COLLECTIVE *ETHOS* IN THE LEGAL PROFESSION

By

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The intersection of rhetoric and professional communication scholarship focuses on persuasion in the workplace. Specifically looking at the legal profession, lawyers occupy a prestigious situation in the United States. Lawyers have the privilege to practice law, such as representing clients, advocating in court, and preserving the quality of justice. Society has placed a special trust in lawyers. This dissertation critically analyses the legal profession's available means of persuasion to gain and sustain society's trust. An understudied concept of collective *ethos* is used to consider how lawyers persuade at the societal level. The core of this dissertation is Burke's concept of identification. Through an analysis of the *Rules of Professional Conduct*, genres in the legal professional's activity system, and Disciplinary Statements of errant lawyers, this dissertation develops and defines the concept of collective *ethos* for the legal profession and other similarly situated professions. In discussion of these findings, new areas of research are proposed and questions raised for emergent professions seeking to develop and maintain collective *ethos*.

COLLECTIVE *ETHOS* IN THE LEGAL PROFESSION

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By

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DEDICATION

For my wife,

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TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

CHAPTER ONE

INTRODUCTION TO COLLECTIVE *ETHOS* OF THE LEGAL PROFESSION

"[professionals] gain their protected status by a project of successful persuasion, not by buying or capturing it at the point of a gun. They must persuade others that the discipline is of special value to the public at large…" (Friedson, 214)

Kendrik Lamar took the stage at the 59th Super Bowl Halftime show to perform several of his songs, but "Not Like Us" was the highly anticipated moment (NFL). His song "Not Like Us" is a "diss track" aimed at Drake and his OVO crew. Meaning, Lamar wrote his lyrics to humiliate and criticize another rapper, Drake, and the people who surround Drake in his fellow artists within the OVO crew. A diss track is a genre of rap music. It is understood that digs at an enemy are common and expected. The rules of a diss track are simple – fill the song with as many clever, rhymed, and unanswerable disrespecting lyrics as possible. The more a diss track derides the enemy, the more effective. And Lamar's diss track was exceptionally effective.

The track that debuted at number one on Billboards starts with immediate and continued raking against Drake. The first direct reference to his adversary is "Say, Drake, I hear you like'em young" referring to the repeated allegation that Drake is interested in underaged girls (Lamar). Lamar says these lyrics while staring down at the camera and strafing the stage with performers in red, white, and blue outfits flanking him (NFL). This rhetorical question is followed by some unsolicited advice to avoid "cellblock one" where Drake would receive the ill-fated treatment of a child molester in prison (Lamar). The next line is a warning to all of the women who like Drake, do not let "your younger sisters near him" (Lamar). The implication is of the same vein from the above dig, Drake is sexually interested in underaged girls. The rest of

the song continues with a broad, yet specific attack on Drake and OVO crew members. At the pinnacle of the assault, Lamar says the most famous line, “Tryna strike a chord and it’s probably A Minor-----,” which is a cleverly devised double entendre (Lamar). Drake has two songs in key A Minor, “Teenage Fever” and “Child’s Play.” The diss is unmistakably, if not repetitively that Drake is a child molester.

The context of this diss track is exceptional and noticeable within the performance. A defamation lawsuit is looming from Drake about Lamar’s allegation of predatory behavior, specifically statutory rape of a minor. Lamar dropped the words “certified pedophile” from his original track in the Super Bowl performance, but everyone familiar with the original version could easily fill in the missing lyrics (Lamar). The genre of diss track does not usually pull punches, but it seems the genre of super bowl performances must dampen the sting of the diss track genre. Dampen as it could, the full force of the attack was crystallized with machinegun lyric delivery on “tv off,” which functioned as Lamar’s mic-drop to Drake (Lamar). Whatever is decided by the courts, Drake was dealt the most stunning blow in the audience's mind. Music charts aside, Drake was also dealt a professional blow – he was given a public disbarment from the rapping community – he was literally told you are “Not Like Us.”

The musical community is constructed with looser bonds than the legal professional community, but similarities still exist. Lawyers and rappers still struggle for credibility among their audiences. When a lawyer or rapper is discredited, they suffer similar financial and social repercussions. It is a separation from the group. The division is always contentious. Rarely do we see lawyers lambasted on public television, like the rap artist Drake, but lawyers have their own method for dividing from and publicly humiliating colleagues. Michael Cohen is one disreputable example. Cohen was disbarred from the New York State Legal Bar on the grounds

that he plead guilty to felony and making false statements to the US Congress (Dopico). In a less formal manner, Lamar's lyrics appeal to audience and effectively says that Drake is not a rapper "like us." Lamar invokes a type of identification for rappers in these lyrics, suggesting that Drake is of a different type. Lamar clearly means to create an identification among rappers that excludes alleged pedophiles, but the broader contour of the identification remains ambiguous. Essentially, in the loose bonds of the music community a rapper can be anything but a pedophile. In the same way, a lawyer can be anything but a felonious liar, like Cohen. Some snarky readers will no doubt reply that all lawyers are liars, but, as we will see through this dissertation, society trusts lawyers until they catch them in a lie. But why does society trust lawyers in the first place? The ultimate goal of this dissertation is to question, analyze, and answer why we value – and trust is a type of value – professionals in our society.

Aristotle describes three primary appeals to rhetoric appeals. Pathos is the appeal to our emotions. Lamar's appeals to women "that talk to [Drake] and they in love, Just make sure you hide you lil' sister from him" (Lamar). Essentially, if you have concern for your younger siblings, you should not allow Drake near them. This appeal is pathos. No one's emotions would be untouched if a potential threat to some loved one is in danger. Lamar goes on, "You think the Bay gon' let you disrespect Pac,...?" (Lamar). This is an Aristotelian appeal to logic or logos. A rhetorical question that asks Drake to reason if his disrespect to Tupac is going to be unanswered by the community that still holds Tupac dearly as a type of cultural saint. Context tells us that this is Lamar's reference to Drake's diss track that sampled AI-generated voices of Tupac and Biggie Smalls. A usage that apparently requires reprisal from those close to the slain rappers. The logic appeal demonstrates that Lamar is using reason to make his argument that Drake is not like the rest of the rap community as well as issuing a threat to Drake. But Lamar's overall

Aristotelian appeal is *ethos*. Drake and his OVO crew are "Not Like Us" because they are pedophiles, cocaine-addicts, and colonizers. Allegations that are disputed at court but nevertheless have been effective in the social context of the rap community. The effect in the rap community is that one rapper gains a positive distinction and another fades into oblivion. One rapper grows an *ethos* appeal, while the other loses his appeal of credibility, integrity, and character. The song hinges on the issue of *ethos*: "who has the credibility to be a rapper." The answer, Lamar offers, is that Drake does not have that credibility, Drake is "Not Like Us." The "Us" invokes a collective of rappers and the distinction of rappers in general. Lamar is suggesting that Drake's behavior excludes him from the identification of rappers and the accompanying distinction of a rapper. According to Lamar, Drake is "Not Like Us" and does not deserve the distinction afforded to rappers because his behavior separates him from the collective *ethos* of rappers.

The Super Bowl Halftime show is a small example of what this dissertation discusses, but it serves as an introductory example of the far-reaching implications of the discussions this dissertation brings up. When discussing professionals as a feature in our society, which has been traditionally a sociological focus, we must also by necessity discuss the rhetorical underpinnings and implications for our society at large. Bourdieu, in his book *Distinction: A Social Critique of the Judgment of Taste*, considers how social distinctions are obtained. He concludes that some distinctions are obtained by inheritance, and other distinctions are obtained through years of study and education. The latter gain a credential which is highly valued in society. These educated individuals gain distinction through credentials. This group of self-actuated, or "autodidactic" distinction includes professionals (Bourdieu, 328). By their pursuit of credentials, professionals stand out. Bourdieu says,

> The official differences produced by academic classifications tend to produce (or reinforce) real differences by inducing in the classified individuals a collectively recognized and supported belief in the differences, thus producing behaviours that are intended to bring real being into line with official being. (Distinction, 25)

Our western society creates an "official difference," or distinction, for legal professionals. That distinction imagined by our society is then realized by lawyers who begin to act in ways that are identical to the "official being." The distinction of lawyers goes beyond the confines of higher education because it has been codified by law. For both society and the legal profession, it is desirable for lawyers to maintain their unique distinction. It is existentially important to lawyers to maintain this distinction. To accomplish lawyer's distinction, they have created and maintained a collective *ethos* which appeals to society as a persuasive inducement to continue entrusting lawyers with the legal processes.

COLLECTIVE *ETHOS*

Let me first begin this section with my own definition of a critical term that I will use throughout the chapters of this dissertation: collective *ethos*. A collective *ethos* is the persuasive appeal a group has to its own character, morals, and ethics. Readers will find that this basic definition is useful throughout the various times I use the term. To further describe the concept, Collective *ethos* is the rhetorically constructed and contextually grounded identity of a group, formed through internal negotiations and external interactions. It is preserved through genre, ritual, and the symbolic regulation of members who represent or threaten the group's shared values. This definition will be expanded and illucidated throughout the dissertation. In the next

chapter, I will argue that the *Rules of Professional Conduct* rhetorically construct the identity of a lawyer, which is an essential element of *collective ethos*. The institutes of the legal profession (i.e. courts, Bars, firms) contextually grounds the identity of lawyers, so that a lawyer is not a term ambiguous in time and space. A lawyer is situated in the state(s) they have been barred in. They are admitted to only certain courts and can practice only certain types of law. Once admitted lawyers have certain roles in a hierarchy of rule and order. The group's identity and membership are scrutinized by internal disciplinary boards and external expectations from clients.

As we will see in the final chapter, this definition is useful for other professional organizations, like medical professionals, academics, etc. When aspiring doctors complete all credential requirements, they apply for a license to a state medical board to practice in the state. They become subject to that medical board's *Rules of Professional Conduct*; and its identity of what a doctor is. The doctors in one state will be subject to more or less reporting requirements and more or less disciplinary scrutiny depending on the state they are working in. For example, a recent report studied the disparity between state medical boards disciplinary actions, demonstrating that collective *ethos* is contextually grounded, it differs from place to place (Wolfe and Oshel). State laws establish medical boards to grant licenses, allowing medical boards to choose their own members therefore cultivating an internal negotiation of who a doctor is. Once a doctor is licensed, peers are responsible for reporting any behavior "that is, any professional review action that adversely affects the clinical privileges of a physician or dentist for a period of more than 30 days *or* the acceptance of the surrender of clinical privileges, or any restriction of such privileges by a physician..." (Reporting Adverse Clinical Privileges Actions). This internal check on doctor's behavior allows medical boards to say to miscreant doctors,

"You're 'Not Like Us.'" Medical boards also invite the public to submit complaints against licensed doctors if the patient believes that their medical providers is unprofessional, unethical, or incompetent; therefore providing an external interaction in collective *ethos* maintenance.

Collective *ethos* can be found in higher education as well as the legal and medical professions. Academes must have credentials, but then also obtain tenure. Tenure is defined rhetorically in a university's faculty handbook, like the *Rules of Professional Conduct*. Each university or university system can add a local flavor to what tenure entails, how tenure is earned, how tenure is lost; giving tenure a culturally situated meaning. Students and peers have the chance to comment on an academic's performance, providing an internal and external interaction that affects tenure and promotion. In the following chapters, I will argue that collective *ethos* is formed and maintained within the legal Bar; however, many of the same mechanisms can be identified in other professional organizations.

Rather than an Aristotelian appeal to an individual's *ethos*, a collective *ethos* is developed and maintained by the group or collective. If Aristotle had in mind the *ethos* of an individual when he described *ethos*, then collective *ethos* is the antecedent, not the product of Aristotle's *ethos*. Meaning this: an individual would appeal to their namesake, heritage, or creed for their persuasive appeal. However, collective *ethos* can be developed in other non-generational fashions. This is the discussion of the following dissertation.

The collective *ethos* I will be discussing comes with the distinctions Bourdieu elaborated. That distinction is in the identification of the collective *ethos*. To begin this explanation, I will rely on Burkeian identification to explore how an individual can become aligned with the character, ethics, morals, and character associated with a collective *ethos*. This is my first chapter. Then I will analyze the genres that function to maintain this identification. Finally, I will

go through a series of examples that explain how the collective must maintain their *ethos* by disciplining and expelling those who do not uphold the identification they identify with.

Reading this dissertation, many will ask the question, "so what"? Indeed, I have constantly wrestled with this question and often find myself answering this question differently depending on who I am explaining my study to. A metaphor or allegory that I have found most helpful is describing a situation that we all take for granted – motorized vehicles. When my car operates flawlessly, I have no questions or concerns about the mechanics and mechanical principles my engine runs on. However, when the engine dies, I become particularly interested in the mechanics of the combustion engine. The situation only matters to me though. What if our society became just as interested in combustion engines? If a widespread flaw in combustion engines was a situation the public faced, then we would all want to become familiar with the mechanisms that are supposed to work in an engine. We would all want to become experts in the principles, if not in the engineering of the motors we rely on daily. Until there is a major error, the public is blissfully unaware and ignorant of many mechanical functions.

In the same way, the public is blissfully ignorant of how professionals have a collective *ethos*. While the legal profession operates successfully, without major errors, the public remains unconcerned with the mechanisms that underpin the functions of the legal profession or any profession. This dissertation will only serve useful to those who are concerned about collective *ethos* and professions who wield this collective *ethos*. The public at large will not take an interest unless the professions break, like nationwide engine failures. If this occurs, then the public will look for answers. This dissertation serves as an attempt to answer the question of how collective *ethos* works in the legal profession and perhaps how collective *ethos* works in all other professions as well.

The warrant for this dissertation is driven by the question of how professional communities build and maintain trust when that trust is fundamentally challenged. The legal profession, in particular, relies not just on their individual members' conduct, but on a rhetorically constructed identity that holds practitioners accountable to one another through shared values. When a member fails, ethically, the community faces a dilemma: How can it preserve its credibility while addressing the failure? This dissertation examines how such moments trigger a rhetorical process of distinction—often encapsulated in the phrase "not one of us"—in which the profession publicly marks and ejects errant members. This rhetorical exclusion functions not simply to punish, but to reassert a collective *ethos* that is consubstantial, disciplined, and deeply symbolic.

The field of rhetoric and professional studies should take note of this argumentation because this dissertation demonstrates how rhetoric can function in material ways for professional organizations. The *Rules of Professional Conduct* I analyze in the next chapter is point and case. Here is a document that has had little scrutiny by rhetoric scholars and yet it functionally creates the identity of one of the most powerful professional organizations in the United States. The Rules hold the key to a rhetorical appeal that has become naturalized so that it is virtually imperceptible: collective *ethos*. Imperceptible until you see it, then you cannot stop seeing collective *ethos*. This dissertation also strives to bring the term collective *ethos* back into the professional communication studies conversation. In the next chapter, I will discuss previous work on collective *ethos*, but I would like to highlight here in this introduction that collective *ethos* is formed in various settings. I consider how collective *ethos* is formed and maintained in the legal profession, but previous research demonstrates how corporations form collective *ethos,* and online forums form collective *ethos*. The fields of rhetoric and professional communications

will find much generative discussion and potential for study when considering collective *ethos* in a broader context.

Further studies in collective *ethos* could also overcome many of the limitations of this current study. While I wanted to have a more comprehensive study of Disciplinary Statements and methodologically diverse approaches for each chapter, I am limited by time and available resources. To create a manageable scope for this study, I have limited my study to publicly available documents. Furthermore, I kept my focus on one state bar: South Carolina. The choice is meaningfully arbitrary. When the news was flooded with the horrific story of Alex Murdaugh, I had just begun my initial interest in researching collective *ethos* in the legal profession. I used Murdaugh in my first attempt to analyze the *Rules of Professional Conduct*, so I chose the Rules from the state he is in. From there, it only made sense to stick with the same state bar throughout the rest of this study. The study of genre is limited to the public available artifacts. There are no publicly available examples of a completed Complaint form or the investigative genres. So, this study looked at the blank form and the published Disciplinary Statements available of the SC legal Bar's website. After reading many repetitive examples of Disciplinary Statements, I decided to only share three examples of disciplined lawyers. My three selections in chapter five from the copious number of disciplined lawyers were selected because more information was available on their situation. Since I could fill in more blanks left by the confidential investigation, I decided to use the three. Each lawyer represents a larger corpus of lawyers who were disciplined for being negligent, dishonest, or incompetent. Every Disciplinary Statement resounding with a loud, public, and humiliating chorus from the legal Bar, saying "these lawyers are 'not like us.'"

CHAPTER TWO

LITERATURE REVIEW

Stumbling through the literature of this topic, I have more than once discussed this topic with my family. My fifteen-year-old was ready with a definition of collective *ethos* after hearing me struggle through this dissertation. He said, "collective *ethos* is a group of people defending what they believe." I understood this in the context of my household. My son is the product of my own musings on collective *ethos* and my memories of my time in the Army's 82nd Airborne Division (ABN DIV). My pride in my army experience may have influenced his definition, but it was illuminating for me. I realized I was a product of the very thing I wanted to analyze in this dissertation. All along, I have created a collective *ethos* of the soldiers in the 82nd ABN DIV for myself and my family in the retelling of the many stories I have remembered and retold. Each retelling is a type of collective *ethos* forming persuasion. I share the stories which defend the way I believe we *were*. Looking into my past, I recreate a collective *ethos* for the soldiers I served with – honorable, noble, moral, loyal. It is partially fiction. I have my remembrances, certain facts and impressions, feelings and actual findings, but I have to admit that the collective *ethos* I draw upon is a manufactured thing. All collective *ethos* is equally a fiction that we are asked to suspend disbelief and accept; and a manufactured thing that we want to accept and believe – and for the purposes of this dissertation – namely that lawyers serve a common good. Many lawyers within the legal profession are not the honorable, noble, or moral actors society expects to act in an impartial, dutiful manner. We all know there are untrustworthy lawyers, but just like my retelling of my own time in service, I want to believe that lawyers on the whole are trustworthy.

So, what is this collective *ethos* we induce ourselves to believe in? As discussed in the previous chapter, it is not the Aristotelian *ethos*. Aristotle introduces this idea of *ethos* as the character, virtue, and morals of an individual. *Ethos*, as a persuasive appeal, points to an individual's nature and suggests that they are someone who ought to be believed (Halloran, 60). Wei, developing on Halloran who said that *ethos* "has both an individual and a collective meaning" (62), and relying on Chinese Classical Rhetoric (CCR), introduces another way of understanding *ethos* appeal: the collective *ethos*.

Wei begins to develop a definition of collective *ethos* through studying corporation's image development to connect with consumers. In Wei's study, the corporations decided that the audience's concerns were fixated on the terrorist attacks on 9/11. Expanding from Wei's study, I have put forth this definition: collective *ethos* is the rhetorically constructed and contextually grounded identity of a group, formed through internal negotiations and external interactions. Wei discusses how a corporation develops an image that portrays its own collective *ethos* in an effort of identifying with its (potential) customers by using patriotism tropes to respond to the 9/11 terrorist attacks. Collective *ethos* is being rhetorically constructed by the corporation through its public image. Their collective *ethos* is grounded in the corporation's identity as a sympathetic and patriotic entity, in the context of the terrorist attacks. Using the Burkeian identification, the corporate images tell the audience that the corporation is "just like them" (a message that Drake needs to develop). The corporation persuades an audience that it is (and has always been) in line with the audience's concerns. The corporation's purpose and the audience's concerns may conflict. The competitive interplay of these internal and external forces negotiates the corporation's collective *ethos*. My study develops further on this idea of collective *ethos*, but in a context where customers cannot shop around for a better collective *ethos*.

Another way of looking at collective *ethos* is when a community forms an online web forum which has no profit motivation. Warnick studies such a community within a community and their concern with "establishing community norms, debating site policies, and governing community action" (80). The larger community, MetaFilter, has a subcommunity that wants to talk about MetaFilter, the filters, norms, policies, governance, etc. The studied subcommunity is aptly named "MetaTalk" (Warnick, 80). This community posts discussions about what should be allowed to be said in the broader community. This is an internally negotiated identity of the group as a whole. They have a collective *ethos*. In fact, Warnick believes this is how the online community has preserved (it started in 2000 and is still active as of this writing), saying "I have become increasingly convinced that a strong collective *ethos*—generated by individuals but bigger than any one person—is essential to maintaining a successful online community" (113). But membership in an online discussion forum does not generate a collective *ethos* like the legal profession. My study develops further on Warnick's work by examining a community of professionals whose collective *ethos* is their identification and livelihood, rather than a hobby. Rather than a social "gathering place," I want to explore the concept of collective *ethos* in the legal profession (113).

To summarize and distinguish this study from Wei and Warnick, my study is more than looking at collective *ethos* in a different community. Wei looks at a corporate's collective *ethos* formation so customers can identify with the corporation. In this example, the internal collective *ethos* creates identification with the audience. Warnick looks at collective *ethos* formation for community members whose identification is with each other. In this example, collective *ethos* and identification are means and ends to community cohesion. My study argues that identification within the legal community forms the collective *ethos* of appeal that persuades

those outside of the legal community to trust the legal community. This new study brings into question what happens first and for what purpose identification and collective *ethos* are formed. I conduct this study by first looking at the widely publicized Murdaugh murder trials and then to three other examples of South Carolina (SC) lawyers who were also disciplined by the SC legal Bar.

Collective *ethos* has been hinted at before Wei and Warnick's work. Halloran could be said to argue that the "collective" in collective *ethos* is unnecessary. The "collective" is implied, and Aristotle would not have meant to distinguish an "individual" *ethos* from a collective "*ethos*". Halloran says, "The word *ethos* has both an individual and a collective meaning. It makes sense to speak of the *ethos* of this or that person, but it makes equally good sense to speak of the *ethos* of a particular type of person, of a professional group..." (62). The benefit I see in distinguishing between a collective and individual *ethos* is that the formation of the collective *ethos* involves the contribution of a group of individuals. The group cannot determine the character of a colleague, but they can determine the character of their group. As you will recall from my definition of collective *ethos*, it is the work of a group to form a collective identity. Halloran demonstrates the distinction in an example, "If at an academic conference or colloquium I speak so with some authority, it is partly because I manage to look and sound the way professors are supposed to look and sound; I make present some important aspects of what we can call 'the professorial *ethos*'" (62). Here, a professor's "look and sound" is based on how a collective of professors have looked or sounded, or some stereotype of a professor. To compare with my definition of collective *ethos* above: it has been rhetorically maintained (through the use of "authority"), culturally situated (through "look and sound"), conservatively preserved (long enough that his audience knows the stereotype). Halloran has an identity that a group of

individuals (professors who dressed and sounded a certain way) form through negotiation (among generations of professors) and competing interactions among themselves and their audiences. This definition appears to be useful here, and I believe it will prove to be useful throughout this dissertation.

Another concept I want to draw from here and throughout is Burke's Identification. My third chapter will elaborate on this concept, but here I want to discuss how Burke's contribution has been taken up in literature on collective *ethos*. Wei first makes the connection between Burke's identification and collective *ethos*. Wei says, "Burke's 'identification' iterates a persuasive strategy in communication, but, more significantly, it also tells us of an important goal implied in human communication: achieving the sense of collectivism or coming-together-ness" (274). Collective *ethos* is a product of Burke's identification because we identify with one another because of an innate desire or need, but once we have identification, we collectively negotiate what our character is. We could think about the collective *ethos* and identification relationship as a chicken-or-egg analogy, but I discuss it as a horse-and-cart analogy: first the identification (or the need for it) and then the collective *ethos*.

This distinction is relevant since professionals must know who they are before they begin developing their collective *ethos*. Carolyn Skinner's work on women physicians in the 19th century demonstrates this progression from identification to collective *ethos* well. The women physicians that Skinner studied faced a dilemma. If they just identified as physicians, then their 19th century audience would dismiss them as acting too masculine. But if they only identified as feminine, then their audience would dismiss them as not authorized to write on medical subjects. "For these reasons, women physicians often emphasized their femininity in their health information texts, creating a new sort of *ethos* for the genre, one suited to the woman physician's

location between medicine and femininity," Skinner writes (79). A new identification had to be created by rhetorically situating themselves as women who practiced medicine. Their expertise could not be denied, but neither could their femininity. Within this new identification for women who were physicians, they then had to create a collective *ethos* that would counter the cultural stereotypes of women and physicians. The discussion Skinner brings about the formation of a collective *ethos* has helped me form my definition of collective *ethos* for this dissertation. Skinner writes, "The processes of collective *ethos* formation, which occur when similarly situated rhetors collaborate on or compete over the characteristics members of that group will demonstrate, are at work almost continuously within most groups" (180). The idea that a collective would compete among themselves to form their collective *ethos* was germinative. For Skinner's purposes, the internal struggle for defining a group characteristics was as far as she need to discuss, however, when the idea of collective *ethos* is expanded and the formative factors are examined, the internal exchanges do not account for all the forces at work in collective *ethos* development. The expectations of the trusting public, or audience, must be a focus of professional identification.

The trusting public expects some way to contribute to the collective *ethos* of professionals by using a feedback loop into the formation and maintenance of collective *ethos*. Genre theory explains how an organization is formed and informed by concerned agents. Carolyn Miller's work connects the private, internal struggles with the external agents invested in the profession's outcomes. Miller explains, "A genre is a rhetorical means for mediating the private intentions and social exigence; it motivates by connecting the private with the public, the singular with the recurrent" (163). As a collective *ethos* is formed by the group of individual members, it is also informed by "social exigence" as to what the public wants, or needs, a

collective *ethos* to be. When a group wants to connect with one another and with those outside of their community, they do so through genres which are inherited and socially managed through meaning-making. The group seeking to form the collective *ethos* must use genre to communicate who they are with those outside of the community. Wei's study focused on the ads (a genre) corporations used to communicate their identity to audiences. Warnick's research looked at the policies the small group of MetaTalk community members used to impose on the larger MetaFilter community. I will discuss how the genre of Rules, complaint forms, and Disciplinary Statements mediate the collective *ethos* of the legal profession, bridging the gap between private, or internal, intentions and social exigence of justice in the legal professions.

The process of creating and maintaining the legal profession involves several genres working within an activity system. I rely on Anis Bawarshi and David Russell's work in genre theory to explain how genre functions to construct and maintain the collective *ethos* of the legal profession. Russell explains that the activity system, such as an activity system of the legal Bar, is "any ongoing, object-directed, historically conditioned, dialectically structured, tool-mediated human interaction" (510). Nowhere is this more found than within the *Rules of Professional Conduct* (Rules). In the Rules, first drafted by the American Bar Association and now adopted by many state Bars, the lawyers find their identification. The object of the Rules is to define what a lawyer should be. The Rules' history has conditioned it and the legal Bars to preserve a historically conditioned idea of the lawyer, while being structured in a dialectic of precedence. Finally, the Rules are a tool that mediates interactions between lawyers and clients, lawyers and judges, and lawyers and the Bar. Bawarshi provides a critical system for analyzing genres that informs this study in the fourth chapter. The analysis focuses on "who is *invited* into the genre, and who is *excluded*" (160, emphasis in the original). The chapter is further informed by James

Gee's discourse analysis through a look into figured world's identities (140). These theoretical frameworks lead to a final analysis of collective *ethos* in the legal profession.

In three examples of collective *ethos* maintenance, I apply the identification created by the Rules to lawyers who violated the Rules and were disciplined for their infractions. The Rules work as identity frames and the genres of the activity system with the legal Bars work as corrective tools. The first is a negligent lawyer, Reichmanis, whose lack of attention to the client's needs resulted in her legal license being suspended. Next, a dishonest lawyer is reminded that the legal profession's collective *ethos* requires that the legal system be respected. Massey was found responsible for submitting multiple erroneous affidavits and suffered years of suspension from the legal Bar. Lastly, and most tragically, a negligent lawyer, who dealt with years of substance abuse, received a career deathblow for mismanaging several clients' cases. All these cases are simply examples of the legal profession's collective *ethos* being maintained so that the larger community of legal professions can enjoy the trust of their clients.

This dissertation fills gaps in the current literature by defining and developing the concept of collective *ethos*. By looking at the legal professional community as a test case for collective *ethos* forming, I demonstrate how collective *ethos* is rhetorically formed and maintained, culturally situated, and conservatively preserved. The legal profession also demonstrates how the identity of a collective *ethos* is formed and maintained through negotiated and competing interactions among the group and their audience through genre. I strive to answer Skinner's call to further research collective *ethos* formation and maintenance by studying the legal profession in a critical and theory informed manner. In the final chapter, I discuss areas where collective *ethos* can be further studied and developed for existing, emergent, and future professions.

This study is necessarily limited by its focus on publicly available documents and genres. I intentionally limited my focus to those documents available on the SC legal Bar's website. While I know that internal deliberations, confidential communications, and informal dynamics shape professional decision-making, those remain outside the scope of this project. As such, this dissertation does not claim to access the full spectrum of influence behind disciplinary decisions but rather aims to analyze the rhetorical strategies embedded in the legal profession's outward-facing texts. These genres are understood as symbolic actions—constructed for public interpretation—and are thus valuable precisely because of their communicative function. The examples I draw from are emblematic in many ways, but I selected them for the simple reason that anyone else could access them and recreate my study with their own analysis. The fifth chapter in particular is an example of selective research samples. I chose the examples based on their demonstrable qualities of the three great violations of the rules: negligence, dishonesty, and incompetence. There are many examples, but few have as much material to work with in the SC legal Bar's online repository of Disciplinary Statements. I selected the three examples because their stories had more information available than the others. After reading numerous Disciplinary Statements and finding the story repeated over and over, I decided for concision and succinctness to only write about these three good-bad examples. Other examples may be more illustrative of collective *ethos* maintenance, but the three also serve as satisfactory examples. A satisfactory example of the legal Bar saying "not like us" to the shame of these disreputable lawyers.

CHAPTER THREE

FLAWED HUMANS AND WHY WE TRUST THEM

Consubstantiality In The Legal Profession

The legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to ensure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the Bar. Every lawyer is responsible for observance of the *Rules of Professional Conduct*. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.

- Rule 407 - South Carolina *Rules Of Professional Conduct*

Preamble: A Lawyer's Responsibilities (12)

The death of a housekeeper, a mother, a wife is an unthinkable thing. Her family looks for answers to make sense of the tragedy of the loss of Gloria Satterfield. They turn to lawyers. The lawyer promises millions to the bereaved family. They win. The money from the settlement never materializes for the Satterfield family. Questions arise. The lawyer comes under scrutiny. He turns out to be a murderer. Gloria Satterfield's family trusted a flawed human: Alex Murdaugh, who eventually was convicted of murdering his wife and son.

INTRODUCTION

On July 12, 2022, the Supreme Court of South Carolina (SC) issued the disbarment of Richard Alexander "Alex" Murdaugh from the SC legal Bar. Days later, Murdaugh was facing

double murder charges in the deaths of his wife, Margret, and his son Paul. By March 2nd 2023, Alex Murdaugh is found guilty of the murders. The verdict comes at the end of a seemingly endless discovery of his wrongdoings, including years of financial crimes against clients, illegal drug use, and mysterious discrepancies in practice. The legal world was in shock that one of its own could be accused and found guilty of such egregious crimes.

The verdict of "guilty" fell upon the heir of a legal dynasty that had practiced law in SC since the early 1900s. Before this trial, the Murdaughs handled personal injury cases with much success for nearly a century (DeWitt). But this was not the first allegation or conviction of Murdaugh, the heretofore reputable member of the SC Legal Bar. According to Murdaugh's disbarment order, Murdaugh committed "financial misconduct involving theft of money from his former law firm"; he also arranged "his own murder to defraud his life insurance carrier"; and he stole "$4,305,000 in settlement funds" from his law firm partners (*In the Matter of Richard Alexander Murdaugh*). The courtroom that held Murdaugh's murder trial was once adorned with his honorable grandfather's portrait but is no longer (Bogel-Burroughs). A double murder, the hiring of a hitman to kill himself, and financial crimes against his clients and law firm are a blight on Murdaugh's heritage and Murdaugh's profession—a blight that symbolizes a crack in the trust our society has placed upon lawyers and the legal profession.

The legal profession trusts members of the Bar to build a collectively established *ethos*. Murdaugh severed that trust. Murdaugh's own lawyer, Jim Griffin, said, "I am, like many others, disgusted with his conduct as a lawyer and he has put a black stain on the legal profession" (Ortiz). According to those lawyers who defended him, Murdaugh's personal behavior and professional conduct as a lawyer resulted in direct harm to the legal profession and its *ethos*. This admission reveals an underlying truth about the individual's behavior and its synecdochical

relationship to the collective *ethos* of the legal profession. In the legal profession, many individual lawyers form a legal Bar, which is set up by state legislation to determine who can practice law as attorneys. The legal profession is a wider circle than the legal Bar. However, those in the legal profession: lawyers, paralegal, judges, etc. are reputationally connected to the legal Bar. The bad behavior of a single lawyer results in a negative opinion of the legal Bar and legal profession as a whole. When a lawyer betrays the trust of a client, then the trust our society places in the legal profession is in jeopardy.

Our society has elevated the legal profession because of our special trust in the members of the legal Bar. Aristotle called this type of trust "*ethos*" (Bk I, 9), which Halloran defines as the "argument from authority." Halloran simplifies the concept with this pithy example of the *ethos* argument: "Believe me because I am the sort of person whose word you can believe" (60). When lawyers work, speak, and write, they appeal with this *ethos.* Those who practice law are upheld by the state in which they are privileged to do so; therefore, South Carolina (SC) laws permit only those admitted to the SC Bar to practice in their state (SC Code § 40-5-20, 2012). This is typical of other states as well. The legal Bar forms a special group of citizens who can represent others in court. The autonomy of the legal bar to restrict who can practice law in a state is granted by the legislation referenced above. The legislation codifies the special trust in the legal bar to uphold the *Rules of Professional Conduct* (*Rules*) and thereby assures the legal bar's exclusive rights based on our society's trust placed upon them. This chapter explores how the Rules build *ethos* into the legal bar, and more broadly into the legal profession. When the members of the legal bar betray the trust placed in them, drastic measures must be taken to regain this trust in the whole profession, starting with the legal bar itself. Murdaugh's actions betrayed the trust, and the legal bar had to act to protect the professional *ethos* of lawyers.

The Murdaugh verdict raises the question: How has the legal bar established a professional *ethos* when in its ranks are flawed humans, like Murdaugh? Before his disbarment, Murdaugh appealed from this professional *ethos* because of his admission to the legal bar. Carolyn Skinner issues a call for research on this type of collective *ethos* formation, saying,

> The processes of collective *ethos* formation, which occur when similarly situated rhetors collaborate on or compete over the characteristics members of that group will demonstrate, are at work almost continuously within most groups. More research into how *ethos* is formed collectively and how it functions collectively would greatly extend our knowledge of this crucial appeal. (180)

Towards answering Skinner's call and building upon Aristotle's *ethos* and Burke's consubstantiality, I argue that the legal profession's *ethos* is collectively derived from the unifying Rules that members of the legal bar swear to uphold. Other professions can learn from the legal bar's Rules and similarly bolster society's trust in them. This chapter will first give a brief background of the legal bar and the Rules before a discourse analysis of the Rules. I conclude by discussing the implications of the Rules on the legal profession's collective *ethos*.

To understand this collective *ethos*, we need to understand the history of the legal profession. The current form and practice of legal counsel is relatively new. For South Carolina, the Bar Association only began in 1884 (New York Bar Association began in 1877, by comparison) but was not codified in law until 1962. Before then, lawyers were inducted through a petition to the courts. The petition lays out requirements for admission to practice law and describes how the petitioner fulfills those requirements. In James Deas' petition on November 9, 1807, Deas affirms he is "a native citizen of the United States," twenty-one years old, and that he has studied four years as a clerk under the tutelage of Keating Lewis Simons, Esq. (1).

Preparation for the legal profession was much more akin to becoming a printer or blacksmith. The apprenticeship for entry into the profession was equivalent to a law degree requirement today. Entry by petition without laws describing the requirements allowed the legal profession to self-select its members without oversight. This allowed other SC judges to select the people they wanted and exclude the people they did not want. Unsurprisingly, the legal profession in antebellum South Carolina was a homogenous demographic—middle-class, white males, a demographic that would be decimated through war with the Union and greatly challenged by the Reconstruction era.

The road to legislation after the Civil War is a long one and will not be explored here, but suffice it to say, the process was codified. The legislation to codify a unified legal representation had a cascading effect on society. The legislation gave the Supreme Court of South Carolina the power to determine "the qualifications for admission to the bar" (SC Code § 40-5-10). Legislation provided the legal bar with the professional *ethos* that an exclusive group of experts enjoy. However, to continue building collective *ethos* among peer states, the SC legal bar would need more than just legislation. In the twentieth century, when the Murdaughs' legal dynasty was just getting started, the legal profession's *ethos* rested on the individual performance of the members. To establish a collective *ethos,* the legal bar chose a text to form a unified body of legal professionals. Enter the American Bar Association's (ABA) Model *Rules of Professional Conduct*.

The American Bar Association has drafted a model for state bars to use as their *Rules of Professional Conduct*. Many state bars have adopted the ABA model, and its Preamble, verbatim. South Carolina's *Rules of Professional Conduct* follows the ABA model verbatim as well. As a result, the rules that govern lawyers across the country are remarkably similar. The

collective *ethos* for American lawyers builds from the unified identity the legal bar develops by complying with these *Rules*. Unknowingly, the bar formed a unified identity of professional *ethos* for Murdaugh to hide behind while he abused the Satterfields and his other clients; the same identity that the SC Bar had to protect when Murdaugh's crimes came to light before the SC Courts disbarred him. Burke's concept of identification theorizes the collective *ethos* of the legal profession and explains why society trusts lawyers, even the likes of Murdaugh, before they are disbarred.

ANALYSIS

Using the Preamble of the ABA model, I analyzed the text that calls lawyers to act in accordance with a unified identity using Burke's concepts of consubstantiality, identification, terministic screens, and symbolic inducement. Symbolic inducement is the language that calls disparate entities to act in such a way as to create identification between the authors (the bar) and the audience (the lawyers). The Preamble begins, "A lawyer, being a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice" (Rule 407). For identification to be accomplished, Burke theorized that all language was inherently rhetorical, a phenomenon of persuading the users to move closer through identification. The singular identity "lawyer" provides the audience of individual lawyers the identification to each other. The audience sees the identification with others in "being a member of the legal profession" as an inducement to move closer to that identity. Burke's theory suggests that identification overcomes humans' great dilemma of separation and fulfills our great desire to overcome alienation. Lawyers will not be alone. The symbolic inducement in these short texts continues. The professional identity of

representing clients, officiating the legal system and carrying “special responsibility for the quality of justice” provides the lawyers the identification with a professional *ethos*.

However, drawing individuals into an identification with one another requires more than an identity to aspire to. The authors of the Preamble chose to use a text to unify the identity of lawyers. The Preamble invokes a unique understanding between clients and their lawyers; lawyers who share a unique language among themselves separate from the clients they represent. Lawyers use a language distinct from members of the legal profession, which creates a chasm between lawyers and lay people. The lawyer, as a practitioner of the law, interprets for clients from standard variety English to a legal jargon, language colloquially referred to as “legalese.” The Rules say,

> A lawyer's responsibilities as a representative of clients, an officer of the legal system and a public citizen are usually harmonious. Thus, when an opposing party is well represented, a lawyer can be a zealous advocate on behalf of a client and assume justice is being done. So also, a lawyer can be sure that preserving client confidences ordinarily serves the public interest because people are more likely to seek legal advice, and thereby heed their legal obligations, when they know their communications will be private. (8)

As a representative of clients, lawyers mediate meaning between legal terminology and their clients, while keeping their client’s information secret from others. They make meaning out of the legal system, interpret the legal system for their clients, and communicate on the client’s behalf when the client cannot speak. Interpreting legal terminology for clients means that lawyers use a language that separates them from the uninitiated. Through this particular use of language, lawyers form a language community that binds them together. This use of language is a further example of the “symbolic inducement” Burke theorized. Symbols are the technical

aspect of language. Imagine a set of road signs that were meant to send specific messages only to a select few. The uninitiated operate in ignorance of the road signs' true meaning, whereas those who are initiated maneuver according to the informed meaning. The symbols would inform one group of one thing and leave the outsider group unaware of the intended movement. The "inducement" in "symbolic inducement" is the motive of the language used to bring the community together. If the road signs indicated a privileged meaning, then it would unify the informed, initiated group while leaving the outsider group oblivious and disorganized. Humans use symbolic inducement, "the effort to garner cooperation by strategic symbol use," to unify with one another (Herrick, 2018). The Rules do just that: unifying lawyers while dividing them from others. Lawyers find their identity in the language they share and the language which defines their profession in the *Rules of Professional Conduct*.

The Rules unify the profession, but the unity required for the legal profession to establish a wide-ranging trust society needs more than simply a unified identity. Using Burke's theory of consubstantiality - in such a consubstantial state, lawyers become one substance based on their shared adherence to standards formed within the Rules. In the Rules, a lawyer can find a wholeness in the legal profession that society views as universal among all lawyers. The Rules form the binding substance of all lawyers.

I explain how the Rules form a consubstantial, or of one substance, legal profession. Adherence to the text creates one substance; for Burke, substance is "an act; and a way of life is an acting-together…common sensations, concepts, images, ideas" among lawyers (Burke, 1969). For individuals to become one substance they must identify with one another. To use Burke's belligerent example of war, two soldiers on opposing sides are in different uniform have identification with each other, even though as individuals they are enemies, having different

goals and interests (Burke, 1969). They both live by the one rule of war: kill or be killed. They see themselves through the same lens: as combatants. Doctors are identified similarly as working for health, and lawyers as working for the law. Soldiers are identified as working for war, and there is consubstantiality even between enemies.

The Rules explain how the lawyer fills the gap in an adversarial system:

> As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others. (2)

Between the legal system and clients stands a unified identity of experts who work in one substance with one another in often adversarial ways: advising clients of their legal rights. The one substance of lawyers advises clients, no matter their position, with their legal rights in a system that regulates society: the law. The lawyer can work within this unified substance, no matter their client's position. As representative, advocate, advisor, or negotiator, the lawyer stands as a consubstantial entity with adversary lawyers' mediation between clients and the law. Especially when other lawyers, who represent opposing clients, argue against a client’s position, the one substance between lawyers is realized. The lawyers are all acting according to the premise the Rules establish. They are forming one consubstantial identity through adversarial argumentation in support of clients and in accordance with the law.

To unify a profession of individuals in a consubstantial whole, the Rules must establish what Burke called a "terministic screen" (*Language as Symbolic Action,* 44). A terministic screen is the filter for all who adhere to consubstantial view of themselves and their colleagues. Even more, terministic screens are the universal filters the entire legal profession uses to view the legal system and the world. To better understand Burke's terministic screen consider the following comparison. The gardener, lawyer, and doctor do not share the same way of viewing the world as the soldiers. They do not share the same terministic screen, or "directed attention," as professional soldiers (*Language as Symbolic Action,* 45). Something(s) happens to the person who understands what the uniform means that forces them to view the world in such a way. Burke likened the difference of terministic screens as a man repeating the same dream to "a Freudian analyst, or a Jungian, or an Adlerian" (*Language as Symbolic Action*, 45). Although the dream was the same, the interpretation, or way of looking at the dream, is remarkably different. The difference hinges upon which symbols in the dream are interpreted which way. One symbol to the Freudian (like a father or mother) is of more significance and has a different meaning than for the Jungian. The uniform is a symbol, and that symbol induces soldiers to identification with others in uniform and causes them to share war's terministic screen. Lawyers, too, view the relationship between themselves, their clients, and the law through a strict terministic screen. The Rules say,

> In all professional functions a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the *Rules of Professional Conduct* or other law. (4)

These terms create a way of looking at any given situation in a certain way: a terministic screen. The lawyer is the sole interrogator between clients and the legal system. Therefore, they must act competently, promptly, and diligently on behalf of their clients. Their actions are predetermined through this terministic screen as lawyers. Lawyers' behavior is conscripted to the only way of seeing their actions through the screen of the Rules. They either act in this way or they are not lawyers. If competence, promptness, or diligence is not seen through this filter of the actions, then they have navigated away from the consubstantiality of the lawyer; they are no longer unified in the identity of a lawyer.

The ABA authors of the Rules make a striking admission–the legal profession would not hold the prestigious, self-governed position in society unless the lawyers behave themselves. The writers simultaneously build the foundation for and the bridge between the legal profession and the wider society. Symbolic inducement is so integral to the legal profession's existence that the writers of the Rules make it obvious that

> To the extent that lawyers meet the obligations of their professional calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the legal profession's independence from government domination. An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice. (11)

There is a clear effort in this passage to gain support from the audience for unity and cooperation. The passage seeks to establish a separation between lawyers and bureaucrats, and legislatures. Where lawyers are concerned is the judicious application of the law, not merely the mindless application (bureaucrats) or the partisan (legislatures) squabbling of what the law

should be. In the case of this passage, the audience is lawyers. The passage exhorts lawyers to "meet the obligations of their professional calling" and to be the moral character that society trusts them to be. The antithesis of professional independence is demonstrated within the scenarios of challenging the "abuse of legal authority" by the government. If lawyers were not independent to act, then abuses of the government could go unchecked. However, having a unified, self-regulated legal bar creates identification among members and impartial advocates for society to trust. This is Burke's concept of symbolic inducement – using language to foster adherence to an identity. In this case, the identity is that of a lawyer, a member of the legal profession.

The ultimate identity for the writers of the Rules is a legal profession which is separate from the society it upholds. The goal of the Rules is not just to prescribe how a lawyer should behave, but to constitute a legal profession of those who obey the Rules:

> The legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar. Every lawyer is responsible for observance of the *Rules of Professional Conduct*. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves. (12)

The Rules use a symbolic inducement for obedience to the Rules by demonstrating the need for every lawyer, if unity is going to be achieved and legitimacy given to the legal bar, to follow the Rules and admonish one another. This collective obedience gives the legal bar autonomy within the government and trust from society. Society observes the "regulations" that the Rules

establish and understands that these self-regulations are in the interest of the public and that each lawyer holds every other lawyer to the same disinterested regulations. The regulations instill servanthood in lawyers to consider society's interests above their own. This servanthood creates trust. The Rules provide each lawyer with a principle for navigating all difficulties, but they also require that other lawyers hold their peers to the same standards. This inducement produces the desired effect of a self-governing legal bar, free from the "domination of government."

Finally, the Rules work towards consubstantiality among the lawyers. A oneness of being that upholds the legal system of society and for society. The identification that is found by lawyers adhering to the rules creates a unified front that substantiates the legal system. This is essentially a consensus on how lawyers should behave and how the legal system should be managed. With this consensus established, all clients of the lawyers can trust that the legal system is not biased against them but is fair and just. Otherwise, they would seek justice by their own means, which is essentially anarchism, vigilantism, and chaos.

CONCLUSION

The writers of the Rules shape an identification among lawyers through the terministic screen. Lawyers are consubstantial with one another under the Rules. The Rules promise society that all lawyers will uphold a citizen's rights under the Constitution without the need of the public to result in means for their own justice, such as violence, vigilantism, and anarchy. Our society is upheld by the promise of the legal bar to abide by the Rules and ensure each member of the bar eschews any conflict of interest in pursuing their clients' rights.

Were Murdaugh's actions ignored by South Carolina's Legal Bar, society would have to assume that some lawyers are able to operate above the law. If the Rules were not applied in

Murdaugh's case and he was not disciplined and disbarred for his actions, then other lawyers would both simultaneously be viewed by society as predators. They would be embodied with the lawless since consubstantiality works both ways, to both bolster trust in all members and tear down trust in all members. Murdaugh's actions, and the actions of all deviant lawyers, constitute an existential crisis for all lawyers and the legal profession. If deviant lawyers are not dealt with, then society would question the trust placed in the legal profession, as a whole. They are of one substance, after all.

For society to be maintained by the rule of law, lawyers must obey the Rules. This is why John Adams, a lawyer and the third president said, "No civilized society can do without lawyers" (McCullough, 591). I postulate that collective *ethos* is required for society to trust the legal profession to maintain that "civilized society" (McCullough, 591). No lawyer can be trusted without the legal profession of individuals who will fulfill their responsibilities to the Rules and one another.

Burke's theory of consubstantiality has wider implications for society. Society and our professions are full of flawed humans, like Murdaugh, but society maintains a trust in these professions to function. Professions can bolster this trust through symbolic inducement in unifying texts like the Rules. Creating an identification in professions, and a consubstantiality among those professionals, and managing the professional ranks through disbarment-type methods, establishes a collective *ethos* and maintains the trust that society places in professions.

Established professions need to cull bad actors like Murdaugh rather than protecting them until their crimes expose the profession to disreputable accusations. Emerging professions should learn from Burke's theory and create a text of symbolic inducement to produce a consubstantial profession. The Rules are a good example of such a text. If the profession is managed well, then

society may shift to trusting the new profession, as it has trusted lawyers. The result is that these emerging professions can enjoy a similar level of legislative exclusivity and self-governing which affords the professional *ethos.*

All professions can take a lesson from this reading as a method of establishing a collective *ethos* and bolstering trust in society by creating identification among members to establish consubstantiality. Those lawyers who adhere to the Rules are in effect consubstantial – of one substance – with one another. Until they are not, like Murdaugh, and like all lawyers who are "not like us". The effect of including all lawyers in one substance, which obeys the Rules, creates a unified identity for lawyers who can be held accountable to society. In the next chapter, I will further analyze the mechanisms that establish and maintain the collective *ethos* in the legal bar. Without these mechanisms, or similarly working mechanisms, collective *ethos* would not be possible in the legal bar. These mechanisms are genres, and they work as regulatory instruments. The legal bar's genres enact the collective *ethos* and enforce the identification of the lawyer.

CHAPTER FOUR

THE GENRE OF DISCIPLINE

The collective *ethos* of the legal bar is built upon genres. This chapter continues our discussion about identification by analyzing genres. It is important here to establish how genre constitutes the collective *ethos* in the legal bar. The legal bar relies on a collective *ethos* to establish their members' professional *ethos*. To create the collective *ethos*, the legal bar employs genres to both constitute and maintain the identification of the professional *ethos* the individual members need for their practice. The Rules is a genre-tool in the legal bars activity system as explained by Russell (511). The activity system of the legal bar is "is any ongoing, object-directed, historically conditioned, dialectically structured, tool-mediated human interaction" (510). The legal bar activity system is an interaction among the legal professionals where genres control the dialectic. Genres control the social order and ways of being within the legal bar's activity system. The Rules is an example of a genre that is used within the activity system for the purpose of creating an identification among the legal bar members. The Rules are a sample of a genre that "enables individuals to enact a different situated activity within an activity system" (Bawarshi, 116). In the last chapter, I analyzed the text of the Rules to explain how the text creates an identification, but our focus in this chapter is on how the genre creates an uptake for individuals to act upon in their behavior that creates the collective professional *ethos*. Further genre analysis in this chapter looks at the other genres in the legal bar system of activity which maintain the collective *ethos*. These other genres interact with and extend the impact of the Rules for the purpose of maintaining the legal bar's collective *ethos*.

The concept of *ethos* originates in Aristotelian rhetoric as a persuasive appeal grounded in the speaker's character. While this concept has traditionally focused on individuals,

professional discourse requires us to consider collective *ethos*—the trustworthiness attributed to an entire community of practitioners. Drawing on Burke's theory of identification, this dissertation conceptualizes collective *ethos* as a consubstantial identity forged rhetorically among professionals. Additionally, genre theory (particularly Carolyn Miller's notion of genre as social action) provides the methodological lens through which legal texts—rules, disciplinary documents, and procedural forms—are analyzed. These genres not only prescribe ethical behavior but constitute the profession's rhetorical response to threats against its credibility.

The genres to be analyzed in this chapter are what allow for the formation and maintenance of the SC legal bar's collective *ethos*. The first genre is the Rules. SC legal bar uses the Rules genre as a "tool" to achieve their purpose of creating an identification within their professional activity system (Russell, 511). When the public believes a lawyer is not identifying with the Rules, and accomplishing the SC legal bar's purpose, the bar uses another tool: the Complaint form. The Complaint form will be analyzed as a genre to understand how it is used by the legal bar to accomplish its purpose of maintaining the bar's collective *ethos*. Finally, the Disciplinary Statement is used by the bar to make public the bar's decisions on a lawyer's conduct. This tool is used to finalize the maintenance of the legal bar's collective *ethos*. The text of these genres analyzed in other chapters, but to help explain how genres do this work, I want to explain genres a little more by explaining an example from my current job.

Genres are remarkable things. So pervasive, intuitive, universal, and persuasive are genres that it is nearly impossible to gain an analytical distance between genre and genre sets. My roles and responsibilities make genre an ever-present and ubiquitous fixture in personal and personal life. I may not even recognize when I switch from the clearly different genres of texting family matters with work matters. The different agencies and identities I am allowed are so

intuitive and practiced that I am not aware when switching between genres, codes, identities, and agencies. For instance, in my professional world, I am asked to write in the genre of policies and regulations to control decisions at my university. When someone comes to me and says, "we should have a policy for that," I respond, "That sounds great. Please draft it and send it to me for formatting." That is not a satisfactory answer for most people. What they want is the authority to make a decision taken out of their hands. That is what the policy genre does; it dictates how decisions are made. Personally, in my family, I can establish rules and procedures with the authority of a father, but professionally, in the university's environment, I do not have the subject matter expertise to make policy decisions as I am only the editor of policies. My recourse is to defer to them to write how the decision should be made, and they can ask the authorities in their field to affirm the policy decision. An example of this process is retention of records. I was asked to write a policy to decide how often the university should purge physical copies of records and for how long the university should retain physical and digital copies of records. For instance, if the university keeps physical copies of students' transcripts, how long should they maintain them. Storage of these documents costs the university in storage fees and is cumbersome in filing. Although I understand the difficulty, I have no decision in the matter. The state's archives department has already determined these timelines. The power to retain or destroy records is out of my hands, and that power lives in the relevant genres. Genres are remarkable things.

Most readers outside of Rhetoric and Composition will not understand how a genre makes a decision, or requires a response, or disciplines a lawyer. But, as Miller explains, "genres can be said to represent typified rhetorical action" (151). The rhetorical action in my example above is obeying the decision put down in a policy for when to destroy records. These policies are written by a select few subject matter experts. The experts make decisions in relative

isolation from the people who will be obligated to obey the policy. Miller explains, “A genre is a rhetorical means for mediating the private intentions and social exigence; it motivates by connecting the private with the public, the singular with the recurrent” (163). The policy is written once, but the decision is recurrent every time the policy is enacted by a custodian of records retaining or disposing of a record. The singular event of penning the policy is connected with the recurrent events of that policy decision being carried out. The authors of a policy write in private so that the decisions codified in the policy will be embodied in action by the ones who carry out the policy in public.

The state has the decision for when the public’s records are destroyed or “dispositioned”. It is not a decision of each state university. We are subject to the state’s legislation and the state archivists. This means every transcript, curriculum, board of trustee’s minutes, and state employees’ emails are retained by order of the public’s interest. A university does not have control over how long they retain a document. The genre of legislation controls this decision and many more for public institutions. Genres like policies, regulations, and legislation operate in a structure called an “activity system” by Russell and further explained by Bawarshi (116). The activity system of public records involves legislation dictating that public records must be maintained. Other entities are enacted by this legislation. The state’s public archives are empowered to determine how long records are retained and who must maintain those records.

The public archives have dictated that an institute must have their own policy for electronic copies, another entity in the activity system. This policy tells custodians of records what they must do when storing or destroying records. If an institution desires to dispose of physical copies of students’ records while retaining electronic copies, an accurate documentation and storage regime is required. A policy for each institution is necessary. The policy must

describe the record keeping of each item retained electronically and physical copy destroyed, such as a log of the dates and types of items saved electronically and their physical copies destroyed. The policy tells the state institution what it must do. It does not tell them what they must be – an identity; that is another activity system. What a person should be, their identification, is in the realm of another genre and activity system all together. The policies of a higher education institution cannot address the necessary identification we will need to consider in this chapter. The limits of action are not an identity, but rather guard rails. Identification within the activity system and genre of policies and regulations is regimented and specific. All people (i.e. state employees) who follow these policies and regulations identify with others inside the activity system. The identification is employment with the state, not expertise in the law. Switching intuitions for the purpose of this chapter, a genre governing, lawyers must go beyond decision-making and must shape the ethics of the experts. Ethical decisions that are beyond a list of shall-and-shall-nots. This is where another type of genre must be invoked: constitutional genres like the *Rules of Professional Conduct*, or in other words – the Legal Professional's E*thos*.

Table 1 below outlines several key genres within the legal profession's disciplinary activity system. These genres are not isolated; they are interconnected rhetorical acts that work in concert to construct, reinforce, and regulate the profession's collective *ethos*. The uptake column indicates the expected or invited response to each genre—whether from lawyers, the public, or judicial institutions. Each genre contributes symbolically to the shared identity of the legal profession. Table 1 also simplifies the following analysis by showing the genre functions in one space.

Genre	Primary Function	Rhetorical Aim	Uptake	Role in Collective *Ethos*
Rules of Professional Conduct	Define what a lawyer is ethically and functionally	Establish professional identity	Guides lawyers conduct, gives understanding of what a lawyer should be	Unifies the profession around single set of values and responsibilities
Complaint Form	Initiates formal misconduct inquiry	Empower public and legal actors to report violations	Triggers investigation, disciplinary proceedings	Invites public participation, reinforcing transparency and collective accountability
Disciplinary Statement	Documents findings and penalties in misconduct cases	Publicly reaffirm standards; performs separation	Signals to bar members, public, and press	Enacts "not one of us" exclusion; restores *ethos* by showing active culling of violators

Table 1

As explained in the previous chapter, the *Rules of Professional Conduct* (Rules) is an example of the constitutional genre that tells the audience what professionals should be. Much like the US constitution creates a nation, the Rules create an identification for lawyers. The genre of the Rules is the same as is used in other professional identifications. The uptake in the Rules genre is the same across all professional occupations: it constitutes an identification among the professional organization. The Rules genre is acted out by each member. The Rules Genre is a piece of the activity system that creates and maintains the collective *ethos* of the professional organization. The South Carolina (SC) Legal Bar, an activity system, has drafted a specific text in the Rules genre – a genre of identification. The Rules are written in the genre of identification to control what a lawyer is and should be. This chapter, we will focus on the genres within this activity system that creates and maintains the collective *ethos* of the South Carolina legal bar. The intent of this chapter is to analyze how the genres within the SC Legal Bar create and maintain a collective *ethos* in the legal profession. The legal bar consists of its own activity

system of genres. Within this activity system, genres are used in the legal bar to determine what a lawyer is and why that identification should be believed in legal matters.

The Rules are not a list of "Shall Nots". They are rather an *ethos* that describes the particular expertise and character of the lawyer. The Rules are a collective *ethos*. Miller says, "[genre] seeks to explicate the knowledge that practice creates" (155). The genre of the Rules is the identification of what the practice of a profession should be. Genre is not simply form, but more importantly genre is the function of social actions. The genre of the Rules creates the very identification of a lawyer. However, this identification is contingent on lawyers' behavior. If a lawyer acts like a lawyer, then they are lawyers. And they are only lawyers if they agree with the identification in all the genres of the activity system. As stated above, the effect of the Rules cannot be evidenced when lawyers comply with the Identification. But when lawyers' misbehavior, then genres function to uphold the lawyers' Identification. These artifacts are found in the legal bar's disciplinary process. For this chapter, I will look at two genres in the disciplinary process. The guiding questions for this analysis are:

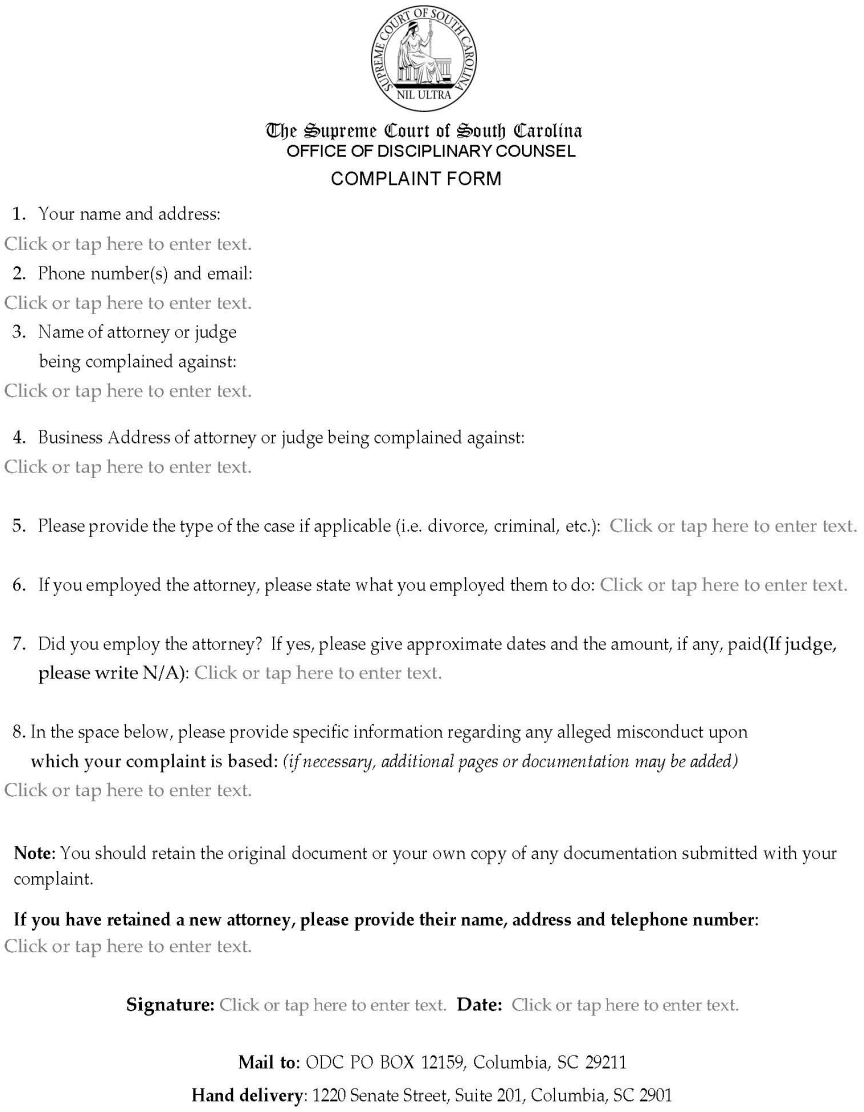
a. What genres/texts contribute to the formation/maintenance of collective *ethos* in the legal profession?
b. How do the genres in the disciplinary process maintain the legal bar collective *ethos*
c. How do the genres in the disciplinary process invoke the Rules for Identification?

GENRE ANALYSIS OF COMPLAINT FORM

For the second genre of the legal bar's activity system of disciplinary processes, it is necessary to consider the genre of the Complaint form. The Complaint form is the genre that allows the clients/public/peers to report on a lawyer for misbehaving. Interestingly, there is no "praise form" as positive feedback; we only have the negative feedback opportunity. To access

this form, a user must be aware that it is present. The SC legal bar chooses to place the complaint for on their “About” page. If you are on the SC Legal Bar’s website, you must first find “About”, and then select “Lawyer & Judicial Discipline”, from a drop-down menu to get to “How to File a Complaint”, as another item at the submenu. After a brief explanation of what should be included in a complaint, the site says, “Below is a link to a disciplinary complaint form that may be used for submitting a complaint to the Office of Disciplinary Counsel (ODC). This complaint form is optional. You are not required to use this form to file a complaint with ODC.” If a client is not satisfied with the outcome of litigation, then they might consider this filing a complaint. However, disciplinary officials would see this as frivolous. However, if the client is able to tie their complaint to a Rule violation, then the complaint would be more relevant to the disciplinary process. The problem is the Rules are subject to precedence, or interpretations and decisions from previous cases. Case law can further complicate which Rule applies to a complaint and which is irrelevant. It is incumbent upon the complainant to describe as best as they can the offense. The SC disciplinary counsel is responsible for interpreting the complaint as a Rules violation or not. The disciplinary counsel knows the Rules better than the complaining public and enforces those Rules to protect the collective *ethos*.

What is requested in the complaint form is demographic and biographic information for both the complainant and the offending lawyer. It is a one-page of fill-able information.



The Supreme Court of South Carolina
OFFICE OF DISCIPLINARY COUNSEL
COMPLAINT FORM

1. Your name and address:
Click or tap here to enter text.
2. Phone number(s) and email:
Click or tap here to enter text.
3. Name of attorney or judge being complained against:
Click or tap here to enter text.
4. Business Address of attorney or judge being complained against:
Click or tap here to enter text.
5. Please provide the type of the case if applicable (i.e. divorce, criminal, etc.): Click or tap here to enter text.
6. If you employed the attorney, please state what you employed them to do: Click or tap here to enter text.
7. Did you employ the attorney? If yes, please give approximate dates and the amount, if any, paid(If judge, please write N/A): Click or tap here to enter text.
8. In the space below, please provide specific information regarding any alleged misconduct upon which your complaint is based: *(if necessary, additional pages or documentation may be added)*
Click or tap here to enter text.

Note: You should retain the original document or your own copy of any documentation submitted with your complaint.

If you have retained a new attorney, please provide their name, address and telephone number:
Click or tap here to enter text.

Signature: Click or tap here to enter text. **Date:** Click or tap here to enter text.

Mail to: ODC PO BOX 12159, Columbia, SC 29211
Hand delivery: 1220 Senate Street, Suite 201, Columbia, SC 2901

Figure 1

When the form begins to get specific, it asks for "the type of the case if applicable (i.e. divorce, criminal, etc.)" and then asks what the complainant hired the lawyer to do. In the remaining space, the form asks complainants to detail the money they spent on the attorney and any other expenses incurred. Any expenses and costs to the client will be critical to the repercussions for

the lawyer in question. The form ends with a request for any additional information and asks if the complainant has hired another lawyer for their case.

Genre analysis requires a researcher to investigate the rhetorical messages inherited in a tool of the activity system. The bar uses the tool for specific purposes. Genre analysis helps the research to identify that purpose by exploring the "rhetorically embedded [purposes] in disciplinary and professional genres" (Bawarshi, 156). Below I use a modified rubric for Bawarshi's analyses of genres, which emphasizes the intersection between rhetorical situation, purpose, audience expectations, and uptake within an activity system. When considering the activity system of the SC legal bar, I think it is necessary to analyze the different tools used to accomplish the purpose of the bar to maintain collective *ethos*. In Bawarshi's chapter on "Re-Placing Invention in Composition", he writes a four-part questionnaire, "Guidelines for analyzing Genres." Specifically, I focus on the rhetorical function, exigence, uptake, and relationship to the broader disciplinary ecology. While Bawarshi's full framework includes classroom-based pedagogical components and genre production processes, I narrowed my focus to the elements that reveal how this form functions symbolically and procedurally in the disciplinary system. These aspects best illustrate how the genre structures public complaints, guides institutional response, and ultimately initiates a rhetorical sequence that maintains professional boundaries. I have adapted the fourth part to focus on the most relevant aspects of the Complaint form. The questionnaire considers "Who is *invited* into the genre, and who is *excluded*" (160, emphasis in the original).

Table 2:

Complaint Form Genre Rubric

	Who is the plaintiff (i.e. injured parties)?	Who is the defendant (i.e. offending parties)?	What can be complained about?	How will the complaint be handled?
Allowed	A client, or acquaintance, with evidence of misconduct	A current lawyer subject to the NC legal bar and the *Rules of Professional Conduct*	Any misconduct of a lawyer not confirming to the *Rules of Professional conduct*	The Supreme court can investigate allegations
Not Allowed	Any complainant with malice toward the plaintiff	Any other person who is not a NC Lawyer	All other matters of a lawyer that is not expressly condoned by the Rules	Discipline brought on the lawyer without investigation. Dismissal of allegations without investigation
Tacit Expectations	The NC Legal Bar	NC Legal Bar for providing the lawyer with a license to practice	Misconduct by the lawyer for which there is evidence	The Legal Bar will share the complaint with defendant and request a response
Material	The names listed on the complaint and signed/initialed	The named lawyer	Anything the complaint wants to write in a single page	A letter with complaint will be sent to complainant

Table 2.

The Complaint Form contributes to the maintenance of the collective *ethos* in the legal profession by providing a channel for the cracks in the collective *ethos* to be exposed. When a complainant needs to alert the legal bar to misconduct of lawyers, the Complaint form provides that channel to the bar who can respond. Without the complaint form, the public, and the client in particular, is unable to provide the necessary external interaction that collective *ethos* requires. The form does this by providing space for complainants to describe how a lawyer has violated the collective *ethos*. In the eighth question, the form asks, “In the space below, please provide

specific information regarding any alleged misconduct upon which your complaint is based." Here the form elicits "space" for complainants to express how a lawyer has misconducted. With this information, the SC legal bar can respond and repair the cracks in the collective *ethos*. If a lawyer's alleged misconduct is outside of the Rules, then the SC bar is powerless to respond. The bar can only respond to those allegations of violations to the Rules. Therefore, the Complaint form invokes the Rules by only responding to those misconducts which violate the Rules. If a complainant does not like a lawyer, a judicial outcome, or is unhappy with a judge's decision; the Complaint form is useless. The genre does not empower the SC bar outside of the Rules.

In the Complaint Form, the legal bar has a strategy to narrow complaints against lawyers to only those complaints that have to do with the identity of lawyers as defined by the Rules. The Complaint form (re)produces the legal bar's Identification by silencing all complaints that are outside of the Rules. The complaints which warrant investigation and response are the complaints that invoke a violation of the Rules. If a lawyer is alleged to violate the Rules, then machinations of the legal bar disciplinary process begin. The most obvious moment of the legal bar's strategy to maintain the collective *ethos* is in this final question. The form ends with the request for "specific information...[of] any alleged misconduct". When an alleged misconduct is a violation of the Rules, then the collective *ethos* is in jeopardy and the investigation begins. Those investigations are not publicly shared; neither is the completed Complaint form. The subsequent gap of genres is an investigation for another project, but it would include the response from the legal bar to the complainant, the notice to the defendant lawyer, the investigation by the legal bar, and the findings by the investigators. Due to the limitations of this project, we can only consider the next genre that is public: Disciplinary Statements.

GENRE ANALYSIS OF DISCIPLINARY STATEMENT

In subsequent chapters, I will analyze the text of Disciplinary Statements, but in this chapter I will conduct an analysis of certain genres within the legal bar's activity system that are important to the formation and maintenance of the legal profession's collective *ethos*. To access these Disciplinary Statements and many others like it, a user must know what they are looking for. Searching the term "disciplinary" does not lead a user to the multi-year database of Disciplinary Statements. Instead, a user has to go to "Opinions & Orders" to the right of the "About" link used to access the Complaint form. From "Opinions & Orders", a banner drops down and the right most-column under the title "Courts Orders". Fourth down on the list of different kinds of court orders is "Judicial/Legal Conduct". This page is the interface with the most recent orders and the subgenre of "Disciplinary Statements". It is important for this study to recognize that although the legal bar relies on transparency to bolster its collective *ethos*, It also attempts to hide the infractions upon the Rules by burying disciplinary actions against members. The most recent as of the writing of this is "In the Matter of William E. Hopkins, Jr., Petitioner" (Kittredge et al). Mr. Hopkins received a three-year suspension from the practice of law in 2021. He has petitioned the Supreme Court of South Carolina to reinstate him as a member of the SC Bar. The order was issued on April 3, 2025. Using a drop-down list, a user can access orders as far back as 1978. However, it seems the SC Bar has not uploaded those disciplinary orders from 1978 until 2003. Why 2003 is the first time that Disciplinary Statements appear in the online database is anyone's guess, but it is most likely that the limitations are due to digitization resources and priorities. If a chart of the online-available disciplinary orders was created that showed the number of disciplinary orders per year, the line would sharply jump up in 2003 and

stay at a steady plateau until 2024 at about 20 - 30 statements per year. 2025 is still too early to tell.

The court orders open with “The Supreme Court of South Carolina” in Gothic font, giving the order an official and distinctive appearance. The rest of the document is in Times New Roman, size 12, so that it is legible with a commonly recognizable formal style. The words, “In the Matter of...” precede the name of the lawyer who is or was disciplined. This is the petitioner. Underneath the named petitioner is the case number which starts with the year it was filed and then has a sequential number of all orders which makes the case number unique and tells the reader how many cases preceded it in that calendar year. For Mr. Hopkins, he filed his petition for reinstatement on March 27th, 2024, and his case number is 2024-000476, meaning that 475 cases preceded him in 2024. That is an average of five-and-a-half cases filed per day since January 1st, 2024. It took the SC Bar over a year to hear this case and render a decision, since the order was only issued in April 2025.

The order genre does not require a lot of text. This example order has only four sentences broken in two brief paragraphs. The length of the order varies based on the action the order is making. If more explanation is required because a decision is complex and involves context, then the order will run on for pages in some circumstances. In this example order, the investigation and explanations were made in previous orders so the length is truncated to the point that there are as many judges signing the order as there are sentences. This signifies that the order is unanimous and collective. Not a unilateral decision, but one that upholds the collective, and specifically the collective *ethos*. The genre of Disciplinary Statements, in spite of its brevity, is monumentally consequential. The genre delivers a Kendrick Lamar style slam that says to lawyers “you are not like us.” The order decides a lawyer’s fate. As we will see in subsequent

chapters, an order can end a lawyer's career, a drastic change which can portend a fateful end of life. In brief, the Disciplinary Statement must invoke certain realities of a lawyer's tenure in the legal bar. These realities are explained by Gee as figure worlds where certain language invokes a reality the lawyer must deal with because he/she is a lawyer. As Gee explains, figured worlds tell us what is "typical" and to be expected (95). The Disciplinary Statements show the lawyer a figured world where their actions are compared to the typical, as dictated in the Rules.

When a lawyer's actions are not in line with the typical actions from the Rules, it seems "normal" for the lawyer to be disciplined (Gee 95). To analyze the discourse in Disciplinary Statements, I will use Gee's concept of figured worlds. Gee's discourse analysis describes seven building tasks. I have selected the third building task as the most relevant to our discussion because that building task is "Identities" (Gee,140). Below is a table describing the figured world of lawyers; this is the context that the Disciplinary Statements act within. The framework comes from the Rules which define the identification of the legal profession and lawyers. Lawyers are given three roles within the identification of legal professionals: representatives of clients, officers of the legal system, and public citizen having special responsibility for the quality of justice. The Disciplinary Statements are written within the contexts of these three roles; it is an integral part of the figured world within which lawyers work and exist. The table moves from right to left asking questions about the identities of the legal profession and lawyers. The answers to these questions are directly or indirectly derived from the Rules to demonstrate how the Rules influence the figured world of lawyers.

Table 3

Identities in the Rules

What is the Identity being created?	How does the text define this identity	Who is created/invoked to become this identity	Where does this identity act?	When is this identity relevant?
legal profession	By performing the other three tasks [*Rules of Professional Conduct* (ROC) #1]	A moral, ethical professional [ROC #12]	When performing all the other tasks	In every professional capacity
representative of clients	As advisor, advocate, negotiator, and evaluator [ROC #2]	Experts in law with bearing upon a client's position. Intermediators who doggedly pursue a client's interest, honest dealers who argue for a client's interests, and fair examiners of a client's position [ROC #2]	When representing a client	In matters regarding the court
officer of the legal system	as a third-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter. [ROC #3]	Non-concerned, benevolent person interested in justice [ROC #3]	When consulted about legal processes	In matters regarding the law in general
public citizen having special responsibility for the quality of justice	a lawyer should seek improvement of the law, access to the legal system, the administration of justice, and the quality of service rendered by the legal profession [ROC #6]	Educator of law to the public and regulator of the legal profession. [ROC #6]	In every walk of life	In matters concerning the public

Table 3

When a Disciplinary Statement is written, the authors and legal audience know the figured world which surrounds and influences the statement. The legal professional is shaped and molded into the identities that the legal professions figured world has developed and maintained. The Rules are shaped by the legal profession's figured world and the Rules recreate the figured world in legal professionals through the construction of the identities. The legal professionals know the identity created by the Rules. They know how the Rules define those identities. They know who they must be within the identities, when they must be those identities and how to act. Now, the Disciplinary Statements reinvoke the identification knowledge when the lawyers fail to live up to their defined identities.

The figured world created within the genre of the Disciplinary Statements is grounded in facts. Every sentence refers to a discoverable fact from the disciplinary counsel's investigation. Every allegation from the Complaint Form has been distilled through the investigation into a straightforward presentation of evidence, not interpretation – the lawyer broke the Rules. The authors refer to themselves as "The Office of Disciplinary Counsel" or "this Court," which adds to the institutional sanitation of the genre. The errant lawyer is simply known as "Respondent", and later as "Petitioner", making the judgement impersonal and distant. The disciplined lawyer could almost read their own disbarment as something referring to someone else, but for their name in the title. Dates, Opinion numbers, and Rules are strewn about the genre. The dates in a statement establish the timeline, not of the violation, but of the disciplinary process. The date an Opinion is published, or a petition is received. The timeline of the process is critical to the genre since it is an action: from this point further, a lawyer is under discipline or fully restored from a period of discipline. Opinion numbers are also important since they represent a similar but distinct genre in the bar's activity system. The Opinion is submitted by the Office of Disciplinary

Counsel to a commission established by the SC Supreme Courts “to preside over complaints of lawyer misconduct and make recommendations to the Supreme Court regarding final resolution of lawyer disciplinary complaints” (Commission). The Commission is charged with hearing complaints against lawyers.

The Opinion is an investigatory document that sets forward the allegations against the respondent lawyer. By the time a Disciplinary Statement is issued, the Opinion is at least thirty days old. The SC court’s website on the disciplinary process states, “The disciplinary proceedings become public 30 days after the period of time in which the lawyer or judge may file an answer [to the formal charges].” In the Disciplinary Statement the Opinion numbers reference the previous investigation that led to the court's determination and sanction. These are the facts of the investigation. The Rules, which are always referenced in Disciplinary Statements are the authority that the court has in acting when a lawyer is guilty of misconduct. The dates and Opinions set the stage for the genre’s action, the Rules are the precedence for the action. The action is to publicly discipline errant lawyers, or in positive scenarios, to restore penitent lawyers to full practice again.

The Disciplinary Statement contributes to the maintenance of the collective *ethos* in the legal profession by invoking the Rules, specifically where a lawyer has violated said Rules. By invoking these Rules, the Disciplinary Statement establishes a point of judgement where the lawyer is in violation. When the Disciplinary Statement invokes the Rules in violation by the lawyer, it seeks to maintain the collective *ethos* by using the lawyer as an example as one who violated the Rules and is therefore punished. When a lawyer violates the Rules, the Disciplinary Statement calls in the Rules as an example of the Identification the lawyer should have aligned

with. By not aligning to the Rules, the lawyer is in violation of the Rules. Therefore, the lawyer is not within the Identification of the Rules and thereby not acting like a lawyer.

The legal bar's strategy in using this genre is that it demonstrates what the lawyer should be by eliciting the Rules and calls the lawyer to account for the violation of said Rules. In this way, the Identification of the legal bar is (re)produced in the Disciplinary Statement. The most obvious strategy in maintaining the collective *ethos* of the legal bar in the Disciplinary Statement genre is to hold up the Rules as the identification a lawyer should have and demonstrate through the investigation conducted how the lawyer failed to embody that identification; those lawyers who are "not like us." In the next chapter, I will present three case studies of lawyers who were disciplined and demonstrate how the various documents used in the disciplinary process follow this strategy. In the three instances – categorized in negligence, dishonesty, and incompetence – The SC legal bar demonstrates how the disciplinary process plays out when lawyers violate the identification of the Rules. Each ejected from the lawyer identification as Lamar ejected Drake.

CHAPTER FIVE

MAINTAINING THE COLLECTIVE *ETHOS* IN THE LEGAL PROFESSION

"The regulation of the conduct of lawyers is critical to preserving the integrity of the legal profession and enhancing public confidence in the judicial system. These rules provide the procedure for resolving allegations that a lawyer has committed ethical misconduct or that a lawyer suffers from a physical or mental condition which adversely affects the lawyer's ability to practice law."

- S.C. App. Ct. R. 1 (*Rule 1 - Purpose*, S.C. App. Ct. R. 1)

Collective *ethos* appears first in the literature in a critical piece from Wei (2002). Wei looks at the corporate images in advertisements after the terrorist attacks on 9/11. A series of ads from diverse industrial sections as airplane manufacturers, garden seeds distributors, and investment firms use the tragedy of the 9/11 terrorist attacks to advertise their company and support of first responders and the victims' families. Wei analyzes these ads as a consideration of the use of their corporate image to create a "shared ground" with their audience (Wei 274). The persuasive strategy of creating a shared ground with audience achieves "the sense of collectivism or coming-together-ness (Wei, 274). Collective *ethos* is when the shared ground from imagery collapses the distance between the corporate and the audience and suggests the appeal to the audience as a given unification between corporation and audience (Wei 274). This chapter proceeds with Wei's concept of collective *ethos*, but with a focus on the legal profession. Wei defines this concept in respect to corporations and uses select examples of corporations who

chose to use the tragedy of 9/11 to develop their patriotism through ads. “As we all have noticed, after the September 11 events, many US companies have been cashing in on the rush of patriotism to advertise their corporate images, either directly or indirectly” (Wei 272). Through a thoughtful and selective analysis, Wei demonstrates convincingly how certain corporations used 9/11 to develop their collective *ethos*. I have researched the following three examples to discuss collective *ethos* because their stories are evidence of the SC legal bar’s determination to protect their collective *ethos* by publicly reprimanding and disciplining a group lawyers. My aim is to develop how the terministic screens used in the Disciplinary Statements reminds us of Burke’s identification we discussed in the previous chapter. In each case to be discussed, the SC legal bar’s authors remind the audience of the identification created in the Rules. The Rules appear in every genre of the SC court’s disciplinary proceedings. After reading several Disciplinary Statements published online in the SC legal bar’s online database, I decided to look deeply into examples as test cases for how the legal bar develops their own collective *ethos*. I read the legal bar’s Disciplinary Statements with an eye to understand how the legal profession’s identification was challenged by these three lawyers’ alleged misconduct.

The first lawyer in this analysis was performing the identity of a lawyer perfectly, until she was not. Maria Reichmanis was a patent lawyer who helpfully assisted clients until circumstances prevented her. The legal bar’s response is telling for the maintenance of the collective *ethos*. The second example analyzed is less reputable but maintains his status as a practicing lawyer in SC courts. Kenneth Massey is the diligent, creative, and resourceful lawyer the SC courts expect to represent clients, but his loose moral and ethical actions draw the discipline of the same SC courts. Lastly, Lawrence Purvis Jr. draws our attention to the need for the legal bar to have expertise and competence in matters of the law. Mr. Puris was not up to the

task and his disbarment demonstrated the legal bar's efforts, as in all three cases, to maintain their collective *ethos*.

My analysis concentrated on the legal bar's depiction of how the errant lawyers' actions detracted from the legal bar's collective *ethos*. In the first case, I put aside the judgment from the USPTO, as this was a separate figured world from the SC lawyers. The federal organization of US Patent and Trademark lawyers is important to one of these stories, but their decisions are merely additional evidence for the SC courts to factor in, therefore their rulings are merely evidentiary and not the subject of this study. In the other two cases, I consider facts from outside of the public reprimands and Disciplinary Statements, but only to fill in context of the cases The analysis, the main focus of this chapter, is the legal bar of South Carolina responding to complaints against three lawyers, Reichmanis, Massey, and Purvis; and the detailed disciplinary actions that took place.

A larger study of the disciplinary actions against errant lawyers would follow three primary directions: negligence of duty, failure to act in an ethical way, or failure to follow procedure. To maintain collective *ethos*, the SC bar must encourage the opposite of these because their identification is with those lawyers who follow procedures (competent), who act in ethical ways (honest), and those who are diligent in their actions. These are necessarily large categories. Failure to follow procedures encompasses a vast legal precedence of lawyer's expected understanding of legal proceedings. For instance, the SC Courts disbarred Benjamin Wofford for "failing to appear to answer formal charges or appear at panel hearing or hearing before this court," among other things (In re Wofford, 330 S.C. 522, 500 S.E.2d 486 (1998)). If a lawyer acted in an unethical way, that could be using illicit drugs, like Purvis in the chapter or stealing money from a client, like Massey in this chapter. In Ms. Reichmanis' case, negligence is

at issue. For Massey, it's dishonesty. Purvis provides us with an example of incompetence. I will focus the first part of the chapter on negligence, because the inaction of lawyers is as much an infraction against their collective *ethos* as a deviant action is. Any act of intentional deviance is covered by this analysis just as an act of unintentional deviance, such as negligence. Ms. Reichmanis represents the negligent lawyer that the SC legal bar seeks to separate themselves from to maintain the collective *ethos*. Massey demonstrates why the legal bar has to respond when a lawyer is intentionally deviant. Lastly, Purvis proves that deviant action and negligent inaction are not the only areas where lawyers can err. Competence is a critical characteristic of the legal bar's identification. When competence is lacking, like diligence and ethics, the collective *ethos* of the legal bar must be protected by expelling the offending lawyers.

THE NEGLIGENT LAWYER

-Maria Reichmanis-

In Aiken, South Carolina, there is a small office building with a storefront at 220 Richlands Ave W. As of this writing, the office building hosts a couple attorneys at law, a home healthcare office, and Thrivent Financial. There is still space for rent in this prime real estate at the center of the historical town of Aiken. Cars frequent the busy Richlands Ave as they whiz by Hotel Aiken going east and west through the county seat. Once this little professional office was the physical address for Maria Reichmanis, patent attorney. Her name is no longer on the building. She is not accepting clients. A notice appeared above "Reichmanis Maria Patnt Atty" on Yelp! – "Yelpers report this location has closed." The page is now taken down all together. In a Google search, the name "Maria Reichmanis patent attorney" results in a motion for default

judgement which reads, “Maria Reichmanis is excluded from practice before the United States Patent and Trademark Office…” (USPTO, proceeding No. D 2001-04). Ms. Maria Reichmanis began practicing as a private patent lawyer around or before 1996. This is only known because of the allegations from the SC courts against her and she does not have a patent or trademark application before 1996 according to a search of the USPTO website. There could be years of Ms. Reichmanis’ successful practice, but the only available early evidence is the disciplinary actions against her. In May of 2003, Reichmanis was labeled a “substantial threat of serious harm to the public or to the administration of justice” (SC Courts *Reichmanis,* May 2003). By July of that year, she was put on incapacity inactive status due to a documented medical condition. As of this writing, she is no longer a member of the South Carolina bar. A personal narrative haunts this public narrative. What can be learned over two decades after these events is not satisfactory to explain the entirety of the downfall of Ms. Reichmanis’ legal career.

Here is an attempt to fill in the blanks from the SC legal bar’s public reprimands, Disciplinary Statements, and USPTO documents. It seems the trouble began as far back as 1996. Ms. Reichmanis was still accepting clients and assisting in the drafting of applications for patents and trademarks. According to the SC Courts’ Public Reprimand of Ms. Reichmanis, submitted February 13, 2001, she failed to respond in a timely manner to the USPTO inquiries regarding her client’s patent application. Her clients also complained she did not communicate with them or follow up on their applications for patents. USPTO director of the Office of Enrollment and Discipline also filed formal action against Ms. Reichmanis in 2001 (USPTO, proceeding No. D 2001-04). The director claimed Ms. Reichmanis neglected to respond to an investigation into the allegations of her negligence in a legal matter. She continued her silence by leaving the complaint unanswered. Without any prior disciplinary matters, Reichmanis was guilty of leaving

two patent applications unfinished, her total fees were $3,095 *(Reichmanis Public Reprimand,* 2001). And for that reason, she was suspended from the SC legal bar in the interim and excluded from doing business with the USPTO. In addition to these severe repercussions, Reichmanis also experienced the humiliation of a public reprimand that could be seen by all of her colleagues and potential clients (SC Courts *Reichmanis,* May 2003). As a final act of embarrassment, the SC Courts vacated the previous interim suspension because Reichmanis pleaded her medical condition prevented her from defending herself (SC Courts *Reichmanis,* July 2003). She was incapacitated to further practice law legally and physically.

Whether Reichmanis' medical condition came before her public humiliation in 2001 or after is immaterial. Her health and her career were deteriorating. Why was this onslaught mounted against a lawyer over such relatively small infractions? What did Reichmanis do to deserve being labelled a "substantial threat of serious harm to the public or to the administration of justice" *(Reichmanis,* May 2003)*?* The (re)actions of the state bar occurred because Reichmanis was guilty, not only of negligence in these two cases, but she caused the whole legal profession to be pulled into disrepute. The misconduct of neglecting her clients' legal matter damages the legal profession's collective *ethos,* because she failed to act in a timely way for these time sensitive issues. Failing to follow the *Rules of Professional Conduct* meant that she was unfit to practice law for the simple reason that she did not conform to the identification created by the Rules.

Given that little is publicly known about the case, the public is given essentially two options to interpret this situation – a generous interpretation and a draconian one. A generous interpretation of the facts is that the state bar realized they must protect the weak. The judgement of the SC courts was that Reichmanis was a substantial harm to the public if she continued to

practice law. The order in May 2003 is meant to tourniquet the hemorrhage of societies trust if Reichmanis continues to practice in her current state. The legal bar had no other choice but to sever Reichmanis from the practice of law in order to restore trust in the legal bar. But, with the hope of full restoration, they only suspended her license in the interim. This gives the impression that the SC courts were hoping for a full restoration of their weakened colleague. The suspension was temporary.

A more draconian interpretation is that the state bar was ready to cull their weak. Like an army on the move, the SC courts could have issued this judgment to shoot their wounded and move on. With more concern for the appearance of the legal profession than the well-being of fellow lawyers, the SC courts could have issued their order in July 2003 as a way to incapacitate Reichmanis further from practicing law. This order would be justified by the Rules but devastating to the lawyer in question. Her legal practice proved unrecoverable. Also unrecoverable would be the legal profession's collective *ethos* if they did not sever Reichmanis from practicing in the SC legal bar's name. The validity of the two interpretations are not here to be decided.

The two interpretations are also not mutually exclusive. The mix of mercy and justice are not meant to be separated here. The main issue is why the issue arose at all. Why should lawyers in different legal fields care about the (in)actions of a lawyer in another field? If criminal lawyers were unaffected by the negligence of a patent lawyer, why should they care? I postulate that lawyers of all subjects and topics care because the collective *ethos* of lawyers is at stake no matter the field the lawyer is working within. An infraction on the Rules for any lawyer is a violation against all lawyers. This will be clear by the language selected in the Disciplinary Statements. If a lawyer's censures are based upon the Rules, then it is an issue of the identity of a

lawyer above and beyond their area of practice. And if the issue is around the Rules, then every lawyer, no matter their creed or subject area, is concerned. The concern of every lawyer is their collective *ethos*. If the actions of one lawyer violate that collective *ethos*, then every lawyer has an invested interest in seeking reparations for the violation. The analysis that follows shows the language used to detail the infractions Reichmanis allegedly made, not against her clients, but against the legal profession.

ANALYSIS

A public reprimand is the only available document that is shared with the public to announce that a lawyer has been charged with misconduct. Reichmanis did not dispute the allegations of misconduct against her in the March 26th, 2001 decision. The public reprimand is an agreement between Reichmanis and the Supreme Court of South Carolina. The reprimand states the facts of the agreement. Reichmanis agrees with the facts of two patent matters: the first was a failure to communicate important patent status with her client, the second was a failure to respond to the USPTO "Office Action" on a patent she submitted.

On the first matter, the allegations against, Reichmanis read as follows:

> Respondent was retained by two clients to obtain patents from the United States Patent and Trademark Office (PTO). The first client paid respondent an $800 fee. On behalf of the client, respondent performed research and drafted an amended patent application, which was filed with the PTO in April 1997. Respondent communicated with her client in April and May 1997, regarding the status of the application, but then took no further action on the application until early 1999

> when she was contacted by the client's spouse regarding the status of the matter. Respondent sent a status letter to the PTO in March 1999, which was copied to the client. Since that time, respondent has taken no further action nor communicated with the client regarding the application. The client, as well as another patent attorney hired by the client, attempted to communicate with respondent on several occasions, but respondent failed to respond to their inquiries.

Two years passed between the initial application and any communication from Reichmanis. Once her client's spouse finally inquired in 1999, Reichmanis sent a letter to the PTO. After that, nothing. A new lawyer was hired, and Reichmanis did not respond to the new lawyer at all.

The second client did not fare much better, even though they were more patient. After a filing date of June 4, 1996, Reichmanis took "no further action on the case until October 1998" (Opinion No. 25269 Opinion No. 25269). Apparently, the USPTO had attempted to contact Reichmanis multiple times. A phone call from the USPTO patent examiner was the wake up call to Reichmanis. She said, she had not seen the "Office Actions" by the USPTO. Reichmanis then claimed she contacted her client about the "Office Actions", but nothing further happened. Both Reichmanis and the client failed to produce communications that any communication from Reichmanis happened regarding this.

According to the public reprimand document, these were separate clients and two distinct patent matters. The situation got worse when Reichmanis failed to respond to the legal bar's initial inquiries into the allegations. This was a violation of the intermediary Rules Governing the Practice of Law (Rule 413. Rule 19(c)(4), RLDE). Reichmanis was required to provide a transcription of her communications with both the client and USPTO that demonstrated she had

acted in both clients' best interest. Those communications were not provided. She was unable to prove that she had contacted her clients about the USPTO's inquiries and actions. Her competence was now in question. Incompetence is misconduct in the lawyer's identification.

Rule 7 of the SC Courts Rules for Lawyer Disciplinary Enforcement (Rule 413) states grounds for discipline exist when a lawyer "willfully violate a valid court order issued by a court of this state or of another jurisdiction" (Rule 7, sect (a)(7)). These types of Rules are triggered when an allegation of misconduct is made and an investigation by the SC courts begins. If a lawyer is not aligned with the *Rules of Professional Conduct*, then an allegation of such is made. When the SC Courts investigates those allegations, then the lawyer can make further violations against the Rule of the Practice of Law by not responding to the investigation. This is no longer an investigation into alleged misconduct against the original complainant, but now a firsthand account of violations against the SC Courts. If a lawyer willfully violates a valid court order by SC Courts, then the complainant becomes the SC Courts in addition to the original complainant. Reichmanis' lack of cooperation with the SC Courts investigation makes her culpable before the original compliant can be fully investigated. Reichmanis acknowledges this in the agreement, but the list of infractions goes on.

Not cooperating with the SC Courts investigation is not a violation of the *Rules of Professional Conduct*. Lack of cooperation does not affect the legal profession's collective *ethos*. However, the original complaint does negatively affect the collective *ethos* of lawyers. At this point in the public reprimand, the SC Courts get to the heart of the matter: Reichmanis violated the *Rules of Professional Conduct*. Rule 1.1 says "a lawyer shall provide competent representation to a client." Reichmanis agreed that she violated this Rule. She again agreed that she violated Rule 1.3, "a lawyer shall act with reasonable diligence and promptness in

representing a client;" Rule 1.4, "a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information; a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;" Rule 8.1, "failing to respond to a lawful demand for information regarding a disciplinary matter"; Rule 8.4(a), "violating the *Rules of Professional Conduct*"; and Rule 8.4(e), "engaging in conduct prejudicial to the administration of justice" (Rules). Reichmanis accepted all the guilt and acknowledged her misconduct to these violation against the Rules and her legal bar. The public reprimand was her discipline.

A reading of this public reprimand would give the impression Reichmanis was a bad lawyer who acknowledged her failure to serve her clients and was unfit to represent any more. On the contrary, Reichmanis managed to get thirty-eight patents filed between 1993 and 2003. These are successful patents, but not a remarkably high publishing rate for patent attorneys. As a comparison, Michael A. Mann, who would later be assigned as receiver to represent Reichmanis' clients, published forty-five patents between 1993 and 1994. But quantity does not indicate quality. Reichmanis still managed to push on when things were difficult. Seven of these patents were filed during the year (2001) her public reprimand was published, and an additional eight more patents were filed before the USPTO excluded her from doing business with them (Mann published eighty-seven in the same time frame.). Remarkably, this means that Reichmanis was more productive during the stressful years of her investigation, public reprimand and eventual exclusion from practicing with the USPTO, than she was in the years prior to the reprimand and exclusion – far from the incompetent lawyer. When Reichmanis was healthy, she was a competent patent lawyer. But numbers do not defray the harm to the reputation of the legal bar. The mishandling of two clients was enough to displace years of successful practice.

After the public reprimand was published in 2001, Reichmanis received the death blow to her legal career. An order appeared on the SC Court's Judicial/legal Conduct site that had the fateful words, "respondent's license to practice law in this state is suspended until further order of the Court." This was March of 2003. The order opens stating the SC Courts had received "sufficient evidence demonstrating that a lawyer poses a substantial threat of serious harm to the public or to the administration of justice." After suspending Reichmanis' license, they proceed to erase her completely. Another attorney, Mann, was "appointed to assume responsibility for respondent's client files, trust account(s), escrow account(s), operating account(s), and any other law office account(s) respondent may maintain." Mann now becomes the lawyer Reichmanis could no longer be. Her bank accounts, mail, and clients are now Mann's. This is not something unique to Reichmanis.

All suspended lawyers are replaced by lawyers of good standing in the same way. W. Daniel Mayes was arrested for child sex abuse on October 29, 2024 (WRDW Staff). He was suspended and replaced by Mr. Peyre T. Lumpkin within the week. However, being compared to a child molester is not a good sign of being a trustworthy and competent attorney. The swiftness of the suspension and replacement of Reichmanis is not uncommon for serious offenses, but the offense in Reichmanis' case is not publicized so it is difficult to know what could serve as a precedence for the suspension if not child molestation. A Greenville, SC attorney, Robert R. Breckenridge, was arrested in February, 2024, and held his license until June (Fowler). Even though he was charged with attempted murder and holding his mother captive at gun point (Fowler). In his order, they do not replace him with another lawyer, possibly because he did not have clients at the time of his suspension. Either way, he was sent the message, "you are 'not like us.'"

THE DISHONEST LAWYER

-Kenneth B. Massey-

On any given winter night in North Myrtle Beach, South Carolina, the chance of clouds is about fifty percent. The cloud cover and the phase of the moon can all affect visibility. However, the disciplinary counsel accepted the evidence as an undisputed fact that at 3 am, Kenneth Massey was observed leaving the house of his female client while Massey's own divorce had been filed by his then-wife in North Carolina. The private investigator (PI) who submitted this evidence must have convinced the courts that Massey was positively identified on the partly cloudy night. You can imagine the PI tailing Massey from his law firm's office all the way to the client's house. She had retained Massey to represent her in a domestic relations matter. Massey stayed at his client's house until the early morning hours "working on certain projects," he later asserted to the disciplinary counsel. Among the several grounds for the Masseys' divorce was adultery, but Massey "maintains that while his conduct created an appearance of impropriety, he did not engage in a sexual relationship with the client" (Opinion No. 25784). Massey claimed he allowed his client to "work off her attorney's fee debt by performing certain work related to [Massey's] law firm" and he had to make many trips to the client's residence (Opinion No. 25784). The PI agreed that Massey visited the client on multiple occasions. Massey further stated that the client's mother was present every time he popped in. The PI disagreed with Massey's claim and testified he "did not see anyone else in the home on those occasions, nor did he see any additional vehicles" (Opinion No. 25784). On this particular late night visit, the client's minor child was in the client's custody that night, court records show.

However, the suspicious hours and location of attorney-client consultation was not the only circumstance that raised the eyebrows of the SC Supreme Courts. In Massey's personal divorce proceedings, he submitted affidavits from his client and his client's mother testifying that the mother was present during all of Massey's visits to the client's home and that no sexual relationship existed between he and the client. Affidavits which the PI's testimony called into question. Although Massey continually affirms the affidavits were not false, in the preponderance of evidence the SC Supreme Courts considered the contrary PI's testimony as more valid. Furthermore, the Massey did not include any income from his law firm in the client's financial declarations, even though she was allegedly working for his law firm to pay for his attorney fees. No laws were broken, but the SC Supreme Court determined that the *Rules of Professional Conduct* were violated by Massey for this "domestic relations matter" and three other unrelated instances. The Supreme Court deemed his actions as professional misconduct. Massey's misconduct violated Rule 8 which states "It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice (Opinion No. 25784). Massey's misconduct constituted grounds for discipline for "engaging in conduct tending to pollute the administration of justice or to bring the courts or the legal profession into disrepute or conduct demonstrating an unfitness to practice law" (Rule 7(a)(5)). Massey was suspended from the practice of law for two years.

In the previous story, Reichmanis was disciplined because her actions were considered negligent. She was under-serving her clients and not exhibiting the expertise and competence of a lawyer in good standing. Massey, however, was not negligent, he was knowingly using his knowledge and competence in the law to skirt certain professional standards for his own personal purposes. Just as the legal bar responded to prevent their collective *ethos* from being maligned by

Reichmanis' negligence, the bar had to act and discipline Massey to prevent further harm to the legal bar's reputation. The identification of lawyers was at stake. If the Supreme Court of SC did not discipline Massey, then the credibility of SC lawyers would be diminished.

The Opinion against Massey had three other separate allegations. After the aforementioned unprofessional behavior, Massey also received a complaint from another client about a fee agreement matter where Massey charged a client a certain fee, but then altered the agreed upon fee later, a difference of $150 initially and then $175 in billing. Massey claimed the increase was an error, and his submitted affidavit with the increased billing was erroneously submitted to recover payment from his client. A third matter involved Massey's own divorce. Besides using his law firm's fax machine to send "various allegations concerning his former spouse's character to her employer," Massey also submitted affidavits, from his late-night client in the earlier paragraphs, the alleged "paramour" and her mother, stating that the mother was always present at their meetings and no illicit relationship took place. A claim the PI debunked. The divorce court determined that Massey did indeed have an extra-marital, sexual relationship with Massey's client "by a preponderance of evidence" [Opinion]. Lastly, Massey charged a former client a copy fee to send her file to her new lawyer after she terminated Massey's representation services. The legal bar's disciplinary committee did not agree with Massey' transfer fee or Massey's explanation. In all, Massey's disciplinary actions were his first and these demonstrated a behavior and conduct that was out of line with the identification of the SC legal bar.

The bar acted swiftly. Two days after the Opinion was filed, Massey's suspension was finalized in the most comprehensive way. A state appointed lawyer, Norton M. Geddie, Esquire was named as the receiver for all of Massey's clients, his mail, his law firm's bank accounts, etc.

With brutal efficiency the legal bar had moved to put to right what Massey had corrupted. After petitioning for reinstatement, Massey received a confidential reprimand in 2007 from the SC legal bar (Opinion No. 27409). In 2012, Massey was finally reinstated to the SC legal bar with stipulations. The stipulations involved reporting on child support payments and mentorship from an attorney in good standing. The ultimate goal being the re-establishment of the legal bar's collective *ethos* after one of their own had tarnished the bar's reputation. It did not take long for Massey to be brought before them again with a new complaint. This new accusation brought painful reminders of misconduct from the past.

Affidavits are legal genres that represent the equivalent of a sworn testimony in court. Any material deviation in an affidavit does not only constitute perjury on the affiant but also suggests deviance of the lawyer who drafted and submitted the affidavit. Even though the witness/affiant who attests and signs an affidavit is responsible for the content, the lawyer who submits said affidavit to the court is also responsible for the truthfulness of the affidavit. Affidavits state facts. Facts are the basis of justice. Obscuring the affidavit obscures the facts, which obscure justice and detracts from the legal system as a whole. The legal bar cannot tolerate a detraction of itself. False affidavits constitute an existential crisis for the legal bar and must be dealt with immediately. In September 2013, Massey submitted:

> an affidavit from his client which contained a material misrepresentation regarding the current custody of the child involved in the case. Specifically, the affidavit stated that the child had been living with respondent's client since June 6, 2013. During the hearing, the child's mother informed the court that the child had been residing with her since July 4, 2013. (Opinion No. 27409)

A simple error with a simple explanation. The affidavit was originally prepared for an early court date. The delayed court date of September rendered the affidavit false, because originally the court date was July 8th, 2014. The affidavit would have been only four days off at the original court date, but now it was three months of false statements, namely that Massey's client had claimed erroneously to have had custody of the child for that whole time. Although an understandable mistake, it was still a materially false claim in a court document. And given Massey's record of dubious affidavits, it was enough to warrant a second public reprimand, but not enough to earn another suspension.

ANALYSIS

The SC legal bar is interested in the honest practice of law and the integrity of each member for the administration of justice. When a lawyer is engaged in an illicit relationship, the legal bar does not get involved. Once a lawyer's personal affairs cross the boundaries from personal failures to professional failures, then the legal bar steps in to protect the collective *ethos* of the bar. In this instance discipline came not for alleged adultery, but rather for filling dubious affidavits in North Carolina courts for personal divorce and erroneous financial declarations. In Massey's 2004 disciplinary suspension, the Opinion lists the provisions that Massey admits he has violated. A careful reading of the rules Massey admits to violating helps the researcher piece together how the specific violations negatively affect the collective *ethos* of the legal profession.

Massey admitted to violating Rule 3.3(a)(4) (a lawyer shall not knowingly offer evidence that the lawyer knows to be false). This rule gets to the very heart of justice. If lawyers offer false evidence in any court case, then they are subverting the essence of justice and eroding the

integrity of the legal profession, which is predicated on justice. When Massey submitted affidavits in his own divorce that the PI proved were materially false the SC Courts must move to remove that lawyer from the consubstantial body of lawyers who do uphold justice and the integrity of the legal profession. The court also weighed the matter of the fee dispute against Massey. Massey had not only changed the hourly rate billing to his other client, but he had also offered the altered rate as evidence against his client in the fee dispute. The Opinion states:

> Respondent filed an affidavit, executed under oath and before a notary public, in family court in an effort to recover attorney's fees for his representation of the client in the domestic matter. The affidavit stated the respondent's billing rate was $175 per hour. The Respondent maintains the hourly rate set forth in the affidavit was an error and that he was unaware of the error at the time he executed and filed the affidavit. However, respondent admits that it is his obligation to submit accurate affidavits to the court concerning his billing rate and that his submission of the affidavit at issue violated the *Rules of Professional Conduct*.

The courts understand error in evidence, in this case a sworn affidavit, as intentional falsification, or dishonesty, because a lawyer should be competent to know the difference. Just as forgetting to carry out an order in the military is the same as insubordination in the military, erroneous documentation in a court case is the same as falsifying evidence in the SC courts mind. The affidavit is used in civil court as a replacement for witness testimony. When Massey submits an affidavit against his client, he essentially swears that the facts in the affidavit are correct. The affidavit being found to be false is bad enough, but when the guilt party is supposed to be an “an officer of the legal system” it brings disrepute to the legal system in general (Rule 1). On the face of this disciplinary matter, a member of the legal bar is using the law to rob a

client. To protect the rest of the members in the bar, discipline is necessary to uphold the collective *ethos* of the SC bar.

Burke's concept of identification, elaborated on in an earlier chapter, focuses on an individual identifying with others to overcome alienation. This analysis has primarily focused on the group's alienation of an individual because of their actions which disassociate the individual from the group's identification. By this I mean that the lawyer's misconduct divides the individual lawyer from the group of lawyers. The division created removes the individual from the identification among lawyers. Massey, by his actions, divides himself from what a lawyer is. What Massey tries to identify with is not in the scope of this study, but he is not identifying as a lawyer. This point is integral to the understanding of consubstantiality among lawyers. The identification of a lawyer is to act like a lawyer; by acting like a lawyer, a lawyer is consubstantial with all the other lawyers. When a lawyer stops acting like a lawyer, that individual stops being a lawyer. The non-lawyer in the bar must be expelled for the identification of the other lawyers to be maintained.

The need to discipline and vacate the lawyer who is acting unlawyerly is paramount to the collective *ethos* and identification of the whole legal bar. Therefore, this rule is in the *Rules of Professional Conduct*: Rule 8.4(a) (it is professional misconduct for a lawyer to violate the *Rules of Professional Conduct*). As Massey's violations of the *Rules of Professional Conduct* are being added to the Opinion, the evidence that he is not identified as a lawyer by his misconduct mounts. Two days after the Opinion is published, the two-year suspension determined, an order follows that is the final word on Massey. The Supreme Court issues the order for another attorney; the receiver, Norton M. Geddie, is designated to completely replace Massey. Geddie now represents Massey's clients, assumes control of Massey's bank accounts, and receives

Massey's mail. Just like Reichmanis was erased, Massey also is no more. Just like Reichmanis, Massey too was told, "you are 'not like us.'"

THE INCOMPETENT LAWYER

- *Lawrence J. Purvis Jr.* -

In an online "Tribute Wall", where friends post their condolences to the late Lawrence "Jamie" Purvis Jr., a Benjamin Gates writes, "When I was a freshman in high school, Jamie, two years older, prank called me as a movie producer and after a few phone interviews over several days invited me to come out to the race track for an audition to be in "Days of Thunder". My kind of dude!" (Lawrence). Another mourner, Dominic Bonarrigo said, "Mr Purvis gave me the rude awakening i needed as a child when i got into some trouble. i now work at a law firm and hope to be a lawyer myself. thank you sir. i have no doubt god will welcome you with open arms. Rip [sic]." The praise of Purvis and outpouring of condolences are a reminder that even a disbarred lawyer is a human who has an irrevocable effect on those who encounter them. All the humanity of lawyers is sometimes missed when their professional identity is tarnished through incompetence.

In an exceptionally long Opinion, the SC Disciplinary Counsel outlines a history of incompetence of the late Purvis. William Blitch, representing the SC Courts, spares no time when he writes about the fifteen complaints of Purvis from twelve complainants over a period of four years. Between 2018 and 2022, these clients—furious with Purvis's representation—lodged a wide range of grievances against the attorney, who had been admitted to the Bar in 2005. The

Opinion details an overwhelming pattern of professional misconduct. Tragically, Purvis passed away in December 2024 at the age of forty-eight, less than a month after the Opinion was filed. (“Mr. Lawrence J. Purvis Jr., Associate.”). Cause of death is not detailed in his obituary (Lawrence).

The Opinion that details Purvis’ incompetence is nineteen-pages of evidence, Massey’s 2014 public reprimand was only three pages for comparison (Blitch). Among the range of various legal matters are separation, divorce, adoption, domestic matters, child support, worker’s compensation, criminal matters, and traffic infractions. All these Purvis mishandled. Beyond that, Purvis was indicted by other misconduct including substance abuse, such as cocaine and alcohol abuse. Purvis also had a history of domestic violence. Specifically, what lead to Purvis’ disbarment from the legal profession was his chronic incompetence in handling clients’ legal matters. In one matter of worker’s compensation, the Opinion states, “At the time he undertook representation of Client E, [Purvis] had never handled a workers' compensation case. [Purvis] failed to educate himself or seek the assistance of a more experienced lawyer and lacked the requisite knowledge and skill to represent Client E” (Blitch). Through the years of substance abuse and inattention to legal matters under his purview, Purvis had failed to acquire expertise through education or mentorship in the legal matters he was undertaking. He was incompetent to handle the clients who needed expertise in legal matters.

In his personal life, he was arrested and imprisoned for domestic violence. His arrest was from an altercation where Purvis bashed his wife’s (Nikki) head on the floor in front of their daughter (Dezi). Blitch adds that Purvis was “extremely intoxicated” during this incident. He abused drugs and alcohol in addition to his wife. In the same year that he joined the SC Bar, Purvis began using illicit drugs (Blitch). While using cocaine “frequently”, Purvis practiced law

for over fifteen years. It is a wonder that Purvis's misconduct did not rise to the SC Court's attention earlier. A public reprimand in 2012 is the first time, Purvis' incompetence is censured (Coggiola). Then a letter of caution in 2016 (Blitch). He sought professional help in 2019, relapsed, sought more help in 2022, just after his license to practice law was suspended (Blitch, SC Supreme Court 2022). What Purvis did after his suspension was to further exacerbate things by continuing to practice law; or at least charging clients for his legal services (Blitch). This seems to be the last straw.

ANALYSIS

Incompetence in a lawyer is most obvious to other lawyers. The Preamble to the Rules says, "Every lawyer is responsible for observance of the *Rules of Professional Conduct*. A lawyer should also aid in securing their observance by other lawyers" (Rules). Worker's compensation requires a lawyer to submit the necessary documents at the necessary time for a client to receive the funds required to pay for the multiplying medical expenses an injured employee might incur. The necessary forms had never been filed for Purvis' client. Opposing counsel exposed the error and Purvis was caught. The Rules require lawyers to police other lawyer's observance of the Rules, saying "Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves." Purvis had never handled a worker's compensation case before and was at a loss as to what to do, but the client did not know that. The client expected the diligence and expertise that the collective *ethos* of the SC Bar expects among their lawyers. The expertise, competence, and diligence of lawyers is what the clients pay for. Purvis exploited the collective *ethos* of lawyers to dupe an unwitting client into paying him for legal services he was not able to provide. In Purvis, the expertise to file the

necessary paperwork was missing, but the greed to fleece the client was far too present. The SC Courts had to move to repair this failing among their members to uphold the collective *ethos* of the whole SC legal Bar.

Blitch writes, "[Purvis] admits that his conduct in this matter violated the following provisions of the *Rules of Professional Conduct*, Rule 407, SCACR: Rule 1.1 (requiring competence); Rule 1.3 (requiring diligence) ..." Purvis' incompetence flies in the face of the legal Bar's collective *ethos* of providing competent, diligent representation of clients. The language of the Opinion expresses in no uncertain terms that because of this violation of the Rules. Purvis had smeared the image of the entire SC legal Bar by acting in manner unfitting for the Sc lawyer. The only thing to correct the repercussions of Purvis' actions is to disbar him from practice as a lawyer and curb the negative effects of his misconduct to the legal Bar as a whole. The disbarment preceded Purvis' death by less than a month, a tragic coda to this already unhappy case.

DISCUSSION & CONCLUSION: WHERE TO GO FROM HERE

Reichmanis, Massey, and Purvis represent select attorneys who have the unfortunate common bond of being subject to the SC legal Bar's discipline. I have used these three examples to discuss collective *ethos* because their stories are evidence of the SC legal Bar's determination to protect their collective *ethos* by publicly reprimanding and disciplining these lawyers. Establishing that the SC legal Bar disciplines their lawyers is not the point of this chapter. My aim is to discuss how the terministic screens used in the Disciplinary Statements reminds us of Burke's identification we discussed in the previous chapter. In each instance, the SC legal Bar's authors call the respondent lawyers to the identification created in the Rules. The Rules appear in every genre of the SC court's disciplinary proceedings. With all the unique and diverse failings

of the lawyers came a unifying and singular source for the terministic screen that holds the lawyers to the same standard all lawyers are held to – the Rules. By holding all lawyers to the Rules, the SC legal Bar seeks to maintain the collective *ethos* and preserve society (Preamble).

The alternative options to maintain the collective *ethos* of the legal Bar seem unrealistic. Starting at the beginning of the disciplinary process, the legal Bar could ignore complaints against their lawyers and rely on the legislative power that gives only lawyers the right to practice law. In this scenario, the clients who were burned by errant lawyers would not be able to express their dissatisfaction in any actionable fashion. Reichmanis' clients would be at a loss to regain their legal fees, and their patents would not be accepted by the USPTO. Interestingly, commerce requires the legal Bar to maintain their collective *ethos* so that inventors can patent new technologies. If the legal Bar accepted complaints from clients but failed to act on them through investigation and disciplining publicly, they could alternatively issue confidentially a warning, like Purvis received in 2016. This would practically look like complaints being forwarded to errant lawyers to tell them to correct themselves and warn them that people are complaining about them. With no protection for the client or recourse if the lawyer has mishandled the patent process, the lawyer would be immune to repercussions. Clients would lose trust in the patent lawyers and wade into the legal labyrinth of the USPTO without the guide of a legal expert. The legal Bar would be discredited because it is ineffective and negligent; just like the lawyer who fumbled the client's case.

Furthermore, the legal Bar must protect the public from dishonest lawyers like Massey. Massey diligently pursued his clients' cases but used dishonest means to win cases. This subverts justice, creating a prejudice against the administration of justice. Massey is the quintessential dishonest lawyer by submitting affidavits that were patently false to gain a favorable outcome

from the judicial process. He is a stark example of why the public stereotypically distrust lawyers. When diligent, knowledgeable and dishonest lawyers, like Massey, are allowed to practice without censure, then the public will view the legal process as evil and manipulative. The public will view the judicial system as corrupt because the cards are stacked against them, especially when false affidavits are filed by a competent lawyer to usurp the public's interest in justice. Trust, expertise, and diligence are the services and goods of the legal profession. When an attorney is untrustworthy, the expertise and diligence of the same attorney become sinister and malevolent to the public trust in the legal Bar as a whole; the collective *ethos* is existentially damaged. If the lawyer is not stopped, through the disciplinary process, from practicing law then irrevocable harm will befall the collective *ethos* of the legal Bar.

The same can be said of an incompetent lawyer. The incompetent lawyer must hear that "you are 'not like us.'" Expertise is as much a vital point as diligence and ethics. Remove expertise from lawyers and they become energetic, well-being buffoons. The identification of lawyers must also include their expertise. So, when Purvis takes a case, he is expected to bring all the available knowledge and expertise of the legal profession to bear on his client's case. Here, the machinations of the internal code of following the Rules are truly fascinating. The opposing counsel, the lawyer who benefits from Purvis' ignorance, reports Purvis because he did not prove to be a worthy opponent. In any other context, the opposing counsel would take the victory from out-smarting Purvis and glory in the defeat. But lawyers have a collective *ethos* to maintain. The opposing counsel chooses to alert the SC courts of the ignorance of his opponent to prevent the denigration of their legal Bar. The collective *ethos* is more important than a decisive victory.

In each of these cases, the legal Bar acted according to the Rules to ensure the legal Bar maintained their identification as legal experts, solely capable of handling the ethical and legal requirements to practice law. The Rules provide the terministic screen for lawyers to see themselves as consubstantially one. When errant lawyers appeared, the SC legal Bar moved to correct the error and remove the errant lawyers, the ones who did not conform to the identification of the SC legal Bar. The Rules define what the lawyer is and describe the process of removing non-lawyer-acting lawyers from their ranks. When a lawyer does not follow the Rules, that lawyer is not a lawyer. This disciplinary process ensures that the legal Bar maintains the collective *ethos* of the legal profession.

In this chapter, I have presented case studies that are examples of the Rules work of Identification and genre actions of the disciplinary process. In the concluding chapter, I will synthesize the findings of the previous chapter and discuss the broader implications of collective *ethos*. All professions, aspiring, emergent, and established, must develop a collective *ethos* of professionalism, integrity, and competence. The Rules and disciplinary process accomplish this for the legal profession, but we will discuss shortcomings and potential improvements. Additionally, we will consider how other professions have and can establish collective *ethos*, by cataloging genre tools, specific identification requirements, and the steps to professional status. My goals and interests are to describe pathways for improved professionalism and societal trust; as well as advancing the study of the rhetoric of professionalism and collective *ethos*.

CHAPTER SIX

DISCUSSION

"[*E*]*thos* can be collectively developed and deployed; consequently, a rhetor can develop her *ethos* indirectly, by shaping her audience's perception of the groups to which she belongs...The processes of collective *ethos* formation, which occur when similarly situated rhetors collaborate on or compete over the characteristics members of that group will demonstrate, are at work almost continuously within most groups. More research into how *ethos* is formed collectively and how it functions collectively would greatly extend our knowledge of this crucial appeal." (Skinner, 180)

This study has shown that the legal profession relies on genres to regulate behavior and narrate identity. When individuals violate the Rules, public disciplinary genres allow the group to perform a rhetorical separation—marking the violator as "not one of us." These occurrences of discipline and separation help sustain the credibility of the whole by reaffirming shared values, signaling collective self-awareness, and preserving public trust through the use of the Rules. Understanding this process of rhetorical boundary-maintenance offers insight into how professions shape themselves in the public eye, and how they might fail or succeed in doing so. As an example of this process, we could look at higher education.

To say that Harvard University has recently made headlines with some bad publicity is an understatement. A timeline of events starting in 2023 charts a highly public descent for the Ivy League school. First, the new president, Dr. Claudine Gay, came under fire for her response to a pro-Palestinian letter referencing the Hamas attacks on October 7, 2023. At a congressional

hearing, Dr. Gay was grilled about antisemitism at Harvard and donors were not happy. The congressional hearing was on December 5, 2023. Dr. Gay resigned on January 2, 2024 amidst plagiarism accusations in numerous papers she authored (Romo). She was six months into the prestigious and historical position as the first Black president of Harvard and only the second woman president and now making a new historical distinction: the shortest serving president in Harvard's three-hundred-and-eighty-five-year presidency's history (History). But the hits kept coming for Harvard.

By March, another Harvard professor was under scrutiny for plagiarism. Dr. Francine Gino, a celebrated behavioral psychology professor, was slapped with a 1,200-page report about her alleged plagiarism and then fired from Harvard. The irony that the author of *Rebel Talent: Why It Pays to Break the Rules at Work and in Life* was fired for academic dishonesty borders on satirical if it were not painfully real. Dr. Gino published books and papers on honesty, and yet she manipulated the datasets to match her hypotheses. To highlight the impact of this outcome, consider the following: Gino is the first Harvard professor to lose tenure since the American Association of University Professors (AAUP) formalized rules around tenure (Turner), she was at certain times the fifth-highest-paid employee at Harvard (Lee, et al), and has been cited more than 39,000 times in academic research (Francesca Gino). The report opens with this statement,

> After reviewing the available evidence and interviewing Professor Gino and several witnesses, the Investigation Committee has determined, by a preponderance of the evidence, that Professor Gino significantly departed from accepted practices of the relevant research community and committed research misconduct intentionally, knowingly, or recklessly, with regard to all five allegations examined herein. (Amabile, et al., 1)

This news generated such sensational headlines as “Another Harvard Scandal Proves That Science Is Broken” (Follett). Harvard is used as a synecdochical reference to the US University in general. Whatever is wrong with Harvard is wrong with every university. Whatever the Harvard professors are doing wrong is being done by every university professor. As I am inside the higher education profession, I know that this is a ridiculous stretch of public imagination. And yet, the sins of two Harvard professors affect the trust of the University universally. The misconduct of a few results in the degradation of the academic’s collective *ethos*.

The statement of Professor Gino’s academic dishonesty hints of the Rules discussed in Chapters three and five, but the lack of specificity is notable. The authors write,” Professor Gino significantly departed from accepted practices of the relevant research community” (Amabile et al., 1). A statement that essentially says, “you are ‘not like us’”. The relevant research community’s standards referenced were from a federal regulation on Public Health – 42 C.F.R. § 93.103 (Amabile et al., 4). This lacks the same rhetorical force of identification as the lawyer’s Rules because it is not a document authored and maintained by Professor Gino’s peers in the academic profession. The investigative committee could not point to a unifying document that told the public and Professor Gino what an academic professor is or should be. Rather than bolstering the collective *ethos* of professional academics’ identification, the committee had to hold Professor Gino to a standard written by non-academic legislatures concerned with public health, rather than academic integrity. As we will see, public health has integrity concerns of its own.

Former director of the National Institute of Health, Dr. Francis Collins, discusses the attacks on the medical profession’s own collective *ethos* during the COVID-19 pandemic. Dr. Collins approaches the subject from a public health administrator's point of view. He is

sympathetic to many people in the public who felt the restrictions and mandates were arbitrary and unscientific. Without denying science, Dr. Collins frankly discusses how public health initiatives were not communicated or implemented effectively. He ultimately understands and regrets the backlash, aggression, and distrust that the poor communication caused, even though he fully stands behind the medical science principles that were drawn upon to create policies and mandates. The NIH's response to COVID-19 was not medical professional misconduct, but taken as a whole, medical professional's collective *ethos* was questioned and degraded in large swathes of the nation (Collins). Interestingly enough, it is not malpractice to enact bad policies, mandates, or vaccine requirements. I take the loss of trust and collective *ethos* in the medical profession as more than a few missteps in communication from public health officials. Instead, based on the analyses in the chapters before, there is a lack of identification among medical professionals. There may be multiple ways of treating a minor symptom and there are more than two influencers who offer this advice across social media, these influencer's advice encroaches against the professional domain of medical doctors. Much like other professions, where charismatic "quacks" can speak eloquently and persuade many to follow their snake-oil advice, the medical field—like others—experiences similar encroachments that challenge its authority and degrade its collective ethos.

To address a more subjective perception of the limits of professional expertise, I have a personal anecdote. During an evening of relaxation, I was at the spacious house of a licensed general contractor. The conversation turned to business, and I learned that he begrudged the State's preferments placed on the seal of an engineer and architect. He had designed and planned the schematics of a potential university building. The building would be substantial, and the State's construction agency required the seals of an architect and an engineer. None of these

were required according to the general contractor who drew up the plans. The contractor felt he was proficient enough to design the structure. And metonymically all licensed general contractors should be able to certify a structure's integrity. Furthermore, this contractor had found and corrected many errors in previous plans approved by architects and engineers. The collective *ethos* of architects and engineers is in question. Their exclusive expertise is brought into question much like academics, doctors, and lawyers. Either the public sees these professionals as dishonest (i.e. the Harvard professors and Massey), negligent (i.e. medical professionals and Reichmanis), or incompetent (i.e. engineers and Purvis).

These three situations, academic, doctors, and contractors, are real and really rhetorical. And therefore, I will ask three rhetorical questions which will both point to the importance of collective *ethos*: Why does one professional's actions, like Gino, Gay, Reichmanis, Massey, or Purvis, disparage an entire profession (synecdoche)? How does the missteps of one group of (un)professional, malign the entire group, even when they cannot discipline or account for their actions (i.e. nameless public health officials)? Why cannot one individuals' expertise elevate an entire profession (metonymy)? The answer to these questions lies in collective *ethos*. A collective *ethos* does not live or die on the integrity of a single individual. However, a collective *ethos* is maintained by the various individuals' adherence to the identification of the collective. When a collective *ethos* is implemented to entrust a certain function in a society, that society also entrusts the collective to cull bad actors so that synecdochally they are not maligned. If the collective is entrusted by society, then metonymically each member is entrusted by that society to uphold the function of the profession, blindly trusted in many cases. If society trusts individuals metonymically through the collective *ethos* of a profession and still holds the

profession accountable synecdochally by the actions of individuals within the profession, then collective *ethos* is a profound factor in our world.

The professions discussed above in this chapter could take a lesson from the legal profession in drafting an identification, like the *Rules*, for professional members to strive for and a distinction from other adjacent professions. From this, professional organizations could clearly discipline those professionals whose misconduct degrades the profession's collective *ethos*. Also, the profession would have a starting point in developing the new professionals in their field and call them to aspire to a certain identification, rather than hold them to obscure federal regulations whose grounds are debatable.

As I have demonstrated in Chapter five, the SC legal Bar holds its members accountable for their actions according to the Rules. These Rules, as demonstrated in Chapter three, are designed to create an identification for individuals to adhere to in the legal profession. This is an effort to create a collective *ethos* among members of the legal Bar. Individuals in the legal Bar work synecdochally to improve the image of the SC legal Bar. Their obedience to the Rules creates and maintains the collective *ethos* of the Bar. When a lawyer speaks in the SC courts, her appeal is to the collective *ethos* created and maintained by the SC courts. However, when a lawyer errs, and as we have seen lawyers err, metonymically it reflects the collective *ethos* of the entire legal Bar. If it were otherwise, then the SC courts would not bother disciplining their own.

In the same vein, but in the academic profession, the misconduct of one of our professors has far reaching effects on the entire profession of academics. If one Gino is allowed to repeatedly violate academic “Rules” of professional conduct, then it collectively affects the entire academic profession. For discussion, should academics create our own binding “Rules” in order to hold errant professors accountable? How can emergent professions draw in their

variously qualified practitioners to a collective *ethos* defined by an identification? Does the legal Bar create a sufficient template for other professions to model if they strive to create a comparable collective *ethos*?

This discussion can be fruitful when we consider broadly the far-reaching implications of collective *ethos* – beyond medicine, law, engineering, and academe. Professions will grow increasingly more diverse, focused, powerful, and interdependent. The integrity of professions will grow more reliant on the strength of other professions, as has already begun. To sustain public trust, professions must fortify themselves against public scrutiny by self-regulating. Researching how to create and maintain a collective *ethos* in all professions will bolster the professions collectively. The collective *ethos* remains an under-researched area for rhetorical and professional communications. As the rhetorical, genre, and textual analysis of this dissertation demonstrated, there is much to be explored. I expect more attention to be paid to collective *ethos* as a persuasive appeal and a factor in professional organizations.

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