



Alerts

When Aggressive Tactics Cross the Line: Illinois ARDC Suspends Lawyer Accused of Sending "Abusive and Aggressive" E-Mails

October 7, 2022

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In re: Felipe Nery Gomez, 2020 PR 00064, M.R. 031256 (Jan. 7, 2022)

Brief Summary:

An attorney practicing in Illinois, Felipe Nery Gomez (respondent), was suspended from the practice of law for three years as a consequence of sending threatening and harassing e-mails in violation of Rules 4.4(a) and 8.4 (d) of the Illinois Rules of Professional Conduct (2010).

Complete Summary:

The allegations of misconduct against respondent arose from three incidents. In the first, respondent filed a complaint on behalf of himself and his son. When opposing counsel declined to respond to a subpoena, respondent sent a litany of insulting and threatening e-mails. Excerpts include: "you are being referred to the FBI today," "you sir are despicable," "your incredibly stupid subterfuge," and threatening to "name and flay you on a public pillory." After asking in vain for respondent to stop making "improper personal attacks," opposing counsel filed a motion to quash respondent's subpoena. Respondent voluntarily dismissed his lawsuit the next day, but continued to send similar e-mails.

In the second incident, respondent's conduct made opposing counsel fear for her safety, causing her to insist on communications by e-mail only and to request that a male colleague accompany her to hearings. After failing to appear to set a briefing schedule on a motion for sanctions against him, respondent sent a threatening e-mail to the managing partner of the opposing firm who was not even involved with the case saying: "Settle dude or rip y'all [sic] a new one." He later sent an e-mail to opposing counsel's male colleague saying: "Yo Jeff. [...] NO MORE BULLSHIT I SUE YOU AND NAME YOU PERSONALLY IF YOU F [sic] AROUND ANY MORE." These are just some examples of respondent's abusive e-mails related to this this matter.

In the third incident, respondent represented a man in a dispute with a condominium association and subpoenaed the mayor of Chicago for documents relating to the property. Counsel for the city complied, but respondent nevertheless left the mayor a voicemail one morning claiming: "she would be

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the cause of him crashing his car" and another voicemail in which he sang "99 Bottles of Beer on the Wall." Respondent's communications became more belligerent after counsel for the city declined to shake his hand at a hearing. He left her dozens of e-mails demanding she resign from her job and subpoenaed her personally for information unrelated to their case.

When respondent's behavior was brought before the Illinois Attorney Registration and Disciplinary Commission (ARDC), the Hearing Board rejected his initial argument that Rule 4.4(a) did not apply to him in the first two matters because he was acting as a party. Instead, the Hearing Board said at various points that respondent's e-mails in those matters had no purpose other than to embarrass, intimidate, burden, or harass their recipients. As for Rule 8.4(d), respondent violated that as well because his e-mails "prejudice[d] the administration of justice" because others were required to spend time: "addressing Respondent's improper threats rather than addressing the substance of the case." Likewise, respondent's "violent imagery" describing certain people as "targets," referring to a "legal rope tightening around your neck," and threatening to "rip y'all a new one" plainly had "no place in the practice of law." In light of the above evidence, the Hearing Board determined there was "no doubt that Respondent committed the charged misconduct."

The Hearing Board described respondent's conduct as "extreme and egregious," coupled with "substantial factors in aggravation." Such conduct included the recurring and severe nature of his behavior, his repeated attempts "to delay and obstruct [the Hearing Board's] proceedings," and, most damning of all, his failure to "recognize [that] his behavior was wrongful." The Hearing Board thus ordered that respondent be suspended from the practice of law for three years.

Significance of Decision

There are two important lessons attorneys can learn from respondent's conduct. First, your duty to comply with the Rules of Professional Conduct applies to you when you are involved in a case as a party or as counsel. Second, the ends do not justify the means. Although attorneys have a duty to advocate zealously, certain conduct is entirely unacceptable and brings our entire profession into disrepute.

Rule 4.4(a) states: "In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person." Rule 8.4(d) states: "It is professional misconduct for a lawyer to: [...] "engage in conduct that is prejudicial to the administration of justice."