

STATE OF VERMONT  
PROFESSIONAL RESPONSIBILITY PROGRAM

**In Re: Melvin Fink**  
**PRB File No. 012-2019**

**DISCIPLINARY COUNSEL’S CONSENTED MOTION TO ALLOW MERITS  
HEARING VIDEO CONFERENCE TESTIMONY BY JOSEPH J. COSCIA**

NOW COMES Petitioner Office of Disciplinary Counsel and moves, pursuant to A.O. 9, Rule 20(B) and V.R.C.P. 43.1(d)(2)(B), to permit witness Joseph J. Coscia to testify and otherwise participate at the upcoming February 3-4 Merits Hearing in this matter by video conference, rather than by appearing in-person. Pursuant to V.R.C.P. 43.1(d)(2)(B), Petitioner represents that counsel for Respondent consents to this Motion.

Good cause for Petitioner’s Motion exists and, in support, Petitioner states as follows:

1. Joseph J. Coscia is and was at all relevant times a friend of the complainant in this matter, J.H.
2. Mr. Coscia is listed as an anticipated witness on Disciplinary Counsel’s January 23, 2026 Merits Hearing Witness List filed in this matter. Mr. Coscia is also listed on Respondent’s Notice of Witnesses to Disciplinary Counsel, filed September 10, 2024.
3. Mr. Coscia is a resident of Palm Beach Gardens, Florida.
4. Although willing to testify via video conference at the Merits Hearing in this matter, Mr. Coscia is not willing to undertake travel to Vermont next week in order to testify in person.
5. As a non-resident non-party to this matter, Mr. Coscia’s personal appearance at the Merits Hearing cannot be compelled through subpoena or other legal process.
6. It is anticipated that Mr. Coscia will be able to provide relevant and probative testimony at the Merits Hearing if allowed to do so by video conference.
7. Specifically, Mr. Coscia and J.H. communicated by text message and telephone call on July

- 17, 2017 about her meeting that day with Respondent. *See* Disciplinary Counsel’s Merits Hearing Exhibit 1; Respondent’s Merits Hearing Exhibit C. Mr. Coscia and J.H. also spoke in person in the days following July 17, 2017 about J.H.’s meeting with Respondent.
8. Respondent’s alleged actions during his unwitnessed July 17, 2017 meeting with J.H. form the basis of the disciplinary charges in this matter.
  9. Therefore, it is anticipated that Mr. Coscia would be called by Petitioner to testify to certain prior consistent statements made to him by J.H. about her July 17, 2017 meeting with Respondent that would be offered, among other purposes, “to rebut an express or implied charge against [J.H.] of recent fabrication or improper influence or motive.” V.R.E. 801(d)(1)(B); *see also State v. Madigan*, 2015 VT 59, ¶ 28 (“Courts frequently and properly evaluate evidence of a victim’s past out-of-court statements, including statements that would fall within the ‘fresh-complaint’ doctrine advocated by the State, under the ordinary rules of evidence.”).
  10. Good cause may be found to allow video conference testimony by out-of-state witnesses, like Mr. Coscia, who are unable or unwilling to travel to Vermont. *Cf.* V.R.C.P. 43.1, 2023 Reporter’s Notes (“[C]ommon examples of good cause may include savings of time and money for one or more parties, particularly for testimony of witnesses in other states or countries.”).
  11. The applicable factors set forth by V.R.C.P. 43.1(h) also furnish good cause to allow Mr. Coscia’s video conference testimony. *See* V.R.C.P. 43.1(d)(2)(E) (“In ruling on a motion under this subdivision, the court must consider the relevant factors in subdivision (h) to determine whether good cause exists to . . . permit or require participation for some or all participants by video or audio conference”).

12. Specifically, there are no known technological barriers to receiving Mr. Coscia's testimony via video conference. Second, as in many other remote evidentiary proceedings, video conference would allow for full and effective examination and cross-examination of Mr. Coscia by both parties and the Hearing Panel, including the use of necessary documentary evidence during such examination. Finally, no undue prejudice would result to any party or witness, as evidenced by Respondent's consent to Mr. Coscia's voluntary testimony by video conference.

### CONCLUSION

WHEREFORE, Petitioner Office of Disciplinary Counsel respectfully requests that the Hearing Panel grant its Consented Motion and permit witness Joseph J. Coscia to testify and otherwise participate at the upcoming February 3-4 Merits Hearing in this matter by video conference, rather than appearing in-person..

Dated at Burlington, Vermont this 27th day of January 2026.

OFFICE OF DISCIPLINARY COUNSEL

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