UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Matter of:	)	
	)	
JoAnne Marie Denison,	)	**Proceeding No. D2016-01**
	)	
Respondent.	)	
	)	

FINAL ORDER UNDER 37 C.F.R. § 11.56(c)

Pursuant to 37 C.F.R. § 11.56(c), JoAnne Marie Denison ("Respondent") requests the Director of the United States Patent and Trademark Office ("USPTO" or "Office") to reconsider the Final Order Under 37 C.F.R. § 11.24, issued on February 7, 2017. In that Final Order, the USPTO Director suspended Respondent from the practice of patent, trademark, and other non-patent matters before the Office for violation of 37 C.F.R. § 11.804(h). (Exhibit (Ex.) A). After reviewing Respondent's arguments, for the reasons set forth below, Respondent's request for reconsideration is **DENIED**.

I. PROCEDURAL HISTORY

On August 24, 2016, the Director of the USPTO's Office of Enrollment and Discipline ("OED Director") served a "Complaint for Reciprocal Discipline Pursuant to 37 C.F.R. § 11.24" ("OED Complaint") on Respondent. (Ex. B). The OED Director requested that the USPTO Director impose reciprocal discipline on Respondent using the procedures set forth in § 11.24 for violating 37 C.F.R. § 11.804(h), by being suspended on ethical grounds by a duly constituted authority of a State. (*Id.*).

On August 31, 2016, the Deputy General Counsel for General Law, on behalf of the USPTO Director, issued an Order giving Respondent 40 days to file a response "containing all information that Respondent believes is sufficient to establish, by clear and convincing evidence,

a genuine issue of material fact that the imposition of the discipline identical to that imposed by the Supreme Court of Illinois in *In re: JoAnne Marie Denison*, M.R. 27522, would be unwarranted and the reasons for such claim." (Ex. C) (Notice and Order Pursuant to 37 C.F.R. § 11.24, at 1-2).

On October 11, 2016, Respondent filed a "Response to Notice to Notice to Rile (sic) Response to 37 CFR Sec 11.24" ("Response"), contesting the imposition of a reciprocal suspension on multiple grounds. (Ex. D). This Response was timely, but was delayed in the mail, and was not received by the USPTO until October 20, 2016.

Not yet having received Respondent's response, on October 17, 2016, the Deputy General Counsel for General Law, on behalf of the USPTO Director, issued a Final Order Pursuant to 37 C.F.R. § 11.24 suspending Respondent from the practice before the USPTO in patent, trademark, and other non-patent matters for a period of three (3) years for violating 37 C.F.R. § 11.804(h). (Ex. E). However, this Final Order was immediately withdrawn on October 24, 2016 (Ex. F) upon the USPTO's receipt of Respondent's timely-filed Response on October 20, 2016.

On February 7, 2017, the USPTO Director issued a Final Order Under 37 C.F.R. § 11.24 finding that Respondent did not meet the codified standards for imposing reciprocal discipline based on a state's disciplinary adjudication, pursuant to 37 C.F.R. § 11.24(d) and in accordance with *Selling v. Radford*, 243 U.S. 46 (1917). (Ex. A). Respondent was suspended from the practice of patent, trademark, and other non-patent law before the USPTO for a period of three (3) years, effective the date of the Final Order. (*Id.*)

On February 23, 2017, Respondent filed a "Motion to Reconsider Order of Feb 7, 2016 (sic) Based upon Newly Discovered Evidence" ("Motion"), pursuant to 37 C.F.R. § 11.56(c)

seeking reconsideration of the sanction imposed by the USPTO Director. (Ex. G). Respondent challenges the Director's decision by asserting new evidence and alleging that the USPTO Director made errors of law in issuing the Final Order. Respondent alleges that new evidence supports her argument that her due process rights were violated (*Id.* at 3), and alleges that the USPTO Director committed errors in law in evaluating her claim that the decisions of the Illinois Attorney Registration & Disciplinary Commission's (ARDC) Hearing Board and Review Board violated her due process rights (*Id.* at 9-10); were politically motivated (*Id.* at 16-17), ignored applicable Federal and state statutes (*Id.* at 15-16; 18-19), and misrepresented case law (*Id.* at 19-23).

After reviewing Appellant's arguments, for the reasons set forth below, Appellant's Motion for Reconsideration is DENIED.

II. LEGAL STANDARD

The regulations authorize the USPTO Director to grant a request for reconsideration or modification of the Director's Final Order if the request is based on newly discovered evidence, or an error of law or fact. *See* 37 C.F.R. § 11.56(c). The standard of review governing requests under § 11.56(c) has not been defined beyond what appears in the regulations. Although the Federal Rules of Civil Procedure are not applicable in administrative proceedings,[1] the courts have at times looked to them for useful guidance in judging actions taken by the USPTO.[2] Because the standard of review used by federal courts for motions to alter or amend a judgment under Rules 59(e) and 60 of the Federal Rules of Civil Procedure are most similar to Requests for Reconsideration pursuant to § 11.56(c), that standard is applied to the instant Request.

[1] *See Bender v. Dudas*, No. 04-13012006 WL 89831, at *23 (D.D.C. Jan. 13, 2006).
[2] *See Gerritsen v. Shirai*, 979 F.2d 1524, 1532 (Fed. Cir. 1992).

Federal courts have clarified that the standard of review for Rules 59(c) and 60 are narrow and limited to only certain circumstances involving new evidence, or to correct errors or law or fact. *See Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir. 1993). Any new evidence submitted must not have been available before the issuance of the final decision. *See Boryan v. United States*, 884 F.2d 767, 771 (4th Cir. 1989) ("Evidence that is available to a party prior to entry of judgment, therefore, is not a basis for granting a motion for reconsideration as a matter of law.") (citing *Frederick S. Wyle P.C. v. Texaco, Inc.*, 764 F.2d 604, 609 (9th Cir. 1985)). Reconsideration "would be appropriate where, for example, the Court has patently misunderstood a party, or has made a decision outside the adversarial issues presented to the Court by the parties, or has made an error not of reasoning but of apprehension." *Above the Belt, Inc. v. Mel Bohannan Roofing, Inc.*, 99 F.R.D. 99, 101 (E.D.Va. 1983); *United States v. Ali*, No. 13-3398, 2014 WL 5790996, at *3 (D. Md. Nov. 5, 2014).

It is long-settled that requests for reconsideration[3] are not a vehicle to state a party's disagreement with a final judgment. *See Hutchinson*, 994 F.2d at 1082 ("mere disagreement does not support a Rule 59(e) motion"); *Arthur v. King*, 500 F.3d 1335, 1343 (11th Cir. 2007), *cert. denied*, 552 U.S. 1040 (2007) (stating that a Rule 59(e) motion cannot be used to relitigate old matters, raise argument or present evidence that could have been raised prior to the entry of judgment). A request for reconsideration should not be used to rehash "arguments previously presented" or to submit evidence which should have been previously submitted. *Wadley v. Park at Landmark, LP*, No. 1:06CV777, 2007 WL 1071960, at *2 (E.D. Va. 2007) (citing *Hutchinson*, 994 F.2d at 1081-82); *Above the Belt, Inc.*, 99 F.R.D. at 101 (holding improper a motion for reconsideration "to ask the Court to rethink what the Court had already thought through—rightly

[3] Such requests refer to either motions to alter or amend a judgment (Fed. R. Civ. P. 59(e)), or motions for relief from a judgment or order (Fed. R. Civ. P. 60).

or wrongly"); *Durkin v. Taylor*, 444 F. Supp. 879, 889 (E.D. Va. 1977) (stating that Rule 59(e) is not intended to give "an unhappy litigant one additional chance to sway the judge").

While requests for reconsideration are permitted, they are seldom granted. These types of motions are extraordinary remedies reserved only for extraordinary circumstances. *See Dowell v. State Farm Fire & Cas. Auto. Ins. Co.*, 993 F.2d 46, 48 (4th Cir. 1993) (limiting relief under Rule 60(b)(6) to "extraordinary circumstances"); *Projects Mgmt. Co. v. DynCorp Int'l, LLC*, 17 F. Supp. 3d 539, 541 (E.D. Va. 2014), *aff'd*, 584 F. App'x 121 (4th Cir. 2014) (reconsideration of a judgment after its entry is an "extraordinary remedy which should be used sparingly") (quoting *Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998)); *see also Netscape Commc'ns Corp. v. ValueClick, Inc.*, 704 F. Supp. 2d 544, 546 (E.D. Va. 2010)).

Thus, the standard of review for a Request for Reconsideration under § 11.56(c) is very high, and such requests should be granted sparingly and only in extraordinary circumstances. For the reasons discussed below, Respondent has not proffered any arguments or evidence that satisfies the standard of review.

III. ANALYSIS

In moving for reconsideration, the Respondent requests that the Final Order be dismissed. However, Respondent does not present any newly discovered evidence, or identify errors in law or fact that support her argument that the Final Order warrants dismissal.

A. Respondent Does Not Present Newly Discovered Evidence.

Respondent submits her request for reconsideration based on alleged newly discovered evidence, claiming that her due process rights were violated by the USPTO in pursuing disciplinary action against Respondent. (Ex. G, at 3). Respondent argues that the decision issued by the ARDC is invalid because the court reporter employed to transcribe her disciplinary

hearing before the ARDC in 2015 did not at that time possess a valid license. (*Id.* at 3-4). Respondent attaches a copy of a Consent Order from the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation, dated November 14, 2016, wherein Ms. Jo Ann Messina-Egan agreed to the allegation that she practiced as a Certified Shorthand Report on a non-renewed license since May 31, 2015, and agreed, among other conditions, to be voluntarily placed on inactive status. (Ex. H).

Because the court reporter did not possess a valid license at the time of hearing, Respondent argues that the decision of the ARDC was also invalid pursuant to Illinois law, alleging that "if an Illinois Court Reporter is unlicensed at the time of taking transcripts, no judgement may be rendered thereupon." (Ex. G, at 3). Respondent appears to be referring to section 13 of the Illinois Certified Shorthand Reporters Act of 1984, 225 ILL. COMP. STAT. ANN. 415/13 (West 2017), which Respondent previously asserted in her Response. (Ex. D, at 32). This section states,

> No action or suit shall be instituted, nor recovery therein be had, in any court of this State by any person for compensation for any act done or service rendered, the doing or rendering of which is prohibited under the provisions of this Act to other than certified shorthand reporters.

225 ILL. COMP. STAT. ANN. 415/13.

First, the evidence submitted by Respondent is not considered new evidence sufficient to support her request for reconsideration, because it appears that it was available to Respondent before the issuance of the USPTO Director's Final Order. In *Boryan*, the court stated that for evidence to be considered new, it must not have been available before the issuance of the final decision. 884 F.2d at 771. Although the court reporter's Consent Order was issued on November 14, 2016, which occurred after Respondent submitted her Response on October 11, 2016, the Consent Order was available to Respondent to submit to the USPTO Director prior to the

issuance of the Final Order on February 7, 2017. Respondent had opportunity to submit the Consent Order, but chose not to do so at that time, and thus this evidence cannot be considered "new".

Second, even if the evidence could be considered to be "new," Respondent misunderstands and misapplies section 13 of the Illinois Certified Shorthand Reporters Act of 1984. This provision does not support Respondent's argument that court proceedings transcribed by unlicensed court reporters are automatically void. Section 13 is entitled "Prohibition of compensation for uncertified reporters,"[4] (Ex. I) and a plain reading of the provision suggests that the intent of the statute is to prohibit court reporters from seeking, though legal action, compensation for acts or services rendered while unlicensed. This statute does not appear to invalidate any matters transcribed by an unlicensed court reporter, as argued by Respondent, and Respondent does not cite to any other statute that states otherwise. Moreover, Respondent does not make any argument indicating that she was prejudiced by the transcript of her disciplinary hearing. Thus, Respondent has not submitted any new evidence that would warrant the dismissal of the Final Order.

Respondent also submits documents that she claims are newly discovered, unseen, and never filed or stamped by the probate court, and which she alleges prove the truthfulness of the statements for which she was disciplined by the ARDC. (Ex. J). The ARDC disciplined Respondent for statements about certain judges, guardians ad litem, and lawyers accusing them of engaging in prohibited ex parte communications and committing other inappropriate conduct in the Mary Sykes probate matter. Respondent argues that these documents, which were found in

[4] The heading information appears in the Illinois Certified Shorthand Reporters Act of 1984 as published in West's Smith-Hurd Illinois Compiled Statutes Annotated. The State of Illinois does not maintain an official compilation of statutes enacted by the Illinois General Assembly.

a box containing the official records from Mary Sykes' probate proceedings, allegedly coming from "the judge's 'private' files" (Ex. G, at 3 n.1), prove that such misconduct took place. (*Id.* at 25-28; 32). Respondent identifies the following five documents that show evidence of the improper conduct: (1) a "secret" fax cover sheet (attachment missing) from guardian ad litem Ms. Farenga to the court allegedly showing her attempt to make false statements to the court about the filing of a certificate of incompetency; (2) a document that appears to be a corrected inventory of assets that was allegedly withheld from the record; (3) copies of cashier's checks paid to the order of Gloria J. Sykes (Mary Sykes' daughter), withdrawal transaction receipts, and account statements showing evidence of an allegedly secret investigation by the court into the funds of Gloria Sykes; (4) a "secret fax" entitled "Emergency Supplemental Guardian Ad Litem Report" from guardian ad litem Cynthia Farenga to the court allegedly showing Ms. Farenga's attempt to request the court to "stop[] and cover[] up" Mary Sykes' attorney Kenneth Ditkowsky's efforts to investigate the case on behalf of Gloria Sykes; and (5) a report written by Thomas J. Kleinhenz, Executive Director, and Benjamin Topp, Director of Case Management Services, from Rehab Assist, Inc., to the court showing evidence of the court's alleged disclosure of information only to "select litigants". (*Id.* at 26-28).

The records submitted by Respondent cannot be considered new evidence as their origin and authenticity cannot be confirmed. First, they do not appear to have been certified by the probate court as part of the Administrative Record after their alleged discovery. They are not accompanied by a certification statement by the court or any other letter identifying their origin. Second, these documents do not appear to have any markings or date stamp indicating receipt by the probate court after their alleged discovery. Because they are not accompanied by an official certification from the court and their origin cannot be identified, their authenticity cannot be

confirmed. Thus, these documents are unable to be submitted as "new" evidence to support Respondent's various claims of improper activities by the court or court appointed individuals.

Even if these documents were certified and authenticated, a substantive review of the documents do not conclusively show ex parte communications or improper conduct by the court, as alleged by Respondent. The submission consists of a random selection of documents, some missing attachments and others that appear to be incomplete, related to the Mary G. Sykes probate proceeding. None show any obviously prohibited communications, but instead they are documents that would be generated normally as part of a probate proceeding, such as status reports, fax coversheets to and from the court, and pleadings submitted to the court. They show no evidence of any inappropriate conduct by any party. Respondent claims that the mere existence of these allegedly "secret" documents show evidence of the court's alleged improper communication with select individuals, to the exclusion of other parties. (Ex. G, at 25; 32). However, Respondent's arguments are speculative as Respondent was not privy to the documents or information that were or were not shared with the court, or that should have been shared with other individuals involved in the matter. She did not serve as an attorney for Mary Sykes (Ex. G, at 7), or play any other legal role, such as a legal representative for any other party to the action. (*Id.*). Respondent was merely an outside party in the probate proceeding, and was involved only in the capacity as a personal friend of Mary Sykes (*Id.* at 12) and potential witness. *In re JoAnne Marie Denison*, Commission No. 2013PR0001, at *7 (Nov. 2014) (Ex. K, at 4). Thus, Respondent would have no actual knowledge of the proceeding sufficient to conclude that these documents show that the court was improperly conducting ex parte communications or withholding documents from certain parties.

In addition, a careful review of the documents show that some were in fact properly

shared with parties to the action, which contradicts Respondent's claims. One of the documents, which was allegedly a "secret" communication between the court and Ms. Farenga, appears to have been sent to other involved parties, as evidenced by the date/time/sender/page number information auto-stamped on the edge of the page when transmitted by fax, which shows the name of the Ditkowsky Law Office. This shows that Mr. Ditkowsky's office has possession of the fax since it bears his office's name. (Ex. L) Another document, entitled Emergency Supplemental Guardian Ad Litem Report, was alleged to be a "secret fax" from Ms. Farenga to the court, however it had a proof of service attached certifying distribution to all parties involved in the proceeding. (Ex. M). Thus, it appears that this report was not an ex parte communication since other parties were sent the document. The issue of whether these documents should have been included in the official Administrative Record for the probate matter is a procedural issue that is not appropriate for the USPTO Director to decide. Thus, the documents submitted do not constitute new evidence that would warrant the dismissal of the Final Order.

B. Respondent Does Not Identify Any Errors of Fact or Law That Warrant Amendment or Dismissal of the Final Order.

Respondent provided abundant arguments in her Motion related to her perceived unfairness or impropriety during Mary Sykes's probate proceedings, but only a handful have any relevance to her disciplinary proceeding. The relevant arguments involve the decisions of the ARDC Hearing Board and Review Board, which Respondent argues violated her due process rights (Ex. G, at 9-10); ignored applicable Federal and state statutes (*Id.* at 15-16; 18-19); were politically motivated (*Id.* at 16-17); and misrepresented case law (*Id.* at 19-25). However, these arguments do not assert any errors in law or fact in the USPTO Director's final order, but merely repackage the same arguments previously asserted in the Response. For example, Respondent again argues that her due process rights were violated, but her argument merely amounts to a

disagreement with the USPTO Director's finding that Respondent had the opportunity to meaningfully participate in her trial before the ARDC. Respondent provides no new evidence to show that she did not fully participate in her disciplinary hearing. Respondent also restates her argument that the ARDC's decision was wrongful and politically motivated but provides no additional information or proof to show that Respondent was the subject of unfair prosecution, warranting reversal of the USPTO Director's Final Order.

Although not expressly asserted as such, Respondent attempts to argue an error in law by claiming that the USPTO Director ignored various Federal and state laws protecting her activities (Ex. G, at 15-16; 18-19), and misunderstood the First Amendment cases addressing political speech (*Id.* at 19-25). Although the Final Order clearly indicated that the cited Federal and state laws[5] did not apply to Respondent's matter, Respondent re-asserts their applicability, arguing that the laws either protects her from liability or allows her actions. A review of Respondent's arguments show that Respondent incorrectly applies these statutes to her disciplinary matter, and fails to demonstrate an error in law by the USPTO Director. For example, Respondent cites to the Adult Protective Services Act, 320 ILL. COMP. STAT. ANN. 20,[6] asserting that it does not prohibit her from publishing reports of elder abuse on her weblog. (Ex. G, at 15; 18). Respondent's attempt to apply this statute to her blogging activities is plainly

[5] 320 ILL. COMP. STAT. ANN. § 20 ("Adult Protective Services Act") (granting authority to the Department on Aging of the State of Illinois to establish a protective services program for eligible adults who have been, or are alleged to be, victims of abuse); 42 U.S.C. § 12203 (prohibiting against retaliation and coercion against any individuals who make a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing concerning the equal opportunities for individuals with disabilities); 735 ILL. COMP. STAT. ANN. § 5/8-901 to 8-909 ("Reporter's Privilege") (citation corrected) (providing that a court may not compel any person to disclose the source of any information obtained by a reporter); 47 U.S.C. § 230 ("Communications Decency Act"); and 735 ILL. COMP. STAT. ANN. § 110-1/2 ("Citizen Participation Act") (name of statute and citation corrected) (providing citizens the right to dismiss lawsuits called "Strategic Lawsuits Against Public Participation" (SLAPP) when engaging in First Amendment protected speech and when petitioning activity related to government).

[6] This statute authorizes the Department on Aging of the State of Illinois to establish a protective services program for eligible adults who have been, or are alleged to be, victims of abuse, neglect, financial exploitation, or self-neglect. 320 ILL. COMP. STAT. ANN. 20/3.

incorrect. This statute addresses the administration of a protective services program for the abuse of elders, and in no way authorizes or regulates the publication of reports of elder abuse through a weblog. Respondent also attempts to assert that the Citizen Participation Act, 735 Ill. Comp. Stat. Ann. § 110-1/2, applies to her weblog. However, Respondent misapplies this statute, which is meant to provide citizens with legal immunity from Strategic Lawsuits Against Public Participation (SLAPP)[7] and to establish an expedited dismissal procedure to dispose of those civil actions. Respondent's disciplinary matter does not fall within the definition of a SLAPP and thus the provisions of the statute do not apply. Respondent similarly misapplies the remaining Federal and state statues cited to protect her activities, however each are clearly not relevant and Respondent provides no further legal analysis of their applicability. More importantly, each argument fails to show any error in law by the USPTO Director.

With regard to her First Amendment arguments, Respondent fails to identify any error in law committed by the USPTO Director. Respondent again asserts *United States v. Alvarez*, 567 U.S. 709 (2012) (Ex. G, at 20) and *Garrison v. Louisiana*, 379 U.S. 64 (1964) (Ex. G, at 21-22), but she either misapplies the holding in these cases, or merely recycles the same arguments, nearly verbatim, from the Response. Among her various assertions, Respondent appears to argue that the USPTO Director incorrectly applied the standard of review for defamation when reviewing her statements (*Id.* at 20-21; 24) rather than the standard of review applicable to "speech directed against those in public service or conducting or involved in conducting their official duties," as set forth in *In re Sawyer*, 360 U.S. 622 (1959) (*Id.* at 20). Respondent argues that her statements, similar those analyzed in *In re Sawyer*, concerned merely criticisms of "the

[7] Strategic Lawsuits Against Public Participation or "SLAPPs" are civil actions brought to discourage citizens from exercising a constitutional right to petition, speak freely, associate freely, or otherwise participate in or communicate with government in opposition to the interests of the plaintiff. *See* Eric M. Madiar and Close Terrence J. Sheahan, *Illinois' New Anti-SLAPP Statute*, 96 ILL. B.J. 620 (2008).

lack of jurisdiction in the Sykes case, the lack of notice to the elderly sisters, the suppression of discovery of missing assets in the case, the ex parte conversations, the excessive attorneys fees," (*Id.* at 20), which is the type of speech protected under *In re Sawyer*. However, Respondent's arguments fail for two reasons. First, Respondent is incorrect in her allegation that the USPTO Director erred when applying the standard of review. The USPTO Director properly considered the action under the standard of review set forth under 37 C.F.R. § 11.24(d)(1),[8] and did not incorrectly evaluate her statements in the context of defamation law. (Ex. A, at 8-13). Second, while Respondent is correct that the Court in *In re Sawyer* held that lawyers are free to "criticize the state of the law," 360 U.S. at 631, or to assert that a judge was "wrong on his law" *Id.* at 635, the Court took exception to statements that impugned the integrity or competence of a judge, such as accusations that a judge "was corrupt or venal or stupid or incompetent." *Id.* Such impugning statements are exactly what Respondent was disciplined for by the ARDC and thus the Court's holding *In re Sawyer* would not apply here. Respondent argues that her statements were mere criticisms, however, she fails to provide any analysis of the statements that she was disciplined for to show that they were in fact criticism of public officials in the vein set forth in *In re Sawyer*, and not false and reckless impugning statements, as charged by the ARDC. Without such analysis, Respondent has failed to show any error in law by the USPTO Director.

Finally, Respondent attempts to argue that the USPTO Director misapplied *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310 (2010) in the Final Order. (Ex. G, at 20). However, instead of providing a legal analysis, Respondent asserts that this case was cited as an

[8] The regulations governing the standard of review for imposing reciprocal discipline based on a state's disciplinary adjudication, codified at 37 C.F.R. § 11.24(d)(1), requires the Respondent to show by clear and convincing evidence that there is a genuine issue of material fact with regard to the following factors: (1) a lacking in notice or opportunity to be heard as to constitute a deprivation of due process; (2) an infirmity of proof of the misconduct; (3) that grave injustice would result from the imposition of reciprocal discipline; or (4) that the practitioner was not subject to discipline by the state. These factors mirror the standard set forth in *Selling v. Radford*, 243 U.S. 46 (1917).

example to show that the attorneys who produced a film about candidate Hillary Clinton were never disciplined, despite the fact that the film was allegedly filled with "conjecture, false innuendo, damaging and scathing derogatory comments and chock full of conspiracy theories" against Hillary Clinton, because such speech was held to be protected as political speech under the First Amendment. (Ex. G, at 22). Respondent's implication is that because these attorneys were not disciplined, Respondent should not be disciplined either. However, this argument contains no legal analysis that discusses how Respondent's statements for which she was disciplined for fall within the scope of such speech. Respondent merely argues by analogy and does not identify any standard of review or analyze how her statement were political in nature beyond the fact that they were directed at political officials. Thus, Respondent has failed to demonstrate any errors in law or fact by the USPTO that would warrant the dismissal of the Final Order.

ORDER

Having considered Respondent's Request under 37 C.F.R. 11.56(c), it is hereby ordered that the Request is **DENIED**.

If Respondent desires further review, Respondent is notified that she is entitled to seek judicial review on the record in the U.S. District Court for the Eastern District of Virginia under 35 U.S.C. § 32 "within thirty (30) days after the date of the order recording the Director's action." *See* E.D.Va. Local Civil Rule 83.5.

(signature page follows)

10/25/17
Date

Sarah T. Harris
General Counsel
United States Patent and Trademark Office

on delegated authority by
Joseph D. Matal
Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office

cc:

Office of Enrollment and Discipline
Mailstop OED
USPTO
P.O. Box 1450
Alexandria, VA 22313-1450

Ms. JoAnne Marie Denison
Justice 4 Every 1, NFP
5330 W. Devon Ave #6
Chicago, IL 60646
[redacted]
Respondent