

# **ROUGH DRAFT JUDICIAL COMPLAINT** **JUSTICE ONEIL, JUSTICE BILLINGS,** **JUSTICE CONNORS**

## **MOTION TO RECUSE**

Judicial Misconduct Report: Why Justice John O’Neil, Jr. Should Have Recused Himself and the Judicial Canons He Violated

Prepared for submission to the Maine Committee on Judicial Responsibility and Disability

### **I. Introduction**

This report outlines the legal and ethical basis for why Justice John O’Neil, Jr. should have recused himself from *Pierce v. Rinaldi*, CV-2021-138. The record demonstrates a pattern of biased rulings, disregard for due process, unexplained denials of well-supported motions, and an apparent conflict of interest involving Attorney James Monteleone and a former law clerk of Justice O’Neil, now employed at Monteleone’s firm. The cumulative effect of these violations justifies mandatory recusal and disciplinary inquiry under the Maine Code of Judicial Conduct.

### **II. Applicable Standard for Judicial Recusal**

Under M.R. Civ. P. 63(b) and Maine Code of Judicial Conduct Rule 2.11(A), a judge must disqualify himself in any proceeding in which the judge’s impartiality might reasonably be questioned, including when:

- The judge has a personal bias or prejudice concerning a party;
- The judge has a prior relationship with a party, attorney, or material witness;
- The judge fails to rule impartially or fairly.

The standard is objective: would a reasonably prudent person fear they would not receive a fair and impartial hearing?

### **III. Grounds for Recusal**

#### **1. Appearance of Conflict of Interest (Rule 2.11(A)(1))**

Attorney James Monteleone practices in the same office and division as Casey McCullen, who formerly clerked for Justice O’Neil. McCullen joined Bernstein Shur shortly before this litigation began and works in the same legal specialty (real estate). While no allegation is made against McCullen, the optics of a sitting judge presiding over a case involving a former clerk’s close

colleague creates a clear appearance of partiality, which alone mandates recusal under Rule 2.11(A) .

## **2. Pattern of Biased Rulings and Denial of Due Process (Rules 2.2, 2.3, 2.6)**

Justice O’Neil’s conduct in this matter includes:

- Approving an Ex Parte Attachment without verifying the existence of any emergency, despite clear notice that the defendant had already been informed—a direct violation of Rule 4A(c);
- Relying on a nonexistent text message as the sole basis for prejudgment attachment—an extraordinary remedy that must be strictly construed (*Bowman v. Dussault*, 425 A.2d 1325);
- Allowing four new affidavits at the Motion to Dissolve hearing without requiring prior service, in violation of M.R.Civ.P. 7(e), thereby depriving the defendant of notice and the right to respond
- Affirming 27 boilerplate objections raised by plaintiffs without analysis or justification, including objections not even made by plaintiffs (e.g., that discovery was “inadmissible”)—essentially becoming an advocate for the plaintiffs ;
- Denying multiple motions including those alleging fraud on the court (Rule 60(b)), without explanation, and failing to hold required hearings, contrary to the mandate of Rule 7(b) when ambiguity exists ;
- Misstating procedural history in orders, such as citing the Motion to Dissolve when ruling on an entirely different motion (Motion to Vacate), further evidencing careless or prejudiced adjudication .

## **3. Failure to Uphold the Law and Judicial Responsibility (Rules 1.1, 1.2, 2.5)**

Justice O’Neil has:

- Denied motions without issuing findings of fact or conclusions of law, in contradiction to Rule 52(a) and *Estate of Snow*, 2014 ME 105, even when such findings are necessary to enable appeal;
- Affirmed motions to enlarge without requiring “good cause” or “excusable neglect” as required under Rule 56(f) and the standard in *Nickerson-Malpher v. Baldacci*, 247 F.R.D. 223 (D. Me. 2008);
- Ignored the procedural requirement that motions unopposed by timely opposition should be treated as uncontested under Rule 7(c)(3) (e.g., denying the Defendant’s Motion to Recuse despite no timely opposition) .

## **4. Deprivation of Right to Be Heard (Rules 2.6, 2.7, and Canon 3B(8))**

- Justice O’Neil denied the Defendant’s right to present arguments, especially during key hearings like the Deposition Protection Order and Motion to Vacate, where only the plaintiff was allowed to argue.

- These one-sided hearings contradict the principle of procedural fairness, as highlighted in *R.O. v. State*, 46 So. 3d 124 (Fla. 3d DCA 2010) and Canon 3B(8) commentary, which states a judge must not administer “his own personal brand of justice.”

#### IV. Judicial Canons Violated

Canon	Title	Nature of Violation
1.1	Compliance with the Law	Systematic disregard of controlling legal standards (Rules 4A, 56(f), 60(b), 7(c)(3))
1.2	Promoting Confidence	Approving extraordinary relief on false evidence, fostering public mistrust
1.3	Avoiding Abuse of Prestige	Rulings benefiting former law clerk’s colleague without disclosing potential conflict
2.2	Impartiality and Fairness	Affirming objections not raised, ruling without hearings, denying due process
2.3	Bias and Harassment	Displaying bias by only allowing plaintiffs to argue, ignoring defense fraud claims
2.5	Competence and Diligence	Rulings based on incorrect procedural history and errors of law
2.6	Right to Be Heard	Refusing defendant oral argument and denying participation in hearings
2.7	Duty to Decide Impartially	Repeatedly ruling in plaintiff’s favor on defective motions without justification
2.9	Ex Parte Communications	Approving ex parte attachment without valid emergency and misapplied law
2.15	Duty to Respond to Judicial Misconduct	Ignored clear fraud and perjury documented in motions and evidence

#### V. Conclusion and Recommendation

Justice O’Neil’s conduct in this case reflects a sustained pattern of biased rulings, failure to follow the law, and disregard for procedural fairness. This case does not involve mere disagreement with a ruling—it presents clear and convincing evidence of systemic partiality and violations of the Maine Code of Judicial Conduct.

Under Rule 2.11, recusal was not optional—it was mandatory. His failure to do so requires urgent disciplinary review.

**Recommended Action:** The Maine Committee on Judicial Responsibility and Disability should immediately open an investigation into Justice O’Neil’s conduct in *Pierce v. Rinaldi*, and issue a public reprimand or referral for further sanction based on violations of multiple judicial canons.

# **JUSTICE O'NEIL'S SLANDEROUS RECUSAL ORDER**

## **I. Introduction**

This report analyzes Justice John O'Neil's January 9, 2024 Order of Recusal in *Pierce v. Rinaldi*, CV-2021-138, and finds that the order constitutes an egregious abuse of judicial authority. Far from being a neutral or dispassionate recusal, the order is a slanderous attack on the Defendant's character, riddled with factual distortions, legal misstatements, and violations of multiple provisions of the Maine Code of Judicial Conduct.

**Rather than simply recusing himself**, as required under circumstances of actual or perceived bias, **Justice O'Neil used the order to malign the Defendant's credibility, accuse him of misconduct unsupported by the record, and compare his protected First Amendment activity to violent criminal behavior**. These actions undermine the integrity and impartiality of the judiciary, and violate multiple judicial canons.

## **II. Summary of the Recusal Order and the Defendant's Response**

Justice O'Neil recused himself on January 9, 2024, citing a website allegedly created by the Defendant that criticized the handling of the case. He claimed that a "respected court staff member" was so shaken by the website that he could no longer preside. The order then gratuitously accused the Defendant of misconduct, claimed his credibility was "irreparably impacted," and referenced recent bomb threats and courtroom violence elsewhere in the country—implying a connection between those events and the Defendant's peaceful, constitutionally protected actions.

The Defendant's response (dated January 25, 2024) thoroughly refuted these claims, pointing out that:

- The website contained no threats, profanity, or personal attacks.
- All information on the website was derived from court filings and public records.
- The Defendant has remained professional throughout the litigation, submitted legally sound motions, and behaved respectfully in court.
- The Defendant exercised his First Amendment rights to protest what he believes is court-enabled fraud.
- The court has never addressed the merits of his motions or the Plaintiffs' failure to present a prima facie case.

## **III. Judicial Canons Violated by Justice O'Neil**

### **Canon 1: A Judge Shall Uphold and Promote the Independence, Integrity, and Impartiality of the Judiciary**

Violation: Justice O'Neil's order failed to promote integrity and impartiality. By linking the Defendant's constitutionally protected protest and legal self-

advocacy to national bomb threats and courtroom violence, he inflamed bias, promoted fear, and chilled free speech. No reasonable person could read his order and conclude he was impartial.

**Canon 2: A Judge Shall Avoid Impropriety and the Appearance of Impropriety**

Violation: Even if Justice O’Neil believed the website was inappropriate, his order improperly personalized the issue, casting aspersions on the Defendant’s character and credibility based on activity outside the courtroom. He appeared as an adversary, not a neutral arbiter. A judge’s recusal should be limited to the reasons for disqualification—not used as a platform for retaliation.

**Canon 2.2: A Judge Shall Perform the Duties of Judicial Office Fairly, Impartially, and Without Bias or Prejudice**

Violation: Justice O’Neil never addressed the legal substance of the Defendant’s 23 pending motions, most of which were well-supported and demonstrated the Plaintiffs failed to meet Rule 56 standards. The Judge’s recusal came only after public criticism mounted, suggesting retaliation rather than a principled recusal. His failure to hold Plaintiffs accountable for perjury and fabricated evidence while condemning the Defendant for speech protected under the First Amendment demonstrates clear bias.

**Canon 2.3(B): A Judge Shall Not Permit Family, Social, Political, Financial, or Other Interests or Relationships to Influence the Judge’s Judicial Conduct or Judgment**

Violation: The order reflects that Justice O’Neil may have recused himself in response to institutional pressure or embarrassment—not because of any legal impropriety by the Defendant. It also appears likely that pressure from Plaintiffs’ counsel or their political connections influenced his decision, as no legal basis exists for the defamatory statements made.

**Canon 2.6(A): A Judge Shall Accord to Every Person Who Has a Legal Interest in a Proceeding the Right to Be Heard According to Law**

Violation: The Defendant was repeatedly denied the opportunity to present motions or evidence and was subjected to judicial threats of default. The judge ruled on critical motions (including the Motion to Dissolve) without holding evidentiary hearings or requiring the Plaintiffs to meet their burden of proof.

**Canon 2.8(B): A Judge Shall Be Patient, Dignified, and Courteous to Litigants**

Violation: The tone and language of the recusal order are unprofessional and demeaning. Rather than upholding the dignity of the bench, Justice O’Neil used

the order to humiliate and discredit a self-represented litigant who had lawfully and respectfully challenged the proceedings.

#### **IV. Chilling Effect on Constitutional Rights**

The order's most concerning aspect is its chilling effect on the exercise of First Amendment rights. The Defendant's creation of a fact-based website and his peaceful protests are clearly protected political speech. By recusing himself in anger and likening the Defendant's behavior to threats of violence, Justice O'Neil effectively punished him for engaging in protected expression.

The U.S. Supreme Court has long held that "[s]peech critical of the exercise of the State's power lies at the very center of the First Amendment" (*Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1034 (1991)). If a judge recuses in protest over criticism, it is the judge—not the critic—who has undermined judicial integrity.

#### **V. Conclusion**

Justice O'Neil's recusal order was not merely inappropriate—it was a calculated and slanderous retaliation against a self-represented litigant who dared to protest and expose misconduct. Rather than uphold the dignity of his office, Justice O'Neil violated nearly every principle of judicial neutrality, dignity, and fairness.

This conduct warrants formal investigation and possible disciplinary action under the Maine Code of Judicial Conduct. The Defendant's credibility was not "irreparably harmed"—Justice O'Neil's was.

#### **VI. Recommended Action**

- Immediate Referral to the Maine Committee on Judicial Responsibility and Disability for investigation.
- Public Reprimand or Censure for conduct that undermines judicial neutrality and First Amendment protections.
- Reassignment of All Related Cases where Justice O'Neil's bias may have infected outcomes

## **EX PARTE VERIFIED COMPLAINT**

### **Judicial Misconduct Report: Justice John O'Neil, Jr.**

**Re: Improper Approval of Ex Parte Attachment in *Pierce v. Rinaldi* (CV-2021-138)**

#### **I. Introduction**

This report addresses Justice John O’Neil, Jr.’s approval of an ex parte prejudgment attachment in the matter of Pierce v. Rinaldi. Based on the record, this order was granted in reliance on materially incomplete and misleading filings, including a false affidavit. Justice O’Neil’s failure to scrutinize the Verified Complaint and affidavit, despite obvious red flags, constitutes a serious lapse in judicial responsibility and may amount to a violation of several canons under the Maine Code of Judicial Conduct.

## **II. Factual Summary**

On or about March 11, 2021, Plaintiffs Drew Pierce and Janice Lariviere filed a Verified Complaint seeking ex parte attachment against Defendant Anthony Rinaldi. Justice O’Neil granted this relief without notice to the Defendant.

The Verified Complaint and supporting affidavit by Plaintiffs’ agent Andy Lord:

- Omitted material context about a \$9,600 escrow dispute;
- Claimed that Defendant Rinaldi “refused to close because he could get more money from another buyer,” a claim wholly unsupported by the actual text message record;
- Included an exhibit labeled a “complete and accurate” set of messages, which was later shown to be selectively edited to exclude exculpatory texts.

These documents presented a false narrative of breach by Defendant and mischaracterized the urgency of attachment. Justice O’Neil granted the attachment without requiring a hearing or verifying the reliability of the factual assertions.

## **III. Judicial Failures**

### **1. Failure to Scrutinize Verified Complaint and Affidavit**

Justice O’Neil had a duty to critically evaluate the evidence supporting the ex parte request. Had he required:

- A full review of the text messages,
- Basic corroboration of Plaintiff’s breach theory, or
- A clear justification for bypassing notice,

...he would have uncovered serious inconsistencies, omissions, and a lack of legal basis for the attachment.

Instead, he accepted a narrative that was not only incomplete, but actively contradicted by documentary evidence later submitted, including:

- Full text threads (Ex. 3),
- Revised closing statements,
- The P&S Agreement and specifications sheet

## **2. Improper Grant of Extraordinary Remedy Without Evidentiary Basis**

Under M.R. Civ. P. 4A(g), an ex parte attachment requires:

- A strong showing of likely success on the merits;
- A likelihood that the judgment will be recovered;
- A sworn statement explaining why notice should not be given (typically a risk of asset dissipation).

Justice O'Neil approved the request without requiring any genuine demonstration of asset concealment or urgency. Defendant was publicly selling the same property and openly communicating with all parties. The record contained no threat of dissipation or avoidance.

By granting such a remedy without strict scrutiny, Justice O'Neil:

- Violated the heightened standard for ex parte relief,
- Allowed an abuse of the court's equitable powers,
- Facilitated a potentially retaliatory or coercive litigation tactic by Plaintiffs.

## **IV. Canon Violations – Maine Code of Judicial Conduct**

### **Canon 1 – Upholding the Integrity and Independence of the Judiciary**

A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

- By failing to properly examine a misleading and materially incomplete ex parte filing, Justice O'Neil created the appearance of impropriety.
- His approval of such an order undermined public confidence in judicial neutrality.

### **Canon 2 – Performing the Duties of Judicial Office Impartially, Competently, and Diligently**

#### **Rule 2.2 – Impartiality and Fairness:**

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

- The one-sided nature of the record — and its factual omissions — should have been obvious to any reasonable judge.
- The affidavit's misrepresentations and omissions were facially evident when compared to the parties' contractual documents and communications.

#### **Rule 2.5 – Competence, Diligence, and Cooperation:**



A judge shall perform judicial and administrative duties competently and diligently.

- Justice O’Neil failed to exercise diligence in reviewing the factual record before authorizing an intrusive remedy that harmed the Defendant’s property and legal position.

**Rule 2.6(A) – Ensuring the Right to Be Heard:**

A judge shall accord to every person who has a legal interest in a proceeding... the right to be heard according to law.

- While ex parte relief is permissible under Maine Rule 4A, it must be used sparingly and only when clearly justified. No such justification existed in this case.

**V. Conclusion**

Justice John O’Neil, Jr.’s approval of the ex parte attachment in *Pierce v. Rinaldi* constitutes a dereliction of his judicial duties. He failed to uphold the standards of diligence, impartiality, and fairness expected under both the Maine Rules of Civil Procedure and the Code of Judicial Conduct. The resulting harm to Defendant Rinaldi — the clouding of title, reputational damage, and litigation coercion — was entirely avoidable had Justice O’Neil acted with the minimal diligence required in ex parte matters.

This failure should be formally reviewed as a violation of Canons 1 and 2, and particularly Rules 2.2, 2.5, and 2.6. It reflects not just a lapse in judgment, but a systemic failure to safeguard constitutional and procedural rights.

## **MOTION DISSOLVE HEARING**

Below is a supplemental analysis specifically addressing this contradiction and how Justice O’Neil’s failure to address it compounds his violations of judicial canons.

### **Supplemental Canon Violation Analysis: Plaintiffs Contradicted Their Verified Complaint, and Justice O’Neil Ignored It**

**Key Issue:** Plaintiffs introduced a new narrative at the May 20, 2021 hearing that materially contradicted their original Verified Complaint for Ex Parte Attachment. Justice O’Neil failed to acknowledge or address this contradiction, undermining the foundational requirement of candor under oath and violating his duty to protect the integrity of the judicial process.

**Contradiction Breakdown: In the Ex Parte Verified Complaint Plaintiffs alleged:**

- That Defendant breached the contract by refusing to close for no valid reason.
- That they were entitled to specific performance and damages because the Defendant wrongfully terminated the deal.
- That there was no issue of ambiguity or competing contract interpretations

This claim was sworn under oath as “true and correct” in their verified filing.

**At the May 20, 2021 hearing:**

Plaintiffs’ attorney, James Monteleone, admitted facts that directly contradict those allegations, including:

- That the contract terms surrounding the driveway paving were ambiguous, requiring “expert interpretation.”
- That the Defendant’s belief that gravel fulfilled the contract was arguably reasonable—but Plaintiffs now claimed it was still a breach.
- That the Plaintiffs had agreed to a stipulation to avoid emergency proceedings, suggesting that their “emergency” basis for the ex parte motion was manufactured.

**These contradictions strike at the very heart of their verified claim**

**Why Justice O’Neil’s Inaction Was a Serious Canon Violation**

**Canon 2.3: “A judge shall not permit any proceedings to be influenced by improper or misleading conduct.”**

- Justice O’Neil failed to question, challenge, or even acknowledge that Plaintiffs had materially shifted their theory of the case after obtaining an ex parte order.
- This allowed the weaponization of an ex parte process to secure an attachment under false pretenses.

**Canon 1, Rule 1.2 & Canon 2.2: Integrity and Fairness**

- The integrity of the court is compromised when sworn complaints are contradicted without repercussion.
- A judge is obligated to ensure litigants cannot benefit from fraud or misrepresentation—especially when affidavits were submitted in secret to obtain emergency relief.

**M.R. Civ. P. 4A(h) (relating to ex parte attachments):**

“Any facts not known to the affiant may not be relied upon to support a motion for ex parte attachment.”

If Plaintiffs later claimed their expert clarified what “basecoat” meant, that means they did not know at the time of filing whether Defendant’s conduct was a breach. Therefore, their verified claim was factually unsupported at the time and should have never been granted ex parte.

## **Legal Precedent: False or misleading affidavits taint the entire attachment process**

In Estate of Hoch v. Stifel, 2010 ME 20, the Maine Supreme Judicial Court held

“A party seeking ex parte relief has a heightened duty of candor and accuracy... and misleading the court even by omission can be grounds to vacate.”

Justice O’Neil had a duty to revisit the basis of the ex parte attachment once contradictory claims came to light. His failure to do so ratified a fraud upon the court.

### **Summary Table of Impact**

<b>Claim</b>	<b>Original Verified Complaint</b>	<b>May 20 Hearing</b>	<b>Resulting Problem</b>
Driveway Work	Defendant refused to finish driveway	Defendant installed gravel; plaintiffs assumed basecoat was blacktop	Shows ambiguity & competing interpretations
Breach of Contract	Defendant breached “without cause”	Defendant believed he complied	Undermines Plaintiff’s “clear likelihood of success”
Urgency/Emergency	Required ex parte order to prevent sale	Plaintiffs willing to stipulate to escrow	Undermines need for emergency attachment
Factual Basis	Presented as uncontested	Introduced new affidavits to argue facts	Original verified statements no longer reliable

### **Justice O’Neil’s Failure to Address the Contradiction:**

- Strengthened Plaintiffs’ improper tactical advantage
- Left a prejudgment attachment in place under false pretenses
- Denied Defendant the chance to challenge materially altered claims

This constitutes a compounding of Canon 1, 2.2, 2.3, and 2.6(A) violations and justifies judicial discipline and/or reversal of the attachment order.

### **Conclusion (Supplemental)**

Justice O’Neil enabled Plaintiffs to materially contradict their sworn verified complaint, failed to inquire into or penalize the shift, and allowed improperly filed affidavits to remain unchallenged on the record. This represents a systemic failure to protect the adversarial process, making the proceeding fundamentally unfair and the ex parte order judicially corrupted.

# **MOTION TO VACATE**

REPORT: Why Justice John O’Neil Erred in Denying the Motion to Vacate the Ex Parte Attachment and Violated Judicial Canons

Case: Pierce v. Rinaldi, CV-2021-138, Cumberland County Superior Court

## **I. INTRODUCTION**

Justice John O’Neil denied the Defendant’s Motion to Vacate the Ex Parte Order of Attachment with a one-sentence ruling: “Attachment approved after hearing. Motion Denied.” This decision—made without findings of fact, without addressing newly submitted evidence of fraud, and without analyzing the legal standards under M.R. Civ. P. 60(b)—reflects not only a failure to exercise judicial diligence but a violation of fundamental principles of justice and judicial ethics.

This report outlines the reasons why Justice O’Neil’s denial was erroneous in law, procedurally improper, and ethically compromising under the Maine Code of Judicial Conduct, with reference to the facts, procedural record, and controlling legal standards.

## **II. LEGAL BASIS FOR THE MOTION TO VACATE**

Under M.R. Civ. P. 60(b), the Court may relieve a party from a judgment or order for the following relevant reasons:

- (3) Fraud, misrepresentation, or other misconduct of an adverse party
- (6) Any other reason justifying relief from the operation of the judgment

In *McKeen & Assoc. v. Dep’t of Transp.*, 1997 ME 73, ¶ 4, the Maine Supreme Judicial Court held that denial of a Rule 60(b) motion requires reversal when it results in a “plain and unmistakable injustice.” Further, a motion under Rule 60(b)(3) requires only a showing of clear and convincing evidence of fraud or misconduct that materially affected the judgment.

## **III. GROUNDS PRESENTED IN THE DEFENDANT’S MOTION TO VACATE**

The Motion to Vacate (and Reply Brief) submitted new, irrefutable evidence proving that the Ex Parte Order of Attachment was obtained through:

1. Material omissions and false statements in the Plaintiff’s verified complaint and affidavits;

2. Fraudulent documentary evidence, including a fabricated or altered pre-approval letter with mismatched sender and signature data;
3. Omitted text messages and audio recordings showing Plaintiffs agreed to remove paving escrow—undermining their breach claim;
4. Withheld appraisal showing the true property value, contradicting the inflated valuation submitted by affidavit;
5. Undisclosed prior notice of the lawsuit (March 11 demand letter), eliminating any legitimate claim of “clear danger” under M.R. Civ. P. 4A(g);
6. Admission of perjury and concealed text messages by Plaintiff’s broker Andy Lord .

This evidence did not exist or was unavailable during the original hearing on the Motion to Dissolve, and therefore constituted valid “newly discovered evidence” and “fraud on the court” under Rule 60(b)(2) and (3) .

## **IV. WHY JUSTICE O’NEIL’S RULING WAS ERRONEOUS**

### **A. Failure to Address Newly Submitted Evidence**

Justice O’Neil made no findings of fact and issued a perfunctory denial despite overwhelming evidence of:

- Fabricated documents;
- Perjured affidavits;
- Fraud on the court; and
- Conflicting versions of events between the Ex Parte complaint and later affidavits.

By issuing a blanket denial without addressing even one of the evidentiary points raised, Justice O’Neil violated the requirements of M.R. Civ. P. 52(a), which entitles parties to findings of fact and conclusions of law on significant motions.

### **B. Misapplication of Legal Standard**

The Court has a duty to analyze Rule 60(b) claims in light of the totality of evidence and to determine whether justice requires relief. Instead, Justice O’Neil defaulted to the original approval standard for attachment and ignored whether the order was obtained through fraud or mistake, in direct contravention of *Estate of Paine*, 609 A.2d 1150 (Me. 1992).

### **C. Failure to Reassess Attachment After Fraud Discovery**

Ex Parte attachments are granted only if two criteria are met:

1. It is more likely than not that Plaintiff will prevail in an amount exceeding the attachment;
2. There is a “clear danger” that notice would make the property unavailable (M.R. Civ. P. 4A(g)).

The Defendant's motion demolished both:

- The March 11 demand letter proves advance notice was given;
- The actual property value (\$420,000 appraisal) invalidates the damages claim;
- The recordings and texts show that Plaintiff—not Defendant—breached the contract .

Justice O'Neil ignored these defects, relying solely on a flawed prior hearing and thus permitted a known false narrative to remain before the Court.

## **V. JUDICIAL CONDUCT VIOLATIONS**

The Maine Code of Judicial Conduct (adopted per Me. R. Jud. Conduct) holds judges to the following canons:

### **Canon 1: Upholding the Integrity and Independence of the Judiciary**

"A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."

Justice O'Neil's perfunctory ruling on a critical Rule 60(b) motion involving clear evidence of fraud undermines public confidence and creates the appearance that the court is shielding misconduct—especially in a case involving the state's largest law firm.

### **Canon 2: Performing the Duties of Judicial Office Impartially, Competently, and Diligently**

Rule 2.2: A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

Rule 2.5(A): A judge shall perform judicial and administrative duties competently and diligently.

Justice O'Neil failed to engage with the legal standards under Rule 60(b), refused to address the newly presented evidence, and denied the motion without legal reasoning—violating both Rule 2.2 and Rule 2.5(A).

### **Canon 2.6: Ensuring the Right to Be Heard**

"A judge shall accord to every person who has a legal interest in a proceeding... the right to be heard according to law."

By issuing a summary denial without explaining why new evidence of fraud and perjury was insufficient, Justice O'Neil denied the Defendant meaningful judicial consideration and the right to be heard.

## **VI. CONCLUSION AND RECOMMENDATIONS**

Justice John O’Neil committed clear judicial error in denying the Motion to Vacate without explanation, despite overwhelming evidence of perjury, fabrication, and fraud on the court. More gravely, he violated at least three judicial canons by:

- Ignoring the full evidentiary record;
- Failing to apply controlling legal standards;
- Issuing an unexplained denial on a matter involving fundamental due process.

Given the record and the controlling law, this conduct warrants a formal judicial misconduct complaint and review by the Committee on Judicial Responsibility and Disability, as well as legislative oversight by OPEGA due to the systemic implications.

## **MOTION DISSOLVE HEARING**

Judicial Misconduct Report: Justice John O’Neil’s Violations of the Maine Code of Judicial Conduct in *Pierce v. Rinaldi*, Docket No. CV-2021-138

### **Executive Summary**

This report outlines serious and repeated violations of the Maine Code of Judicial Conduct by Justice John O’Neil, Jr. in *Pierce v. Rinaldi*. Despite multiple credible allegations of fraud on the court, perjury, and misconduct by plaintiffs and their counsel, Justice O’Neil refused to investigate or allow a hearing to address those claims. Most egregiously, he denied the Defendant’s formal Request for a Non-Testimonial Hearing under M.R.Civ.P. 7(g)—a mechanism explicitly designed to clarify disputed facts and prevent further waste of court resources—without explanation.

Justice O’Neil’s conduct constitutes a clear breach of his ethical obligations under Canon 1, Canon 2, Canon 2.2, Canon 2.6, and most especially Canon 2.15 of the Maine Code of Judicial Conduct. His failure to ensure a fair process, disregard for procedural justice, and his refusal to address admitted fraud deeply undermine public confidence in the judiciary and suggest he aided and abetted litigant and attorney misconduct in one of the most abusive civil proceedings in recent Maine history.

### **Summary of Defendant’s Non-Testimonial Hearing Request**

Filed on December 12, 2022, the Defendant’s motion sought a non-testimonial hearing to address:

- Fraud on the Court
- Judicial Estoppel
- Plaintiffs’ admission that their Verified Complaint was false
- Fraudulent inducement
- Duress and undue influence

- Unclean hands
- Multiple acts of perjury and omission of evidence
- Attorney Monteleone's failure to disclose adverse evidence during ex parte proceedings

The motion cited M.R.Civ.P. Rule 7(g) and emphasized that a non-testimonial hearing would:

1. Simplify contested issues of fact.
2. Clarify whether the parties could agree on factual admissions.
3. Enhance the possibility of settlement.
4. Prevent further waste of judicial time.

Despite the seriousness of the allegations and their procedural propriety under Rule 7(g), Justice O'Neil denied the motion without comment.

## **Judicial Canon Violations**

### **Canon 1: A Judge Shall Uphold and Promote the Independence, Integrity, and Impartiality of the Judiciary, and Shall Avoid Impropriety and the Appearance of Impropriety**

- By failing to provide any reasoning for denying a hearing requested to address admitted fraud, Justice O'Neil cast serious doubt on the impartiality and integrity of the court.
- This omission created an appearance of impropriety, especially given the volume and gravity of the alleged misconduct by the plaintiffs and their attorney.

### **Canon 2.2: A Judge Shall Uphold and Apply the Law and Perform All Duties of Judicial Office Fairly and Impartially**

- The Court's refusal to apply Rule 7(g) procedurally and equitably is a direct violation.
- Justice O'Neil failed to rule fairly on critical motions and ignored binding precedent and civil rules requiring hearings when fraud or misconduct is alleged

### **Canon 2.6(A): A Judge Shall Accord to Every Person Who Has a Legal Interest in a Proceeding, the Right to Be Heard**

- Justice O'Neil's denial of the non-testimonial hearing, combined with his refusal to allow the Defendant to argue discovery violations and fraud in open court (as noted in the December 19, 2022 letter), deprived the Defendant of his constitutional right to be heard.
- Multiple due process violations, including denying the Defendant the right to argue his Protection Order request and discovery objections, go unaddressed.

### **Canon 2.15(B) & (D): Disciplinary Responsibilities**

- (B) A judge with knowledge that a lawyer has committed serious ethical violations shall inform the Board of Overseers of the Bar.



- (D) A judge who receives information indicating a substantial likelihood that a lawyer has violated professional conduct should take appropriate action.

Despite overwhelming evidence that Attorney Monteleone:

- Omitted material evidence in violation of M.R.P.C. 3.3(d)
- Filed a Verified Complaint based on non-existent evidence
- Knowingly submitted perjurious affidavits
- Failed to obey court discovery orders

Justice O’Neil took no action, did not sanction Monteleone, and did not refer him to the Board of Overseers. This is a textbook violation of Canon 2.15.

### **Pattern of Dereliction**

As emphasized in the December 19, 2022 letter:

- Justice O’Neil refused to address 18 separate motions, all raising credible legal and factual disputes, including fraud and perjury.
- He affirmed 27 boilerplate discovery objections from Monteleone with no meaningful judicial review.
- Historical review of Justice O’Neil’s rulings (2012–present) showed no similar pattern of errors—raising serious concerns about selective enforcement and intentional judicial bias in this matter.

### **Conclusion and Recommendations**

Justice O’Neil’s pattern of behavior in *Pierce v. Rinaldi* constitutes:

- Dereliction of judicial duty
- Abdication of oversight over attorney ethics
- Systemic due process violations
- Aiding and abetting fraud on the court

Such conduct demands immediate review by the Maine Committee on Judicial Responsibility and Disability, and formal referral to the Maine Board of Overseers of the Bar regarding Attorney Monteleone.

The people of Maine deserve better than judges who rubber-stamp fraud and silence valid objections. Judicial accountability must be enforced when it is so flagrantly disregarded.

## **REPORT: Judicial Canon Violations by Justice John O’Neil, Jr. in Denying Motion to Reconsider Summary Judgment Without Explanation**

### **I. INTRODUCTION**

This report addresses Justice John O’Neil, Jr.’s unexplained denial of the Defendants’ Motion to Reconsider Summary Judgment, filed December 28, 2022, in *Pierce v. Rinaldi*. The motion laid out clear legal and factual grounds demonstrating judicial error in the underlying summary judgment ruling. Despite this, Justice O’Neil issued a blanket denial without providing reasoning, citation, or findings of fact and law. Such conduct violates the Maine Code of Judicial Conduct and undermines core constitutional guarantees of due process and equal access to justice.

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### **II. RELEVANT PROCEDURAL HISTORY**

- 12/5/2022: Justice O’Neil issued a summary denial of all pending motions, including the Defendant’s Motion for Summary Judgment and the Plaintiff’s untimely Rule 56(f) Motion to Enlarge.
  - 12/28/2022: Defendant filed a timely Motion to Reconsider pursuant to M.R. Civ. P. 7(b)(5), citing new evidence and judicial error.
  - Justice O’Neil denied the motion with no explanation, despite the motion’s detailed legal argumentation and documentation of Plaintiff misconduct.
- 

### **III. GROUNDS FOR RECONSIDERATION THAT WERE IGNORED**

The Defendant’s motion properly invoked Rule 7(b)(5) by presenting:

- Proof of perjury in Plaintiff affidavits (multiple versions of events, false statements, omitted texts).
- Legal misapplication of judicial estoppel, unclean hands, and anticipatory repudiation doctrines.
- Demonstration that Plaintiffs’ Opposition to Summary Judgment was untimely, rendering their response inadmissible.
- Evidence that Plaintiffs failed to state a prima facie claim, including lack of proven damages and failure to identify a valid contract.

Despite this, the Court did not:

- Address a single fact or law raised in the motion.
- Provide findings or rulings per Rule 52(a).
- Acknowledge the Defendant's allegations of fraud on the court.

#### **IV. VIOLATED JUDICIAL CANONS**

Justice O'Neil's conduct violated the following provisions of the Maine Code of Judicial Conduct:

##### **Canon 2: A Judge Shall Perform the Duties of Judicial Office Impartially, Competently, and Diligently**

- Rule 2.2 (Impartiality and Fairness): By refusing to analyze the Defendant's claims and ignoring substantiated misconduct by Plaintiffs, Justice O'Neil abandoned impartiality.
- Rule 2.6(A) (Ensuring the Right to Be Heard): The Defendant's well-supported motion, invoking clear legal grounds, was dismissed without even cursory judicial engagement. This denied the litigant a meaningful opportunity to be heard.

##### **Canon 1: A Judge Shall Uphold and Promote the Independence, Integrity, and Impartiality of the Judiciary**

- Rule 1.2 (Promoting Confidence in the Judiciary): Issuing unexplained denials in the face of documented fraud and legal misapplication undermines public confidence in the judiciary's commitment to justice.

##### **Canon 2, Rule 2.3(B): A judge shall not permit ... bias, prejudice, or harassment**

- Ignoring egregious misconduct by one party while refusing to acknowledge or evaluate a pro se litigant's meritorious argument demonstrates an implicit favoritism toward the Plaintiffs and their attorney.

#### **V. DUE PROCESS VIOLATION**

A judicial ruling, especially one denying reconsideration of a dispositive motion, must contain a clear rationale. The U.S. Constitution guarantees that courts explain their decisions sufficiently for a party to understand and, if necessary, challenge the ruling. In *Pierce v. Rinaldi*, the absence of reasoning in Justice O'Neil's order obstructed the Defendant's ability to appeal or seek redress. Such unexplained denials violate:

- Maine Civil Rule 52(a) — which requires findings of fact and conclusions of law upon request or where dispositive motions are ruled on.
- Fifth and Fourteenth Amendments to the U.S. Constitution — due process requires courts to provide a fair and reasoned process.

#### **VI. SYSTEMIC IMPLICATIONS**

Justice O’Neil’s conduct in this case is not a simple oversight. It reflects a systemic disregard for the rights of unrepresented litigants, the integrity of the judicial process, and the essential duty of a judge to explain their reasoning. It is especially egregious in a case involving:

- Allegations of perjury.
- Documented material omissions from affidavits.
- Contradictory Plaintiff statements.
- Verified text and audio evidence showing Defendant performance and Plaintiff breach.

Failing to acknowledge or respond to such grave matters borders on judicial negligence and enables fraud on the court.

## **VII. CONCLUSION**

Justice John O’Neil, Jr. violated multiple judicial canons by summarily denying a well-supported motion for reconsideration without explanation. His failure to engage with the legal and factual record, and his silence in the face of credible fraud allegations, constitute serious violations of Maine’s judicial ethics and of the due process owed to all litigants. The unexplained denial is a miscarriage of justice that demands formal review by oversight authorities.

## **VIII. RECOMMENDATION**

This matter should be referred to the Committee on Judicial Responsibility and Disability for investigation of potential violations of:

- Canon 1 (Judicial Integrity),
- Canon 2 (Duties of Office),
- and constitutional due process.

### **REPORT: Judicial Canon Violations by Justice John O’Neil, Jr. in Denial of Motion to Reconsider Summary Judgment Based on Prima Facie Standards**

## **I. BACKGROUND**

During a motion hearing on April 11, 2023, in the case of *Pierce v. Rinaldi*, the Defendant argued that the Plaintiffs failed to present a prima facie case supporting their claim, thus failing to meet the legal threshold necessary to survive summary judgment. Despite this well-established legal standard, Justice John O’Neil summarily dismissed the argument by stating that Plaintiffs “don’t need to prove a prima facie case” to survive summary judgment—a statement in direct contradiction to binding precedent and judicial obligations under the Maine Code of Judicial Conduct.

## **II. LEGAL STANDARD: SUMMARY JUDGMENT AND PRIMA FACIE REQUIREMENT**

Under Maine Rule of Civil Procedure 56, a plaintiff must present a prima facie case for each element of their claim to avoid dismissal at the summary judgment stage. The Maine Law Court in *Watt v. UniFirst Corp.*, 2009 ME 47, ¶ 21, 969 A.2d 897, makes this clear:

“To withstand a motion for a summary judgment, the plaintiff must establish a prima facie case for each element of her cause of action. If a plaintiff does not present sufficient evidence on the essential elements... the defendant is entitled to a summary judgment.”

This is echoed in dozens of Superior Court rulings cited in the Defendant’s filing, including *Mutrie v. McDonough*, *Pierce v. Bradley*, *Masucci v. Judy’s Moody, LLC*, and many others. These decisions consistently hold that a failure to establish a prima facie case on all required elements mandates dismissal.

### **III. JUDICIAL MISCONDUCT**

By denying the Defendant’s motion and stating that Plaintiffs “don’t need to prove a prima facie case,” Justice O’Neil effectively:

- Contradicted controlling Maine law on summary judgment standards.
- Misled the litigants regarding the burden of proof at summary judgment.
- Failed to adjudicate impartially, favoring the Plaintiffs despite their failure to meet a required legal threshold.
- Denied Due Process to the Defendant, who had every right to expect a fair ruling based on the law.

### **IV. VIOLATIONS OF THE MAINE CODE OF JUDICIAL CONDUCT**

Justice O’Neil’s conduct appears to violate the following judicial canons:

- Canon 1, Rule 1.1 – Compliance with the Law:

“A judge shall comply with the law, including the Maine Code of Judicial Conduct.”

Justice O’Neil failed to apply controlling summary judgment law, ignoring both precedent and the prima facie requirement under M.R.Civ.P. 56.

- Canon 2, Rule 2.2 – Impartiality and Fairness:

“A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.”

Justice O’Neil’s categorical dismissal of the prima facie standard reveals bias and a failure to apply the law fairly to both parties.

- Canon 2, Rule 2.5(A) – Competence and Diligence:

“A judge shall perform judicial and administrative duties competently and diligently.”

Repeated refusals to address motions raising fraud and procedural defects show a disregard for diligent judicial review and proper case management.

- Canon 2, Rule 2.6(A) – Right to Be Heard:

“A judge shall accord to every person who has a legal interest in a proceeding... the right to be heard according to law.”

Defendant’s legal arguments were dismissed without proper hearing or legal analysis, violating the core tenets of adversarial due process.

## **V. SYSTEMIC IMPLICATIONS**

Justice O’Neil’s deviation from the most fundamental tenets of summary judgment review not only prejudiced the Defendant but also undermined confidence in the judiciary as a whole. When judges ignore established legal standards and procedural safeguards, litigants are left without meaningful recourse. This is especially egregious when the judge is alerted to fraud, perjury, and evidentiary failures—yet still refuses to hold the plaintiffs accountable.

## **VI. CONCLUSION**

Justice John O’Neil, Jr.’s statement that plaintiffs do not need to establish a prima facie case to survive summary judgment is legally indefensible and reflects a profound departure from judicial standards and obligations. This misstatement of law, in combination with his refusal to grant or even substantively review multiple fraud-based motions, constitutes a serious breach of judicial ethics and Maine’s Code of Judicial Conduct.

Recommendation: This incident should be formally investigated by the Maine Committee on Judicial Responsibility and Disability for violations of judicial canons, denial of due process, and deliberate misapplication of law.

## **MOTION RULE 56(f)**

### **Judicial Misconduct Report: Justice John O’Neil Jr. – Rule 56(f) Violations**

Subject: Improper Approval of Plaintiffs' Motions to Enlarge under M.R. Civ. P. 56(f)

Case: Pierce v. Rinaldi, Cumberland County Superior Court, Docket No. CV-2021-13

## **I. Executive Summary**

Justice John O'Neil Jr. granted not one but two Motions to Enlarge under Maine Rule of Civil Procedure 56(f) in favor of the Plaintiffs in Pierce v. Rinaldi, despite clear failures by the moving party to comply with the strict procedural and evidentiary requirements of Rule 56(f), including the failure to provide a mandatory affidavit, to demonstrate diligence, and to establish good cause.

This constitutes a severe departure from judicial duty and raises credible allegations of misconduct under multiple provisions of the Maine Code of Judicial Conduct, including Rules 1.1, 1.2, 2.2, 2.5(A), and 2.6(A).

## **II. Legal Framework: Rule 56(f) Requirements**

M.R. Civ. P. 56(f), as clarified in Bay View Bank, N.A. v. Highland Golf Mortgagees Realty Tr., 2002 ME 178, ¶ 22, 814 A.2d 449, imposes five critical requirements:

1. Timeliness — Motion must be made within a reasonable time.
2. Notice — Must notify the court that a delay in summary judgment is sought.
3. Diligence & Good Cause — Must demonstrate diligent discovery efforts and explain why additional discovery could not have occurred earlier.
4. Specificity & Materiality — Must present a plausible basis for believing that specific facts exist and would materially affect summary judgment.
5. Affidavit Requirement — Motion must be supported by affidavit from a party with personal knowledge.

## **III. Misconduct by Justice O'Neil**

### **A. Violation of the Law and Judicial Duty**

Despite clear violations of Rule 56(f), Justice O'Neil approved Plaintiffs' enlargement motions, including the one dated August 24, 2022, which:

- Lacked the Required Affidavit.

The Plaintiffs failed to attach an affidavit affirming the necessity and specifics of additional discovery, in direct violation of Rule 56(f) and United Air Lines, Inc. v. Hewins Travel Consultants, Inc., 622 A.2d 1163, 1167 (Me. 1993).

- Failed to Show Good Cause.

Plaintiffs cited “Attorney Monteleone’s heavy workload” — an excuse repeatedly rejected by state and federal courts. In *Pinero Schroeder v. FNMA*, 574 F.2d 1117, 1118 (1st Cir. 1978), the First Circuit held that attorney workload does not constitute good cause or excusable neglect.

- **Showed No Diligence.**

Plaintiffs waited over 16 months and waived discovery in a joint scheduling motion. A party cannot “sleep on their rights” and then ask for delay.

- **Specified No Material Facts Likely to Alter Summary Judgment.**

Plaintiffs made no plausible case that further discovery would yield facts likely to defeat summary judgment. Defendant had already submitted comprehensive evidence, including three affidavits.

Justice O’Neil’s approval of these motions, in light of such blatant legal noncompliance, constitutes legal error and judicial misconduct.

## **IV. Judicial Canon Violations**

### **1. Rule 1.1 – Compliance with the Law**

“A judge shall comply with the law, including the Code of Judicial Conduct.”

Justice O’Neil disregarded Rule 56(f) and controlling precedent by approving motions that clearly did not meet mandatory legal requirements.

### **2. Rule 1.2 – Promoting Public Confidence**

“A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary...”

By bending procedural rules to favor a well-connected plaintiff’s attorney despite repeated fraud allegations, Justice O’Neil damaged public trust in judicial impartiality.

### **3. Rule 2.2 – Impartiality and Fairness**

“A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.”

O’Neil demonstrated bias by granting relief to the plaintiffs without requiring even basic compliance. No reasonable judge would have approved motions so procedurally defective.

### **4. Rule 2.5(A) – Competence and Diligence**



“A judge shall perform judicial and administrative duties competently and diligently.”

Rubber-stamping defective motions without explanation violates a judge’s duty to rule competently and conscientiously.

#### **5. Rule 2.6(A) – Ensuring the Right to Be Heard**

“A judge shall accord to every person who has a legal interest in a proceeding...the right to be heard.”

By continually granting defective plaintiff motions while ignoring the defendant’s meritorious objections, Justice O’Neil deprived the defendant of equal treatment and due process.

#### **V. Conclusion: Breach of Oath and Recommendation**

Justice O’Neil’s approval of the Plaintiffs’ enlargement motions under Rule 56(f), absent the required affidavits and foundational legal prerequisites, reflects gross incompetence or intentional favoritism. This is not a mere oversight — it is a judicial failure that enabled procedural manipulation, abuse of process, and a miscarriage of justice.

Recommendation: A formal complaint should be submitted to the Maine Committee on Judicial Responsibility and Disability, requesting a full investigation into Justice O’Neil’s conduct in *Pierce v. Rinaldi*, especially his handling of the Rule 56(f) motions.

## **9-7-2022 Hearing**

Based on the September 7, 2022 transcript, the October 2022 Discovery Order, and the Motion to Reconsider filed in response, it is evident that Justice John O’Neil, Jr. violated multiple Judicial Canons of the Maine Code of Judicial Conduct during the 26(g) discovery hearing in *Pierce v. Rinaldi*. Below is a structured report identifying these violations:

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### **Report: Judicial Canon Violations by Justice John O’Neil, Jr. During 26(g) Discovery Hearing**

**Case: Pierce v. Rinaldi, CV-2021-138**

**Date: September 7, 2022**

**Presiding Judge: Justice John O'Neil, Jr.**

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## **I. Executive Summary**

Justice O'Neil presided over a 26(g) discovery hearing but failed to adhere to the requirements of Rule 26(g) and the Due Process Clause. He:

- Silenced the pro se defendant on multiple material issues;
- Sustained boilerplate objections without requiring justification;
- Acted sua sponte as an advocate for the plaintiffs;
- Ignored contradictory or perjured affidavits;
- Refused to enforce discovery compliance under well-established law.

These actions collectively violated the Maine Code of Judicial Conduct, Maine Rules of Civil Procedure, and basic constitutional protections. This conduct undermines public trust in the judiciary and constitutes systemic bias and misuse of judicial discretion.

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## **II. Violated Judicial Canons**

**Canon 1: Upholding the Integrity and Independence of the Judiciary**

“A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”

Violation:

Justice O’Neil sustained virtually all of Attorney Monteleone’s boilerplate objections — many of which were legally meritless and unsupported — without requiring explanation. He ignored clear contradictions in Plaintiff affidavits (e.g. false claims about a non-existent text) and refused to hear the Defendant’s fraud claims. This not only damaged the perception of impartiality but showed a refusal to scrutinize obvious perjury and discovery abuse .

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## **Canon 2: Impartiality and Fairness**

“A judge shall perform the duties of judicial office impartially, competently, and diligently.”

### **Rule 2.2: Impartiality**

“A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.”

Violation:

Justice O’Neil permitted Monteleone to speak at length about his request for a deposition but refused to let Defendant speak at all in response, despite Defendant’s timely request for a protective order. This is a textbook violation of fair and impartial adjudication under Rule 26(g) and Rule 7(b)(5) .

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## **Canon 2.6: Right to Be Heard**

“A judge shall accord to every person who has a legal interest in a proceeding... the right to be heard according to law.”

Violation:

Justice O’Neil repeatedly denied Defendant the opportunity to be heard, particularly regarding:

- His protective order request;
- The fraudulent nature of Plaintiff’s affidavits;
- The failure to comply with discovery.

Instead, he allowed only the attorney to speak. This undermines a core guarantee of Due Process and violates Canon 2.6 .

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## **Canon 2.9: Ex Parte Communications & Independent Fact-Finding**

“A judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.”

Violation:

Justice O’Neil issued a discovery ruling affirming objections that were never made — effectively acting as co-counsel for Plaintiffs. By sustaining boilerplate objections not even articulated on the record, O’Neil substituted his judgment for arguments never presented, directly violating Rule 2.9 and Maine precedent .

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## **III. Due Process Violations and Legal Errors**

### **A. Denial of Defendant’s Right to Be Heard on Deposition Objection**

The Defendant requested a Rule 26(c) Protective Order. Justice O’Neil:

- Allowed only the Plaintiff to argue, then
- Denied the Defendant’s request without hearing his argument.

This is a flagrant Due Process violation and a direct breach of the Court’s obligation under Rule 26(g) and Canon 2.6.

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## **B. Affirming Boilerplate Objections Without Justification**

Attorney Monteleone objected to nearly every interrogatory and request for admission using boilerplate language, such as:

- “Seeks litigation strategy”
- “Not reasonably related”
- “Plaintiffs do not know and cannot speak for...”

Yet O’Neil:

- Affirmed all objections;
- Never required specificity;
- Ignored that these were requests for facts, not strategy.

This contradicts Maine Rule 33(b) and violates Canon 2.2 (Failure to apply law) and Canon 2.5 (Failure to ensure proceedings are fair) .

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## **C. Disregard for Admissibility Standards in Discovery**

O’Neil wrongly held that certain materials were inadmissible — including loan applications, text messages, and interrogatory responses — and thus not discoverable. But:

- Discovery is broader than admissibility at trial;

- Relevant material need not be admissible if it “appears reasonably calculated to lead to the discovery of admissible evidence” (M.R. Civ. P. 26(b)(1)).

This is a fundamental error of law.

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## **D. Refusal to Address Fraud and Perjury**

The Defendant provided evidence proving:

- No text existed as claimed in Andy Lord’s affidavit;
- Plaintiffs materially altered their story;
- Key messages and documents were intentionally omitted.

Justice O’Neil refused to even discuss these revelations, instead quickly changing the subject. Ignoring perjury and fraudulent affidavits is both a dereliction of judicial duty and a breach of public trust .

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## **IV. Consequences and Harm**

- The Defendant was denied the opportunity to compel vital discovery, while Plaintiffs were allowed to stonewall production of material documents.
  - The court actively shielded Plaintiffs from answering questions that would expose their fraudulent conduct.
  - The cumulative effect destroyed the Defendant’s ability to prepare his case and undermined the entire trial’s fairness.
- 

## **V. Conclusion**

Justice O’Neil’s conduct in this hearing was grossly biased, legally erroneous, and inconsistent with the Maine Code of Judicial Conduct. His refusal to hear the Defendant, blanket affirmation

of meritless objections, and willful disregard for well-documented fraud are not mere lapses — they represent a systemic abuse of judicial power.

Recommendation: This conduct must be referred to the Maine Committee on Judicial Responsibility and Disability for formal investigation, as it constitutes serious misconduct incompatible with a fair judicial system.

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Would you like me to prepare this as a formal judicial complaint PDF next, or include exhibits and citations in a longer version?

## **MOTION RULE 15 & 21**

Here is a detailed report analyzing Justice John O’Neil Jr.’s denial of the Motion to Reconsider the denial of two prior motions—(1) a Motion to Amend Party Name and (2) a Motion for Misjoinder—submitted by Defendant Anthony Rinaldi in *Pierce v. Rinaldi*, CV-2021-138:

LEGAL ANALYSIS REPORT: Justice O’Neil’s Unexplained Denial of Motion to Reconsider

### **I. OVERVIEW**

On its face, the Motion to Reconsider submitted by Mr. Rinaldi complied with M.R. Civ. P. 7(b)(5), which allows such motions only when there is “an error, omission or new material that could not previously have been presented.” The motion identifies several errors and legal misapplications and should have, at minimum, warranted judicial explanation. Justice O’Neil denied the motion without explanation, despite it being unopposed, citing clear case law, and asserting a due process deprivation resulting from misnaming the Defendant’s business entity.

This denial raises grave concerns under both procedural and substantive due process principles and suggests an arbitrary and capricious use of judicial discretion.

### **II. LEGAL BASIS OF THE MOTION**

Mr. Rinaldi’s motion relies on two Maine Rules of Civil Procedure:

#### **Rule 15 (Amended Pleadings)**

“The court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby...”

## **Rule 21 (Misjoinder of Parties)**

“Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added... on motion of any party or of its own initiative at any stage of the action...”

Both rules empower courts to correct party-naming errors—particularly when they are undisputed and non-prejudicial. Maine case law, such as *Miller v. Szelenyi*, 546 A.2d 1013, 1022 (Me. 1988), confirms that a denial of such relief requires a showing that the amendment would prejudice the opposing party or otherwise cause injustice if granted.

## **III. FACTUAL BACKGROUND AND CLAIMS**

- Nature of Error: Plaintiffs misnamed the Defendant’s business as “Southern Maine Construction LLC,” when the Defendant operated as a sole proprietor under “Southern Maine Construction.”
- Legal Consequence: The court, treating the Defendant as an LLC, threatened default unless he retained legal counsel—something not required of sole proprietors.
- Prior Orders: Justice O’Neil denied both the Motion to Amend (7/31/23) and Motion for Misjoinder (9/6/23), treating Defendant as a misnamed LLC despite unrefuted proof to the contrary.
- Due Process Claims: Mr. Rinaldi claims deprivation of meaningful access to the courts and risk of default based on a legal fiction created by the Plaintiffs’ error.
- Lack of Opposition: Both underlying motions were unopposed. Under Rule 7(b)(5), this should weigh heavily in favor of reconsideration.

## **IV. ANALYSIS: ABUSE OF DISCRETION & DUE PROCESS VIOLATION**

### **A. Unjustified Denial of Unopposed, Legally Sound Motion**

Courts are expected to grant motions for amendment or correction of misjoinder when there is no showing of prejudice. No such prejudice was alleged or proven here. The Plaintiffs did not oppose any of these motions. Denying such a motion without any explanation violates basic tenets of judicial reasoning.

### **B. Misapplication of Corporate Representation Law**

Justice O’Neil’s order falsely stated that Mr. Rinaldi was attempting to represent an LLC pro se, which is not permitted. In fact, the Defendant’s entire point was that he was not an LLC, and thus the rules for LLCs should not apply.

This mischaracterization undermines the legitimacy of the ruling and supports the claim of clear abuse of discretion.



### **C. Risk of Wrongful Default Due to Clerical Error**

The court's insistence on treating Defendant as an LLC because of a clerical error by Plaintiffs results in a denial of the Defendant's right to represent himself—a core due process violation under both the U.S. and Maine Constitutions. See *Goldberg v. Kelly*, 397 U.S. 254 (1970) (holding that meaningful access to the courts is a due process right).

### **D. Failure to Address Motion on the Merits**

The court did not address:

- The legal distinction between sole proprietorships and LLCs;
- The uncontested fact that “Southern Maine Construction LLC” is owned by a third party;
- That the contract at issue is between Mr. Rinaldi personally and the Plaintiffs—not a business entity.

## **V. SYSTEMIC IMPLICATIONS**

This ruling is not an isolated procedural misstep. When viewed in the broader pattern of this case—where nearly all defense motions were denied and most plaintiff motions granted—it illustrates a systemic denial of fairness and strongly suggests judicial bias.

This outcome could lead to:

- Default judgment against the wrong legal entity;
- A judgment unenforceable against Mr. Rinaldi personally;
- Appellate review for denial of access to courts and manifest abuse of discretion;
- A potential basis for judicial complaint and oversight review by Maine's Committee on Judicial Responsibility and Disability or OPEGA.

## **VI. CONCLUSION**

Justice O'Neil's unexplained denial of the Motion to Reconsider represents a clear and manifest abuse of discretion, ignores governing law under Rules 15 and 21, and may rise to the level of a constitutional violation. The Defendant was improperly categorized as an LLC based on the Plaintiffs' error and was denied the right to correct that error—despite filing unopposed, procedurally proper motions.

Such action jeopardizes the integrity of judicial proceedings and supports serious inquiry into the impartiality and fairness of the court in *Pierce v. Rinaldi*.

Yes. Justice O'Neil's unexplained denial of the Motion to Reconsider—especially where the motion was unopposed, legally sound, and raised constitutional due process concerns—raises serious violations under the Maine Code of Judicial Conduct. Below is an analysis of which specific judicial canons were likely violated:

# **VIOLATED JUDICIAL CANONS – MAINE CODE OF JUDICIAL CONDUCT**

## **Canon 1: A Judge Shall Uphold and Promote the Independence, Integrity, and Impartiality of the Judiciary, and Shall Avoid Impropriety and the Appearance of Impropriety**

### **Rule 1.2 – Promoting Confidence in the Judiciary**

“A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.”

- Violation: By denying a legally grounded, unopposed motion to correct an obvious misnaming error—without explanation—Justice O’Neil fostered the appearance of bias and arbitrary decision-making.
- Impact: Undermines public trust and appears retaliatory or prejudicial toward a pro se litigant.

## **Canon 2: A Judge Shall Perform the Duties of Judicial Office Impartially, Competently, and Diligently**

### **Rule 2.2 – Impartiality and Fairness**

“A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.”

- Violation: The court did not uphold clearly applicable laws under Rules 15 and 21, nor did it explain why such laws were set aside.
- Impact: Denying a litigant’s access to correct a party-naming error due to opposing party’s mistake—and especially doing so without legal justification—constitutes biased and unfair treatment.

### **Rule 2.5(A) – Competence, Diligence, and Cooperation**

“A judge shall perform judicial and administrative duties competently and diligently.”

- Violation: A diligent judge would analyze the merits of an unopposed motion involving a constitutional right (due process) and provide reasoning. Justice O’Neil failed to do so.
- Impact: Denying the motion without explanation suggests a lack of careful review and a failure to engage with the substance of the motion.

## **Canon 2: Continued**

### **Rule 2.6(A) – Ensuring the Right to Be Heard**

“A judge shall accord to every person who has a legal interest in a proceeding...the right to be heard according to law.”

- Violation: Justice O’Neil’s orders implicitly denied the Defendant the right to represent himself as a sole proprietor, mischaracterized him as an LLC, and set up a scenario where he could be defaulted based on a naming error that was not his own.
- Impact: A denial of the right to be heard due to procedural mislabeling is a textbook due process violation, and this canon demands judicial attentiveness to such rights.

## **Canon 2: Continued**

### **Rule 2.9(A) – Ex Parte Communications**

“A judge shall not initiate, permit, or consider ex parte communications...”

- Potential Violation (Indirect): Although no explicit ex parte communication is alleged here, denying an unopposed motion without explanation invites the inference that the judge may be influenced by factors outside the record—or at minimum is not conducting impartial analysis.

## **Canon 2: Continued**

### **Rule 2.15(A) – Responding to Judicial and Lawyer Misconduct**

“A judge having knowledge that another judge has committed a violation... shall take appropriate action.”

- Violation by Inaction: The motion also alleged that Plaintiffs misnamed the Defendant and may have done so strategically for procedural advantage. The judge ignored this allegation—despite it raising serious ethical implications about the opposing counsel’s conduct.
- Impact: Failing to address such misconduct—especially when unopposed and backed by exhibits—violates the duty to preserve the integrity of the legal process.

## **Summary of Violated Canons**

<b>Canon</b>	<b>Rule</b>	<b>Violation Summary</b>
Canon 1	1.2	Fostered the appearance of judicial bias and partiality
Canon 2	2.2	Failed to apply the law fairly and impartially (Rules 15 & 21)
	2.5(A)	Did not review the motion with competence and diligence

<b>Canon</b>	<b>Rule</b>	<b>Violation Summary</b>
	2.6(A)	Denied Defendant's right to be heard based on mischaracterization
	2.15(A)	Ignored possible attorney misconduct involving misnaming of parties

## **Conclusion**

Justice O'Neil's conduct in denying this motion without reason—despite clear legal entitlement, lack of opposition, and potential due process deprivation—violates multiple Canons and Rules of the Maine Code of Judicial Conduct. The appearance of bias, abuse of discretion, and systemic denial of fair access to the courts merits a formal complaint to the Committee on Judicial Responsibility and Disability and potential referral to the Office of Program Evaluation and Government Accountability (OPEGA) for systemic review.

Anthony Rinaldi  
Westbrook  
LD 1984

## ROUGH DRAFT JUDICIAL COMPLAINT JUSTICE ONEIL, JUSTICE BILLINGS, JUSTICE CONNORS

### MOTION TO RECUSE

Judicial Misconduct Report: Why Justice John O'Neil, Jr. Should Have Recused  
Himself and the Judicial Canons He Violated

Prepared for submission to the Maine Committee on Judicial Responsibility and  
Disability

#### I. Introduction

This report outlines the legal and ethical basis for why Justice John O'Neil, Jr. should have recused himself from *Pierce v. Rinaldi*, CV-2021-138. The record demonstrates a pattern of biased rulings, disregard for due process, unexplained denials of well-supported motions, and an apparent conflict of interest involving Attorney James Monteleone and a former law clerk of Justice O'Neil, now employed at Monteleone's firm. The cumulative effect of these violations justifies mandatory recusal and disciplinary inquiry under the Maine Code of Judicial Conduct.

#### II. Applicable Standard for Judicial Recusal

Under M.R. Civ. P. 63(b) and Maine Code of Judicial Conduct Rule 2.11(A), a judge must disqualify himself in any proceeding in which the judge's impartiality might reasonably be questioned, including when:

- The judge has a personal bias or prejudice concerning a party;
- The judge has a prior relationship with a party, attorney, or material witness;
- The judge fails to rule impartially or fairly.

The standard is objective: would a reasonably prudent person fear they would not receive a fair and impartial hearing?

#### III. Grounds for Recusal

##### 1. Appearance of Conflict of Interest (Rule 2.11(A)(1))

Attorney James Monteleone practices in the same office and division as Casey McCullen, who formerly clerked for Justice O'Neil. McCullen joined Bernstein Shur shortly before this litigation began and works in the same legal specialty (real estate). While no allegation is made against McCullen, the optics of a sitting judge presiding over a case involving a former clerk's close colleague creates a clear appearance of partiality, which alone mandates recusal under Rule 2.11(A).

##### 2. Pattern of Biased Rulings and Denial of Due Process (Rules 2.2, 2.3, 2.6)

Justice O'Neil's conduct in this matter includes:

- Approving an Ex Parte Attachment without verifying the existence of any emergency, despite clear notice that the defendant had already been informed—a direct violation of Rule 4A(c);
- Relying on a nonexistent text message as the sole basis for prejudgment attachment—an extraordinary remedy that must be strictly construed (*Bowman v. Dussault*, 425 A.2d 1325);
- Allowing four new affidavits at the Motion to Dissolve hearing without requiring prior service, in violation of M.R.Civ.P. 7(e), thereby depriving the defendant of notice and the right to respond
- Affirming 27 boilerplate objections raised by plaintiffs without analysis or justification, including objections not even made by plaintiffs (e.g., that discovery was "inadmissible")—essentially becoming an advocate for the plaintiffs ;
- Denying multiple motions including those alleging fraud on the court (Rule 60(b)), without explanation, and failing to hold required hearings, contrary to the mandate of Rule 7(b) when ambiguity exists ;
- Misstating procedural history in orders, such as citing the Motion to Dissolve when ruling on an entirely different motion (Motion to Vacate), further evidencing careless or prejudiced adjudication .

##### 3. Failure to Uphold the Law and Judicial Responsibility (Rules 1.1, 1.2, 2.5)

Justice O'Neil has:

- Denied motions without issuing findings of fact or conclusions of law, in contradiction to Rule 52(a) and Estate of Snow, 2014 ME 105, even when such findings are necessary to enable appeal;
  - Affirmed motions to enlarge without requiring “good cause” or “excusable neglect” as required under Rule 56(f) and the standard in Nickerson-Malpher v. Baldacci, 247 F.R.D. 223 (D. Me. 2008);
  - Ignored the procedural requirement that motions unopposed by timely opposition should be treated as uncontested under Rule 7(c)(3) (e.g., denying the Defendant’s Motion to Recuse despite no timely opposition) .
4. Deprivation of Right to Be Heard (Rules 2.6, 2.7, and Canon 3B(8))
- Justice O’Neil denied the Defendant’s right to present arguments, especially during key hearings like the Deposition Protection Order and Motion to Vacate, where only the plaintiff was allowed to argue.
  - These one-sided hearings contradict the principle of procedural fairness, as highlighted in R.O. v. State, 46 So. 3d 124 (Fla. 3d DCA 2010) and Canon 3B(8) commentary, which states a judge must not administer “his own personal brand of justice.”

#### IV. Judicial Canons Violated

##### CanonTitleNature of Violation

- 1.1Compliance with the LawSystematic disregard of controlling legal standards (Rules 4A, 56(f), 60(b), 7(c)(3))
- 1.2Promoting ConfidenceApproving extraordinary relief on false evidence, fostering public mistrust
- 1.3Avoiding Abuse of PrestigeRulings benefiting former law clerk’s colleague without disclosing potential conflict
- 2.2Impartiality and FairnessAffirming objections not raised, ruling without hearings, denying due process
- 2.3Bias and HarassmentDisplaying bias by only allowing plaintiffs to argue, ignoring defense fraud claims
- 2.5Competence and DiligenceRulings based on incorrect procedural history and errors of law
- 2.6Right to Be HeardRefusing defendant oral argument and denying participation in hearings
- 2.7Duty to Decide ImpartiallyRepeatedly ruling in plaintiff’s favor on defective motions without justification
- 2.9Ex Parte CommunicationsApproving ex parte attachment without valid emergency and misapplied law
- 2.15Duty to Respond to Judicial MisconductIgnored clear fraud and perjury documented in motions and evidence

#### V. Conclusion and Recommendation

Justice O’Neil’s conduct in this case reflects a sustained pattern of biased rulings, failure to follow the law, and disregard for procedural fairness. This case does not involve mere disagreement with a ruling—it presents clear and convincing evidence of systemic partiality and violations of the Maine Code of Judicial Conduct. Under Rule 2.11, recusal was not optional—it was mandatory. His failure to do so requires urgent disciplinary review.

**Recommended Action:** The Maine Committee on Judicial Responsibility and Disability should immediately open an investigation into Justice O’Neil’s conduct in Pierce v. Rinaldi, and issue a public reprimand or referral for further sanction based on violations of multiple judicial canons.

#### JUSTICE O’NEIL’S SLANDEROUS RECUSAL ORDER

##### I. Introduction

This report analyzes Justice John O’Neil’s January 9, 2024 Order of Recusal in Pierce v. Rinaldi, CV-2021-138, and finds that the order constitutes an egregious abuse of judicial authority. Far from being a neutral or dispassionate recusal, the order is a slanderous attack on the Defendant’s character, riddled with factual distortions, legal

misstatements, and violations of multiple provisions of the Maine Code of Judicial Conduct.

Rather than simply recusing himself, as required under circumstances of actual or perceived bias, Justice O'Neil used the order to malign the Defendant's credibility, accuse him of misconduct unsupported by the record, and compare his protected First Amendment activity to violent criminal behavior. These actions undermine the integrity and impartiality of the judiciary, and violate multiple judicial canons.

## II. Summary of the Recusal Order and the Defendant's Response

Justice O'Neil recused himself on January 9, 2024, citing a website allegedly created by the Defendant that criticized the handling of the case. He claimed that a "respected court staff member" was so shaken by the website that he could no longer preside.

The order then gratuitously accused the Defendant of misconduct, claimed his credibility was "irreparably impacted," and referenced recent bomb threats and courtroom violence elsewhere in the country—implying a connection between those events and the Defendant's peaceful, constitutionally protected actions.

The Defendant's response (dated January 25, 2024) thoroughly refuted these claims, pointing out that:

- The website contained no threats, profanity, or personal attacks.
- All information on the website was derived from court filings and public records.
- The Defendant has remained professional throughout the litigation, submitted legally sound motions, and behaved respectfully in court.
- The Defendant exercised his First Amendment rights to protest what he believes is court-enabled fraud.
- The court has never addressed the merits of his motions or the Plaintiffs' failure to present a prima facie case.

## III. Judicial Canons Violated by Justice O'Neil

### Canon 1: A Judge Shall Uphold and Promote the Independence, Integrity, and Impartiality of the Judiciary

Violation: Justice O'Neil's order failed to promote integrity and impartiality. By linking the Defendant's constitutionally protected protest and legal self-advocacy to national bomb threats and courtroom violence, he inflamed bias, promoted fear, and chilled free speech. No reasonable person could read his order and conclude he was impartial.

### Canon 2: A Judge Shall Avoid Impropriety and the Appearance of Impropriety

Violation: Even if Justice O'Neil believed the website was inappropriate, his order improperly personalized the issue, casting aspersions on the Defendant's character and credibility based on activity outside the courtroom. He appeared as an adversary, not a neutral arbiter. A judge's recusal should be limited to the reasons for disqualification—not used as a platform for retaliation.

### Canon 2.2: A Judge Shall Perform the Duties of Judicial Office Fairly, Impartially, and Without Bias or Prejudice

Violation: Justice O'Neil never addressed the legal substance of the Defendant's 23 pending motions, most of which were well-supported and demonstrated the Plaintiffs failed to meet Rule 56 standards. The Judge's recusal came only after public criticism mounted, suggesting retaliation rather than a principled recusal. His failure to hold Plaintiffs accountable for perjury and fabricated evidence while condemning the Defendant for speech protected under the First Amendment demonstrates clear bias.

### Canon 2.3(B): A Judge Shall Not Permit Family, Social, Political, Financial, or Other Interests or Relationships to Influence the Judge's Judicial Conduct or Judgment

Violation: The order reflects that Justice O'Neil may have recused himself in response to institutional pressure or embarrassment—not because of any legal impropriety by the Defendant. It also appears likely that pressure from Plaintiffs' counsel or their political connections influenced his decision, as no legal basis exists for the defamatory statements made.

### Canon 2.6(A): A Judge Shall Accord to Every Person Who Has a Legal Interest in a Proceeding the Right to Be Heard According to Law

Violation: The Defendant was repeatedly denied the opportunity to present motions or evidence and was subjected to judicial threats of default. The judge ruled on critical

motions (including the Motion to Dissolve) without holding evidentiary hearings or requiring the Plaintiffs to meet their burden of proof.

Canon 2.8(B): A Judge Shall Be Patient, Dignified, and Courteous to Litigants

Violation: The tone and language of the recusal order are unprofessional and demeaning. Rather than upholding the dignity of the bench, Justice O’Neil used the order to humiliate and discredit a self-represented litigant who had lawfully and respectfully challenged the proceedings.

#### IV. Chilling Effect on Constitutional Rights

The order’s most concerning aspect is its chilling effect on the exercise of First Amendment rights. The Defendant’s creation of a fact-based website and his peaceful protests are clearly protected political speech. By recusing himself in anger and likening the Defendant’s behavior to threats of violence, Justice O’Neil effectively punished him for engaging in protected expression.

The U.S. Supreme Court has long held that “[s]peech critical of the exercise of the State’s power lies at the very center of the First Amendment” (*Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1034 (1991)). If a judge recuses in protest over criticism, it is the judge—not the critic—who has undermined judicial integrity.

#### V. Conclusion

Justice O’Neil’s recusal order was not merely inappropriate—it was a calculated and slanderous retaliation against a self-represented litigant who dared to protest and expose misconduct. Rather than uphold the dignity of his office, Justice O’Neil violated nearly every principle of judicial neutrality, dignity, and fairness.

This conduct warrants formal investigation and possible disciplinary action under the Maine Code of Judicial Conduct. The Defendant’s credibility was not “irreparably harmed”—Justice O’Neil’s was.

#### VI. Recommended Action

- Immediate Referral to the Maine Committee on Judicial Responsibility and Disability for investigation.
- Public Reprimand or Censure for conduct that undermines judicial neutrality and First Amendment protections.
- Reassignment of All Related Cases where Justice O’Neil’s bias may have infected outcomes

#### EX PARTE VERIFIED COMPLAINT

Judicial Misconduct Report: Justice John O’Neil, Jr.

Re: Improper Approval of Ex Parte Attachment in *Pierce v. Rinaldi* (CV-2021-138)

#### I. Introduction

This report addresses Justice John O’Neil, Jr.’s approval of an ex parte prejudgment attachment in the matter of *Pierce v. Rinaldi*. Based on the record, this order was granted in reliance on materially incomplete and misleading filings, including a false affidavit. Justice O’Neil’s failure to scrutinize the Verified Complaint and affidavit, despite obvious red flags, constitutes a serious lapse in judicial responsibility and may amount to a violation of several canons under the Maine Code of Judicial Conduct.

#### II. Factual Summary

On or about March 11, 2021, Plaintiffs Drew Pierce and Janice Lariviere filed a Verified Complaint seeking ex parte attachment against Defendant Anthony Rinaldi. Justice O’Neil granted this relief without notice to the Defendant.

The Verified Complaint and supporting affidavit by Plaintiffs’ agent Andy Lord:

- Omitted material context about a \$9,600 escrow dispute;
- Claimed that Defendant Rinaldi “refused to close because he could get more money from another buyer,” a claim wholly unsupported by the actual text message record;
- Included an exhibit labeled a “complete and accurate” set of messages, which was later shown to be selectively edited to exclude exculpatory texts.

These documents presented a false narrative of breach by Defendant and mischaracterized the urgency of attachment. Justice O’Neil granted the attachment without requiring a hearing or verifying the reliability of the factual assertions.

#### III. Judicial Failures

##### 1. Failure to Scrutinize Verified Complaint and Affidavit



Justice O’Neil had a duty to critically evaluate the evidence supporting the ex parte request. Had he required:

- A full review of the text messages,
  - Basic corroboration of Plaintiff’s breach theory, or
  - A clear justification for bypassing notice,
- ...he would have uncovered serious inconsistencies, omissions, and a lack of legal basis for the attachment.

Instead, he accepted a narrative that was not only incomplete, but actively contradicted by documentary evidence later submitted, including:

- Full text threads (Ex. 3),
  - Revised closing statements,
  - The P&S Agreement and specifications sheet
2. Improper Grant of Extraordinary Remedy Without Evidentiary Basis

Under M.R. Civ. P. 4A(g), an ex parte attachment requires:

- A strong showing of likely success on the merits;
- A likelihood that the judgment will be recovered;
- A sworn statement explaining why notice should not be given (typically a risk of asset dissipation).

Justice O’Neil approved the request without requiring any genuine demonstration of asset concealment or urgency. Defendant was publicly selling the same property and openly communicating with all parties. The record contained no threat of dissipation or avoidance.

By granting such a remedy without strict scrutiny, Justice O’Neil:

- Violated the heightened standard for ex parte relief,
- Allowed an abuse of the court’s equitable powers,
- Facilitated a potentially retaliatory or coercive litigation tactic by Plaintiffs.

#### IV. Canon Violations – Maine Code of Judicial Conduct

##### Canon 1 – Upholding the Integrity and Independence of the Judiciary

A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

- By failing to properly examine a misleading and materially incomplete ex parte filing, Justice O’Neil created the appearance of impropriety.
- His approval of such an order undermined public confidence in judicial neutrality.

##### Canon 2 – Performing the Duties of Judicial Office Impartially, Competently, and Diligently

###### Rule 2.2 – Impartiality and Fairness:

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

- The one-sided nature of the record — and its factual omissions — should have been obvious to any reasonable judge.
- The affidavit’s misrepresentations and omissions were facially evident when compared to the parties’ contractual documents and communications.

###### Rule 2.5 – Competence, Diligence, and Cooperation:

A judge shall perform judicial and administrative duties competently and diligently.

- Justice O’Neil failed to exercise diligence in reviewing the factual record before authorizing an intrusive remedy that harmed the Defendant’s property and legal position.

###### Rule 2.6(A) – Ensuring the Right to Be Heard:

A judge shall accord to every person who has a legal interest in a proceeding... the right to be heard according to law.

- While ex parte relief is permissible under Maine Rule 4A, it must be used sparingly and only when clearly justified. No such justification existed in this case.

#### V. Conclusion

Justice John O’Neil, Jr.’s approval of the ex parte attachment in *Pierce v. Rinaldi* constitutes a dereliction of his judicial duties. He failed to uphold the standards of diligence, impartiality, and fairness expected under both the Maine Rules of Civil Procedure and the Code of Judicial Conduct. The resulting harm to Defendant Rinaldi — the clouding of title, reputational damage, and litigation coercion — was entirely

avoidable had Justice O'Neil acted with the minimal diligence required in ex parte matters.

This failure should be formally reviewed as a violation of Canons 1 and 2, and particularly Rules 2.2, 2.5, and 2.6. It reflects not just a lapse in judgment, but a systemic failure to safeguard constitutional and procedural rights.

#### MOTION DISSOLVE HEARING

Below is a supplemental analysis specifically addressing this contradiction and how Justice O'Neil's failure to address it compounds his violations of judicial canons.

#### Supplemental Canon Violation Analysis: Plaintiffs Contradicted Their Verified Complaint, and Justice O'Neil Ignored It

Key Issue: Plaintiffs introduced a new narrative at the May 20, 2021 hearing that materially contradicted their original Verified Complaint for Ex Parte Attachment. Justice O'Neil failed to acknowledge or address this contradiction, undermining the foundational requirement of candor under oath and violating his duty to protect the integrity of the judicial process.

Contradiction Breakdown: In the Ex Parte Verified Complaint Plaintiffs alleged:

- That Defendant breached the contract by refusing to close for no valid reason.
- That they were entitled to specific performance and damages because the Defendant wrongfully terminated the deal.

- That there was no issue of ambiguity or competing contract interpretations

This claim was sworn under oath as "true and correct" in their verified filing.

At the May 20, 2021 hearing:

Plaintiffs' attorney, James Monteleone, admitted facts that directly contradict those allegations, including:

- That the contract terms surrounding the driveway paving were ambiguous, requiring "expert interpretation."
- That the Defendant's belief that gravel fulfilled the contract was arguably reasonable—but Plaintiffs now claimed it was still a breach.
- That the Plaintiffs had agreed to a stipulation to avoid emergency proceedings, suggesting that their "emergency" basis for the ex parte motion was manufactured.

These contradictions strike at the very heart of their verified claim

#### Why Justice O'Neil's Inaction Was a Serious Canon Violation

Canon 2.3: "A judge shall not permit any proceedings to be influenced by improper or misleading conduct."

- Justice O'Neil failed to question, challenge, or even acknowledge that Plaintiffs had materially shifted their theory of the case after obtaining an ex parte order.
- This allowed the weaponization of an ex parte process to secure an attachment under false pretenses.

#### Canon 1, Rule 1.2 & Canon 2.2: Integrity and Fairness

- The integrity of the court is compromised when sworn complaints are contradicted without repercussion.
- A judge is obligated to ensure litigants cannot benefit from fraud or misrepresentation—especially when affidavits were submitted in secret to obtain emergency relief.

M.R. Civ. P. 4A(h) (relating to ex parte attachments):

"Any facts not known to the affiant may not be relied upon to support a motion for ex parte attachment."

If Plaintiffs later claimed their expert clarified what "basecoat" meant, that means they did not know at the time of filing whether Defendant's conduct was a breach. Therefore, their verified claim was factually unsupported at the time and should have never been granted ex parte.

Legal Precedent: False or misleading affidavits taint the entire attachment process

In *Estate of Hoch v. Stifel*, 2010 ME 20, the Maine Supreme Judicial Court held "A party seeking ex parte relief has a heightened duty of candor and accuracy... and misleading the court even by omission can be grounds to vacate."

Justice O'Neil had a duty to revisit the basis of the ex parte attachment once contradictory claims came to light. His failure to do so ratified a fraud upon the court.

Summary Table of Impact

Claim Original Verified Complaint May 20 Hearing Resulting Problem  
Driveway Work Defendant refused to finish driveway Defendant installed gravel;  
plaintiffs assumed basecoat was blacktop Shows ambiguity & competing  
interpretations

Breach of Contract Defendant breached “without cause” Defendant believed he  
complied Undermines Plaintiff’s “clear likelihood of success”

Urgency/Emergency Required ex parte order to prevent sale Plaintiffs willing to  
stipulate to escrow Undermines need for emergency attachment

Factual Basis Presented as uncontested Introduced new affidavits to argue  
facts Original verified statements no longer reliable

Justice O’Neil’s Failure to Address the Contradiction:

- Strengthened Plaintiffs’ improper tactical advantage
- Left a prejudgment attachment in place under false pretenses
- Denied Defendant the chance to challenge materially altered claims

This constitutes a compounding of Canon 1, 2.2, 2.3, and 2.6(A) violations and  
justifies judicial discipline and/or reversal of the attachment order.

Conclusion (Supplemental)

Justice O’Neil enabled Plaintiffs to materially contradict their sworn verified  
complaint, failed to inquire into or penalize the shift, and allowed improperly filed  
affidavits to remain unchallenged on the record. This represents a systemic failure to  
protect the adversarial process, making the proceeding fundamentally unfair and the  
ex parte order judicially corrupted.

## MOTION TO VACATE

REPORT: Why Justice John O’Neil Erred in Denying the Motion to Vacate the Ex  
Parte Attachment and Violated Judicial Canons

Case: Pierce v. Rinaldi, CV-2021-138, Cumberland County Superior Court

### I. INTRODUCTION

Justice John O’Neil denied the Defendant’s Motion to Vacate the Ex Parte Order of  
Attachment with a one-sentence ruling: “Attachment approved after hearing. Motion  
Denied.” This decision—made without findings of fact, without addressing newly  
submitted evidence of fraud, and without analyzing the legal standards under M.R.  
Civ. P. 60(b)—reflects not only a failure to exercise judicial diligence but a violation  
of fundamental principles of justice and judicial ethics.

This report outlines the reasons why Justice O’Neil’s denial was erroneous in law,  
procedurally improper, and ethically compromising under the Maine Code of Judicial  
Conduct, with reference to the facts, procedural record, and controlling legal  
standards.

### II. LEGAL BASIS FOR THE MOTION TO VACATE

Under M.R. Civ. P. 60(b), the Court may relieve a party from a judgment or order for  
the following relevant reasons:

- (3) Fraud, misrepresentation, or other misconduct of an adverse party
- (6) Any other reason justifying relief from the operation of the judgment

In *McKeen & Assoc. v. Dep’t of Transp.*, 1997 ME 73, ¶ 4, the Maine Supreme  
Judicial Court held that denial of a Rule 60(b) motion requires reversal when it results  
in a “plain and unmistakable injustice.” Further, a motion under Rule 60(b)(3)  
requires only a showing of clear and convincing evidence of fraud or misconduct that  
materially affected the judgment.

### III. GROUNDS PRESENTED IN THE DEFENDANT’S MOTION TO VACATE

The Motion to Vacate (and Reply Brief) submitted new, irrefutable evidence proving  
that the Ex Parte Order of Attachment was obtained through:

1. Material omissions and false statements in the Plaintiff’s verified complaint and  
affidavits;
2. Fraudulent documentary evidence, including a fabricated or altered pre-approval  
letter with mismatched sender and signature data;
3. Omitted text messages and audio recordings showing Plaintiffs agreed to remove  
paving escrow—undermining their breach claim;

4. Withheld appraisal showing the true property value, contradicting the inflated valuation submitted by affidavit;
5. Undisclosed prior notice of the lawsuit (March 11 demand letter), eliminating any legitimate claim of “clear danger” under M.R. Civ. P. 4A(g);
6. Admission of perjury and concealed text messages by Plaintiff’s broker Andy Lord .

This evidence did not exist or was unavailable during the original hearing on the Motion to Dissolve, and therefore constituted valid “newly discovered evidence” and “fraud on the court” under Rule 60(b)(2) and (3) .

#### IV. WHY JUSTICE O’NEIL’S RULING WAS ERRONEOUS

##### A. Failure to Address Newly Submitted Evidence

Justice O’Neil made no findings of fact and issued a perfunctory denial despite overwhelming evidence of:

- Fabricated documents;
- Perjured affidavits;
- Fraud on the court; and
- Conflicting versions of events between the Ex Parte complaint and later affidavits.

By issuing a blanket denial without addressing even one of the evidentiary points raised, Justice O’Neil violated the requirements of M.R. Civ. P. 52(a), which entitles parties to findings of fact and conclusions of law on significant motions.

##### B. Misapplication of Legal Standard

The Court has a duty to analyze Rule 60(b) claims in light of the totality of evidence and to determine whether justice requires relief. Instead, Justice O’Neil defaulted to the original approval standard for attachment and ignored whether the order was obtained through fraud or mistake, in direct contravention of *Estate of Paine*, 609 A.2d 1150 (Me. 1992).

##### C. Failure to Reassess Attachment After Fraud Discovery

Ex Parte attachments are granted only if two criteria are met:

1. It is more likely than not that Plaintiff will prevail in an amount exceeding the attachment;
2. There is a “clear danger” that notice would make the property unavailable (M.R. Civ. P. 4A(g)).

The Defendant’s motion demolished both:

- The March 11 demand letter proves advance notice was given;
- The actual property value (\$420,000 appraisal) invalidates the damages claim;
- The recordings and texts show that Plaintiff—not Defendant—breached the contract .

Justice O’Neil ignored these defects, relying solely on a flawed prior hearing and thus permitted a known false narrative to remain before the Court.

#### V. JUDICIAL CONDUCT VIOLATIONS

The Maine Code of Judicial Conduct (adopted per Me. R. Jud. Conduct) holds judges to the following canons:

##### Canon 1: Upholding the Integrity and Independence of the Judiciary

“A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”

Justice O’Neil’s perfunctory ruling on a critical Rule 60(b) motion involving clear evidence of fraud undermines public confidence and creates the appearance that the court is shielding misconduct—especially in a case involving the state’s largest law firm.

##### Canon 2: Performing the Duties of Judicial Office Impartially, Competently, and Diligently

Rule 2.2: A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

Rule 2.5(A): A judge shall perform judicial and administrative duties competently and diligently.

Justice O’Neil failed to engage with the legal standards under Rule 60(b), refused to address the newly presented evidence, and denied the motion without legal reasoning—violating both Rule 2.2 and Rule 2.5(A).

## Canon 2.6: Ensuring the Right to Be Heard

“A judge shall accord to every person who has a legal interest in a proceeding... the right to be heard according to law.”

By issuing a summary denial without explaining why new evidence of fraud and perjury was insufficient, Justice O’Neil denied the Defendant meaningful judicial consideration and the right to be heard.

## VI. CONCLUSION AND RECOMMENDATIONS

Justice John O’Neil committed clear judicial error in denying the Motion to Vacate without explanation, despite overwhelming evidence of perjury, fabrication, and fraud on the court. More gravely, he violated at least three judicial canons by:

- Ignoring the full evidentiary record;
- Failing to apply controlling legal standards;
- Issuing an unexplained denial on a matter involving fundamental due process.

Given the record and the controlling law, this conduct warrants a formal judicial misconduct complaint and review by the Committee on Judicial Responsibility and Disability, as well as legislative oversight by OPEGA due to the systemic implications.

## MOTION DISSOLVE HEARING

Judicial Misconduct Report: Justice John O’Neil’s Violations of the Maine Code of Judicial Conduct in *Pierce v. Rinaldi*, Docket No. CV-2021-138

### Executive Summary

This report outlines serious and repeated violations of the Maine Code of Judicial Conduct by Justice John O’Neil, Jr. in *Pierce v. Rinaldi*. Despite multiple credible allegations of fraud on the court, perjury, and misconduct by plaintiffs and their counsel, Justice O’Neil refused to investigate or allow a hearing to address those claims. Most egregiously, he denied the Defendant’s formal Request for a Non-Testimonial Hearing under M.R.Civ.P. 7(g)—a mechanism explicitly designed to clarify disputed facts and prevent further waste of court resources—without explanation.

Justice O’Neil’s conduct constitutes a clear breach of his ethical obligations under Canon 1, Canon 2, Canon 2.2, Canon 2.6, and most especially Canon 2.15 of the Maine Code of Judicial Conduct. His failure to ensure a fair process, disregard for procedural justice, and his refusal to address admitted fraud deeply undermine public confidence in the judiciary and suggest he aided and abetted litigant and attorney misconduct in one of the most abusive civil proceedings in recent Maine history.

### Summary of Defendant’s Non-Testimonial Hearing Request

Filed on December 12, 2022, the Defendant’s motion sought a non-testimonial hearing to address:

- Fraud on the Court
- Judicial Estoppel
- Plaintiffs’ admission that their Verified Complaint was false
- Fraudulent inducement
- Duress and undue influence
- Unclean hands
- Multiple acts of perjury and omission of evidence
- Attorney Monteleone’s failure to disclose adverse evidence during ex parte proceedings

The motion cited M.R.Civ.P. Rule 7(g) and emphasized that a non-testimonial hearing would:

- 1.Simplify contested issues of fact.
- 2.Clarify whether the parties could agree on factual admissions.
- 3.Enhance the possibility of settlement.
- 4.Prevent further waste of judicial time.

Despite the seriousness of the allegations and their procedural propriety under Rule 7(g), Justice O’Neil denied the motion without comment.

### Judicial Canon Violations

Canon 1: A Judge Shall Uphold and Promote the Independence, Integrity, and

Impartiality of the Judiciary, and Shall Avoid Impropriety and the Appearance of Impropriety

- By failing to provide any reasoning for denying a hearing requested to address admitted fraud, Justice O'Neil cast serious doubt on the impartiality and integrity of the court.

- This omission created an appearance of impropriety, especially given the volume and gravity of the alleged misconduct by the plaintiffs and their attorney.

Canon 2.2: A Judge Shall Uphold and Apply the Law and Perform All Duties of Judicial Office Fairly and Impartially

- The Court's refusal to apply Rule 7(g) procedurally and equitably is a direct violation.

- Justice O'Neil failed to rule fairly on critical motions and ignored binding precedent and civil rules requiring hearings when fraud or misconduct is alleged

Canon 2.6(A): A Judge Shall Accord to Every Person Who Has a Legal Interest in a Proceeding, the Right to Be Heard

- Justice O'Neil's denial of the non-testimonial hearing, combined with his refusal to allow the Defendant to argue discovery violations and fraud in open court (as noted in the December 19, 2022 letter), deprived the Defendant of his constitutional right to be heard.

- Multiple due process violations, including denying the Defendant the right to argue his Protection Order request and discovery objections, go unaddressed.

Canon 2.15(B) & (D): Disciplinary Responsibilities

- (B) A judge with knowledge that a lawyer has committed serious ethical violations shall inform the Board of Overseers of the Bar.

- (D) A judge who receives information indicating a substantial likelihood that a lawyer has violated professional conduct should take appropriate action.

Despite overwhelming evidence that Attorney Monteleone:

- Omitted material evidence in violation of M.R.P.C. 3.3(d)

- Filed a Verified Complaint based on non-existent evidence

- Knowingly submitted perjurious affidavits

- Failed to obey court discovery orders

Justice O'Neil took no action, did not sanction Monteleone, and did not refer him to the Board of Overseers. This is a textbook violation of Canon 2.15.

Pattern of Dereliction

As emphasized in the December 19, 2022 letter:

- Justice O'Neil refused to address 18 separate motions, all raising credible legal and factual disputes, including fraud and perjury.

- He affirmed 27 boilerplate discovery objections from Monteleone with no meaningful judicial review.

- Historical review of Justice O'Neil's rulings (2012–present) showed no similar pattern of errors—raising serious concerns about selective enforcement and intentional judicial bias in this matter.

Conclusion and Recommendations

Justice O'Neil's pattern of behavior in *Pierce v. Rinaldi* constitutes:

- Dereliction of judicial duty

- Abdication of oversight over attorney ethics

- Systemic due process violations

- Aiding and abetting fraud on the court

Such conduct demands immediate review by the Maine Committee on Judicial Responsibility and Disability, and formal referral to the Maine Board of Overseers of the Bar regarding Attorney Monteleone.

The people of Maine deserve better than judges who rubber-stamp fraud and silence valid objections. Judicial accountability must be enforced when it is so flagrantly disregarded.

REPORT: Judicial Canon Violations by Justice John O'Neil, Jr. in Denying Motion to Reconsider Summary Judgment Without Explanation

## I. INTRODUCTION

This report addresses Justice John O'Neil, Jr.'s unexplained denial of the Defendants' Motion to Reconsider Summary Judgment, filed December 28, 2022, in *Pierce v. Rinaldi*. The motion laid out clear legal and factual grounds demonstrating judicial error in the underlying summary judgment ruling. Despite this, Justice O'Neil issued a blanket denial without providing reasoning, citation, or findings of fact and law. Such conduct violates the Maine Code of Judicial Conduct and undermines core constitutional guarantees of due process and equal access to justice.

## II. RELEVANT PROCEDURAL HISTORY

- 12/5/2022: Justice O'Neil issued a summary denial of all pending motions, including the Defendant's Motion for Summary Judgment and the Plaintiff's untimely Rule 56(f) Motion to Enlarge.
- 12/28/2022: Defendant filed a timely Motion to Reconsider pursuant to M.R. Civ. P. 7(b)(5), citing new evidence and judicial error.
- Justice O'Neil denied the motion with no explanation, despite the motion's detailed legal argumentation and documentation of Plaintiff misconduct.

## III. GROUNDS FOR RECONSIDERATION THAT WERE IGNORED

The Defendant's motion properly invoked Rule 7(b)(5) by presenting:

- Proof of perjury in Plaintiff affidavits (multiple versions of events, false statements, omitted texts).
- Legal misapplication of judicial estoppel, unclean hands, and anticipatory repudiation doctrines.
- Demonstration that Plaintiffs' Opposition to Summary Judgment was untimely, rendering their response inadmissible.
- Evidence that Plaintiffs failed to state a prima facie claim, including lack of proven damages and failure to identify a valid contract.

Despite this, the Court did not:

- Address a single fact or law raised in the motion.
- Provide findings or rulings per Rule 52(a).
- Acknowledge the Defendant's allegations of fraud on the court.

## IV. VIOLATED JUDICIAL CANONS

Justice O'Neil's conduct violated the following provisions of the Maine Code of Judicial Conduct:

Canon 2: A Judge Shall Perform the Duties of Judicial Office Impartially, Competently, and Diligently

- Rule 2.2 (Impartiality and Fairness): By refusing to analyze the Defendant's claims and ignoring substantiated misconduct by Plaintiffs, Justice O'Neil abandoned impartiality.

- Rule 2.6(A) (Ensuring the Right to Be Heard): The Defendant's well-supported motion, invoking clear legal grounds, was dismissed without even cursory judicial engagement. This denied the litigant a meaningful opportunity to be heard.

Canon 1: A Judge Shall Uphold and Promote the Independence, Integrity, and Impartiality of the Judiciary

- Rule 1.2 (Promoting Confidence in the Judiciary): Issuing unexplained denials in the face of documented fraud and legal misapplication undermines public confidence in the judiciary's commitment to justice.

Canon 2, Rule 2.3(B): A judge shall not permit ... bias, prejudice, or harassment

- Ignoring egregious misconduct by one party while refusing to acknowledge or evaluate a pro se litigant's meritorious argument demonstrates an implicit favoritism toward the Plaintiffs and their attorney.

## V. DUE PROCESS VIOLATION

A judicial ruling, especially one denying reconsideration of a dispositive motion, must contain a clear rationale. The U.S. Constitution guarantees that courts explain their decisions sufficiently for a party to understand and, if necessary, challenge the ruling. In *Pierce v. Rinaldi*, the absence of reasoning in Justice O'Neil's order obstructed the Defendant's ability to appeal or seek redress. Such unexplained denials violate:

- Maine Civil Rule 52(a) — which requires findings of fact and conclusions of law upon request or where dispositive motions are ruled on.
- Fifth and Fourteenth Amendments to the U.S. Constitution — due process requires courts to provide a fair and reasoned process.

#### VI. SYSTEMIC IMPLICATIONS

Justice O’Neil’s conduct in this case is not a simple oversight. It reflects a systemic disregard for the rights of unrepresented litigants, the integrity of the judicial process, and the essential duty of a judge to explain their reasoning. It is especially egregious in a case involving:

- Allegations of perjury.
- Documented material omissions from affidavits.
- Contradictory Plaintiff statements.
- Verified text and audio evidence showing Defendant performance and Plaintiff breach.

Failing to acknowledge or respond to such grave matters borders on judicial negligence and enables fraud on the court.

#### VII. CONCLUSION

Justice John O’Neil, Jr. violated multiple judicial canons by summarily denying a well-supported motion for reconsideration without explanation. His failure to engage with the legal and factual record, and his silence in the face of credible fraud allegations, constitute serious violations of Maine’s judicial ethics and of the due process owed to all litigants. The unexplained denial is a miscarriage of justice that demands formal review by oversight authorities.

#### VIII. RECOMMENDATION

This matter should be referred to the Committee on Judicial Responsibility and Disability for investigation of potential violations of:

- Canon 1 (Judicial Integrity),
- Canon 2 (Duties of Office),
- and constitutional due process.

REPORT: Judicial Canon Violations by Justice John O’Neil, Jr. in Denial of Motion to Reconsider Summary Judgment Based on Prima Facie Standards

#### I. BACKGROUND

During a motion hearing on April 11, 2023, in the case of *Pierce v. Rinaldi*, the Defendant argued that the Plaintiffs failed to present a prima facie case supporting their claim, thus failing to meet the legal threshold necessary to survive summary judgment. Despite this well-established legal standard, Justice John O’Neil summarily dismissed the argument by stating that Plaintiffs “don’t need to prove a prima facie case” to survive summary judgment—a statement in direct contradiction to binding precedent and judicial obligations under the Maine Code of Judicial Conduct.

#### II. LEGAL STANDARD: SUMMARY JUDGMENT AND PRIMA FACIE REQUIREMENT

Under Maine Rule of Civil Procedure 56, a plaintiff must present a prima facie case for each element of their claim to avoid dismissal at the summary judgment stage. The Maine Law Court in *Watt v. UniFirst Corp.*, 2009 ME 47, ¶ 21, 969 A.2d 897, makes this clear:

“To withstand a motion for a summary judgment, the plaintiff must establish a prima facie case for each element of her cause of action. If a plaintiff does not present sufficient evidence on the essential elements... the defendant is entitled to a summary judgment.”

This is echoed in dozens of Superior Court rulings cited in the Defendant’s filing, including *Mutrie v. McDonough*, *Pierce v. Bradley*, *Masucci v. Judy’s Moody, LLC*, and many others. These decisions consistently hold that a failure to establish a prima facie case on all required elements mandates dismissal.

#### III. JUDICIAL MISCONDUCT

By denying the Defendant’s motion and stating that Plaintiffs “don’t need to prove a prima facie case,” Justice O’Neil effectively:

- Contradicted controlling Maine law on summary judgment standards.



- Misled the litigants regarding the burden of proof at summary judgment.
- Failed to adjudicate impartially, favoring the Plaintiffs despite their failure to meet a required legal threshold.
- Denied Due Process to the Defendant, who had every right to expect a fair ruling based on the law.

#### IV. VIOLATIONS OF THE MAINE CODE OF JUDICIAL CONDUCT

Justice O’Neil’s conduct appears to violate the following judicial canons:

- Canon 1, Rule 1.1 – Compliance with the Law:

“A judge shall comply with the law, including the Maine Code of Judicial Conduct.”

Justice O’Neil failed to apply controlling summary judgment law, ignoring both precedent and the prima facie requirement under M.R.Civ.P. 56.

- Canon 2, Rule 2.2 – Impartiality and Fairness:

“A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.”

Justice O’Neil’s categorical dismissal of the prima facie standard reveals bias and a failure to apply the law fairly to both parties.

- Canon 2, Rule 2.5(A) – Competence and Diligence:

“A judge shall perform judicial and administrative duties competently and diligently.”

Repeated refusals to address motions raising fraud and procedural defects show a disregard for diligent judicial review and proper case management.

- Canon 2, Rule 2.6(A) – Right to Be Heard:

“A judge shall accord to every person who has a legal interest in a proceeding... the right to be heard according to law.”

Defendant’s legal arguments were dismissed without proper hearing or legal analysis, violating the core tenets of adversarial due process.

#### V. SYSTEMIC IMPLICATIONS

Justice O’Neil’s deviation from the most fundamental tenets of summary judgment review not only prejudiced the Defendant but also undermined confidence in the judiciary as a whole. When judges ignore established legal standards and procedural safeguards, litigants are left without meaningful recourse. This is especially egregious when the judge is alerted to fraud, perjury, and evidentiary failures—yet still refuses to hold the plaintiffs accountable.

#### VI. CONCLUSION

Justice John O’Neil, Jr.’s statement that plaintiffs do not need to establish a prima facie case to survive summary judgment is legally indefensible and reflects a profound departure from judicial standards and obligations. This misstatement of law, in combination with his refusal to grant or even substantively review multiple fraud-based motions, constitutes a serious breach of judicial ethics and Maine’s Code of Judicial Conduct.

Recommendation: This incident should be formally investigated by the Maine Committee on Judicial Responsibility and Disability for violations of judicial canons, denial of due process, and deliberate misapplication of law.

#### MOTION RULE 56(f)

Judicial Misconduct Report: Justice John O’Neil Jr. – Rule 56(f) Violations

Subject: Improper Approval of Plaintiffs’ Motions to Enlarge under M.R. Civ. P. 56(f)

Case: Pierce v. Rinaldi, Cumberland County Superior Court, Docket No. CV-2021-13

##### I. Executive Summary

Justice John O’Neil Jr. granted not one but two Motions to Enlarge under Maine Rule of Civil Procedure 56(f) in favor of the Plaintiffs in Pierce v. Rinaldi, despite clear failures by the moving party to comply with the strict procedural and evidentiary requirements of Rule 56(f), including the failure to provide a mandatory affidavit, to demonstrate diligence, and to establish good cause.

This constitutes a severe departure from judicial duty and raises credible allegations of misconduct under multiple provisions of the Maine Code of Judicial Conduct, including Rules 1.1, 1.2, 2.2, 2.5(A), and 2.6(A).

##### II. Legal Framework: Rule 56(f) Requirements

M.R. Civ. P. 56(f), as clarified in *Bay View Bank, N.A. v. Highland Golf Mortgagees Realty Tr.*, 2002 ME 178, ¶ 22, 814 A.2d 449, imposes five critical requirements:

1. **Timeliness** — Motion must be made within a reasonable time.
2. **Notice** — Must notify the court that a delay in summary judgment is sought.
3. **Diligence & Good Cause** — Must demonstrate diligent discovery efforts and explain why additional discovery could not have occurred earlier.
4. **Specificity & Materiality** — Must present a plausible basis for believing that specific facts exist and would materially affect summary judgment.
5. **Affidavit Requirement** — Motion must be supported by affidavit from a party with personal knowledge.

### III. Misconduct by Justice O’Neil

#### A. Violation of the Law and Judicial Duty

Despite clear violations of Rule 56(f), Justice O’Neil approved Plaintiffs’ enlargement motions, including the one dated August 24, 2022, which:

- **Lacked the Required Affidavit.**

The Plaintiffs failed to attach an affidavit affirming the necessity and specifics of additional discovery, in direct violation of Rule 56(f) and *United Air Lines, Inc. v. Hewins Travel Consultants, Inc.*, 622 A.2d 1163, 1167 (Me. 1993).

- **Failed to Show Good Cause.**

Plaintiffs cited “Attorney Monteleone’s heavy workload” — an excuse repeatedly rejected by state and federal courts. In *Pinero Schroeder v. FNMA*, 574 F.2d 1117, 1118 (1st Cir. 1978), the First Circuit held that attorney workload does not constitute good cause or excusable neglect.

- **Showed No Diligence.**

Plaintiffs waited over 16 months and waived discovery in a joint scheduling motion. A party cannot “sleep on their rights” and then ask for delay.

- **Specified No Material Facts Likely to Alter Summary Judgment.**

Plaintiffs made no plausible case that further discovery would yield facts likely to defeat summary judgment. Defendant had already submitted comprehensive evidence, including three affidavits.

Justice O’Neil’s approval of these motions, in light of such blatant legal noncompliance, constitutes legal error and judicial misconduct.

### IV. Judicial Canon Violations

#### 1. Rule 1.1 – Compliance with the Law

“A judge shall comply with the law, including the Code of Judicial Conduct.”

Justice O’Neil disregarded Rule 56(f) and controlling precedent by approving motions that clearly did not meet mandatory legal requirements.

#### 2. Rule 1.2 – Promoting Public Confidence

“A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary...”

By bending procedural rules to favor a well-connected plaintiff’s attorney despite repeated fraud allegations, Justice O’Neil damaged public trust in judicial impartiality.

#### 3. Rule 2.2 – Impartiality and Fairness

“A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.”

O’Neil demonstrated bias by granting relief to the plaintiffs without requiring even basic compliance. No reasonable judge would have approved motions so procedurally defective.

#### 4. Rule 2.5(A) – Competence and Diligence

“A judge shall perform judicial and administrative duties competently and diligently.”

Rubber-stamping defective motions without explanation violates a judge’s duty to rule competently and conscientiously.

#### 5. Rule 2.6(A) – Ensuring the Right to Be Heard

“A judge shall accord to every person who has a legal interest in a proceeding...the right to be heard.”

By continually granting defective plaintiff motions while ignoring the defendant’s

meritorious objections, Justice O’Neil deprived the defendant of equal treatment and due process.

#### V. Conclusion: Breach of Oath and Recommendation

Justice O’Neil’s approval of the Plaintiffs’ enlargement motions under Rule 56(f), absent the required affidavits and foundational legal prerequisites, reflects gross incompetence or intentional favoritism. This is not a mere oversight — it is a judicial failure that enabled procedural manipulation, abuse of process, and a miscarriage of justice.

Recommendation: A formal complaint should be submitted to the Maine Committee on Judicial Responsibility and Disability, requesting a full investigation into Justice O’Neil’s conduct in *Pierce v. Rinaldi*, especially his handling of the Rule 56(f) motions.

#### 9-7-2022 Hearing

Based on the September 7, 2022 transcript, the October 2022 Discovery Order, and the Motion to Reconsider filed in response, it is evident that Justice John O’Neil, Jr. violated multiple Judicial Canons of the Maine Code of Judicial Conduct during the 26(g) discovery hearing in *Pierce v. Rinaldi*. Below is a structured report identifying these violations:

#### Report: Judicial Canon Violations by Justice John O’Neil, Jr. During 26(g) Discovery Hearing

Case: *Pierce v. Rinaldi*, CV-2021-138

Date: September 7, 2022

Presiding Judge: Justice John O’Neil, Jr.

#### I. Executive Summary

Justice O’Neil presided over a 26(g) discovery hearing but failed to adhere to the requirements of Rule 26(g) and the Due Process Clause. He:

- Silenced the pro se defendant on multiple material issues;
- Sustained boilerplate objections without requiring justification;
- Acted sua sponte as an advocate for the plaintiffs;
- Ignored contradictory or perjured affidavits;
- Refused to enforce discovery compliance under well-established law.

These actions collectively violated the Maine Code of Judicial Conduct, Maine Rules of Civil Procedure, and basic constitutional protections. This conduct undermines public trust in the judiciary and constitutes systemic bias and misuse of judicial discretion.

#### II. Violated Judicial Canons

##### Canon 1: Upholding the Integrity and Independence of the Judiciary

“A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”

##### Violation:

Justice O’Neil sustained virtually all of Attorney Monteleone’s boilerplate objections — many of which were legally meritless and unsupported — without requiring explanation. He ignored clear contradictions in Plaintiff affidavits (e.g. false claims about a non-existent text) and refused to hear the Defendant’s fraud claims. This not only damaged the perception of impartiality but showed a refusal to scrutinize obvious perjury and discovery abuse .

##### Canon 2: Impartiality and Fairness

“A judge shall perform the duties of judicial office impartially, competently, and diligently.”

## Rule 2.2: Impartiality

“A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.”

Violation:

Justice O’Neil permitted Monteleone to speak at length about his request for a deposition but refused to let Defendant speak at all in response, despite Defendant’s timely request for a protective order. This is a textbook violation of fair and impartial adjudication under Rule 26(g) and Rule 7(b)(5) .

## Canon 2.6: Right to Be Heard

“A judge shall accord to every person who has a legal interest in a proceeding... the right to be heard according to law.”

Violation:

Justice O’Neil repeatedly denied Defendant the opportunity to be heard, particularly regarding:

- His protective order request;
- The fraudulent nature of Plaintiff’s affidavits;
- The failure to comply with discovery.

Instead, he allowed only the attorney to speak. This undermines a core guarantee of Due Process and violates Canon 2.6 .

## Canon 2.9: Ex Parte Communications & Independent Fact-Finding

“A judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.”

Violation:

Justice O’Neil issued a discovery ruling affirming objections that were never made — effectively acting as co-counsel for Plaintiffs. By sustaining boilerplate objections not even articulated on the record, O’Neil substituted his judgment for arguments never presented, directly violating Rule 2.9 and Maine precedent .

## III. Due Process Violations and Legal Errors

### A. Denial of Defendant’s Right to Be Heard on Deposition Objection

The Defendant requested a Rule 26(c) Protective Order. Justice O’Neil:

- Allowed only the Plaintiff to argue, then
- Denied the Defendant’s request without hearing his argument.

This is a flagrant Due Process violation and a direct breach of the Court’s obligation under Rule 26(g) and Canon 2.6.

### B. Affirming Boilerplate Objections Without Justification

Attorney Monteleone objected to nearly every interrogatory and request for admission using boilerplate language, such as:

- “Seeks litigation strategy”
- “Not reasonably related”
- “Plaintiffs do not know and cannot speak for...”

Yet O’Neil:

- Affirmed all objections;
- Never required specificity;
- Ignored that these were requests for facts, not strategy.

This contradicts Maine Rule 33(b) and violates Canon 2.2 (Failure to apply law) and Canon 2.5 (Failure to ensure proceedings are fair) .

### C. Disregard for Admissibility Standards in Discovery

O’Neil wrongly held that certain materials were inadmissible — including loan

applications, text messages, and interrogatory responses — and thus not discoverable. But:

- Discovery is broader than admissibility at trial;
- Relevant material need not be admissible if it “appears reasonably calculated to lead to the discovery of admissible evidence” (M.R. Civ. P. 26(b)(1)).

This is a fundamental error of law.

#### D. Refusal to Address Fraud and Perjury

The Defendant provided evidence proving:

- No text existed as claimed in Andy Lord’s affidavit;
- Plaintiffs materially altered their story;
- Key messages and documents were intentionally omitted.

Justice O’Neil refused to even discuss these revelations, instead quickly changing the subject. Ignoring perjury and fraudulent affidavits is both a dereliction of judicial duty and a breach of public trust .

#### IV. Consequences and Harm

- The Defendant was denied the opportunity to compel vital discovery, while Plaintiffs were allowed to stonewall production of material documents.
- The court actively shielded Plaintiffs from answering questions that would expose their fraudulent conduct.
- The cumulative effect destroyed the Defendant’s ability to prepare his case and undermined the entire trial’s fairness.

#### V. Conclusion

Justice O’Neil’s conduct in this hearing was grossly biased, legally erroneous, and inconsistent with the Maine Code of Judicial Conduct. His refusal to hear the Defendant, blanket affirmation of meritless objections, and willful disregard for well-documented fraud are not mere lapses — they represent a systemic abuse of judicial power.

Recommendation: This conduct must be referred to the Maine Committee on Judicial Responsibility and Disability for formal investigation, as it constitutes serious misconduct incompatible with a fair judicial system.

Would you like me to prepare this as a formal judicial complaint PDF next, or include exhibits and citations in a longer version?

#### MOTION RULE 15 & 21

Here is a detailed report analyzing Justice John O’Neil Jr.’s denial of the Motion to Reconsider the denial of two prior motions—(1) a Motion to Amend Party Name and (2) a Motion for Misjoinder—submitted by Defendant Anthony Rinaldi in *Pierce v. Rinaldi*, CV-2021-138:

LEGAL ANALYSIS REPORT: Justice O’Neil’s Unexplained Denial of Motion to Reconsider

##### I. OVERVIEW

On its face, the Motion to Reconsider submitted by Mr. Rinaldi complied with M.R. Civ. P. 7(b)(5), which allows such motions only when there is “an error, omission or new material that could not previously have been presented.” The motion identifies several errors and legal misapplications and should have, at minimum, warranted judicial explanation. Justice O’Neil denied the motion without explanation, despite it being unopposed, citing clear case law, and asserting a due process deprivation resulting from misnaming the Defendant’s business entity.

This denial raises grave concerns under both procedural and substantive due process principles and suggests an arbitrary and capricious use of judicial discretion.

##### II. LEGAL BASIS OF THE MOTION

Mr. Rinaldi’s motion relies on two Maine Rules of Civil Procedure:

### Rule 15 (Amended Pleadings)

“The court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby...”

### Rule 21 (Misjoinder of Parties)

“Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added... on motion of any party or of its own initiative at any stage of the action...”

Both rules empower courts to correct party-naming errors—particularly when they are undisputed and non-prejudicial. Maine case law, such as *Miller v. Szelenyi*, 546 A.2d 1013, 1022 (Me. 1988), confirms that a denial of such relief requires a showing that the amendment would prejudice the opposing party or otherwise cause injustice if granted.

## III. FACTUAL BACKGROUND AND CLAIMS

- Nature of Error: Plaintiffs misnamed the Defendant’s business as “Southern Maine Construction LLC,” when the Defendant operated as a sole proprietor under “Southern Maine Construction.”
- Legal Consequence: The court, treating the Defendant as an LLC, threatened default unless he retained legal counsel—something not required of sole proprietors.
- Prior Orders: Justice O’Neil denied both the Motion to Amend (7/31/23) and Motion for Misjoinder (9/6/23), treating Defendant as a misnamed LLC despite unrefuted proof to the contrary.
- Due Process Claims: Mr. Rinaldi claims deprivation of meaningful access to the courts and risk of default based on a legal fiction created by the Plaintiffs’ error.
- Lack of Opposition: Both underlying motions were unopposed. Under Rule 7(b)(5), this should weigh heavily in favor of reconsideration.

## IV. ANALYSIS: ABUSE OF DISCRETION & DUE PROCESS VIOLATION

### A. Unjustified Denial of Unopposed, Legally Sound Motion

Courts are expected to grant motions for amendment or correction of misjoinder when there is no showing of prejudice. No such prejudice was alleged or proven here. The Plaintiffs did not oppose any of these motions. Denying such a motion without any explanation violates basic tenets of judicial reasoning.

### B. Misapplication of Corporate Representation Law

Justice O’Neil’s order falsely stated that Mr. Rinaldi was attempting to represent an LLC pro se, which is not permitted. In fact, the Defendant’s entire point was that he was not an LLC, and thus the rules for LLCs should not apply.

This mischaracterization undermines the legitimacy of the ruling and supports the claim of clear abuse of discretion.

### C. Risk of Wrongful Default Due to Clerical Error

The court’s insistence on treating Defendant as an LLC because of a clerical error by Plaintiffs results in a denial of the Defendant’s right to represent himself—a core due process violation under both the U.S. and Maine Constitutions. See *Goldberg v. Kelly*, 397 U.S. 254 (1970) (holding that meaningful access to the courts is a due process right).

### D. Failure to Address Motion on the Merits

The court did not address:

- The legal distinction between sole proprietorships and LLCs;
- The uncontested fact that “Southern Maine Construction LLC” is owned by a third party;
- That the contract at issue is between Mr. Rinaldi personally and the Plaintiffs—not a business entity.

## V. SYSTEMIC IMPLICATIONS

This ruling is not an isolated procedural misstep. When viewed in the broader pattern of this case—where nearly all defense motions were denied and most plaintiff motions granted—it illustrates a systemic denial of fairness and strongly suggests judicial bias.

This outcome could lead to:

- Default judgment against the wrong legal entity;

- A judgment unenforceable against Mr. Rinaldi personally;
- Appellate review for denial of access to courts and manifest abuse of discretion;
- A potential basis for judicial complaint and oversight review by Maine’s Committee on Judicial Responsibility and Disability or OPEGA.

## VI. CONCLUSION

Justice O’Neil’s unexplained denial of the Motion to Reconsider represents a clear and manifest abuse of discretion, ignores governing law under Rules 15 and 21, and may rise to the level of a constitutional violation. The Defendant was improperly categorized as an LLC based on the Plaintiffs’ error and was denied the right to correct that error—despite filing unopposed, procedurally proper motions.

Such action jeopardizes the integrity of judicial proceedings and supports serious inquiry into the impartiality and fairness of the court in *Pierce v. Rinaldi*.

Yes. Justice O’Neil’s unexplained denial of the Motion to Reconsider—especially where the motion was unopposed, legally sound, and raised constitutional due process concerns—raises serious violations under the Maine Code of Judicial Conduct. Below is an analysis of which specific judicial canons were likely violated:

### VIOLATED JUDICIAL CANONS – MAINE CODE OF JUDICIAL CONDUCT

Canon 1: A Judge Shall Uphold and Promote the Independence, Integrity, and Impartiality of the Judiciary, and Shall Avoid Impropriety and the Appearance of Impropriety

#### Rule 1.2 – Promoting Confidence in the Judiciary

“A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.”

- Violation: By denying a legally grounded, unopposed motion to correct an obvious misnaming error—without explanation—Justice O’Neil fostered the appearance of bias and arbitrary decision-making.

- Impact: Undermines public trust and appears retaliatory or prejudicial toward a pro se litigant.

Canon 2: A Judge Shall Perform the Duties of Judicial Office Impartially, Competently, and Diligently

#### Rule 2.2 – Impartiality and Fairness

“A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.”

- Violation: The court did not uphold clearly applicable laws under Rules 15 and 21, nor did it explain why such laws were set aside.

- Impact: Denying a litigant’s access to correct a party-naming error due to opposing party’s mistake—and especially doing so without legal justification—constitutes biased and unfair treatment.

#### Rule 2.5(A) – Competence, Diligence, and Cooperation

“A judge shall perform judicial and administrative duties competently and diligently.”

- Violation: A diligent judge would analyze the merits of an unopposed motion involving a constitutional right (due process) and provide reasoning. Justice O’Neil failed to do so.

- Impact: Denying the motion without explanation suggests a lack of careful review and a failure to engage with the substance of the motion.

Canon 2: Continued

#### Rule 2.6(A) – Ensuring the Right to Be Heard

“A judge shall accord to every person who has a legal interest in a proceeding...the right to be heard according to law.”

- Violation: Justice O’Neil’s orders implicitly denied the Defendant the right to represent himself as a sole proprietor, mischaracterized him as an LLC, and set up a scenario where he could be defaulted based on a naming error that was not his own.

- Impact: A denial of the right to be heard due to procedural mislabeling is a textbook due process violation, and this canon demands judicial attentiveness to such rights.

Canon 2: Continued

#### Rule 2.9(A) – Ex Parte Communications

“A judge shall not initiate, permit, or consider ex parte communications...”

- Potential Violation (Indirect): Although no explicit ex parte communication is alleged here, denying an unopposed motion without explanation invites the inference that the judge may be influenced by factors outside the record—or at minimum is not conducting impartial analysis.

Canon 2: Continued

Rule 2.15(A) – Responding to Judicial and Lawyer Misconduct

“A judge having knowledge that another judge has committed a violation... shall take appropriate action.”

- Violation by Inaction: The motion also alleged that Plaintiffs misnamed the Defendant and may have done so strategically for procedural advantage. The judge ignored this allegation—despite it raising serious ethical implications about the opposing counsel’s conduct.

- Impact: Failing to address such misconduct—especially when unopposed and backed by exhibits—violates the duty to preserve the integrity of the legal process.

Summary of Violated Canons

CanonRuleViolation Summary

Canon 11.2 Fostered the appearance of judicial bias and partiality

Canon 22.2 Failed to apply the law fairly and impartially (Rules 15 & 21)

2.5(A) Did not review the motion with competence and diligence

2.6(A) Denied Defendant’s right to be heard based on mischaracterization

2.15(A) Ignored possible attorney misconduct involving misnaming of parties

Conclusion

Justice O’Neil’s conduct in denying this motion without reason—despite clear legal entitlement, lack of opposition, and potential due process deprivation—violates multiple Canons and Rules of the Maine Code of Judicial Conduct. The appearance of bias, abuse of discretion, and systemic denial of fair access to the courts merits a formal complaint to the Committee on Judicial Responsibility and Disability and potential referral to the Office of Program Evaluation and Government Accountability (OPEGA) for systemic review.