-------- Original Message --------
Subject: Re: The Right to Lie in New York Courts is Absolute---what can we do about it?
From: Charles Edward
Date: Sat, April 01, 2017 9:20 am
To: "Brook A."
Cc: "Dr. Jill Jones-Soderman"

Again, in essence, this is why we need to challenge the law itself on Civil Rights Grounds. There are lots of problems with the doctrine of immunity. For example, there is NOTHING in the Constitution about immunity for anyone except members of Congress involving debates in Congress. Judicial Immunity was basically invented by Judges in the late 1860s. In traditional Anglo-Saxon law, there were very severe penalties for "false judging"---and as I keep repeating, over and over again, that's why juries are so important---we need PEOPLE with common sense and real life experience not PROFESSIONALS with business and political agendas making decisions in (especially) family law/domestic relations/custody cases.

One concept in the constitution is that of "privileges and immunities"---who gets them and who doesn't, and can "privileges & immunities" be given to some people and not others. I haven't had any coffee yet this morning (Jill says I complain too much) but I'm just not ready to start formulating the full constitutional complaint at 8:03 AM on Saturday. Another concept in the original constitution (none of the amendments) is the prohibition of titles of nobility. To what degree do laws or policies like this New York immunity for attorneys have the effect of creating "esquires" as a separate peerage, privileged to lie and immune from (effective) prosecution for perjury? The law NOMINALLY applies to everybody, but if whole classes of people can be exempted....does that deny equal protection? Or does it render the law incomprehensible, "void-for-vagueness", by making it uncertain whether the law can be used or applied to anyone under real-world circumstances?

If questions like this had already been answered to an acceptable degree, we wouldn't be talking about a civil rights lawsuit. But right now, at this moment in history, I think the reason that Jill and I came together from such incredibly different backgrounds and places is that we both realized that there is a crisis in the American Judicial System. It's not just Brook and Harrison Altman.... it's not just me and my son.... it's not even just about 100% of Jill's clients.... it's about the Family Law/Domestic Relations/Child Custody law everywhere in the United States, and it MAY be about the entire American Judicial System. It may be about the "Culture of Lies" that is so prevalent in every aspect of government that "fictional" FBI agent Dana Scully discussed it in her "science fiction" address to the Senate Intelligence committee in one episode of the X-Files from 20 years ago.

Charles Edward, III

On Sat, Apr 1, 2017 at 7:55 AM, Brook A. wrote:

I get this about judges, but what about attorneys like Allison (under oath) and Blank Rome?

On Apr 1, 2017, at 8:40 AM, Charles Edward wrote:

Dear Brook:

You're NOT reading it wrong, at all, but don't give up hope. Just be realistic about what we're up against: this statement of law and policy at the very least certainly means that the threshold burden of proof we must carry is very, very high. That's a major part of the challenge that we're facing this weekend AND in framing the Civil Rights case: if corruption is protected BY the system, or if any individual has so succeeded in corrupting the system in a particular case that due process and equal protection are both nugatory, does that constitute a violation of the Fifth and Fourteenth Amendment guarantees of due process and equal protection, or otherwise of the "reserved rights of the people" (9th Amendment)? Jill and I are both very familiar with the struggle against judicial immunity --- and in effect, this construction of law extends "absolute judicial immunity" to a point of absurdity. Is absurdity illegal? Is absurdity against public policy? Is absurdity a violation of the letter and spirit of the constitution?

A lawyer I met in New Jersey on Monday said of one judge, "how can you predict the actions of a raving maniac?" Not all judges are raving maniacs, but the 99 or so who are give the 1 or 2 who aren't a bad reputation.... the basic problem is simple: power corrupts and absolute power corrupts absolutely, and the doctrine of judicial immunity is VERY dangerous, especially when extended to people like Allison Scollar and Sara Weiss...

Charles Edward, III

On Sat, Apr 1, 2017 at 7:21 AM, Brook A. wrote:
I read this and it seems she's allowed to lie because she's attorney until there is a trial? or did I read that wrong?

On Apr 1, 2017, at 12:10 AM, Charles Edward wrote:

14 N.Y.Prac., New York Law of Torts § 1:50
New York Practice Series - New York Law of Torts

August 2016 Update
Lee S. Kreindler
Blanca I. Rodriguez
David Beekman
David C. Cook
Chapter 1. Intentional Torts against Personal Rights

§ 1:50. Defamation—Absolute privilege for statements made in a judicial proceeding; qualified privilege for statements made by attorneys prior to commencement of good-faith anticipated litigation

References

West's Key Number Digest

- West's Key Number Digest, Libel and Slander 38(1)

For reasons of public policy, certain defamatory communications enjoy an absolute or qualified privilege, so that they fall outside the general rules imposing liability for defamation.1 Absolute privilege confers immunity from liability without regard to motivation. Qualified privilege, discussed in the next section, simply negates the usual presumption of malice that applies to defamatory statements, and shifts the burden to the plaintiff to prove malice before liability may be imposed.2

New York has traditionally accorded an absolute privilege to oral or written communications made in the course of judicial proceedings and which relate to the litigation. The privilege attaches not only at the trial or hearing phase, but to every step of the proceeding in question, even if it is preliminary and/or investigatory.2.50 The complete immunity for such statements is predicated on the public interest in the freedom of participants to "speak with that free and open mind which the administration of justice demands."3 Attorneys and judges, for example, have absolute immunity for statements made in pleadings and in court.4 The same rule applies with equal force to the statements made by witnesses in a judicial proceeding.5 The rationale for according an absolute privilege to such statements has been explained as follows:

The interest of society requires that whenever [persons] seek the aid of the courts of justice, either to assert or to defend rights of person, property, [or] liberty, speech and writing therein must be untrammelled and free. The good of all must prevail over the incidental harm to the individual. So the law offers a shield to the one who in legal proceedings publishes a libel, not because it wishes to encourage libel, but because if [persons] were afraid to set forth their rights in legal proceedings for fear of liability to libel suits, greater harm would result, in the suppression of the truth. The law gives to all who take part in judicial proceedings, judge, attorney, counsel, printer, witness, litigant, a right to speak and to write, subject only to one limitation, that what is said or written bears upon the subject of litigation.6

The shield of absolute immunity has been extended to proceedings "before tribunals having attributes similar to those of courts."7 As a result, the courts have extended the privilege to a wide array of hearings held by administrative agencies,8 and even to public hearings held by a zoning board of appeals.9 Absolute immunity will, however, not apply to communications with district attorneys or investigators absent the pendency of a legal proceeding. The Court of Appeals has warned that to clothe a statement with absolute immunity (as opposed to qualified immunity), communications to a body acting in other than a quasi-judicial capacity, "would provide an unchecked vehicle for silent but effective character assassination."10

Civil Rights Law § 74 extends immunity to anyone who publishes a fair and true report of any judicial proceedings. For a report to be characterized as fair and true within the meaning of the statute, it is enough that the substance of the article be substantially accurate.11 The fact that the writer or publisher of the report derives information about the judicial proceedings from secondary sources does not mean that § 74 is inapplicable.12 It should be noted, however, that a party cannot maliciously commence a judicial proceeding alleging false and defamatory charges and then circulate a press release based on the same charges and escape liability by invoking § 74.13

In *Front Inc., v. Khalil*,14 the Court of Appeals considered whether statements made by attorneys prior to the commencement of an anticipated litigation are entitled to the judicial privilege. The Court ruled that such statements are entitled to a *qualified* privilege, but that the privilege would be lost if the defamation defendant can prove that the statements were not pertinent to a good-faith anticipated litigation. The Court observed that the rationale supporting a privilege for communications made by attorneys in the course of litigation, is also relevant to pre-litigation communications. Furthermore, applying privilege to such early communications might encourage potential parties to negotiate in order to prevent costly litigation. The Court concluded that,"[co]mmunication during this pre-litigation phase should be encouraged and not chilled by the possibility of being the basis for a defamation suit."15 However, the Court determined that statement made prior to litigation privilege should not be entitled to the absolute privilege accorded statements made during litigation. Because the statement must be made as pertinent to a good faith anticipated litigation, the privilege does not protect attorneys who are seeking to bully, harass, or intimidate a client's adversaries by threatening baseless litigation.16

Footnotes

1
Toker v. Pollak, 44 N.Y.2d 211, 405 N.Y.S.2d 1, 4, 376 N.E.2d 163 (1978).

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Toker v. Pollak, 44 N.Y.2d 211, 405 N.Y.S.2d 1, 4, 376 N.E.2d 163 (1978); Schulman v. Anderson Russell Kill & Olick, 117 Misc.2d 162, 458 N.Y.S.2d 448, 453 (Sup.Ct., N.Y. County, 1982).
Recall that when the defamation involves a public person regarding a matter of public interest, malice is required and plaintiff cannot rely on strict liability. *See* § 1:47 *supra.* When the defamation involves a private person and a matter of public interest, plaintiff also cannot rely on the common law strict liability rule and must prove gross irresponsibility. *See* § 1:47 *supra.* The only time when plaintiff has no burden to prove fault is when the defamation concerns a private person and the statement relates to a private matter. *See* § 1:47 *supra.* In these situations and any other situation when plaintiff does not normally need to prove malice, the existence of a qualified privilege will shift the burden to the plaintiff to prove malice. *See* Foster v. Churchill, 87 N.Y.2d 744, 642 N.Y.S.2d 583, 665 N.E.2d 153 (1996).

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Rondeau v. Houston, 118 A.D.3d 638, 989 N.Y.S.2d 471 (1st Dep't 2014), leave to appeal dismissed, 24 N.Y.3d 999, 997 N.Y.S.2d 109, 21 N.E.3d 561 (2014) (Free throw shooting advisor brought action against profession basketball team and their attorneys alleging defamation based on characterizations of plaintiff in court papers. The court ruled that the statements, made in the course of judicial proceedings were privileged.); Herzfeld & Stern v. Beck, 175 A.D.2d 689, 572 N.Y.S.2d 683 (1st Dept.1991); Mosesson v. Jacob D. Fuchsberg Law Firm, 257 A.D.2d 381, 683 N.Y.S.2d 88 (1st Dept.1999) (Statements made by attorneys in affidavits submitted in their firm's action to recover attorney's fees were absolutely privileged.); Credit Agricole Corporate and Inv. Bank New York Branch v. BDC Finance, L.L.C., 114 A.D.3d 552, 981 N.Y.S.2d 47 (1st Dep't 2014) (Minority secured lenders of debtor in bankruptcy brought action against holders of majority interest in debtor's credit financing obligations. Defendants asserted a counterclaim alleging libel and slander. The court ruled that statements by counsel for minority secured lenders in article published in a financial news publication, which were critical of actions taken by bankruptcy trustee, were made in connection with a judicial proceeding, and thus entitled to absolute privilege.); Zapata v. Tufenkjian, 123 A.D.3d 814, 998 N.Y.S.2d 435 (2d Dep't 2014) (Plaintiff brought action against his sister and brother-in-law, alleging malicious prosecution, false arrest, defamation, and intentional infliction of emotional distress, following his arrest, which arose out a dispute between the parties regarding his retention of their vehicle. The court ruled that any alleged defamatory statements defendants may have made to police officers in an attempt to obtain the return of their vehicle where privileged, and thus, non-

actionable.); El Jamal v. Weil, 116 A.D.3d 732, 986 N.Y.S.2d 146 (2d Dep't 2014) (Plaintiff in ongoing litigation over business disputes brought defamation action for statements arising from those disputes. The court ruled that defendant's statements in an e-mail sent to three employees of plaintiff's business, and his own attorneys, were pertinent to the ongoing judicial proceeding and were allegedly made to parties, counsel, or possible witnesses, and thus, the statements were absolutely privileged.); Rufeh v. Schwartz, 858 N.Y.S.2d 194 (2d Dept. 2008) (Prospective home purchaser brought a defamation action against sellers, arising out of statements made in a counterclaim raised in the purchaser's breach of contract action. The court ruled that the seller's statements were at least marginally relevant to the fraud theory advanced in their counterclaim, therefore the statements were protected by the absolute privilege for judicial proceedings.); Miazga v. Assaf, 136 A.D.3d 1131, 25 N.Y.S.3d 408 (3d Dep't 2016) (Client brought action against attorneys asserting claims for defamation, legal malpractice, and other claims, relating to representation of the client in a child custody and divorce proceedings in which the attorneys withdrew with the court's permission. The court ruled that attorney's correspondence to the trial court, discussing his belief that client's allegations made against him by the client were false, and moving the trial court to relieve him of further obligations to the client, was relevant and pertinent to the then-proceeding litigation, and thus, judicial proceeding privilege protected the attorney from the client's defamation claim.); McPhillips v. State, 129 A.D.3d 1360, 11 N.Y.S.3d 740 (3d Dep't 2015), leave to appeal dismissed, 26 N.Y.3d 976, 18 N.Y.S.3d 589, 40 N.E.3d 566 (2015) (Physician working for Department of Corrections brought action against State, and Medical Review Board Commissioner, alleging that defendants disclosed information about the treatment the physician provided to an inmate who died of heatstroke in the course of a run required by a shock incarceration program. The court ruled that assistant attorney general's disclosure of the memorandum, during the underlying medical malpractice action, was shielded by absolute immunity, where the statements in the memorandum were pertinent to the malpractice litigation, as they concerned allegations that were relevant to the treatment of the inmate.); Dworkin v. State, 34 A.D.3d 1014, 825 N.Y.S.2d 296 (3d Dep't 2006) (Allegedly defamatory statement by defendant's attorney that the general tone of motion papers by plaintiff's attorney suggested a level of instability and paranoia was privileged; the statements had some pertinence to the litigation.); Ticketmaster Corp. v. Lidsky, 245 A.D.2d 142, 665 N.Y.S.2d 666 (1st Dept.1997)(Litigants were privileged from liability for allegedly defamatory statements made in class action complaints); Rabiea v. Stein, 2008 WL 5381468 (Sup. Ct., Nassau County 2008) (Plaintiff alleged that an attorney for a defendant in a civil suit commenced by the plaintiff, sent a letter to his own attorney accusing plaintiff of criminal misconduct and threatening criminal prosecution if he pursued the civil action. Defendant argued that the letter did not constitute a publication, since the recipient was plaintiff's attorney. The court ruled that the letter sent to plaintiff's attorney did constitute a publication to a third party, since communication to a servant or agent is considered a publication within the law of defamation. However, the letter was pertinent to the litigation, therefore it enjoyed an absolute privilege and could not form the basis of a defamation claim.); Aequitron Medical, Inc. v. Dyro, 999 F.Supp. 294 (E.D.N.Y.1998) (Absolute privilege attached to statements of an expert witness who was retained to test plaintiff's infant respiration monitor; statements were made in the course of preparation for ongoing litigation.). *But see* Silverman v. Clark, 35 A.D.3d 1, 822 N.Y.S.2d 9 (1st Dep't 2006) (Plaintiff, an attorney who had recently resigned from her former firm and taken clients with her, brought an action against her former employers alleging that she was defamed by them in letters written to two of defendants' former clients in which the professional competence of plaintiff was disparaged. The court ruled that the letters were not protected by the privilege for statements made in the course of a judicial proceeding; the defendant was neither a litigating party nor an attorney for one of the parties. The court rejected defendant's argument that his ancillary role in protecting his fee in these cases clothed him with absolute immunity.); Cullin v. Lynch, 113 A.D.3d 586, 979 N.Y.S.2d 92 (2d Dep't 2014) (In action to recover damages for slander per se and libel per se, arising out of allegedly libelous statements published in affidavits submitted during course of a contested probate proceeding, the court ruled that the statements were protected by an absolute privilege.); Afshari v. Barer, 1 Misc. 3d 57, 769 N.Y.S.2d 687 (App. Term 2003) (Former client who appeared pro se sued attorney seeking

to recover the money that the attorney had allegedly retained from his fee. The attorney asserted a counterclaim for libel. The court ruled that the statements made by the former client in a letter were libelous because they accused the attorney of a serious crime and tended to injure him in his profession. The court noted that the doctrine of absolute privilege was inapplicable, because the statements were unrelated to any pending litigation between the parties.). *But see also*Orenstein v. Figel, 677 F. Supp. 2d 706 (S.D. N.Y. 2009) (Plaintiff sued an attorney and his firm alleging that he was libeled by statements made by the attorney in a letter to a non-party in which the lawyer asserted that a deal failed because plaintiff did not provide the agreed-upon capital. The court ruled that privilege statements made in a judicial proceeding did not apply; the letter was written by an attorney solely in the context of a private dispute over an invoice for services rendered by one business to another.).

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Youmans v. Smith, 153 N.Y. 214, 47 N.E. 265 (1897). *See also* § 17:49 *infra.*

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See Caplan v. Winslett, 218 A.D.2d 148, 637 N.Y.S.2d 967 (1st Dep't 1996) (discussions between opposing attorneys about a party's credibility); Schulman, 458 N.Y.S.2d at 453. Attorneys are also absolutely immunized when sending a letters to a subpoenaed witness, or other attorneys and parties during a pending proceeding. *See also* Simon v. Potts, 33 Misc.2d 183, 225 N.Y.S.2d 690 (Sup.Ct., N.Y. County, 1962); Hadar v. Pierce, 111 A.D.3d 439, 974 N.Y.S.2d 399 (1st Dep't 2013) (Trustee brought action against attorney and law firm asserting claims based on purportedly false statements made in a complaint in a prior action in Surrogate's Court. The court ruled that defendants' statements were absolutely privileged, where they were pertinent to litigations, that were not a sham instituted for the sole purpose of defaming plaintiff.); Joseph v. Joseph, 107 A.D.3d 441, 967 N.Y.S.2d 324 (1st Dep't 2013) (Mother filed a defamation action against her son and his attorney. The court ruled that allegedly defamatory statements in defendants' tortious interference complaint against plaintiff, including that she was a “scorned” woman who went into “terroristic binges,” were pertinent to defendants' action, and thus, absolutely privileged.); Pomerance v. McTiernan, 859 N.Y.S.2d 44 (1st Dept. 2008) (Attorney filed defamation suit against opposing counsel for statements made in affidavit in underlying personal injury action. The court ruled that the statements were privileged as pertinent to the underlying litigation.); Lacher v. Engel, 33 A.D.3d 10, 817 N.Y.S.2d 37 (1st Dep't 2006) (Defendant, an attorney, initiated a legal malpractice action on behalf of plaintiff 's prior client. Plaintiff, who argued that the legal malpractice action was a sham filed to allow defendant to defame him while claiming the benefit of privilege, initiated a defamation action against defendant. The court ruled that defendant's statements made in the complaint and before the arbitration panel were all entitled to the absolute privilege accorded statements made during a judicial proceeding.); Segall v. Sanders, 129 A.D.3d 819, 11 N.Y.S.3d 235 (2d Dep't 2015) (Attorney brought action against his opposing counsel, asserting claims for defamation and intentional infliction of emotional distress, based on statements opposing counsel made to court during litigation were either pertinent to ongoing judicial action and thus protected by absolute privilege, or constituted nonjudicial opinion, and thus could not be the basis of attorney's defamation action.); Cahill v. County of Nassau, 793 N.Y.S.2d 190 (2d Dept. 2005) (Home improvement business operator whose conviction for operating a business without a license was reversed on appeal brought an action against the county and county officials for malicious prosecution and defamation. Statements made by the District Attorney were absolutely privileged, because they were made in his official capacity; Mintz & Gold LLP v. Zimmerman, 17 Misc. 3d 972, 848 N.Y.S.2d 814 (Sup 2007) (Counsel retained by corporation's new president, to commence an action against its law firm to recover sums paid by th corporation to the firm for legal services allegedly performed on behalf of former president personally, had immunity from the law firm's defamation claim based on statements made in the course of legal proceedings, even though counsel allegedly was not authorized to act on behalf of the corporation; no exception to the absolute privilege existed for cases involving corporate control battles.). *See also* Friedman v. Rice, 47 Misc. 3d 944, 5 N.Y.S.3d 816 (Sup. Ct., Nassau County 2015) (Sex offender brought defamation action against county district attorney and information officers regarding statements made in a report by conviction integrity review

team, appointed by the district attorney after offender was released from prison, and concluding that the offender was not wrongfully convicted, and in statements made in related communications to the press. The court ruled, as a matter of first impression, that the district attorney was protected by absolute immunity based on statements made in the report, since the review was intimately associated with the judicial phase of the criminal process, and was uniquely within the function of the prosecutor. Statements made to the press by district attorney and information officers were also protected by absolute immunity, and even if these statements weren't protected by absolute immunity, they were protected by qualified common interest privilege.). *But see also* Ingber v. Mallilo, 860 N.Y.S.2d 180 (2d Dept. 2008) (Former counsel of nonparty client stated a claim for defamation against client's current counsel; the statements allegedly made by current counsel, that plaintiff had been suspended from the practice of law, were not protected by the judicial privilege, since they were not made in the course of a judicial proceeding.); McBride v. South Brooklyn Legal Services, 2008 WL 1758861 (New York Civ. Ct 2008) (An attorney working for defendant, wrote a letter to the New York City Housing Authority seeking to adjourn a hearing on the basis of plaintiff's mental illness; defendant was not acting for plaintiff in the matter before the court, but wrote the letter “as a friend of the court.” In plaintiff's action for slander, the court ruled that the attorney was not entitled to the protection of the privilege for judicial proceedings because he was not representing plaintiff at the Housing Court proceedings.).

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Andrews v. Gardiner, 224 N.Y. 440, 446, 121 N.E. 341, 343 (1918). A witness with a fiduciary duty to the plaintiff, for example, a physician, may, however, be liable in fraud for testifying falsely as to plaintiff's medical condition. *See* Aufrichtig v. Lowell, 85 N.Y.2d 540, 626 N.Y.S.2d 743, 650 N.E.2d 401 (1995).

Lewittes v. Blume, 795 N.Y.S.2d 13 (1st Dept. 2005) (Plaintiffs sued their former daughter-in-law for slander arising out of allegations of sexual abuse made by the plaintiffs' granddaughter. The court ruled that statements in defendant's affadavit and her testimony were made in the context of a judicial proceeding, and thus were protected by the absolute privilege.); Arts4All, Ltd. v. Hancock, 5 A.D.3d 106, 773 N.Y.S.2d 348 (1st Dep't 2004) (Employer and its CEO brought an action against a former employee alleging that she had made libelous statements about the company in a letter to a judge presiding over a case involving the plaintiff-company. The court ruled that these statements were protected by the absolute privilege for statements made in a judicial proceeding, and that the privilege was not limited to statements made under oath.); Wilson v. Erra, 94 A.D.3d 756, 942 N.Y.S.2d 127 (2d Dep't 2012) (Plaintiff brought actions for defamation and intentional infliction of emotional distress against witness who had testified at his criminal trial 14 years earlier. The court ruled that the allegedly defamatory statements defendant made against plaintiff during a criminal proceedings were absolutely privileged.); Colombo v. Schwartz, 789 N.Y.S.2d 744 (2d Dept. 2004) (Psychiatrist had judicial immunity from libel suit regarding work he performed as a court-appointed psychiatric expert in spousal support litigation.); In re Hoge, 96 A.D.3d 1398, 946 N.Y.S.2d 350 (4th Dep't 2012)(Allegedly defamatory statements made by corporation and other shareholders in proceeding for dissolution of a corporation were absolutely privileged, where they were pertinent and material to the action, and they were made in good faith and without malice.); Solomon v. Larivey, 853 N.Y.S.2d 770 (4th Dept. 2008) (Allegedly defamatory statements made by mother, her minor daughter, the daughter's stepfather, and mother's friend in letters written to the court in connections with plaintiff's sentencing on a guilty plea for sexual misconduct, were pertinent and material to plaintiff's criminal proceeding, and thus were absolutely privileged.); Cavallaro v. Pozzi, 28 A.D.3d 1075, 814 N.Y.S.2d 462 (4th Dep't 2006) (Plaintiff sued his wife's former husband for defamation and intentional infliction of emotional distress relating to statements made in an affidavit in a child custody and support proceeding; the former husband alleged that plaintiff had been engaging in extra-marital affairs and that he regularly viewed pornography in his home. The court ruled that the statements were protected by the absolute privilege accorded statements made in the course of judicial proceedings.); Cattani v. Marfuggi, 26 Misc. 3d 1053, 895 N.Y.S.2d 772 (Sup 2009), order aff'd, 2010 WL 2362830 (N.Y. App. Div. 1st Dep't 2010) (Physician brought a libel action against an expert witness who allegedly gave false

testimony against him in three malpractice actions. The court ruled that the statements made were privileged, where they were pertinent to the actions, and they were not merely means to accomplish a larger fraudulent scheme; even if the statements were false, they were not so outrageously out of context as to permit the conclusion that they were motivated by no other desire than to defame. The physician's claims that the absolute immunity doctrine did not apply to perjured testimony, and that the applicability of the doctrine to expert witnesses was an issue of first impression, were completely without merit.); Lightman v. Flaum, 179 Misc.2d 1007, 687 N.Y.S.2d 562 (Sup.Ct., Queens County, 1999), reversed 278 A.D.2d 373, 717 N.Y.S.2d 617 (2d Dept.2000)(Rabbi's unauthorized disclosure of privileged communications set forth in an affirmation submitted in the context of divorce proceedings were absolutely privileged.).

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Allan and Allan Arts Ltd. v. Rosenblum, 201 A.D.2d 136, 615 N.Y.S.2d 410, 412 (2d Dep't 1994). *See also* Front, Inc. v. Khalil, 103 A.D.3d 481, 960 N.Y.S.2d 79 (1st Dep't 2013), leave to appeal granted, 22 N.Y.3d 859, 981 N.Y.S.2d 369, 4 N.E.3d 381 (2014) (Employer sued employee, UK firm, and employees of UK firm, alleging that defendant's worked together to use plaintiff's proprietary information to divert work for a particular client from plaintiff to the UK firm. The court dismissed third-party complaint for libel against plaintiff's counsel, since letters complained of were issued in the context of prospective litigation.); Black v. Green Harbour Homeowners' Assoc, Inc., 798 N.Y.S.2d 753 (3d Dept. 2005) (Letter in which the board of directors for a homeowners' association informed the association's members of the status of litigation to which the association was a party was pertinent to those legal proceedings, and therefore the statements were absolutely privileged.); Lacher v. Engel, N.Y.L.J. May 10, 2005, p. 18, col. 1 (Sup. Ct., New York County 2005) (Plaintiff-attorney, who withdrew from representation of his client for reasons of "irreconcilable ethical considerations" brought a defamation action against the client's successor counsel after a malpractice action was initiated against him by the client. Plaintiff alleged that defendant made defamatory statements in the malpractice action's complaint, in an article in the New York Law Journal, and in the course of an Arbitration hearing, in which defendant was representing plaintiff's former client. The court ruled that the statements in the complaint were absolutely privileged, that the statements made during the hearing were also privileged "to some degree" since they were made in a quasi judicial proceeding. However, defendant's statements accusing plaintiff of fraud and calling him a "thief" and a "liar" and a "pathological character" had no place in the legal proceedings, therefore the court denied defendant's motion to dismiss in regard to those statements.); Lau v. Berman, 792 N.Y.S.2d 292 (Civ. Ct., New York 2004) (Statements in a report to court made by a guardian appointed to represent a tenant in prior proceeding were absolutely privileged; the statements related to the merit of the claims, and they were not so outrageously out of context that one could infer that they were made with the sole intent to defame.).

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Andrews, 224 N.Y. at 446.

But see also Colantonio v. Mercy Medical Center, 135 A.D.3d 686, 24 N.Y.S.3d 653, 2016 I.E.R. Cas. (BNA) 8820 (2d Dep't 2016) (Hospital's credentials committee meeting, at which medical staff reviewed physician's conduct to determine appropriate corrective action, was not quasi-judicial in nature, and thus alleged defamatory statements made during the meeting were not entitled to absolute privilege; the meeting was preliminary in nature, was not empowered to grant any tangible form of relief reviewable in the courts, and did not make a final determination regarding the physician's medical staff membership at the hospital.).

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See, e.g., Kitchner v. State, 82 Misc.2d 858, 371 N.Y.S.2d 91 (Ct.Cl.1975)(unemployment insurance benefits hearing); Li

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