

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

DR. RACHEL TUDOR,)	
)	
Plaintiff,)	
)	
v.)	Case No. 5:15-CV-00324-C
)	
SOUTHEASTERN OKLAHOMA)	
STATE UNIVERSITY,)	
)	
and)	
)	
THE REGIONAL UNIVERSITY)	
SYSTEM OF OKLAHOMA,)	
)	
)	
Defendants.)	

**MOTION FOR SANCTIONS AGAINST
ATTORNEY JILLIAN WEISS**

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Pursuant to Federal Rule of Civil Procedure 11, we respectfully ask that the Court sanction attorney Jillian Weiss for flagrant ethics violations including misrepresentation of facts, abuse of process, repeated refusal to abide by this Court's rules and orders, perjury, and disrespect to this Court.

For reasons further explained below, we ask that this Court suspend Weiss' *pro hac vice* privileges in this Court and refer her for further discipline to New York's Third Judicial Department Committee on Attorney Grievances. Defendants take no position on this motion at this time.

I. WEISS' EGREGIOUS MISCONDUCT

Attorney Weiss has repeatedly acted inappropriately and unethically in these proceedings. Her misconduct has only gotten worse over time. And, despite considerable efforts to privately work with Weiss to correct her misdeeds, her recent filings in her response in opposition (ECF No. 369) and surreply (ECF No. 381) to our Second Motion for Attorneys' Fees (ECF No. 363) are so abusive that a strong and emphatic correction from this Court is both warranted and necessary.

At the threshold, in compliance with Rule 11's safe-harbor requirement, we notified Weiss via email on October 20, 2021¹ of our intent to seek sanctions for a long list of offenses she committed in her reply to our Second Motion (Exhibit 1). Despite Weiss' promise via email on October 21, 2021, to take our request for correctives "under advisement" (*id.*), she has continued to engage

in new acts of misconduct in what appears to be an attempt to shield her misdeeds from appropriate scrutiny.

A. Misconduct in Opposition to Second Motion

Weiss' papers in opposition were filed for an improper purpose and are otherwise full of outlandish untruths, misrepresentations of fact, and what appears to be evidence that she induced her client to perjure herself, among other disturbing offenses. In light of the incredible number of noxious and offensive untruths, misrepresentations, and abuses, we highlight only a handful at this time.

Misrepresentations of fact. Weiss unquestionably misrepresented facts in her attempt to induce this Court to disentitle the undersigned to fees and costs. A few examples of the disturbing breadth of falsities Weiss published on this Court's docket:

Weiss misleads the Court about Tudor not being given notice of former counsels' intent to file motions seeking fees and costs in advance of those filings (ECF No. 369). We noticed Tudor of our intent to make those filings via private correspondence with Weiss in January 2020 as well as in our motion to withdraw filed in January 2020 (ECF No. 350). Former counsel also went the extra step of noticing this Court and all parties and counsel on September 24, 2021, of our intent to file motions for attorneys' fees and costs several days before our papers were filed (ECF No. 360).

Weiss repeatedly misrepresented to this Court the existence and terms of the Young Firm's retainer with Tudor. In her response, Weiss failed to disclose the retainer existed let alone its terms (ECF No. 369). This is particularly egregious given that Young reminded Weiss, via email, of the terms of the retainer hours before she filed her response (ECF No. 375-2).

In her surreply, Weiss also inexcusably made false representations about the terms of Young's retainer including but not limited to: Claiming the retainer is governed by Oklahoma law (ECF No. 381 at 2). (There is no part of the retainer that even suggests as much. Moreover, Tudor knew it to be governed by New York law, which is why she pursued a grievance against Young in New York, not Oklahoma.) Weiss also insists that the retainer's terms bar former counsel from participating directly in fees and costs petitions (ECF No. 381 at 1-2). (Not true, section 13 of the Young Retainer (ECF No. 375-1) expressly assigns that right to counsel and continues to be applicable in a situation, like this one, where the Firm terminates the client.¹)

¹ Weiss makes other bizarre representations about Young's retainer, a document she did not draft nor, it appears, carefully read. Among other things, section 23 speaks to withdrawal triggered by a client's failure to settle her case where a reasonable offer is extended, which does not apply to this situation. Section 24, which speaks to discharge triggered by the client, does not apply here because Tudor was discharged by the Firm months prior to her claimed termination for cause. Moreover, even if section 24 did apply, Tudor is still obliged to include the Firm's petitions for fees and costs in her own filings. Moreover, no provision of the retainer permits Tudor to collaterally attack counsel's entitlement to fees and costs.

Weiss also twice falsely told this Court that Tudor fired counsel “for cause” in January 2020 (ECF No. 369 at 3; ECF No. 381 at 2) despite knowing that counsel notified Tudor via phone and in writing in August 2019 and unequivocally notified her that we wished to end the representation as soon as possible and that she needed to immediately retain new counsel given the total breakdown of our attorney-client relationships (ECF No. 375-7).

Weiss falsely alleged that former counsel noticed Tudor via email that she could not seek legal services from Weiss in 2019 (ECF No. 369 at 5; ECF No. 372 ¶ 9). No such email exists, as evidenced by Weiss’ failure to file it in support of her false allegations.

Weiss also lied to this Court when she claimed that Young made false billing entries (ECF No. 369 at 3–6). The disingenuousness of that position being easily disproved by checking with third parties who can corroborate entries Weiss challenged, such as John Knight, whom Young billed time speaking with via phone and email (see, e.g., ECF No. 375-3).

Inexcusably, Weiss has repeatedly and wantonly misrepresented holdings of cases and applicability of statutes so as to deceive this Court as to the appropriate governing law. Two recent examples stand out.

Weiss misrepresented to this Court that Okla. Stat. Ann. tit. 5 §4 bars former counsel from seeking fees and costs directly in this matter (ECF No. 381 at 2). This statute, on its plain terms, speaks to a limitation on former

counsel to not act on the client's behalf with regards to representations pertaining to satisfaction of judgment. *See, e.g., Moran v. Loeffler-Greene Supply Co.*, 316 P.2d 132, 138–39 (Okla. 1957).

Weiss also willfully misrepresents the Tenth Circuit's holding in *Keese v. Orr*, 816 F.2d 545 (10th Cir. 1987). Weiss argues that *Keese* stands for the proposition that a “discharged attorney may not intervene to collect an attorney fee” (ECF No. 381 at 2). Again, former counsel were not discharged, we terminated our relationship with Tudor first. And even if we were discharged, the rule Weiss claims applies here does not appear in *Keese*. *Keese* teaches that a former attorney cannot bring a standalone action in federal court for the limited purpose of seeking attorneys' fees in an already settled case. 816 F.2d at 548. (Not to belabor the point, but former counsel is not seeking to “intervene”—we are participating in the fees and costs proceedings as permitted by this Court's February 2020 order (ECF No. 352)).

Abuse of process. Weiss has repeatedly and inexcusably abused process and her conduct imperils the integrity of these proceedings. Among other abuses:

Weiss improperly used her client's entitlement to respond to our Second Motion as a vehicle to harm former counsel. There is absolutely no proper purpose behind these filings. As Weiss admits—if granted the relief she seeks, Dr. Tudor stands to get less compensation from this Court (ECF No. 369 at 3).

There is thus nothing to gain here other than the chance to wrongfully inflict financial and reputational harm on former counsel.

Weiss' opposition filings also proceed on a disingenuous line of attack. Weiss premises Tudor's opposition on our Second Motion being untimely (ECF No. 369 at 6). And yet, Weiss' filings do not raise colorable arguments about timeliness let alone explain why former counsel were not entitled to make filings in light of this Court's February 2020 order (ECF No. 352). Indeed, Weiss admits candidly in her surreply that her opposition actually turns on a dispute about entitlement to make a filing, without any mention of timeliness (ECF No. 381 at 3–4).

More alarmingly, Weiss's opposition filings invite this Court to strip former counsel of our contractual and equitable right to fees and costs in a manner that violates due process. As Weiss admits, former counsel's economic interests in this case are significant (ECF No. 369 at 5). Despite that admission, Weiss demands that this Court not scrutinize the false allegations lodged against us (ECF No. 376 at ¶ 5; ECF No. 369 at 3) and ostensibly goes on to ask this Court to ignore that these *same exact allegations* were already investigated and dismissed as lacking merit by the proper grievance authorities Tudor herself directly petitioned for review in both Oklahoma (ECF No. 375-9) and New York (ECF No. 375-8).

Weiss also asks this Court to strike evidence properly filed on its docket that reveals that the allegations made in opposition to our Second Motion are fabricated. As one example, Weiss demands that this Court strike (ECF No. 381 at 3) the August 6, 2019 email (ECF No. 375-7) from former counsel to Tudor memorializing our rationales and desire to withdraw. This email establishes that Tudor did not terminate counsel for cause in January 2020, but rather, she was terminated by counsel in August 2019, and we delayed withdrawal so as save Tudor from the embarrassment of the true reasons for our departure being shared publicly (see, e.g., ECF No. 375-4, 375-5, 375-7).

If this Court were to countenance Weiss' proposed kangaroo proceedings, this Court would deprive former counsel of compensation for thousands of hours of work and tens of thousands of dollars of costs based on nothing more than allegations that have already been deemed meritless by other tribunals without any opportunity to be adequately heard. Obviously, that would violate due process.

Weiss' constitutionally poisonous invitation to this Court would also, if acquiesced, create a nonsensical rule. Weiss' proposal would invite any client in a contingency arrangement—which are common in civil rights matters such as this one—who is angry at former counsel (or whose new counsel harbors an irrational grudge) to unilaterally cancel entitlement to attorneys' fees and costs simply based on their claimed anger and absent any evidentiary showing of

wrongdoing. That alone is a disgusting proposition. It is even more gross in light of the fact that Tudor's success in this litigation is largely owed to former counsel, not Weiss, as she herself has admitted previously on this Court's docket.²

Refusal to Follow Court Rules. Weiss has also inexcusably refused to follow this Court's rules time and again, including multiple violations sown in her attempts to oppose our Second Motion:

Weiss improperly filed documents "under seal" on this Court's docket (ECF No. 370) without first seeking leave to do so, as is required by this Court. *See* W.D. Okla. ECF Manual at III-A (p. 25).

Weiss also refused to cure her failure to seek leave to file those same documents taking inexcusable and contradictory positions repeatedly to avoid compliance with this Court's rules. For example, via email on October 21, 2021, Weiss claimed a right to refuse to share the improperly filed exhibits with us purporting to rely on Oklahoma statutes that do not apply to this situation (Exhibit 2). (Consequently, we were deprived of our right to know the allegations and evidence against us prior to drafting let alone filing our reply.)

² *See, e.g.*, ECF No. 301 at 3 ("Mr. Young's brilliant advocacy defeated Defendants' motion for summary judgment and resulted in a \$1.165 million verdict in favor of Plaintiff. While the amount awarded was reduced on motion, this verdict stands as a shining example of Oklahoma justice in service of the liberty and civil rights for which Americans have fought and died.").

Days later, Weiss emailed the undersigned asking us to cooperate in a scheme to help her evade this Court's rules pertaining to sealed filings (Exhibit 3), which, correctly, we declined to acquiesce (Exhibit 4). To date, Weiss has *still* failed to share the purportedly "sealed" documents with us and has made no efforts to correctly refile (or even seek leave to do so) with this Court.

Duplicity. Disturbingly, Weiss' theory of opposition to our Second Motion—that former attorneys with a contractual assignment to directly pursue their own fees and costs are barred by law from doing so, a position that is *patently against the law of this Circuit* (see ECF No. 375 at 3–4)—is directly contradicted by her own conduct as Tudor's former attorney.

In June 2018, Weiss filed her own petition for fees and costs as "Plaintiff's former attorney" directly in this Court (ECF No. 301 at 1). Weiss did not seek leave to make this filing. She did not notice Tudor in advance of filing it. Conspicuously, with regards to our Second Motion, Weiss has yet to explain why the authorities which supposedly bar us from seeking fees and costs in 2021, would not have barred her from doing the same in 2018.

Disrespect of this Court. Weiss' misconduct is, in some respects so egregious that it bespeaks a fundamental and inexcusable level of disrespect for this Court and its orders. For example:

Weiss made a mockery of this Court and these proceedings by falsely alleging that Tudor was physically assaulted multiple times during the

November 2017 jury trial in open court in front of the Honorable Judge Robin Cauthron, the eight Oklahomans who served as jurors, officers and support staff of this Court, and members of the public, including multiple journalists, who observed the trial (ECF No. 372-3 ¶ 6). Quite obviously—this Court would never have permitted such an assault to occur in open court, let alone turned a blind eye to it multiple times.

Weiss also dubiously and improperly seeks relief from this Court that is in direct contravention of its February 2021 order, which granted the undersigned the right to participate in proceedings for fees and costs (ECF No. 352). This Court's orders are, of course, binding on all who appear in this matter. Acting let alone arguing in an improper motion posture (see Local Rule 7.1(c), barring use of response brief as cross-motion) that an order of this Court does not govern these proceedings or should be modified is not only an abuse of process but woefully disrespectful of the judicial resources expended to issue that order in the first place.

Moreover, even Weiss' nonsense theory of attack on this Court's order turns on her fundamental disregard for wasting judicial resources. At present, Weiss insists that the false allegations already adjudicated by other tribunals as meritless justify disentitling former counsel to fees *were known to her* at least as far back as January 6, 2020 (ECF No. 372 ¶¶ 3–6 incorporating by reference allegations lodged against former counsel in ECF No. 372-3). That

means, even if those lies were true, Weiss failed to timely raise them to this Court by delaying her attack on the order for more than 600 days.

Perjury. Weiss suborned perjury insofar as she demanded that her client sign a declaration under penalty of perjury which alleges that the undersigned committed misconduct without any factual or evidentiary support and knowing full well that those allegations had already been adjudicated as meritless by grievance tribunals in both Oklahoma and New York (ECF No. 372 ¶¶ 3–6 incorporating by reference allegations lodged against former counsel in ECF No. 372-3).

B. Other Misconduct

Our Rule 11 warning to Weiss pointed narrowly to misconduct committed in her opposition to our Second Motion. However, this Court may *sua sponte* take notice of other misconduct evidenced by Weiss' filings on the docket. *Chambers v NASCO, Inc.*, 501 U.S. 32, 44–45 (1991) (recognizing inherent power to sanction misconduct and abuse of judicial process).

Weiss' penchant to engage in misconduct appears at its peak when money is at stake, as evidenced by her June 2018 filings seeking fees and costs in this matter as former counsel (ECF No. 301). To name just a few abuses:

Weiss has flagrantly refused to abide by this Court's local rules. For example, not only did Weiss fail to seek leave of this Court to directly petition for fees and costs before filing her motions in 2018, but she also failed to secure

local counsel after her association with Ms. Novotny was terminated in May 2017, as is required by Local Rule 83.3.

Weiss' 2018 fees and costs filings are also error ridden, contain false and at times truly bizarre representations about her supposed work in this matter.³ These filings are also so fundamentally disordered and poorly formatted that they reflect a level of disrespect for this Court (and Tudor) that is patently offensive.⁴ Moreover, and inexcusably, in the three years since Weiss filed these papers on the docket, she has not taken even a single step to cure.

More disturbingly still, the 2018 filings claim entitlement to fees and costs that are indisputably not Weiss'. By Weiss' own signed admission, her Firm's interests in Tudor's case were assigned in total to the Transgender Legal Defense and Education Fund, Inc.⁵ In the more than three years that

³ As one example, see ECF No. 301 at 5, where Weiss claims her hours sought are reasonable because: "The attorneys carefully edited all briefs, resulting in high-quality legal memoranda that clearly and succinctly identified the novel issues to be decided by the Court, and managed a group of twelve clients and their children who were originally split into two different cases. In addition, the coordination of effort among the four legal teams before the Supreme Court was both unusual and necessary to effective representation on an issue of national importance."

⁴ As one example, Weiss' claimed evidence of costs, filed on this docket as ECF No. 302-4, are hundreds of pages of receipts and invoices, many that are clearly labeled as pertaining to cases other than Tudor (see e.g., ECF No. 302-4 at 4-5 [itemized internal invoices of other clients]; *id.* at 12-15 (a hotel receipt for lodging in Cincinnati, OH in another case); *id.* at 28 (a duplicate hotel receipt for lodging in Cincinnati, OH)).

⁵ The Transgender Legal Defense and Education Fund submitted a Notice of Attorneys' lien dated October 19, 2017. The notice is signed by Weiss and states in pertinent part, "This lien includes attorneys fees for services rendered by the Law Office of Jillian T. Weiss, P.C., on behalf of Plaintiff-Intervenor Rachel Tudor, which

have passed since this was brought to light, Weiss has failed to take any reasonable steps to pull her petitions let alone explain her seeking hundreds of thousands of dollars of compensation for work and expenditures that are not legally hers.

II. ARGUMENT

A. It is Prudent and Necessary to Sanction Weiss

Weiss' egregious misconduct and willful disturbances of these proceedings were committed as a lawyer admitted *pro hac vice*. If left unredressed Weiss' conduct imperils the integrity of this Court's proceedings as well as the authority of the ethics authorities of both the states of Oklahoma and New York. Given the foregoing, considerable correctives are both prudent and necessary.

As the Seventh Circuit recently explained, severe sanctions are warranted in a case like this where an attorney has repeatedly committed misconduct. The "whole of abusive action is greater than the sum of the parts of which it is made." *Fuery v. City of Chicago*, 900 F.3d 450, 454 (7th Cir. 2018) (cleaned up). "These incremental abuses chip away at the fair administration of justice and frustrate a trial judge's faith that she can rely upon the lawyers

have all been assigned to Transgender Legal Defense & Education Fund, Inc" (ECF No. 306-4).

before her—officers of the court—to set forth a faithful and accurate presentation of the facts and law. And for this reason we leave the evaluation of such abuse to the discretion of district courts which must manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *Id.*

To avoid sanctions, Weiss must establish that her conduct is objectively reasonable—a good faith belief is not sufficient, she must prove her belief is “in accord with what a reasonable individual would believe under the circumstances.” *Paycom Payroll, LLC v Richison*, 2011 WL 13112251 at *2 (W.D. Okla. 2011) (quoting *White v. Gen. Motors Corp.*, 908 F.2d 675, 680 (10th Cir. 1990)).

The vast majority of the abuses we highlight *supra* Part I are inexcusable and thus need no belabored explanation as to why an attorney could not have reasonably thought such behavior was appropriate. As one example, making false statements to this Court alone is categorically inappropriate. That is why that offense suffices in and of itself to establish a sound basis for revoking an attorney’s *pro hac vice* admission as a sanction. *Ryan v. Astra Tech, Inc.*, 772 F.3d 50, 63 (1st Cir. 2014) (“anyone who thinks it important that lawyers not lie to judges would be surprised if the court had done otherwise”). By a similar token, Weiss’ failure to follow this Court’s local rules and orders is also inexcusable, which is why, on this ground alone, too, sanction is appropriate.

Issa v. Comp USA, 354 F.3d 1174, 1178 (10th Cir. 2003); *Gripe v. City of Enid, Okla.*, 312 F.3d 1184, 1188 (10th Cir. 2002).

In the event that Weiss feigns ignorance of local rules for some misconduct, that argument lacks merit. Ignorance of local rules is no defense to failed compliance. Repeated procedural violations violate Model Rule of Professional Conduct 8.4(g), which prohibits lawyers from “engaging in any other conduct that adversely reflects on a lawyer’s fitness to practice law” (cleaned up). This is so even where “a course of errors” evidence “incompetence.” *Butler v. Biocore Medical Technologies, Inc.*, 348 F.3d 1163, 1174–75 (10th Cir. 2003). This is especially so given that Weiss has been repeatedly reminded of the rules by other counsel and still refuses to comply. *Id.*

B. Suspension of Weiss’ Proc Hac Vice Status and Referral to For Further Discipline is Warranted

We ask that this Court suspend Weiss’ *pro hac vice* privileges in this Court and refer her for further discipline to New York State’s Third Judicial Department’s Attorney Grievance Committee.⁶ Revocation of *pro hac vice* privileges and referral to a New York tribunal for further discipline are

⁶ Weiss was admitted to practice in New York by the Third Appellate Division, an intermediate appellate state court in 1986 (Exhibit 5). As a matter of New York law, the Third Division’s Grievance Committee is the appropriate disciplinary body to refer this matter because it is the division that admitted Weiss.

appropriate, well calibrated correctives are supported by case law. *See, e.g., White*, 908 F.2d at 684 (teaching that an appropriate Rule 11 sanction is the “least severe sanction adequate to deter and punish”); *Lasar v Ford Motor Co.*, 399 F.3d 1101, 1118 (9th Cir. 2005) (revocation of an attorneys’ *pro hac vice* privileges falls within court’s inherent authority).

The remedies we seek are strong medicine, and yet are appropriately calibrated to deter and punish similar behavior from Weiss and others in the future.

It is offensive that any officer of this court, let alone a guest in this jurisdiction, would so flagrantly and abusively engage in even a fraction of the misconduct Weiss has committed. This Court is well within its power under Rule 11 and its inherent authority to revoke Weiss’ *pro hac vice* privileges. A “federal court has the power to control admission to its bar and to discipline attorneys who appear before it. While this power ought to be exercised with great caution, it is nevertheless incidental to all Courts.” *Chambers*, 501 U.S. at 43. *Pro hac vice* admission is in fact a privilege, one which this Court is within its power to revoke given the abuses Weiss has committed.

Because Weiss is a guest in this jurisdiction, it is appropriate for this Court to refer Weiss for further discipline to her home jurisdiction, the State of New York. This remedy has the benefit of preserving the judicial resources of the Western District, and ensuring that, if deemed necessary, Weiss’ license

to practice law is appropriately limited so as to ensure she commits no further misconduct at home or as a guest in other jurisdictions.

III. CONCLUSION

For all the foregoing reasons, we ask that this Court suspend Weiss' *pro hac vice* privileges in this Court and refer this matter for further discipline to New York State's Third Judicial Department's Committee on Attorney Grievances.

Dated: November 16, 2021

/s/ Ezra Young

Ezra Young (NY Bar No. 5283114)

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CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2021, I electronically filed a copy of the foregoing with the Clerk of Court by using the CM/ECF system, which will automatically serve all counsel of record.

/s/ Ezra Young
Ezra Young (NY Bar No. 5283114)

From: Ezra Young ezra@ezrayoung.com
Subject: URGENT re Reply and Exhibits Filed (ECF No. 372)
Date: October 20, 2021 at 1:20 PM
To: jweiss@jtweisslaw.com, jerry@colclazier.com
Cc: Brittany Novotny-Stewart BMNStewart@nationlit.com

Attention Ms. Weiss and Mr. Colclazier:

We're writing to advise that if you do not cure your Reply (ECF No. 372) for the reasons we outline below, we will have no choice but to seek sanctions against you. Pursuant to Federal Rule of Procedure Rule 11, you have 21 days from today to cure your filings.

1. You falsely represented to the Court that former counsel do not have a right to seek fees and costs in Dr. Tudor's name. However, you were notified *before* you filed that under Tudor's retainer with Ezra, she assigned the right to seek fees and costs in our own names.
2. You falsely represented to the Court that we were terminated for cause by Tudor. This is not true. We notified Tudor in August 2019 that we found it necessary to withdraw because she was treating us inappropriately, demanding that we make litigation moves that we sincerely believed would harm her case, was mentally unstable, and refused to seek appropriate treatment.
3. You knowingly filed letters written by Dr. Tudor addressed to us individually as evidence of wrong-doing that you knew to be false.
4. You failed to review the particulars in Dr. Tudor's declaration, which you knew to be false. This amounts to suborning perjury.
5. You misled the Court as to our communications with Tudor about our desire to terminate representation. Among other things, we have records that substantiate that there was in fact hours' long conversations with Tudor on August 5, 2019 where the topic of discussion was that we had reached a breaking point with the client and if she could not take steps to remedy the relationship, we felt it necessary to withdraw from her case.
6. Tudor lied to the Court re Ezra's trip to Plano, TX. The purpose of Ezra's visit to Plano in May 2019 was to privately discuss and advise Tudor of possible paths forward in her appeal given that her case had been put in abeyance and the Supreme Court likely wouldn't rule in *Harris Funeral Homes* until June 2020. Additionally, Ezra did not put Tudor in a hotel room in May 2019. Tudor stayed at her own residence and met Ezra at his hotel for all meetings.
7. We never told Tudor that Weiss would refuse to represent her.
8. You failed to take necessary steps to confirm the veracity of Tudor's allegation that Ezra had no contact with John Knight about Tudor's case. Ezra spoke to ACLU attorneys, including John Knight, on several occasions about Tudor's case as well as its connection to ACLU's own impact cases, including *Harris Funeral Homes*. Also, among other things, Knight was in direct contact with Ezra during the appellate briefing process and also facilitated participation of ACLU attorneys at a April 2020 moot oral argument.
9. You also failed to abide by your duty of candor to the Court. Your motion papers and Dr. Tudor's declaration contain allegations which were already presented to the proper tribunals for attorney-client grievances. After extensive investigations, the complaints have were dismissed as lacking merit. The complaint against Brittany was dismissed in July 2021, and notice of the dismissal was given to Brittany in August 2021. The complaint against Ezra was dismissed in September 2021, and

notice of the dismissal was given to Ezra in early October 2021.

We plan to file substantive responses to your Reply later this week. Our understanding, after having consulted with ethics counsel, is that we are permitted to break confidentiality to the extent necessary to defend ourselves against the false representations and accusations you made in your filings.

Lastly, we are concerned that you filed papers under seal without first seeking permission to do so, as is required in the Western District. We also note that, to date, you have failed to provide copies of documents filed under seal which you purport sustain several of the false accusations made by you and Tudor. This prejudices us insofar as we are unable to directly respond to documents you claim evidence wrongdoing.

Please confirm receipt of this email.

Ezra Young and Brittany M. (Novotny) Stewart

Sent from my iPad



From: Ezra Young ezra@ezrayoung.com
Subject: Re: Sealed filing
Date: October 21, 2021 at 5:35 PM
To: Jillian Weiss jweiss@jtweisslaw.com
Cc: jerry@colclazier.com, Brittany Novotny-Stewart BMNStewart@nationlit.com, Brittany Stewart brittany.novotny@gmail.com

Jill,

The rules you point to do not to our eyes govern this situation. As you allude to in your filings, Tudor filed ethics grievances against me in NY and Brittany in OK. After lengthy investigations, both were dismissed. It is our position, informed by advice from ethics counsel, that because Tudor raised the issue and substance of her grievances in this case, she has waived confidentiality. We are entitled to divulge things that would otherwise be confidential to the degree necessary to defend ourselves.

Ezra and Brittany

Sent from my iPad

On Oct 21, 2021, at 4:18 PM, Jillian Weiss <jweiss@jtweisslaw.com> wrote:

Ezra,

We cannot disclose the redacted information in the filings to you due to the confidentiality provisions of rules 5.5, 5.6, and 5.7 of the Rules of Professional Conduct, Title 5 O.S., App.1-A. You would need to move the Court to require revealing of the information.

Best,

Jillian

Jillian T. Weiss
Law Office of Jillian T. Weiss, P.C.
775 Fourth Avenue
No. 320173
Brooklyn, New York 11232-9997
Tel: (845) 709-3237
Fax: (845) 684-0160

<she/her>

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BAR ADMISSIONS Jillian T. Weiss is admitted to practice law in New York and New Jersey only. Statements herein are not intended as legal advice or to create an attorney-client relationship unless and until you and this firm have signed a written retainer agreement.

From: Jillian Weiss jweiss@jtweisslaw.com 
Subject: Filing and service of unredacted copy of Dr. Tudor's declaration
Date: November 1, 2021 at 8:00 AM
To: Ezra Young ezra@ezrayoung.com, Dixie Coffey dixie.coffey@oag.ok.gov
Cc: Zach West zach.west@oag.ok.gov, Brittany Novotny brittany.novotny@gmail.com, Andy Ferguson andy.ferguson@oag.ok.gov, Jerry ,! jerry@colclazier.com

Counsel:

Dr. Tudor filed a redacted copy of her declaration in response to the motion of Ezra Young and Brittany Novotny for fees and costs. The bar complaint of Dr. Tudor against Ms. Novotny and the subsequent letter of admonition were redacted to avoid breach of confidentiality. Given that the reply of Ezra Young and Brittany Novotny revealed the bar complaint and letter of admonition, Dr. Tudor proposes to send all parties a copy of the unredacted declaration with the bar complaint and letter of admonition, and to file the unredacted version in the Court's ECF system.

If there are no objections, to this proposed course of action, Dr. Tudor will do so tomorrow.

Please advise by 5pm CDT today whether there are any objections by the parties to this course of action.

Best,

Jillian

Jillian T. Weiss
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775 Fourth Avenue
No. 320173
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From: Ezra Young ezra@ezrayoung.com
Subject: Tudor: Response to your Emails re ECF No 369
Date: November 1, 2021 at 12:49 PM
To: jweiss@jtweisslaw.com
Cc: Brittany Novotny-Stewart BMNStewart@nationlit.com, Brittany Stewart brittany.novotny@gmail.com, dixie.coffey@oag.ok.gov, zach.west@oag.ok.gov, jerry@colclazier.com, andy.ferguson@oag.ok.gov, jeb.joseph@oag.ok.gov

Ms. Weiss:

We are writing in response to your two emails, sent this morning, about your proposed surreply in opposition to our second motion for attorneys fees' (ECF No. 352) filed on September 27, 2021 and your proposed plan to file copies of exhibits on the record that should have been filed with your response (ECF No. 369) on October 18, 2021.

We oppose your seeking leave to file a surreply. Your opposition was premised on timeliness of our motion and, curiously, an inappropriate, otherwise suspect, and untimely challenge to Judge Cauthron's February 10, 2020 order (ECF No. 352) granting us permission to participate in motions for attorneys fees' and costs. At the threshold, the matters you seek to raise to the Court in your surreply are irrelevant to the timeliness of our motion. If you would like the Court to reconsider its February 2020 order, the proper avenue to do that is to seek reconsideration of the Order directly. Among other things, we believe your challenge to the Order in this manner (and more than 600 days after its issue) is suspect to say the least especially since your stated rationales for challenging the Order are premised on facts you claim existed at the time the Order was issued. Further, your desire to further discuss confidentiality with the Court is, again, irrelevant to the timeliness of our motion for attorneys' fees.

We also oppose your plan to file new exhibits to accompany your response (ECF No. 369). This is not an appropriate cure and is otherwise untimely. First, the deadline for your response to our motion (with supporting exhibits) was October 18, 2021. You failed to properly file these exhibits under seal with the Court—as we pointed out you must first seek leave to file under seal in the WDOKla—and you have yet to seek appropriate leave to do so. We think if you wish to supplement your filings out of time you must ask the Court for leave to do so. We do not have the authority to grant your request and oppose any attempts to circumvent the Court's rules. Second, we already asked you to cure this issue on October 20, 2021. Via email to us on October 21, 2021 you advised that you would not divulge these documents to us unless we moved the Court to order disclosure citing Oklahoma Statutes that do not apply (and we explained as much to you, in writing same day). Your change in position is alarming and we think evidences, among other things, bad faith. Further, it is our position that Dr. Tudor's Declarations disclosing her complaints to the Bar Associations and containing the general substance of those claims left us no other option than to disclose the results of those otherwise confidential matters.

Lastly, we are reminding you, as per our October 20, 2021 email to you and Mr. Colclazier, that we are prepared to file for Rule 11 sanctions if you do not cure the problems we outlined in that email. By our calculation, you have until November 10, 2021. To date, you have yet to make any attempts to cure these very serious and troubling problems.

Ezra Young and Brittany M. (Novotny) Stewart

Close

Attorney Detail Report as of 11/16/2021

Registration Number: 2125011
Name: JILLIAN TODD WEISS
Business Name: LAW OFFICE OF JILLIAN T. WEISS, P.C.
Business Address: 774 4TH AVE # 320173
 BROOKLYN 11232
Business Phone: (845) 709-3237
Email: jweiss@jtweisslaw.com
Date Admitted: 03/31/1987
Appellate Division Department of Admission: 3rd
Law School: SETON HALL LAW SCHOOL
Registration Status: Attorney - Currently Registered
Next Registration: May 2023

Disciplinary History

No record of public discipline



The Detail Report above contains information that has been provided by the attorney listed, with the exception of REGISTRATION STATUS, which is generated from the OCA database. Every effort is made to insure the information in the database is accurate and up-to-date.

The good standing of an attorney and/or any information regarding disciplinary actions must be confirmed with the appropriate Appellate Division Department. Information on how to contact the Appellate Divisions of the Supreme Court in New York is available at www.nycourts.gov/courts.

