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| **DKT NO: X06-UWY-CV186046436-S** | **: COMPLEX LITIGATION DKT** |
| **ERICA LAFFERTY** | **: JUDICIAL DISTRICT WATERBURY** |
| **v.** | **: AT WATERBURY, CONNECTICUT** |
| **ALEX EMRIC JONES** | **: JANUARY 9, 2023** |

**DKT NO: X06-UWY-CV186046437-S**

**WILLIAM SHERLACH**

**v.**

**ALEX EMRIC JONES**

**DKT NO: X06-UWY-CV186046438-S**

**WILLIAM SHERLACH**

**v.**

**ALEX EMRIC JONES**

**SHOW CAUSE HEARING AS TO NORMAN PATTIS**

**DISCIPLINARY COUNSEL'S OBJECTION TO MOTION FOR STAY DURING APPEAL OR WRIT OF ERROR PROCEEDINGS**

Disciplinary counsel objects to the respondent's motion for stay during appeal or writ of error proceedings.

Facts relied upon.

The respondent represented defendants Alex Emric Jones and Free Speech Systems, LLC in the underlying litigation. That matter has gone to judgment and is currently on appeal. During the conduct of that trial the respondent was subject to an order to show cause as to why he should not be disciplined for the unauthorized



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disclosure of the Connecticut plaintiffs' confidential records. On January 5, 2022, the court, Bellis, J., entered a memorandum of decision suspending the respondent's Connecticut law license for a period of six months to commence immediately.

Argument

Respondent has filed this motion for stay during appeal or writ of error proceedings pursuant to practice book § 61-12. A distinct standard applies to the court's evaluation of a motion seeking a stay of civil proceedings. To adjudicate a motion for a stay of civil proceedings, courts must apply a balancing of the equities test. See *Griffin Hospital* v. *Commission on Hospitals & Health Care*, 196 Conn. 451, 459–60, 493 A.2d 229 (1985). In describing this test, our Supreme Court has stated that "[i]t is not possible to reduce all of the considerations involved in stay orders to a rigid formula ...." Id., at 458. "In sum, the claim that the court applied the wrong standard must be rejected because we approve the "balancing of the equities" test that was used. Among the "equities" to be placed on the scales, of course, are the general equitable considerations which are involved in the issuance of a temporary injunction to preserve the status quo pendente lite. These include the concerns specified in the federal standard, which appear to have been derived from the same equity source. Id., at 459.

The federal standard focuses upon (1) the likelihood that the appellant will prevail; (2) the irreparability of the injury to be suffered from immediate implementation of the agency order; (3) the effect of a stay upon other parties to the



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proceeding; and (4) the public interest involved. *Waterbury Hospital* v. *Commission on Hospitals & Health Care,* 30 Conn.Sup. 352, 354–55, 316 A.2d 787 (1974).

As applied to this matter the application of the "balancing of the equities" weighs in favor of denying the motion to stay. It is unlikely that the respondent will prevail in his appeal. The court's factual findings, and the inferences drawn therefrom, have been meticulously detailed in the memorandum of decision. Much of the factual evidence was not in dispute. Additionally, the court holds wide discretion in fashioning an appropriate order. ''Inherent in [the attorney disciplinary] process is a large degree of judicial discretion. . . . A court is free to determine in each case, as may seem best in light of the entire record before it, whether a sanction is appropriate and, if so, what that sanction should be.'' (Internal quotation marks omitted.) *Statewide Grievance Committee* v. *Dixon*, 62 Conn. App 507, 515, 772 A.2d 160 (2001). ''When the trial court determines that an attorney committed misconduct in violation of the Rules of Professional Conduct, unless it clearly appears that [the attorney's] rights have in some substantial way been denied him, the action of the court will not be set aside upon review.'' (Internal quotation marks omitted.) *Statewide Grievance Committee* v. *Egbarin*, 61 Conn. App. 445, 453, 767 A.2d 732, cert. denied, 255 Conn. 949, 769 A.2d 64 (2001). In presentment proceedings, courts are ''left free to act as may in each case seem best in this matter of most important concern to them and to the administration of justice. . . . Once the complaint is made, the court controls the situation and procedure, in its discretion, as the interests of justice may seem to it to require.'' (Citation omitted; internal quotation marks



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omitted.) *Statewide Grievance Committee* v. *Rozbicki*, 219 Conn. 473, 483, 595 A.2d 819 (1991), cert. denied, 502 U.S. 1094, 112 S. Ct. 1170, 117 L. Ed. 2d 416 (1992).

Respondent argues that the "irreparability of the injury respondent would suffer as a result of immediate implementation of the suspension order is undeniable…". Respondent argues that the term of suspension would most certainly be served before resolution of the writ of error. While it is true that the six-month suspension will most likely be concluded before resolution of the writ of error this factor would be true for all suspensions with a term less than two or three years. The judges of the Superior Court made the determination that there would not be an automatic stay in these disciplinary proceedings. See Rules of Appellate Procedure § 61-11 (b).

Respondent also argues that the defendants in the underlying civil litigation would suffer prejudice in that they would be denied their counsel of choice and any successor counsel would take time to "be brought up to speed" in the matter. This argument is applicable to all clients of attorneys who suffer a suspension of their law license. It is the respondent's own conduct that brought about this suspension. At any point the court determines to initiate the suspension would certainly deny the clients' of the deactivated Attorney their choice of counsel. This is something that is simply unavoidable.

Finally, the public interest involved is substantial. The respondent highlighted during the proceedings, and again in its argument on the motion to stay, that "the sum and substance of the harm the plaintiff suffered here was the



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transmission of their personal financial and medical records to three attorneys of record in related Jones civil cases wherein there was no public disclosure of the records and no showing that any of the attorneys even read or examined any of the records." Respondent's argument misses the mark. The ABA standards for imposing lawyer discipline require the hearing panel to consider "the actual or potential injury caused by the lawyer's misconduct".

In this matter the potential injury that was reasonably foreseeable from respondent's conduct is incalculable. The underlying circumstances surrounding the civil litigation is well known and need not be repeated. The respondent had knowledge of the protective order and was reminded of the protective order prior to his instruction to transfer the discovery. Because the respondent did not properly identify the data or place appropriate warnings, the information was sent from attorney to attorney to attorney. Release of the information to the public would have had devastating consequences to many people.

"Disciplinary proceedings are for the purpose of preserving the courts 'from the official ministration of persons unfit to practice in them.' *Ex Parte Wall,* 107 U.S. 265, 288, 2 S.Ct. 569, [588] 27 L.Ed. 552 (1883); *Heiberger v. Clark,* [148 Conn. 177, 183, 169 A.2d 652 (1961) ]; *Grievance Committee v. Broder,* [supra, 112 Conn. at 265, 152 A. 292]; *In re Peck,* [supra, 88 Conn. at 452, 91 A. 274]...." *Heslin v. Connecticut Law Clinic of Trantolo & Trantolo,* supra, 190 Conn. at 524, 461 A.2d 938. " ' "The proceeding to disbar [or suspend] an attorney is neither a civil action nor a criminal proceeding, but is a proceeding sui generis, the object of which is not the punishment of the offender,



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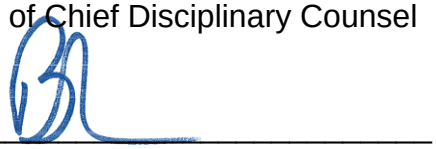
but the protection of the court." *In re Bowman,* 7 Mo.App. 569 [1879].' " *In re Application of Pagano,* supra, 207 Conn. at 339, 541 A.2d 104; *In re Peck,* supra. Once the complaint is made, "the court controls the situation and procedure, in its discretion, as the interests of justice may seem to it to require." *In re Peck,* supra.

As a self-governing body we owe a duty to the public to timely address lawyer misconduct. Respondent's conduct has harmed the legal profession and the public's view of the legal profession. As the court has pointed out in its' memorandum of decision it is important for the public, and most importantly the plaintiffs' in the underlying civil matter, to have faith that they may use the judicial process and their personal information will be properly safeguarded.

The motion to stay should be denied.

Respectfully submitted,
Office of Chief Disciplinary Counsel

By: 

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**CERTIFICATION OF SERVICE**

I certify that a copy of this document was mailed or delivered electronically or non-electronically on January 9, 2023 to all attorneys and self-represented parties of record and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

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By 
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