would try. RX 1. Using publicity to try to coax a settlement was also discussed, and Ms. Sataki, Mr. Shamble and Mr. Klayman agreed up front to this. Tr. 979-980. RX 2.

51. When settlement did not prove possible, Ms. Sataki authorized Mr. Klayman to file legal actions. Tr. 981.

52. It was agreed that the objective of the legal actions would be to have Ms. Sataki detailed to the Los Angeles ("LA") Bureau of VOA, where there is a strong Persian component. She wanted to be out of the presence of the harasser and the managers who had retaliated against her and to be with family and friends in LA. Tr. 336.

53. Mr. Klayman continued to try to settle for Ms. Sataki and along with Tim Shamble lobbied senators and congressmen to intervene. Tr. 983-986. He prepared complaints when settlement proved impossible. RX 2, RX 3.

54. Mr. Klayman did not expect to ever be compensated for his time and expense, as the objective was to get Ms. Sataki detailed to LA and the complaint which he filed against the harasser, who had no money, was on principle. Tr. 336. The *Bivens* case versus the Board of Governors ("BBG") of VOA was designed also to get Ms. Sataki to LA and by seeking to hold the governors, whose head was Secretary of State Hillary Clinton,

personally and legally accountable to put pressure on them to agree. The employment complaint before OCR was also calculated for this purpose as well. A money recovery was not the goal, as even if successful it would be five to ten years down the line. Tr. 986-999. Ms. Sataki gratuitously "offered" 40% to Mr. Klayman via email on May 30, 2010, but this was never agreed to, and in any event not important to Mr. Klayman BCSX 11.

55. The case against the BBG was ultimately assigned to Judge Colleen Kollar Kotelly ("Judge Kotelly"), who was a Clinton appointee that Mr. Klayman had had difficulty with in the past. As Mr. Klayman had been a strong legal advocate in cases he brought against the Clintons at Judicial Watch, Judge Kotelly had demonstrated bias toward and against him and his conservative clients in the past, and both Ms. Sataki and he were conservatives. Judge Kotelly's confirmation had been strongly opposed by conservative interests. Mr. Klayman advised Ms. Sataki and Mr. Shamble that this was potentially a problem. Tr. 1000-1002.

56. Ms. Sataki while on leave to LA for a vacation, Tr. 338-39, got word that VOA would not transfer her there.

57. Having Ms. Sataki in LA was also strategically necessary, as she had been living with a co-worker in the DC area, and had a reputation for affairs and promiscuity. It was thought that this could be used against her, however unfairly, since she was pursuing

sexual harassment and retaliation complaints against co-workers at VOA. Tr. 1003-1004. Ms. Sataki admits that Mr. Klayman advised her in this regard.

58. As predicted, Judge Kotelly given her dislike of Mr. Klayman, despite the compelling evidence of that Ms. Sataki needed a reasonable medical accommodation, without even a hearing, denied the motions for a temporary restraining order and preliminary injunction to put her back to work in LA away from the harasser. RX 3. At the time, Mr. Klayman had consulted with retired federal judge Stanley Sporkin who told him that he would have granted the relief to preserve the status quo if he had been the jurist on the case. He described the relief as a "chip shot." Tr. 1009-1010.

59. Mr. Klayman then moved for reconsideration, as in his opinion there was no basis in fact or law for Judge Kotelly to deny preliminary relief. RX 3.

> And consequently there is no basis. And that just my opinion. I'm entitled to my opinion. There is no basis in law or fact. The Bar tries to make an issue of that, Bar Disciplinary Counsel. But lawyers say that all the time, there was no basis for the court to make a ruling. And there wasn't a hearing. Because without a hearing and just simply not considering her affidavits and considering the government, particularly when I had a polygraph that she passed and all that medical information, to me was exemplary of bias and prejudice. There was no other way to explain it in my mind, and there was no basis in law or fact. So that's what happened. Tr. 1011.

60. Ms. Sataki was kept informed of Mr. Klayman's strategy and actions on her behalf every step of the way. Tr. 1011.

61. Ms. Sataki blamed Mr. Klayman for Judge Kotelly's decision. She disparaged Mr. Klayman Tr. 1020 to 1021.

62. Ms. Sataki admits that she asked Mr. Klayman to buy her a cheaper car, as she had no credit. Tr. 429, 432-435. Ms. Sataki also asked Mr. Klayman to find her friend Kaveh a bankruptcy attorney and then berated him over who he found. Tr. 1021-22. Mr. Klayman paid for Ms. Sataki's moving expenses, including her car.

63. Mr. Klayman had also tried to get Ms. Sataki a good paying and prestigious job as a broadcaster in LA. He took her to seek his friend, the chairman of Movieguide, Ted Baehr, who tried to get her a job a CBN, which has a bureau in LA and which broadcasts in Farsi into Iran. She was introduced to Mark Woodland, and executive of CBN and an interview was set up. Tr. 1026-27, 713-714.

64. But at that point, Ms. Sataki's (convicted felon) cousin, BCSX 36, with several different alias names including Sam Razavi intervened and . . .

> (a)pparently spoke to Mark Woodland and scared him off and said 'You know she's a Muslims I don't have a problem with her working for you, but she has certain conditions' . . . that have to be met. You don't do that before you get an interview. It was clear that Sam didn't want her to be there, so

Woodland got cold feet and backed off. Tr. 1027. BCSX 37. Tr. 721-724.

65. Mr. Klayman filed a motion to disqualify Judge Kotelly to get her orders vacated once disqualified. In the motion to disqualify Judge Kotelly, Mr. Klayman attached about 14 pages of her factual errors as proof of her bias toward Ms. Sataki and Mr. Klayman Tr. 1034. RX 3.

66. Ms. Sataki knew about the motion to disqualify. Tr. 1166, 1170.

67. While at the same time she was allegedly telling Mr. Klayman to drop all cases, Ms. Sataki sent in a notice of appeal to Judge Kotelly. RSX 4. Tr. 1031.

68. Mr. Klayman, on July 28, 2018 filed a notice of voluntary dismissal dismissing all but two of Ms. Sataki's claims.[4] The only two remaining claims at that point were for a Privacy Act claim, and for *Wagner* injunctive relief. This occurred before Ms. Sataki's purported July 30 email which only asked Mr. Klayman to "withdraw all the pending lawsuits that are on my behalf and/or in my name " BCSX 21. Ms. Sataki asks Mr. Klayman to continue to pursue the "sexual harassment case against Medhi Falahati . . . and Ali Sajjadi and Susan Jackson. . . ." BCSX 21. This email does not discuss publicity. Consistent with what was purported to be Ms. Sataki's wishes, Mr. Klayman filed no

[4] *Sataki v. BBG*, 1:10-cv-00534, ECF No. 67. For clarification, the notice of voluntary dismiss filed on July 28,2010 dismissed all but one of Ms. Sataki's claims, but that was done in error, which was corrected on August 6,2010. ECF No. 68.

opposition to the pending motion for summary judgment as to the Privacy Act Claim, and Judge Kotelly had at that point already ruled against Ms. Sataki with regards to the *Wagner* injunctive relief, and therefore dismissed the action entirely.

69. Ms. Sataki's purported "termination" letter of August 4, 2010 was sent to VOA's Dan Austin and Mr. Shamble, but not to Mr. Klayman Tr. 1038. RX 21.

70. The August 4, 2010 'termination" letter was not in Ms. Sataki's English. "That's why [Mr. Klayman] needed to be able to talk to her (before I dismissed cases)." Tr. 1041. RX 21.

71. Another "termination" letter of November 15, 2010 was incorrectly sent to the wrong address at 2000 Pennsylvania Ave, which Mr. Klayman never received from her. RX 8. Tr. 104243. Ms. Sataki admits this. "So that was a mistake." Tr. 540. RX 8.

72. Mr. Klayman filed a notice of appeal in the BBG case in the meantime to ensure that Ms. Sataki's legal rights were preserved. Tr. 1043-1044.

73. Around this time a lot of mail was not getting to Mr. Klayman because he was moving around a lot and in "very bad financial shape." Tr. 1050-1051.

74. With regard to the email of May 31, 2010, Mr. Klayman did not have a contingency fee arrangement with Ms. Sataki. He was clear that he was representing her pro bono. Mr. Klayman was only trying to impress on her the time that he had put in for her. Tr. 1056-1057; BCSX 12.

75. Mr. Klayman only asked for 50% if the matter proceeded any further after realizing that he was getting used by Ms. Sataki, but no agreement was ever reached, and has to this day never asked Ms. Sataki to pay him back a single dollar. Tr. 1057.

76. Mr. Klayman testified that there here was no money in getting Ms. Sataki back to work in LA. BCSX 19. Tr. 1061

> In fact, working as hard as I have to try to get you back at PNN, Persia News Network, gets me nothing, assuming I ever wanted a percentage of the damages we cold have won in court, which I never asked for." Tr. 1058-1059; Tr. 1063

77. Mr. Klayman assured Ms. Sataki in email of November 21, 2010, that her rent was paid for as they both moved on. Mr. Klayman reiterated that Ms. Sataki did not owe him anything going into the future. Tr. 1075; BCX 29. "So I never asked to paid back, and to this day I wish her well. I pray to God that she has a good life, but I'm not the cause of her problems." Tr. 1066.

78. When Mr. Klayman realized that there could be the potential for a conflict of interest, he advised Ms. Sataki to get other legal counsel, such as Tim Shea, Gloria Allred or someone else. This comes out in a number of different communications. Tr. 1079-1080.

79. Mr. Klayman testifies that he never wanted a sexual relationship with Ms. Sataki and never touched

her. He told Ms. Sataki "I'm not your boyfriend. I don't want to be your boyfriend." Tr. 1080-1081.

80. During a moment of emotional clarity, Ms. Sataki admits that Mr. Klayman is not her problem. Tr. 1083-1084; BCSX 3.

81. Ms. Sataki's speaking falsely that she never wanted to do anything in court and implied that she did not want to be in LA and that was all Mr. Klayman's idea is likely what caused Kathleen Staunton to prepare the supplemental bar complaint, not that Ms. Staunton perceived that Ms. Sataki was scared of Mr. Klayman, as Ms. Sataki presented through uncorroborated hearsay testimony. Tr. 1086; BCSX 20.

82. Mr. Klayman informed Ms. Sataki in an email that she has a right of appeal of Judge Kotelly's decision and Ms. Sataki responded by accusing Mr. Klayman of having been bribed and disparaged his Judeo-Christian beliefs and religion. She ended by saying, as is her victim's mentality, "I am nobody. Just a little girl that was retaliated against and harassment by some VOA employee, and you seed (sic) that you can help me. Not only did you not help me, but destroyed my life." Tr. 1090-1091; BCSX 38.

83. Mr. Klayman identified all the articles that he wrote, all of which were complementary of Ms. Sataki and which she approved. The articles did not reveal confidential information. The articles as Ms. Sataki agreed were intended to coax settlement and influence Senators to lobby for her and Mr. Klayman did not use them to promote himself or to sell books. Tr. 455-56.

The ad which www.wnd.com inserted into the articles was for WND to sell books it had purchased. Mr. Klayman made no money on the articles which he wrote to help Ms. Sataki. Only one article was written and published after Ms. Sataki claims to have "terminated" his representation on November 15, 2010. Tr. 1199-1230. BCX 23-12, 23-14, 23-19, 23-22, 23-25, 23-27, 23-30, 2333, 23-36, 23-41.

84. Ms. Sataki had no credible explanation for her last minute production of emails, (including an email to Ms. Allred which Mr. Klayman had to later get from her), which was not timely pursuant to the Board's rules. Tr. 330.

85. Chairman Fitch stated that the AHC will do a report to the Board "that will include a subsection that informs the Board if any prejudicial delay that we find . . . and why we recommend to the Board a finding of no prejudicial delay or no prejudicial delay." Tr. 1259-1259.

Keya Dash

86. Mr. Dash declared under oath that he had personal knowledge of Mr. Klayman's efforts to represent Ms. Sataki with regard to her sexual harassment claims against VOA. RX 5.

87. Mr. Klayman asked Mr. Dash as a friend to attempt to assist Ms. Sataki, as Mr. Dash had a family member who worked at VOA and Mr. Klayman was attempting to settle the sexual harassment claims before

having to file an EEO and federal court complaint. RX 5.

88. Mr. Dash declared under oath that he was present when Mr. Klayman and Ms. Sataki later met then Speaker of the House, John Boehner, and asked him to intervene on Ms. Sataki's behalf. Mr. Boehner offered to help and Mr. Klayman and Ms. Sataki met with his staff in the Speaker's House Office to discuss this matter. RX 5.

89. Mr. Dash declared that Mr. Klayman lobbied others on Capitol Hill for help. RX 5.

90. Mr. Dash declared under oath that Mr. Klayman is a friend and that he has consulted with Mr. Klayman for his own legal matters. Mr. Dash was present with Mr. Klayman and Ms. Sataki on more than one occasion to discuss her case, and observed that Mr. Klayman always treated Ms. Sataki with respect and was not in any way involved in a romantic relationship with her, nor did he seek one. RX 5.

91. Mr. Dash declared under oath that he was present when the use of publicity to coax the BBG into settlement was discussed with Ms. Sataki, and that Ms. Sataki approved of its use. RX 5.

92. Mr. Dash's brother worked for VOA at the time that he and Mr. Klayman met. Tr. 1342.

93. Based on his personal knowledge of VOA, Mr. Dash testified that it was very difficult to deal with in terms of settlement because it was "very bureaucratic, cavernous." Tr. 1344.

94. Mr. Dash met Ms. Sataki on or around February of 2010. Tr. 1345.

95. Mr. Dash met with Mr. Klayman and Ms. Sataki on another occasion at a French restaurant in Virginia. During the two meetings, Ms. Sataki publicized her situation to Mr. Dash and asked him for help. "Yes. She told me in depth her issues and she sought my assistance in talking to Blanquita Cullum, in particular, Richard Miniter, also, who is a journalist friend, and others whom I might know." Tr. 1348.

96. Mr. Dash had reservations about helping Ms. Sataki based on her reputation.

> Well, her reputation was something of an opportunist who advances herself, and when she reaches the point of no return, alleges sexual discrimination, sexual harassment. This was something I had told [Mr. Klayman] at the time." Tr. 1348.

97. The Persian community is very close-knit, so this kind of information is of the kind that one learns about families in Washington, D.C. Tr. 1349. Furthermore, Mr. Dash's family is a very prominent Persian family in the Washington, D.C. area. Tr. 1342.

98. Despite these reservations, Mr. Dash decided to help Ms. Sataki, for the most part due to Mr. Klayman's urging him to do so. Tr. 1349-50. Mr. Dash attempted to enlist the help of Ms. Cullum, a member of the BBG at VOA, and who employed his brother at VOA. Tr. 1350-51.

99. Mr. Dash testified that in January, February, and March of 2010, he had observed that Ms. Sataki was "very distraught, very nervous, easily agitated, very concerned." Tr. 1357.

100. Mr. Dash was aware that Mr. Klayman was "trying to get Mr. Miniter (a friend of both) to write a positive article, too, for settlement. . . ." Tr. 1360.

101. Mr. Dash received an email from Ms. Sataki on February 21, 2010 thanking him for his efforts. "This is Ellie Sataki. Thanks for the push with Blanquita." Tr. 1359.

102. In terms of Mr. Klayman's efforts to to help Ms. Sataki, Mr. Dash believed that Mr. Klayman worked very hard for her and that Mr. Klayman had "always been very concerned with your own affairs, and you've always been very passionate about the Iranian freedom movement. And so you've always been known to support the Iranian community, and I took it as just another example of that." Tr. 1362.

Elham Sataki

103. Ms. Sataki had never met Mr. Klayman before, except on the Capitol Mall. Tr. 328.

104. Ms. Sataki admits that she had shared intimate details about her situation with everyone, including Mr. Klayman that night. " . . . I explained to you my problem with VOA. . . . So I don't know why this conversation was so intimate to you (about her alleged harassment and workplace retaliation), because it was

definitely not intimate to me. **Everybody knew. In that case, I had an intimate conversation with everybody.**" Tr. 329 (emphasis added).

105. Ms. Sataki concedes that in the eight years since she filed her bar complaint, she never filed a sexual harassment case against Mr. Klayman Tr. 331.

106. Ms. Sataki told Mr. Klayman that she had no money to pay for a lawyer and backs off a a claim that she discussed offering him 40% of any recovery. Tr. 332-33.

107. Ms. Sataki admits that the objective of Mr. Klayman's representation would be have her detailed or transferred to the LA Bureau of PNN to get out of the presence of her harasser and managers in DC. "I said that I have written a proposal, yes, I'm trying to transfer myself to Los Angeles." Tr. 334.

108. Ms. Sataki admits that the response of VOA was very negative in response to Mr. Shamble's and Mr. Klayman's request to have her transferred to LA. Tr. 343. Ms. Sataki then admits that she would not accept employment in the Central News Division at VOA Washington, D.C. Tr. 345. Ms. Sataki admits that VOA threatened her if she did not go to the Central News Division and that if she did not show up they were going to cut off her salary and leave. Tr. 347.

109. Ms. Sataki admits that "at that point" she got "very, very emotional and started crying uncontrollably." Tr. 347. Ms. Sataki threatened to commit suicide if she had to stay in Washington. Tr. 981-92. Ms. Sataki

instructed Mr. Klayman to "get [her] back to LA." Tr. 346

110. Mr. Klayman then suggested that Ms. Sataki see a psychologist and he then took her to two. Tr. 348. Mr. Klayman found Dr. Arlene Aviera for Ms. Sataki, who she began to see. Mr. Klayman paid for these sessions. Tr. 350. When Ms. Sataki sat down with Dr. Aviera and Mr. Klayman she began sobbing again when both explained her situation Tr. 350. Mr. Klayman was not present during those counseling sessions. Tr. 350.

111. In and around this time period, Ms. Sataki admits that she, Mr. Shamble and Mr. Klayman discussed what should be done not to get her back to work at VOA in LA. Tr. 351.

112. Ms. Sataki admits that it was decided by the three that if she could qualify to get a reasonable medical accommodation to be in LA, that Ms. Sataki could be detailed and move to LA. They submitted documentation from Dr. Aviera. Tr. 351-352.

113. There are over 1 million Iranians in LA. Tr. 352.

114. Ms. Sataki also admits that she needed to be detailed to LA because she was having a nervous breakdown. Tr. 354.

115. Ms. Sataki also wanted to be in LA to escape alleged unfair and harsh criticism of her by her supervisors, such as Joy Wagner and Susan Jackson, who said that she had to work harder because she was beautiful and also criticized her for using, Kaveh, a

man she cohabitated with, to do her packages, which gave her a bleeding ulcer. Tr. 342, 356-357.

116. At this time Ms. Sataki was staying with her friends Nella and Abdi, a married couple, in LA. Tr. 360. She was only staying there temporarily and could not stay there forever. Tr. 361.

117. Ms. Sataki found an apartment in LA and it was brand new and that Mr. Klayman paid for it because Ms. Sataki had no credit. Tr. 364. She was very comfortable anywhere in LA. *Id.*

118. Mr. Klayman leased and prepaid the apartment for her. Tr. 365, Tr. 502-504. RX 16.

119. Ms. Sataki admits that around that time we had to do something stronger than just sending documentation to VOA for a reasonable medical accommodation, particularly because Mr. Shamble was saying that these people are not reasonable. Tr. 366.

120. One reason that VOA would not agree to the transfer to LA was because many of its Iranian broadcasters wanted to move there too. Tr. 367.

121. Ms. Sataki admits that at that point she, Mr. Klayman and Mr. Shamble sat down and discussed legal strategy, and that they collectively decided that they would have to bring lawsuits. Tr. 369.

122. Ms. Sataki admits that Mr. Klayman expressed concerns about her cohabitating with Kaveh and rumors that she had had an affair with, Zia, the owner of NITV, an Iranian network in LA, when she worked

there as a broadcaster before joining VOA, and that this could come up in discovery. Ms. Sataki admits that this was "out there" in the Iranian community Tr. 371. Mr. Keya Dash corroborates this. Tr. 1348-49

123. Another later concern of Mr. Klayman was that a former husband of Ms. Sataki had filed a sworn affidavit in his divorce case against her for having had cheated and had sex with another man in their apartment just weeks after they were married. Tr. 377-382.

124. Before Mr. Klayman agreed to represent Ms. Sataki, she, with Mr. Shamble's assistance, had filed a complaint with VOA internally in the human resources department about the alleged harassment and retaliation by her managers. Tr. 384-385.

125. The politics at VOA were taken into account in fashioning legal strategy. Tr.392. Mr. Falahati and Ms. Sataki's supervisor had been Mr. Sajadi, whose was in the pro-regime anti-Shah faction of VOA and his father a mullah who was an adviser to the Supreme leader Ayatollah Khomeini. Tr. 390. Mr. Klayman had represented other broadcasters at VOA who were retaliated against because they were in the pro-Shah faction. Tr. 391.

126. Ms. Sataki admits that she sat down for many hours with Mr. Klayman to prepare legal complaints against Mr. Falahati and VOA. Tr. 393.

127. Ms. Sataki and Mr. Klayman and Mr. Shamble also prepared an administrative complaint with the EEO, which is also known as OCR. Tr. 394.

128. Ms. Sataki admits that it was agreed in front of Mr. Shamble and with him that "we would get some positive publicity here to try to coerce VOA into a favorable settlement so you could be in LA. Tr. 397. Ms. Sataki testified that she was aware and was informed that Mr. Klayman had written articles that were very favorable to her. Tr. 398.

129. At that time, Ms. Sataki did not put anything in writing to Mr. Klayman not to write these favorable articles. Tr. 400.

130. Ms. Sataki admits that Mr. Klayman advised her that Judge Kotelly "was a very difficult judge and that he had problem(s) with that judge. Tr. 408.

131. Ms. Sataki admits that she was aware that Judge Kotelly ruled against her for a reasonable medical accommodation to LA. Tr. 415; RX 3. Ms. Sataki admits that Mr. Klayman sent Judge Kotelly's ruling to her but she can say whether she read it. Tr. 416, 418-19.

132. Ms. Sataki admits that Mr. Klayman told her that we only lost the first phase of the case and that it was not over. Tr. 421-422.

133. Ms. Sataki and Mr. Klayman met with Congressman Rohrabacher ("Mr. Rohrabacher") and his chief of staff, Kathleen Staunton ("Ms. Staunton") in their office. They said that he would help resolve matters with VOA to get her detailed to LA. Tr. 458, 462. This was the only time Mr. Klayman met Ms. Staunton. Tr. 467.

134. Ms. Sataki never had any legal training and does not know how to cite cases. Tr. 461.

135. After this initial meeting, Ms. Sataki had further contact with Ms. Staunton, but they met in restaurants and not in Mr. Rohrabacher's office. The meetings were not of a professional nature, implying that Ms. Staunton did not have authority from Mr. Rohrabacher to meet. Tr. 464

136. The idea of the supplemental complaint, BCX 23, came from Ms. Staunton and her cousin Sam Razavi ("Mr. Razavi"). Tr. 468-469. Neither of them are lawyers. Ms. Sataki admits that Ms. Staunton and Mr. Razavi prepared the supplemental complaint. Tr. 469. Tr. 301, 307, 317, 468-72, 474-75, 544.

137. Ms. Sataki claims to have no knowledge where the supplemental complaint was prepared. Tr. 469-470.

138. Ms. Sataki admits that Mr. Razavi helped prepare the supplemental complaint. *Id.* Ms. Sataki claims not to remember if Ms. Staunton and/or Sam Razavi advised her to get another lawyer at the time. Tr. 470-471.

139. Ms. Sataki admits she never read the alleged rule violations cited in the supplemental complaint, and that she did not know who cited these alleged violations. Tr. 472-474.

140. Ms. Sataki admits not knowing what she gave Ms. Staunton and Mr. Razavi to prepare the supplemental complaint. Tr. 475.

141. Ms. Sataki has never talked to any of Mr. Klayman's clients. Tr. 481.

142. After Ms. Sataki claims that after she "terminated" Mr. Klayman, she is forced to admit that "maybe six, seven, eight months later" she sought the assistance of other counsel. Tr. 484.

143. An email sent by Mr. Shamble on Jan. 27, 2011 told Ms. Sataki that she should contact Mr. Klayman so she does not lose any of her legal rights due to the passage of time to appeal and move other cases forward. Tr. 485-486.

144. Ms. Sataki admits that she did not see another lawyer in time to bring a Title VII sexual discrimination complaint in court after the ODC ruled against her. Tr. 487.

145. Ms. Sataki admits that Mr. Klayman advised and told her to get another lawyer and that he recommended Tim Shea and Gloria Allred. Tr. 493. Tr. 546-548. Mr. Shamble also recommended Tim Shea. Tr. 549-550.

146. Ms. Sataki admits to encountering Mr. Klayman and his chief of staff in LA about a year ago. Tr. 496. She denies (falsely) having yelled this man ruined my life and he is a terrible person. Tr. 497. To the contrary, Mr. Klayman testified that Ms. Sataki screamed, ""This man ruined my life. This man's a terrible person," defaming Mr. Klayman before his staff. Tr. 1065.

147. Ms. Sataki filed a complaint in Los Angeles Superior Court against the manager of the apartment,

Dean Proper, and accused him of sexual harassment of her friend Jessica who was staying in the apartment in the second bedroom, as well as stealing Ms. Sataki's diamond ring. Tr. 506-512. RX 12. The Court ruled against her. Tr. 519.

148. Ms. Sataki falsely tries to justify the court's judgment against her by untruthfully claiming that the complaint was only meant to escape the payment of rent for the apartment. Tr. 520.

149. In fact, the truth is that the court documents show "Judgment was entered, as stated below, on Day: 8/23/2011. Defendant does not owe plaintiff any money on plaintiffs' claim And below it says contested. Tr. 521. RX 12.

150. Ms. Sataki also filed a complaint in Los Angeles Superior Court against the wife of Zia Atabay, who she was accused of having an affair, over Mrs. Atabay having allegedly keyed her car. However, Ms. Sataki also falsely testified that the court ruling proved she was not having an affair with Zia Atabay, the owner of NITV. Tr. 525-526. The Chair, Mr. Fitch, acknowledges that Mr. Klayman's elicited testimony goes to Ms. Sataki's overall credibility. Tr. 527-528.

151. Ms. Sataki admits that the handwriting on the original ODC complaint is not hers. Tr. 538.

152. Ms. Sataki effectively admits that a contingency fee would only be put into effect if Mr. Klayman moved forward and stayed on as her counsel after he told her he wanted off the case for personality reasons. Tr. 557.

"Q: But what I was talking about Ms. Sataki, is if I continued on, given the difficulty in our relationship, regardless of what the cause was, then I'm saying then I want 50 percent going forward, correct?" "A: Correct." Tr. 557.

153. Ms. Sataki admits to being gainfully employed and continuing with her broadcasting career since she and Mr. Klayman parted ways. Tr. 561-568. Ms. Sataki makes $62,000 per year plus health insurance benefits. Tr. 620-21.

154. The OCR final determination was sent to Ms. Sataki's address. Tr. 635. RX 18.

155. The final determination finds that Ms. Sataki's factual claims of sexual harassment and workplace retaliation were not meritorious and thus false, as OCR had interviewed a number of witnesses. Tr. 635-640. RX 18.

156. Ms. Sataki is forced to admit that at all times she could have contacted Mr. Shamble and asked what was happening and that at all times she could have talked to Mr. Shamble about her cases if she did not want to communicate with Mr. Klayman But she did not contact either of them. She only finally contacted Mr. Shamble later. Tr. 662.

157. There is mail from Mr. Klayman to Ms. Sataki where Ms. Sataki is forced to admit that Mr. Klayman offered to pay and did pay her salary when she was cut off by VOA as she would not return to DC. The email

asks for her account number so Mr. Klayman could wire funds to her. Tr. 663-664. BCSX 9.

158. An email from Mr. Klayman to Ms. Sataki dated May 19, 2010 said, "You don't owe me money and I did what I did from my heart." Tr. 665-666. BCSX 10.

159. An email was sent on August 5, 2010 from Mr. Klayman to Ms. Sataki referring to the letter prepared by Kathleen Staunton that was sent to VOA's Dan Austin. BCSX 26. In this email, Mr. Klayman stresses that this letter to Austin is counterproductive (to dismiss her cases and that she was foolishly giving up.). Tr. 697-699

160. Mr. Klayman wrote to Ms. Sataki in an email at Christmas on December 25, 2010 and wished her and her family well. Mr. Klayman wrote:

> Good morning. . . . This is my Christmas message of you and my friends Ellie I wish you the very best. So does God. The column (wnd.com) explains how you are part of the most profound experience in my life. . . . Someone called me today and threatened me. I know you would not do this. Keep yourself well and believe, as this is stronger than any psychologist. God bless you and your family. Larry" BCSX 32. Tr. 729-730

161. An email by Mr. Klayman was sent to Ms. Sataki on Jan. 14, 2011, in response to something that Mr. Klayman received that was sent by someone other than Ms. Sataki because it was written in perfect English reads in part: "However, whatever your legal

status, you must be in contact with Ms. Sataki. Please tell her to contact me or the union president . . . Tim Shamble, to bring her up to date on the legal matters." Tr. 733. BCSX 34.

162. Mr. Razavi was the person who threatened Mr. Klayman and it was discovered that he had pled guilty to and was convicted by the 2nd District Court of the State of Nevada, Washoe County, for conspiracy to commit fraudulent acts involving gaming. BCSX 36, 37; Tr. 737-39.

163. On September 11,2011, Ms. Sataki sent an email to Mr. Klayman saying:

> Mr. Klayman are you happy now that you've completely destroyed and lost my case? A case with so many evidence and witnesses. Only a very bad and clueless attorney could lose it, or lost it on purps (sic) because you made a dill (sic), with the other party.' " BCSX 38.

164. Ms. Sataki had no evidence that Mr. Klayman was bribed. Tr. 741-742.

165. Ms. Sataki disparages and mocks Mr. Klayman's Judeo-Christian beliefs and religion. BCSX 38.

166. Ms. Sataki is forced to admit that she, Mr. Shamble and Mr. Klayman discussed the article "The Government War on a Freedom Loving Beauty. BCX 23-33. Further it was discussed that publicity would be used to further settlement. Tr. 758-759. Ms. Sataki conceded that "We talked about that, the fact that publicity

always is going to help everybody. You always said that. Tr. 759.

167. Ms. Sataki never told Mr. Shamble not to use publicity. Tr. 761-62.

168. After Ms. Sataki filed her complaint, for three and one half years, she never had any contact with ODC. Tr.766.

169. Ms. Sataki had abandoned her complaint, but it was resurrected by ODC, despite two other bars having dismissed it many years earlier. In fact, internal correspondence of ODC reveals that it had to use private investigator Kevin O'Connell to try to hunt down Ms. Sataki. RX 27. The internal correspondence of ODC admits:

> I am trying to locate a complainant that has dropped off the map. Ms. Elham Sataki. . . . She filed a complaint vs. Larry Klayman in 2011. Her only correspondence with us was the ethical complaint that she filed. My letter to her dated 7/7/11 was not responded to, but was not returned by the USPS either. I recently tried to contact her by telephone, but her number is not in service. I'll appreciate your efforts to locate her and to provide some reliable contact information.

170. Importantly, even on questioning from ODC, Ms. Sataki admits that she agreed to the use of publicity to coax a settlement so she could be detailed to the LA bureau of VOA. "Q: Did you ultimately agree with Mr. Klayman about the publicity?" "A: I did." Tr. 775.

171. Ms. Sataki is still seeing a doctor to this day and is still on anxiety medication, eight years after Mr. Klayman's representation. This shows that her mental and other problems are not the result of Mr. Klayman, but of her own. Tr. 201.

Gloria Allred

172. Ms. Gloria Allred's law firm, Allred Maroko and Goldberg "has been the leading private women's rights law firm in the United States for 42 years." Tr. 1098-99.

173. On June 15, 2010, Mr. Klayman sent an email to Ms. Allred's to discuss her taking over Ms. Sataki's case. Tr. 1100, RSX 1.

174. Ms. Allred testified that there may have been discussions prior to the June 15, 2010 email regarding her firm representing Ms. Sataki, "because you didn't give her last name" in the email Tr. 1101. Ms. Allred testified that she believed there was a conference call between Mr. Klayman, Ms. Sataki, and herself to discuss whether she would represent Ms. Sataki. Tr. 1101.

175. Ms. Allred's firm did not end up representing Ms. Sataki. Tr. 1103.

176. On March 23, 2012, Ms. Sataki, playing the victim to again induce someone to help her, sent Ms. Allred an email that read:

> Hi Gloria. My name is Elham Sataki. I'm watching you on CNN now. All my hope

> regarding my case died, and I'm on medication and go to my therapist every week just so I can stay alive for my mom. And I love my mom, the same way that you (sic) daughter loves you. My mom is a strong mom like you. I'm in LA and hope that I can have a meeting with you regarding my Voice of America case. Larry Klayman was representing me in this case but completely destroyed it. You can Google and YouTube me. I just want you to know, if there is any hope left, I have emailed women's rights groups, but no answer." Tr. 1105-06. RSX 2.

177. Ms. Allred sent an email on the same day responding to Ms. Sataki saying that her firm could not represent her. Tr. 1107, RSX 2.

Joshua Ashley Klayman

178. Joshua Ashley Klayman ("Ms. Klayman") is Mr. Klayman's sister. Tr. 1521.

179. Ms. Klayman met Ms. Sataki multiple times. "At the time I was dating someone in Los Angeles, so I was frequently flying over the weekend from Los Angeles to New York. [Mr. Klayman] lived in Pacific Palisades, and I met her at his house." Tr. 1524.

180. Ms. Sataki openly discussed the VOA case with Ms. Klayman many times. "Yes, quite openly. And I met her multiple times. It wasn't that I just met her one time. Yes, she was quite open with what the circumstances of her challenges were. . . . an, she was very,

very open, which – I'm not a litigator. I don't really know anything about litigations, but I was surprised that she was so open." Tr. 1524.

181. Ms. Klayman testified that Ms. Sataki

> . . . was very interested in trying to get a positive result and to pressure people into, you know, giving her that result. She certainly was publicizing everything to my then boyfriend and me, but I don't recall her explicitly saying, like, 'Yes, I,' you know – however she was actively publicizing it to me. And she seemed very onboard with whatever the strategy was." Tr. 1525-26

182. Mr. Klayman mentioned the strategy of trying to get publicity for Ms. Sataki's claims against VOA in front of Ms. Sataki and Ms. Klayman, and Ms. Sataki did not object to the strategy. Tr. 1526.

183. Ms. Klayman believed that Mr. Klayman and Ms. Sataki were friends:

> Not sure offhand how many in-person times, however she and Larry were friends. I mean, they were – that's why she was over my boyfriend's house there. So, I frequently had conversations either directly with her or through Larry and her saying hi to me or something like that. It wasn't that – they were friends." Tr. 1526-27.

184. During their numerous meetings between Mr. Klayman, Ms. Klayman, and Ms. Sataki, Mr. Klayman

always discussed publicizing Ms. Sataki's case, and Ms. Sataki never objected. Tr. 1527.

185. Ms. Klayman was unsure of what to think about Ms. Sataki, but thought that Ms. Sataki was using Mr. Klayman "I mean, I vacillated between kind of liking her and being suspicious of her, quite frankly, as your sister . . . she was very forward in terms of requesting different things for her personally." Tr. 1527-28.

186. Ms. Klayman testified that she did not believe that Mr. Klayman was in love with Ms. Sataki." Tr. 1529.

The Honorable Stanley Sporkin

187. The Honorable Stanley Sporkin ("Judge Sporkin") received and undergraduate degree from Pennsylvania State University and a law degree from Yale Law School. He is a member of the District of Columbia Bar and is also a CPA. Tr. 1171.

188. Mr. Klayman has appeared before Judge Sporkin on several occasions and has found Mr. Klayman to be honest and ethical. Tr. 1172.

189. Judge Sporkin got to know Mr. Klayman even better after Mr. Klayman no longer had cases before him and he retired from the bench. Tr. 1173.

190. Judge Sporkin, based on the facts of the case found it reasonable under *Wagner vs. Taylor* to have put her to work for VOA in LA. Tr. 1174,1175.

191. Judge Sporkin would have also accorded Ms. Sataki a preliminary injunction hearing before ruling on the *Wagner vs. Taylor* preliminary injunction motion to put Ms. Sataki back to work for VOA in LA. That would have been the fairest thing to do for all parties. *Id.*

Legal Ethics Expert Professor Ronald Rotunda

192. The late legal ethics expert Professor Ronald Rotunda ("Mr. Rotunda"), former Doy & Dee Henley Chair and Distinguished Professor of Law at Chapman University School of Law reviewed the instant complaint against Mr. Klayman.

193. Despite the fact that the Complaint is dated October 20, 2011, Mr. Klayman only received in on or around December 19, 2016, likely because ODC sent it to the wrong address (2000 Pennsylvania vs. the correct 2020 Pennsylvania). RX 5.

194. Mr. Rotunda found that it was "very surprising" that the Complaint was filed in October of 2011 over alleged events that occurred in December of 2009 and shortly thereafter. Ms. Sataki had made similar complaint to the Pennsylvania Bar and The Florida Bar, both of which were dismissed years ago. RX 5.

195. Mr. Rotunda found that established case lase shows that ODC is subject to the principle of laches. Mr. Rotunda wrote:

> In *Florida Bar v. Rubin*, 362 So.2d 12 (Fla. Sup. Ct. 1 1978) (per curiam), the Florida supreme court threw out charges because the

> prosecutor because of the Bar's delay in violation of the Florida rules . . . One can summarize this case as the Bar delaying finalization of two cases (where the Bar was disappointed with the recommended discipline) because it was confident it would secure a conviction in a third case still in the pipeline in the hope of securing greater overall disc line. The Court said, 'Whatever other objects the rule may seek to achieve, it obviously contemplates that *the Bar should not be free to withhold a referee's report which it finds loo lenient until additional cases can be developed* against the affected attorney, in an effort to justify the more severe discipline which might be warranted by cumulative misconduct. The Bar's violation of the prompt filing requirement in this case, to allow a second grievance proceeding against Rubin to mature, is directly antithetical to the spirit and intent of the rule. In addition, it has inflicted upon Rubin the 'agonizing ordeal' of having to live under a cloud of uncertainties, suspicions, and accusations for a period in excess of that which the rules were designed to tolerate. RX 5.

196. Mr. Rotunda found numerous other cases that held that ODC should be subject to the principle of laches. They include *The Florida Bar v. Walter*, 784 So.2d 1085 (Fla. Sup. Ct. 2001); *In re Grigsby*, 815 N.W.2d 836 (Minn 2012); *In Matter of Joseph*, 60 V.I. 540, 558-59 (V.I. Feb. 11, 2014); *Hayes v. Alabama State Bar;* 719 So 2d 787, 791 (Ala. 1998). RX 5.

197. Mr. Rotunda found that in Indiana Bar expressly limits the time to complete a disciplinary investigation in its own rules:

> *Limitation on time to complete investigation.* Unless the Supreme Court permits additional time, any investigation into a grievance shall be completed and action on the grievance shall be taken within twelve (12) months from the date the grievance is received. . . . If the Disciplinary Commission does no file a Disciplinary Complaint within this time, the grievance shall be deemed dismissed." RX 5.

198. Mr. Rotunda wrote that it was his opinion that Mr. Klayman did not violate Rule 1.3. In this regard, Mr. Rotunda wrote:

> Mr. Klayman told me that when he wrote to talked about the case it was only after his client's permission. She and Mr. Shamble thought that publicity would help her case by encouraging the Voice of America to settle rather than suffer bad publicity. RX 5.

199. Mr. Rotunda wrote that it was his opinion that Mr. Klayman did not violate Rule 1.5. In this regard, Mr. Rotunda wrote:

> Mr. Klayman tells me that he did disclose the fee when they first talked about the case. The fee was zero – he did it as a pro bono matter. Several months later, when the case got more difficult than either of them expected, he told the client that he would have charge a fee. Or, of course, she would retain another lawyer

> and he could transfer the files to that other lawyer. She chose not to hire a new lawyer and he proposed a contingent fee. She never signed a fee agreement because she was hard to contact and the case ended at her request. He never charged her any fee. RX 5.

200. Mr. Rotunda wrote that it was his opinion that Mr. Klayman did not violate Rule 1.6. In this regard, Mr. Rotunda wrote

> Mr. Klayman has told me that he had her permission before he disclosed anything. She and her Union Representative, Mr. Shamble, thought that publicity would help her case, and she was probably right – although not pursuing an appeal undercut her case." RX 5.

201. Mr. Rotunda wrote that it was his opinion that Mr. Klayman did not violate Rule 1.7. In this regard, Mr. Rotunda wrote:

> Leaving aside the rather vague nature of those charges, Mr. Klayman says that his only motivation was to help her as a friend because she was in trouble and had other problems. He would be willing to disclose these other problems to you if Ms. Sataki waives her attorney-client privilege. After all; we do not want a situation where the OBC seeks to discipline Mr. Klayman in this case because he used what the OBC later claims is information protected by Rule 1.6. Since Mr. Klayman will not be talking to Ms. Sataki about this case, the OBC should ask for this waiver. RX 5.

202. Mr. Rotunda wrote that it was his opinion that Mr. Klayman did not violate Rule 3.3. In this regard, Mr. Rotunda wrote:

> Mr. Klayman has told me that he never told people he was her lawyer after she discharged him He (and her union representative) tried to contact her unsuccessfully to ask her if she wanted to appeal. Her complaint says that her brother told Mr. Klayman to terminate the representation, but the caller did not identify himself as her brother, Mr. Klayman would not recognize the brother's voice, and her brother did not represent that he was her agent with authority. RX 5.

203. Mr. Rotunda wrote, "I am troubled that the OBC [ODC] has sat on this case for nearly six years and another one involving Mr. Klayman for nearly eight years. In my view, the complaint of Oct. 20, 2011 should be dismissed, particularly under these circumstances. The OBC has not even asserted that it learned something in the intervening years to justify reopening." RX 5.

Joel Bennett

204. Joel Bennett was proffered as an expert by ODC on employment matters. Tr. 793-800. Mr. Bennett has never testified for a respondent in a Board disciplinary proceeding. Tr.801,807. Instead, he is the paid "hired gun" of ODC. *Id.* He is paid by ODC at an hourly rate of $475.00. per hour. Tr. 808. In his 45 years of practice, he may have had only one case in any way related to

VOA. It concerned Radio Free Europe. Tr. 804. Mr. Bennett has not had any contact with or proceedings with VOA's Office of Civil Rights for at least the last 10 years. Tr. 807.

205. Mr. Bennett spent little time reviewing the voluminous pleadings in the cases which Mr. Klayman brought for Ms. Sataki. Tr. 812-813.

206. Mr. Bennett's alleged focus was simply whether it was necessary to name Secretary of State Hillary Clinton in the *Bivens* complaint Mr. Klayman brought for Ms. Sataki against the Board of Governors of VOA. Tr. 813-814.

207. Mr. Bennett on questioning from AHC member Mr. Tigar is forced to admit that it is reasonable judgment in a *Bivens-type* action to name agency employees or officials as defendants. Tr. 820.

> Q: MR. TIGAR: Alright. Would that be a reasonable judgment of a lawyer? Not necessarily you?
> A: Right. Tr. 820.
> Q: MR. TIGAR: No, I'm talking about the individual harasser. I'm talking about individuals connected with the decision-making process?
> A: Oh, I've never seen that done. You could always sue the head of the agency.

208. Mr. Bennett admits that when the head of an agency receives notice of misconduct and fails to take action, that one would be able to name that individual in a *Bivens* claim He testifies, "I would think you'd

have to show notice and failure to take action. . . ." Tr. 825-826.

209. Mr. Bennett admits that Mr. Klayman did not attack Mrs. Clinton in naming her in the *Bivens* action. Mr. Bennett testifies, "[i]n all of the hundreds of pages of exhibits, I do not recall any individual attack on Mrs. Clinton." Tr. 827.

210. Mr. Bennett testifies that he was unaware that the Honorable Ellen Huvell had such a *Bivens* case concerning Voice of America and ruled that that case could proceed against the board of governors. He admits that "[t]here are many different ways that lawyers litigate cases." Tr. 830-832.

211. Mr. Bennett was retained by ODC before this proceeding was even instituted by a Board member. Tr. 833, 835. The draft specification of charges sent to Mr. Bennett before Mr. Klayman was even notified by ODC that it was considering bringing charges against him, is different than the one which ultimately became operative in this proceeding. Tr. 835.

212. Mr. Bennett was aware of neither the Supreme Court's position in *Ziglar vs. Abbasi* where John Ashcroft was named as a defendant, Tr. 839-840, nor the Fourth Circuit's ruling that former FBI Director Louis Freeh could be named as a defendant in a *Bivens* lawsuit. Tr. 840.

[LOGO] CHAPMAN UNIVERSITY | FOWLER SCHOOL OF LAW

ONE UNIVERSITY DRIVE
ORANGE, CALIFORNIA 92866
WWW.CHAPMAN.EDU

Ronald D. Rotunda
The Doy & Dee Henley Chair and Distinguished Professor of Jurisprudence
Email: rrotunda@chapman.edu
(714) 628-2698 •
Fax (714) 628-2576
http://wwwl.chapman.edu/~rrotunda
www.ronaldrotunda.com

19 December 2016

Larry Klayman, Esq.
Klayman Law Firm
c/o 2020 Pennsylvania Ave., N.W.
#800
Washington, D.C. 20006

RE: Bar Complaint of Oct. 20, 2011
VIA: Email, leklayman@gmail.com

Dear Mr. Klayman:

You have asked me to evaluate the Office of Bar Counsel Complaint dated October 20, 2011. Despite the fact that it is dated about six years ago, you received it only recently. Perhaps that is because the Office of Bar Counsel (OBC) sent it to the wrong address. OBC may have sent it to 2000 Pennsylvania Ave. N.W., Suite 345, while your office is at 2020 Pennsylvania Ave, NW, Suite 345.

I have evaluated the OBC Complaint of Oct. 20, 2011, and discussed the matter with you. You should feel free to show this letter to the OBC if you wish.

A very surprising item about this complaint is that it was filed over five years ago about alleged events that occurred in December 2009 and shortly thereafter. The complainant, Elham Sataki, made similar complaints to the Pennsylvania Bar and the Florida Bar, both of which dismissed the complainant years ago. For some reason, the OBC sat on this complaint for years and now is resurrecting it.

Because of the passage of time — the reasons for this delay are unknown — relevant evidence cannot be found and memories fade.

> For example, you told me that you recall a phone voice mail from someone speaking in a belligerent tone who claimed to be peaking for Ms. Sataki. This person said that you should not contact her. You had been trying, unsuccessfully, to contact Ms. Sataki to see if she wanted to appeal, and you filed a notice of appeal to protect her rights. The union representative, who was representing Ms. Sataki in her employment dispute, also was unsuccessful in contacting her. Shortly after that, Ms. Sataki did so and you and her Union Representative, Mr. Shamble, did not pursue the appeal. You have moved since then and you are unable to find this voice mail. The tone and substance of this voice mail is very relevant to the complaint, but it no longer exists (or, you cannot find it) because of the passage of time.

The caselaw shows that OBC is subject to laches. In *Florida Bar v. Rubin*, 362 So.2d 12 (Fla. Sup. Ct. 11978)(per curiam), the Florida supreme court threw out charges because the prosecutor because of the Bar's delay in violation of the Florida rules.[1] One can summarize this case as the Bar delaying finalization of two cases (where the Bar was disappointed with the recommended discipline) because it was confident it would secure a conviction in a third case still in the pipeline in the hope of securing greater overall discipline. The Court said,

> Whatever other objects the rule may seek to achieve, it obviously contemplates that *the Bar should not be free to withhold a referee's report which it finds too lenient until additional cases can be developed* against the affected attorney, in an effort to justify the more severe discipline which might be warranted by cumulative misconduct. The Bar's violation of the prompt filing requirement in this case, to allow a second grievance proceeding against Rubin to mature, is directly antithetical to the spirit and intent of the rule. In addition, it has inflicted upon Rubin the "agonizing ordeal" of having to live under a cloud of uncertainties,

[1] "On January 6, 1978 fourteen months after the Bar received referee White's report and eight months after it had received referee Carey's the Bar filed both referees' reports with the Court." "Referee White's report, which recommended a public reprimand, was not filed with us until fourteen months after its receipt by the Bar. Rubin contends that this filing clearly was not prompt, and that the Bar's violation of the rule denies him due process" *The Florida Bar v. Rubin*, 362 So. 2d 12, 14 (Fla. 1978)(footnote omitted).

> suspicions, and accusations for a period in excess of that which the rules were designed to tolerate.

The Florida Bar v. Rubin, 362 So. 2d 12, 15 (footnotes omitted)(emphasis added). As *Rubin* concluded, "The Bar has consistently demanded that attorneys turn 'square corners' in the conduct of their affairs. An accused attorney has a right to demand no less of the Bar when it musters its resources to prosecute for attorney misconduct." 362 So. 2d 12, 16.

Rubin is no judicial orphan. Later, *The Florida Bar v. Walter*, 784 So. 2d 1085, 1087 (Fla. Sup. Ct. 2001) ruled that a *seven-year interim* between the lawyer's alleged misconduct and the filing of the Bar's complaint, makes "it 'unjust or unfair' to require Walter [the lawyer] now to answer the Bar's charges in this matter. That the Bar may have diligently pursued Chesnoff's statement does not render this seven-year interim a "reasonable time," especially considering that the delay is not attributable to Walter." The court ruled that the lawyer does not have "to defend against the Bar's charges after so many years have passed."[2]

---

[2] Cited and quoted with approval in, *The Florida Bar v. Kane,* 202 So.3d 11, 19 (Fla. Sup. Ct. 2016):

> The Court has made clear that the Bar has an obligation to process disciplinary cases in a fair and just manner. *See Fla. Bar v. Rubin*, 362 So.2d 12, 16 (Fla.1978) ("The Bar has consistently demanded that attorneys turn 'square corners' in the conduct of their affairs. An accused attorney has a right to demand no less of the

See also, *In re Grigsby,* 815 N.W.2d 836 (Minn. 2012), concluding that a discipline prosecutor's failure to charge out a matter for an unreasonably long time violates the ethics rules. *Grigsby* involved a case where the lawyer did not even dispute the facts, and the lawyer's violations were "obvious," yet the court rejected the disciplinary hearing:

> Finally, it is also worth noting the procedural irregularities in this discipline matter. Grigsby was suspended for 60 days on April 16, 2009. Grigsby's single instance of misconduct resulting in this disciplinary proceeding took place sometime during April and May 2009, and the Assistant County Attorney informed the Director of it on June 3, 2009. *The facts of this case are simple and undisputed, Grigsby's violations are obvious,* and Grigsby complied with the Director's investigation. The Director *did not file a petition for disciplinary action until May 31, 2011, 727 days after notice of the misconduct.* Because Grigsby, understandably, did not seek readmission while under investigation for practicing law while suspended, he has effectively been suspended from the practice of law since April 16, 2009, or for over 3 years. The purpose of any disciplinary proceeding, as noted earlier, is to protect the public; *the delay here tends to weaken the Director's argument that protection of the public requires a reinstatement hearing* and we

---

Bar when it musters its resources to prosecute for attorney misconduct.").

> decline to do so notwithstanding the legitimate concerns discussed earlier.

In re Disciplinary Action against Grigsby, 815 N.W.2d 836, 846-47, 2012 WL 2814088 (Minn.), *reinstatement granted sub nom. In re Disciplinary Action Against Grigsby*, 822 N.W.2d 291, 2012 WL 5355573 (Minn. 2012)(emphasis added).

In evaluating Minnesota cases, William J. Wernz, Minnesota Legal Ethics: A Treatise (6th ed. 2016) reviews the cases concludes that the Office of Bar Counsel is subject to a "Special Promptness Requirement?" Rule 3.2 of the Rules of Professional Conduct applies to Bar Counsel and that "general delay in investigation" could violate Rule 3.2.[3]

Rule 3.2 ("Expediting Litigation"), Model Rules of Professional Conduct, corresponds to Rule 3.2 of the D.C. Rules of Professional Conduct. As Comment 1 to the D.C. Rules asks, "The question is whether a competent lawyer acting in good-faith would regard the course of action as having some substantial purpose other than delay."[4]

In this case, OBC should explain why any competent Bar Counsel, acting in good faith, would regard the delay of 6 years since the complaint was filed and 7 years since the alleged violation occurred would this

[3] Wernz, Minnesota Legal Ethics: A Treatise 779-80, § II(D) (2016).

[4] http://www.dcbar.org/bar-resources/legal-ethics/amended-rules/rule3-02.cfm

delay "as having some substantial purpose other than delay." Why has OBC waited so long?

In Indiana, when the Bar Counsel did not act with reasonable promptness, the Court imposed a new rule making clear what states like Minnesota and Florida thought were already clear. Rule 23, Disciplinary Commission and Proceedings now provides, Section 10(h):

> *Limitation on time to complete investigation.* Unless the Supreme Court permits additional time, any investigation into a grievance *shall be completed and action on the grievance shall be taken within twelve (12) months from the date the grievance is received* (or the date a response is demanded to a Disciplinary Commission grievance). The purpose of the deadline is to enable the Supreme Court to promote a fair and efficient process and not to create substantive or procedural rights. Requests for additional time shall be submitted to the Supreme Court and shall briefly describe the circumstances necessitating the request. No response or objection shall be allowed. Delays caused by a respondent's non-cooperation or requests for extensions of time, and periods during which the respondent is suspended from practice, shall not be counted toward the 12-month period. *If the Disciplinary Commission does not file a Disciplinary Complaint within this time, the grievance shall be deemed dismissed.*[5]

[5] http://www.in.gov/judiciary/files/order-rules-2016-1103-adm-disc.pdf (last two emphases added).

The Virgin Islands also recognizes laches applied to Bar Counsel. No "legal authority precludes this Court or the EGC from applying the common law doctrine of laches to a grievance. 'Laches, an equitable defense, is distinct from the statute of limitations, a creature of law,' and precludes an action if 'an omission to assert a right for an unreasonable and unexplained length of 'time and under circumstances prejudicial to the adverse party.' Thus, "[l]aches . . . may be found even if the applicable statute of limitations has not yet run." I*n Matter of Joseph*, 60 V.I. 540, 558–59, 2014 WL 547513, at *7 (V.I. Feb. 11, 2014)(internal citations omitted). Thus, the "laches defense may apply to attorney discipline proceedings in certain very narrowly defined circumstances, such as when the delay in instituting the disciplinary proceedings results in prejudice to the respondent." *Id.*

That is what is occurring hear because memories have faded and some evidence cannot be found. The evidence collected by the Pennsylvania and Florida Bars — both of which dismissed the complaint — no longer exists. Perhaps the D.C. Bar has some evidence, but it has not given it to Mr. Klayman. One of the papers in the files the D.C. Bar refers to a draft complaint and an opinion from a lawyer who practices in the employment area, but neither the Bar Counsel nor the expert have reviewed all of the relevant files and documents of Ms. Sataki's case. Mr. Klayman has sent you a copy.

The Virgin Islands Supreme Court sets out a test that *presumes* prejudice in a case like this: "we shall only presume prejudice with respect to the laches

defense when there is a substantial delay in the initiation of disciplinary proceedings." *In Matter of Joseph*, 60 V.I. 540, 559, 2014 WL 547513, at *7 (V.I. Feb. 11, 2014). Here there is a substantial delay.

See also, *id., Joseph, id,* citing, *In re Wade,* 814 P.2d 753, 764 (Ariz. 1991); *In re Siegel*, 708 N.E.2d 869, 871 (Ind. 1999) ("There may be factual situations in which the expiration of time destroys the fundamental fairness of the entire proceeding."); *Anne Arundel County Bar Ass'n, Inc. v. Collins*, 325 A.2d 724, 728 (Md. 1974) (lathes applicable to attorney discipline proceedings if "prejudice or circumstances making it inequitable to grant the relief sought"). *Tennessee Bar Ass'n v. Berke,* 344 S.W.2d 567, 571–72 (Tenn 1961) (dismissing disciplinary proceedings for laches when grievance filed nine years after alleged misconduct occurred with no explanation for the delay and respondent was not responsible for the delay). *In Matter of Joseph*, 60 V.I. 540, 559, 2014 WL 547513, at *7 (V.I. Feb. 11, 2014).

Similarly., in *Hayes v. Alabama State Bar,* 719 So.2d 787, 791 (Ala. 1998), the State Bar suspended lawyers convicted of misdemeanors for "serious crimes" and charged them with additional rules infractions. The Supreme Court held, inter alia, that the State Bar's delay in pursuing remaining formal charges following resolution of criminal proceedings warranted dismissal.[6]

---

[6] *Hayes v. Alabama State Bar,* 719 So. 2d 787, 791, 1998 WL 321956 (Ala. 1998)(footnote omitted)(emphasis added):

Let me now leave the subject of laches and turn to the actual complaint, filed in 2011. Ms. Sataki makes several complaints.

FIRST, she claims that Mr. Klayman was not competent to handle her case and thus violated RULE 1.1. Pennsylvania and Florida have already rejected that claim. In addition, Ms. Sataki has never filed any lawsuit claiming that there was malpractice or sexual harassment by Mr. Klayman. She also claims that he used

---

In *Noojin* [*Noojin v. Alabama State Bar,* 577 So.2d 420 (Ala.1990),], this Court examined an attorney's contentions that the Alabama State Bar had erred in delaying disciplinary proceedings against him. It held that the culmination of a federal criminal matter was not "good cause" for *delaying disciplinary proceedings for nearly a year,* and it barred the Alabama State Bar from proceeding on the charges pending against the attorney. As in *Noojin*, we consider in the present case whether the Bar had "good cause" to defer or delay the disciplinary proceedings against the attorneys. Rule 14, Ala.R.Disc.P. The Bar asserts that it "stayed" the proceedings on the formal charges based on the attorneys' alleged attempts to obtain discovery for their criminal cases. Aside from this assertion, the Bar has not attempted to provide a reason for its continued delay in regard to the formal charges against the attorneys.[5] Therefore, if we accept the Bar's only explanation of "good cause" for delay, there remains a period of over a year, from February 14, 1997, to now, during which the Bar has taken no action to proceed on the merits of the formal charges. Under our *Noojin* analysis, we find that this delay in proceeding on the remaining formal charges is excessive. Therefore, because of the inordinate delay on the part of the Bar in pursuing the remaining formal charges against the attorneys, those charges are dismissed.

incorrect procedures and failed to make deadlines. She does not indicate what deadlines he missed. He did tell me that he filed a notice of appeal to protect her rights when she did not bother to respond to his requests asking her if she wanted to appeal. Her union representative also could not get in contact with her. Eventually, she bothered to respond and ordered him and Mr. Shamble (her Union Representative) not to pursue appeals, so they complied. If an error was made below, the normal way we correct it is by appeal.

The OBC says that it has an opinion by a lawyer as to the alleged malpractice, but OBC has not disclosed it to Mr. Klayman so neither he nor anyone else could answer it. OBC also says that it has a complaint, which suggests OBC has prejudged the matter, by showing its complaint to someone who is not part of the Office of Bar Counsel.

SECOND, she claims Mr. Klayman violated RULE 1.3 by revealing information to the public that was not secret client information and not confidential client information. Mr. Klayman told me that when he wrote to talked about the case it was only after his client's prior permission. She and Mr. Shamble thought that publicity would help her case by encouraging the Voice of America to settle rather than suffer bad publicity.

THIRD, she claims that Mr. Klayman did not disclose the fee until several months after the case began, and thus violated RULE 1.5. Mr. Klayman tells me that he did disclose the fee when they first talked about the case. The fee was zero — he did it as a pro bono matter.

Several months later, when the case got more difficult than either of them expected, he told the client that he would have charge a fee. Or, of course, she would retain another lawyer and he could transfer the files to that other lawyer. She chose not to hire a new lawyer and he proposed a contingent fee. She never signed a fee agreement because she was hard to contact and the case ended at her request. He never charged her any fee.

FOURTH, she claims a violation of RULE 1.6, by disclosing client confidences. Mr. Klayman has told me that he had her permission before he disclosed anything. She and her Union Representative, Mr. Shamble, thought that publicity would help her case, and she was probably right — although not pursuing an appeal undercut her case.

FIFTH, she claims that Mr. Klayman violated RULE 1.7 because he used her case for his purposes. Leaving aside the rather vague nature of those charges, Mr. Klayman says that his only motivation was to help her as a friend because she was in trouble and had other problems. He would be willing to disclose these other problems to you if Ms. Sataki waives her attorney-client privilege. After all, we do not want a situation where the OBC seeks to discipline Mr. Klayman in this case because he used what the OBC later claims is information protected by Rule 1.6. Since Mr. Klayman will not be talking to Ms. Sataki about this case. the OBC should ask for this waiver.

Sixth, Ms. Sataki says Mr. Klayman violated RULE 3.3 because he was dishonest in telling people he was her lawyer when he was not her lawyer. Mr. Klayman has told me that he never told people he was her lawyer after she discharged him. He (and her union representative) tried to contact her unsuccessfully to ask her if he wanted to appeal. Her complaint[7] says that her brother told Mr. Klayman to terminate the representation, but the caller did not identify himself as her brother, Mr. Klayman would not recognize the brother's voice, and her brother did not represent that he was her agent with authority.[8]

I am troubled that the OBC has sat on this case for nearly six years and another one involving Mr. Klayman for nearly eight years. In my view, the complaint of Oct. 20, 2011 should be dismissed, particularly under these circumstances. The OBC has not even

[7] I refer to the complaint as "her complaint" but I do not mean to imply that she wrote it. Mr. Klayman tells me that when he knew her, her English was not good enough to draft a complaint like this one.

[8] Mr. Klayman has met her brother once, hut does not know him well enough to recognize her voice, and he has met her mother once. Both times, he met them at the residence of Ms. Sataki, because the mother and the brother invited him — they wanted to meet the lawyer who was representing their sister/daughter. Ms. Sataki claims that he showed up "unannounced." If she is telling the truth it is only because she did not talk to her brother or mother on this matter.

asserted that it learned something in the intervening years to justify reopening this old complaint.

Sincerely,

Ronald D. Rotunda
Doy & Dee Henley Chair and
Distinguished Professor of Law

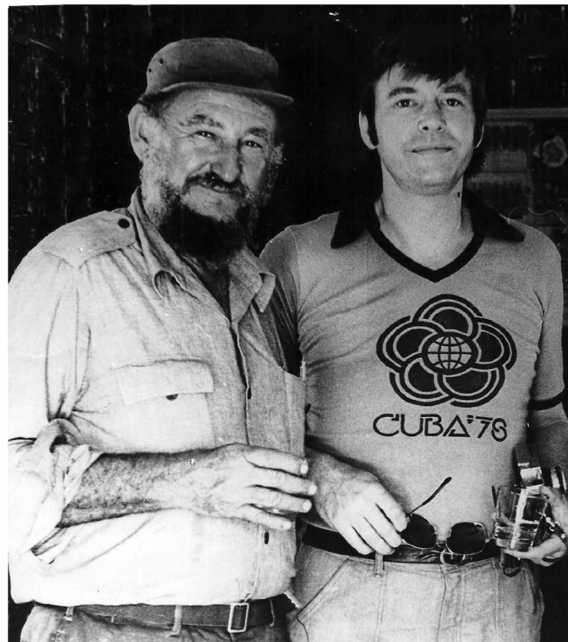
THE BRETHREN
INSIDE THE SUPREME COURT

BOB WOODWARD
SCOTT ARMSTRONG

*　　*　　*

In 1966, Brennan hired a University of California at Berkeley law graduate, Michael Tigar, as a clerk. Tigar had been a leading radical activist. When conservative columnists attacked Brennan, it became a political issue. Brennan fired Tigar the week he arrived to start work. As Douglas saw it, Brennan sacrificed the clerk to protect his personal position and his relationships with the moderate and conservative justices. Douglas called it "scandalous," a "shocking cave-in."

*　　*　　*



REPUBLICA OE CUBA
PRESIDENTE DEL CONSEJO DE ESTADO Y DEL GOBIERNO

*Ciudad de la Habana,
6 de diciembre de 1979*

*Sr. Michael Tigar
Washington, D.C.*

Muy estimado amigo Tigar:

Me siento verdaderamente aperado con usted. Hubiese deseado escribirle de immediato para expresarle mi más profundo agradecimiento por su gesto amistoso y sincero de enviar a nuestro país un magnífico ejemplar Santa Gertrudis. Puedo asegurarle que múltiples obligaciones y responsibilidades han ocupado mi atención y todo mi tiempo durante estos meses, lo que impidió expresarle de manera personal mi mayor reconocimiento ¿Podré pedirle aún la generosidad de que nos disculpe por esta demora involuntaria?

Como ya conocerá, el toro "Phoenix", que nos envió, llegó a Cuba con buenas condiciones, después de varios largos e inevitables períodos de cuarentena. Su estado de salud es satisfactorio, se adapta favorablemente, y pensamos que pronto estará en condiciones de entrar en producción. Creo que será un aporte de gran valor al desarrollo de nuestra masa de Santa Gertrudis, que cuidamos con esmero, y padre de animales de gran calidad. Estoy informado de todo el esfuerzo y las preocupadciones que le ocasionó el hacer llegar a nuestra país a este semental tan selecto. Por eso, aunque su obsequio es valiosísimo, todavía más valioso y más

importante es para nosotros su gesto de amistad y de simpatía. Créame que me siento en una deuda de profunda y sincera gratidad hacia usted.

Habría deseado saludarle personalmente, junto a otros distinguidos amigos, en mi reciente visita a Nueva York, pero, como sabe, las circunstancias no fueron entonces las más propicias. Confío en que hallarmemos la oportunidad para sostener este encuentro. Quizás sea en su propio país. ¿Y por qué no en Cuba?

Reciba el más cordial saludo de su amigo,

/s/ Fidel Castro Ruz
Fidel Castro Ruz

REPUBLICA OE CUBA
PRESIDENTE DEL CONSEJO OE ESTADO Y DEL GOBIERNO

Sr. Michel Tigar
Esq. 1308 18 St. N.W.
Washington, D.C.
EE, UU.

'Free speech' advocate works to silence Larry Klayman

Exclusive: Jack Cashill exposes radical ideology of lawyer pushing punishment

By Jack Cashill

Published January 1, 2020 at 5:38pm

In July of 2019, a hearing committee of the District of Columbia Bar Board of Professional Responsibility made a recommendation that Judicial Watch founder Larry Klayman be suspended, a recommendation now under appeal, from the practice of law in the district for 33 months.

The three-person committee strangely and inexplicably included only two attorneys, both of whom are of the left, and one of whom, Michael Tigar, is proudly far left.

How far left? Consider the following review on the jacket of Tigar's most recent book: "'An incisive, unsparing, creative, brilliant critique of capitalist law and its dire human consequences.' – BERNARDINE DOHRN, co-editor with Bill Ayers, Race Discourse: Against White Supremacy."

In the book, "Mythologies of State and Monopoly Power," Tigar emphasizes the Marxist notion that "the law is not what is says but what it does." Not liking the "dire human consequences" of the law as it exists, Tigar is not above twisting the law to his own ends.

Klayman suspects that Tigar, something of a superstar in Marxist circles, was recruited by the committee

chairman, Anthony Fitch to sit on the committee with him. The two appeared chummy throughout the proceeding, and Fitch seemed downright deferential.

Throughout the proceeding, Tigar could barely conceal his disdain for the conservative, pro-capitalist, pro-Israel, pro-Trump activist Klayman.

In testifying as to why he founded Judicial Watch, Klayman explained his objections to the fact that federal judges were often chosen on the basis of political contributions by their law firms, labor unions or corporations.

As a result, said Klayman, "the best and the brightest" do not always make their way onto the bench. At this, Tigar grew visibly angry and shot back that his son, Jon Tigar, also a graduate of Berkeley Law School, was a federal judge.

President Barack Obama had appointed young Tigar to the federal bench in San Francisco. Klayman said he did not mean to impugn Tigar's son, but Judge Tigar deserved impugning. Tigar is the same federal judge who willy-nilly enjoined President Trump's asylum policy for illegal immigrants.

In its article on Klayman's recommended suspension, the Washington Post observed, that the "conservative" Klayman "is a notably combative litigant whose no-holds-barred tactics and robust use of the Freedom of Information Act have made him a dreaded – and sometimes loathed – inquisitor."

The Post also noted that Klayman writes for "World-NetDaily, a right-wing news aggregator site." As to the left-wing politics of Fitch and Tigar, the Post predictably made no mention at all and failed to take seriously Klayman's claim that "It was a very politicized hearing committee."

The case itself has little to do with politics. It involves Klayman's pro-bono defense of a female Persian broadcaster at Voice of America. When she did not get the result she wanted, she turned on Klayman.

Both the Florida and Pennsylvania Bars dismissed identical complaints six years earlier. Following Trump's election, the head of the D.C. Bar Disciplinary Counsel resurrected the complaint six years after the woman had abandoned it.

Klayman believes that it was his high-profile legal advocacy on Trump's behalf that awakened legal radicals to the political potential of what is now a 10-yearold case.

"For Tigar, I am a conservative scalp," says Klayman, who is still able to practice law in D.C. during the appeal, "and one that he obviously harbors an animus toward, particularly given my support of Trump."

The 78-year-old Tigar has been an unapologetic disciple of the hard left from his student days. In his memoir, he boasts of his fond feelings for the brothers Castro and his attendance at the notorious Soviet-sponsored World Festival of Youth and Students in Helsinki in 1962.

Tigar's radicalism alarmed even liberal Supreme Court Chief Justice Earl Warren. According to Tigar, in 1965 Warren ordered Justice William Brennan to fire Tigar, then clerking for Brennan, and Brennan did just that.

Tigar has not mellowed as he has grown older. In fact, he has turned as the larger progressive movement has from defending free speech to suppressing it.

"Of all the remarkable developments of the past decade," argues British author Frank Furedi, "none has been more sinister than the West's gradual surrender of mankind's most important values: the twin ideals of freedom of speech and expression."

In Washington, that "surrender" has been imposed almost exclusively on the political right. Enforcing it are attorneys like Tigar and Fitch, the Democrats in Congress, federal judges of the Jon Tigar mold, and the intel agencies, all with the indispensable support of an increasingly leftist media.

The same Michael Tigar who supported the free speech movement while a law student at Berkeley in the 196os is now working actively to silence Larry Klayman. It is hard to interpret Tigar's behavior otherwise.

[SEAL]

GEORGETOWN LAW

600 New Jersey Avenue, NW Washington, DC 20001-2075
PHONE 202-662-9579 FAX 202-662-9681
smithal@law.georgetown.edu

Abbe Smith
Professor of Law

February 20, 2017

Office of Disciplinary Counsel
Board on Professional Responsibility
District of Columbia Court of Appeals
515 5th Street NW
Building A, Suite 117
Washington, DC 20001

To the Office of Disciplinary Counsel:

Please be advised that the below signed law professors, all of whom teach courses relating to legal ethics, are hereby filing a disciplinary complaint against District of Columbia bar member Kellyanne Conway, currently listed as a member of the bar under her name before marriage, Kellyanne E. Fitzpatrick,[1] under DC Rule of Professional Conduct 8.4(c) [hereinafter DC Rules].

As Rule 8.4(c) states, "It is professional misconduct for a lawyer to [e]ngage in conduct involving dishonesty, fraud, deceit, or misrepresentation." This is an admittedly broad rule, as it includes conduct outside the

[1] Ms. Conway, née Fitzpatrick, was admitted to the DC bar on January 19, 1995 and is currently suspended for nonpayment of dues. Presumably, if she resumes payment she would be readmitted.

practice of law and, unlike 8.4(b), the conduct need not be criminal. We are mindful of the Rule's breadth and aware that disciplinary proceedings under this Rule could lead to mischief and worse. Generally speaking, we do not believe that lawyers should face discipline under this Rule for public or private dishonesty or misrepresentations unless the lawyer's conduct calls into serious question his or her "fitness for the practice of law," DC Rule 8.4, Comment 1, or indicates that the lawyer "lacks the character required for bar membership." DC Bar, Ethics Opinion 323, *Misrepresentation by an Attorney Employed by a Government Agency as Part of Official Duties*, at https://www.dcbar.org/bar-resources/legalethics/opinions/opinion323.cfm.

However, we believe that lawyers in public office—Ms. Conway is Counselor to the President—have a higher obligation to avoid conduct involving dishonest, fraud, deceit, or misrepresentation than other lawyers. Although the DC Rules contain no Comment specifically relating to 8.4(c), the American Bar Association's Model Rules of Professional Conduct (MR) make this point. MR 8.4(c), Comment 7 states that "Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of lawyers." *Cf*. DC Rule 1.11 (on the special conflict of interest rules for lawyers who have served in government).

It is not surprising that the Model Rules distinguish lawyers in public office from other lawyers. The ABA knows well the history of professional responsibility as

an academic requirement in American law schools: following the Watergate scandal, which involved questionable conduct by a number of high-ranking lawyers in the Nixon administration, the ABA mandated that law students take such a course in order to graduate.

Some of the signers of this complaint practice in the District of Columbia and/or are members of the DC Bar. We feel compelled to file such a complaint under DC Rule 8.3(a), which states that "A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority."

Those of us who do not practice in DC are members of other state and federal bars. We all believe it is critically important that lawyers in public office—especially those who act as spokespersons for the highest levels of government—be truthful.

The DC Bar has issued an Ethics Opinion on lawyers working in government in a nonrepresentational capacity that supports this complaint. *See generally* Ethics Opinion 323, *Misrepresentation by an Attorney Employed by a Government Agency as Part of Official Duties*, https://www.dcbar.org/bar-resources/legal-ethics/opinions/opinion323.cfm. In addressing an inquiry about attorneys employed by an intelligence or national security agency who engage in clandestine activities, the Opinion distinguishes those government officials whose official duties require them to "act

deceitfully" from other lawyers in government. Though the Opinion finds lawyers "whose duties require the making of misrepresentations as authorized by law as part of their official duties" do not violate Rule 8.4(c), the drafters emphasize the Opinion's narrow scope: it applies "only to misrepresentations made in the course of official conduct when the employee . . . reasonably believes that applicable law authorizes the misrepresentations."

Significantly, for purposes of this complaint, Ethics Opinion 323 makes plain that its conclusion in the above narrow context does not provide "*blanket permission for an attorney employed by government agencies to misrepresent themselves*." [Emphasis added] The drafters further explain:

> Nor does [the Opinion] authorize misrepresentation when a countervailing legal duty to give truthful answers applies. . . . And, of course, this opinion does not authorize deceit for non-official reasons, or where an attorney could not, objectively have a reasonable belief that applicable law authorizes the actions in question.

Ms. Conway's misconduct under DC Rule 8.4(c) is as follows:

- On several occasions, including in an interview on MSNBC in early February, 2017, Ms. Conway referred to the "Bowling Green Massacre" to justify President Donald Trump's executive order banning immigrants from seven overwhelmingly Muslim countries. Not only was there no "massacre" in Bowling Green,

Kentucky (or Bowling Green, New York, for that matter), but Ms. Conway knew there was no massacre. Although Ms. Conway claimed it was a slip of the tongue and apologized, her actual words belie her having misspoken: "I bet it's brand-new information to people that President Obama had a six-month ban on the Iraqi refugee program after two Iraqis came here to this country, were radicalized, and were the masterminds behind the Bowling Green Massacre. Most people don't know that because it didn't get covered." *See generally* Clare Foran, *The Bowling Green Massacre that Wasn't*, THE ATLANTIC, February 3, 2017, at https://www.theatlantic.com/politics/archive/2017/02/kellyanne-conway-bowling-green massacre-alternative-facts/515619/. Moreover, she cited the nonexistent massacre to media outlets on at least two other occasions. *See* Aaron Blake, *The Fix: Kellyanne Conway's 'Bowling Green Massacre' wasn't a slip of the tongue. She has said it before*. WASH. POST, February 6, 2017, at https://www.washington post.com/news/thefix/wp/2017/02/06/kellyanne-conways-bowling-green-massacre-wasnt-a-slip-of-thetongue-shes-said-it-before/?utm_term=.b2de9c3f0582.

- Compounding this false statement, in that same MSNBC interview Ms. Conway also made a false statement that President Barack Obama had "banned" Iraqi refugees from coming into the United States for six months following the "Bowling Green Massacre." *Id.* However, President Obama did not impose a formal six-month ban on Iraqi refugees. He

ordered enhanced screening procedures following what actually happened in Bowling Green—the arrest and prosecution of two Iraqis for attempting to send weapons and money to al-Qaeda in Iraq. The two men subsequently pled guilty to federal terrorism charges and were sentenced to substantial prison terms. *See* Glenn Kessler, *Fact Checker: Trump's facile claim that his refugee policy is similar to Obama's in 2011*, WASH. POST, January 29, 2017, at https://www.washingtonpost.com/news/factchecker/wp/2017/01/29/trumps-facile-claim-that-his-refugee-policy-is-similar-to-obamain-2011/?utm_term=.87f35b046de2.

- This was not the first time Ms. Conway had engaged in conduct involving "dishonesty, fraud, deceit, or misrepresentation." On January 22, 2017, on the NBC television show *Meet the Press*, Ms. Conway said that the White House had put forth "alternative facts" to what the news media reported about the size of Mr. Trump's inauguration crowd. She made this assertion the day after Mr. Trump and White House press secretary Sean Spicer accused the news media of reporting falsehoods about the inauguration and Mr. Trump's relationship with intelligence agencies. *See* Nicholas Fandos, *White House Pushes 'Alternative Facts.' Here are the Real Ones.* N.Y. TIMES, January 22, 2017, at https://www.nytimes.com/2017/01/22/us/politics/president-trump-inauguration-crowd-white-house.html. As many prominent commentators have pointed out, the phrase "alternative facts" is especially

dangerous when offered by the President's counselor. Moreover, "alternative facts' are not facts at all; they are *lies*. Charles M. Blow, *A Lie by Any Other Name*, N.Y. TIMES, January 26, 2017, at https://www.nytimes.com/2017/01/26/opinion/a-lie-by-any-other-name.html.

- Ms. Conway has also misused her position to endorse Ivanka Trump products on February 9, 2017 in an interview on Fox News from the White House briefing room with the White House insignia visible behind her. While this conduct does not fall within DC Rule 8.4, it is a clear violation of government ethics rules, about which a *lawyer* and member of the Bar should surely know. Federal rules on conflicts of interest specifically prohibit using public office "for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives or persons with whom the employee is affiliated in a nongovernmental capacity." The government's chief ethics watchdog denounced Conway's conduct in a letter to the White House. Richard Perez Pena, *Ethics Watchdog Denounces Conway's Endorsement of Ivanka Trump Products*, N.Y. TIMES, February 14, 2017, at https://www.nytimes.com/2017/02/14/us/politics/Kellyanne-Conway-ivanka-trump-ethics.html. *See also* DC Rule 1.11, Comment 2 (noting that, in addition to ethical rules, lawyers are subject to statutes and regulations concerning conflict of interest and suggesting that, given the many lawyers who work in the federal or local government in the District of Columbia,

> "particular heed must be paid to the federal conflict-of interest statutes.")

We do not file this complaint lightly. In addition to being a member of the DC Bar, Ms. Conway is a graduate of the George Washington University Law School, one of the District's premier law schools. We believe that, at one time, Ms. Conway, understood her ethical responsibilities as a lawyer and abided by them. But she is currently acting in a way that brings shame upon the legal profession. As the Preamble to the Model Rules states, a lawyer plays an important role as a "public citizen" in addition to our other roles.

If Ms. Conway were not a lawyer and was "only" engaging in politics, there would be few limits on her conduct outside of the political process itself. She could say and do what she wished and still call herself a politician. But she is a lawyer. And her conduct, clearly intentionally violative of the rules that regulate her professional status, cries out for sanctioning by the DC Bar.

Respectfully submitted,

John Bickers
Professor of Law
Northern Kentucky University

Bennett Gershman
Professor of Law
Pace University

Jennifer Kinsley
Associate Professor of Law

Ilene Seidman
Professor of Law
Suffolk University

Michael Tigar
Professor of Law Emeritus
American University
Duke University

Northern Kentucky University

Russell Pearce
Professor of Law
Fordham University

Abbe Smith
Professor of Law
Georgetown University

Susan Brooks
Professor of Law
Drexel University

Justin Hansford
Associate Professor of Law
Saint Louis University

Catherine Klein
Professor of Law
Catholic University

Lawrence Fox
Visiting Lecturer of Law
Yale Law School

Vida Johnson
Visiting Professor of Law
Georgetown University

William Montross
Visiting Professor of Law
University of the District of Columbia

David Singleton
Associate Professor of Law
Northern Kentucky University

Ellen Yaroshefsky
Professor of Law
Hofstra University

RealClear Investigations

DC Bar Restores Convicted FBI Russiagate Forger to 'Good Standing' Amid Irregularities and Leniency
By **Paul Sperry**, RealClearInvestigations
December 16, 2021

A former senior FBI lawyer who falsified a surveillance document in the Trump-Russia investigation has been restored as a member in "good standing" by the District of Columbia Bar Association even though he has yet to finish serving out his probation as a convicted felon, according to disciplinary records obtained by RealClearInvestigations.

Kevin Clinesmith, convicted ex-FBI lawyer: Allowed to negotiate a light sentence.
YouTube/Fox News

The move is the latest in a series of exceptions the bar has made for Kevin Clinesmith, who pleaded guilty in August 2020 to doctoring an email used to justify a

surveillance warrant targeting former Trump campaign adviser Carter Page.

Clinesmith was sentenced to 12 months probation last January. But the **D.C. Bar** did not seek his disbarment, as is customary after lawyers are convicted of serious crimes involving the administration of justice. In this case, it did not even initiate disciplinary proceedings against him until February of this year—five months after he pleaded guilty and four days after RealClearInvestigations first **reported** he had not been disciplined. After the negative publicity, the bar temporarily suspended Clinesmith pending a review and [Illegible text cut off] hearing. Then in September, the court that oversees the bar and imposes sanctions agreed with its recommendation to let Clinesmith off suspension with time served; the bar, in turn, restored his **status** to "active member" in "good standing."

Before quietly making that decision, however, records indicate the bar did not check with his probation officer to see if he had violated the terms of his sentence or if he had completed the community service requirement of volunteering 400 hours.

To fulfill the terms of his probation, Clinesmith volunteered at Street Sense Media in Washington but stopped working at the nonprofit group last summer, which has not been previously reported. "I can confirm he was a volunteer here," Street Sense editorial director Eric Falquero told RCI, without elaborating about how many hours he worked. Clinesmith had helped edit and research articles for the weekly newspaper,

which coaches the homeless on how to "sleep on the streets" and calls for a "universal living wage" and prison reform.

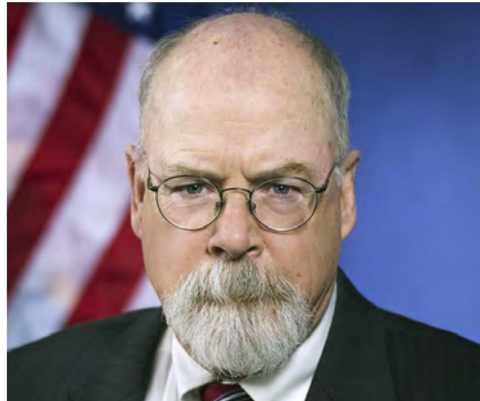
From the records, it also appears bar officials did not consult with the FBI's Inspection Division, which has been debriefing Clinesmith to determine if he was involved in any other surveillance abuses tied to Foreign Intelligence Surveillance Act warrants, in addition to the one used against Page. Clinesmith's cooperation was one of the conditions of the plea deal he struck with Special Counsel John Durham. If he fails to fully cooperate, including turning over any relevant materials or records in his possession, he could be subject to perjury or obstruction charges.

Clinesmith—who was assigned to some of the FBI's most sensitive and high-profile investigations—may still be in Durham's sights regarding others areas of his wide-ranging probe.

The scope of his mandate as special counsel is broader than commonly understood: In addition to examining the legal justification for the FBI's "Russiagate" probe, it also includes examining the bureau's handling of the inquiry into Hillary Clinton's use of an unsecured email server, which she set up in her basement to send and receive classified information, and her destruction of more than 30,000 subpoenaed emails she generated while running the State Department. As assistant FBI general counsel in the bureau's national security branch, Clinesmith played an instrumental role in that investigation, which was widely criticized by FBI and

Justice Department veterans, along with ethics watchdogs, as fraught with suspicious irregularities.

Clinesmith also worked on former Special Counsel Robert Mueller's probe into the 2016 Trump campaign as the key attorney linking his office to the FBI. He was the only headquarters lawyer assigned to Mueller. Durham's investigators are said to be looking into the Mueller team's actions as well.



John Durham, Trump-Russia special counsel: He may still have Clinesmith in his sights.
Department of Justice via AP

The D.C. Bar's treatment of Clinesmith, a registered Democrat who sent anti-Trump rants to FBI colleagues after the Republican was elected, has raised questions from the start. Normally the bar automatically suspends the license of members who plead guilty to a felony. But in Clinesmith's case, it delayed suspending him on even an interim basis for several months and only acted after RCI revealed the break Clinesmith was given, records confirm.

Hamilton "Phil" Fox: Disciplinary counsel who handled Clinesmith is a major donor to Democrats.
Facebook/D.C. Bar

It then allowed him to negotiate his fate, which is rarely done in any misconduct investigation, let alone one involving a serious crime, according to a review of past cases. It also overlooked violations of its own rules: Clinesmith apparently broke the bar's rule requiring reporting his guilty plea "promptly" to the court—within 10 days of entering it—and failed to do so for five months, reveal transcripts of a July disciplinary hearing obtained by RCI.

"I did not see evidence that you informed the court," Rebecca Smith, the chairwoman of the D.C. Bar panel conducting the hearing, admonished Clinesmith.

"[T]hat was frankly just an error," Clinesmith's lawyer stepped in to explain.

Smith also scolded the bar's Office of Disciplinary Counsel for the "delay" in reporting the offense, since it negotiated the deal with Clinesmith, pointing out:

"Disciplinary counsel did not report the plea to the court and initiate a disciplinary proceeding." Bill Ross, the assistant disciplinary counsel who represented the office at the hearing, argued Clinesmith shouldn't be held responsible and blamed the oversight on the COVID pandemic.

The Democrat-controlled panel, known as the Board on Professional Responsibility, nonetheless gave Clinesmith a pass, rubberstamping the light sentence he negotiated with the bar's chief prosecutor, Disciplinary Counsel Hamilton "Phil" Fox, while admitting it was "unusual." Federal Election Commission records show Fox, a former Watergate prosecutor, is a major donor to Democrats, including former President Obama. All three members of the board also are Democratic donors, FEC data reveal.

While the D.C. Bar delayed taking any action against Clinesmith, the Michigan Bar, where he is also licensed, automatically suspended him the day he pleaded guilty. And on Sept. 30, **records** show, the Michigan Bar's attorney discipline board suspended Clinesmith for two years, from the date of his guilty plea through Aug. 19, 2022, and fined him $1,037.

"[T]he panel found that respondent engaged in conduct that was prejudicial to the proper administration of justice [and] exposed the legal profession or the courts to obloquy, contempt, censure or reproach," the board **ruled** against Clinesmith, adding that his misconduct "was contrary to justice, ethics, honesty or good morals; violated the standards or rules of professional conduct

adopted by the Supreme Court; and violated a criminal law of the United States."

Normally, bars arrange what's called "reciprocal discipline" for unethical attorneys licensed in their jurisdictions. But this was not done in the case of Clinesmith. The D.C. Bar decided to go much easier on the former FBI attorney, further raising suspicions the anti-Trump felon was given favorable treatment.

In making the bar's case not to strip Clinesmith of his license or effectively punish him going forward, Fox disregarded key findings by Durham about Clinesmith's intent to deceive the FISA court as a government attorney who held a position of trust.

Clinesmith confessed to creating a false document by changing the wording in a June 2017 CIA email to state Page was "not a source" for the CIA when in fact the agency had told Clinesmith and the FBI on multiple occasions Page had been providing information about Russia to it for years—a revelation that, if disclosed to the Foreign Intelligence Surveillance Court, would have undercut the FBI's case for electronically monitoring Page as a supposed Russian agent and something that Durham noted Clinesmith understood all too well.

Carter Page: FBI lawyer Clinesmith misled the surveillance court when he falsified a document to say Page was "not a source" who had helped the CIA, when in fact he was.
FNC

Bar records show Fox simply took Clinesmith's word that lie believed the change in wording was accurate and that in making it, he mistakenly took a "shortcut" to save time and had no intent to deceive the court or the case agents preparing the application for the warrant.

Durham demonstrated that Clinesmith certainly did intend to mislead the FISA court. "By his own words, it appears that the defendant falsified the email in order to conceal [Page's] former status as a source and to avoid making an embarrassing disclosure to the FISC," the special prosecutor asserted in his 20-page memo to the sentencing judge, in which he urged a prison term of up to six months for Clinesmith. "Such a disclosure

would have drawn a strong and hostile response from the FISC for not disclosing it sooner [in earlier warrant applications]."

As proof of Clinesmith's intent to deceive, Durham cited an internal message Clinesmith sent the FBI agent preparing the application, who relied on Clinesmith to tell him what the CIA said about Page. "At least we don't have to have a terrible footnote" explaining that Page was a source for the CIA in the application, Clinesmith wrote.

The FBI lawyer also removed the initial email he sent to the CIA inquiring about Page's status as a source before forwarding the CIA email to another FBI agent, blinding him to the context of the exchange about Page.

Durham also noted that Clinesmith repeatedly changed his story after the Justice Department's watchdog first confronted him with the altered email during an internal 2019 investigation. What's more, he falsely claimed his CIA contact told him in phone calls that Page was not a source, conversations the contact swore never happened.

Fox also maintained that Clinesmith had no personal motive in forging the document. But Durham cited virulently anti-Trump political messages Clinesmith sent to other FBI employees after Trump won in 2016 – including a battle cry to "fight" Trump and his policies – and argued that his clear political bias may have led to his criminal misconduct.

"It is plausible that his strong political views and/or personal dislike of [Trump] made him more willing to engage in the fraudulent and unethical conduct to which he has pled guilty," Durham told U.S. District Judge Jeb Boasberg.

James E. "Jeb" Boasberg: Obama appointee spared Clinesmith jail time.
DC District Court

Boasberg, a Democrat appointed by President Obama, spared Clinesmith jail time and let him serve out his probation from home. Fox and the D.C. Bar sided with Boasberg, who accepted Clinesmith's claim he did not intentionally deceive the FISA court, which Boasberg happens to preside over, and even offered an excuse for his criminal conduct.

"My view of the evidence is that Mr. Clinesmith likely believed that what he said about Mr. Page was true," Boasberg said. "By altering the email, he was saving

himself some work and taking an inappropriate shortcut."

Fox echoed the judge's reasoning in essentially letting Clinesmith off the hook. (The deal they struck, which the U.S. District Court of Appeals that oversees the bar approved in September, called for a one-year suspension, but the suspension began retroactively in August 2020, which made it meaningless.) Boasberg opined that Clinesmith had "already suffered" punishment by losing his FBI job and $150,000 salary.

But, Boasberg assumed, wrongly as it turned out, that Clinesmith also faced possible disbarment. "And who knows where his earnings go now," the judge sympathized. "He may be disbarred or suspended from the practice of law."

Anticipating such a punishment, Boasberg waived a recommended fine of up to $10,000, arguing that Clinesmith couldn't afford it. He also waived the regular drug testing usually required during probation, while returning Clinesmith's passport. And he gave his blessing to Clinesmith's request to serve out his probation as a volunteer journalist, before wishing him well: "Mr. Clinesmith, best of luck to you."

Fox did not respond to requests for comment. But he argued in a petition to the board that his deal with Clinesmith was "not unduly lenient," because it was comparable to sanctions imposed in similar cases. However, none of the cases he cited involved the FBI, Justice Department or FISA court. One case involved a lawyer who made false statements to obtain

construction permits, while another made false statements to help a client become a naturalized citizen – a far cry from falsifying evidence to spy on an American citizen.

Durham noted that in providing the legal support for a warrant application to the secret FISA court, Clinesmith had "a heightened duty of candor," since FISA targets do not have legal representation before the court.

He argued Clinesmith's offense was "a very serious crime with significant repercussions" and suggested it made him unfit to practice law.

"An attorney – particularly an attorney in the FBI's Office of General Counsel – is the last person that FBI agents or this court should expect to create a false document," Durham said.

The warrant Clinesmith helped obtain has since been deemed invalid and the surveillance of Page illegal. Never charged with a crime, Page is now suing the FBI and Justice Department for $75 million for violating his constitutional rights against improper searches and seizures.

Michael Sussmann, ex-Hillary Clinton lawyer: Not facing bar discipline, despite being charged with a crime.
perkinscoie.com

Rudolph Giuliani, Trump lawyer: Facing bar discipline, even though he's not charged with a crime.
PBS

Explaining the D.C. Bar's disciplinary process in a 2019 interview with Washington Lawyer magazine,

Fox said that "the lawyer has the burden of proving they are fit to practice again. Have they accepted responsibility for their conduct?" His office's website said a core function is to "deter attorneys from engaging in misconduct."

In the same interview, Fox maintained that he tries to insulate his investigative decisions from political bias. "I try to make sure our office is not used as a political tool," he said. "We don't want to be a political tool for the Democrats or Republicans."

Bar records from the Clinesmith case show Fox suggested the now-discredited Trump-Russia "collusion" investigation was "a legitimate and highly important investigation."

One longstanding member of the D.C. Bar with direct knowledge of Clinesmith's case before the bar suspects its predominantly Democratic board went soft on him due to partisan politics. "The District of Columbia is a very liberal bar," he said. "Basically, they went light on the him because he's also a Democrat who hated Trump."

Meanwhile, the D.C. Bar has not initiated disciplinary proceedings against Michael Sussmann, another Washington attorney charged by Durham. Records show Sussmann remains an "active member" of the bar in "good standing," which also has not been previously reported. The former Hillary Clinton campaign lawyer, who recently resigned from Washington-based Perkins Coie LLP, is accused of lying to federal investigators

about his client while passing off a report falsely linking Trump to the Kremlin.

While Sussmann has pleaded not guilty and has yet to face trial, criminal grand jury indictments usually prompt disciplinary proceedings and interim suspensions.

Paul Kamenar of the National Legal and Policy Center, a government ethics watchdog, has called for the disbarment of both Clinesmith and Sussmann. He noted that the D.C. Court of Appeals must automatically disbar an attorney who commits a crime of moral turpitude, which includes crimes involving the "administration of justice."

"Clinesmith pled guilty to a felony. The only appropriate sanction for committing a serious felony that also interfered with the proper administration of justice and constituted misrepresentation, fraud and moral turpitude, is disbarment," he said. "Anything less would minimize the seriousness of the misconduct" and fail to deter other offenders.

Disciplinary Counsel Fox appears to go tougher on Republican bar members. For example, he recently opened a formal investigation of former Trump attorney Rudy Giuliani, who records show Fox put under "temporary disciplinary suspension" pending the outcome of the ethics probe, which is separate from the one being conducted by the New York bar. In July, the New York Bar also suspended the former GOP mayor on an interim basis.

Giuliani has not been convicted of a crime or even charged with one.

Fwd: Matter of Larry Elliot Klayman, No. 2918 DD3
Fri, Nov 4, 2022 at 11:19 AM

Larry Klayman <klaymanlaw@gmail.com>
To: Oliver Peer <oliver.peerfw@gmail.com>

---------- Forwarded message ----------
From: **Anthony Sodroski**
<Anthony.Sodroski@pacourts.us>
Date: Fri, Nov 4, 2022 at 11:12 AM
Subject: Matter of Larry Elliot Klayman, No. 2918 DD3
To: leklayman@gmail.com <leklayman@gmail.com>,
Larry Klayman <klaymanlaw@gmail.com>

Mr. Klayman,

While the issue is irrelevant to the reciprocal discipline proceeding against you, as a courtesy I checked our records to determine if there was any complaint against you by E___ S___ ("E.S."). A complaint was submitted in October 2011 by E.S. and closed that month by ODC without any adjudication. The closing of this matter does not represent any adjudication on the merits. We destroyed the file in 2013 and do not have a copy of the complaint.

Anthony P. Sodroski

Anthony P. Sodroski
Counsel-In-Charge, Special Projects
Office of Disciplinary Counsel
1601 Market Street
Suite 3320
Philadelphia, PA 19103

(215) 560-6296 – Ext. 4937

Fax: (215) 560-4528

anthony.sodroski@pacourts.us

WARNING! This e-mail is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521 and is legally privileged. It contains information from the Office of Disciplinary Counsel which may be privileged, confidential and exempt from disclosure under applicable law. Dissemination or copying of this by anyone other than the addressee or the addressee's agent is strictly prohibited. If this electronic mail transmission is received in error, please notify the Office of Disciplinary Counsel, 215-560-6296. Thank you.

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

In the Matter of **LARRY E. KLAYMAN, ESQUIRE,** **Respondent** **A Member of the Bar of the District of Columbia Court of Appeals** **Bar Number: 334581** **Date of Admission: December 22, 1980**	**Bar Docket No. 2011-D028**

SPECIFICATION OF CHARGES

The disciplinary proceedings instituted by this petition are based upon conduct that violates the standards governing the practice of law in the District of Columbia as prescribed by D.C. Bar Rule X and D.C. Bar Rule XI, § 2(b).

Jurisdiction for this disciplinary proceeding is prescribed by D.C. Bar Rule XL Pursuant to D.C. Bar Rule XI. § 1(a), jurisdiction is found because:

1. Respondent is a member of the Bar of the District of Columbia Court of Appeals, having been admitted by exam on December 22. 1980, and assigned Bar number 334581.

The conduct and standards that Respondent has violated are as follows:

COUNT I

2. In or about January 2010, Respondent undertook to represent Ms. Elham Sataki in connection with her claims of sexual harassment by a co-worker, Mr. Mehdi Falahati, while employed with the Persian News Network (PNN) of Voice of America (VOA). PNN-VOA is managed by the Broadcasting Board of Governors (BBG), a federal agency responsible for the United States Government's international broadcasting. Respondent had not previously represented Ms. Sataki in a legal matter.

3. Respondent told Ms. Sataki that he would represent her on a contingent fee basis and that he would take 40% of any recovery. Respondent did not provide his client a writing setting forth the scope of the representation or how his fee would be calculated. Respondent also did not explain to his client, in writing, whether or how expenses would be deducted from any recovery in the case.

4. Ms. Sataki requested that Respondent prosecute her case simply and quietly, out of her concerns for her future career in the media and in light of cultural issues due to the nature of her sexual harassment claim.

5. During the course of the representation, Respondent told Ms. Sataki about his desire to establish a romantic relationship with her.

6. Ms. Sataki declined Respondent's entreaties to establish a romantic relationship

7. In or about May 2010, Respondent sent correspondence to Ms. Sataki acknowledging her decision not to become romantically involved with him. Respondent also informed Ms. Sataki that he would change the terms of their contingent fee arrangement, and require 50% of any recovery she may receive.

8. Respondent's conduct violated the following District of Columbia Rules of Professional Conduct ("Rules"):

a. Rule 1.5(b), in that Respondent had not regularly represented his client and failed to provide her with a writing setting forth the scope of the representation, the basis or rate of his fee, and the expenses for which she would be responsible;

b. Rule 1.5(c), in that Respondent undertook to represent his client on a contingent fee basis, but failed to provide her with a writing that stated the method by which the fee would be determined, including the percentages that would accrue to the lawyer and whether or how expenses would be deducted from the recovery; and

c. Rule 1.7(b)(4), in that Respondent had a conflict of interest with the client because his professional judgment on behalf of his client was or reasonably may have been adversely affected by Respondent's own personal interests.

COUNT II
[Sataki v. Falahati – CA. No. 10-466 (CKK)]

9. Disciplinary Counsel incorporates the factual allegations set forth in paragraphs 1-7, as if fully set forth herein, and further alleges:

10. On March 1, 2010, Respondent filed in the Superior Court for the District of Columbia, a lawsuit on behalf of Ms. Sataki, styled *Sataki v. Falahati*, CA No. 0001169-10. The lawsuit alleged: assault, battery, false light, defamation, tortious interference with business relations, and intentional infliction of emotional distress.

11. On March 19, 2010, Ms. Sataki's case was removed from the Superior Court for the District of Columbia to the United States District Court for the District of Columbia, and was styled *Sataki v. Falahati*, CA No. 10-466 (CKK).

12. On July 12, 2010, the court issued an order dismissing Ms. Sataki's case, without prejudice.

13. On July 26, 2010, Respondent filed in the United States District Court for the District of Columbia, a motion to disqualify the judge presiding over Ms. Sataki's case. As grounds for the motion, Respondent alleged that the presiding judge, Colleen Kollar-Kotelly, who had been appointed by United States President William Jefferson Clinton, was biased against him because he had filed several lawsuits against the former President and the former First Lady, Hillary Rodham Clinton. Respondent filed the

motion under the caption of three cases pending in that court styled: (1) *Klayman v. Judicial Watch*, CA No. 06-cv-00670 (CKK); (2) *Sataki v. BBG*, CA No. 10-0534 (CKK); and (3) *Sataki v. Falahati*, CA No. 10-cv-00466 (CKK).

14. Respondent's filing of the motion to disqualify was inconsistent with Ms. Sataki's request that Respondent pursue her case simply and quietly, and served no purpose to advance his client's case. Instead, the motion to disqualify served Respondent's own personal interests. Ms. Sataki did not know Respondent would file a motion to disqualify and did not authorize Respondent to file it.

15. On August 2, 2010, the court denied Respondent's motion to disqualify as untimely, inasmuch as the case had been dismissed on July 12, 2010.

16. Respondent's conduct violated the following Rules:

a. Rule 1.7(b)(4), in that Respondent had a conflict of interest with the client because his professional judgment on behalf of the client was or reasonably may have been adversely affected by Respondent's own personal interests;

b. Rule 1.2(a), in that Respondent failed to abide by his client's decisions concerning the objectives of his representation; and

c. Rule 1.4(b) in that Respondent failed to reasonably explain a matter to his client to permit her

to make an informed decision regarding the representation.

COUNT III
[*Sataki v. BGG* – CA No. 10-534 (CKK)]

17. Disciplinary Counsel incorporates the factual allegations set forth in paragraphs 1-7 and 10-15, as if fully set forth herein, and further alleges:

18. On April 2, 2010, Respondent filed in the United States District Court for the District of Columbia, a lawsuit on behalf of Ms. Sataki against fourteen defendants, including the BBG, four of the governors of the BBG, the Chief of Staff to the BBG, the Acting General Counsel of the BBG, the acting chief of PNN/VOA, the senior manager of PNN/VOA, the executive producers of PNN/VOA, a supervisor of human resources at PNN/VOA and Hillary Rodham Clinton as Secretary of State Ex-Officio Member of the BBG, alleging that defendants infringed upon Ms. Sataki's constitutional right to freedom of speech, and violated her rights to due process and to equal protection under the law. Respondent also alleged that defendants discriminated against Ms. Sataki in violation of the Rehabilitation Act on the basis of her physical or mental disabilities and that defendants violated the Privacy Act by failing to produce documents to her from to her personnel file. That matter was styled *Sataki v. BBG*, CA No. 10-534 (CKK). In connection with this lawsuit, Respondent sought affirmative injunctive relief to require PNN/VOA to reassign Ms. Sataki from her job in

Washington, D.C. to a position with PNN/VOA in Los Angeles, California.

19. The only defendant required to be named in the lawsuit was the Chief or Acting Chief of the Voice of America. Hillary Rodham Clinton was not a necessary defendant in the *Sataki* v. BBG lawsuit.

20. On June 1, 2010, the Court issued an order denying Plaintiffs motion for a temporary restraining order that sought the affirmative injunctive relief of reassigning Ms. Sataki from her job in Washington, D.C., to a position with PNN-VOA in Los Angeles, California.

21. On June 9, 2010, Respondent filed a motion with the court requesting that Ms. Sataki's case be reassigned to another judge. As grounds for the motion, Respondent alleged that the current trial judge, Colleen Kollar-Kotelly "harbors an animus" towards him because of her association with former President William Jefferson Clinton and former First Lady Hillary Rodham Clinton, and because of certain lawsuits Respondent had filed against the Clintons.

22. Respondent's filing of the motion to reassign was inconsistent with Ms. Sataki's request that Respondent pursue her case simply and quietly, and served no purpose to advance his client's case. Instead, the motion to reassign served Respondent's own personal interests. Ms. Sataki did not know that Respondent would file the motion to reassign her case to another trial judge and did not authorize Respondent to file it.

23. On July 7, 2010, the court issued an order denying Respondent's motion to reassign.

24. In or about August, 2010, Ms. Sataki terminated Respondent as her lawyer.

25. On October 22, 2010, the court issued an order granting defendants' motion to dismiss and dismissed Ms. Sataki's case, without prejudice.

26. On October 31, 2010, after having been terminated by Ms. Sataki in August, 2010, Respondent filed with the Court a motion to reconsider the order dismissing her case.

27. On November 15, 2010, Ms. Sataki sent correspondence to Respondent reiterating that she had terminated his services, and directed him to immediately withdraw.

28. On December 9, 2010, Respondent, filed with the Court, a motion for extension of time to reply to the government's opposition to plaintiff's motion for reconsideration.

29. On December 17, 2010, Respondent filed with the Court a reply to defendants' opposition to plaintiff's motion for reconsideration of its order of dismissal.

30. On December 20, 2010, Respondent filed with the Court a supplemental memorandum to the reply to the defendants' opposition to plaintiff's motion to reconsider the order of dismissal.

31. On December 21, 2010, the Court issued an order denying plaintiff's motion to reconsider the dismissal of her case.

32. On January 10, 2011, Respondent filed with the court a "Notice of Praecipe by Elham Sataki".

33. On January 19, 2011, Respondent filed a notice of appeal.

34. Respondent's conduct violated the following Rules:

a. Rule 1.7(b)(4), in that Respondent had a conflict of interest with the client because his professional judgment on behalf of the client was or reasonably may have been adversely affected by Respondent's own personal interests;

b. Rule 1.4(b), in that Respondent failed to reasonably explain a matter to his client to permit her to make an informed decision about the representation;

c. Rule 1.2(a), in that Respondent failed to abide by his client's decisions concerning the objectives of his representation; and

d. Rule 1.16(a)(3), in that Respondent failed to withdraw from the representation after he had been discharged by his client.

COUNT IV

35. Disciplinary Counsel incorporates the factual allegations set forth in paragraphs 1-7, 10-15, 17-33, as if fully set forth herein, and further alleges:

36. WorldNetDaily is a periodical that can be accessed on the world-wide web. According to its own website, dated February 19, 2015, "WND currently attracts nearly 5 million unique visitors per month and more than 40 million page views, according to its own internal monitoring software."

37. On or about April 30, 2010, Respondent authored an article that was published by WorldNetDaily that described, in part, his representation of Ms. Sataki and her claims against VOA. Ms. Sataki did not know that Respondent would author an article concerning her case that would be published. Ms. Sataki did not consent to the publication of Respondent's article. Ms. Sataki was embarrassed by Respondent's disclosure of facts that he gained during the course of the representation.

38. On or about May 11, 2010, Respondent contributed to another article that was published by the WorldNetDaily describing, in detail, the lawsuit Respondent filed on behalf of Ms. Sataki against VOA. Ms. Sataki did not know that Respondent would contribute to an article about her case that would be published. Ms. Sataki did not consent to the publication of the article. Ms. Sataki was embarrassed by Respondent's disclosure of facts that he gained during the course of the representation.

39. On or about May 14, 2010, Respondent authored another article that was published by WorldNetDaily describing, in detail, the lawsuit he filed on behalf of Ms. Sataki against VOA. Ms. Sataki did not know that Respondent would author an article concerning her case that would be published. Ms. Sataki did not consent to the publication of Respondent's article. Ms. Sataki was embarrassed by Respondent's disclosure of facts that he gained during the course of the representation.

40. On May 21, 2010, Respondent authored another article that was published in the WorldNetDaily that referenced his representation of Ms. Sataki against VOA. Ms. Sataki did not know that Respondent would author an article concerning her case that would be published. Ms. Sataki did not consent to the publication of Respondent's article. Ms. Sataki was embarrassed by Respondent's disclosure of facts that he gained during the course of the representation. Respondent's article, included an advertisement for his book titled "Whores: Why and How I Came to Fight the Establishment."

41. On May 28, 2010, Respondent authored another article that was published in the WorldNetDaily that referenced his representation of Ms. Sataki against VOA. Ms. Sataki did not know that Respondent would author an article concerning her case that would be published. Ms. Sataki did not consent to the publication of Respondent's article. Ms. Sataki was embarrassed by Respondent's disclosure of facts that he gained during the course of the representation.

Respondent's article included an advertisement for his book titled "Whores: Why and How I Came to Fight the Establishment."

42. On June 11, 2010, Respondent authored another article that was published in the WorldNetDaily that referenced his representation of Ms. Sataki against VOA. Ms. Sataki did not know that Respondent would author an article concerning her case that would be published. Ms. Sataki did not consent to the publication of Respondent's article. Ms. Sataki was embarrassed by Respondent's disclosure of facts that he gained during the course of the representation. Respondent's article included an advertisement for his book titled "Whores: Why and How I Came to Fight the Establishment."

43. On or about July 2, 2010, Respondent authored another article that was published in the WorldNetDaily that referenced his representation of Ms. Sataki. Ms. Sataki did not know that Respondent would author the article about the representation that would be published. Ms. Sataki did not consent to the publication of Respondent's article. Ms. Sataki was embarrassed by Respondent's disclosure of facts that he gained during the course of the representation. Respondent's article, included an advertisement for his book titled "Whores: Why and How I Came to Fight the Establishment."

44. On or about October 1, 2010, Respondent authored another article that was published in the WorldNetDaily that discussed details of his representation

of Ms. Sataki against VOA. Ms. Sataki did not know that Respondent would author an article concerning her case that would be published. Ms. Sataki did not consent to the publication of Respondent's article. Ms. Sataki was embarrassed by Respondent's disclosure of facts that he gained during the course of the representation.

45. On or about October 15, 2010, Respondent authored another article that was published in the WorldNetDaily that discussed Ms. Sataki's claims against VOA. Ms. Sataki did not know that Respondent would author an article concerning her case that would be published. Ms. Sataki did not consent to the publication of Respondent's article. Ms. Sataki was embarrassed by Respondent's disclosure of facts that he gained during the course of the representation. Respondent's article, included an advertisement for his book titled "Whores: Why and How I Came to Fight the Establishment."

46. On or about October 29, 2010, Respondent authored another article that was published in the WorldNetDaily that discussed Ms. Sataki's claims against VOA. Ms. Sataki did not know that Respondent would author an article concerning her case that would be published. Ms. Sataki did not consent to the publication of Respondent's article. Ms. Sataki was embarrassed by Respondent's disclosure of facts that he gained during the course of the representation. Respondent's article, included an advertisement for his book titled "Whores: Why and How I Came to Fight the Establishment."

47. On or about December 25, 2010, Respondent authored another article that was published in the WorldNetDaily that discussed the litigation of Ms. Sataki's claims against VOA. In the article, Respondent, *inter alia*, falsely reported that the presiding judge had "dishonestly denied, without factual or legal bases (sic), my request for Elham to be put back at work at the Los Angeles office VOA, as she rehabilitated from the harm done to her." In fact, the presiding judge issued an order dated June 1, 2010 in the matter styled *Sataki v. BGG*, CA No. 10-0534 (CKK), describing the factual and legal basis for the decision not to grant the relief Respondent sought for Ms. Sataki. Ms. Sataki did not know that Respondent would author an article about her case that would be published. Ms. Sataki did not consent to the publication of Respondent's article. Ms. Sataki was embarrassed by Respondent's disclosure of facts that he gained during the course of the representation. Respondent's article, included an advertisement for his book titled "Whores: Why and How I Came to Fight the Establishment."

48. Respondent's conduct violated the following Rules:

a. Rule 1.2(a), in that Respondent failed to abide by a client's decisions concerning the objectives of the representation;

b. Rule 1.6(a)(1), in that Respondent revealed a confidence or secret of the client;

c. Rule 1.6(a)(3), in that Respondent revealed a confidence or secret of the client for his own advantage;

d. Rule 1.7(b)(4), in that Respondent had a conflict of interest with his client because his professional judgment on behalf of his client was or reasonably may have been adversely affected by Respondent's own personal interests; and

e. Rule 8.4(c), in that Respondent engaged in conduct involving dishonesty and/or misrepresentation.

Respectfully submitted,

/s/ Elizabeth A. Herman
Elizabeth A. Herman
Deputy Disciplinary Counsel

/s/ H. Clay Smith, III
H. Clay Smith, III
Assistant Disciplinary Counsel

OFFICE OF DISCIPLINARY COUNSEL
515 Fifth Street, N.W.
Building A, Room 117
Washington, D.C. 20001
(202) 638-1501

[Verification Omitted]

OFFICE OF BAR COUNSEL
THE BOARD ON PROFESSIONAL RESPONSIBILITY
DISTRICT OF COLUMBIA COURT OF APPEALS

515 5th Street, NW
Building A, Room 117
Washington, D.C. 20001
(202)638-1501 Fax (202)638-0862

COMPLAINT FORM FOR
INCARCERATED COMPLAINANT
(*Please print or type.*)

Date: 11/2/2010

A. Your Name: (Dr.)
(Mr.)
[(Ms.)]
(Mrs.) ELHAM SATAKI
(First) (Initial) (Last)

DODC #: ____________ Location: ____________

Fed. I.D. #: __________ Date of Birth: 11/20/1970

Other Address: ______________________________
(Street) (Apt #)

____
(City) (State)

Court where case is pending: ________________

Case No(s): 06-CV-00670;00534;0046;

Date of next court appearance: N/A

Before Judge: ______________________________

Superior Court ( ) U.S. District Court (✓)
Other ( ) ______________________________

B. Attorney Complained Of:

Name: LARRY E KLAYMAN
(First) (Initial) (Last)

Address: 2000 Pennsylvania Ave NW Suite #345
(Street) (Apt. #)
WASHINGTON DC 20006

Telephone No.: (310) 395-0800 Attorney's Bar No., if known: DC Bar 334581

C. Have you filed a complaint about this matter anywhere else? If yes, please give details. NO

D. Do you have a written retainer agreement with the attorney? If yes, please attach a copy.
NO

E. Do you have other documents that are relevant? If yes, please give details and provide copies. NONE

SEE REVERSE SIDE FOR REQUIRED
DETAILS & SIGNATURE

F. DETAILS OF COMPLAINT HE DOES NOT REPRESENT ME AND HE KEEPS CALLING ME AND TEXT ME. HE HAS CALLED ME MANY TIMES OFF THE HOURS AND I KEPT TELLING ME NOT TO CALL ME, TEXT ME, ETC. I HAVE TOLD HIM I HAVE TERMINATED MY ACCEPTANCE OF MY REPESENTATION. I HAVE ASKED HIM TO STOP COMMUNICATING WITH ME AND ALL MY REFERENCES. I ASKED HIM NOT TO REPESERT ME, ON ANY INTERVIEWS IN ANY AND ALL MEANS. I ASKED HIM NOT TO FAX ME, NOT TO EMAIL ME, HE KEEPS CALLING, TEXTING, AND EMAILING ME, I WANT HIM TO STOP.

The Undersigned hereby certifies to the Office of Bar Counsel that the statements in the foregoing Complaint are true and correct to the best of my knowledge.

/s/ Elham Sataki
SIGNATURE

OFFICE OF BAR COUNSEL
THE BOARD ON PROFESSIONAL RESPONSIBILITY
DISTRICT OF COLUMBIA COURT OF APPEALS

409 E Street, NW
Building B, Room 228
Washington, D.C. 20001
(202)638-1501 Fax (202)638-0862

(*Please print or type.*)

Date: 10-20-2011

A. Your Name: (Dr.)
(Mr.)
(Ms.)
(Mrs.) Elham Sataki
(First) (Initial) (Last)

Address: 23785 El Toro Road
(Street) (Apt #)
Lake Forest CA 92630
(City) (State) (Zip)

Business Telephone: ____________ Home Telephone: 818-800-1441 Cell: __________

(NOTE: It is very important that we have your telephone number(s) and that you inform our office if you have a change of address.)

B. Attorney Complained Of:

Name: LARRY E KLAYMAN
(First) (Initial) (Last)

Address: 2000 Pennsylvania Ave NW Suite #345
(Street) (Apt. #)
Washington DC 20006
(City) (State) (Zip)

Telephone No.: ________________ Attorney's Bar No., if known: 334581

C. Have you filed a complaint about this matter anywhere else? If yes, please give details. Complaint also filed in Pennsylvania and Florida.

D. Do you have a written retainer agreement with the attorney? If yes, please attach a copy.
No.

E. Where applicable, state the name of the court where the underlying case was filed, and the case name and number.
U.S. District Court for the District of Columbia - See attached.

F. Do you have other documents that are relevant? If yes, please give details and provide copies. See attached.

SEE REVERSE SIDE FOR REQUIRED DETAILS & SIGNATURE

G. DETAILS OF COMPLAINT: See attached.

The Undersigned hereby certifies to the Office of Bar Counsel that the statements in the foregoing Complaint are true and correct to the best of my knowledge.

/s/ Elham Sataki
SIGNATURE

OFFICE OF BAR COUNSEL
July 7, 2011

Serving the District of Columbia Court of Appeals
and in Board on Professional Responsibility
515 5th Street NW, Building A, Room 117,
Washington, DC 20001 • 202-638-1501,
FAX 202-638-0862

CONFIDENTIAL

Ms. Elham Sataki
16110 Ventura Boulevard
Encino, California 91436

Re: Klayman/Sataki
Bar Docket No. 2011-D028
Response due: July 15, 2011

Dear Ms. Sataki:

Enclosed is a copy of the attorney's answer to your complaint in the above-referenced matter.

If you disagree with any of the statements made by the attorney, or if you have any additional evidence, please provide us with your written reply on or before July 15, 2011.

If we do not hear from you promptly, we may assume that you are satisfied with the attorney's explanations. If you have a question or need assistance in preparing your response, please call the undersigned

at (202) 638-1501. Please refer to the above docket number in all correspondence and telephone calls.

Sincerely,

/s/ H. Clay Smith
H. Clay Smith
Assistant Bar Counsel

Enclosure

:ICS:act

Clay Smith

From: Kevin O'Connell
Sent: Thursday, January 16, 2014 9:47 AM
To: Clay Smith; Chuck Anderson
Subject: RE: Project

Stand by. . . .

From: Clay Smith
Sent: Wednesday, January 15, 2014 3:10 PM
To: Chuck Anderson; Kevin O'Connell
Subject: Project

Gentlemen:

I am trying to locate a complainant that has dropped off the map.

Ms. Elham Sataki
16110 Ventura Blvd.
Encino, CA 91436
(818) 800-1441

She filed a complaint vs. Larry Klayman in 2011. Her only correspondence with us was the ethical complaint that she filed. My letter to her dated 7/7/11 was not responded to, but was not returned by the USPS either, I recently tried to contact her by telephone, but her number above is not in service. I'll appreciate your

efforts to locate her and to provide some reliable contact information.

Thanks,

H. Clay Smith, III
Assistant Bar Counsel
Office of Bar Counsel
515 5th Street, N.W.
Room 117, Bldg. A
Washington, D.C. 20001

(202) 638-1501

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY
AD HOC HEARING COMMITTEE

In the Matter of:

LARRY E, KLAYMAN,

Respondent,

A Member of the Bar of the District of Columbia Court of Appeals
(Bar Registration No. 334581)

Bar Docket No.
2011-D028

RESPONDENT'S MOTION TO NOTICE AND HAVE ISSUED SUBPOENAS DUCES TECUM TO TAKE THE DEPOSITONS OF ELHAM SATAKI AND ARLENE AVIERA

Respondent, Larry Klayman, moves the Honorable Committee Chair for leave to notice, serve subpoenas duces tecum and take the depositions of Elham Sataki and Arlene Aviera. For the reasons set forth below pursuant to Chapter 3 and other applicable provisions of the Board Rules Adopted and Effective September 14,2016, Respondent has a compelling need for this discovery in preparation of his defense, particularly in light of the long passage of time since Ms. Sataki and an anonymous person helping her filed the complaint, and such discovery will not be an undue burden on the complainant and other persons.

> The Compelling Need for the Issuance of Notices and Subpoenas Duces Tecum To Take the Depositions of Elham Sataki and Arlene Aviera

Specifically, Respondent requires the deposition of Elham Sataki with all documents produced that relate or refer in any way to her representation by Larry Klayman, and her history of making allegations of improper conduct against him and any other person, including but not limited to a number of prior persons who she allege sexually harassed her, of which Respondent learned about several after he ceased legal representation of her.

There is a compelling need to issue a subpoena duces tecum to take her deposition, particularly since this matter is now over 7 years old, files have been discarded over and lost over time, memories faded and discovery of Ms. Sataki will show that the complaint and supplement which she filed against Respondent were non-meritorious and the result of her unhappiness with her own life and her prospects of career advancement, and that she made Respondent a scapegoat if not the "whipping boy" to rationalize her unhappiness. This was also reflected in the last months when Ms. Sataki seeing Mr. Klayman sitting at a Café in Los Angeles ran over screaming hysterically in front of Respondent' employee and chief of staff that that Mr. Klayman had somehow ruined her life. She later, after having left, ran back again screaming violently that Mr. Klayman is a terrible person and that Respondent's employee should contact her to learn more. Ms.

Sataki obviously and unfairly blames her status in life on Mr. Klayman.

Indeed, in supplemental submissions to Bar Disciplinary Counsel before this proceeding was commenced, as set forth in the letters to Bar Disciplinary Counsel attached to the Respondent's answer and affirmative defenses to the specification of charges, Ms. Sataki expressed her inability to get the job she wants in the broadcast industry and told Bar Disciplinary Counsel that having Respondent disciplined by the Board would allow her to explain to prospective employers that it is not her fault that she has not met the success she envisioned for herself. She even asked Bar Disciplinary Counsel to legally represent her with regard to her sexual harassment claims at Voice of America, many years after she on her own abandoned them, as also testified to in affidavits of her union representative Tim Shamble, the President of the AFL-CIO chapter at Voice of America, which are also attached to Respondents letters to Bar Disciplinary Counsel. These affidavits of Tim Shamble are also attached to Respondent's answer and affirmative defenses and are incorporated by reference in them.

Moreover, the supplemental bar complaint filed against Mr. Klayman, as also set for in the letters to Bar Disciplinary Counsel attached to answer and affirmative defenses to the specification of charges, was clearly not written by Ms. Sataki, but clearly someone who had knowledge of the claims as related to him or her by Ms. Sataki and which appear to be manufactured. It is important for Respondent to learn who

this is, since he or she may need to be interviewed or deposed, as Ms. Sataki may have made admissions against interest to him or her.

In addition, Ms. Sataki needs to be deposed and documents produced about her psychological frame of mind and condition, both during the time that Respondent represented her and thereafter. She had been consulting with a Los Angeles psychologist found by Respondent to help her, Arlene Aviera, and only partial records of her treatment were selectively given to Bar Disciplinary Counsel. One of these records confirms that Respondent advised Ms. Aviera and Ms. Sataki that Ms. Sataki needed to find other counsel. An alleged conflict of interest is the gravamen of Bar Counsel's specification of charges and the interrelationship, interactions and admissions by and between Ms. Sataki and Ms. Aviera are crucial. Ms. Sataki's counseling by Ms. Aviera, her written treatment records including notes and her communications with Ms. Aviera will provide crucial exculpatory evidence necessary for Respondents defense. Thus, there is a compelling need for this discovery.

Neither Ms. Sataki nor Ms. Aviera can claim a doctor patient privilege as none exists in the state of California where Ms. Sataki underwent counseling by Ms. Aviera, who is not an MD in any event. Any such privilege, even were it to exist, was waived by Ms. Sataki's submission of Ms. Aviera's selective records to Bar Disciplinary Counsel.

It is thus believed that the deposition testimony of Ms. Sataki and Ms. Aviera will disclose crucial exculpatory evidence necessary for Respondent's defense, and reveal that he acted properly at all times and even sought to get Ms. Sataki other counsel. This occurred before and after, as reflected in materials submitted by Ms. Aviera to Bar Disciplinary Counsel with Ms. Sataki's consent, Ms. Sataki attempted to take advantage of her friendship with Mr. Klayman by asking him to buy her a Mercedes. Ms. Klayman had previously, as a friend and as someone who had compassion for her situation, paid for her lodging in Los Angeles (away from the alleged harasser at Voice of America) while she was awaiting the results of her legal proceedings and undergoing counseling by Ms. Aviera.

These and other troubling contradictions in Ms. Sataki's complaints against Respondent, which gave rise to these proceeding, represent a compelling need for discovery. There is no undue burden on any party in the compelling need to get to the truth in this sad matter.

Conclusion.

Thus, the issuance of notices and subpoenas duces tecum are particulary important to gather evidence necessary, as a matter of due process, for Respondent to be able to wage a full and complete defense to the non-meritorious charges of Ms. Sataki and the anonymous person who worked with her to fashion the supplemental complaint. This anonymous person had also threatened Mr. Klayman in a voicemail left on his cell

phone many years ago, and at present, given the passage of time, Mr. Klayman, having moved around quite a bit in the interim years, cannot locate this cell phone.

Given that Ms. Sataki's second complaint makes reference to her having filed identical complaints with The Florida Bar and Pennsylvania Bar, which complaints were dismissed summarily many years ago, and Respondent believing that the District of Columbia Bar Disciplinary Counsel had also dismissed this matter long ago, that is until Respondent was was surprised to learn and notified to the contrary many years later, the passage of time and missing evidence underscores the compelling need to take this testamentary discovery and require the production of relevant documents and that which may lead to relevant evidence.

Thus, there is a compelling need for these depositions and the production of documents in the possession, custody and control of Ms. Sataki and Ms. Aviera and this discovery is likely to not only bring forth exculpatory evidence, but may lead to other exculpatory evidence necessary for the defense at this late date over 7 years after Ms. Sataki's complaints were lodged with Bar Disciplinary Counsel. In the case of Ms. Aviera this will also preserve and create a record of this evidence for the evidentiary hearing, as she is located in Los Angeles and is likely be unavailable for live testimony at trial.

Respondent, due to the high cost of legal representation, is still in the process of seeking to retain suitable counsel in this proceeding and thus is filing this motion

pro se. Respondent has consulted with Assistant Bar Counsel H. Clay Smith, III to seek his consent to this motion and he advised that he would consider it and respond once it is filed and reviewed.

WHEREFORE, Respondent Larry Klayman respectfully requests to notice and have issued subpoenas duces tecum to produce documents and take the oral testimony of Elham Sataki and Arlene Aviera,

Respectfully submitted,

/s/ Larry Klayman
Larry Klayman, Esq.
(Bar Registration Number 3345810)
c/o 2020 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20006

Tel: 310-595-0800
leklayman@gmail.com

[Certificate Of Service Omitted]

In The Matter Of: Larry E. Klayman
May 30, 2018

[130] Alright, that's probably better.

MR. SMITH: Ok.

MR. TIGAR: Sorry.

MR. SMITH: And we will get back to the emails in 23 as well, but thank you for that.

MR. TIGAR: Mm-hmm.

BY MR. SMITH:

Q. For the record, Bar Exhibit 24 is a letter addressed to Arlene, and it is CC'd to "Ellie" and it's dated April 7, 2010.

Have you seen this document prior to today?

A. Yes.

Q. When did you first see this document, if you recall?

A. It was about the same time that he emailed it to Dr. Aviera.

Q. Who showed you a copy of this letter?

A. Dr. Aviera.

Q. Look at Bar Exhibit Number 25.

For the record it is a letter dated May 9th, 2010, and again addressed to "Arlene."

[131] Have you had a chance to look at that?

A. Yes.

Q. Other than today, do you recall the first time you saw this letter?

A. Probably about the same time, but I didn't pay much attention because I knew about all this.

But Dr. Aviera showed me the letter.

Q. Ok, Dr. Aviera showed you the letter.

Did you have a conversation with Dr. Aviera about either of the two letters, the April letter or the May letter?

A. I had conversation – yes.

Q. Ok.

A. And emails.

Q. With respect to the April letter, Bar Exhibit Number 24 –

MR. KLAYMAN: Your Honor I would object to any testimony that gets into about what Dr. Aviera said.

CHAIRMAN FITCH: That gets into what?

MR. KLAYMAN: That gets into what Dr. [132] Aviera might have said.

CHAIRMAN FITCH: Well, we have to take it step by step I think.

I guess the pending question is –

BY MR. SMITH:

Q. Did you have a conversation with Dr. Aviera?

CHAIRMAN FITCH: About? The April letter.

MR. SMITH: About the April letter.

CHAIRMAN FITCH: Or the letter that has an April date at the top. Ok.

THE WITNESS: Yes.

BY MR. SMITH:

Q. Can you tell the hearing committee about that conversation.

MR. KLAYMAN: Your Honor, objection, hearsay.

She can testify what she said, but she can't testify what Dr. Aviera said. That would be hearsay.

CHAIRMAN FITCH: Well, given the [133] relaxed rules of evidence, and because at least she is here to be cross-examined, let's go down that road and see what happens.

Overruled –

MR. KLAYMAN: At this point, for the record, as your Honor may recall, I had requested to be able to depose Dr. Aviera. That would have alleviated this issue, and I was denied.

That's why I also needed her file, because this is just selective things that are being produced by Bar Counsel from her file, not the whole file.

So this is a highly prejudicial area of testimony for her to be testifying, A, without my having discovery, which I requested early on, and B without Dr. Aviera to testify.

MR. SMITH: Disciplinary Counsel does not have Dr. Aviera's file. What we have is what we have produced.

We have established that Dr. Aviera is unavailable because of serious health concerns and that's why she's not testifying here today, even

* * *

[489] MR. KLAYMAN: Ok.

BY MR. KLAYMAN:

Q. That you wanted Bar Counsel to file a sexual harassment case for you. You asked them that within the last year, against VOA.

A. I asked if it's doable.

Q. And you asked Bar Counsel to do it for you, correct?

A. I asked if it's doable.

I asked, once this is over, can I take – once I prove –

THE WITNESS: Can I say exactly what I – I don't know.

Is it just yes or no, or I can say what I asked?

I asked, once this is over, and so we can prove and show why I couldn't have him as my attorney any more, that he was not capable to work as my attorney any more because he had more interest, so, then is there any way that I can pick the VOA case up, because then we can show that I didn't fail to apply. It was that I had [490] this problem that I had to resolve before I go back to VOA.

BY MR. KLAYMAN:

Q. What did Bar Counsel tell you?

A. He said he doesn't know. He can't advise me on that.

Q. So you think that this case right now that you're here on today is going to somehow revive your sexual harassment claim against VOA?

A. No, I don't think that. It was just asking I asked. That's not why I'm here.

Q. You also told Bar Counsel that you wanted to pursue the case now because you wanted to be able to say to future employers, or explain to them, why your career had not gone as well as you had wanted, correct?

A. Correct.

Q. So basically you want, as you testified yesterday, revenge against me and Mr. Falahati to explain why you're unhappy with your professional and personal life?

A. No, I did not say that.

[491] I said, when I was in a bad state of mind, in a hole eight years ago, I was so angry and hurt for what Mr. Klayman did and before.

So, in that state of mind, I was going to take my life and then everybody would find out what happened.

Because, to this day, I haven't been able to tell anyone that – anyone what Mr. Klayman did to me and why I couldn't have him represent me any more.

To this day, everybody's asking me, "Did you wrongly accuse your coworker for sexual harassment? How come that he's still working there and you're not?" People are still wondering why.

But I cannot go and say that my own attorney that's representing me for a sexual harassment case is suddenly falling in love with me and cannot at all, as you said yourself, several times, that "a car cannot run on empty fuel" and you cannot represent me because you're too in love with me and you're feelings are coming [492] in the middle of this.

I can't say that, because it's – I always think what people are going to think and say that, "So, her own lawyer now?"

So therefore, I wanted this to be resolved here.

BY MR. KLAYMAN:

Q. Over the lunch break you talked about your testimony, not with Mr. Smith, but with some other people, didn't you?

A. Over what?

Q. Over our lunch today, you talked about your testimony, not with Mr. Smith, but with some other people.

You talked with Sam?

A. No, I didn't.

Q. You talked with Kathleen?

A. No, I didn't.

Q. Now, assuming what you say is correct, you're aware that I advised you –

A. I didn't. That is correct.

Q. That's your opinion.

* * *

[772] Larry Klayman to T. Shamble.

Are we all on the same exhibit now?

MR KLAYMAN: I have it.

BY MR SMITH:

Q. Ms. Sataki, it suggests that a courtesy copy of this email was sent to you.

Do you remember receiving it?

A. Yes, yes. That's just I probably received it, but I don't remember –

Q. Ok.

A. – exactly that moment that I wrote this.

MR TIGAR: I'm sorry, Mr. Smith. Could I ask you to move the microphone down. She's a broadcaster, she knows. Yes.

THE WITNESS: I'm sorry.

MR TIGAR: Ok.

BY MR SMITH:

Q. Do you recall having conversations with Mr. Klayman about publicity in your case?

A. Yes.

Q. At what point in the representation, if [773] you recall, did you have those conversations?

A. Maybe after two months. So say we started about in February, so sometime March, sometime there probably. I don't know exactly.

Q. And so looking at this date of June 10th, you had had conversations with Mr. Klayman prior to June 10th, 2010?

A. Yes.

Q. Could you tell the committee what it was that you told Mr. Klayman with respect to your views about publicity?

A. Well, I thought that the publicity is going to –

To start with, I didn't want the case to go out and have everybody find out, and especially publicity with everybody. So, then everybody is going to question me, "What's going on? What happened?"

And it was a sexual harassment case. It wasn't something – it's not something that a woman is comfortable to be asked about all the time. Especially someone like me or, then people [774] nonstop start asking about that, how – what the sexual harassment, how it was, and they want me to describe it. And also they think that sexual harassment means rape. So they asked me, and still ask me to this day, how I was raped and where I was raped.

Q. And did you –

A. So that was my concern.

Q. Did you express this concern to Mr. Klayman?

A. Yes, I did.

Q. Did he respond to those concerns?

A. He did, but he believed that publicity is going to help our case.

Q. How many times did you have this conversation about publicity?

A. Several times –

MR KLAYMAN: Objection, that's leading and it presumes number of times. He's giving the witness –

CHAIRMAN FITCH: Let's rephrase it.

MR. SMITH: I asked how many times did [775] you –

CHAIRMAN FITCH: No, "Did you have such a conversation one time or more than one time?"

BY MR. SMITH:

Q. Did you have such a conversation with Mr. Klayman more than one time?

A. Yes.

Q. How many times did you have one?

A. I don't know, a few times. I can't recall exactly how many times.

It was a conversation back and forth until –

Q. Ok. Did you ultimately agree with Mr. Klayman about publicity?

A. I did.

Q. Ok. Could you tell the committee what it was that persuaded you to ultimately agree to the publicity?

A. Because he was my attorney, and as an attorney I thought he was best and that's going to probably help my case and help me out.

So he basically convinced me that

* * *

[891] Governors for one thing, and the general counsel.

Q. What was the response of our attempts to settle and their attitude?

A. The agency was very negative. They just seemed to be determined and stubborn that they weren't going to do anything in regard for Elham.

Q. Was that consistent with your previous experience about them?

A. Yeah, it's pretty typical of them.

Q. What was their response in terms of our settlement negotiations? What did they offer? Was it what you just said?

A. What they offered was to have her go back and work in the Persian service. They weren't going to give her an anchor position. Or she could go to the central newsroom, and she told them that she didn't feel comfortable around this person and she would be in close proximity with him. But they would not bump.

Q. Did her decision not to go to – she decided not to go to the Central News Bureau. Is [892] that correct?

A. Yes.

Q. Did that hinge on her language in part, based on what she told you?

A. I don't think she was very comfortable working strictly in English, and I think the major part was that she didn't want to be in the proximity of Falahati.

Q. So she was adamant about going to Los Angeles?

A. Yeah, she wanted to – she thought that was a good solution to work out of Los Angeles.

Q. Did there come a time when we had discussions, you, me and her, about using publicity to try to coax the agency into settlement or a reasonable solution?

A. Yes.

Q. Was she present at the time?

A. Yes. It was in my office.

Q. Why is publicity helpful based, on your experience, in trying to get a solution with this very difficult agency?

[893] A. We've done it. It's something that you can use to pressure managers, if they're intractable, you know, to try to get them to come to some sort of agreement. We have our own website, so we use it, too.

Q. Is it your experience, based upon being in Washington, that publicity sometimes coaxes people to do the right thing?

A. Sometimes, yes.

Q. And did there come a point in time when you actually went with her and distributed publicity?

A. I remember one time. The VOA was on the mall here in Washington, some kind of public – it might have been a recruitment fair or something. But we had an article and both her and I were distributing it to people in the vicinity, tried to let people know and to let the agency know that, you know, we were going to publicize this.

Q. I'm going to turn your attention to Exhibit 23 of Bar Counsel's exhibits.

[894] MR. KLAYMAN: And Mr. Sujat, please turn to Page 23-33 for Mr. Shamble, 23-33.

BY MR. KLAYMAN:

Q. Ok, great. Is that the article that you distributed in Ms. Sataki's presence?

A. Yes, I believe it is. Yes.

Q. It's called: "Government War on a Freedom Loving Beauty. Exclusive, Larry Klayman Goes to Bat for Harassed Broadcaster Fighting for a Free Iran."

That's it?

A. Yes.

Q. And she was there when she gave it out and she approved of that?

A. Yes. We were both on the mall handing that out.

Q. Now you saw other articles that I have written on her behalf?

A. I have seen other articles, yes.

Q. And I provided them to you, correct?

A. I've seen some, yeah, that you had given me.

* * *

[979] that she had met with him over this. I met Mr. Shamble. I was very impressed with him. He's a very honest and good person. And, you know, that's when we had the meetings that he testified to a few minutes ago, where we discussed trying to settle this thing, to settle the case. He told me how difficult Voice of America was to work with.

He was aware, to some extent, of my background, that I take on difficult causes that other people don't take on, and that he needed a strong lawyer to take VOA on.

So we set out – if I may just do a little narrative here, we can break it up, but I can move it along quickly, if the panel indulges me . . .

We decided to try to set up some meetings with VOA, and we did that, and we got this resistance. We got this hostility, and I couldn't figure out why we were getting hostility. But later Mr. Shamble explained to me, "That's the way they are." And we decided we

needed to try to coax them into a settlement. That was the reason [980] for the publicity.

Because I knew over the years that publicity drives legal cases and other matters in Washington, D.C. No place in the world is publicity more important to trying – to move a case. Not just with agencies, but with judges. I saw that at Judicial Watch judges would take an interest in the case if they read about it in the newspaper or they saw it on TV. Everybody wants a sexy case, you know, so to speak, quote unquote.

So that was the reason for that.

And these people were so difficult that I was basically saying to them, and in fact I told them this in advance, you know, "This is not good. It's not going to be good for VOA. Let's settle this thing." And they just dug in their heels.

So that was the reason for the publicity. She agreed to it, Tim agreed to it, and there will be other witness that will testify in this proceeding that she agreed to the publicity, and that to me was the way things could be moved along. And she accepted that.

[981] So at that point, when we couldn't settle it, I then fashioned lawsuits, and perhaps you'll show me those lawsuits, Mr. Sujat, that also would try to put pressure on them, because the publicity was not producing exactly what we needed at that time. And she had wanted me to sue the harasser, Falahati, and two of her managers, Susan Jackson and another one.

Because when she complained to Mr. Shambles, she was – she told me she was retaliated against.

So we filed that lawsuit, and then I did one against the Board of Governors, and you know, they were named. You know, it was a Bivens case, but it was also a case that was fashioned, later amended under a case called Wagner vs. Taylor, and we also had filed – we identified that this morning – an Office of Civil Rights complaint, an administrative complaint.

Wagner v. Taylor stands for the proposition that, while a civil rights complaint is ongoing, administratively, that you can go to a federal district court and ask them to preserve [982] the status quo, which in this case would be -because this is what she wanted. She wanted to be in LA. That's where the Persian community is. That's where her friends were. She told me she didn't like Washington, D.C. She was only here because of Voice of America. And she didn't feel comfortable in that environment in Washington, D.C. She told me – in fact it's in her testimony – "Larry, if I stay here, I'll kill myself. I'll commit suicide. And I don't want to be in this presence, and I don't speak English that well." That was one of the criticisms of her and her Farsi at VOA, and "I won't – I'll get fired in the Central News Agency, because my English isn't good enough. So they're setting me up. And I don't want to be there because of – I don't want to have to walk past my former co-anchor, Falahati, every morning."

And she was very emotional and would break down, and you know, apparently eight years later, it's

not changed that much, from what I could see, you know, when she was on the witness

* * *

[1039] Q. So, it was sent to just Danforth Austin?

A. That's what it says, yeah.

Q. No other person received a copy from what you know?

A. I'm testifying as to myself. I don't know who else received it. I didn't receive it.

Q. Thank you.

A. From Ms. Sataki.

Let me point out, and it's something that will come out later, and it's in the supplemental exhibits –

MR. SMITH: Objection.

CHAIRMAN FITCH: Let's let counsel ask his next question.

THE WITNESS: I'm allowed to explain the letter.

CHAIRMAN FITCH: Well, it sounds like you were explaining something else.

Counsel, where do you want to take Mr. Klayman? You can jump around. Ask him a question.

[1040] BY MR. SUJAT:

Q. Yeah, well, I mean, my question here is, when did you become aware of this? Did you ever receive this?

A. Yeah, I testified to that.

What I wanted to add was that in this letter, even though it wasn't sent to me, she's instructing to get rid of all the civil actions, ok, yet she did file a Notice of Appeal in her case involving the Board of Governors of BBG, and that Notice of Appeal is one of our supplemental exhibits.

Q. Right.

A. So that's inconsistent.

Q. Right. So this inconsistency shown by Respondent's Supplemental Exhibit 4 –

MR. SMITH: Objection. I mean, that's a narrative. I think we need a question, not a narrative.

THE WITNESS: Just ask me the question.

BY MR. SUJAT:

[1041] Q. Ok, Mr. Klayman, can you take a look at Respondent's Supplemental Exhibit Number 4.

A. Can you give me a copy of that, please.

Q. Yes.

A. This is the Notice of Appeal that I'm referring to, and the way I was able to get a copy of this, this

actually came out of Bar Counsel's files, but I had a copy too, because it appeared on the court's docket that, at the same time that she's telling Mr. Austin – or actually before that – excuse me, later than that, and she's telling Mr. Austin that she wants all cases to be dismissed. She's appealing the action.

So this is part and parcel to the problems that I was having during that period in time. That's why I wanted to contact her. Because I was getting communications that didn't appear to come to her. It wasn't in her way of speaking. It wasn't in her English. It was in virtually perfect English, as the letter to Mr. Austin demonstrates. That's why I needed to be able to talk to her, and that's why the first [1042] document in this exhibit, sent by Mr. Shamble, was important, because we were trying to reach her –

MR. SMITH: Objection. Not responsive to the question.

THE WITNESS: I'm explaining the context of the document.

CHAIRMAN FITCH: No, overruled.

THE WITNESS: Because I needed to find out, you know, what she really wanted to do. And apparently, whatever advice she was getting, we learned in her testimony, was from non-lawyers, it was contradictory and in my view not in her best interest.

BY MR. SUJAT:

Q. Mr. Klayman, there were also other letters that were sent regarding termination.

A. Just show me the letters.

Q. That would be Exhibit 8, Respondent's Exhibit 8. One dated November 15th, 2010, addressed to the Klayman Law Firm at 2000 Pennsylvania Avenue, and then another one the same date addressed to Klayman Law Firm, 201

* * *

[1521] given witness testimony before, so if there is something I should be doing, please let me know. Whereupon,

JOSHUA ASHLEY KLAYMAN

called as a witness on behalf of Respondent, and after having been first duly sworn, was examined and testified as follows:

EXAMINATION ON BEHALF OF THE RESPONDENT:

BY MR. KLAYMAN:

Q. Please state your name.

A. My name is Joshua Ashley Klayman.

Q. Are we related, Ms. Klayman?

A. Yes, you're my brother.

Q. And how old are you?

A. I'm 41.

Q. Run us through briefly your educational background.

A. Sure. I got a Bachelor's degree from the University of Pennsylvania in 1999. I graduated summa cum laude. I went to Temple Law School. I was a law faculty scholar and I was on Law Review and I graduated in 2006.

[1522] CHAIRMAN FITCH: Really I'm having trouble hearing you.

THE WITNESS: Oh, sorry. I'll speak up.

Do you want me to repeat that?

CHAIRMAN FITCH: Mm-hmm.

THE WITNESS: Ok, sure.

So I graduated in '99 from University of Pennsylvania, summa cum laude with a Bachelor's in arts. I went to Temple Law School as a law faculty scholar. I graduated in 2006 cum laude on the Law Review.

BY MR. KLAYMAN:

Q. Can you run us through your employment history after law school.

A. Sure.

Q. Take your time.

A. Ok. So after law school I initially practiced for four years in Pennsylvania, at Pepper Hamilton. I then

went to Cahill Gordon and Reindel, in New York City, to do leverage finance.

I left there when some partners left [1523] and went to Paul Hastings. I then went –

CHAIRMAN FITCH: It's the way of the world these days.

THE WITNESS: Yes, exactly.

I then went to Allen Overy. My partner there left and took us to Morrison Foerster where I had a practice for five years.

I left on Friday and I just launched my own law firm and consulting firm, and I'm now a consultant to Shearman Sterling, as well.

BY MR. SMITH:

Q. What is your legal specialty? What is your specialty, your expertise?

A. So traditionally it was leveraging finance and corporate, but I have in the past few years been working on block chain and crypto matters, and I actually founded Morrison Foerster's global block chain and contracts group. That's where I've taken this next step so that I can do that all the time.

Q. Did there come a point in time when you met a Ms. Elham Sataki?

[1524] A. Yes.

Q. What was the circumstances of that?

A. At the time I was dating someone in Los Angeles, so I was frequently flying over the weekend from Los Angeles to New York.

My brother lived in Pacific Palisades, and I met her at his house.

Q. During the meeting with Ms. Sataki, did she discuss the issue of her case and what was being done?

A. Yes, quite openly. And I met her multiple times. It wasn't that I just met her one time.

Yes, she was quite open with what the circumstances of her challenges were.

Q. Did she discuss the issue of publicity in her case?

A. She did. I mean, she was very, very open, which – I'm not a litigator. I don't really know anything about litigations, but I was surprised that she was so open.

Q. And did she say that she was approving [1525] of publicity of her case in trying to get a settlement of her claims?

MR. SMITH: Objection. That's a leading question.

THE WITNESS: Ok, so –

MR. SMITH: Objection. That's a leading question.

CHAIRMAN FITCH: Rephrase the question.

BY MR KLAYMAN:

Q. Did she make reference to using publicity to try to get a positive result for her?

MR SMITH: Objection. It's a leading question.

BY MR KLAYMAN:

Q. Ok, what did she say?

A. She was very interested in trying to get a positive result and to pressure people into, you know, giving her that result.

She certainly was publicizing everything to my then boyfriend and me, but I don't recall her explicitly saying, like, "Yes, I," you know – however she was actively [1526] publicizing it to me. And she seemed very onboard with whatever the strategy was.

Q. But I also mentioned, did I not, the publicity?

A. Yeah.

Q. Yes.

A. Yeah.

Q. She didn't object?

MR. SMITH: Objection.

THE WITNESS: I think –

CHAIRMAN FITCH: Wait, wait.

Did there come a time when you had conversations, one or more conversations with Mr. Klayman and Ms. Sataki.

THE WITNESS: Yes. Yes.

CHAIRMAN FITCH: On approximately how many occasions would you say.

THE WITNESS: I'm not sure offhand how many in-person times, however she and Larry were friends. I mean, they were – that's why she was over my boyfriend's house there.

So, I frequently had conversations [1527] either directly with her or through Larry and her saying hi to me or something like that. It wasn't that – they were friends.

CHAIRMAN FITCH: Now ask a question, Mr. Klayman.

MR. KLAYMAN: Ok.

CHAIRMAN FITCH: You've got the foundation.

BY MR. KLAYMAN:

Q. During the times that you met with her, I discussed publicizing her case?

A. Yes. I think you always discussed publicizing cases.

Q. And she didn't object?

A. No.

Q. What was your impression of Ms. Sataki interacting with me?

A. A few things: I thought she was beautiful, right. I thought she seemed – I thought she was using you, which I said to you on multiple occasions. And she definitely seemed to be in a very unstable sort of way.

[1528] But I – I mean, I vacillated between kind of liking her and being suspicious of her, quite frankly, as your sister.

MR. KLAYMAN: I have no further questions.

MR. SMITH: I have no questions.

MR. TIGAR: I have a couple, if I may.

CHAIRMAN FITCH: Go ahead, Mr. Tigar.

MR. TIGAR: I'm not sure I heard the word. You thought that Ms. Sataki was using Mr. Klayman?

THE WITNESS: Yes.

MR. TIGAR: What do you mean by that?

THE WITNESS: Well, she was – I don't know what she looks like now, but she was very beautiful and she was just very forward in her demands. I guess – I shouldn't say demands.

But I believe at one point she asked him to buy her a car, like, just – she was very forward in terms of requesting different things for her personally.

MR. TIGAR: Were you aware of expenses,

* * *

[LOGO]

Subject **LA Times**
From: **Larry Klayman <leklayman@mail.com>**
Sent: **Jun 10, 2010 01:53:38 PM**
To: **tshamble@verizon.net**
CC: **elliesataki@yahoo.com, mahmonirrahlmi@gmail.com, jamshidch@gmail.com**

Tim:

Please call Paul Richter of the LA. Times, DC Bureau. He is the top Iran reporter for the newspaper. His number is 202 824 8300 and his email address is paul.richter@latimes.com.

If we can get one national story, this can help move things along.

Thanks

Larry

Fwd: Sataki Documentary

Mon, Oct 12, 2020 at 9:35 AM

Larry Klayman <klaymanlaw@gmail.com>
To: Oliver Peer <oliver.peerfw@gmail.com>

---------- Forwarded message ----------
From: **Keya Dash** <keyadash@gmail.com>
Date: Sat, Aug 24, 2019 at 6:20 AM
Subject: Re: Sataki Documentary
To: Larry Klayman <leklayman@gmail.com>

Hi Larry,

It jumps right into some clips in Ellie's voice referring to VOA. They are kind of disjointed. The format is like an interview but you don't hear the questions, you only hear the answers. She never names you or refers to you. The only time she talks about lawyers she says no lawyer would take her case. It could be there are more parts that aren't included in this edit. Clearly this is heavily edited. I think the intended audience is the general Iranian public.

Following are the things she says.

She says when she's behind her desk and not posting attention she's getting harrassed. She says VOA is known to be the worst American government agencies, that the people there protect each other and they is a dirty setting.

She says that the show on VOA that she shared with Falahati was created by both of them but he often tried to make her go out with him which she didn't want to do. To go out with him would have been unprofessional because they were doing the show together and the relationship would affect the show. What if they'd argued one day and it was obvious to viewers they were going out?

The problem is that he didn't know how to accept no for an answer. She says she stopped showing up to work because each time he'd say tonight let's have coffee or tonight let's have dinner. She was exhausted for having to say no to him.

She says she complained to Susan, their executive producer, she told Susan that she doesn't know what more to do at this point, that he's taking liberties with her when she's behind the desk not paying attention. She asked Susan to privately handle the issue and Susan said that she couldn't, that Ellie needed to file a public complaint.

Two times, Fallahati came to her when she was behind the desk not paying attention and, she says the clothes that she was wearing and her bra strap – and then everything is bleeped out. She says she yelled at him – and it's bleeped again. She then says "unfortunately . . . " – and an echo effect is used before the sentence can be continued.

After a clip of her holding her head in her hand with music playing, she then resumes talking, dug that she laughed that no one saw, that she was seeing a

psychiatrist, that she was not feeling good, and that that is all documented. She was going to a doctor and taking mood stabilizers.

Fallahati is a sick man and he didn't only harass Ellie. The system in VOA has problems. James d Chalangi supported her story, and he beared witness as to what happened. Another lady named Mahmunir also beared witness in her favor and incurred problems. Mr. Sajadi and Mr. Falahati were friends and at the time Sajadi had a lot of authority there. They were holding each other's hands (a Persian expression meaning helping each other, conspiring, working together in an effort) and Susan fell into their team.

No attorney would accept her case because her case had gotten very big. When the case for very big, when the issue became the board of governors, the board had to cover for itself. In defending themselves, they said Elham left and Fallahati stayed. As for Fallahati, she wasn't the only girl and there are a number of others.

I'm sorry for the delay. I've been traveling and didn't see the email.

Best,

Keya

Thank you,

On Aug 21, 2019, at 1:40 PM, Larry Klayman <leklayman@gmail.com> wrote:

This is the video. Thanks Keya

---------- Forwarded message ----------
From: **Barbara Nichols**
<ban@bogoradrichards.com>
Date: Wed, Aug 21, 2019 at 10:25 AM
Subject: Sataki Documentary
To: Larry Klayman <leklayman@gmail.com>

Larry,

The YouTube video at the link below is some kind of documentary about Ms. Sataki's case which was uploaded 11/5/2016, around the time you were gathering files and providing them to Bar Counsel. From the comments, I can see that she is discussing her case and from what I can tell she never mentions you but who knows. We were just wondering if you had a friend who could watch this and let us know what this is saying and if anything she said might be a "smoking gun" since the video is not in English.

https://www.youtube.com/watch?v=e3g5f61muZ4

<image002.png>

[Quoted text hidden]

Whenever I am at my desk and I am not paying attention, he allows himself, to touch me under variety of pretexts.

(displaying Elham Sattaki's photo)
former broadcaster of VOA

Mr. Falahati, Asal has written this for us,
Well: let us answer the first caller (by the name of – Translator) Hossein from Kerman. Hello, go ahead please.

(displaying photo of Mehdi Falahati)
broadcaster for the VOA network
VOA: Voice of America

Voice of America has been recognized as the worst entity of American government. Therefore, lots of such coteries and issues exist there. Everybody says that the atmosphere is of a security one. Nobody can talk with anybody. Everybody makes insinuations against one another. The environment is very dirty.

This week is second evening of being online with the subject of presidential elections in Iran and it's outcome, with your phone calls, emails and online weblogs and websites that Elham Sattaki will introduce to you.

Regarding Mr. Falahati: He repeatedly asked me to go out with him. I didn't want to do it. Mr. Falahati and I started the ONLINE show together and we were performing it together. Aside from other aspects, it was very unprofessional.

When two individuals appear on camera and conduct a show, going out on a date, since it can directly affect

the show is not right. They may fight with each other and that will affect the show, and vice-versa. He was not the type of person that I would accept his offer, and say that, all right let's go on a date.

The problem was, he did not know how to take a no. After a while I reached to the point that I was always calling sick and did not go to work. Since i wanted to start working, and Mr. Falahati wanted to come to my desk and again ask me let's go have a coffee or have dinner. And this no, and saying no to him repeatedly had become exhausting for me, had made me very tired. I went to Suzanne who was our executive producer and told her the situation, that he (Mr. Falahati) does so. and I (Elham Sattaki) don't know what to do at this point. Personally, I am not able to handle it.

The situation will go over the board of the status of going out for dinner, and he will come to my desk and while I am not paying attention, under various excuses touch me. Since I was afraid, I told her (Suzanne) that, can you handle it without anybody to know?? That day she told me that "Legally I cannot do it and you must formally file a complaint."

Mr. Falahati wanted to take revenge, since I complained and stated that the situation was so. As I was behind my desk, twice he came to my desk (audio censored) the dress that I had on and my bra-cord. I hollered at him (audio censored) he laughed and said "don't tell anybody." I was not feeling well. I was seeing psychiatrist. I was seeing psychologist. I was not feeling well. All the documents are available. Everything

related (to this matter) exists. I was seeing doctor and the doctor was prescribing relaxing pills for me to take.

At this point, I am just saying, Mr. Falahati is a sick person that has not done so just with me, but the system of VOA has problem. Jamshid Chalangi testified for me. Look what happened? Mahmonir, another lady testified for me. She suffered a lot. Mr. All Sajjadi and Mr. Falahati were friends. At that time Mr. Sajjadi was very powerful there. They all got together. And even Suzanne who was my executive producer and was mad from this incident, she teamed up with them. And this caused the problem to be difficult for me, and no attorney was taking my case, because this case had become very big. And when the case became so big, then the Board of Governors had to defend itself, and defending itself caused the case to become against me. And they say that Elham left, Falahati stayed. When they fired me, I was not the only girl. There are a number of others.

Caption dispalying Falahati and
Sattaki with written scripts.

The law suit against Mehdi Falahati due to the VOA influence did not get to anywhere, and Elham Sattaki was fired from this network..

After a short period of time Jamshid Chalangi and Ms. Mahmonir Rahimi *were* fired from this network.

Display of Mehdi Falahati laughing loud.

Certified to be a true translation from the Farsi video and audio original

/s/ Mohammad T. Moslehi
Mohammad T Moslehi

[Notary Stamp]

State of MP County of Montgomery
Subscribed and sworn before me on 9/12/2019
(Date)

/s/ [Illegible]
(Notary Signature)

POLITICO

LEGAL

Giuliani defends 2020 election challenge at D.C. Bar hearing

The former Trump lawyer could face removal from the D.C. bar for false statements about the 2020 election.

https://www.politico.com/news/2022/12/05/giuliani-d-c-bar-ethics-hearing-00072218

Former New York City mayor Rudy Giuliani speaks during a news conference on Tuesday, June 7, 2022, in New York. I Mary Altaffer/AP Photo

---

By KELLY GARRITY
12/05/2022 02:20 PM EST
Updated: 12/05/2022 05:21 PM EST

[LOGOS]

Former New York City Mayor Rudy Giuliani said Monday that it was his "obligation" as a lawyer to try to overturn the results of 2020 presidential election in Pennsylvania on behalf of then-President Donald Trump, his client at the time.

Giuliani was the first witness called during a hearing Monday in front of the D.C. Bar Board of Professional Responsibility to determine whether he violated attorney ethics rules with the **federal court challenge he launched in Pennsylvania** to subvert Joe Biden's 2020 victory in that state.

Advertisement

During his testimony, Trump's ex-lawyer echoed one of the former president's favorite refrains, claiming he has been "persecuted" by federal investigations over the course of the last four years. He also claimed he wrote only one or two paragraphs of the initial complaint that was filed, leaving the majority of the work to local Pennsylvania attorney Ron Hicks, who withdrew from the suit before it was rejected by both federal district and appeals courts.

In his opening statement, D.C. disciplinary counsel Hamilton Fox described Giuliani's legal challenge as "frivolous," and said the former president's attorney "weaponized his law license" in an effort to "undermine the Constitution to which he, like all members of the District of Columbia Bar, took an oath to support."

D.C. Bar investigators subpoenaed each of the law firms involved in the unsuccessful filing, Fox said, obtaining every possible fact that Giuliani used to support election-related filings. In the end, it fell "woefully short" of Giuliani's proposed remedy: overturning the election in Pennsylvania.

Giuliani attorney John Leventhal sought to refute the idea that the filing was frivolous. Giuliani was coordinating litigation in several states during a "chaotic" time, Leventhal said, and joined the Pennsylvania litigation "at the eleventh hour." Giuliani, he said, "had a reasonable basis to rely on the information he was provided" by third parties, particularly because of the time constraints imposed by the impending election certification, which occurred the same month the filing was dismissed.

AD

The hearing grew increasingly antagonistic as the day wore on. Early on, Fox called Giuliani out for sidestepping questions.

"I'm asking you what time it is, and you're telling me how to make a watch," Fox said.

Later, Robert Bernius, the retired lawyer who was presiding over the hearing, reprimanded both Giuliani and Fox.

"I would be eternally grateful if Mr. Fox would ask questions, and Mr.Giuliani would answer questions," Bernius said. "It's getting a tad argumentative on both sides."

Last year, Giuliani was suspended from the New York bar for similarly making "false and misleading" statements on behalf of Trump about the 2020 election. This hearing, which is expected to last multiple days, is the just first stage in the disciplinary process to determine whether Giuliani will be barred from practicing law in D.C. as well. Once witness testimony is complete, the hearing committee will send a report to the full bar disciplinary board before it's passed to the D.C. Court of Appeals to arbitrate. Witnesses for Giuliani – including a number of prominent **election deniers** – are set to give testimony on Wednesday.

FILED UNDER: RUDY GIULIANI, DONALD TRUMP, DONALD TRUMP 2020, WASHINGTON D.C.,

[LOGO] **USA TODAY**

POLITICS

Jeffrey Clark, ex-Trump DOJ official, faces disciplinary charges for election misstatements

Erin Mansfield
USA TODAY

Published 12:24 p.m. ET July 22, 2022 | **Updated 1:44 p.m. ET July 22, 2022**

Former Justice Department lawyer Jeffrey Clark, a central player in Donald Trump's effort to overturn the 2020 presidential election, faces disciplinary proceedings from the District of Columbia's chief investigator of attorney misconduct.

Hamilton P. Fox, III, the disciplinary counsel for the District of Columbia Bar, has charged Clark with attempting to engage in dishonest conduct and "conduct that would seriously interfere with the administration of justice," according to a copy of July 19 filing.

Fox said Clark was served Friday morning. Clark's attorney did not immediately respond to a request for comment.

Rachel Semmel, a spokesperson for the conservative Center for Renewing America, where Clark is a senior fellow, said Clark was "one of the only lawyers at the DOJ who had the interests of the American people at heart."

The charges center around a letter Clark drafted that urged officials in Georgia to convene a special session in the state legislature relating to the 2020 election. Clark sought to get deputy attorney general Jeffrey Rosen and colleague Richard Donoghue to sign the letter, according to the filing.

That letter, called a proof of concept letter, claimed the Department of Justice had "identified significant concerns that may have impacted the outcome of the election in multiple states, including the state of Georgia," according to the filing.

In truth, the Justice Department was not aware of any election fraud allegations in Georgia that would have affected the results of the presidential election, the filing said.

Feds search home of Jeffrey Clark, ex-DOJ official at center of Trump's effort to overturn election

After then-Attorney General William Barr resigned from his position, Trump sought to install Clark as acting attorney general, an idea that many Department of Justice employees opposed. At one point, according to the filing, Clark sought in a private meeting to get Donoghue to sign the letter, and in the same meeting offered Donoghue a position as his deputy. Donoghue refused.

An environmental lawyer in the Department of Justice's Civil Division, Clark briefly oversaw the division during the final days of the Trump administration because of a vacancy. Lawmakers on the House

committee investigating the Jan. 6, 2021 attack on the U.S. Capitol say Clark repeatedly attempted to use his position to try to overturn the 2020 election and "interrupt the peaceful transfer of power."

The Jan. 6 committee also aired testimony from three former top Justice officials, including Rosen, about Clark's efforts surrounding the proof of concept letter.

During a recorded video interview with the Jan. 6 committee, Clark declined to answer questions.

Asked about the letter intended for Georgia officials, Clark invoked his Fifth Amendment protection against self incrimination.

"Fifth," he said.

In June, federal authorities searched Clark's suburban Virginia home.

Contributing: Kevin Johnson

Jan. 6 committee subpoenas former DOJ official Jeffrey Clark, accused of attempting to overturn 2020 election

---

Individual Contributions Arranged By Type, Giver, Then Recipient

Contributions to All Other Political Committees Except Joint Fundraising Committees

Contributor Name	City	State	ZIP Code	Employer	Occupation	Committee Name	Transaction Date	Amount	Image Number
FOX, HAMILTON	WASHINGTON DC		20002	SOUTHERLAND	LAWYER	OBAMA, BARACK / JOSEPH R. BIDEN **VIA** OBAMA FOR AMERICA	09/10/2008	2300.00	11972515694
FOX, HAMILTON	WASHINGTON DC		20004	SOUTHERLAND ASBILL & BRENNEN	ATTORNEY	WATT, MELVIN L **VIA** MEL WATT FOR CONGRESS COMMITTEE	09/12/1998	1000.00	98033684253
FOX, HAMILTON P. III	WASHINGTON DC		20002	SOUTHERLAND ASBILL & BRENNEN	ATTORNEY	ACKERSON, NELS **VIA** NELS ACKERSON FOR CONGRESS	08/05/2008	1000.00	28933533701
FOX, HAMILTON P. MR.	WASHINGTON DC		20002	SOUTHERLAND ASBILL	ATTORNEY	MURPHY, KEVIN **VIA** KEVIN MURPHY FOR CONGRESS	06/25/2003	1000.00	23991832436
FOX, HAMILTON P. MR.	WASHINGTON DC		20002	SOUTHERLAND ASBILL/ ATTORNEY	ATTORNEY	MURPHY, KEVIN **VIA** KEVIN MURPHY FOR CONGRESS	09/08/2003	1000.00	23992122376
						Total Contributions: 6300.00			

TRY A: NEW QUERY RETURN TO: FEC HOME PAGE

Generated Thu May 1018:33:30 2018

Federal Election Commission, 999 E Street, NW, Washington, DC 20463 (800) 424-9530 In Washington (202) 694-1100
For the hearing impaired, TIY (202) 219-3336 Send comments and suggestions about this site to: **webmaster@fec.gov**.