



NATIONAL LEGAL AND POLICY CENTER

September 1, 2026

Tina M. Wells
Milton L. Williams, Jr.
Committee Chairs
Attorney Grievance Committee
State of New York
Supreme Court Appellate Division
First Judicial Department
180 Maiden Lane – 17th Floor
New York New York 10038

Re: Reconsideration Request
Matter of Robert A. Kaplan, Esq.
Docket No. 2026.2605

Dear Chair Wells and Chair Williams:

The National Legal and Policy Center (NLPC) hereby files this Reconsideration Request of the summary dismissal by Chief Counsel Jorge Dopico dated August 3, 2026 (Exhibit 1), of our 15-page complaint filed against Roberta A. Kaplan on July 2, 2026 (Exhibit 2), alleging serious violations of New York's Rules of Professional Conduct. The dismissal was made without conducting any investigation, let alone a "thorough investigation" that this Committee promises to undertake for misconduct complaints.¹

The gravamen of our complaint was that Ms. Kaplan waited almost six months after the deposition of her client, E. Jean Carroll, until the eve of trial to correct Ms. Carroll's false

¹ The AGC "*safeguards the reputation of the legal profession by enforcing high standards of conduct, while at the same time **ensuring that complaints are thoroughly investigated**.*" <https://www.nycourts.gov/courts/AD1/Committees&Programs/DDC/How%20to%20File%20a%20Complaint%2007.30.2020.pdf> at 2 (emphasis added).

statement in an October 2022, deposition that she was not receiving any third-party or outside funding for her defamation lawsuit against Donald Trump. (Exh. 2 at p.3). In doing so, Ms. Kaplan further violated the Rules of Professional Conduct and her duty as an officer of the court by misleading the trial court and counsel with her explanation as to why she waited so long to correct the record.

In dismissing our complaint out of hand, Mr. Dopico was profoundly mistaken when he represented that I had “indicated that this matter was brought before and addressed by the court handling this lawsuit,” and then erroneously concluded that “judicial determinations of such matters is helpful as this Committee is not the proper forum for re-litigating issues that were previously, or should have been, decided by the court of first review.” Exh. 1.

In fact, the “matter” that was brought before the court was *not Ms. Kaplan’s* unethical conduct but whether her client had lied under oath in her deposition by answering “No” to defense counsel’s question as to whether she was receiving outside funding. The court addressed *that* “matter” by allowing counsel to depose Ms. Carroll again “*limited to the subject of Ms. Carroll’s knowledge of the financing assistance as of the date of her deposition and as of the present....*” Judge Lewis A. Kaplan Order, April 13, 2023 (ECF 110) (Exhibit 2 at p.12) (emphasis added). Thus, the court clearly did *not* address the unethical conduct by *Ms. Kaplan* alleged in the complaint for her delay in correcting the record for almost six months, let alone address the other “matters” in NLPC’s complaint alleging professional misconduct by Ms. Kaplan.² Notably, Mr. Dopico did not claim, nor could he, that our allegations, if true, do not constitute claims of professional misconduct.

Accordingly, we request that the summary dismissal of our complaint be reconsidered, that Mr. Dopico’s dismissal of our complaint be vacated, and that the Committee should at least begin its initial investigation of NLPC’s complaint.³

ALLEGATIONS OF PROFESSIONAL MISCONDUCT BY MS. KAPLAN IN NLPC’S JULY 2, 2026, COMPLAINT

Rather than repeat the allegations of professional misconduct in NLPC’s 15-page complaint, which Mr. Dopico did not claim were not violations of the Rules of Professional

² NLPC’s complaint includes allegations of other professional misconduct never addressed by the court, including charging excessive fees and a failure to get informed consent from her client to receive outside litigation funding from a nonprofit directed and funded by Reid Hoffman, an associate of Jeffrey Epstein.

³ If a complaint is not dismissed (or if the dismissal is overturned), “*a paralegal sends the complaint to the respondent for an answer to the allegations. Thereafter, the paralegal may forward the answer to the complainant for a reply, and the reply is sent to the respondent.*” **2025 Annual Report: Attorney Grievance Committee, Supreme Court, Appellate Division, First Judicial Department** at 28-29. It is incumbent on this Committee to at least obtain Ms. Kaplan’s response to these serious allegations of professional misconduct.

Conduct if true, NLPC respectfully submits that after reviewing the complaint, we trust that Mr. Dopico's decision to dismiss it without any investigation will be overturned by the Chair.

The following is a summary and excerpts of the allegations:

1. Failure to Timely Correct Ms. Carroll's False Answer Given at her Deposition.

During E. Jean Carroll's deposition in *Carroll v. Trump*, No. 1:20-cv-7311 (LAK) ("Carroll I") on October 14, 2022, the following exchange took place:

Q: Are you presently paying your counsel's fees?

A: This is a contingency case.

Q: So you're not paying expenses or anything out of pocket to date; is that correct?

A: I'm not sure about expenses. I have to look that up.

Q. Is anyone else paying your legal fees, Ms. Carroll?

A: No.

Dep. Tr. at 209:11-21.⁴

Regardless of whether Ms. Carroll perjured herself or was mistaken during her deposition, *it was clear at that moment that Ms. Kaplan knew that her answer was false as to any other source of legal fees and failed to correct the record for almost six months until the eve of trial*. It was incumbent on Ms. Kaplan, either during a break in the deposition to remind Ms. Carroll of the Reid Hoffman funding arrangement so she could correct her answer after the break, or correct it on the deposition errata sheet after reviewing the transcript of the deposition. She did neither.

Instead, Ms. Kaplan waited nearly *six months*—from October 14, 2022, until April 10, 2023, on the eve of trial—before informing opposing counsel and the court of the true facts regarding the third-party funding. Even then, she delayed disclosing the funding source's

⁴ See Letter from Alina Habba to Judge Lewis Kaplan with Exhibits A-F (April 13, 2023), *Carroll II* (ECF 108) (Exh. 2 at p.3).
<https://assets.bwbx.io/documents/users/iqjWHBFdfxIU/r3oEzrMqhcWU/v0>

identity. NLPC submits that this excessive delay in correcting the record constituted unethical and unprofessional conduct and should not be countenanced by the AGC.

Rule 3.3(a)(3) of the Rules of Professional Responsibility states: “If a . . . lawyer’s client . . . has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures[.]” Rule 3.4(a) states: “A lawyer shall not . . . suppress any evidence that the lawyer or the client has a legal obligation to reveal or produce [or] conceal or knowingly fail to disclose that which the lawyer is required by law to reveal[.]”⁵ See also Opinion of Legal Ethics Expert Jack Marshall attached hereto as Exhibit 3.

2. Lack of Candor to the Court Explaining the Delay in Disclosing the Truth of the Funding.

Ms. Kaplan’s shifting and contradictory explanation for her delay in disclosing the truth about the outside funding by Reid Hoffman’s nonprofit of up to \$7 million to pay for her legal fees also raises questions as to her candor with the court and defense counsel.

We were first told by Ms. Kaplan that her client had an epiphany on the eve of trial that she remembered that she was receiving outside funding for her lawsuit, having forgotten that fact six months earlier at her deposition. Exhibit 2 at p.5. Presumably, if she had not suddenly remembered the funding, that fact would be concealed to this very day.

Confusingly, Ms. Kaplan later explained to the trial court on April 13, 2023 that presumably during either a break in the October 14, 2022 deposition or shortly thereafter, she

⁵NYCLA COMMITTEE ON PROFESSIONAL ETHICS FORMAL OPINION, No. 741 (March 1, 2010):

While the phrase is not defined in the rules, the taking of a deposition is no different from calling a witness at a trial. Under certain circumstances, deposition testimony, which is offered under oath and penalty of perjury, is admissible evidence at trial.

While not formally adopted as part of the Rules, the comments to the New York Rules of Professional Conduct explicitly contemplate the applicability of Rule 3.3 to depositions:

This Rule governs the conduct of a lawyer who is representing a client in the proceedings of a tribunal. ...It also applies when the lawyer is representing a client in an ancillary proceeding conducted pursuant to the tribunal’s adjudicative authority, such as a deposition. Thus, for example, paragraph (a)(3) requires a lawyer to take reasonable remedial measures if the lawyer comes to know that a client has offered false evidence in a deposition. (Emphasis added).

<https://www.nycla.org/resource/ethics-opinion/nycla-committee-on-professional-ethics-formal-opinion-on-lawyer-learns-after-the-fact-that-a-client-has-lied-about-a-material-iss/>

*“did make an appropriate inquiry **at the time** to determine that Carroll had testified truthfully given her **then-existing knowledge.**”*⁶ For that representation to be true, Ms. Kaplan apparently asked her client “at the time” (meaning “at the time” of the deposition or shortly thereafter) whether she remembered that Ms. Kaplan’s law firm was getting outside funding, and allegedly Ms. Carroll responded in the negative (meaning that either Ms. Carroll did not remember that fact or was never told by Ms. Kaplan of the outside funding) and therefore, Ms. Kaplan can now claim that technically, her client testified *“truthfully given her **then-existing knowledge.**”* But surely if Ms. Kaplan did make an “appropriate inquiry” of Ms. Carroll, her recollection was refreshed back then but yet her epiphany did not come until six months later on the eve of trial?

Rule 8.4(c) makes it a violation of professional conduct for an attorney to “engage in conduct involving dishonesty, fraud, deceit or misrepresentation.” Rule 8.4(d) makes it a violation of professional conduct for an attorney to “engage in conduct that is prejudicial to the administration of justice.”

NLPC submits that Ms. Kaplan’s inordinate delay in correcting the false deposition testimony of Ms. Carroll as well as the contradictory and misleading excuses she offered to the court and opposing counsel for her delay, constitute “conduct involving dishonesty, fraud, deceit or misrepresentation,” is “prejudicial to the administration of justice,” and a failure to take timely “remedial measures” to correct the false testimony.

3. Failure to Get Ms. Carroll’s Informed Consent to the Third-Party Funding from Reid Hoffman, an Associate of Jeffrey Epstein.

Because of Ms. Carroll’s alleged forgetfulness in remembering that Ms. Kaplan was receiving outside funding from Reid Hoffman’s nonprofit, there is reason to believe that Ms. Carroll was not even advised by Ms. Kaplan that Reid Hoffman’s nonprofit was funding up to \$7 million in legal fees and costs for the two lawsuits filed by Ms. Carroll against Donald Trump, in addition to charging her a contingency fee.

And even if she did know about the funding, it is not clear whether Ms. Kaplan got Ms. Carroll’s informed consent in the first place to accept such funding. As discussed in our complaint, at the time of the funding, Mr. Hoffman was trying to rehabilitate Mr. Epstein’s reputation for being a convicted sex offender and had visited his notorious private island. Exhibit 2 at pp. 5-6. Did Ms. Kaplan inform Ms. Carroll about Mr. Hoffman’s association with a convicted sex offender and get her written consent to accept funding in her sexual assault lawsuit from such a person?⁷

⁶ Letter dated April 13, 2023, from Roberta Kaplan to Judge Lewis A. Kaplan at p.1 (emphasis added).
<https://storage.courtlistener.com/recap/gov.uscourts.nysd.590045/gov.uscourts.nysd.590045.109.0.pdf>

⁷ See Rule 1.8(f): “A lawyer shall not accept compensation for representing a client, or anything of value related to the lawyer’s representation of the client, from one other than the client unless: (1) the client gives informed consent....” Roy D. Simon, Simon’s New York Rules of Professional Conduct Annotated, Vol. 1 (2024 ed.) at 654 (“Simply put Rule 1.8(f) means that

4. Charging Excessive Fees – Contingency Fee plus Third-Party Funding.

Ms. Carroll did testify that her legal fees were being paid on a contingency fee basis. Under New York Rules, contingency fees are capped at one-third of any recovery.⁸ Did Ms. Kaplan charge Ms. Carroll the maximum one-third contingency fee and on top of that, was paid an additional hourly fee from Reid Hoffman's nonprofit for certain legal work? If so, the total fee charged would be an excessive fee, even if the excess over the contingency fee was paid by a third party.⁹ Were those legal fees billed to Ms. Carroll and then deducted from the Reid Hoffman grant? Did Ms. Kaplan overstaff Ms. Carroll's litigation, such as having four lawyers attend Ms. Carroll's deposition, knowing that those "legal fees" would be paid for by Reid Hoffman, whether she won the contingency fee or not, and thus, engaged in charging an "excessive fee"?¹⁰ See Exh. 2 at pp.7-8.

Conclusion

For all these reasons, including our original complaint and the Opinion of Legal Ethics Expert Jack Marshall, NLPC submits that the summary dismissal of our complaint by Chief Counsel Jorge Dopico, who did not claim that our allegations of professional misconduct would not constitute a violation of the Rules of Professional Conduct, should be vacated and that a "though investigation" be undertaken by this Committee, starting with transmitting our complaint and this request for reconsideration to Ms. Kaplan for her response.

Respectfully submitted,

/s/ Paul D. Kamenar

Paul D. Kamenar, Esq.*

1629 K Street, NW, Suite 300

Washington, D.C. 20006

a lawyer owes a client the same duties owed to a client without regard to the source of the fees the lawyer is paid, with the added proviso that a client must give 'informed consent' to the arrangement.").

⁸ <https://www.law.cornell.edu/regulations/new-york/22-NYCRR-1015.15>.

⁹ See Roy Simon, [Hybrid Fee Agreements: Okay or No-kay?](#) New York Legal Ethics Reporter (March 2000) ("*[A]n attorney's retainer agreement may provide for a combination of hourly, flat, and contingent fees, **but only if** (1) the total fee is reasonable under all of the circumstances, **and** (2) if the court rules apply in the particular case then the total fee does not exceed 33-1/3% of the client's net recovery.*") <https://www.newyorklegalethics.com/hybrid-fee-agreements-okay-or-no-kay/>

¹⁰ Rule 1.5(a) ("excessive fee" prohibited). See Peter Lattman, "Suit Offers a Peek at the Practice of Inflating a Legal Bill," New York Times (March 25, 2013). <https://archive.nytimes.com/dealbook.nytimes.com/2013/03/25/suit-offers-a-peek-at-the-practice-of-padding-a-legal-bill/>

Paul.kamenar@gmail.com

301-257-9435

Counsel to NLPC

*Member, Association of Professional Responsibility Lawyers