

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOHN PAUL SZYMKOWICZ)
 1543 44th Street, N.W.)
 Washington, DC 20007-2004)
)
 Plaintiff,)
)
 v.)
)
 MICHAEL STUART FRISCH)
 5925 Fall Moon Ride)
 Clarksville, Maryland 21029-1675)
)
 and)
)
 LAW PROFESSOR BLOGS, LLC)
 24569 Via de Casa)
 Malibu, California 90265-3205)
)
 Defendants.)

Case Number: 19-3329

COMPLAINT

Plaintiff John Paul Szymkowicz, for his complaint against Defendant Michael Stuart Frisch and Defendant Law Professor Blogs, LLC, alleges as follows:

Introduction

1. This is a defamation action brought by John P. (“J.P.”) Szymkowicz, a member of the Bar of the District of Columbia, against Michael S. Frisch, a self-described “legal ethics” expert, law professor and writer, and his publisher, Law Professor Blogs, LLC. For years, Defendants have engaged in false, defamatory, public, and vile personal attacks against J.P. Szymkowicz, culminating in their most recent accusations of legal misconduct, “elder care abuse,” and “horrific elder abuse.” These assertions are libelous *per se* and were made with actual malice. Defendants were specifically aware that J.P. Szymkowicz had been cleared of any and all ethical violations by: 1) a Hearing Committee of the District of Columbia Board on Professional

Responsibility; 2) the Board on Professional Responsibility itself; and 3) the District of Columbia Court of Appeals. Defendants were also specifically aware that the Hearing Committee in J.P. Szymkowicz’s case found that Disciplinary Counsel, who was a colleague and personal friend of Professor Frisch, evidenced “a serious misunderstanding of District of Columbia law.” Nevertheless, despite knowing that the disciplinary proceedings had been brought by a misguided Disciplinary Counsel, and despite knowing that J.P. Szymkowicz had been exonerated by every tribunal to have considered the matter, Defendants continued to accuse him of misconduct and elder abuse—recklessly disregarding the repeated findings that these allegations were false. Defendants have also refused to retract their defamatory statements, and these statements continue to be published on the internet, resulting in damage to J.P. Szymkowicz, his law practice, and to his professional and personal reputation.¹

Parties

2. Plaintiff John Paul (“J.P.”) Szymkowicz is a citizen of the District of Columbia. He is a member in good standing of the Bars of the District of Columbia, the State of Maryland, the State of New York, and the Commonwealth of Virginia.

3. Defendant Michael S. Frisch is a citizen of the State of Maryland and resides in Howard County, Maryland. He claims to be an “Ethics Counsel,” working as an adjunct professor at Georgetown University Law Center.

4. Professor Frisch is also a contributor to the “Legal Profession Blog,” and routinely reports on legal disciplinary matters that he considers newsworthy. His articles, including the articles at issue in this case, are widely read and circulated in the District of Columbia.

¹ A copy of the most recent defamatory article by Defendants, entitled “District of Columbia Court Absolves Attorneys of Horrific Elder Abuse Conflict,” is attached as Exhibit 1.

5. Defendant Law Professor Blogs, LLC is a limited liability company established under the laws of the State of Ohio, whose “Entity Number” with the Ohio Secretary of State’s Office is 1496156. Its principal place of business is located at 24569 Via de Casa, Malibu, California 90265-3205.

6. Defendant Law Professor Blogs LLC is the publisher of the “Legal Profession Blog,” which is widely read and circulated in the District of Columbia.

Jurisdiction and Venue

7. This Court has jurisdiction over this civil action pursuant to 28 U.S.C. § 1332 since the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and J.P. Szymkowicz, on the one hand, and Defendants Frisch and Law Professor Blogs, LLC, on the other hand, are citizens of different states.

8. Venue is proper in this Court pursuant to 28 U.S.C. §1391 (b) (2) since a substantial part of the events giving rise to the claim occurred in the District of Columbia. Defendants are subject to the personal jurisdiction of this Court given that the defamations were published in the District of Columbia and concerned matters relating to the District of Columbia, and because Professor Frisch regularly conducts business in the District of Columbia.

Background of the Bar Complaint

9. This action involves a number of articles written by Professor Frisch, and published by Law Professor Blogs, LLC in the “Legal Profession Blog,” concerning a bar complaint against J.P. Szymkowicz and his father, John Thomas Szymkowicz. This complaint was prosecuted before the District of Columbia Board on Professional Responsibility and the District of Columbia Court of Appeals by Julia Porter, who is Deputy Disciplinary Counsel in the District of Columbia’s Office of Disciplinary Counsel.

10. The Szymkowicz family are attorneys who practice law in a two-person law firm known as Szymkowicz & Szymkowicz, LLP. They have practiced law together since the mid-1990s.

11. The bar complaint arose from litigation over a revocable trust involving four members of the Ackerman family: the parents, Stephen Ackerman, Sr. and Genevieve Ackerman, and their two children, Stephen Ackerman, Jr. and Mary Frances Abbott.

12. In 2002, Mrs. Abbott “took the lead” in establishing a revocable trust for her parents. She signed the trust documents on behalf of both parents as their attorney-in-fact.

13. Shortly thereafter, both the son, Stephen Ackerman, Jr., and the mother, Genevieve Ackerman, expressed unhappiness with the trust. They retained the Szymkowicz family in an effort to reform the trust according to Mrs. Ackerman’s intent and to return the assets to her. Two lawsuits were filed in the Superior Court of the District of Columbia against the trustee, Mr. Abbott, with the first lawsuit filed by the son, Stephen Ackerman, Jr., and the second lawsuit filed by the mother, Genevieve Ackerman.

14. After the trustee’s counsel notified John Thomas Szymkowicz that he intended to call him as a witness during the trial, the Szymkowicz family promptly withdrew as counsel and successor counsel were retained to represent Mrs. Ackerman in that action. The Szymkowicz family continued to represent Stephen Ackerman, Jr. in a separate proceeding in the Superior Court brought by the trustee to clear and transfer title on a North Carolina Avenue home.

15. The principal counsel for the Ackermans in this litigation was John Thomas Szymkowicz, the senior member of the Szymkowicz law firm. His son, J.P. Szymkowicz, was a relatively young attorney at that time and played a limited role in the case. As subsequently determined by the Board of Professional Responsibility, his role was “entirely secondary to his

father's." As the Board also noted, he never even spoke with Mrs. Ackerman, except to greet her in court on one occasion.

16. Ultimately, Mrs. Ackerman and Stephen Ackerman, Jr. did not prevail in either of the two actions. The trust was not reformed and the house on North Carolina Avenue was transferred to the trust. Notably, in neither proceeding was there ever a suggestion—by court or counsel—that the Szymkowicz had engaged in any improper or unethical conduct.

17. Nevertheless, on May 24, 2005, Mrs. Abbott filed a bar complaint against John Thomas Szymkowicz with the District of Columbia Office of Bar Counsel (now called the District of Columbia Office of Disciplinary Counsel) alleging a conflict of interest. Around two years later, Mrs. Abbott filed a similar complaint against J.P. Szymkowicz. Disciplinary Counsel Julia Porter then chose to litigate the case based upon Mrs. Abbott's allegations, asserting "conflict of interest" and "dishonesty" charges. Years of proceedings ensued.

Rejection of the Bar Complaint

18. On September 28, 2012, after 12 days of hearings that took place in 2009 and 2010, a Hearing Committee of the Board on Professional Responsibility issued its decision recommending dismissal of all charges against the Szymkowicz. In its findings, the Hearing Committee noted that the dispute among the Ackerman family members was a "tragic drama," resulting in Mrs. Abbott's "palpable anger and hostility" toward the Szymkowicz. But, as the Hearing Committee further observed, this anger and hostility was "misplaced," insofar as it was directed against the Szymkowicz. Further, although the Hearing Committee was tolerant of Mrs. Abbott's "right to express her opinions," it was sharply critical of Disciplinary Counsel for prosecuting the action, particularly in view of her "serious misunderstanding of District of Columbia law." Disciplinary Counsel simply accepted Mrs. Abbott's allegations at face value

and continued to litigate this matter—even though her allegations against the Szymkowicz were “substantially undermined by Mrs. Abbott’s bias and hostility.”

19. In particular, the Hearing Committee found as follows:

¶306. The Hearing Committee has listened to arguments and testimony for twelve hearing days, carefully reviewed over 3,800 pages of transcript (including the two pre-hearing conferences) and several more thousand pages comprising the 228 exhibits admitted in evidence, and considered the arguments set forth in the approximately 300 pages of briefs submitted by the parties. This careful review enables us to say, with confidence, that **there is no credible evidence, much less clear and convincing evidence, supporting any of Bar Counsel’s charges.** [emphasis added].

...

¶307. It is easy to understand why Mrs. Ackerman yearned for peace in her family. Throughout the years described in this record, there was no peace in the Ackerman family. It is also easy to understand Mrs. Abbott’s anger at the situation with which all participants in this tragic drama were faced. The palpable anger and resulting hostility of Mrs. Abbott towards the Respondents is misplaced, however.

¶308. We do not contest her right to express her opinions on any topic of her choosing, including the behavior of Respondents. However, that anger should not have affected Bar Counsel’s investigation in this matter. It is nevertheless clear that Mrs. Abbott’s “case” against the Respondents became Bar Counsel’s “case” against Respondents. Bar Counsel asked Mrs. Abbott to attest to the truthfulness of her complaining letters. But Bar Counsel’s charges were substantially undermined by Mrs. Abbott’s hostility and bias against Respondents, as clearly demonstrated in Mrs. Abbott’s cross-examination. Further, Bar Counsel’s serious misunderstanding of District of Columbia law with respect to mental capacity and consequently her failure to show that Mrs. Ackerman lacked capacity to interact with Respondents requires that the charges be dismissed against [John Thomas Szymkowicz and J.P. Szymkowicz].

20. On July 25, 2014, the District of Columbia Board on Professional Responsibility accepted the Hearing Committee’s recommendations and dismissed all charges against the Szymkowicz, and called out Disciplinary Counsel’s “unfortunate” and “*ad hominem*” attack on the Hearing Committee:

[d]espite the *quantity* of evidence urged by Bar Counsel, when we account for the Hearing Committee’s *qualitative* credibility determinations, we agree that Bar Counsel has not clearly and convincingly proved the charges against Respondents. [italics in original]. . . . [and] [a]lthough Bar Counsel decries as ‘almost philosophical’ some of the

legal issues discussed by the Hearing Committee, there is no meaningful challenge to the germane legal reasoning contained in the Committee's report.

Denigrating the Hearing Committee's rejection of its evidence, Bar Counsel aggressively criticizes its 'failure to consider much, if not most, of the evidence' or 'even to acknowledge it,' and characterizes this purported failing as a 'dereliction of [its] responsibility.' (Bar Counsel's Brief before the Board at 48-49). The *ad hominem* attack on the Hearing Committee's work product is unfortunate. The Hearing Committee did consider countervailing evidence (*see, e.g.* Hearing Committee's Findings of Fact at 79-93). The fact that it did not swell its report beyond 219 pages, further to detail evidence it found unpersuasive, does not mean the Committee ignored it."

21. The July 25, 2014 opinion of the Board on Professional Responsibility also found that J.P. Szymkowicz played a very limited role in the representation and bore no responsibility for any of the allegedly unethical conduct alleged against his father:

[W]e reject Bar Counsel's claim that J.P. Szymkowicz violated Rule 1.7 (b) (2) for an additional reason. Although he appeared on behalf of Mrs. Ackerman in the litigation, his role was entirely secondary to his father's. He never spoke to Mrs. Ackerman. He had no reason to discuss any conflict issues with her because his father had 'satisfied any inquiry he had about that. His father had a demonstrated history of being sensitive to, and vetting, conflicts in the past. J.P. Szymkowicz understood that his father would 'not do anything on behalf of his clients unless they understand what's going on, and the ramifications of what they are going to do. If there is a potential conflict, any potential conflict, . . . he's very, very thorough and takes sometimes hours discussing these kind of issues with clients, and that happens in every case.' J.P. Szymkowicz was entitled to rely on [John Thomas Szymkowicz's] determination of Mrs. Ackerman's capacity. He neither knew of, nor ratified, any improper conduct of his father. As a consequence, he did not have disciplinary liability for any failure of his father in that regard. [*citing* D.C. Bar Rule of Professional Conduct 5.1, Comment 6]. *See* Board Opinion 16 and 27.

22. In a 27-page *per curiam* opinion issued on September 17, 2015, the District of Columbia Court of Appeals dismissed all charges regarding dishonesty against the Szymkowicz, but remanded the case to the Board on Professional Responsibility for "further consideration of the conflict-of-interest charges" because "the Szymkowicz could not properly represent both Mrs. Ackerman and Dr. Ackerman without obtaining informed consent to the joint representation. Because it concluded that informed consent was not required, the Board did not decide whether informed consent was obtained." *See* Court of Appeals Opinion 21-22, 27.

23. The Court of Appeals' September 17, 2015 opinion further found that:

The Board ruled in the alternative that Mr. J.P. Szymkowicz did not violate the conflict-of-interest rule because he reasonably relied on Mr. J.T. Szymkowicz's assurances that any conflict issues had adequately been addressed. Because it is possible that the Board's assessment of that issue could be affected by the Board's determinations on remand, we also remand as to the conflict-of-interest charge against Mr. J.P. Szymkowicz. *See* Court of Appeals Opinion 22 n.2.

24. On May 19, 2017, the Board on Professional Responsibility issued a 36-page report and recommendation on remand from the Court of Appeals that stated, after a lengthy discussion of the law on capacity and burdens of proof,

Disciplinary Counsel failed to prove by clear and convincing evidence that the Szymkowiczes failed to obtain informed consent pursuant to Rule 1.7 (c) after [John Thomas Szymkowicz] offered evidence of informed consent . . . [and] [b]ased on this conclusion, we also see no reason to revisit our previous finding that [J.P. Szymkowicz] reasonably relied on his father's assurances that he had obtained Mrs. Ackerman's informed consent under Rule 5.2 (subordinate lawyers). . . . [and, thus, the Board] recommends that the case against the Szymkowiczes be dismissed. *See* Report 23, 25, 35.

25. On November 8, 2018, the District of Columbia Court of Appeals dismissed all remaining charges against the Szymkowiczes, and held, in a 16-page opinion, that the record supports the Board on Professional Responsibility's conclusion that Disciplinary Counsel failed to carry the burden of proving by clear and convincing evidence that Mrs. Ackerman did not give informed consent to John Thomas Szymkowicz's and J.P. Szymkowicz's representation, and, with regard to J.P. Szymkowicz, the Court stated that:

Although John P. Szymkowicz did not personally discuss conflicts of interest with Ms. Ackerman, the Board concluded that John P. Szymkowicz reasonably relied upon assurances from his father on the issue. We do not understand Disciplinary Counsel to argue at this juncture that John P. Szymkowicz violated Rule 1.7 even if his father did not. *See* Opinion 6-7.

26. Thus, the case that began with a bar complaint filed against John Thomas Szymkowicz on May 24, 2005, continued with Disciplinary Counsel's filing of a Specification of Charges dated March 30, 2009, and ended on November 8, 2018—a total of 13 and a half years.

Defendants' Defamatory Statements

27. Deputy Disciplinary Counsel Julia Porter and Professor Frisch were colleagues and close friends. They worked together as Disciplinary Counsel and co-taught ethics courses at Georgetown University Law Center. As Professor Frisch wrote in an unrelated article, he was "biased in her favor." As a result of this bias, after the Hearing Committee found against Disciplinary Counsel Porter, criticizing her lack of judgment in accepting Mrs. Abbott's "case" as her "case" and further criticizing her "serious misunderstanding" of the law, Professor Frisch took it upon himself to attempt to vindicate his friend and colleague in the press. He did so by disparaging the District of Columbia's legal disciplinary process, and by recklessly and maliciously defaming the Szymkowiczes—all without regard to the findings of the Hearing Committee, the Board on Professional Responsibility, and the Court of Appeals.

28. The first article that Professor Frisch wrote about this matter, was entitled "The Worst Hearing Committee Report in D.C. History," published on the "Legal Profession Blog" on October 22, 2012. This article acknowledged that the Szymkowiczes had been "exonerated," but took sharp issue that the Hearing Committee "viciously attacks the complainant ([Mrs. Ackerman's] loving daughter) as biased and incredible." Professor Frisch went on to accuse the Chair of the Hearing Committee of being biased—on the sole ground that he was an elder care lawyer. Professor Frisch's conclusion: "In sum, the report reflects the most superficial reasoning and failure to comprehend fundamental principles of legal ethics that I've seen in nearly 30 years of reading these reports."

29. Professor Frisch published on this matter again after the Board on Professional Responsibility dismissed all charges against the Szymkowicz. His next article, written July 28, 2014, was entitled “Worst Report Affirmed.” He continued to criticize the Hearing Committee, accusing it of ignoring the evidence “in aid of its steadfast desire to find no misconduct.”

30. After the Court of Appeals remanded the Szymkowicz’s case to the Board on Professional Responsibility on September 17, 2015, Professor Frisch published a third article, this time describing the Hearing Committee as “obviously rogue.”

31. A fourth article was published on May 22, 2017, entitled “The Most Blatant Regulatory Failure in D.C. Bar History Nears A Conclusion.” This article attacked both the District of Columbia disciplinary process and the Szymkowicz. This article accused the Hearing Committee of a “gross and inexcusable failure to deal with the evidence” and stated that the “greatest injustice” had been perpetrated. The article then took aim at the Szymkowicz, accusing them of instituting “frivolous” litigation, helping their client “loot his mother’s estate,” and “stage managing” the representation of Mrs. Ackerman after they withdrew from her representation.

32. The May 22, 2017 article also indicated that “Disciplinary Counsel can appeal this atrocity to the [District of Columbia Court of Appeals].”

33. This May 22, 2017 article was also cited on BarCounsel.com, in the subject area, “Bad Lawyer Experience Stories, Misc [sic] News,” with the heading:

“Simply state [sic] the Judicial System is BROKEN [emphasis in original]. For evidence to support such an assertion review the FACTS [emphasis in original] associated to this case. For those of sufficiently strong stomach, the report in In re Szymkowicz [sic], Szymkowicz [sic], Silverman & King can be accessed through this link [the link found on the word “accessed”]. See <http://www.barcomplaint.com/lawyer-stories/the-most-blatant-regulatory-failure-in-d-c-bar-history-nears-a-conclusion/>.

34. Within minutes after the District of Columbia Court of Appeals issued its decision on November 8, 2018, Professor Frisch released his fifth article relating to this matter, which was updated several times over the next few days. This article is currently found at:

https://lawprofessors.typepad.com/legal_profession/2018/11/district-of-columbia-court-absolves-elder-abuse-conflict.html

35. The November 8, 2018 article was entitled “District of Columbia Court Absolves Attorneys of Horrific Elder Abuse Conflict. The article again criticized the District of Columbia disciplinary process and stated that this was “the most pro-attorney, anti-public protection recommendation in the history of the D.C. discipline system.” The article then launched into an attack on the Szymkowicz, accusing them of legal “misconduct,” “elder care abuse,” and “horrific elder abuse:”

The District of Columbia Court of Appeals has in a *per curiam* decision affirmed [clicking on the word “affirmed” in the online version of this blog post takes the reader to a pdf version of the Court’s opinion involving J.P. Szymkowicz referenced in the article] the most pro-attorney, anti-public protection recommendation in the history of the D.C. discipline system. As a consequence, attorneys who clearly engaged in a gross conflict of interest get off scot-free for horrific elder abuse.

I find this shocking, but at least it makes the agenda of this report crystal clear: protect the profession, trash the victim of misconduct (and discourage other victims from coming forward), make future Bar Counsel prosecutions virtually impossible and use the whole thing as a marketing tool.

36. On or about August 30, 2019, J.P. Szymkowicz demanded a retraction of the November 8, 2018 article in a letter, and, on or about September 7, 2019, emailed a pdf of this letter to Professor Frisch and Paul L. Caron, owner and/or manager of Law Professor Blogs, LLC.²

37. Neither Professor Frisch nor anyone associated with Law Professor Blogs, LLC responded to J.P. Szymkowicz’s letter or retracted any of their statements.

² A copy of this letter dated August 30, 2019 is attached to this complaint as Exhibit 2.

COUNT I: DEFAMATION

38. The allegations in paragraphs 1-37 of this complaint are incorporated herein as if fully stated.

39. Defendants' assertions that J.P. Szymkowicz engaged in legal misconduct, elder care abuse, and horrific elder abuse are false and defamatory *per se*, as these assertions tend to injure him in his career and profession by falsely accusing him of unethical behavior and fraud, in a manner injurious to his reputation and esteem. The allegations are also defamatory *per se* because they falsely accuse J.P. Szymkowicz of a criminal offense. Elder abuse is a crime in the District of Columbia (and elsewhere). *See* the Criminal Abuse, Neglect and Financial Exploitation of Vulnerable Adults and the Elderly Act of 2000, District of Columbia Code Section 22-931, *et seq.*

40. The allegations of misconduct, elder care abuse and horrific elder abuse are verifiable statements of fact and have already been verified as false by the Hearing Committee, the Board on Professional Responsibility, and the Court of Appeals.

41. These allegations were made unfairly, negligently, and with actual malice. Defendants either knew that the allegations were false or acted with reckless disregard of the truth. Defendants continued to falsely accuse the Szymkowicz family of misconduct and elder abuse despite their knowledge that the disciplinary charges had been rejected by every tribunal to consider them. They continued to falsely accuse the Szymkowicz family despite the fact that Disciplinary Counsel had been found to exhibit poor judgment and a serious lack of legal understanding in bringing the case in the first place. And Defendants continued to falsely accuse J. P. Szymkowicz, despite their knowledge that he had played a very limited role in the matter and could not be faulted for any alleged failing of his father. Professor Frisch's friendship with

Disciplinary Counsel and his desire to exonerate her in the wake of the Hearing Committee's criticisms of her caused him to act in an unfair, misguided, biased, negligent, malicious, and reckless manner with respect to J.P. Szymkowicz.

42. In addition to constitutional malice demonstrated by Professor Frisch is the fact that he has acknowledged his own personal animus, ill-will, and spite toward J.P. Szymkowicz. In his May 22, 2017 article, he indicates his desire that the Szymkowicz be punished: "this outcome serves as a warning to victims—don't bother to bring your concerns to the D.C. Bar, as you will only get attacked for your trouble. . . . In a just world, what happened to Fran Abbott (the complaining daughter) would happen to them."

43. The aforementioned statements were made of and concerning J.P. Szymkowicz, and were so understood by those who read them.

44. Defendants knew or should have known that the aforementioned statements were injurious to J.P. Szymkowicz's career and reputation.

45. By publishing the aforementioned statements, Defendants knew that they would be republished and read by the general public throughout the District of Columbia and the United States of America. These statements were in fact, republished and read by members of the general public throughout the District of Columbia and the United States of America as a direct, natural, probable, and foreseeable consequence of their publication.

46. The aforementioned statements give rise to presumed damages, as well as to economic and punitive damages to J.P. Szymkowicz.

47. As a direct and proximate result of the aforementioned statement and its publication, J.P. Szymkowicz continues to suffer damages in an amount to be determined at trial, but not less than the jurisdictional minimum of this Court.

COUNT II: INVASION OF PRIVACY – FALSE LIGHT

48. The allegations in each of the preceding paragraphs 1-47 of this complaint are incorporated herein as if fully stated.

49. Defendants' publicized statements about J.P. Szymkowicz discussed above were understood to be of and concerning him, which placed him in a false light that would be highly offensive to a reasonable person.

50. The manner by which Defendants sought to harm J.P. Szymkowicz, including the steps described above, was extreme and outrageous, and was so outrageous in character and so extreme in degree as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

51. As a result of the actions of Defendants, including besmirching J.P. Szymkowicz's reputation and falsely accusing him of misconduct and abuse caused him damage, including, but not limited to severe emotional distress, loss of income and loss of business opportunity.

52. As a result of the actions of Defendants, the character and reputation of J.P. Szymkowicz was harmed, his standing and reputation among the community were impaired, he suffered financially, and he suffered mental anguish and personal humiliation.

53. The aforementioned actions by Defendants give rise to presumed damages, as well as to economic and punitive damages to J.P. Szymkowicz.

54. As a direct and proximate result of the aforementioned statements and its publication, J.P. Szymkowicz continues to suffer damages in an amount to be determined at trial, but not less than the jurisdictional minimum of this Court.

COUNT III: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

55. The allegations in each of the preceding paragraphs 1-54 of this complaint are incorporated herein as if fully stated.

56. Defendants' publicized statements about J.P. Szymkowicz discussed above were made intentionally with a desire to harm him.

57. The manner by which Defendants sought to harm J.P. Szymkowicz, including the steps described herein, was extreme and outrageous, and was so outrageous in character and so extreme in degree as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

58. As a result of the actions of Defendants, including, besmirching J.P. Szymkowicz's reputation and falsely accusing him of misconduct and abuse caused him severe emotional distress.

59. As a result of the actions of Defendants, the character and reputation of J.P. Szymkowicz was harmed, his standing and reputation among the community were impaired, he suffered financially, and he suffered mental anguish and personal humiliation.

60. In addition to constitutional malice demonstrated by Professor Frisch is the fact that he has acknowledged his own personal animus, ill-will, and spite toward J.P. Szymkowicz. In his May 22, 2017 article, he indicates his desire that the Szymkowicz be punished: "this outcome serves as a warning to victims—don't bother to bring your concerns to the D.C. Bar, as you will only get attacked for your trouble. . . . In a just world, what happened to Fran Abbott (the complaining daughter) would happen to them."

61. The aforementioned statements were made of and concerning J.P. Szymkowicz, and were so understood by those who read them.

62. The aforementioned statements give rise to presumed damages, as well as to economic and punitive damages to J.P. Szymkowicz.

63. As a direct and proximate result of the aforementioned statement and its publication, J.P. Szymkowicz continues to suffer damages in an amount to be determined at trial, but not less than the jurisdictional minimum of this Court.

WHEREFORE, Plaintiff John Paul Szymkowicz demands judgment, jointly and severally, against Defendant Michael Stuart Frisch and Defendant Law Professor Blogs, LLC for: (1) judgment on Counts I, II, and III; (2) presumed damages in an amount to be awarded at trial; (3) compensatory damages in an amount to be proven at trial; (4) punitive damages in an amount to be proven at trial; (5) all costs, interest, attorneys' fees and disbursement to the highest extent permitted by law; and (6) such other and further relief as this Court may deem proper.

Respectfully submitted,



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Attorney for Plaintiff John Paul Szymkowicz

JURY DEMAND

Plaintiff John Paul Szymkowicz demands trial by jury as to all issues so triable.



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Attorney for Plaintiff John Paul Szymkowicz

Exhibit 1

Legal Profession Blog

Thursday, November 8, 2018

District Of Columbia Court Absolves Attorneys Of Horrific Elder Abuse Conflict

By Legal Profession Prof

The District of Columbia Court of Appeals has in a per curiam decision affirmed the most pro-attorney, anti-public protection recommendation in the history of the D.C. discipline system .

As a consequence, attorneys who clearly engaged in a gross conflict of interest get off scot-free for horrific elder abuse.

A hollow tsk tsk is all the court can muster

In sum, although we fully understand Disciplinary Counsel's concerns about the Szymkowicz's conduct in this case, we accept the Board's conclusion that the Szymkowicz's were not shown by clear and convincing evidence to have violated Rule 1.7.

The court majority's "full understanding" offers faint if no hope to future victims. And does nothing to instruct the Bar and public on the ethics of elder care abuse.

Rather, the court's discussion of burden shifting has no practical consequence but to tie the hands of Disciplinary Counsel in proving conflicts.

There is no case in the history of the D.C. disciplinary where a hearing committee, the board and the court so studiously ignored the proven facts to achieve the desired result

The lone voice of concern can be found in the dissent of Senior Judge John Steadman

I disagree that the structure of criminal law presents a fair analogy. Bar discipline proceedings are designed to ensure that attorneys abide by the rules of professional conduct that their license demands and to protect the public accordingly.

Not today.

From my earlier post on this case

The evidence in the case supports a conclusion that the attorneys, in the course of representing the woman's son, purported to represent her as well and caused her to execute a series of documents giving control or complete ownership of her property to him. The result was the significant depletion of the woman's financial resources (and she paid for the ensuing litigation brought in her name), the withdrawal of two of the attorneys after a judge had raised the conflict issue and a court determination by one of the most respected jurists in the District

documents that the attorneys had drafted for the benefit of the son.

After they withdrew, the two attorneys continued to stage-manage the dual representation by hiring and paying successor counsel (with the woman's money) and drafting legal documents for the woman's signature.

The hearing committee, throughout its report, repeatedly states that there was "no evidence" of any ethical violations. In fact, there was the testimony of twelve witnesses called by Bar Counsel and the orders of Superior Court judges that provided compelling evidence of the charged misconduct. The hearing committee simply chose to ignore it.

The injustice perpetrated in these disgraceful proceedings was a direct result of the court and board's unwarranted deference to the dereliction of duty of the hearing committee as I blogged

When I read the report, I wondered about the background of the committee chair and surprise, surprise: He's an elder care lawyer. He signed (and presumably authored) an opinion that makes it nearly impossible to prosecute lawyer elder abuse. A classic "fox guards henhouse" approach to bar discipline.

And then, this from the committee chair's law partner hits my in box:

My partner, John Quinn, chaired a Board on Professional Responsibility panel which decided the attached case against Bar Counsel and in favor of the lawyers involved. The case spanned several years and the opinion is 219 pages. It is the only case known to the Hearing Committee that squarely deals with the difference between legal competency and legal capacity. I recommend reading it in that it involved charges of Bar Counsel of conflicts of interest, dishonesty, fraud and other ethical violations against several attorneys alleging that they represented a client who Bar Counsel alleged was "incompetent...suffered from cognitive impairment..and memory problems." The report cites the relevant cases and other authorities that are pertinent and useful to practitioners.

https://www.dropbox.com/s/iyu7z002yfm1q5r/Ackerman__Hearing_Committee's_Final_Decision_Order_dated_September_28_2012.pdf

I find this shocking, but at least it makes the agenda of this report crystal clear: protect the profession, trash the victim of misconduct (and discourage other victims from coming forward), make future Bar Counsel prosecutions virtually impossible and use the whole thing as a marketing tool.

It also is noteworthy that it took the hearing committee over 2 1/2 years to produce this whitewash, notwithstanding a rule that requires that the report be filed within 120 days of the close of the hearing.

In its wisdom, the board refused to consider the above email. Ignoring it was more convenient.

members of the probate bar who uniformly expressed horror at what these lawyers did but were reluctant to speak out in public.

This is - simply put - Exhibit One in anyone's indictment of the "self-regulating" District of Columbia legal profession.

A very disappointing day.

Update: I posted this comment after reading a New Jersey decision

The disposition of [this] case was an unfortunate byproduct of a rogue hearing committee and not reflective of a court that almost invariably strikes an appropriate balance between the competing interests posed in bar discipline matters.

That needed to be said here. (Mike Frisch)

https://lawprofessors.typepad.com/legal_profession/2018/11/district-of-columbia-court-absolves-elder-abuse-conflict.html

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Exhibit 2

John Paul (“J.P.”) Szymkowicz

P.O. Box 57333

Washington, DC 20037-0333

(202) 862-8500

jp@szymkowicz.com

August 30, 2019

Professor Michael Stuart Frisch
5925 Fall Moon Ride
Clarksville, Maryland 21029-1675
frischm@law.georgetown.edu

Via Email and USPS Certified Mail #7019-0700-0001-6890-6053

and

Law Professor Blogs LLC
c/o Professor Paul L. Caron
24569 Via de Casa
Malibu, California 90265-3205
paul.caron@pepperdine.edu

Via Email and USPS Certified Mail #7019-0700-0001-6890-6060

Re: Retraction of Szymkowicz Articles and “Litigation Hold” Notice

Professor Frisch and Professor Caron:

I demand that, by Friday September 20, 2019, you remove the following articles from the Internet and issue a letter to me retracting what I consider to be false and defamatory statements published in these articles. As you may recall, my now deceased attorney, Robert N. Levin, made a similar request to Professor Frisch in a letter dated October 25, 2012, and I include Mr. Levin’s letter with my request.

In addition, as litigation is contemplated, I demand that Professor Frisch, Professor Caron and Law Professor Blogs LLC take steps to place a “Litigation Hold” on any and all records, including paper documents, emails, voicemails, and electronically stored documents and records concerning the articles listed below and communications with, J.P. Szymkowicz, John T. Szymkowicz, Julia L. Porter, the District of Columbia Office of Disciplinary Counsel (formerly the District of Columbia Office of Bar Counsel), Mary Frances Abbott and any other source for these articles. Pursuant to this “Litigation Hold” demand, Professor Frisch, Professor Caron and Law Professor Blogs LLC must suspend all routine destruction of records, discontinue personal practices for

the destruction of records, preserve records in their original electronic form, preserve paper documents and preserve new records generated or received after the receipt of this “Litigation Hold” demand.

The articles are:

1. “The Worst Hearing Committee Report in D.C. Bar History” originally published on October 22, 2012, and accessed on August 30, 2019 at: https://lawprofessors.typepad.com/legal_profession/2012/10/the-worst-hearing-committee-report-in-dc-bar-history.html.
2. “Worst to First” originally published on December 24, 2012, and accessed on August 30, 2019 at: https://lawprofessors.typepad.com/legal_profession/2012/12/readers-of-this-blog-may-recall-that-i-recently-severely-criticized-a-district-of-columbia-hearing-committee-for-absolving-fo.html.
3. “Worst Report Affirmed” originally published on July 28, 2014, and accessed on August 30, 2019 at: https://lawprofessors.typepad.com/legal_profession/2014/07/worst-report-affirmed.html.
4. “Worst Report Remanded” originally published on September 17, 2015, and accessed on August 30, 2019 at: https://lawprofessors.typepad.com/legal_profession/2015/09/the-district-of-columbia-court-of-appeals-has-remanded-the-case-involving-the-worst-hearing-committee-report-in-dc-bar-hist.html.
5. “The Most Blatant Regulatory Failure in D.C. Bar History Nears a Conclusion” originally published on May 17, 2017, and accessed on August 30, 2019 at: https://lawprofessors.typepad.com/legal_profession/2017/05/the-seemingly-endless-saga-caused-by-the-worst-hearing-committee-report-in-dc-bar-history.html.
6. “District of Columbia Court Absolves Attorneys of Horrific Elder Abuse Conflict” originally published on November 8, 2018, and accessed on August 30, 2019 at: https://lawprofessors.typepad.com/legal_profession/2018/11/district-of-columbia-court-absolves-elder-abuse-conflict.html.

Please confirm no later than Friday September 20, 2019 that these articles have been removed from the Internet, issue a letter to me retracting what I consider to be false and defamatory statements published in these articles and confirm that you have placed a “Litigation Hold” on the records subject to such hold as stated above.

Sincerely,



J.P. Szymkowicz

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GAITHERSBURG, MARYLAND 20878
TELEPHONE (301) 517-8727
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October 25, 2012

Michael S. Frisch
Georgetown University Law Center
600 New Jersey Avenue N.W.
McDonough 415
Washington, D.C. 20001

Re: "The Worst Hearing Committee Report in D.C. Bar History"

Dear Mr. Frisch:

Please be advised that I represent John Szymkowicz, Esq. and J.P. Szymkowicz, Esq. in regard to the Bar Counsel matter that was the subject of your unfortunate article dated October 22, 2012, on the Legal Profession Blog. My clients were two of the four Respondents in the matter that was the subject of the Hearing Committee Report you attacked in your article. The underlying issues in the matter concerned the legal affairs of Ms. Genevieve Ackerman ("Ms. Ackerman"), an elderly woman.

In your piece you manage to impugn the integrity of the Committee members who were unanimous in issuing the report. It is apparently your view that lawyers should not be permitted to sit on Hearing Committees because they will act to "protect the profession" and that having lawyers on Hearing Committees is the equivalent of having the "fox guard the henhouse." You actually accuse John Quinn, Esq., a very well respected member of the Bar, who chaired the Committee *as a volunteer*, of using the report as "a marketing tool" for his own practice.

I notice that you provide no discussion of the detailed legal rationale followed by the Committee in regard to the issue of Mrs. Ackerman's actual mental acuity other than an extremely incomplete summary of the Committee's findings. You fail to mention that Respondents presented the testimony of a noted psychiatrist, Richard Ratner, M.D. who frequently testifies at the request of the Office of Bar Counsel, or the other medical evidence that supported Dr. Ratner's testimony. You do not mention the Committee's scholarly analysis of legal competency v. legal capacity other than to assert that this was an example of the "fox guarding the henhouse."

Many of the facts that you assert were present in this case were not the same facts that I observed during the twelve days of hearings in this matter that I participated in or which I found in reviewing

Law Offices Of
ROBERT N. LEVIN, P.C.

Michael S. Frisch
October 25, 2012
Page 2

hundreds of exhibits and more than a thousand pages of hearing transcripts. The witnesses you claim were ignored by the Committee actually testified that much of the time Mrs. Ackerman was quite alert. She remained interested in following the news and stayed interested in politics. Even Mary Francis Abbott, Ms. Ackerman's daughter, whose cause you take up as your own in the article, admitted on cross that her mother often was quite lucid. You failed to note that several of the judges questioned Mrs. Ackerman and said on the record that they thought she knew what was going on in her case. Mrs. Ackerman was asked in Court by the Judge whether she wanted to continue to be represented by my clients and she answered in the affirmative. You failed to note that Mrs. Ackerman's daughter, Ms. Abbot, the one that you wrote was rightly incensed, had attacked professionals in addition to the Respondent lawyers. Indeed, anyone who disagreed with Ms. Abbot in regard to this matter was the subject of her ire.

Whether Mrs. Abbot's anger was justified - a claim that you made without disclosing how you know it - she was an angry and biased witness who was repeatedly forced to admit during cross examination that she had no evidence to back up many the charges that she had made against Respondents, including charges that she had made under oath. Somehow, you failed to note the extensive cross examination of Ms. Abbot, part of which was attached as an Exhibit to the Report.

While I am unhappy about the smear job you did on the members of the Committee, my immediate concern is my clients, of course. Thus, your claim that they continued to stage-manage the case after it had been taken over by other counsel is utterly without record support. Both of the other Respondents testified that my clients did not have a hand in the case after they left. One of the other Respondents had asked for and received templates for estate planning documents from John T. Szymkowicz, but both of the other Respondents denied that they received instructions or directions from my clients. There was no evidence offered to contradict that testimony.

You state that there had been judicial rulings that my clients had acted in an unethical fashion. In fact, there was no such ruling. The "conflict" issue that you refer to was not a "conflict of issue" matter. Mrs. Abbot's lawyer had issued a subpoena for the testimony of one of my clients which caused the Judge an understandable concern based upon the rule that trial counsel cannot be a witness. Evidence showed that no opposing counsel in the Ackerman litigation had asked for sanctions against my clients and no judge had criticized them in regard to ethical issues.

I am curious how you obtained your ideas about what happened in this matter beyond the information contained in the publicly available Committee Report which you mostly ignore or misreport. I do not recall being called by you for information. I wonder if you spoke to any member

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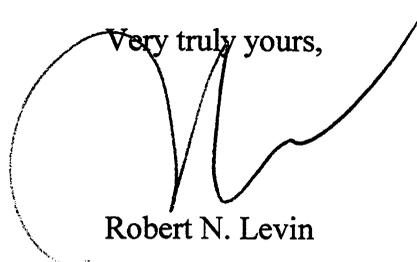
Michael S. Frisch
October 25, 2012
Page 3

of the Committee to get their impressions. Did you speak with Mel Bergman, Esq. who represented the other Respondents? Did you speak with Bar Counsel? Did you actually read the medical testimony? Did you review the transcripts or exhibits at all? I have to wonder whether you even read the Committee Report thoroughly because, in my opinion, your article does not show that you actually understood either the issues or the findings. Where did the nonsense that appeared in your article come from?

You accuse the Committee of “vicious treatment” of Ms. Abbot. In fact, in the hearing room over the two days that she testified, she was treated graciously by the Committee. Her testimony simply did not hold water. That is not evidence that the trier of fact was being vicious when her testimony was found to be unpersuasive. In my opinion, what was vicious was your utterly unprofessional treatment of the Respondents and the Committee Members.

You ended your article with a quotation from a standup comic (appropriate considering the content of the article). Allow me to end with a suggestion that you review those parts of the Constitution of the United States that deal with due process and the right of confrontation. What the Committee found was that Bar Counsel had failed to provide persuasive evidence of ethical violations. Indeed, it found that not only did Bar Counsel fail to meet the “clear and convincing” standard applicable in disciplinary matters, it found that Bar Counsel had failed to provide *any* evidence that would support the charges in this matter. You might wish to revisit the role of the trier of facts in our legal system in case any of your students asks you what “burden of proof” means.

Very truly yours,



Robert N. Levin

RNL:dec

cc: Mel Bergman, Esq,
Clients

G:\RNL\szymkowicz\Frisch\ltr Frisch 10-25-12.wpd

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- [APRL, The Association of Professional Responsibility Lawyers](#)
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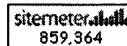
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Tuesday, October 23, 2012

Suspension For Failure To Pay Child Support

An attorney who failed to pay court-ordered child support has been suspended for a year and a day by the Colorado Presiding Disciplinary Judge.

The unpaid obligation was approximately \$15,000. The attorney had not paid or arranged a plan for satisfying the arrearages. He had been on interim suspension (Mike Frisch)

The Delaware Supreme Court has affirmed a trial court holding applying an objective standard to the determination whether a Rule 11 violation has taken place.

The court extended an earlier decision "to bar judges from sanctioning attorneys except where the attorney's conduct prejudicially disrupts the administration of justice in a particular case."

The trial court had issued two *sua sponte* orders to show cause to an attorney concerning his representations to the court in representing a client in an asbestos case. A \$25,000 penalty was imposed on the attorney.

The court here reaffirmed the objective standard: "Delaware demands more from attorneys than pure hearts and empty heads."

However, the trial court did abuse its discretion in the imposition of sanction. The first contempt order involved his incorrect citation of a case; the second failed to make a thorough argument.

Neither rose to a sanctionable level: "The practice of law imposes many informal penalties on attorneys who do not make thorough arguments. Rule 11 sanctions are not among them."

The court vacated the sanction, noting that its holding "is not intended to leave a judge confronted with an attorney's problematic behavior without recourse. The Office of Disciplinary Counsel is well equipped to investigate attorneys and recommend appropriate action." (Mike Frisch)

October 23, 2012 in [Bar Discipline & Process](#), [Professional Responsibility](#) | [Permalink](#) | [Comments \(0\)](#) | [TrackBack \(0\)](#)

No Private Sanction

The Rhode Island Supreme Court has ordered a public censure of an attorney without plea to charges arising from a motor vehicle accident.

The charges involved two felony counts of leaving the accident scene and a misdemeanor driving under the influence of liquor. He was sentenced to probation in a criminal case.

The court noted that the attorney had asked for private discipline. In the court's view, the case was "very similar" to one decided in 2011 in which a public censure was imposed: "We see no reason to impose a lesser sanction in this case." (Mike Frisch)

October 23, 2012 in [Bar Discipline & Process](#) | [Permalink](#) | [Comments \(0\)](#) | [TrackBack \(0\)](#)

Sufficient Cooperation, Insufficient Supervision

The New York Court of Appeals has remitted a disciplinary matter in which the Appellate Division for the Second Judicial Department had imposed a two year suspension.

The court agreed that the attorney had failed to supervise a non-lawyer employee (his brother) who misappropriated entrusted funds. The attorney's conduct was venal but nonetheless breached his fiduciary obligations to clients.

The court did not sustain charges of failure to cooperate with the bar investigation in light of the attorney's active participation in the process. The case was returned to the disciplinary committee without that charge. (Mike Frisch)

October 23, 2012 in [Bar Discipline & Process](#) | [Permalink](#) | [Comments \(0\)](#) | [TrackBack \(0\)](#)

Monday, October 22, 2012

The Worst Hearing Committee Report In D.C. Bar History

I have been carefully reviewing a District of Columbia hearing committee report issued recently that exonerates four attorneys on charges of conflicts of interest and dishonesty in a case involving the alleged abuse and manipulation of an elderly woman "client."

The evidence in the case supports a conclusion that the attorneys, in the course of representing the woman's son, purported to represent her as well and caused her to execute a series of documents giving control or complete ownership of her property to him. The result was the significant depletion of the woman's financial resources (and she paid for the ensuing litigation brought in her name), the withdrawal of two of the attorneys after a judge had raised the conflict issue and a determination by one of the most respected jurists in the District of Columbia that the woman had not been competent to sign the documents that the attorneys drafted for the benefit of the son.

After they withdrew, the two attorneys continued to stage-manage the dual representation by hiring and paying successor counsel (with the woman's money) and drafting legal documents for the woman's signature.

The hearing committee, throughout its report, repeatedly states that there was "no evidence" of any ethical violations. In fact, there was the testimony of twelve witnesses called by Bar Counsel and the orders of Superior Court judges that provided compelling evidence of the charged misconduct. The hearing committee simply chose to ignore it.

In particular, the hearing committee viciously attacks the complainant (the woman's loving daughter) as biased and incredible.

She was angry and upset with the attorneys and was not a professional ethical expert. Her case was ignored due to so-called "bias." In my opinion, she had every right to be furious with the attorneys who had manipulated and endangered her mother and, based on this execrable report, has every right to regard the self-regulated legal profession as a fraud on the public.

As to the conflict, the hearing committee reasoned that the woman loved her son and wished for "peace in the family." Thus, there was no need to explore the significant conflicts in the dual representations or deal with the overwhelming evidence of her incompetence and inability to consent to the conflict when she "retained" them.

In sum, the report reflects the most superficial reasoning and failure to comprehend fundamental principles of legal ethics that I've seen in nearly 30 years of reading these reports.

When I read the report, I wondered about the background of the committee chair and surprise, surprise: He's an elder care lawyer. He signed (and presumably authored) an opinion that makes it nearly impossible to prosecute lawyer elder abuse. A classic "fox guards henhouse" approach to bar discipline.

And then, this from the committee chair's law partner hits my inbox:

My partner, John Quinn, chaired a Board on Professional Responsibility panel which decided the attached case against Bar Counsel and in favor of the lawyer involved. The case spanned several years and the opinion is 219 pages. It is the only case known to the Hearing Committee that squarely deals with the difference between legal competency and legal capacity. I recommend reading it in that it involved charges of Bar Counsel of conflicts of interest, dishonesty, fraud and other ethical violations against several attorneys alleging that they represented a client who Bar Counsel alleged was "incompetent...suffered from cognitive impairment...and memory problems." The report cites the relevant cases and other authorities that are pertinent and useful to practitioners.

https://www.dropbox.com/s/iyu7z002yfm1q5r/Ackerman_Hearing_Committee's_Final_Decision_Order_dated_September_28_2012.pdf

I find this shocking, but at least it makes the agenda of this report crystal clear: protect the profession, trash the victim of misconduct (and discourage other victims from coming forward), make future Bar Counsel prosecutions virtually impossible and use the whole thing as a marketing tool.

It also is noteworthy that it took the hearing committee over 2 1/2 years to produce this whitewash, notwithstanding a rule that requires that the report be filed 120 days of the close of the hearing.

The title to this post reflects my opinion. It calls to mind one of my favorite Seinfeld lines from Elaine to Jerry: "Just when I think you are the shallowest man I ever met, you manage to drain a little more out of the pool."

Just when I think these reports can't possibly get any worse, one like this one shows up. (Mike Frisch)

October 22, 2012 in [Bar Discipline & Process](#) | [Permalink](#) | [Comments \(0\)](#) | [TrackBack \(0\)](#)

Friday, October 19, 2012

Mississippi Corruption, Louisiana Disbarment

An attorney involved in misconduct in Mississippi has been permanently disbarred in Louisiana:

Here, the record demonstrates that respondent secured bank loans for two Mississippi state court judges, purportedly for campaign expenses. Thereafter, in an effort to conceal the fact that he was paying off the loans himself, respondent used cash and third-party intermediaries to disguise the true source of the loan payments. In exchange for this financial assistance, respondent subsequently received extremely favorable rulings from the judges in cases he filed in the courts. This conduct amounts to blatant corruption of the judicial system, and will not be tolerated by this court.

(Mike Frisch)

October 19, 2012 in [Bar Discipline & Process](#) | [Permalink](#) | [Comments \(0\)](#) | [TrackBack \(0\)](#)

Hail To The Chief

The Louisiana Supreme Court has held that, in determining who shall be the Chief Justice, appointed service does not count towards seniority. The issue arose because the two candidates were separated by "only some two months of service."

As a result, victory was denied to Justice Victory.

Hail to Chief Justice Johnson. (Mike Frisch)

October 19, 2012 | [Permalink](#) | [Comments \(0\)](#) | [TrackBack \(0\)](#)

Boat Trip

The Iowa Supreme Court has imposed a 30-day suspension of an attorney as a result of a series of criminal convictions.

The matters involved driving both a boat and a motor vehicle while impaired (two separate incidents) and possession of cocaine.

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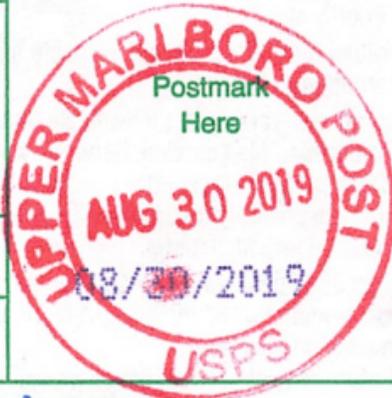
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JS-44 (Rev. 6/17 DC)

<p>I. (a) PLAINTIFFS John Paul Szymkowicz</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>11001</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Williams Lopatto, PLLC 1200 New Hampshire Avenue, N.W., Suite 750 Washington D.C. 20036 Tel: (202) 296-1611</p>	<p>DEFENDANTS Michael Stuart Frisch and Law Professor Blogs, LLC</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p> <p>ATTORNEYS (IF KNOWN)</p>																								
<p>II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)</p> <p><input type="radio"/> 1 U.S. Government Plaintiff</p> <p><input type="radio"/> 2 U.S. Government Defendant</p> <p><input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!</p> <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>PTF</th> <th>DFT</th> <th></th> <th>PTF</th> <th>DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td><input checked="" type="radio"/> 1</td> <td><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="radio"/> 4</td> <td><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="radio"/> 2</td> <td><input checked="" type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="radio"/> 5</td> <td><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="radio"/> 3</td> <td><input type="radio"/> 3</td> <td>Foreign Nation</td> <td><input type="radio"/> 6</td> <td><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input checked="" type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input checked="" type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<p><input type="radio"/> A. Antitrust</p> <p><input type="checkbox"/> 410 Antitrust</p>	<p><input checked="" type="radio"/> B. Personal Injury/Malpractice</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input checked="" type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Medical Malpractice</p> <p><input type="checkbox"/> 365 Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Product Liability</p>	<p><input type="radio"/> C. Administrative Agency Review</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><u>Social Security</u></p> <p><input type="checkbox"/> 861 HIA (1395f)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)</p>	<p><input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction</p> <p>Any nature of suit from any category may be selected for this category of case assignment.</p> <p>*(If Antitrust, then A governs)*</p>
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<p><input type="radio"/> E. General Civil (Other) OR <input type="radio"/> F. Pro Se General Civil</p>			
<p><u>Real Property</u></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p> <p><u>Personal Property</u></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><u>Bankruptcy</u></p> <p><input type="checkbox"/> 422 Appeal 27 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><u>Prisoner Petitions</u></p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Conditions</p> <p><input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement</p> <p><u>Property Rights</u></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 835 Patent – Abbreviated New Drug Application</p> <p><input type="checkbox"/> 840 Trademark</p>	<p><u>Federal Tax Suits</u></p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p> <p><u>Forfeiture/Penalty</u></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks & Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc.</p> <p><input type="checkbox"/> 460 Deportation</p>	<p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p> <p><input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)</p>

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 This is a defamation action alleging that Defendants have engaged in false and defamatory attacks against Plaintiff.

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: November 5, 2019	SIGNATURE OF ATTORNEY OF RECORD
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

John Paul Szymkowicz

Plaintiff(s)

v.

Michael Stuart Frisch and Law Professor Blogs, LLC

Defendant(s)

Civil Action No. 19-3329

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) MICHAEL STUART FRISCH
5925 Fall Moon Ride
Clarksville, Maryland 21029-1675

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

John B. Williams
Williams Lopatto, PLLC
1200 New Hampshire Avenue, N.W.
Suite 750
Washington, D.C. 20036

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 19-3329

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

John Paul Szymkowicz

Plaintiff(s)

v.

Michael Stuart Frisch and Law Professor Blogs, LLC

Defendant(s)

Civil Action No. 19-3329

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) LAW PROFESSOR BLOGS, LLC
c/o William J. Patterson, Esq.
2623 Erie Avenue
Cincinnati, Ohio 45208

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

John B. Williams
Williams Lopatto, PLLC
1200 New Hampshire Avenue, N.W.
Suite 750
Washington, D.C. 20036

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 19-3329

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was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
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My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: