Post trial telephone conversation transcript between Pepper - McNulty

Herein is the transcript of a telephone conversation between Albert. B. Pepper Jr. plaintiff litigant and counsel Elizabeth C. McNulty after the conclusion of a jury trial of a medical malpractice complaint that was tried in the 21st. Judicial Circuit of St. Louis County, Missouri whereof Pepper was making inquiry as to post trial remedies for a low jury award for damages.

Background

The trial was tried between the dates of January, 22 2024 through January 26, 2024 upon which day and date of the 26th, the jury rendered their verdict and award amount and the trial was concluded.

Key facts and Participants

Pepper v. Vladimir Gelfand M.D. case #19SL-CC04680

21st. Judicial Circuit, Saint Louis County, Missouri

Case.net: 19SL-CC04680 - Case Header

Presiding Judge - Stanley J. Wallach Div. 12, Mo Bar # 45280

Plaintiff - Albert B. Pepper Jr.

Defendant - Vladimir Gelfand M.C., Chesterfield MedCenter, et al.

The Simon Law Firm P.C. - Plaintiff Counsel

John G. Simon - Principal, Mo Bar # 35231

Anthony R. Friedman - Former Lead Counsel, Mo Bar # 77531

Elizabeth C. McNulty - Successor Lead Counsel, Mo Bar # 72026

Elizabeth S. Lenivy - Co-Counsel, Mo Bar # 67924

Timothy M. Cronin - Co-Counsel, Mo Bar # 63255

W. Bevis Schock - Schock Law, Mo Bar # 30722

This telephone conversation between Pepper and McNulty occurred on January 29, 2024 at which time Pepper was seeking post trial remedies for a low jury award on damages and herein are the facts as to why Pepper is seeking post trial remedies.

1) The jury found that the defendant, Dr. Vladimir Gelfand did depart from the standard of care with regard to duty and breach and rendered a favorable verdict to the plaintiff.
2) With regard to damages (compensatory) the jury awarded $40,000, gross.
3) The jury imposed a 50/50 comparative fault rendering an actual $20,000 award to the plaintiff.
4) The $20,000 award to the plaintiff was subject to law firm litigation expenses and insurance subrogation claims.
5) The plaintiff realized a “net zero” $0.00 recovery for injuries sustained.

There were a multitude of “irregularities” at trial that would warrant post trial motion relief or that would have merit for an appeal. However, at this time Pepper was only seeking from McNulty post trial remedies that were yet within the scope of representation before a final judgement was rendered.

Immediately following is the conversation transcript word verbatim that was captured digitally and then submitted to artificial intelligence for transcribing. The transcript was manually compared with the audio recording by Albert B. Pepper Jr. and amendments were made by Pepper to perfect the accuracy of the conversation.

Embedded within the transcription dialogue between Pepper and McNulty (rendered in black font) is commentary to contextualize the conversation that is rendered in red font preceded by two asterisks.

Begin: 0:00

McNulty: Hey, how are you doing?

Pepper: Doing pretty good, Elizabeth. How are you today?

McNulty: Doing well thanks.

Pepper: Fantastic.

McNulty: Um, so I got your email from last night um, Just wanted to ah see, see what you wanted to talk about.

** Two e;mails from Pepper to McNulty dated January 28/29, 2024 demanding to discuss post trial options and remedies. That McNulty and Simon Law Firm are not to make any further post trial motions with the court or responding to any motions filed by defense counsel without advising Pepper of the motions, the contents thereof and how we are to respond.

Pepper: Well, ah to be quite honest with you, ah there's so many things. I mean, it's just multitude that I'm not even going to enumerate them or actually address them. Um my question to you is, well, you know the irregularities and what's been going on in this

case. And if I'm aware of it, I know that you're aware of it. So, how do we proceed from here?

** In this statement Pepper is putting McNulty on notice that the “irregularities” of how the case was presented at trial that even a lay person was aware of it. For example: 1) The defense was allowed to present their case in chief first. Defendant testimony and expert witness testimony, setting the tone and allowing the defendant to create “pathos” with the jury. This was an inversion of trial procedure that was prejudicial to the plaintiff 2) At the beginning of trial, opening statements and defendants testimony, the plaintiff was seated in the back of the gallery out of view of the jury and prohibited from active participation and dynamic interface with counsel while the defendant was seated at the defense table during the entire proceeding. 3) The plaintiff was brought forward to the second row of the gallery, never seated at plaintiff counsel table at the time expert witness testimony for the defense was rendered. 4) Expert witness for the defense was allowed to give “inflammatory” prejudicial testimony having no probative value that went without plaintiff counsel objection or requesting a sidebar with the bench. 5) Counsel for the defense also made statements during cross examination that were prejudicial having no probative value and in violation of Missouri rules of professional conduct that went without objection by plaintiff counsel. 6) It was revealed during cross examination by plaintiff counsel of the defendant that 81 pages, or approximately ⅓ of the plaintiffs medical chart was not recovered until the defendant retired and Barnes, Jewish, Childrens Hospital became the custodian of records. This material fact of 81 pages recovered was not disclosed to the plaintiff prior to trial denying plaintiff informed consent as to how to proceed with the prosecution of the case. 7) During closing

arguments the defense counsel was allowed to suggest jury instructions that were contrary to Missouri Approved Instructions that went without objection from plaintiff counsel. - These are just a few of the most prominent and obvious “irregularities”. There were several other irregularities that were evident to the plaintiff and I will further suggest that there was no one in that courtroom with the credentials of a juris doctor that a miscarriage of justice was being perpetrated upon the plaintiff. This occurred without intervention nor remedy from the bench. Hon. Stanley J. Wallach, presiding,

McNulty: Um, I'm not really entirely sure what you're talking about. um, I don't think that there are any appealable issues. So, you know, I don't, I don't think that, you know, we would be moving forward with an appeal if that's what you're talking about um…

** At this time Pepper is not asking counsel to move for an appeal. The retainer agreement entered into specifically states that The Simon Law Firm is not obligated to file an appeal. Pepper is asking about post-trial remedies that will remain in the circuit court prior to the filing of the final judgment and within the fiduciary and contractual obligations of counsel to their client.

Pepper: What about, I don't, okay, I'm sorry.

McNulty: Sign, sign our names to any pleadings saying that there is, but um, if that's an avenue that you're interested in going down, ah you're more than welcome to hire, hire counsel for your appeal and you know, we would withdraw our appearance for that. But we um, would have to assert an attorney lien um, for the full 20,000 (dollars) as our expenses at this point exceed that amount.

** Without discussing why or why not post trial remedies are available and perhaps an appeal, McNulty is refusing to discuss the issues with Pepper and is signally that the

attorney / client relationship has “informally” come to an end. Furthermore, this is the first time that any litigation expenses were revealed to the plaintiff. However, evidence indicates that Pepper repeatedly (and specifically during a prior mediated settlement agreement conference) asked for the litigation expense (to date) to make an informed decision during settlement negotiations.

Pepper: Sure, I understand. I don't have a problem with that. So um, I don't know all the terminology or language. I'm not an attorney, of course, but I've seen um, it's not really an acronym, LNOV, uh, setting aside a jury verdict um, we can’t….

McNulty: JNOV?.

Pepper: Yes, I'm sorry. I mean…,

McNulty: That’s ok.

** It is obvious that Pepper, a lay person is grappling with legal terms and theory for which he depends on legal counsel to explain.

Pepper: we cannot go back to the judge and say, hey, this ah, this award that they have given is egregiously deficient and ask the judge to consider increasing it? We can't do that?

** The Simon Law Firm had represented Pepper in this matter for five years beginning on February 15, 2019 and litigation for approximately 4.5 years and in consideration thereof one more motion, one more hearing is a small request to be made of counsel that perhaps the client may realize an equitable compensation for injuries. A further aggravation factor, fact, is that the plaintiff was for four years led by counsel to believe that the case had a very good potential for punitive damages and that of 10x - 20x

compensatory damages. That was in stark contrast to the "net-zero" award realized by the plaintiff.

McNulty: I mean you got, you the jury verdict was in your favor. And I mean, I do understand you're unhappy with the damages figure. But I mean, they were, they were non economic damages for pain and suffering. And I mean, I know that you understand the difficulty there is with quantifying that and the jury heard the evidence (** Herein as a material falsehood. The jury did not hear the evidence for damages whereas plaintiff counsel did not present any evidence to quantify injury) and that's what they analyzed it would be, I mean, I don't. It would be very difficult for a judge to disagree with the people who were put in charge of deciding that amount. And I don't, I don't think that would ever happen.

** This statement is a material falsehood. Missouri statute provides remedies that are at the discretion of the circuit court.

Pepper: But he could if he wanted to.

McNulty: He wouldn't.

** It is not the discretion of counsel to make an adjudication as what the circuit court would or would not do. The presiding judge makes a ruling based upon the relief sought, the supporting arguments, evidence and case citations. The trial court has broad discretion with regard to how they may rule.

Pepper: But he could if he wanted to.

McNulty: Based on what evidence that he heard.

** This statement by McNulty creates two problems. 1) She is laying the burden upon the client, lay person to develop the merits for a post trial motion. 2) It is an admission inferred that she has, nor presented at trial any evidence that would support additur.

Pepper: Well, I don't know, you'd have to take that up with him.

** Pepper is indicating that a $40,000 jury award with a 50/50 comparative fault that is subject to litigation expenses, insurance subrogation liens and a “net zero” recovery does not reflect equity, nor substantial justice and that it is not up to Pepper to develop the strategy but rather, is the responsibility of retained counsel.

McNulty: I wouldn't be doing that, Al.

** McNulty is now refusing to pursue client objectives that are yet within the scope of fiduciary and contractual representation.

Pause…

Pepper: You do not in your own opinion think that the ah, jury award amount was low?

McNulty: I mean, that was what those 12 people who was their job to assess the evidence.

** Pepper was not asking about what was the conclusion of the jury. Pepper was asking the professional opinion of counsel. Furthermore, the 12 people, the jury, did not have the damages metrics to make an informed decision .

Pepper: I understand. Well, how did you arrive at your number, of 300 plus 100,000, a total of 400,000? How did you arrive at that number?

** This is a rhetorical question that Pepper presents. Pepper was present during the entire time of the trial and Pepper knew there was nothing presented by counsel that could substantiate for the jury's consideration a request for $400,000.

McNulty: It was just an amount we suggested to them.

** This is an inferred admission that a dollar amount was “plucked out of thin air.”

Pepper: That seemed reasonable to you. I mean, it did seem reasonable to you. (** Prior to making her closing arguments McNulty and co-counsel Elizabeth S. Lenivy asked Pepper, seeking informed consent, to ask the jury for $400,000 stating that they did not “want to blow them out of the water”. The defendant had an insurance policy limit of one million dollars.) So there's no argument that you can present to the judge and say, your honor, $40,000 and 50 % um, ah comparative fault. ah And the judge, and like I said, I don't know the language, but he doesn’t, he has the right to either vacate ah what the jury said or um set it aside, not necessarily the verdict itself, but this particular part or component of what the jury decided?

** In this statement Pepper is specifically suggesting additur (with consent from defense) or in the alternative a new trial for damages only, whereas we got the verdict against the defendant for the departure from the standard of care.

McNulty: Yeah, ah he, he wouldn't, a judge wouldn't do that. You know it would be a complete abuse of their discretion, taking away what a jury decided after considering all the evidence.

** The statement by McNulty to the client is false and misleading and that was the intent. Missouri statute Section 537.068 directly contradicts McNulty’s statement to Pepper. The statute reads as follows: "In any action for damages, if the court finds that the jury's verdict is inadequate because the amount of the verdict is less than the amount which a reasonable person would estimate as fair compensation for the injuries sustained, the court may increase the verdict by additur." Furthermore, Rule 78.10 is the

procedural mechanism that allows a trial court to fix a jury verdict that is legally inadequate. It works in tandem with Section 537.068, RSMo to ensure that "substantial justice" is met when a jury's award is unreasonably low. - McNulty lied to plaintiff client Pepperl

Pepper: What about the act of remitter or when somebody gives an outrageous amount? Like let's say they awarded me 10,000. or 10 million, mean, $10 million dollars, the judge has the discretion to say hey, 10 million is way too much money, and we're going to give this party a million dollars. He has that discretion to lower it, but he doesn't have the discretion to raise it?

McNulty: Well, I mean, that's based on different principles like CAPS, like non-economic damages CAPS.

Pepper: Mm-hmm….

McNulty: There's no such, there's no…

Pepper: Well, that's why I kept on saying earlier with Tony afterwards was that he wasn't developing the value of this case. He was not developing the value of it. And I can understand why, because, before we went to mediation, the return on investment was not there, it wasn't foreseeable so we stopped funding this case. And even...

** Tony a.k.a. Anthony R. Friedman was former lead counsel who withdrew representation four days after a failed mediated settlement agreement conference on June 30, 2023 and upon the same day Elizabeth C. McNulty made her appearance on client behalf assuming the role of lead counsel. "The return on investment". Anthony R. Friedman was attempting to persuade Pepper prior to and through mediation that the case merits and value were virtually now, a nuisance claim. However, Friedman had a

conflict of interest and lack of motivation to diligently prosecute the case whereas Friedman was relieved from his employment with the Simon Law Firm P.C. for performance issues and the mediated settlement agreement conference was his only opportunity to recover some compensation for himself prior to dismissal.

McNulty: Al, that's not true. That's not true.

** Five years of litigation of a medical malpractice case? $20,000 litigation expenses?

Pepper: Then why did we not have...

** McNulty interrupted and Pepper deferred but the completion of Pepper's question was “Then why did we not have….an expert witness at trial to tell the jury of the injuries? The Simon Law Firm retained one expert witness for duty and breach only. There was no expert witness retained to give testimony nor valuation metrics developed to present to the jury. Even the expert witness that was retained, his testimony at trial was prerecorded in a deposition style format and this choice of witness presentation was by admission by McNulty to save costs. This admission by McNulty was captured in another pre-trial, telephone audio recording. Pepper knew, and several times prior to trial insisted that an expert witness was a requisite to substantiate injury and quantify damages. Telephone audio recordings, e;mail correspondences the evidence of nonfeasance, misfeasance and malfeasance perpetrated upon Pepper by The Simon Law Firm and counsel is multitude of which this format prohibits full disclosure.

McNulty: Respectfully, respectfully, we, I mean, I told you, and Tim and I told you that, you know, we could have gotten you $300,000 dollars in this case, and you decided that you wanted to go to trial and you didn't care about the money. That's what you told me.

** This statement is materially false. I have the telephone audio recordings and the e;mail correspondences that prove as fact, that defense counsel never put more than $100,000 on the table and plausibly, $120,000. Therefore, Pepper had this decision to make: $100,00 minus litigation expenses (yet unknown), minus 40% attorney fees per retainer agreement, minus insurance subrogation of $20,000 = $40,000 before the litigation expenses were subtracted. If the litigation expense were $20,000 then Pepper would have realized a net recovery for injuries suffered in the amount of $20,000 in contrast to a one million dollar policy limit. Pepper decided to proceed to trial.

Pepper: That is true.

** The statement “that is true” made by Pepper is that Pepper is not motivated by money but rather, the pursuit of justice and accountability. All of Pepper's somatic needs are met and unless a substantial financial recovery is made it would be disruptive to his current lifestyle. However, Pepper is pragmatic and knows that counsel, of whom Pepper retained, deserves to be compensated. For Pepper, the money is not an existential issue. However Pepper, retaining counsel in good faith has a responsibility to ensure they are compensated for their services rendered. Therefore if quantifiable equity and substantial justice is achieved the matter can come to a conclusion. Counsel had not even come close to the “event horizon”. Prior to trial Pepper set the “event horizon” (negotiable) at net $500,000. Counsel Elizabeth McNulty and Tim Cronin never presented the demand to defense counsel. Never sought a counter offer. Never presented a counter offer to Pepper for consideration. I have their admission to this fact in a telephone audio tape recording. Not only is this a breach of their fiduciary duty to Pepper but there is an axiom in business that negotiations never cease until both

parties say no. Neither defense counsel had the opportunity to say no nor the plaintiff whereas the demand was never presented.

McNulty: Now I'm sorry that you're frustrated with the circumstances and I understand that.

Pepper: No, I'm not frustrated at all, because as I told you the other day, if I walked out of that court, and not even collected a dime, I was fine with that. See, it's not about the money. You know, I don't need the money. Um my,... the state of my ontology, it is quite a bit different than you and the rest ok? Those things don't matter to me at all. But I have to follow this through, to the end, in attempt to actu…

** McNulty's apologetic attempt at showing affinity with Pepper's "frustration" with regard to the quantifiable outcome of the case is disingenuous. McNulty knows quite well, reading my prior e;mail correspondences with Anthony R. Friedman, those addressed to her personally and conversations immediately following the jury rendering their verdict that I was not frustrated with the financial outcome. My frustration was with the conduct, misconduct of counsel toward their client that began thereabout in May of 2023 beginning with Anthony R. Friedman and perpetuated thereafter when McNulty made her appearance and went without remedy or cure. The representation of counsel became increasingly hostile and negligent toward the client for which the client had no redress.

McNulty: This is the end Al.

** McNulty has now effectively terminated the attorney / client relationship prior to a motion to withdraw representation and approval on the merits of the motion by the presiding judge that was filed and motion granted on February 29, 2024.

Pepper: Okay, then what are we going to do if um, defense counsel decides that They, want to ah, set aside the jury verdict?

McNulty: I will let you know if that happens.

** Pepper now realizes that McNulty's "representation" is still a civil and professional ethics responsibility of an administrative modality only. That the diligent representation requisite with regard to the rules of professional conduct has come to an end.

Pepper: Okay,... and then as far as this issue of um, Gelfand not turning over evidence that we requested, i.e. my um, medical records, and then we only receive them after BJC becomes a custodian of those medical records, eh, you know that, that's not an issue to be taken up?

** Two days prior to trial at a trial prep. conferenence on the morning of January 21, 2024 McNulty revealed to Pepper that she recovered one page of my medical chart 2-3 weeks before trial from B.J.C. after B.J.C. became the custodian of records upon the retirement of the defendant. McNulty never disclosed the other 80 pages and it was not revealed to Pepper until the cross examination of the defendant. Hence, Pepper was questioning why the 81 "spoliated pages" of the medical chart were not a subject for the trial court to consider. Furthermore, with regard to the 81 pages and why I refer to them as "spoliated". After cross examination of the defendant during a break in the proceeding I asked co-counsel Elizabeth S. Lenivy whether these were 81 pages at the beginning, middle or end of the corpus and Lenivy made the statement that "they were hand picked throughout." Yet further, counsel McNulty / Lenivy failed to seek a negative inference from the bench or sanctions imposed upon defense counsel.

McNulty: No, that's been well litigated, I'd say.

Pepper: Okay, well, if that's the answer, okay, we'll hold at that. But my instructions with regard to this matter, that is um, you are not to file any um, motions with the court with regard to Pepper versus Galfand remains, unless you bring….

** This is an iteration of the demand I made to counsel in the January 28, 2024 e;mail. It may be quite apparent by this time that counsel has become uncooperative and hostile to her client. However, e;mails and correspondences not presented herein reveals that the lack of cooperation, communication, disinformation and hostility began months prior to trial. John G. Simon Principal, of the Simon Law Firm knew of the misconduct and is vicarious liable both in a professional ethics context and in a civil tort complaint. One may ask. How do you know that John G. Simon knew of the conduct? And my answer is 1) Whether he knew of the conduct or not he is vicariously liable for the conduct of all of the associate attorneys under his employ. 2) However he did know, whereas after approximately two months of McNulty acting as lead counsel I contacted a former attorney named W. Bevis Schock who I had a relationship with going back several years and I asked him if he was interested in the case. Schock said that he was a “professional and personal friend” of John Simon and asked if I would like him to speak to Simon on my behalf and tell him of my concerns wherein I granted permission. Shortly thereafter, Schock contacted me and advised that Simon assured Schock McNulty was capable of doing the job. Upon those assurance I remained with Simon Law Firm for representation.

McNulty: What do you mean by motions?

Pepper: Any, any motions, any activities whatsoever with regard to this case. I want to be intimately involved in everything, everything. Because it’s still my case. You're still under my employ. Is that correct?

** Clients, plaintiff or defendant, civil, criminal or any mode of legal representation or often in a disadvantage and at times manipulated by imbalance of attorney / client power dynamics because they do not realize that the case belongs to them. That when hiring or retaining counsel, counsel is under their employment. Furthermore, in most if not all jurisdictions the client retains the right to dismiss counsel at any time without cause. For me, it was too late. Much too far into the litigation process to retain new counsel. I stated in another telephone audio recording to Timothy M. Cronin just weeks prior to trial with regard to the representation of The Simon Law Firm quote: “I suppose that poor representation is better than no representation.” I, a lay person, was well aware of the deficiency of representation by The Simon Law Firm but lacked the opportunity and resources for redress.

McNulty: Ok well, I have to draft a judgment in accordance with what the jury found and I will need to run that by opposing counsel and then file it.

Pepper: I need to see it.

Pause…..

McNulty: May I ask why?

Pepper: Because, because it's my case, I have a right to see it, Is that correct? Tell me whether I do not have a right or not.

McNulty: No, I'm just ah...

Pepper: Well, do I have a right or not? Yes, it's a simple yes or no question. No, it's a simple yes or no question. Just answer the question and then I'll proceed to answer yours. Do I have a right to see it or not? Yes or no?

McNulty: Okay, I will, I will talk to you later. Does that sound good?

Pepper: That'll be fine.

McNulty: Bye.

End

Conclusion - Upon reading this document, the telephone transcript and the annotations to contextualize the conversation it may be obvious that Pepper started off with an inquiry about post-trial remedies in an attempt to salvage his case. With the incessant gas lighting and disingenuous responses by McNulty it may be obvious that Pepper became increasingly assertive attempting to hold McNulty accountable. When you listen to the audio recording you will also hear the tone, inflection and verbal elocution of both Pepper and McNulty that will enhance the understanding of the dialogue.

Further information and context with regard to the case Pepper v. Gelfand m.d. Can be found at the following websites. The presentation herein is but one vignette among a cluster cut from the abominable branch of professional misconduct.

Shout It Out Loud
https://shoutitoutloud.org/

(Not) The Friedman Law Firm Saint Charles
https://notthefriedmanlawfirmsaintcharles.com/

Academia Edu
https://independent.academia.edu/jonesbing

(Not) The Friedman Law Firm dot org
https://notthefriedmanlawfirmllc.org/

Change dot org
https://www.change.org/p/elizabeth-c-mcnulty-pending-mo-bar-complaint-simon-law-firm-pc

Facebook - (Why Not) Elizabeth C. McNulty - Attorney
https://www.facebook.com/groups/1906933640198851

Facebook - (Not) Anthony R. Friedman Attorney Saint Louis
https://www.facebook.com/groups/1565795411114048

Facebook - (Not) The Fridman Law Firm LLC
https://www.facebook.com/groups/768421836358124

Quora - (Why Not) Elizabeth C. McNulty - Attorney
https://whynotelizabethcmcnultyattorney.quora.com/

Quora - (Not) Anthony R. Friedman Attorney
https://notanthonyrfriedmanattorney.quora.com/about

Reddit
https://www.reddit.com/r/Lawyer_Review_Organic/

For further consideration I present the violation(s) of the Missouri Rules of Professional Conduct that will be cited in a forthcoming complaint to be filed with the Office of Chief Disciplinary Counsel of the Supreme Court naming Elizabeth C. McNulty as respondent.

Missouri Rules of Professional Conduct (Rule 4) based on the facts and annotations provided.

Potential Ethical Violations

- **Rule 4-1.1: Competence** A lawyer shall provide competent representation, which requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation (e.g., failure to retain damages experts or address 81 pages of withheld records).
- **Rule 4-1.2: Scope of Representation and Allocation of Authority** A lawyer shall abide by a client's decisions concerning the objectives of representation and shall consult with the client as to the means by which they are to be pursued (e.g., failure to present the $500,000 settlement demand).
- **Rule 4-1.3: Diligence** A lawyer shall act with reasonable diligence and promptness in representing a client (e.g., failure to seek sanctions for spoliated evidence or pursue post-trial motions like Additur).
- **Rule 4-1.4: Communication** A lawyer shall keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for information (e.g., withholding 80 pages of medical records and refusing to clarify the client's right to see court filings).

- **Rule 4-1.5: Fees** A lawyer's fee shall be reasonable; this includes the duty to provide accurate information regarding litigation expenses when requested to facilitate informed settlement decisions.
- **Rule 4-1.16: Declining or Terminating Representation** Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests (e.g., declaring "this is the end" while post-trial statutory deadlines were still active).
- **Rule 4-4.1: Truthfulness in Statements to Others** In the course of representing a client, a lawyer shall not knowingly make a false statement of material fact or law to a third person or the client (e.g., misrepresenting the prior settlement offers as $300,000).
- **Rule 4-5.1: Responsibilities of Partners and Supervisory Lawyers** A partner or supervisory lawyer shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.
- **Rule 4-8.4: Misconduct** It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, or conduct that is prejudicial to the administration of justice.

Technical - Meta Data - Audio File - Transcription

Created on -

Method - Talker ACR for Android

Duration -

File Size -

File Type -

Converted to MP4

Conversion Software - Click Champ for Windows

Transcription Software - Riverside online audio to text

Saved as - riverside_XmD0af0AIAMCLmg=_Post%20Trial%20Telephone%20Conversation%20Elizabeth%20McNulty.txt

Final output - A.I.rendered a 90% accurate transcript upon which Albert B. Pepper Jr. diligently compared the audio file and made amendments and corrections to perfect the transcript.

The amended transcript and annotations are saved in pdf format file name:
albert-b-pepper-jr-elizabeth-c-mcnulty-telephone-audio-recording-january-29-2024.pdf

I, Albert B. Pepper Jr. the author of this document, the creator and curator of the telephone audio records made reference to swear under penalty of perjury to the truth of the testimony and facts contained herein. This document acts as evidence for any forthcoming proceeding be it the Office of Chief Disciplinary Counsel as part of a complaint for the violation of the rules of professional conduct and or in a civil tort action naming the parties contained herein as defendants as is subject to rules of discovery.

January 23, 2026

/s/ Albert B. Pepper Jr.
Litigant pro se - consumer advocate - citizen journalist.

"My presentation shall remain impeccable and my testimony unimpeachable as I bear every disparaging lash of the examiners scourge." ~ Albert B. Pepper Jr.