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

In the Matter of: KENNETH J. ALLEN, Attorney-Respondent, No. 6202665.	Commission No. 2026PR00006

COMPLAINT

Lea S. Gutierrez, Administrator of the Attorney Registration and Disciplinary Commission, by her attorney, M. Katherine Boychuk, pursuant to Supreme Court Rule 753(b), complains of Respondent, Kenneth J. Allen, who was licensed to practice law in Illinois on February 23, 1990, and alleges Respondent has engaged in the following conduct, which subjects him to discipline pursuant to Supreme Court Rule 770:

COUNT I
(*Knowingly Disobeying Court Orders, Asserting Frivolous Issues, and Conduct Prejudicial to the Administration of Justice*)

1. At all times alleged in this complaint, Respondent was a member of the firm Allen Law Group, LLC, located in Chesterton, Indiana, with a practice focus in representing plaintiffs in personal injury, transportation, and work-related injury matters.

2. On May 11, 2016, a woman with the initials "C.K." was catastrophically injured in a rear-end collision with a tractor-trailer in Porter County, Indiana. C.K. and her husband, a man with the initials "M.K.," hired the Allen Law Group to represent them on a contingent fee basis. The Allen Law Group filed a personal injury lawsuit on behalf of C.K. and M.K. in the Circuit

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Court of Cook County on September 26, 2016, against the lessee, the owner, and the driver of the tractor-trailer involved in the collision (collectively "the defendants").

First Trial

3. After C.K.'s case was filed, Respondent, other lawyers at his firm, and counsel for the defendants engaged in the discovery process by producing reports and other documents, taking depositions, and hiring experts to prepare opinions on issues related to the rear-end collision and to C.K.'s injuries. At that time, Illinois Supreme Court Rule 213(f)(2), which governs the disclosure requirements for a party seeking to introduce expert opinions in a civil case, defined an "independent expert witness" as a person giving expert testimony who is not one of the parties, a party's current employee, or a party's retained expert. For each independent expert witness, Rule 213(f)(2) required that the party seeking to offer the expert testimony identify the subjects on which the witness would testify and the opinions the party expected to elicit.

4. During discovery, Respondent identified C.K.'s primary care physician as an independent expert witness pursuant to Rule 213(f)(2), but he did not disclose that one of the physician's opinions would be that C.K. had suffered a brain injury, nor did Respondent elicit during the discovery deposition of C.K.'s primary care physician that the physician held an opinion on that issue that was based on reasonable degree of medical certainty.

5. Near the conclusion of discovery, and as part of a negotiated agreement, the defendants admitted liability for the crash and that they caused C.K.'s injuries; in exchange, C.K. dismissed her claims that defendants acted willfully and wantonly and that she was entitled to punitive damages as a consequence. Because the defendants admitted that they had been negligent in causing the rear-end collision and that C.K. had suffered injuries as a result of the collision, the

only issue for a jury to determine at trial was the appropriate amount of damages to compensate C.K. for her injuries and M.K. for his loss of consortium.

6. C.K's case was assigned to the Honorable James P. Flannery for a jury trial to begin on May 10, 2021. The first trial of the case began that day and continued day to day until May 13, 2021.

7. Prior to trial, the parties collectively filed over ninety motions *in limine* in late April and early May 2021. Judge Flannery heard argument from Respondent and defense counsel on each contested motion over the course of the three days just prior to the trial date. After hearing argument from both sides, and at times taking a motion under advisement overnight, the judge ruled from the bench on each motion.

8. On May 4, 5, and 6, 2021, ruling on defendants' motions *in limine*, first, Judge Flannery barred Respondent from introducing any evidence of, or making any reference to, the facts and circumstances of the collision during the trial. Second, Judge Flannery ordered that, while references to the defendants' admissions of fault were appropriate, Respondent was barred from making any references to the defendants' having taken responsibility, or having failed to take responsibility, for the collision or for the plaintiffs' injuries. Third, Judge Flannery barred Respondent from introducing evidence of an alleged brain injury suffered by C.K. through testimony or reports from C.K.'s primary care physician based on his conclusion that Respondent's level of disclosure on that topic, described in paragraph five, above, had not been sufficient to satisfy the disclosure requirements of Rule 213(f)(2). Respondent was present in court when Judge Flannery ruled on each motion *in limine* and was familiar with Judge Flannery's rulings and the limitations they placed on counsel for the parties.

9. During the first trial, Respondent violated Judge Flannery's pretrial ruling against commenting on the facts of the collision in front of the jury, including on May 10, 2021, when, during his opening statement, Respondent spoke about C.K. on the date of the collision, saying, "[C.K.] takes her foot off of the gas, she puts her foot on the brake, slows down, comes to a stop at the light. There are cars in front of her, even a stopped semi-truck. She sits at that light for a moment when 'bam....–'"

10. During the first trial, Respondent violated Judge Flannery's pretrial ruling against eliciting testimony from a witness relating to the facts of the collision when, on May 12, 2021, during his direct examination of C.K., Respondent asked her, "so what happened, [C.K.], when you got on [State Route] 49, heading to [C.K.'s mother's residence] to visit your mother on May 11, 2016?"

11. During the first trial, Respondent violated Judge Flannery's pretrial ruling against eliciting testimony relating to C.K.'s alleged brain injury, when, on May 12, 2021, during his direct examination of a physician offering an opinion on C.K.'s future life care needs, Respondent asked, "Did you review any portion of the record that led you to believe that she had a brain injury?" and "Does chronic pain cause brain atrophy?"

12. During the first trial, Respondent violated Judge Flannery's pretrial ruling against referring to C.K.'s alleged brain injury, when, on May 13, 2021, during his closing argument, Respondent stated, "I can tell you that, fortunately, she has gotten better in some ways, no doubt; but the things that are important – the spasticity, the weakness, the pain, the intractable pain that's harming her brain, and most importantly the harm to her brain . . . ."

13. During the first trial, Respondent violated Judge Flannery's pretrial ruling against references to the defendants' having taken responsibility, or having failed to take responsibility,

for the collision or for the plaintiffs' injuries, when, on May 13, 2021, during his closing argument, Respondent stated, "make no mistake. Defendants are not entitled to a discount here. No discount. They're in the wrong. They need to be held to account."

14. During the first trial, Respondent violated Judge Flannery's pretrial ruling against references to the defendants' having taken responsibility, or having failed to take responsibility, for the collision or for the plaintiffs' injuries, when, on May 13, 2021, during his rebuttal argument, Respondent argued:

> The fancy word is "hypocrisy." It means two-faced. To get up here and we're going to say, "She's a wonderful lady, so let's give her just about what her future medical bills are going to be and send her down the road because she's a wonderful lady." That's two-faced. It's two-faced.
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> It's hypocrisy, it's two-faced to tell you – and these are very skillful lawyers. I have nothing but respect for their lawyering, but I hope you can see through it.
>
> Why didn't they bring in another [physician opinion witness]? With all this money at stake, why didn't they bring somebody in to tell you, oh, these doctors are wrong, this is not true? Because they're hypocrites. Two-faced. Nice people on the outside.
>
> I thought, "Well, okay, they're going to come in and really accept accountability and they're going to say 'hold us to account for the harm that we caused by our negligence.'" And I kept waiting and I kept waiting, and it didn't happen. They have been irresponsible from the beginning. . . . Shame on them. Shame on them.
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> The future medical is stipulated, okay, fine, because it's there. All this medical goes to somebody else. This doesn't go in [plaintiffs'] pocket. They pay Medicare or they paid –

15. On May 13, 2021, the jury in the first trial returned a verdict totaling $43,051,020 in favor of C.K. and M.K. After the trial, the defendants filed a motion for a new trial, arguing that the jury's verdict was the result of Respondent's repeated violations of Judge Flannery's pretrial rulings, described in paragraphs 9 through 13, above, and Respondent's *ad hominem* attacks

against the defendants and their attorneys, described in paragraph 14, above. Respondent filed a written response in opposition to the motion for a new trial.

16. On November 29, 2022, Judge Flannery heard argument on the defendants' motion for a new trial. After hearing from both sides, Judge Flannery ruled from the bench, granting the motion based on what he concluded had been Respondent's repeated attempts to introduce evidence that had nothing to do with damages, referring to defendants' counsel as "hypocrites" and "two-faced," his references to C.K.'s alleged brain injury, and his asserting that defendants were refusing to take responsibility for C.K.'s injuries. Judge Flannery concluded that Respondent's comments were "premeditated and were intended to get more money . . . by bringing up alleged issues that were not issues in the case and certainly not relevant to the issues in the case."

17. In an order dated December 1, 2022, Judge Flannery vacated the judgments for plaintiffs and referred the case to the trial setting call. On May 23, 2023, the presiding judge set the case for retrial on July 5, 2023 before the Honorable Joan E. Powell.

18. By reason of the conduct described above, Respondent engaged in the following misconduct:

a. asserting an issue in a proceeding without a basis in law and fact for doing so that is not frivolous, by conduct including introducing evidence and argument in contravention of Judge Flannery's pretrial rulings in the first trial of C.K's case, in violation of Rule 3.1 of the Illinois Rules of Professional Conduct (2010);

b. knowingly disobeying an obligation under the rules of a tribunal, by conduct including introducing evidence and argument in contravention of Judge Flannery's pretrial rulings in the first trial of C.K's case, in violation of Rule 3.4(c) of the Illinois Rules of Professional Conduct (2010); and

c. engaging in conduct prejudicial to the administration of justice, by conduct including Respondent's introduction of evidence and argument in the first trial of C.K.'s case which contravened Judge Flannery's pretrial orders, and by issuing *ad hominem* attacks against the defendants and their lawyers during the first trial of C.K.'s case, which resulted in Judge Flannery granting the defendants' motion for a new trial, in violation of Rule 8.4(d) of the Illinois Rules of Professional Conduct (2010).

COUNT II

(*Respondent's Extrajudicial Statements to Influence a Jury, Failing to Supervise Nonlawyers, and Conduct Prejudicial to the Administration of Justice*)

Respondent's Internet Presence

19. Since at least 2007 and continuing to the present, Respondent, under the auspices of the Allen Law Group, has maintained a blog on the firm's website, www.kenallenlaw.com, with the purpose of driving traffic to the website when a user searches the Internet. Respondent's law firm has also maintained a public Facebook page, and has invested heavily in television and billboard ads to enhance name recognition. Respondent employed an outside business and marketing consultant ("the consultant") to drive Internet traffic to the firm's website and Facebook page through, among other things, search engine optimization. Respondent was responsible for the content creation of the blog and Facebook page.

20. At some point in late June or early July 2023, Respondent spoke with the consultant in a phone call. During that call, Respondent instructed the consultant to draft a blog post regarding the retrial of C.K.'s case. When describing the retrial of the C.K. case to the consultant, Respondent told the consultant, among other things, that there had previously been a jury verdict in the plaintiff's favor in the amount of $43,051,020, that the jury had been prevented from considering evidence of C.K.'s brain injury, and that C.K.'s condition had worsened since the first trial. The consultant drafted the blog post as Respondent had instructed, which included the information that

Respondent had provided. Respondent further instructed the consultant to post the entry to the blog and to the firm's Facebook page only after C.K.'s retrial had begun. At no time did Respondent review the post that the consultant drafted.

Second Trial

21. On July 5, 2023, the second trial in C.K.'s case began and continued day to day until July 14, 2023. The Honorable Joan E. Powell presided over the trial. Jury selection began on July 6, 2023, and continued through the morning of July 7, 2023. During jury selection, several potential jurors mentioned that they recognized Respondent from his television commercials. On July 7, 2023, the jury was sworn in prior to the lunch recess. Later in the day, the parties made opening statements, and two witnesses testified.

22. Sometime on July 7, 2023, the second day of trial, the consultant confirmed with another lawyer in Respondent's law firm that the retrial of C.K.'s case had begun. The consultant then published the post to the Firm's blog and to the Firm's Facebook page which the consultant had previously drafted at Respondent's direction, described in paragraph 20, above.

23. The post was titled "What Jurors Should Know But Don't" and stated that it was "posted by Kenneth J. Allen." The first paragraph of the post specifically discussed the retrial of C.K.'s case, including the case caption, the case number, the fact that the trial was a retrial following a reversal of the judgment in the first trial, the amount of the verdict in the first trial, and information that C.K.'s condition had deteriorated since the first trial:

> Jurors are never told about appeals or when a new trial is ordered. For example, a new trial was recently ordered in the case of [C.K.'s case name and docket number]. "While it's sad the former Judge rejected the first jury's verdict and threw out all their hard work, the case has been reassigned to a new, tremendous trial judge and we're confident the new trial will be a fair one," said Kenneth Allen, the lead trial lawyer representing [C.K.]. "Actually, this decision is a

> blessing as [C.K.]'s condition has gotten much worse since the first trial," he said. "$43 million now doesn't come close to making up for the grievous human losses and economic harms caused by defendants' inexcusable negligence."

24. The second paragraph of the post discussed in detail an additional complication, called a syrinx, a rare medical condition in which a fluid-filled cyst appears in a person's spinal column or brain stem, that C.K. had allegedly developed after the first trial. The post framed the complication as something that the jury in the first case was prohibited from hearing, even though the syrinx developed after the first trial:

> After the last trial concluded, [C.K.]'s doctors discovered she has developed a rare complication of spinal cord trauma. The only way to treat this condition is surgically, which very often results in *complete* quadriplegia. "In other words, [C.K.] may now become *totally* paralyzed and unable to feel or move any part of her body from the chest down," said Allen. "This is a very important fact our first jury was not able to consider in their $43 million verdict because it only happens to 3% of spinal cord injured patients. So we couldn't even mention it."

25. The third paragraph of the post discussed the syrinx, as well as C.K.'s alleged brain damage. The third paragraph also reiterated the suggestion that the syrinx was kept from the jury, even though the syrinx had not been diagnosed at the time of the first trial. The third paragraph also stated that the evidence of brain damage was kept from the jury, even though such evidence had been barred due to Respondent's failure to disclose it before trial. The third paragraph of the post further stated that a fair and reasonable verdict would be $100 million. Finally, the third paragraph explicitly stated that the trial of C.K.'s case, which was underway, was a retrial:

> Co-counsel Otto Shragal said, "once the new jury hears about [C.K.]'s syrinx *and* her brain damages – both were kept from the jury at the last trial – we expect the jury to return a fair and reasonable verdict in a range closer to $100 million. That would

> serve justice." But the jury *should* be told this is a new trial so they understand why it's taken so long. Why not?

26. The remainder of the post discussed types of evidence that are routinely barred from personal injury trials based on long-standing precedent, court rules, or statutes:

> This is just one example of how jurors are routinely kept in the dark about important evidence. Similarly, jurors never learn that all expenses paid by Medicare, Medicaid and private health insurance must be *repaid* after trial to the insurance companies and the government directly before plaintiffs receive any money. Jurors are also never told that lawyer's fees and expenses, anywhere from one-third to one-half of the jury's verdict – are taken out of Plaintiff's share of the verdict (after repayment of all medical expenses). And if a prior settlement has been made with another party, that settlement is deducted from any verdict.
>
> Jurors are also seldom told that an injured worker **can't** sue a negligent employer, regardless of how egregious the employer's negligence; the employer's only duty is to pay worker's compensation benefits to the injured worker – which, again, the injured person must repay from any verdict he or she wins against another company. And, in criminal cases, the Defendant's past criminal convictions are routinely kept quiet no matter how relevant those past convictions are to the trial.
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> These laws should be changed so that jurors can learn the *entire* story. If you agree, please write your State Representatives and Senators, and Members of the U.S. Congress, to demand that jurors be told the *whole* truth! Make your voice heard before you or a family member is called to serve as a "kept in the dark" juror!

27. On the afternoon of July 12, 2023, the fourth day of the trial, an insurance representative monitoring the trial overheard a juror mention the word "retrial" to other jurors during a sidebar and disclosed what he heard to defense attorneys. Defendants then moved for a mistrial. The court denied the motion, ruling that the witness's merely overhearing "retrial" was not enough to conclude anything improper had occurred.

28. On the evening of July 12, 2023, defendants discovered the existence of the blog and Facebook posts described in paragraphs 23 through 26, which had been posted since July 7, 2023. Defendants again moved for a mistrial. The court denied the motion. The trial proceeded to conclusion. Following closing arguments, the defendants moved for a mistrial for a third time. The court denied the motion.

29. On July 14, 2023, the jury returned a verdict in favor of the plaintiffs that totaled $43,825,000 ($38,825,000 for C.K. and $5,000,000 for M.K.). Defendants filed a motion for a new trial, arguing that Respondent's blog and Facebook posts inherently deprived them of a fair trial. The trial court denied the motion, and defendants appealed to the First District Appellate Court.

Appeal and Reversal

30. On March 31, 2025, the First District Appellate Court remanded the case for a new trial, issuing an opinion that reversed the trial court's denial of the motion for a new trial and vacated the verdict and judgment entered in favor of the plaintiffs. The Appellate Court based its reversal on the Respondent's publication of the blog and Facebook posts described in paragraphs 23 through 26, above, and specifically held that Respondent violated Rule 3.6 of the Illinois Rules of Professional Conduct by publishing the posts.

31. The Appellate Court held that the posts were a real and serious effort by Respondent to reach the jury and influence its verdict by communicating information that was highly prejudicial to the defendants' right to a fair trial. The Court held that Respondent's efforts were intentional, or at least recklessly disregarded the likelihood that jurors could have been exposed to information about the case that was inaccurate, misleading, and in contravention of well-established rules governing the information received by jurors during personal injury trials.

32. The Appellate Court held that Respondent's intentional or reckless conduct was shown in four ways: (1) by the posts' use of the precise search terms that a person interested in the case would most likely have searched on the Internet, including the case's full caption and docket number, the full names of two of the three defendants, and the full names of plaintiff C.K., Respondent, and Respondent's co-counsel; (2) by the posts' publication on websites that a person interested in the case or in the Respondent would be likely to look, that is, the website and Facebook page of the Respondent's law firm (noting that Respondent is an attorney who has invested heavily in his own name recognition through television advertising); (3) by the timing of the posts' publication -- the second and final day of jury selection in the trial that was the subject of the posts; and (4) by the way that the headline "What Jurors Should Know But Don't" and the text of the posts were blatantly directed toward grabbing the attention of those specifically serving as jurors.

33. The Appellate Court further held that Respondent's posts were an attempt to have the jury return an inflated verdict by circumventing rules of evidence and trial procedure that exist in personal injury cases to ensure that both plaintiffs and defendants receive a fair trial, including that a prior jury in the same case had reached a $43 million verdict but that a fair and reasonable verdict would be over twice as much as the first verdict, and that that insurance payments, attorney's fees, and pretrial settlement amounts are deducted from any verdict.

34. As of January 12, 2026, the date this complaint was submitted to the Commission's Inquiry Panel, Respondent has continued to advertise on his website both the first and second verdicts in C.K.'s case, both of which have been vacated. Respondent's website does not state that the verdicts were vacated, and does not state that they were vacated due to Respondent's conduct.

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

a. while participating in the litigation of a matter, 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 in the matter, by conduct including while representing the plaintiffs in the retrial of C.K's case, causing the publication of a post to the blog of Respondent's law firm and to its public Facebook page which contained information that the jury in C.K.'s case was prohibited from hearing, and which was highly prejudicial to the defendants, in violation of Rule 3.6(a) of the Illinois Rules of Professional Conduct (2010);

b. failing to make reasonable efforts to ensure that the conduct of a nonlawyer, over which the lawyer has direct supervisory authority, is compatible with the professional obligations of the lawyer, by conduct including failing to ensure that the consultant, which Respondent retained and supervised, did not publish a post to the blog of Respondent's law firm and to its public Facebook page during the retrial of C.K's case which contained information that the jury in that case was prohibited from hearing, and which was highly prejudicial to the defendants, in violation of Rule 5.3(b) of the Illinois Rules of Professional Conduct (2010); and

c. engaging in conduct prejudicial to the administration of justice, by conduct including causing the publication of a post to the blog of Respondent's law firm and to its public Facebook page which contained information that the jury in the retrial of C.K.'s case was prohibited from hearing, and which was highly prejudicial to the defendants, in violation of 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,

Lea S. Gutierrez, Administrator
Attorney Registration and
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