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IN THE MATTER OF THE ESTATE
OF RHODA CRANE, deceased

SUPERIOR COURT OF NEW
JERSEY, APPELLATE DIVISION

Docket No. A-2457-24

Civil Action

On Appeal From:

Superior Court of New Jersey,
Bergen County, Chancery Division,
Probate Part
BER-P-708-24

Sat Below:

Hon. Darren T. Dibiasi, P.J.Ch.

Attorney of Record and on the Brief:

Justin A. Jacobs, Esq. (006152010)

Submitted:

July 30, 2025

BRIEF OF PLAINTIFF-APPELLANT, MICHAEL E. CRANE

TABLE OF CONTENTS

TABLE OF TRANSCRIPTS AND REFERENCES ii

TABLE OF JUDGMENTS, ORDERS AND RULINGS APPEALED ii

TABLE OF AUTHORITIES iii

PRELIMINARY STATEMENT 1

PROCEDURAL HISTORY 3

STATEMENT OF FACTS 12

LEGAL STANDARD 16

LEGAL ARGUMENT 17

 Point I: The record below established that Repetto’s law firm,
 Harwood Lloyd, was disqualified as a matter of law
 (2T34:05-36:24) 17

 Point II: The disqualification of Judge DeLuca should have also
 been imputed on Repetto, a partner of Harwood Lloyd who
 has provided legal services for the Estate (2T34:05-36:24) 24

 Point III: Repetto should be removed pursuant to N.J.S.A. 3B:14-
 21 (3T) 30

CONCLUSION 33

TABLE OF TRANSCRIPTS AND REFERENCES

Proceeding	Date	Transcript
TRO Hearing	12/12/24	1T
Order to Show Cause	1/24/25	2T
Reconsideration Motion	3/7/25	3T

References:

- “Pa” for Plaintiff’s Appendix
- “Pb” for Plaintiff’s Brief

TABLE OF JUDGMENTS, ORDERS AND RULINGS APPEALED

Oral Decision and Order (January 24, 2025)..... 2T; Pa1

Oral Decision and Order (March 7, 2025)..... 3T; Pa2

TABLE OF AUTHORITIES

Cases

Cho v. Superior Ct., 39 Cal. App. 4th 113 (Cal. Ct. App. 1995)21, 23

City of Atl. City v. Trupos, 201 N.J. 447 (2010).....16

City of Atlantic City v. Trupos, 201 N.J. 447 (2010)24

Cohen v. Statewide Griev. Comm., 261 A.3d 722 (Conn. 2021).....26, 27

Delaney v. Dickey, 244 N.J. 466 (2020)29

Dewey v. R. J. Reynolds Tobacco Co., 109 N.J. 201 (1988)16, 20, 23

Estate of Kennedy v. Rosenblatt, 447 N.J. Super. 444 (App. Div. 2016).....16, 20, 23

Haines v. Kerner, 404 U.S. 519 (1972)22, 35

Hempstead Video, Inc. v. Inc. Vill. of Valley Stream, 409 F.3d 127 (2d Cir. 2005).....24

In re Gavel, 22 N.J. 248 (1956).....29

In re Genser, 15 N.J. 600 (1954).....29

In re Speights, 189 A.3d 205 (D.C. 2018).....26, 28, 30

J.G. Ries & Sons, Inc. v. Spectraserv, Inc., 384 N.J. Super. 216 (App. Div. 2006).....16

Martin v. AtlantiCare, No. 10-cv-6793-JHR-JS, 2011 U.S. Dist. LEXIS 122987 (D.N.J. Oct. 25, 2011)19

Matter of Goldsmith, 874 N.Y.S.2d 28 (App. Div. 2009)29, 30

Mody v. Quiznos Franchise Co., No. A-2260-11T1, 2012 N.J. Super. Unpub. LEXIS 1719 (App. Div. July 18, 2012)19

Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739
(1989)22, 35

State ex rel. Okla. Bar Ass’n v. Mansfield, 350 P.3d 108 (Okla.
2015).....27

State v. Presley, 436 N.J. Super. 440 (App. Div. 2014).....32

Traguth v. Zuck, 710 F.2d 90 (2d Cir. 1983).....35

United States ex rel. Bahsen v. Bos. Sci. Neuromodulation Corp.,
147 F. Supp. 3d 239 (D.N.J. 2015)19

Wolosoff v. Csi Liquidating Tr., 205 N.J. Super. 349 (App. Div.
1985).....33

Statutes

N.J.S.A. 3B:14-21 passim

Rules

Revised Code of Judicial Conduct, Cannon 1, Rule 1.129

Revised Code of Judicial Conduct, Cannon 2, Rule 2.129

Revised Code of Judicial Conduct, Cannon 5.8.....29

RPC 1.0(l)..... 17, 18, 22

RPC 1.10(f)17

RPC 1.12(a).....17

RPC 1.12(b)..... passim

PRELIMINARY STATEMENT

When a former judge joins a law firm, the judge is disqualified from representing any party in a matter in which the judge participated while on the bench. That disqualification is imputed on the entire law firm if the judge has received confidential information from any party. Even when no such information was obtained by the judge, the law firm may avoid imputed disqualification only through strict compliance with Rule of Professional Conduct (“RPC”) 1.12, which requires, among other things, the timely implementation of a written screening procedure.

This appeal arises from a series of legal and factual errors by the lower court in evaluating whether David Repetto, Esq. (“Repetto”), the court-appointed Administrator of the Estate of Rhoda Crane (the “Estate”), and his law firm, Harwood Lloyd, were disqualified after the judge who appointed Repetto as administrator, Hon. James J. DeLuca, J.S.C. (Ch.) (Ret.), retired from the bench and joined Harwood Lloyd.

Plaintiff, Michael E. Crane (“Plaintiff”), a *pro se* litigant and 50% beneficiary of the Estate, initiated this action by filing an Order to Show Cause and Verified Complaint seeking, among other relief, the disqualification of Repetto and Harwood Lloyd. Disqualification was warranted because: (1) Judge DeLuca obtained confidential information about Plaintiff, including materials submitted *in camera*; and (2) Harwood Lloyd failed to implement any written screening procedures, as

required by RPC 1.12. Disqualification was also proper as to Repetto individually because: (1) attorneys serving as court-appointed fiduciaries remain bound by the RPCs; and (2) Repetto acted in a dual capacity – as both fiduciary and attorney – in connection with ongoing Estate matters.

The trial court erred in dismissing Plaintiff’s Verified Complaint in its entirety without conducting a hearing and without addressing whether Judge DeLuca’s disqualification was imputed to Harwood Lloyd. The court further erred in concluding, based on unsupported factual assertions and a misapplication of the law, that Repetto was not disqualified. Although the court characterized Repetto’s role as purely a fiduciary capacity, the record demonstrates that he also performed legal services. Even if he had not, Repetto’s status as an attorney serving in a court-appointed fiduciary capacity still subjected him to the RPCs.

Additionally, the court failed to apply the liberal pleading standard owed to *pro se* litigants and overlooked the Verified Complaint’s allegations of fiduciary misconduct. These allegations warranted consideration under N.J.S.A. 3B:14-21, which provides for the removal of fiduciaries for misconduct, including waste or abuse of trust.

Rather than conducting an evidentiary hearing – where testimony could be heard, evidence introduced, and credibility assessed – the lower court dismissed the Verified Complaint on the pleadings alone. For the reasons set forth in greater detail

below, this summary dismissal should be reversed because it rests on unsupported factual conclusions and an incorrect application of controlling New Jersey law.

PROCEDURAL HISTORY¹

On November 18, 2024, Plaintiff, *pro se*, filed a letter-application requesting leave to disqualify Repetto and Harwood Lloyd. [Pa16-21]. The letter-application was filed in In Re Rhoda Crane, BER-P-029-21, which was an ongoing action concerning the probate of the Estate. The Surrogate's Office informed Plaintiff to commence a new action. [2T25:07-26:05]. Accordingly, on December 4, 2024, Plaintiff, *pro se*, by way of Verified Complaint and Order to Show Cause brought a new action captioned In Re Estate of Rhoda Crane, BER-P-708-24. [Pa23-74].

The Verified Complaint² sought the disqualification of Repetto, as well as Repetto's law firm, Harwood Lloyd. [Pa23-74]. As alleged in the Verified

¹ Pursuant to R. 2:6-8, the transcript designations are as follows:

1T – December 12, 2024	2T – January 24, 2025	3T – March 7, 2025
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² The Verified Complaint and Order to Show Cause sought an order, *inter alia*, disqualifying Repetto and his law firm, Harwood Lloyd; restraining and removing Repetto from serving as executor of the Estate; restraining and removing Repetto from serving as administrator of the Estate; appointing Plaintiff administrator of the Estate; compelling the production of Rhoda Crane's death certificate; sanctioning Repetto for violations of his fiduciary responsibility and ethical duties under the RPCs; issuing a stay on all current proceedings on behalf of the Estate; compelling Repetto to withdraw all actions

Complaint and a supporting certification submitted by Plaintiff, Judge DeLuca, who presided over numerous cases involving the Estate, joined Harwood Lloyd in early 2023. [Pa77 ¶¶10-11]. Crane asserted that Repetto and Harwood Lloyd should be disqualified because, after Harwood Lloyd hired Judge DeLuca, Judge DeLuca was disqualified from representing anyone in connection with the Estate matters. [Pa23-74]. Judge DeLuca's disqualification was imputed to the entire firm (as well as all of its partners, including Repetto) because: (1) Judge DeLuca had obtained confidential information *in camera* which means that disqualification of his law firm was mandatory; and (2) even if he had not obtained confidential information, Judge DeLuca's disqualification was still imputed to the entire firm of Harwood Lloyd because the firm did not adopt any written screening procedure to screen Judge DeLuca from the Estate matters.

[Id.]

The Verified Complaint made clear that Plaintiff sought the disqualification of not only Repetto, but also Harwood Lloyd, as set forth in the following allegations:

- “It is beyond comprehension that the administrator and his law firm have not already withdrawn” [Pa23];

filed after his ethical violations arose; compelling Repetto and Harwood Lloyd to reimburse Plaintiff and the Estate their reasonable attorney fees; and for such other relief as the Court deems equitable and just. [Pa23-29; Pa84].

- “[T]he Administrator’s law firm is automatically disqualified as a matter of law for numerous reasons” [Pa23];
- “Harwood Lloyd failed to adopt or employ any ‘written’ procedure whatsoever to screen/isolate/quarantine” [Pa23];
- “[Repetto’s] law firm undertook no written screening procedures whatsoever” [Pa24];
- “Harwood Lloyd’s disqualification starts with Judge DeLuca” [Pa25];
- “Judge DeLuca’s automatic disqualification spreads to the entire law firm of Harwood Lloyd” [Pa25];
- “[I]t is highly unlikely that Harwood Lloyd could avoid the firm-wide disqualification [Pa25 n.1];
- “[T]he entire law firm of Harwood Lloyd is presumptively disqualified” [Pa26];
- “Harwood Lloyd did not do a single thing at all to ensure that Judge DeLuca was ‘timely screened’” [Pa26];
- “[Discussing RPC 1.10(f)’s requirements for a valid screening procedure and noting] Harwood Lloyd did none of this” [Pa26 n.2];
- “Harwood Lloyd is automatically disqualified and it is puzzling that the firm has not already withdrawn” [Pa27];
- “The Administrator and his law firm should voluntarily move to withdraw immediately given their obvious and automatic disqualification” [Pa27]; and
- David M. Repetto, Esq. and his law firm committed serial violations of the Rules of Professional Conduct and misused the authority of a court appointment” [Pa28].

Plaintiff also annexed Repetto's responses to interrogatories from In Re Rhoda Crane, BER-P-029-21, dated June 26, 2024, in which Repetto admitted that Harwood Lloyd failed to adopt any written screening procedure whatsoever in connection with Judge DeLuca's joining the firm. [Pa53-60]. Additionally, Plaintiff annexed Repetto's responses to requests for the production of documents, within which Repetto represented that he was not in possession of any documents evidencing any measures taken by Harwood Lloyd to screen Judge DeLuca. [Pa62-66].

Plaintiff also filed a supporting certification, explaining that Repetto had been installed by Judge DeLuca – now a member of Repetto's own law firm – into the Crane family affairs “despite the elaborate estate planning of my family.” [Pa76 at ¶5]. Plaintiff also certified that he was required to file a successful appeal to compel an accounting after Repetto disposed of over \$2 million worth of assets without providing any accounting whatsoever. [Pa76 at ¶6]. Repetto drove the largest asset of the Estate into bankruptcy, [see id. ¶8], and violated numerous court orders. [Pa76-77 ¶¶4, 10].

On December 12, 2024, the trial court denied Plaintiff's request for temporary restraints, finding the matter not urgent. [Pa84-89; 1T]. During that hearing, Plaintiff made it abundantly clear that Judge DeLuca had ordered the disclosure of Plaintiff's confidential financial information from Plaintiff's

withdrawing attorneys, which Harwood Lloyd was using against Plaintiff in an adversarial proceeding arising from the Chapter 11 bankruptcy of the Estate's largest asset. [1T6:22-7:04].

On or about, January 10, 2025, Repetto filed an unverified Answer, generally denying the allegations set forth in the Verified Complaint. [Pa91-94]. Repetto also filed a certification in opposition to Plaintiff's Order to Show Cause to disqualify Repetto and Harwood Lloyd. [Pa95-99]. The only statements set forth in his certification that related to Plaintiff's claims that Judge DeLuca's disqualification should be imputed on Repetto and Harwood Lloyd were the following four sentences:

With regard to Michael Crane's claims of a conflict of interest due to Harwood Lloyd's hiring of Judge DeLuca, myself and my colleagues have not discussed the Crane matters with Judge DeLuca. Further, Judge DeLuca has no involvement in any matters involving Michael Crane or the Estate. Due to the size of Harwood Lloyd and the limited number of individuals involved in handling the Crane matters, there was no need for a formal written procedure. All those involved are aware that Judge DeLuca cannot be included in discussions on this matter, and he has not been so included.

[Pa98-99 at ¶20]. Notably, Repetto made no representation that he performed only non-legal duties in his capacity as Administrator. [*Id.*]. Additionally, Repetto: (1) did not dispute that Judge DeLuca had received Plaintiff's confidential information while on the bench; and (2) did not even allege that

Harwood Lloyd had implemented a *written* screening procedure to screen Judge DeLuca from the Estate matters. [Id.]

On January 24, 2025, the lower court heard oral argument on the return date of the Order to Show Cause. During oral argument, counsel for Repetto admitted that at least four Harwood Lloyd attorneys are handling this case, representing a significant percentage of the entire law firm. [2T20:09-20:10]. Plaintiff indicated during oral argument that he was prepared to call an expert witness on attorney ethics and asked that the court set a hearing date for Plaintiff to call witnesses. [2T30:22-31:09].

In a decision read into the record, the court dismissed Plaintiff's Verified Complaint in its entirety. [2T35:05-39:12]. With respect to the disqualification issues, the court ruled as follows:

The Court, however, has reviewed the rules and disagrees with Mr. Crane's interpretation. 1.12 applies to a lawyer's representation of clients. Again, paragraph A states that a lawyer shall not represent anyone in connection with a matter that the lawyer participated in personally and substantially. Paragraph B also uses similar language, providing that, if the lawyer is disqualified by Subsection A, no lawyer in the firm can undertake or continue representation in the matter unless that lawyer is screened and written notice is given.

What R.P.C. 1.2 does not state, that someone who is appointed as a fiduciary, such as Mr. Repetto, must resign upon his firm hiring the appointed judge. Judge DeLuca, as we know, appointed Mr. Repetto to serve as

a trustee and as administrator in this case. Mr. Repetto is a fiduciary. He is not representing any of the parties in this litigation. And neither is Judge DeLuca.

I mean, the representations that counsel has provided that, even though Harwood Lloyd does not believe that this rule -- and the Court agrees -- applies under these circumstances, they have still gone to great lengths to screen Judge DeLuca from any participation in this matter.

So, under these circumstances, the Court finds that Mr. Crane's request to remove Mr. Repetto should be denied.

[2T35:21-36:24].

The trial court's decision presumed, without evidentiary support, that Repetto does not provide any legal services in connection with his role as Administrator. This ruling ran contrary to the public record of the underlying Estate matters, which provide ample evidence that Repetto has been acting as an attorney in these proceedings and has billed, and been paid, for legal services rendered in these proceedings (through invoices issued by Harwood Lloyd). [Pa234-54 (Order and Decision of the court awarding Harwood Lloyd legal fees, which included fees for legal services rendered by Repetto); Pa240 (describing that Repetto sought reimbursement for the legal services he had provided at a rate of \$375 per hour); Pa242 (noting that if a "fiduciary is a duly licensed attorney of this State and shall have performed professional services in addition to his fiduciary duties, the court shall . . . allow him a just counsel fee"); Pa234

(noting that the Court reviewed Repetto’s application for legal fees under the standards set forth in RPC 1.5(a)); see also Pa171-85 (Appellate Division case that discusses Repetto’s fees for legal services)].

The trial court’s decision also ignored Plaintiff’s request to disqualify Harwood Lloyd (choosing instead to solely focus on whether Repetto should be disqualified). Additionally, even though Harwood Lloyd did not implement written screening procedures, the trial court seemed to suggest that Harwood Lloyd had done enough to “screen Judge DeLuca from any participation in this matter.” [2T36:16-36:21]. Notably, the court did not cite any legal authority that supports the proposition that a law firm may avoid the automatic imputation of a conflict absent *written* screening procedures.

Finally, the trial court did not discuss any of the myriad other reasons why Repetto or Harwood Lloyd should be disqualified (for example, the failure to provide a statutorily required accounting, engaging in conduct that had led to significant fees being assessed against the Estate, driving the Estate’s largest asset into bankruptcy, and Repetto’s persistent animosity toward Plaintiff). Instead, the court indicated that such issues would need to be raised in a separate action. [2T33:17-34:10].

On or about February 18, 2025, Plaintiff, still *pro se*, filed a motion for reconsideration. [Pa136-37]. In that motion, Plaintiff pointed out that the lower

court had overlooked his request for the Court to disqualify Harwood Lloyd. [Pa167-70]. That motion was heard on March 7, 2025. [3T]. During that hearing, Plaintiff reminded the lower court that he had asked to present the testimony of witnesses (including an expert witness). [3T10:23-11:07]. Plaintiff again pointed out that Repetto has acted in his capacity as an attorney in numerous different matters in these proceedings, contrary to the court's prior conclusion that Repetto has only acted as an Administrator, rendering non-legal services. [3T9:25-10:03 (“[O]ne day he’s a lawyer, one day he’s a fiduciary, one day he’s requesting, one day he’s not. . . . It’s absurd.”)].

Additionally, Plaintiff asserted that the trial court had erred by not evaluated whether Repetto's misconduct otherwise warranted his removal under N.J.S.A. 3B:14-21, which sets forth the grounds to remove a fiduciary due to embezzlement, waste, and/or abuse of trust and confidence. [Pa140-143]. During oral argument, Plaintiff explained that, because he was *pro se*, the court should have reviewed his pleadings liberally and his failure to expressly cite to the specific statutory rule should not have precluded the Court from reviewing Repetto's conduct under the N.J.S.A. 3B:14-21 standards. [3T10:04-10:22].

On March 7, 2025, the lower court denied the motion for reconsideration in a decision read from the bench. [3T18:22-23:11]. The lower court stated that Plaintiff is “asking the Court to reconsider claims that he did not assert in the

first place.” [3T22:19-22:22 (referring to Plaintiff’s reference to N.J.S.A. 3B:14-21)].

At neither hearing did Plaintiff’s sister, the other 50% beneficiary, oppose Plaintiff’s application. [2T26:07-26:11; 3T4:14-5:05].

STATEMENT OF FACTS

Plaintiff is a 50% beneficiary of the Estate. [Pa142-43 at ¶9]. As the eldest member of the Crane family, he has been in charge of the family’s assets his entire life. [Pa142-43 at ¶9; 2T26:07-26:12]. Plaintiff’s sister is the other 50% beneficiary. [Pa142-43 at ¶9].

On January 26, 2021, Judge DeLuca, who now works closely with Repetto at Harwood Lloyd, *sua sponte* appointed Repetto as Temporary Administrator of the Estate during a hearing. [Pa116 at ¶2]. Judge DeLuca extended an *ex parte* invitation to Repetto to attend that hearing without giving notice to any of the beneficiaries. [Id.]. Repetto was appointed to serve without bond. [Id.].

On January 27, 2021, Judge DeLuca *sua sponte* amended his Order to appoint Repetto as Administrator, C.T.A. of the Estate. [Pa122; 2T32:10-32:16]. That amendment was made without providing any of the beneficiaries notice or an opportunity to be heard. [Pa122]. It has since been revealed that Judge DeLuca appointed Repetto to serve as an administrator in five other cases from January 1, 2019 to April 1, 2023. [Pa57-58 at No. 4].

After obtaining his court appointment, Repetto hired his own law firm, Harwood Lloyd, to represent him/the Estate in numerous proceedings involving the Estate. No conflict waivers have been obtained in connection with this potential conflict, or any others. [Pa65 at No. 7].

On May 28, 2021, Judge DeLuca removed Plaintiff from his position as co-trustee of Rhoda's Trust and installed Repetto over Plaintiff's objection. [Pa101, Pa171-85]. Plaintiff eventually stopped participating in any probate proceedings in Bergen County. In or around September 2021, Judge DeLuca entered default against him in In Re Rhoda Crane, BER-P-029-21 and In Re Trust of Rhoda Crane, BER-P-176-21. [Pa102].

In or around August or September 2021, Judge DeLuca inexplicably ordered Plaintiff's attorneys, as a condition of their withdrawal, to deposit \$30,000 into the attorney trust account at Harwood Lloyd and to produce certain of Plaintiff's confidential financial information for Judge DeLuca's *in camera* review. [Pa25 n.1; 2T20:22-21:11 and 29:13-29:20]. Judge DeLuca proceeded to review those confidential financial documents *in camera*. [Id.].

On February 4, 2022, Judge DeLuca entered a final judgment in In Re Rhoda Crane, BER-P-029-21 and In Re Trust of Rhoda Crane, BER-P-176-21, which included a money judgment against Plaintiff, and in favor of Repetto, for \$2.44 million dollars and held Plaintiff "individually liable for the attorneys'

fees and costs paid by the Estate for or on behalf of Mr. Repetto to date or *in the future.*” [Pa101-14; 2T32:17-32:25 (emphasis added)]. As such, Judge DeLuca essentially awarded attorneys’ fees to his future employer, Harwood Lloyd, for work they had not yet done. That provision of the judgment implicitly recognized that Repetto has been performing legal services as the Administrator, and held Plaintiff liable for attorneys’ fees incurred specifically for past and future legal work performed by Repetto. [Id.].

In February 2023, after awarding Repetto a multi-million dollar default judgment against Plaintiff, a probate beneficiary, and while Repetto and Plaintiff were embroiled in numerous litigations, Judge DeLuca retired and joined Repetto’s law firm. [2T33:02-33:16]. During the entire time that Judge DeLuca has been with Harwood Lloyd, and as Harwood Lloyd freely admits, no written screening steps have been taken whatsoever. [Pa57 Nos. 1-3; Pa98-99 at ¶20].

Repetto is a partner at Harwood Lloyd, who benefits from the fees generated by the firm’s other attorneys. Repetto also works closely with Judge DeLuca. For example, they make presentations together at seminars about probate matters. [Pa35-36, Pa44-47]. DeLuca and Repetto also comprise 2/3 (66.67%) of Harwood Lloyd’s mediation practice group. [Pa37-38]. Judge DeLuca lectures attorneys about how to get court appointments and Repetto is

described in Harwood Lloyd advertisements as “frequently called upon to serve as court appointed counsel.” [Pa36 and Pa39-40].

Plaintiff, through counsel, brought a separate action against Repetto in 2023 to compel Repetto to fulfil his statutory requirement to issue an accounting. [Pa171-85]. That action resulted in a panel of this Court reversing the lower court and ordering Repetto to provide an accounting. [Id.]. In a November 15, 2024 decision, the panel rebuked Repetto for his derelictions of duty and compelled an accounting. [Id.]. The panel wrote: “[Repetto’s] counsel argued that ‘right now is not the time for an accounting’ because of the ongoing litigation between the parties. We disagree.” [Pa184]. Approximately \$115,000 in legal fees were assessed against the Estate due to Repetto’s failure to provide an accounting. [Pa145-46; 3T8:16-8:23]. Repetto’s failure to provide the statutorily-required accounting was also extremely harmful to the Estate because millions of dollars of the Estate’s money is unaccounted for and Repetto has not paid taxes, including estate taxes. [Pa76 at ¶6, Pa77 at ¶12; 2T13:01-13:12, 10:15-10:18, and 28:09-28:14].

At some point in 2025, Repetto lost the largest asset of the Estate, a mixed-use apartment building on the Upper East Side of Manhattan, in a Chapter 11 bankruptcy sale. [Pa76; Pa140 at ¶7(b)]. Repetto provided the bankruptcy court with an appraisal of \$8 million, but sold the asset for \$4.4 million, netting

zero recovery to the Estate due to the extensive liabilities that Repetto had caused to accrue through his mismanagement, including several hundred thousand dollars in legal and professional fees in connection with the bankruptcy. [Pa140 at ¶8(b); 3T6:04-06:15].

The beneficiaries – who had no role in appointing Repetto – have no confidence or trust in Repetto’s management of the Estate as evidenced by Plaintiff’s motion to disqualify Repetto and his law firm (and Plaintiff’s sister’s silence with respect to the motion). [Pa141 at ¶7(b)].

LEGAL STANDARD

“The determination of whether counsel should be disqualified is an issue of law subject to *de novo* plenary appellate review.” City of Atl. City v. Trupos, 201 N.J. 447, 450 (2010); see J.G. Ries & Sons, Inc. v. Spectraserv, Inc., 384 N.J. Super. 216, 222 (App. Div. 2006) (same). A court must engage in a “painstaking analysis of the facts” in determining a disqualification motion. See Dewey v. R. J. Reynolds Tobacco Co., 109 N.J. 201, 205 (1988). “If there be any doubt as to the propriety of an attorney’s representation of a client, such doubt must be resolved in favor of disqualification.” Estate of Kennedy v. Rosenblatt, 447 N.J. Super. 444, 451 (App. Div. 2016) (citations omitted).

LEGAL ARGUMENT

Point I: The record below established that Repetto's law firm, Harwood Lloyd, was disqualified as a matter of law (2T34:05-36:24)

Harwood Lloyd's disqualification starts with Judge DeLuca, who is automatically disqualified from any participation in this case or any related proceedings. New Jersey Rule of Professional Conduct 1.12(a) provides as follows:

(a) . . . a lawyer [Judge DeLuca] shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a judge or other adjudicative officer, arbitrator, mediator or other third-party neutral, or law clerk to such a person, unless all parties to the proceeding have given consent, confirmed in writing.

See RPC 1.12(a).

Rule of Professional Conduct 1.12(b) makes it clear that Judge DeLuca's automatic disqualification spreads to the entire law firm of Harwood Lloyd and may only be avoided if certain requisite conditions are met. Specifically, RPC 1.12(b) provides as follows:

(b) If a lawyer is disqualified by paragraph (a) [as Judge DeLuca was], no lawyer in a firm with which that lawyer is associated [e.g., Repetto, Kathleen Lee, or any other lawyer of Harwood Lloyd] may knowingly undertake or continue representation in the matter unless: (1) the disqualified lawyer [Judge DeLuca] is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and (2)

written notice is promptly given to the parties and any appropriate tribunal to enable them to ascertain compliance with the provisions of this Rule.

RPC 1.12(b).

The RPCs define screening to require a “written procedure.” See

RPC 1.0(l). Specifically, “Screened” is defined as follows:

“Screened” denotes the isolation of a lawyer from any participation in a matter through the timely adoption and enforcement by a law firm of a **written procedure** pursuant to RPC 1.10(f)³ which is reasonably adequate under the circumstances to protect information that the isolated lawyer is obligated to protect under these Rules or other law.

RPC 1.0(l) (emphasis added).

The requirement of a “written procedure” is mandatory when screening is required and there is no discretion as to the automatic disqualification. Courts have flatly rejected any attempts to use oral screening as a substitute. See Mody v. Quiznos Franchise Co., No. A-2260-11T1, 2012 N.J. Super. Unpub. LEXIS

³ RPC 1.10(f) fleshes out the requirements for a valid screening procedure in more detail, and it provides: “Any law firm that enters a screening arrangement, as provided by this Rule, shall establish appropriate **written procedures** to insure that: (1) all attorneys and other personnel in the law firm screen the personally disqualified attorney from any participation in the matter, (2) the screened attorney acknowledges the obligation to remain screened and takes action to insure the same, and (3) the screened attorney is apportioned no part of the fee therefrom.” See RPC 1.10(f) (emphasis added).

1719, at *13 (App. Div. July 18, 2012) [Pa186] (“[t]he clear and unambiguous language of the terms contained in [the RPCs] . . . leave no room for the conclusion that an oral screening constitutes proper screening”); United States ex rel. Bahsen v. Bos. Sci. Neuromodulation Corp., 147 F. Supp. 3d 239, 248 (D.N.J. 2015) [Pa201] (“New Jersey Rules of Professional Conduct 1.0(l) and 1.10(f) explicitly require screening arrangements to include ‘written procedures’ that contain the screened attorney’s acknowledgement of the obligation to remain screened.”); Martin v. AtlantiCare, No. 10-cv-6793-JHR-JS, 2011 U.S. Dist. LEXIS 122987, at *33 (D.N.J. Oct. 25, 2011) [Pa228] (“RPC 1.10(f) and 1.0(e) indicate in clear and unmistakable terms that to be adequate a screening procedure must be in writing. CM never established a written procedure and for this reason alone its screening was inadequate.”).

Additionally, screening, even if done properly, does not avoid the imputation of a conflict when the disqualified attorney is actually in possession of confidential information of another party. See Dewey, 109 N.J. at 220 (“We cannot conceive of any situation in which the side-switching attorney or his new firm would be permitted to continue representation if . . . the attorney had in fact . . . acquired confidential information concerning that client’s affairs.”); Estate of Kennedy, 447 N.J. Super. at 458 (law firm must be disqualified if any attorney

reviewed confidential information). As articulated by one court considering this exact issue:

No amount of assurances or screening procedures, no “cone of silence,” could ever convince the opposing party that the confidences would not be used to its disadvantage. When a litigant has bared its soul in confidential . . . conferences with a judicial officer, that litigant could not help but be horrified to find that the judicial officer has resigned to join the opposing law firm – which is now pressing or defending the lawsuit against that litigant.

Cho v. Superior Ct., 39 Cal. App. 4th 113, 125 (Cal. Ct. App. 1995).

Here, the lower court erred in dismissing Plaintiff’s Verified Complaint and refusing to disqualify Harwood Lloyd because: (1) it did not even evaluate whether Harwood Lloyd as a firm (rather than just Repetto) should have been disqualified; (2) disqualification was automatic and not curable through screening because Judge DeLuca obtained Plaintiff’s confidential information *in camera*; and (3) even if the disqualification had been curable through screening, Harwood Lloyd did not implement a written screening procedure (which is a mandatory requirement to avoid firm-wide disqualification).

In its decision dismissing Plaintiff’s Verified Complaint, the lower court misapplied RPC 1.12(b). [2T34:05-36:24]. First, the lower court did not specifically evaluate whether Harwood Lloyd, as a firm (rather than just Repetto), should be disqualified, even though Plaintiff repeatedly made that

allegation in his Verified Complaint. [Pb4-5]. Even if Plaintiff's *pro se* pleading had been vague with respect to seeking the disqualification of Harwood Lloyd (which it was not), it must be read "with liberality to ascertain whether the fundament of a cause of action may be gleaned even from an obscure statement of claim." Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 744 (1989); Haines v. Kerner, 404 U.S. 519, 520 (1972) ("we hold [*pro se* pleadings] to less stringent standards than formal pleadings drafted by lawyers").

In this case, and other related cases, Harwood Lloyd represents the Administrator and, thus, has undertaken representation in matters with respect to which Judge DeLuca and, by extension, Harwood Lloyd, are disqualified. The lower court's failure to evaluate whether Judge DeLuca's disqualification was imputed on Harwood Lloyd (which was an issue raised in Plaintiff's pleading) was a clear error that requires reversal.

Moreover, based on the authority and cases previously cited, the imputed firm-wide disqualification could not have been avoided through screening because Judge DeLuca obtained confidential information of Plaintiff. Repetto conceded the fact that Judge DeLuca had ordered the *in camera* review of Plaintiff's confidential financial information. [2T20:22-20:25]. Under the circumstances, there is no amount of assurances or screening procedures that could convince a party in Plaintiff's position that the confidential information

that was disclosed to Judge DeLuca will not be used against Plaintiff in adversarial proceedings involving Judge DeLuca's current firm. See, e.g., Dewey, 109 N.J. at 220; Estate of Kennedy, 447 N.J. Super. at 458; accord Cho, 39 Cal. App. 4th at 125.

Finally, even if the firm-wide disqualification had been avoidable through screening, Harwood Lloyd still failed to establish that it had implemented a written screening procedure – which is a mandatory requirement to avoid an imputed conflict in this context. To the extent that the lower court found that Harwood Lloyd went to “great lengths to screen Judge DeLuca from any participation in this matter,” the court overlooked clearly controlling law, which requires that any screening in this context be *in writing*. See RPC 1.12(b); RPC 1.0(l). Harwood Lloyd freely admitted that no written screening procedures were implemented in this case. [Pa23-74; Pa57-60; Pa64-66; Pa 98-99 ¶ 20]. The court's acceptance of oral representations regarding informal “screening” cannot override the mandatory language of the RPCs or the public's interest in maintaining confidence in the integrity of the judiciary. The RPCs leave no room for flexible application where, as here, a former judge joins a firm, and the firm fails to comply with the written screening requirements. Under the circumstances, disqualification of Harwood Lloyd is not merely permissible – it is required.

To the extent that Repetto argued that the small size of Harwood Lloyd compelled the relaxation of the written procedure requirement, there is no legal authority that stands for that proposition. Instead, a plain reading of the written screening procedure requirement makes clear that it applies to *all* law firms, regardless of size. If anything, the small size of the Harwood Lloyd firm should subject any screening procedure to heightened scrutiny because, as numerous cases have discussed, the presumption that client confidences are shared within a firm is much stronger within a small firm than a large firm. See, e.g., *Hempstead Video, Inc. v. Inc. Vill. of Valley Stream*, 409 F.3d 127, 138 (2d Cir. 2005) (explaining that the close contact between the attorneys in a small firm may create “too high a risk of inadvertent disclosure of confidences”).

As a final matter, this case is unique as compared to other cases in which the disqualification of a law firm was at issue because this case does not concern a “client’s right freely to choose his counsel.” See *City of Atlantic City v. Trupos*, 201 N.J. 447, 462-63 (2010). To the contrary, Repetto and Harwood Lloyd were not hired by any of the beneficiaries of the Estate, and they were unknown to Rhoda Crane during her lifetime. Instead, they were appointed *sua sponte* by Judge DeLuca, who now works for Harwood Lloyd. Harwood Lloyd’s retention was not requested by anyone other than themselves and there is no

compelling reason to allow Harwood Lloyd to avoid disqualification when the facts in the underlying record undeniably require disqualification.

Point II: The disqualification of Judge DeLuca should have also been imputed on Repetto, a partner of Harwood Lloyd who has provided legal services for the Estate (2T34:05-36:24)

The lower court held that the disqualification of Judge DeLuca could not be imputed on Repetto because he is a court-appointed fiduciary, and, according to the court, not functioning as an attorney in these matters. [2T34:05-36:24]. That conclusion was both factually and legally incorrect.

First, there was no evidence in the record that could support the lower court's conclusion that Repetto, a partner at Harwood Lloyd, was not functioning in the dual role of fiduciary *and* attorney in the Estate matters. Repetto's certification submitted in opposition to Plaintiff's application made no such allegation. [Pa98]. Moreover, as discussed on the record throughout the various oral arguments, it was well understood that Harwood Lloyd has been billing the Estate for its "legal services," which included the services rendered by Repetto. [2T06:12-06:16, 13:03-14:04, 28:09-28:11, 32:24-32:25; 3T07:02-07:16]. It was well understood that Repetto's fee applications requested the award of legal fees for his own work and were supported by his affidavits stating that he and the other attorneys from his firm had provided legal services. [Pa324-54].

As such, the court clearly erred in concluding that “Mr. Repetto is a fiduciary . . . not representing any of the parties in this litigation” – especially, without even conducting a hearing to determine whether Mr. Repetto was functioning in the dual role of fiduciary and attorney in the Estate matters. [2T36:08-36:15].

Second, even if Repetto had not been rendering legal services in the Estate matters, Repetto would still be subject to the RPCs because he has been rendering professional services as a court appointed fiduciary. It is well established that a court-appointed fiduciary of an estate, who is a practicing attorney, is governed by the RPCs because his role inherently involves legal and ethical obligations that align with the professional standards expected of attorneys. See, e.g., Cohen v. Statewide Griev. Comm., 261 A.3d 722 (Conn. 2021); In re Speights, 189 A.3d 205 (D.C. 2018). Courts have consistently held that attorneys serving as court-appointed fiduciaries are “held to the same ethical standards as a lawyer representing a client.” See id.; accord State ex rel. Okla. Bar Ass’n v. Mansfield, 350 P.3d 108, 118 (Okla. 2015) (“Attorneys are subject to the [Rules of Professional Conduct] regardless of what role they play in the administration of an estate, and it makes no difference in our view that Respondent may not have technically represented any client with regard to the administration of the Cox Estate.”).

For example, in Cohen v. Statewide Grievance Committee, the Connecticut Supreme Court explicitly held that the Rules of Professional Conduct governed the conduct of an attorney appointed by the probate court to serve as a fiduciary for an estate. 261 A.3d at 731-33. The court emphasized that the Rules of Professional Conduct are intended “to protect the judiciary, not just the client.” See id. at 732. As such, a court-appointed fiduciary is governed by the Rules of Professional Conduct because the attorney owes duties to the Probate Court itself and it “makes no difference that the [attorney] may not have represented any client with regard to the administration of the [estate].” See id.

Similarly, in the case of In re Speights, the District of Columbia Court of Appeals held that a lawyer serving as a court-appointed personal representative of an estate was held to the same ethical standards as a lawyer representing a client. 189 A.3d at 209 (collecting supporting cases from other jurisdictions). In that case, the court-appointed personal representative claimed that he was not governed by the Rules of Professional Conduct because he represented the estate and he “did not perform the duties of counsel for the estate,” acted only “in the capacity of personal representative but not attorney,” and “engaged other lawyers” to pursue claims on behalf of the estate. See id. at 208. The court rejected that argument, finding that the court-appointed fiduciary’s conduct should be governed by the same ethical standards as an attorney representing a

client because the fiduciary’s responsibilities – which included taking possession or control of the estate and taking all necessary steps for its management, protection, and preservation – had a “reasonable relationship to an attorney’s conduct in his professional capacity.” See id. at 208-09 (also noting that the fiduciary “held duties to the court itself by virtue of his appointment [by the court] as a member of the bar”).

New Jersey courts have also held that, even when an attorney is not representing a client in a matter, the attorney’s conduct is still governed by the rules and standards set forth in the RPCs. See Delaney v. Dickey, 244 N.J. 466, 485 (2020) (“All fiduciaries are held to a duty of fairness, good faith and fidelity, but an attorney is held to an even higher degree of responsibility in these matters than is required of all others.”); In re Gavel, 22 N.J. 248, 265 (1956) (“In addition to the duties and obligations of an attorney to his client, he is responsible to the courts, to the profession of the law, and to the public.”); In re Genser, 15 N.J. 600, 607 (1954) (noting that the conflict of interest rules governing the conduct of lawyers, also apply when the lawyer is not serving in a representative capacity).

As described in Matter of Goldsmith, 874 N.Y.S.2d 28, 29 (App. Div. 2009) (a New York case that issued reciprocal discipline for conduct that was found to violate the New Jersey RPCs), a New Jersey attorney serving as an

executor of an estate was found to have violated the RPCs. In that case, the New Jersey Disciplinary Review Board held that: “[a]lthough he was acting as executor, as opposed to the attorney for the estate, he still had a fiduciary relationship with the beneficiaries, and an obligation to conduct himself in accordance with the [RPCs].” See id. at 133-34.

Here, the lower court erred in finding that Repetto’s conduct was not subject to the RPCs because he was a court-appointed fiduciary whose responsibilities, at the very least, closely mirrored those of an attorney. The January 26, 2021 Order appointing Repetto as temporary administrator made clear that Repetto was an attorney and member of the bar (referring to him as “David M. Repetto, Esq.”). [Pa116-17]. As such, even if Repetto at times may have been solely acting as fiduciary (rather than an attorney), he still owed duties to the Court and, thus, his conduct was still governed by the RPCs. Matter of Goldsmith, 874 N.Y.S.2d at 29; accord In re Speights, 189 A.3d at 208-09.

Moreover, the January 26, 2021 Order gave Repetto the responsibilities of “[t]aking possession of and securing Decedent’s real and personal property” and “securing and maintaining the assets of the Estate,” which is the same type of responsibilities that courts have found to have a “reasonable relationship to an attorney’s conduct in his professional capacity.” [Pa116-17]; In re Speights, 189 A.3d at 208-09.

As such, even if one were to assume that the lower court was correct that Repetto had never acted as an attorney in the Estate matters – a finding that is not supported by the record – his conduct in serving in a fiduciary capacity would still be governed by the RPCs. There is no factual or legal basis to support the conclusion of the lower court that Repetto’s conduct as a court-appointed fiduciary falls outside of the scope of the RPCs. Indeed, to find the RPC disqualification rules do not apply in this case, where Judge Deluca joined Repetto’s firm after *sua sponte* appointing Repetto as a fiduciary, would substantially undermine the public’s confidence in the judiciary and run contrary to the underlying purpose and spirit of numerous canons of the Revised Code of Judicial Conduct. See, e.g., Revised Code of Judicial Conduct, Canon 1, Rule 1.1 (Independence, Integrity, and impartiality of the judiciary.”); Canon 2, Rule 2.1 (Promoting confidence in the judiciary); Canon 5.8 (“A judge shall not serve as an executor, administrator, guardian or other fiduciary”); see also State v. Presley, 436 N.J. Super. 440, 447 (App. Div. 2014) (citation omitted) (“[The] ‘overarching objective of the Code of Judicial Conduct is to maintain public confidence in the integrity of the judiciary.’”).

In sum, the lower court’s dismissal of Plaintiff’s claim seeking the disqualification of Repetto was factually unsupported and contrary to controlling law. Given that Repetto has served in a dual capacity as both an

attorney and fiduciary, Repetto's conduct is subject to the RPCs. Moreover, even if Repetto had never served as an attorney in proceedings involving the Estate, his role as a court-appointed fiduciary with responsibilities that closely mirror those of an attorney would still be governed by the RPCs.

Point III: Repetto should be removed pursuant to N.J.S.A. 3B:14-21 (3T)

The lower court erred by dismissing Plaintiff's Verified Complaint without first considering whether Repetto's alleged misconduct warranted removal under N.J.S.A. 3B:14-21.

N.J.S.A. 3B:14-21 establishes the grounds for removal of a fiduciary as follows:

The court may remove a fiduciary from office when the fiduciary: (c) Embezzles, wastes, or misapplies any part of the estate committed to his custody, or has abused the trust and confidence reposed in the fiduciary.

N.J.S.A. 3B:14-21; see also Wolosoff v. Csi Liquidating Tr., 205 N.J. Super. 349, 360-61 (App. Div. 1985) (noting that a fiduciary should be removed when there is sufficient friction or hostility between the beneficiary and fiduciary that it will interfere materially with the administration of the estate).

In his Verified Complaint, Plaintiff expressly sought the removal of Repetto as Administrator of the Estate. [Pa29]. Plaintiff also raised numerous allegations of Repetto's misconduct, including, but not limited to, Repetto's

“inappropriate prosecution” of claims against Plaintiff, his “serial violations of the Rules of Professional Conduct,” and his “misuse [of] the authority of a court appointment.” [Pa28]. Plaintiff also requested the opportunity to adduce additional testimony and evidence in support of his request to remove Repetto. Instead of holding a hearing to determine whether Repetto’s conduct warranted removal under N.J.S.A. 3B:14-21, the lower court dismissed Plaintiff’s Verified Complaint in its entirety. [2T; Pa1].

After the dismissal of his Verified Complaint, Plaintiff filed a motion for reconsideration, which further detailed acts of misconduct that had been perpetrated by Repetto – such as: (1) his refusal to provide a statutorily required accounting, which resulted in a \$112,000 award against the Estate for legal fees; (2) driving the largest asset of the Estate into bankruptcy; (3) not accounting for millions of dollars, which are missing from the Estate; (4) engaging in self-dealing by hiring his own law firm to represent him and then charging an outrageous amount of legal fees to the Estate; (5) failing to pay any Estate taxes; (6) misusing the judicial process against Plaintiff; and (7) the animosity that Repetto displays toward Plaintiff (which was obviously from a cursory reading of Repetto’s submissions to the court containing unnecessary *ad hominem* attacks against Plaintiff). [Pa164-67]. Plaintiff also raised in his motion for reconsideration the fact that the court should have evaluated Repetto’s conduct

under the standards set forth in N.J.S.A. 3B:14-21. [Id.]. Ultimately, the court dismissed the motion for reconsideration, again without a hearing, on the basis that Plaintiff had not previously raised these specific claims before. [3T22:13-23:03].

As set forth above, Plaintiff's *pro se* pleading should have been held to a less stringent standard and should have been reviewed with great liberality to ascertain whether the fundament of a cause of action may be gleaned even from an obscure statement of claim. See Printing Mart, 116 N.J. at 744; Haines, 404 U.S. at 520; see also Traguth v. Zuck, 710 F.2d 90, 95 (2d Cir. 1983) (“Implicit in the right to self-representation is an obligation on the part of the court to make reasonable allowances to protect *pro se* litigants from inadvertent forfeiture of important rights because of their lack of legal training.”).

Under the requisite liberal review, Plaintiff, a non-attorney, set forth a sufficient factual basis to remove Repetto due to his misconduct. The fact that Plaintiff did not cite to N.J.S.A. 3B:14-21 in his Verified Complaint is of no moment because the cause of action could have been gleaned from the facts alleged therein and, in any event, Plaintiff expressly cited additionally facts as well as the overlooked statute in his motion for reconsideration of the dismissal of his Verified Complaint. The lower court erred in dismissing Plaintiff's claims

without first considering, or holding a hearing with respect to, whether Repetto's conduct warranted removal under N.J.S.A. 3B:14-21.

CONCLUSION

For the foregoing reasons, this Court should reverse the dismissal of Plaintiff's Verified Complaint and either: (1) find that the record was sufficient to support Plaintiff's request to disqualify Harwood Lloyd and Repetto from serving any role with respect to the Estate matters (and the other related relief sought by Plaintiff); or (2) remand the matter to the lower court to conduct a hearing on the claims raised in the Verified Complaint.

LAW ADVOCATES LLC
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Dated: July 30, 2025

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IN THE MATTER OF THE
ESTATE OF RHODA CRANE,
deceased

SUPERIOR COURT OF NEW
JERSEY
APPELLATE DIVISION
DOCKET NO. A-2457-24

Civil Action

ON APPEAL FROM

SUPERIOR COURT OF NEW
JERSEY
CHANCERY DIVISION: BERGEN
COUNTY, PROBATE PART
DOCKET NO. BER-P-708-24

Sat Below:
Hon. Darren T. DiBiasi, P.J.Ch.

**BRIEF OF DEFENDANT/RESPONDENT DAVID M. REPETTO, ESQ.,
ADMINISTRATOR C.T.A. OF THE ESTATE OF RHODA CRANE**

KATHLEEN M. LEE, ESQ.
Of Counsel and On the Brief

Submitted: September 9, 2025

TABLE OF CONTENTS

TABLE OF AUTHORITIES	iii
PRELIMINARY STATEMENT	1
PROCEDURAL HISTORY	4
STATEMENT OF FACTS	7
LEGAL ARGUMENT	9
I. PLAINTIFF IGNORES THE PLAIN LANGUAGE OF RPC 1.12	9
II. PLAINTIFF HAS FAILED TO DEMONSTRATE ANY VIOLATION ON THE PART OF DEFENDANT OR HARWOOD LLOYD	14
III. THE LOWER COURT PROPERLY REFUSED TO ADDRESS ON RECONSIDERATION THAT WHICH WAS NOT BEFORE THE COURT IN THE ORIGINAL APPLICATION	16
IV. PLAINTIFF IS ARGUING ISSUES NEVER ADDRESSED IN EITHER APPLICATION BELOW	19
V. PLAINTIFF RELIES UPON CASELAW NOT BINDING ON THIS COURT	20
CONCLUSION	21

TABLE OF AUTHORITIES

CASES

<i>Capital Fin. Co. of Delaware Valley, Inc. v. Asterbadi</i> , 398 N.J. Super. 299, 310 (App. Div. 2008)	16-18
<i>City of Atlantic City v. Trupos</i> , 201 N.J. 447 (2010)	14
<i>D’Atria v. D’Atria</i> , 242 N.J. Super. 392 (Ch. Div. 1990)	17-18
<i>Dewey v. R.J. Reynolds Tobacco Co.</i> , 109 N.J. 201 (1988)	14
<i>Estate of Kennedy v. Rosenblatt</i> , 447 N.J. Super. 444 (App. Div. 2016)	14
<i>J.G. Ries & Sons, Inc. v. Spectraserv, Inc.</i> , 384 N.J. Super. 216 (App. Div. 2006)	14
<i>Johnson v. Cyklop Strapping Corp.</i> , 220 N.J. Super. 250 (App. Div. 1987)	16
<i>Martin v. AtlantiCare</i> , No. 10-cv-6793-JHR-JS, 2011 U.S. Dist. LEXIS 122987 (D. N.J. Oct. 25, 2011)	14
<i>Mody v. Quiznos Franchise Co.</i> , No. A-2260-11T1, 2012 N.J. Super. Unpub. LEXIS 1719 (App. Div. July 18, 2012)	14
<i>Palombi v. Palombi</i> , 414 N.J. Super 274, 289 (App. Div. 2010)	17

STATUTES

N.J.S.A. 3B:14-21	2-3; 18
-------------------------	---------

RULES

R.4:49-2	16
R.1:13-1	16
RPC 1.0	1
PRC 1.9	14
RPC 1.10	1; 14

RPC 1.12..... passim

PRELIMINARY STATEMENT

Plaintiff/Appellant Michael Crane (“Plaintiff”) appeals the rulings issued by the Hon. Darren T. DiBiasi, P.J.Ch., denying Plaintiff’s Order to Show Cause and dismissing Plaintiff’s Verified Complaint (the “Underlying Action”) seeking removal of Defendant/Respondent, David M. Repetto, Esq. (“Defendant”) as Administrator C.T.A. of the Estate of Rhoda Crane (the “Estate”), and seeking Reconsideration of that decision.

In the Underlying Action, Plaintiff sought the following relief relevant hereto: restraining and removing Defendant from serving as Executor of the Estate in violation of The New Jersey Rules Of Professional Conduct; restraining and removing Defendant from serving as Temporary Administrator C.T.A. of the Estate; appointing Plaintiff as Administrator; sanctioning Defendant for ignoring, his fiduciary responsibility as Executor and Temporary Administrator C.T.A. by violating his ethical responsibilities; issuing a stay on all current proceedings on behalf of the Estate; and compelling Defendant to withdraw all court proceedings on behalf of the Estate. Pa28–Pa29.

Plaintiff’s Verified Complaint contained references to ethics rules and caselaw. All such references were to RPC 1.0, RPC 1.10 and RPC 1.12. Pa23–Pa28. Plaintiff made the argument that due to Defendant’s law firm, Harwood

Lloyd LLP's ("Harwood Lloyd") hiring of the Hon. James J. DeLuca, J.S.C. (ret.) ("Judge DeLuca"), and failure to have a written screening procedure, Harwood Lloyd should be disqualified from representing the Estate and Defendant should be removed as Administrator. The only relief that can be properly sought and argued in this appeal is that which was before the lower court in the Underlying Action - removal of a fiduciary from his role as Administrator and arguably disqualification of a law firm from representation of the Estate and the Administrator due to a purported conflict of interest. The disqualification of Harwood Lloyd was not listed in the relief sought but was argued by Plaintiff in the Verified Complaint.

Plaintiff's brief on appeal contains three arguments: The record below established that Repetto's law firm, Harwood Lloyd, was disqualified as a matter of law; The disqualification of Judge DeLuca should have also been imputed on Repetto, a partner of Harwood Lloyd who has provided legal services for the Estate; and Repetto should be removed pursuant to N.J.S.A. 3B:14-21. (Pbi). Putting aside the lengthy rhetoric that attempts to paint a negative picture of Defendant yet seemingly ignores that fact that there is a judgment against Plaintiff in favor of the Estate for \$2.4 million plus all legal fees, Plaintiff cites to twenty-one cases in support of his arguments. Eight of those cases are either unpublished or out-of-jurisdiction, and, therefore are not

binding on this court. Of the other thirteen, not one case interprets RPC 1.12 as requiring removal of a fiduciary whose law firm has hired the appointing judge. In fact, none of the cited cases address RPC 1.12.

In the Underlying Action, Plaintiff sought removal of Defendant as Administrator, based on RPC 1.12. The Court properly ruled that RPC 1.12 addresses disqualification of a law firm from representing a party when there is a conflict of interest. Plaintiff argues that Harwood Lloyd hiring Judge DeLuca almost a year after the Estate's initial New Jersey lawsuits ended, requires the Court to remove Defendant as Administrator. This ignores the plain language of RPC 1.12. Further, with regard to disqualifying Harwood Lloyd from representing the Estate, Plaintiff specifically brought the Underlying Action, seeking such disqualification when no such application was brought by Plaintiff's counsel in the only other then-pending action where Harwood Lloyd was representing the Estate. Finally, the lower court correctly ruled on Plaintiff's Motion for Reconsideration that for the first time sought removal of Defendant as Administrator under N.J.S.A. 3B:14-21, that the court could only rule on a Motion for Reconsideration with regard to that which was before the court in the initial application.

PROCEDURAL HISTORY

In January 2021, Judge DeLuca appointed Defendant as Administrator C.T.A. of the Estate as a result of a lawsuit between Plaintiff and his sister, Jacqueline Crane, over distribution of the Estate. (Pa116-Pa122). The parties litigated for over a year during which time Plaintiff ignored every order entered by the court, eventually resulting in default being entered against him. On February 4, 2022, the court entered judgment against Plaintiff, requiring him to repay the Estate over \$2,400,000 that he misappropriated. (Pa101-Pa114). Plaintiff did not appeal the February 4 Judgment.

After retiring from the bench, Judge DeLuca was hired by Harwood Lloyd, LLP to work as a mediator. (Pa33). In March 2023, through counsel, Plaintiff demanded a formal accounting by way of Order to Show Cause and Verified Complaint (the "Accounting Action"). (Pb15). After full briefing and oral argument, the court denied that application, finding that the applicable rule and statute were discretionary, not mandatory, leaving the court to decide if an accounting should be required in each case. Plaintiff then filed a Motion for Reconsideration. After briefing and oral argument, the court denied that application. Plaintiff then filed an Appeal, which resulted in the matter being remanded to the Chancery Division to enter an Order requiring Defendant to prepare a formal accounting. (Pa171-Pa185). Throughout that entire process,

Plaintiff's counsel never sought to have Defendant removed as Administrator or Harwood Lloyd disqualified as counsel for the Estate.

In December 2024, Plaintiff filed the Underlying Action, along with a companion case involving the Rhoda Crane Trust, seeking discharge of Defendant as Administrator and Trustee and disqualification of Harwood Lloyd. (2T17:17-21). The temporary restraints requested were denied on December 12, 2024. (1T9:10-25). On January 24, 2025, the Order to Show Cause was denied and the Verified Complaint dismissed. (Pa1). On March 7, 2025, Plaintiff's Motion for Reconsideration was denied. (Pa2-Pa3). Plaintiff then filed the subject appeal. (Pa4-Pa6).

In Plaintiff's Appellate Brief, submitted on July 30, 2025, there is reference to the Estate's money still being "unaccounted for". (Pb15). Plaintiff ignores the fact that a full formal accounting was submitted to the Surrogate's Court and served on Plaintiff on or about April 1, 2025. Further, that matter is now being litigated, including Plaintiff's issues as to Defendant's conduct as Administrator. In fact, during oral argument on the Motion for Reconsideration, Judge DiBiasi specifically advised Plaintiff that such claims

could be addressed in relation to the action filing the Accounting. 3T22:23-2T23:3¹.

¹ 1T refers to the transcript of the December 12, 2024 hearing on the temporary restraints. 2T refers to the transcript of the January 24, 2025 hearing on the Order to Show Cause. 3T refers to the transcript of the March 7, 2025 argument on the Motion for Reconsideration.

STATEMENT OF FACTS

Rhoda Crane, died in 2020, a resident of Bergen County, New Jersey. (Pa101, ¶1). On January 26, 2021, Defendant was appointed temporary Administrator of the Estate. (Pa116-Pa120). The beneficiaries of the Estate are Plaintiff, (50%), and his sister, Jacqueline Crane, (50%). (Pb12). Rhoda Crane and Plaintiff's mother, Joyce Crane jointly owned properties in New York City and Long Beach, New York through entities. (Pa97, ¶14); (Pa105, ¶14); (Pa107, ¶24). On February 4, 2022, the court ruled that Plaintiff was not an owner of either of those entities. *Id.*

Following the deaths of Rhoda Crane and Joyce Crane, within three months of each other, there were multiple lawsuits filed in New York and New Jersey between Plaintiff and Jacqueline Crane. (2T27:11-12); (Pa116-Pa120); (Pa97, ¶11). Plaintiff and Jacqueline Crane disputed ownership of the entities owned by Rhoda Crane and Joyce Crane and accused each other of misappropriating assets including personal property allegedly stored at Rhoda Crane's Englewood, New Jersey home. (Pa116-Pa120). These lawsuits resulted in the appointment of Defendant in January 2021. *Id.*

As part of the administration of the Estate, Defendant retained Bernards Appraisal Associates to prepare a report of Rhoda Crane's personal property contained in her Englewood, New Jersey home and the value of those items.

(Pa96-Pa97, ¶9). The report was provided to Plaintiff and Jacqueline Crane in 2021. It was again provided to Plaintiff and Jacqueline Crane with the Accounting.

Throughout the course of this matter Plaintiff has constantly questioned the disposition of personal property and accused Defendant of mishandling such property. (Pa97, ¶10).

Despite the fact that the Court had already ordered Defendant to prepare a formal accounting, Plaintiff filed the Underlying Action seeking to remove Defendant as Administrator due to the alleged conflict of interest. In addition, Plaintiff continues to make baseless allegations against Defendant with regard to his conduct at Administrator. Through all of this, Plaintiff has failed to pay the Estate any part of the Judgment for \$2.4 million plus legal fees. (Pa98, ¶16).

LEGAL ARGUMENT

POINT I

PLAINTIFF IGNORES THE PLAIN LANGUAGE OF RPC 1.12

Plaintiff asks this court to interpret RPC 1.12 to require Defendant to be removed as Administrator of the Estate due to an allegedly inherent conflict in interest of Judge DeLuca now working at Harwood Lloyd.

RPC 1.12 states as follows:

(a) Except as stated in paragraph (c), a lawyer shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a judge or other adjudicative officer, arbitrator, mediator or other third-party neutral, or law clerk to such a person, unless all parties to the proceeding have given consent, confirmed in writing.

(b) If a lawyer is disqualified by paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in the matter unless:

(1) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(2) written notice is promptly given to the parties and any appropriate tribunal to enable them to ascertain compliance with the provisions of this Rule.

(c) A lawyer shall not negotiate for employment with any person who is involved as a party or as an attorney for a party in a matter in which the lawyer is participating personally and substantially as a judge or other adjudicative officer, arbitrator, mediator, or other third-party neutral. A lawyer serving as law clerk to such a person may negotiate for employment with a party or attorney involved in a matter in which the law clerk is participating personally and substantially, but only after the lawyer has notified the person to whom the lawyer is serving as law clerk.

(d) An arbitrator selected by a party in a multi-member arbitration panel is not prohibited from

subsequently representing that party. [underlining added]

The rule prohibits a retired judge from representing “anyone in connection with a matter” wherein that retired judge served as a judge. There has been no allegation that Judge DeLuca has represented the Estate or represented Defendant as Administrator. With regard to other attorneys at Harwood Lloyd representing the Estate, all that is required is screening Judge DeLuca from participation in the matter. Such screening has taken place, and Judge DeLuca, as well as those involved in representing the Estate, are aware that he cannot be involved. (Pa98-Pa99, ¶20). In the Underlying Action and on appeal, Plaintiff failed to point to one instance of the Estate or Harwood Lloyd using information that Judge DeLuca obtained during the time he presided over the initial New Jersey cases.

RPC 1.12 solely discusses representation of a party. Nowhere in the rule does it state that someone appointed as an administrator, guardian, or other fiduciary role must resign such appointment upon their firm hiring the appointing Judge after retirement. Plaintiff has failed to cite to any cases holding that RPC 1.12 should be applied to mandate removal of a fiduciary for working in the same law firm as the appointing judge.

Judge DeLuca entered final Judgment in the Estate case on February 4, 2022. (Pa101-Pa114). Judge DeLuca retired from the bench ten (10) months later, in December 2022. Two months later, in February 2023, Judge DeLuca began his employment at Harwood Lloyd as a mediator. (Pa33-Pa34). At the time Judge DeLuca was hired, there were no active cases in which Harwood Lloyd was representing the Estate. Thereafter, Plaintiff, through counsel, filed the Accounting Action. In the Accounting Action, Plaintiff was represented by counsel who never made any application to the court to disqualify Harwood Lloyd or remove Defendant during the entire two years of litigation, including an appeal and remand. All other actions involving the Estate and Plaintiff prior to December 2024, when Plaintiff filed the Underlying Action, involved the Estate being represented by other law firms.

Regardless of whether RPC 1.12 applies to a fiduciary or not, it appears Plaintiff's argument with regard to Harwood Lloyd now boils down to whether Harwood Lloyd's screening process was adequate. RPC 1.12 by its very language does not automatically dictate that a firm employing a former judge who worked on a case must be disqualified from involvement in the matter. While it does dictate that with regard to the former judge's involvement, Plaintiff has not asserted that Judge DeLuca has in any way been involved. RPC 1.12 simply provides that, "if a lawyer is disqualified by paragraph (a),

no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in the matter unless: (1) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom.” RPC 1.12. Defendant represented to the court that the Crane matters have not been discussed with Judge DeLuca and any and all individuals involved in handling the Crane matters have been advised to have no communication with Judge DeLuca on the subject. (Pa98-Pa99, ¶20). In issuing his decision, Judge DiBiasi found, “the representations that counsel has provided that, even though Harwood Lloyd does not believe that this rule -- and the Court agrees -- applies under these circumstances, they have still gone to great lengths to screen Judge DeLuca from any participation in this matter.” (1T36:16-21).

Of note, at the time Judge DeLuca joined Harwood Lloyd, there were no active cases wherein Harwood Lloyd was representing the Estate as against Plaintiff. As such, no action was required under RPC 1.12. Thereafter, Plaintiff, through counsel, brought the Accounting Action. At no time during the Accounting Action did Plaintiff’s counsel seek disqualification of Defendant or Harwood Lloyd under RPC 1.12. Plaintiff then brought the Underlying Action *pro se*, solely for the purpose of removal of Defendant and

disqualification of Harwood Lloyd. In effect, Plaintiff was bringing an action to disqualify Harwood Lloyd from representing Defendant in that same action.

Of further relevance, in evaluating the Estate's right to be represented by counsel of its choosing, the court should consider that Plaintiff's failure to pay the outstanding judgment has left the Estate with no funds with which to retain another law firm.

POINT II

PLAINTIFF HAS FAILED TO DEMONSTRATE ANY VIOLATION ON THE PART OF DEFENDANT OR HARWOOD LLOYD

In large part, the cases cited by Plaintiff address conflicts of interest under RPC 1.9 and RPC 1.10, where attorneys switched sides. The conflicts in these cases dealt with attorneys switching to the opposing side's law firm in the middle of a case or switching firms and then filing an action against a former client. Specifically, City of Atlantic City v. Trupos, 201 N.J. 447 (2010), J.G. Ries & Sons, Inc. v. Spectraserv, Inc., 384 N.J. Super. 216 (App. Div. 2006), Dewey v. R.J. Reynolds Tobacco Co., 109 N.J. 201 (1988), Estate of Kennedy v. Rosenblatt, 447 N.J. Super. 444 (App. Div. 2016), Mody v. Quiznos Franchise Co., No. A-2260-11T1, 2012 N.J. Super. Unpub. LEXIS 1719 (App. Div. July 18, 2012), and Martin v. AtlantiCare, No. 10-cv-6793-JHR-JS, 2011 U.S. Dist. LEXIS 122987 (D. N.J. Oct. 25, 2011), involve such

scenarios where the disqualified attorney unquestionably had access to information regarding a former client, to whom their new firm was adverse. None of the cases involved a judge who previously presided over the litigants. In addition, those cases sought disqualification of the law firms during the course of active litigation or upon the law firm filing a lawsuit. No case cited by Plaintiff was filed for the sole purpose of disqualifying an attorney or law firm from theoretically ever representing a specific party.

Plaintiff makes reference to Judge DeLuca having reviewed Plaintiff's personal financial information *in camera*, during the time he was presiding over the initial New Jersey lawsuits. (Pb13). Plaintiff then claims this creates an inherent conflict, requiring removal of Defendant and disqualification of Harwood Lloyd as counsel. What Plaintiff does not do is point to any specific information used by Defendant or Harwood Lloyd from September 2021 to date, that was contained in that purportedly confidential financial information. The *in camera* review was of documents from Plaintiff's then-counsel with regard to claims involving the payment of Plaintiff's legal fees from Estate entities. (Pa18, fn1).

POINT III

THE LOWER COURT PROPERLY REFUSED TO ADDRESS ON RECONSIDERATION THAT WHICH WAS NOT BEFORE THE COURT IN THE ORIGINAL APPLICATION

Motions for reconsideration of final judgments are governed by R. 4:49-2, which provides:

Except as otherwise provided by R. 1:13-1 (clerical errors), a motion for rehearing or reconsideration seeking to alter or amend a judgment or final order shall be served not later than 20 days after service of the judgment or order upon all parties by the party obtaining it. The motion shall state with specificity the basis on which it is made, including a statement of the matters or controlling decisions that counsel believes the court has overlooked or as to which it has erred, and shall have annexed thereto a copy of the judgment or final order sought to be reconsidered and a copy of the court's corresponding written opinion, if any.

“Reconsideration is a matter to be exercised in the trial court's sound discretion.” Capital Fin. Co. of Delaware Valley, Inc. v. Asterbadi, 398 N.J. Super. 299, 310 (App. Div. 2008) *citing* Johnson v. Cyklop Strapping Corp., 220 N.J. Super. 250, 257, 531 A.2d 1078 (App. Div. 1987), certif. denied, 110 N.J. 196, 540 A.2d

189 (1988). "A litigant should not seek reconsideration merely because of dissatisfaction with a decision of the [c]ourt." Capital Fin. Co. at 310 *citing* D'Atria v. D'Atria, 242 N.J. Super. 392, 401, 576 A.2d 957 (Ch. Div. 1990). "Reconsideration should be utilized only for those cases . . . that fall within that narrow corridor in which either 1) the [c]ourt has expressed its decision based upon a palpably incorrect or irrational basis, or 2) it is obvious that the [c]ourt either did not consider, or failed to appreciate the significance of probative, competent evidence." *Ibid.* The movant must first demonstrate that the court acted in an arbitrary, capricious or unreasonable manner in order for the court to entertain reconsideration. Palombi v. Palombi, 414 N.J. Super 274, 289 (App. Div. 2010). Further, the motion is not to be based upon facts or evidence a party failed to initially put before the court when that information was available to the moving party. *Ibid.*

Plaintiff's Motion for Reconsideration ignored the standard, the initial relief sought, and the ruling below, and was properly denied. Plaintiff had every opportunity to argue his case. He initially filed an Order to Show Cause and Verified Complaint, with which he could have but did not file a supporting brief. When Plaintiff's requested relief was denied after the preliminary hearing, Defendant filed Opposition and Plaintiff filed a Reply. Despite that, on Reconsideration, Plaintiff asserted new arguments and cited to cases and standards not referenced in his initial papers.

For the first time, on Reconsideration, Plaintiff argued that Defendant should be removed as Administrator under N.J.S.A. 3B:14-21. Plaintiff then cited to several cases not mentioned in the Underlying Action. Judge DiBiasi ruled that, “The Court agrees with Miss Lee, that Mr. Crane is, in many instances, asking the Court to reconsider claims that he did not assert in the first place”. (3T22:19-22). Judge DiBiasi then went on to say, “for purposes of today, the Court can only reconsider the issues that were before it at the time of its January 24th decision, and the Court is denying the motions to reconsider.” (3T23:4-7).

Plaintiff failed to demonstrate that in the initial ruling, the Court “expressed its decision based upon a palpably incorrect or irrational basis”, or “did not consider, or failed to appreciate the significance of probative, competent evidence.” Capital Fin. Co. at 310 *citing* D'Atria v. D'Atria, 242 N.J. Super. 392, 401, 576 A.2d 957 (Ch. Div. 1990). As such, the court below properly denied Plaintiff’s Motion for Reconsideration.

Plaintiff argues that this court should remove Defendant as Administrator pursuant to N.J.S.A. 3B:14-21, however, the substance of that argument was not addressed with the lower court as it was not in the initial papers and was, therefore, outside the scope of review on reconsideration. Defendant will not herein address the substance of Plaintiff’s argument as to N.J.S.A 3B:14-21. In the event this court finds that the lower court should have allowed the argument on the Motion

for Reconsideration, which Defendant disputes, it is Defendant's position that the matter should then be remanded to the lower court for full briefing and argument.

POINT IV

**PLAINTIFF IS ARGUING ISSUES NEVER ADDRESSED IN
EITHER APPLICATION BELOW**

Once again, Plaintiff seeks to present arguments not properly before the court. Point II of Plaintiff's brief and the cases cited therein focus on whether the Rules of Professional Conduct are applicable to an attorney serving in a fiduciary role and whether Defendant performed any legal services for the Estate. (Pb24-Pb30). Plaintiff wrongfully states, "the lower court erred in finding that Repetto's conduct was not subject to the RPCs because he was a court-appointed fiduciary whose responsibilities, at the very least, closely mirrored those of an attorney." (Pb28). This was never argued or found by the court in the Underlying Action. Plaintiff's argument in the Underlying Action was specifically with regard to the application of RPC 1.12 and Plaintiff's interpretation that it required removal of Defendant as Administrator. The parties and court never addressed whether the Rules of Professional Conduct in general apply to an attorney when serving in other roles.

Plaintiff also for the first time argues that failing to disqualify Defendant and Harwood Lloyd undermines the Revised Code of Judicial Conduct. (Pb29).

This argument was never asserted below and, therefore, is not properly before this court.

POINT V

**PLAINTIFF RELIES UPON CASELAW NOT
BINDING ON THIS COURT**

Plaintiff cites to twenty-one cases in his Appellate Brief. Two of the cases are unpublished opinions. Six of the cases are from jurisdictions outside of New Jersey. The issues on appeal involve interpretation of a New Jersey Rule of Professional Conduct and the New Jersey court's standard on a Motion for Reconsideration. Cases from California, New York, Connecticut, the District of Columbia, and Oklahoma with regard to disqualification of counsel, risk of disclosure of information, and the applicability in general of ethics rules to attorneys serving in different roles are not binding on this court and are, therefore, irrelevant to this matter. As such they warrant no further comment.

CONCLUSION

Based upon the foregoing, Defendant respectfully requests that Plaintiff's appeal be denied, and the trial court's January 24, 2025 and March 7, 2025 Orders be affirmed.

HARWOOD LLOYD, LLP
Attorneys for David M. Repetto, Esq.
Court-Appointed Administrator C.T.A. of
the Estate of Rhoda Crane

BY: 

KATHLEEN M. LEE

DATED: September 9, 2025

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IN THE MATTER OF THE ESTATE
OF RHODA CRANE, deceased

SUPERIOR COURT OF NEW
JERSEY, APPELLATE DIVISION

Docket No. A-2457-24

Civil Action

On Appeal From:

Superior Court of New Jersey,
Bergen County, Chancery Division,
Probate Part
BER-P-708-24

Sat Below:

Hon. Darren T. Dibiasi, P.J.Ch.

Attorney of Record and on the Brief:

Justin A. Jacobs, Esq. (006152010)

Submitted:

September 25, 2025

REPLY BRIEF OF PLAINTIFF-APPELLANT, MICHAEL E. CRANE

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

PRELIMINARY STATEMENT1

LEGAL ARGUMENT.....2

 Point I: The record below established that Repetto’s law firm,
 Harwood Lloyd, was disqualified as a matter of law because
 it did not implement a written screening procedure and
 because Judge DeLuca had received Plaintiff’s confidential
 information2

 Point II: The disqualification of Judge DeLuca should have also
 been imputed on Repetto, a partner of Harwood Lloyd who
 has provided legal services for the Estate.....5

 Point III: Repetto should be removed pursuant to N.J.S.A. 3B:14-
 217

 Point IV: Repetto failed to rebut persuasive authority supporting
 disqualification.....8

CONCLUSION9

TABLE OF AUTHORITIES

Cases

Delaney v. Dickey, 244 N.J. 466 (2020)6
In re Gavel, 22 N.J. 248 (1956).....6
In re Genser, 15 N.J. 600 (1954).....6
Martin v. AtlantiCare, No. 10-cv-6793-JHR-JS, 2011 U.S. Dist. LEXIS
122987 (D.N.J. Oct. 25, 2011)3
Mody v. Quiznos Franchise Co., No. A-2260-11T1, 2012 N.J. Super.
Unpub. LEXIS 1719 (App. Div. July 18, 2012).....2
Sklodowsky v. Lushis, 417 N.J. Super. 648 (App. Div. 2011)8
State v. Lefante, 14 N.J. 584 (1954)7
Twenty-First Century Rail Corp. v. N.J. Transit Corp., 210 N.J. 264 (2012)
.....4
United States ex rel. Bahsen v. Bos. Sci. Neuromodulation Corp., 147
F. Supp. 3d 239 (D.N.J. 2015)3

Statutes

N.J.S.A. 3B:14-217

Rules

RPC 1.0(l)2
RPC 1.125

PRELIMINARY STATEMENT

The appellate brief submitted by David Repetto, Esq. (“Repetto”) conceded and/or failed to rebut each of the core arguments raised by plaintiff, Michael E. Crane (“Plaintiff”), in this appeal. For example, Repetto failed to rebut Plaintiff’s argument that the Rules of Professional Conduct define “screening” as requiring a “written procedure.” Repetto’s argument that oral screening was sufficient, in the absence of a written procedure, is inconsistent with controlling New Jersey law and must be rejected on appeal. The disqualification of Harwood Lloyd should have also been imputed on Repetto because he conceded through silence that he has participated as an attorney in these matters (and not just as an administrator). Finally, Repetto’s boilerplate arguments with respect to the improper denial of Plaintiff’s motion for reconsideration failed to address, let alone rebut, Plaintiff’s argument that his *pro se* pleading should have been held to a less stringent standard. When reviewed under the proper standard, the appellate record clearly establishes that Plaintiff, a non-attorney, set forth a sufficient factual basis for the removal of Repetto due to misconduct. As such, the lower court erred in dismissing Plaintiff’s claims without first considering, or holding a hearing with respect to, whether Repetto’s conduct warranted removal under N.J.S.A. 3B:14-21.

LEGAL ARGUMENT

Point I: The record below established that Repetto’s law firm, Harwood Lloyd, was disqualified as a matter of law because it did not implement a written screening procedure and because Judge DeLuca had received Plaintiff’s confidential information

In his appellate brief, Repetto conceded that: (1) Judge DeLuca was automatically disqualified from any participation in any cases relating to the Estate of Rhoda Crane (the “Estate”); and (2) the only way to avoid the firm-wide disqualification of Harwood Lloyd was to implement proper screening. See Db11-14. Repetto further admitted that this appeal “boils down to whether Harwood Lloyd’s screening process was adequate.” See Db12.

It is an undisputed fact in this case that Harwood Lloyd did not implement a written screening procedure. [Pa23-74; Pa57-60; Pa64-66; Pa98-99 at ¶20]. Plaintiff’s brief painstakingly detailed how the Rules of Professional Conduct define “screening” as requiring a “written procedure.” See Pb17-20. Repetto completely ignored this issue, failed to address the language of RPC 1.0(l), and did not distinguish the cases cited by Plaintiff that directly support Plaintiff’s position.¹ See Mody v. Quiznos Franchise Co., No. A-2260-11T1, 2012 N.J. Super. Unpub. LEXIS

¹ Repetto also failed to address, and thus conceded through silence, several other points raised in Plaintiff’s brief including that: (1) the small size of Harwood Lloyd should have subjected its screening procedure to heightened scrutiny; and (2) the appointment of Harwood Lloyd and Repetto as counsel should not have been afforded any deference because this case does not involve a client’s right freely to choose counsel, as Repetto was appointed by the court. See Pb23.

1719, at *13 (App. Div. July 18, 2012) [Pa186] (“[t]he clear and unambiguous language of the terms contained in [the RPCs] . . . leave no room for the conclusion that an oral screening constitutes proper screening”); United States ex rel. Bahsen v. Bos. Sci. Neuromodulation Corp., 147 F. Supp. 3d 239, 248 (D.N.J. 2015) [Pa201] (“New Jersey Rules of Professional Conduct 1.0(l) and 1.10(f) explicitly require screening arrangements to include ‘written procedures’ that contain the screened attorney’s acknowledgement of the obligation to remain screened.”); Martin v. AtlantiCare, No. 10-cv-6793-JHR-JS, 2011 U.S. Dist. LEXIS 122987, at *33 (D.N.J. Oct. 25, 2011) [Pa228] (“RPC 1.10(f) and 1.0(e) indicate in clear and unmistakable terms that to be adequate a screening procedure must be in writing. CM never established a written procedure and for this reason alone its screening was inadequate.”). Instead, Repetto simply stated that the oral screening performed by Harwood Lloyd was sufficient, without citing a single supporting case (from New Jersey or otherwise) – or any other supporting authority.

Similarly, Repetto failed to rebut Plaintiff’s argument that because Judge DeLuca had received Plaintiff’s confidential information *in camera* (when he served as the judge in the underlying case), even proper screening would not have been sufficient. Repetto noted that Plaintiff has not established that any of the confidential information that had been provided to Judge DeLuca was *used* by Repetto or

Harwood Lloyd, which is true. But that is not the standard. In cases in which an attorney employed by an adversary law firm has obtained confidential information of the other party, the case law is clear that screening is likely inadequate to protect against the conflict. See Pb19-20. In such cases, there is no requirement that the party seeking disqualification prove that their confidential information has been used against them by their adversary and Repetto has not cited to any authority to support his position on this issue.

Finally, Repetto's argument that Plaintiff should have raised the disqualification issue in the accounting case is misplaced, and in any event cannot excuse a violation of the screening procedures required by the RPCs. Although courts may consider delay when ruling on disqualification motions, that factor arises in cases where removing counsel would deprive a litigant of the attorney they affirmatively selected to represent them. See, e.g., Twenty-First Century Rail Corp. v. N.J. Transit Corp., 210 N.J. 264, 273 (2012) ("In evaluating motions for the disqualification of counsel for an adversary pursuant to this RPC, we have long recognized that 'a motion for disqualification calls for us to balance competing interests, weighing the need to maintain the highest standards of the profession against a client's right freely to choose his counsel.'").

Repetto, however, was not "chosen" by the Estate. He was appointed by the court to serve as a fiduciary. The beneficiaries never selected him as counsel, nor

did they choose Harwood Lloyd to represent their interests. In this context, where the court is apprised that its own court-appointed administrator's law firm has a disqualifying conflict, disqualification is mandatory regardless of whether there was some purported delay in raising the issue.

Based on the foregoing, as well as the arguments set forth in greater detail in Plaintiff's initial brief, Harwood Lloyd should have been disqualified.²

Point II: The disqualification of Judge DeLuca should have also been imputed on Repetto, a partner of Harwood Lloyd who has provided legal services for the Estate

The disqualification of Judge DeLuca should have also been imputed on Repetto, a partner of Harwood Lloyd who has provided legal services for the Estate. In his brief, Repetto does not once dispute that he has been functioning in the dual role of fiduciary *and* attorney because he has been providing legal services in the Estate matters. This concession fatally undermines the factual basis relied upon by the lower court in dismissing Plaintiff's claims.

The lower court held that the disqualification of Judge DeLuca could not be imputed on Repetto pursuant to RPC 1.12 because Repetto "is a fiduciary [and he] is not representing any of the parties in this litigation." [2T34:05-

² In his appellate brief, Repetto acknowledged that Plaintiff's Verified Complaint sought both the removal of Repetto and "to disqualify Harwood Lloyd from representing [Repetto]." See Db13-14. Repetto also did not dispute Plaintiff's contention that the lower court, in dismissing Plaintiff's complaint, failed to evaluate whether Harwood Lloyd should have been disqualified.

36:24]. As explained in Plaintiff’s initial brief, the court’s conclusion was factually incorrect because Repetto was functioning as an attorney (as well as an administrator), as Repetto has conceded on appeal. Because the lower court’s factual basis was unsupported, its conclusion that the disqualification could not be imputed on Repetto must be reversed.

Moreover, even if Repetto had only been functioning as an administrator, he would have still been subject to the RPCs and held to the same ethical standards as a lawyer representing a client. See, e.g., Delaney v. Dickey, 244 N.J. 466, 485 (2020) (“All fiduciaries are held to a duty of fairness, good faith and fidelity, but an attorney is held to an even higher degree of responsibility in these matters than is required of all others.”); In re Gavel, 22 N.J. 248, 265 (1956) (“In addition to the duties and obligations of an attorney to his client, he is responsible to the courts, to the profession of the law, and to the public.”); In re Genser, 15 N.J. 600, 607 (1954) (noting that the conflict of interest rules governing the conduct of lawyers, also apply when the lawyer is not serving in a representative capacity). In his appellate brief, Repetto attempted to distract from this issue by claiming it was not raised below. Repetto’s appellate argument is meritless because the lower court based its decision, in part, on a finding that the RPCs did not apply to Repetto as a fiduciary. As such, Plaintiff

is permitted to argue on appeal that the lower court's holding was contrary to New Jersey law.

Based on the foregoing, as well as the arguments set forth in greater detail in Plaintiff's initial brief, the lower court's dismissal of Plaintiff's claim seeking the disqualification of Repetto should be reversed because it was factually unsupported and contrary to controlling law.

Point III: Repetto should be removed pursuant to N.J.S.A. 3B:14-21

In addition to the above grounds for removal, Repetto should have also been removed pursuant to N.J.S.A. 3B:14-21. In his initial brief, Plaintiff argued that the lower court erred by dismissing Plaintiff's Verified Complaint without first considering whether Repetto's alleged misconduct warranted removal under N.J.S.A. 3B:14-21. In response, Repetto relied on boilerplate law governing motions for reconsideration and claimed that the lower court properly rejected Plaintiff's claim because Plaintiff did not cite the specific statute prior to his motion for reconsideration. Notably, Repetto failed to address the central point raised by Plaintiff – namely, that the trial court should have evaluated this issue regardless of whether Plaintiff cited the specific statute because he was a *pro se* litigant who set forth a sufficient factual basis to remove Repetto due to his misconduct.

Under New Jersey law, it is well settled that where, as here, a respondent has failed to address a point raised in the appellant's brief, any opposition to that point is deemed waived. See, e.g., State v. Lefante, 14 N.J. 584, 590 (1954) (“All the arguments on which the respondent relies in upholding his judgment below must be presented to this court or be deemed to be waived.”); Skłodowsky v. Lushis, 417 N.J. Super. 648, 657 (App. Div. 2011) (“An issue not briefed on appeal is deemed waived.”). Here, by failing to address Plaintiff's argument that *pro se* pleadings must be liberally construed, Repetto has waived any opposition to Plaintiff's argument.

Point IV: Repetto failed to rebut persuasive authority supporting disqualification

Throughout his brief, and in a separate Point V, Repetto claims that this Court should ignore persuasive authority from other jurisdictions, as well as the reasoning included in non-published New Jersey cases, because such cases are not binding on this Court. Instead of engaging with those decisions, or attempting to explain why their reasoning should not apply here, he simply brushed them aside without any analysis.

Courts often consider persuasive authority, particularly where New Jersey precedent is silent. Repetto chose not to distinguish these cases because he could not do so. Repetto's failure to identify a single decision supporting his position, or refuting the cases cited by Plaintiff, is fatal to his appellate

arguments. The fact that some of Plaintiff's authorities may not be binding is inconsequential, as they remain instructive, involve analogous fact patterns, and, most importantly, stand unrebutted by Repetto.

CONCLUSION

For the foregoing reasons, this Court should reverse the dismissal of Plaintiff's Verified Complaint and either: (1) find that the record was sufficient to support Plaintiff's request to disqualify Harwood Lloyd and Repetto from serving any role with respect to the Estate matters (and the other related relief sought by Plaintiff); or (2) remand the matter to the lower court to conduct a hearing on the claims raised in the Verified Complaint.

LAW ADVOCATES LLC
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Crane

By: /s/ Justin A. Jacobs
Justin A. Jacobs, Esq.

Dated: September 25, 2025