

**BEFORE THE HEARING BOARD  
OF THE  
ILLINOIS ATTORNEY REGISTRATION  
AND  
DISCIPLINARY COMMISSION**

In the matter of: )  
 )  
ALISON H. MOTTA, )  
 ) Commission No. 2021PR00091  
Attorney-Respondent, )  
 )  
No. 6284365. )

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Sharon D. Opryszek, pursuant to Supreme Court Rules 753, complains that Respondent, Alison H. Motta, who was licensed to practice law in Illinois on December 7, 2004, and alleges that Respondent has engaged in the following conduct which subjects Respondent to discipline pursuant to Supreme Court Rule 770:

*(Allegations Common to All Counts)*

1. At all times alleged in this complaint, Respondent was a member of the firm of Motta & Motta, LLC, which was located at 559 West Galena Boulevard in Aurora.
2. On November 2, 2005, Respondent was admitted to both the General and Trial Bars of the United States District Court for the Northern District of Illinois.

**COUNT I**

*(Conduct intended to disrupt tribunal and conduct prejudicial to the administration of justice)*

3. On or about April 28, 2014, the Special September 2014 grand jury in the Northern District of Illinois, Eastern Division, voted a two-count indictment, alleging the transfer of a handgun and ammunition to a juvenile and possession of a handgun within 1000 feet of a school

zone, against Vandetta Redwood (“Redwood”) entitled *United States of America v. Vandetta Redwood*, 16CR080, and sealed the indictment.

4. On February 10, 2016, the indictment in the matter of *United States of America v. Vandetta Redwood*, 16CR080, was filed in the United States District Court for the Northern District of Illinois, Eastern Division. On that date, the Honorable Jeffrey Cole issued a bench warrant as to Redwood.

5. On February 11, 2016, Redwood was arrested and appeared before Honorable Maria Valdez. Judge Valdez arraigned Redwood, granted the motion of the United States Attorney to unseal the indictment, and appointed attorney Paul Flynn to initially represent defendant Redwood. The matter was set for a detention hearing before Judge Amy J. St. Eve on February 16, 2016.

6. On February 16, 2016, a detention hearing was held before Judge St. Eve at which time Redwood was held in custody and a status hearing was set for February 23, 2016.

7. On February 23, 2016, Respondent filed her appearance on behalf of Redwood in the matter of *United States of America v. Vandetta Redwood*, and Paul Flynn was given leave to withdraw as Redwood’s attorney. The matter was continued to the date of February 29, 2016.

8. On February 29, 2016, Judge St. Eve initially set the matter of *United States of America v. Vandetta Redwood* for jury trial on July 11, 2016, but the matter was reset to begin on January 17, 2017.

9. On July 17, 2017, a jury was seated in the matter of *United States of America v. Vandetta Redwood*.

10. On July 18, 2017, the prosecution began presenting evidence in the matter of *United States of America v. Vandetta Redwood*.

11. On January 19, 2017, the following exchange occurred between Assistant United States Attorney (“AUSA”) Marc Krickbaum, AUSA Adrianna Kastanek, Judge St. Eve and Respondent:

AUSA KRICKBAUM: The second issue, Judge, throughout the day yesterday, Ms. Motta, at defense counsel table, was visible in reactions and comments during the course of the trial. It started with the opening and continued through the witnesses, including audible remarks commenting on questions and commenting on testimony, commenting on the veracity of testimony. It is audible, and it is inappropriate.

It is: A, distracting to the jury; but, also, it is improper for Ms. Motta to be essentially making arguments or testifying herself or commenting on testimony in an audible way. She appears to be talking to herself. We ask the Court to direct her to stop.

COURT: I did hear some talking. I did not hear the content of what it is. But I would suggest if you are doing that, to try to stop, for a couple reasons. One, juries generally do not like that. Two, our juror has the headphones, can hear what is coming through the microphones.

So, I will pay more attention today, but –

RESPONDENT: I will, as well. I mean, I don’t know what comments –

COURT: Maybe move the microphone away from you that is at your table.

AUSA KASTANEK: And I would just note that we’ve received reports of non-verbal demonstrative expressions, as well, that are coming from the defense counsel table. So, that’s a component of it.

COURT: Again, I will watch.

I will tell you, juries do not like that. I have tried hundreds of cases. I go back and I talk to them, and they really – they do not like when counsel is acting unprofessional or the gestures or – I do not know if you are doing that. I did not see it. But I will watch or pay a little more attention to that.

But my suggestion to you, just from the jury’s standpoint, would be control your emotions in the courtroom.

12. On January 23, 2017, the following exchange occurred during questioning of a witness by AUSA Kastanek:

Q. Do you remember what he was doing at this part of the fight?

A. Yes.

RESPONDENT: Objection. Hearsay. What he was doing. Does she remember what he was doing at this part of the sight—fight. That would be physical hearsay.

COURT: There is no such thing. Overruled.

13. On January 23, 2017, the following exchange occurred between AUSA Krickbaum,

Judge St. Eve and Respondent:

AUSA KRICKBAUM: Briefly, during Tatyanna’s testimony in the point in redirect when Tatyanna was testifying about the “shoot that bitch” quote, the defendant audibly said aloud “that’s a lie” or words to that effect. I could hear it very clearly. Obviously, if the defendant is going to testify in the trial, then would be appropriate for her to speak to the jury about what’s true and what’s not, but she should not be commenting on testimony audibly.

That’s the first thing. And then during the initial direct, we have received reports that Ms. Motta continues to make audible comments, commenting on the witness’s testimony aloud in ways that are at least audible from the gallery. We continue to think that that is inappropriate and distracting to the jury and –

COURT: Would you please talk to your client that it’s not appropriate to comment on testimony of a witness while they’re on the stand and in front of the jury?

Ms. Motta, I have noticed you commenting, mumbling under your breath, mumbling under your breath about when I rule on objections.

Control yourself. Let’s be professional. That’s not appropriate.

RESPONDENT: Well, I do take issue, your Honor, with you saying in front of the jury there’s no such, you know, objection. There is non-verbal, you know, hearsay.

COURT: There’s – non-verbal hearsay. There’s no such thing as physical hearsay –

RESPONDENT: I know, but –

COURT: And I ruled on the – and that was your objection, and I ruled on it.

I’m not saying you have to like my rulings. I’m saying you have to respond professionally. You shake your head, you pout, you make auditory comments. It’s not appropriate, and I will tell you right now the jury doesn’t like that kind of behavior.

RESPONDENT: Well, it’s unhelpful when the judge –

THE COURT: Please. Ms. Motta, you are crossing a line right now. I don’t think you want to cross that line. So let’s be professional.

I give you the opportunity to be heard. The government doesn’t like some of my rulings. You don’t like some of my rulings. Welcome to litigation. But let’s be

professional in the courtroom.

And I'll tell you right now for about the 10<sup>th</sup> time, the jury doesn't like that kind of unprofessional conduct. So take a deep breath and get yourself under control. We'll pick up in 10 minutes.

14. On January 24, 2017, the following exchange occurred between AUSA Kastanek,

Judge St. Eve and Respondent:

RESPONDENT: Objection, your Honor. Relevance. This is irrelevant to what the witness knew or didn't know and there's – we're not disputing that that was the only people in the – obviously, who was in the grand jury room. We actually acknowledged that yesterday, that we're not saying there were law enforcement in the room

THE COURT: What is your response?

AUSA KASTANEK: It is relevant to some of the cross-examination that the jury heard yesterday.

THE COURT: Overruled. The answer may stand.

RESPONDENT: Fucking bullshit.

15. On January 24, 2017, after a short recess, Judge St. Eve admonished

Respondent about her comment identified in paragraph 14, supra.

THE COURT: Before we pick back up with the witness, Ms. Motta, I'm not quite sure what will stop your unprofessional behavior. When I overruled one of your last objections, you sat down, you rolled your eyes and you said, that's fucking bullshit. It was picked up on the audio. I listened to it to make sure that's what you really said. That is so unacceptable and so unprofessional, and I will deal with you after this trial. But I'm just putting you on notice, once again, I would control yourself and control your unprofessional reactions. That is completely unacceptable.

Bring the witness back in.

RESPONDENT: I don't know how sensitive the microphones are, so I apologize. However, it is important to explain I made our evidentiary objections –

THE COURT: Whatever the reason you disagree, to say that's F'ing bullshit in a federal court because you disagree with the judge's ruling in front of the jury is completely unacceptable.

RESPONDENT: I was not –

THE COURT: The record will reflect. Control yourself.

16. On January 25, 2017, during the government's closing argument in Judge St. Eve's courtroom 1241, Respondent took cell phone photographs of video images presented to the jury.

17. Respondent's taking of cell phone photographs of video images violated United States District Court Northern District of Illinois, Local Rule ("LR") 83.1 Court Facilities: Limitations on Use, which states in part:

(c) No Cameras or Recorders. Except as provided for in an Order of the Court, direction of the Chief Judge, or the United States Marshal, the taking of photographs, video, radio and television broadcasting, or taping in the court environs during the progress of or in connection with any judicial proceeding, whether or not court is actually in session, is prohibited.

18. On January 25, 2017, after closing arguments were completed, Judge St. Eve questioned Respondent about taking photographs in her courtroom and requested to see Respondent's cell phone.

19. Respondent admitted taking cell phone photographs in Judge St. Eve's courtroom, during closing argument and indignantly asked Judge St. Eve why she questioned the Respondent's integrity.

20. On January 26, 2017, after the conclusion of the trial, Respondent was escorted by the United States Marshalls to the United States Marshall Service lock up where Respondent received citation number 6509981 for failing to comply with signs and directions posted outside courtroom 1241, 219 S. Dearborn in violation of LR 83.1(c) which prohibits the taking of photographs in the court environs. Respondent was charged in *United States v. Alison H. Motta*, with violation of 41 CFR 102-74.385, Conformity with Signs and Directions, for her actions on January 25, 2017, as described in paragraphs 16-17, supra.

21. Violations of 41 CFR 102-74.385 are punishable by fine, under title 18 of the

United State Code, imprisonment for not more than 30 days, or both.

22. On April 10, 2017, Respondent entered a six-month diversionary program with the United States Attorney for the Northern District of Illinois which required Respondent not violate any federal, state, or local law during the six-month deferral, nor receive a federal violation notice or ticket for a petty or misdemeanor offense.

23. On October 2, 2017, United States Magistrate Judge Susan E. Cox dismissed Respondent's ticket number 6509981 with prejudice after her compliance with the condition of deferral, as described above in paragraph 22, *supra*.

24. On February 1, 2017, Judge St. Eve submitted a complaint to the Executive Committee of the United States District Court Northern District of Illinois Eastern Division ("Executive Committee") alleging Respondent was continuously disruptive during the two-week trial in *Redwood*.

25. In Judge St. Eve's complaint, as identified in paragraph 24, the judge described Respondent's actions which occurred during witness testimony, including but not limited to Respondent's visible reaction to testimony, eye rolling, and making comments about the testimony, all in the presence of the jury.

26. Further, the judge complained that other instances of misconduct were directed at the trial judge's ruling on objections, including but not limited to Respondent's reactions after "Fucking bullshit." Respondent's disruptive conduct occurred even after multiple warnings from the trial judge.

27. The matter was subsequently docketed as *In the Matter of the Discipline of Alison*

*Hope Motta*, Number 17 MC 232.<sup>1</sup>

28. On May 8, 2017, the Executive Committee found that Respondent's reactions to witness testimony and to the trial judge's decisions disrupted the trial and prejudiced the administration of justice. The Executive Committee found that witnesses were thrown off balance when Respondent visibly reacted to testimony, such as rolling eyes, and that Respondent's outright defiance of a trial judge's decision endangered the judge's control of the courtroom; especially when that defiance is demonstrated in front of the jury because it poses a risk that the jury will disregard the judge's instructions. The Executive Committee found that Respondent intended to disrupt the trial because the misconduct occurred so many times, and after so many warnings.

29. On May 8, 2017, the Executive Committee found that Respondent violated Illinois Rules of Professional Conduct 3.5(d) by engaging in conduct intended to disrupt a tribunal and violated Rule 8.4 by engaging in conduct that is prejudicial to the administration of justice by repeatedly acting in an unprofessional and disrespectful manner, including reacting to a trial judge's ruling by using profanity in the presence of a jury in the matter of *United States v. Redwood*, number 16 CR 0080, before the Honorable Amy J. St. Eve.

30. On May 8, 2017, the Executive Committee ordered that Respondent be suspended from the General Bar of the Court for 90 days, after which she will be automatically be reinstated, and suspended from the Trial Bar for one year after which time Respondent may petition the Executive Committee for reinstatement to the Trial Bar. The Executive Committee found the misconduct committed during the *Redwood* trial showed that Respondent unable to serve as lead counsel during a trial for at least the one-year period.

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<sup>1</sup> Initially *In the Matter of the Discipline of Alison Hope Motta*, was docketed as 17 MC 220. On May 11, 2017, the Executive Committee indicated that 17 MC 220 was erroneously assigned to the matter and ordered case number 17 MC 220 vacated and case number 17 MC 232 be assigned to *In the Matter of the Discipline of Alison Hope Motta*.



31. By reason of the conduct above, Respondent has engaged in the following misconduct:

- a. engaging in conduct intended to disrupt a tribunal including but not limited to repeatedly raising her voice, cursing and interrupting Judge St. Eve during the pendency of *United States of America v. Vandetta Redwood*, in violation of Rule 3.5(d) of the Rules of Professional Conduct (2010) and
- b. conduct that is prejudicial to the administration of justice, by conduct including but not limited to repeatedly raising her voice, cursing and interrupting Judge St. Eve during the pendency of *United States of America v. Vandetta Redwood*, in violation of Rule 8.4(d) of the Illinois Rules of Professional Conduct (2010).

## COUNT II

*(Conduct intended to disrupt tribunal, making extrajudicial statements, using means that have no substantial purpose other than to embarrass, delay, or burden a person, and conduct prejudicial to the administration of justice)*

32. On July 15, 2013, Anthony Garcia, (“Garcia”) was arrested in Illinois, in relation to the 2008 murders of Thomas Hunter and Shirlee Sherman and the 2013 murders of Roger and Mary Brumback in Omaha, Nebraska.

33. Garcia was charged with committing four homicides. The Garcia matters were docketed as *State of Nebraska v. Anthony Garcia* in Douglas County Court as case number CR13-17383 and in the District Court for Douglas County as case number CR13-2322.

34. On July 19, 2013, Respondent was admitted to the practice of law in the State of Nebraska *pro hac vice* by order of the Douglas County Court of Nebraska with Daniel Stockman (“Stockman”) and Jeffrey Leuschen (“Leuschen”) acting as local counsel.

35. On July 23, 2013, Respondent entered an appearance on behalf of Garcia in *State of Nebraska v. Anthony Garcia*, in Douglas County Court case number CR13-17383 and in District Court for Douglas County case number CR13-2322.

36. On June 26, 2015, the District Court in Garcia's case issued a protective order, under seal, regarding an unrelated 2007 homicide identified as the Blanchard homicide. The protective order stated, in part:

“[N]o information or knowledge obtained [by the State or Garcia] from the review [of the Blanchard homicide evidence] may be used, disclosed, or referenced during preparation for trial, during trial, or for any other matter in this prosecution.”

Further, the protective order stated, in part:

“This Protective Order shall not terminate upon the conclusion of this action but shall continue until further order of this Court or until the City of Omaha has waived confidentiality in writing.”

37. On March 23, 2016, Respondent filed a notice to introduce evidence of the Blanchard homicide during Garcia's trial, which was scheduled to begin April 4, 2016.

38. On March 25, 2016, the District Court heard an unrelated motion hearing in the Garcia case. The District Court did not address the protective order, identified in paragraph 36, *supra*.

39. By the conclusion of the March 25, 2016, motion hearing in the Garcia case, the City of Omaha had not waived confidentiality in writing nor had the Court lifted the protective order as to the Blanchard homicide evidence.

40. During or after the March 25, 2016, motion hearing, the Omaha police arrested a suspect in the Blanchard homicide.

41. After the arrest of a suspect in the Blanchard homicide, Respondent made statements to news media related to the defense belief that the Blanchard suspect, and not Garcia, was involved in two of the homicides in which Garcia had been charged.

42. On or about March 25, 2016, Omaha television news station WOWT quoted Respondent as saying, “By cross-comparing the DNA evidence that they discovered at the Sherman/Hunter scene with the DNA evidence that they discovered at the . . . Blanchard scene, [the Blanchard suspect]’s DNA was at both scenes. I don’t see how they’re going to explain the cross-over in the DNA and the existence of both people at both crime scenes.”

43. On or about March 28, 2016, an Omaha television news station KMTV quoted Respondent as saying, “This evidence conclusively exonerates Anthony Garcia and shows that it cannot be a coincidence the two manners of killing being signature like and the crossover between the two scenes of the same two suspects.”

44. On or about March 28, 2016, the newspaper Omaha World-Herald quoted Respondent as saying, “we’ll get a call from the County attorney’s office that they’re dismissing those charges.”

45. Respondent’s statements to the news media, identified in paragraphs 41 through 44, supra, violated the Court’s June 26, 2015 protective order, identified in paragraph 36, supra.

46. On or about March 30, 2016, the prosecutor in the District Court case of Garcia, CR 13-2322, filed a motion seeking removal of Respondent as *pro hac vice* counsel in the Garcia matter.

47. On or about March 30, 2016, local counsels Stockman and Leuschen filed a motion to withdraw as local counsels in the Garcia matter. The basis of Stockman and Leuschen’s motion to withdraw was based upon their belief that Respondent’s conduct may have been a violation of Nebraska Rule of Professional Conduct § 3-503.6 (“§ 3-503.6”), and as local counsel, Stockman and Leuschen may themselves be subject to discipline.

48. Nebraska Rule of Professional Conduct § 3-503.6 states:

“A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.”

49. On March 31, 2016, the District Court granted local counsel Stockman and Leuschen’ motion to withdraw as local counsel in the Garcia matter.

50. On March 31, 2016, Respondent filed a motion for *pro hac vice* admission with new local counsel, Jeremy Jorgenson, David Reed and James Owen.

51. On April 5, 2016, the District Court entered an order denying Respondent’s motion for admission *pro hac vice*. Due to a clerical error in the original order, the District Court entered a corrected version of the order *nunc pro tunc* on April 6, 2016.

52. In the *nunc pro tunc* order, identified in paragraph 49, supra, the District Court found that Respondent’s public disclosure of DNA results in the Blanchard homicide was a direct violation of the Court’s protective order, identified in paragraph 36, supra, as the Respondent obtained the Blanchard suspect’s DNA evidence from discovery received by Respondent in the Garcia case, which was subject to the protective order. Respondent then provided the DNA evidence to a defense expert for analysis, in violation of the protective order. Finally, Respondent’s disclosure to the news media of the Blanchard suspect’s DNA expert analysis was a clear violation of the protective order.

53. The Court found that Respondent violated § 3-503.6 when she made statements to multiple local news media within five business days of the scheduled beginning of Garcia’s trial,

and her statements were in no way limited, as Respondent told outlets the DNA evidence “completely exonerated” Garcia.

54. By reason of the conduct outlined above, Respondent has engaged in the following misconduct:

- a. engaging in conduct intended to disrupt a tribunal by conduct including failing to comply with a Court ordered protective order by making extrajudicial statements to news media outlets regarding the matter of *State v. Anthony Garcia*, Douglas County Court case no. CR13-17383 and District Court of Douglas County case no. CR13-2322, five business days prior to the start of Anthony Garcia’s trial, in violation of Nebraska Rule of Professional Conduct §3-503.5(a) and Rule 3.5(d) of the Illinois Rules of Professional Conduct (2010);
- b. making an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and would pose a serious and imminent threat to the fairness of an adjudicative proceeding, by conduct including making certain statements to local news media outlets regarding the matter of *State v. Anthony Garcia*, Douglas County Court case no. CR13-17383 and District Court of Douglas County case no. CR13-2322, within five business days prior to the start of Anthony Garcia’s trial, in violation of Nebraska Rule of Professional Conduct §3-503.6(a) and Rule 3.6(a) of the Illinois Rules of Professional Conduct (2010);
- c. using means in representing a client that have no substantial purpose other than to embarrass, delay, or burden a third person, by conduct including failing to comply with a Court ordered protective order by making extrajudicial statements to news media outlets regarding the matter of *State v. Anthony Garcia*, Douglas County Court case no. CR13-17383 and District Court of Douglas County case no. CR13-2322, within five business days prior to the start of Anthony Garcia’s trial, in violation of Nebraska Rule of Professional Conduct §3-504.4(a) and Rule 4.4(a) of the Rules of Professional Conduct (2010); and
- d. conduct that is prejudicial to the administration of justice by conduct including failing to comply with a Court ordered protective order by making extrajudicial statements to news media outlets regarding the matter of *State v. Anthony Garcia*, Douglas County Court case no. CR13-17383 and District Court of Douglas County case no. CR13-2322, within five business days prior to the start of Anthony Garcia’s trial, in violation of Nebraska Rule of Professional Conduct §3-508.4(d) and Rule 8.4(d) of the Illinois Rules of Professional Conduct (2010).

WHEREFORE, the Administrator requests that this matter be assigned to a panel of the Hearing Board, that a hearing be held, and that the panel make findings of fact, conclusions of fact and law, and a recommendation for such discipline as is warranted.

Respectfully submitted,

Jerome Larkin, Administrator  
Attorney Registration and  
Disciplinary Commission

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