



**ERICSA 62ND ANNUAL
TRAINING CONFERENCE & EXPOSITION**

MAY 18-22, 2025

NORFOLK

VIRGINIA

(Fractured Fairy)Tales from The Darkside

Chaucerian Tales of Lawyerly Missteps

Kathleen Kitson
Maria Mancuso
Nicholas Palos



Join our intrepid bards as they spin more tales of lawyerly woe. See what happened to those lawyers who crossed to the dark side and use their fate to reinforce your own determination to avoid the forces of the dark side of legal practice



Meet Your Bards (Presented by the Bard's Guild of ERICSA)



Kathleen Kitson

Child Support Hearing Officer (ret.) Trainer
NJCSI



Maria Mancuso

Child Support Hearing Officer (ret.);
Trainer, NJCSI



Nicholas Palos

Support Magistrate, Kings County
Family Court





LEARNING OBJECTIVES

- This Legal Ethics session will explore some new developments in the regulation of attorneys by reviewing some interesting developments which have arisen in the past 18 months
- The session will show how the regulation of the legal profession has addressed new areas of individual conduct by applying the rules which have governed the profession for the past half-century

Session Methodology

This session is divided into seven sections, each of which will last approximately twelve minutes.

A Tale From the Dark Side will serve as the basis for a discussion of interesting topics in legal ethics and attorney discipline which arose since the last conference.

At the conclusion of each tale, one of our Bards will lead a discussion of the issues which arose in the fractured fairytale.

The panel of Bards welcome your contribution to a lively, interactive session. Feel free to interpose your opinions, comments and thoughtful contributions

Does anyone here remember law school?

**WE DO NOT HAVE ALL OF THE ANSWERS
AND HOPE TO LEARN FROM EACH OF
YOU. PLEASE JOIN IN THE CONVERSATION**

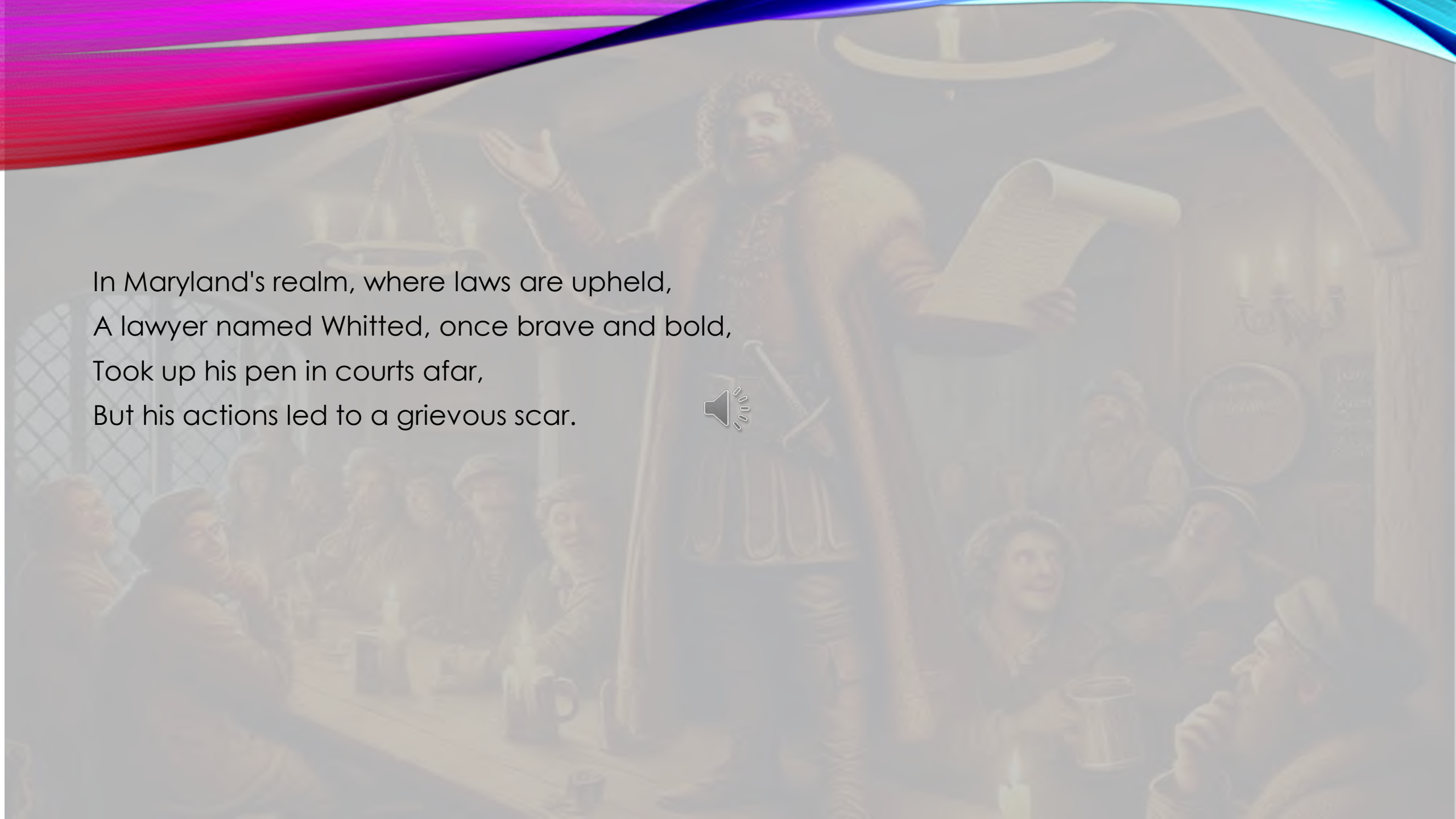
We are begging you, don't force us to
call on some random audience member
... because we might just call on

YOU!!!





The Litigious Dead-beat's Tale



In Maryland's realm, where laws are upheld,
A lawyer named Whitted, once brave and bold,
Took up his pen in courts afar,
But his actions led to a grievous scar.



He wed his love in '85,
Three children born to keep the dream alive.
But love did fade, and in '06's light,
He sought divorce, believing it right



DECREED



CUSTODY SPLIT



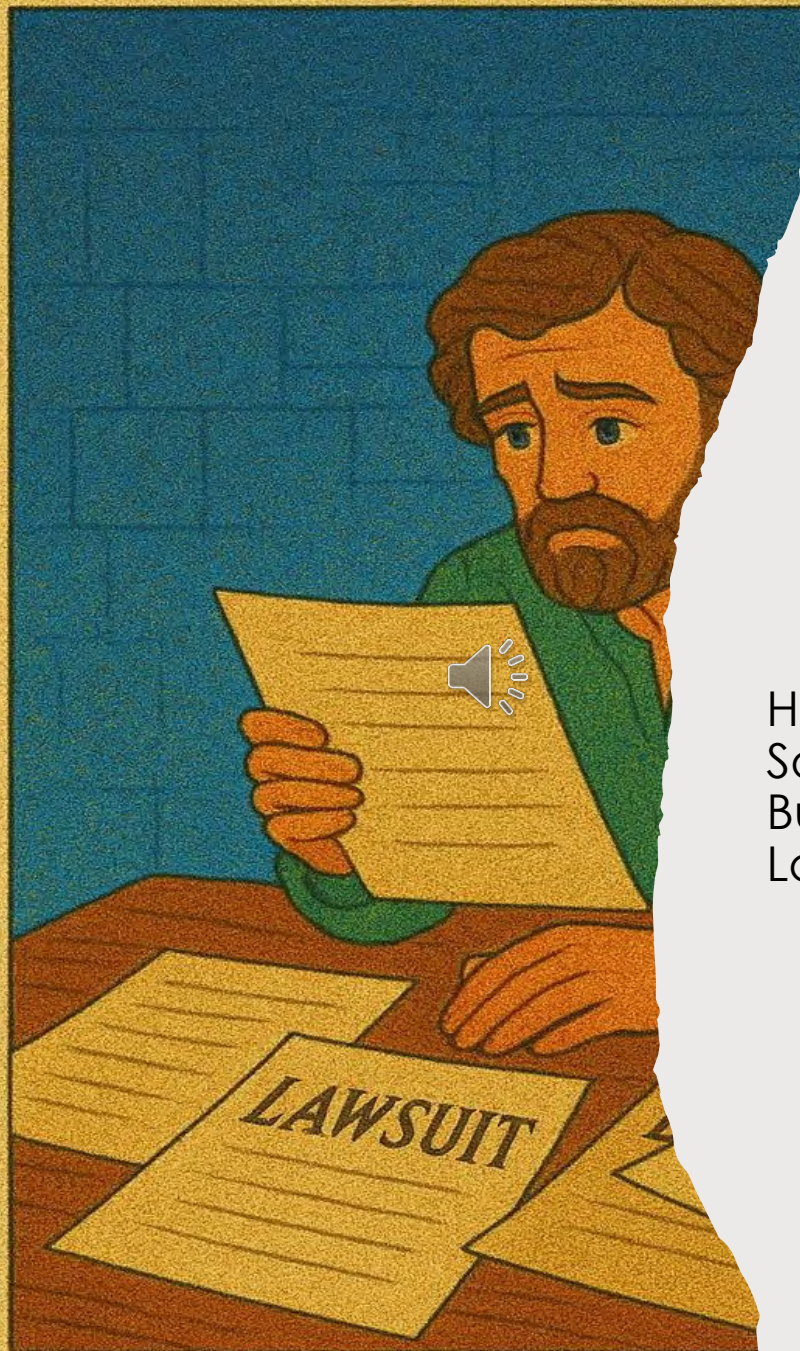
LAGGED



ARREARS AMASSED



The court decreed, as courts will do,
Custody split, support was due.
Yet payments lagged, arrears amassed,
His obligations left unpassed.

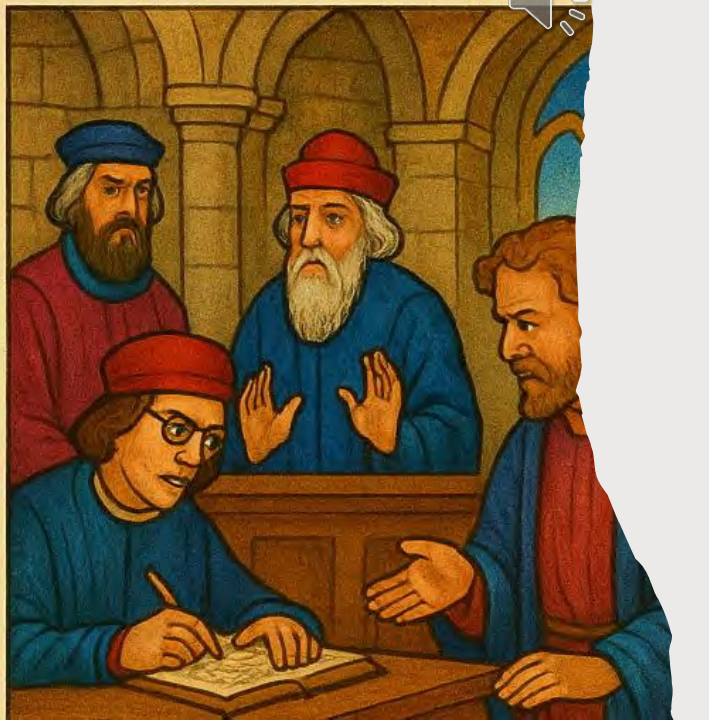
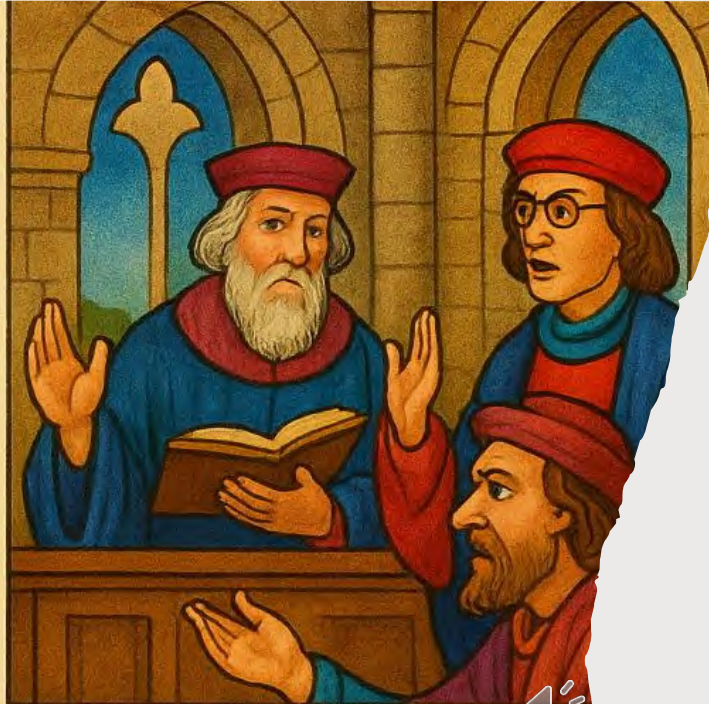
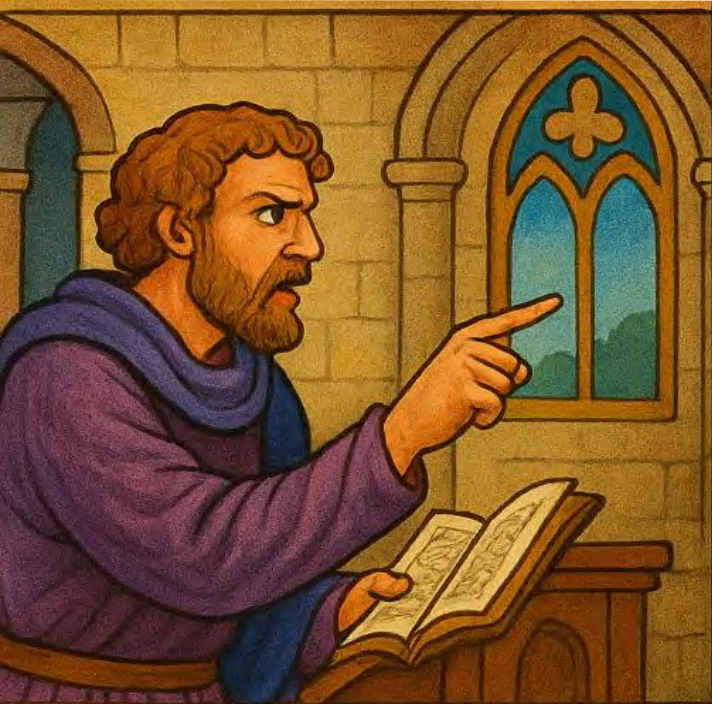


His ex, now moved to Carolina's shore,
Sought the court to settle the score.
But Whitted, feeling deep dismay,
Launched lawsuits in a grand array.

He sued his ex, her lawyer too,
Accused them all of deeds untrue.
Even judges weren't immune,
As he sang his vengeful tune.

Claims of fraud and great deceit,
He filed with fervor, none too sweet.
Yet courts dismissed his every plea,
For lack of merit they could see.



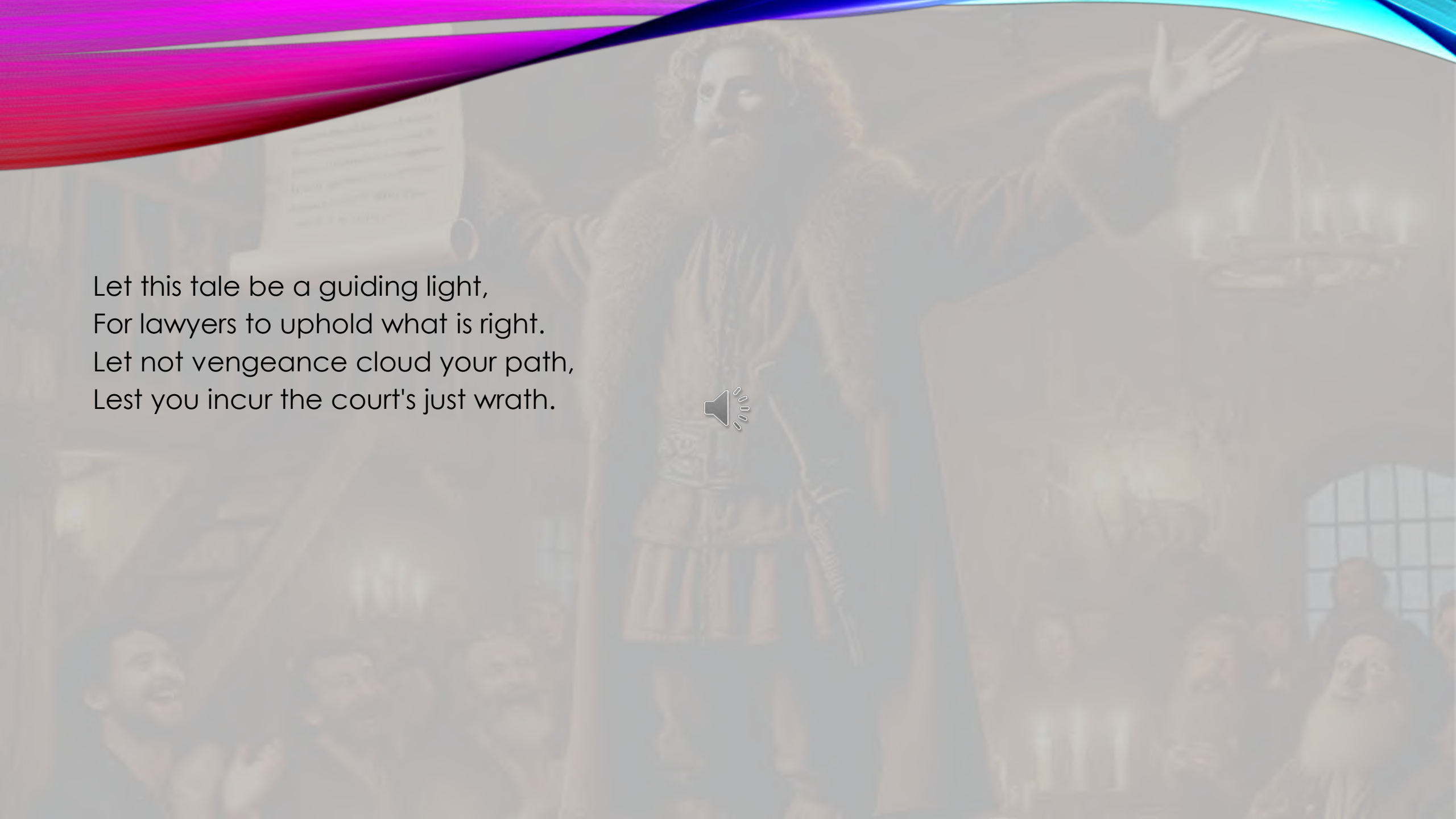


In Washington's courts, he tried once more,
To settle scores and even the score.
But again, his efforts met with naught,
His arguments by judges caught.

The Grievance Commission took a stand,
Reviewed his acts across the land.
They found his conduct broke the code,
Professional rules he did erode.

The court decreed, with solemn tone,
"Your license now is not your own.
Indefinite suspension is your fate,
Until your conduct we can rate.



The background is a faded, sepia-toned image of a courtroom. A judge with a long white beard and a black robe stands at a high bench, gesturing with his right hand. Below him, a large crowd of people, including men and women in period clothing, are seated and looking towards the judge. The scene is dimly lit, with light coming from windows on the right.

Let this tale be a guiding light,
For lawyers to uphold what is right.
Let not vengeance cloud your path,
Lest you incur the court's just wrath.





Attorney Grievance Commission of Maryland v Whitted

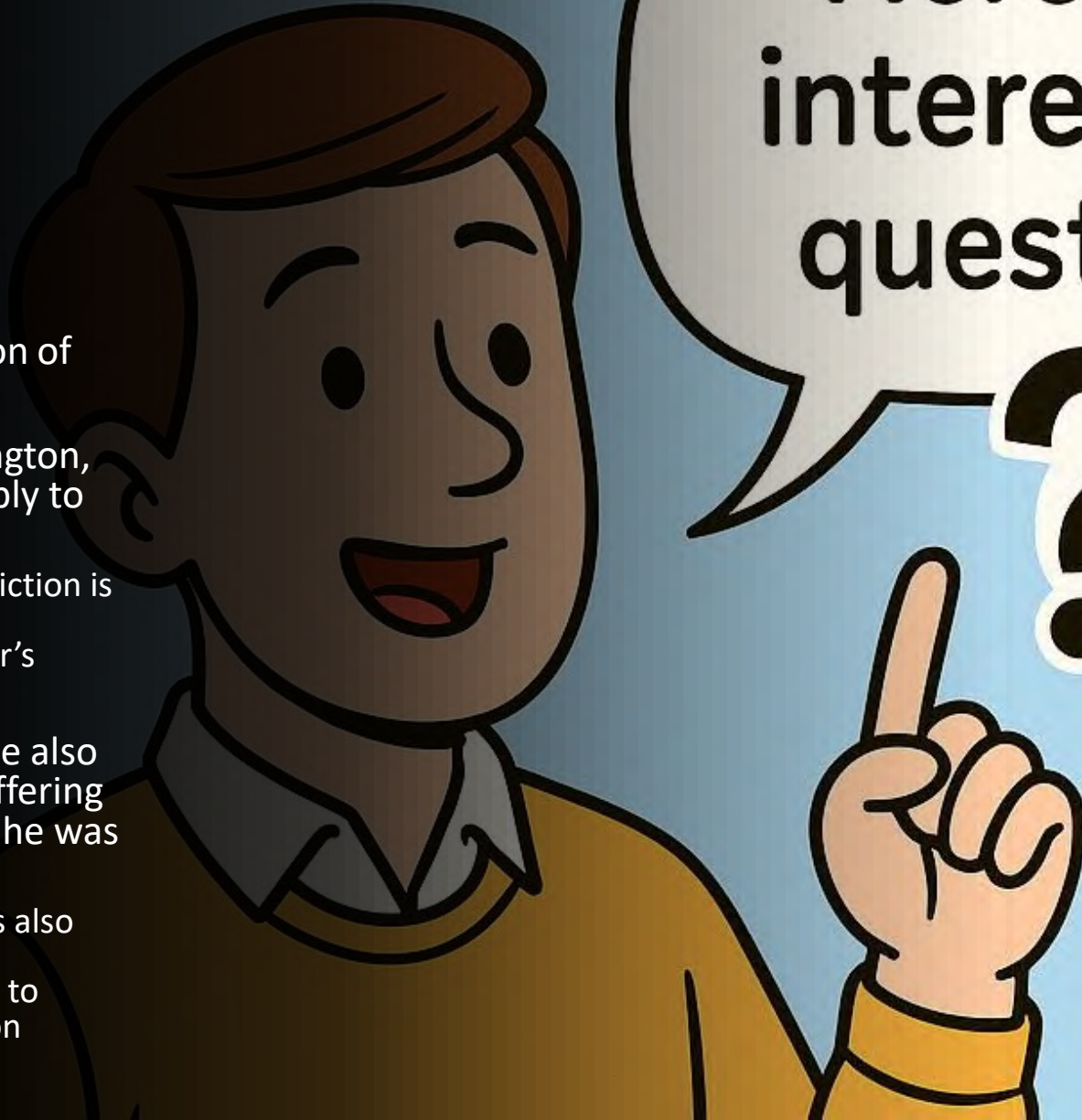
Disciplinary Proceeding was brought in Maryland, alleging violations of the Rules of Professional Conduct as adopted in Maryland, Georgia and Washington

- MRPC 8.5(b) provides the choice of law rules
 - (1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise
 - (2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.

An Interesting Argument?

Attorney asserts he is not subject to application of Washington's Rules of Professional Conduct

- ❖ As he is not admitted to practice in Washington, he first sentence WRPC 8.5(a) does not apply to him
 - ❖ A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer's conduct occurred.
- ❖ He further argued that the second sentence also did not apply, as he was not providing or offering to provide legal services in Washington, as he was a *pro se* litigant
 - ❖ A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction



Here's an interesting question:

An Interesting Argument . . . NOT

- Previously conceded he was subject to the disciplinary authority of the MARYLAND court as he was admitted in Maryland
- Previously conceded that the Maryland disciplinary proceeding would have to apply the WRPC under MdRPC 19-308.5(b)(1) (MRPC 8.5(b)(1))
 - Court used Washington caselaw to interpret Washington's version of any rule the attorney may have breached



Attorney Grievance Commission of Maryland v Whitted

Model Rules Implicated

MRPC 3.1

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

- A frivolous position is one that a lawyer of ordinary competence would recognize as lacking in merit
(citing *In re Disciplinary Proc. Against Jones*, 338 P.3d 842, 854 (Wash. 2014))





Attorney Grievance Commission of Maryland v Whitted

Model Rules implicated

MRPC 8.4

It is professional misconduct for a lawyer to:

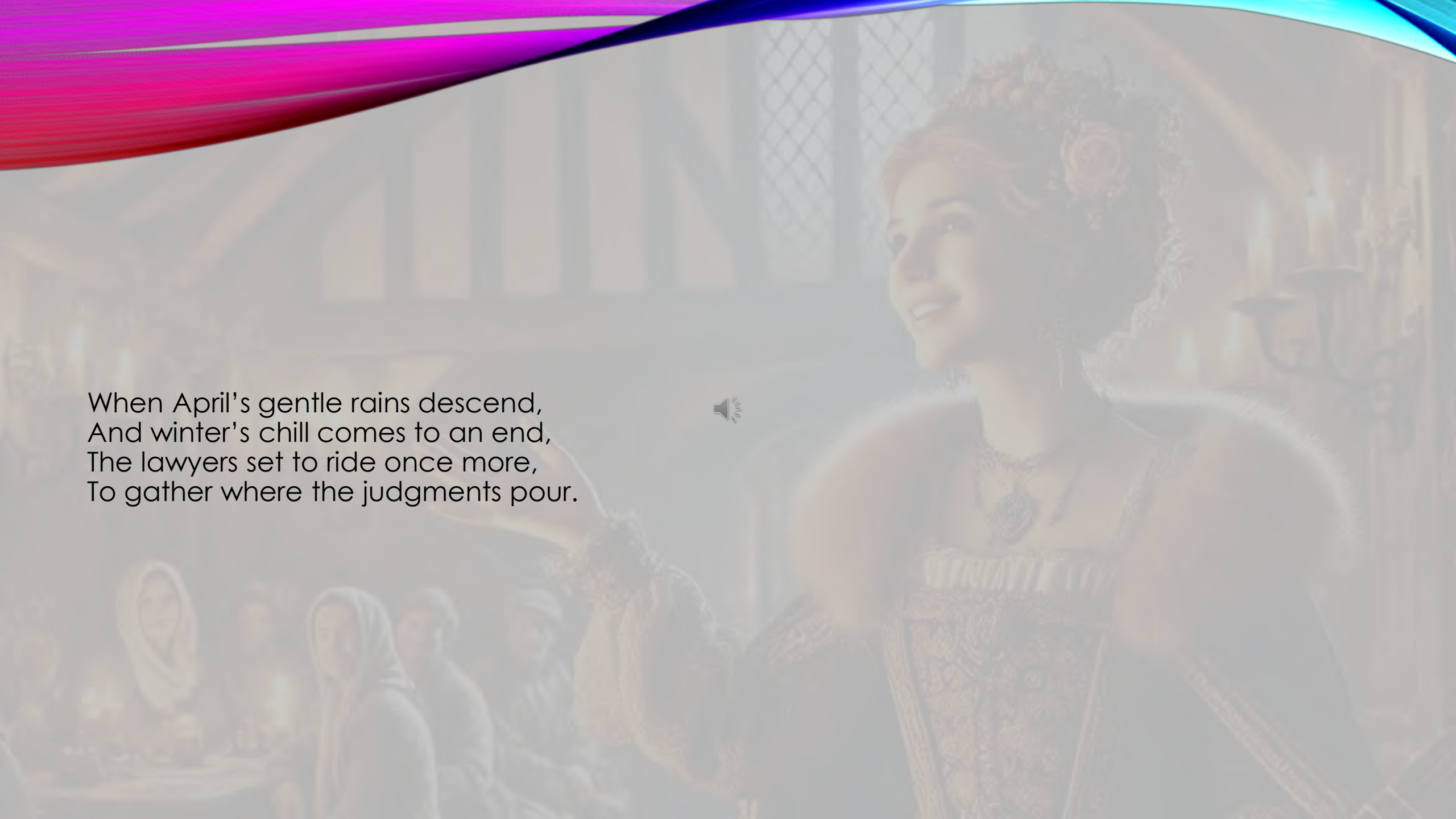
(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another; . . .

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

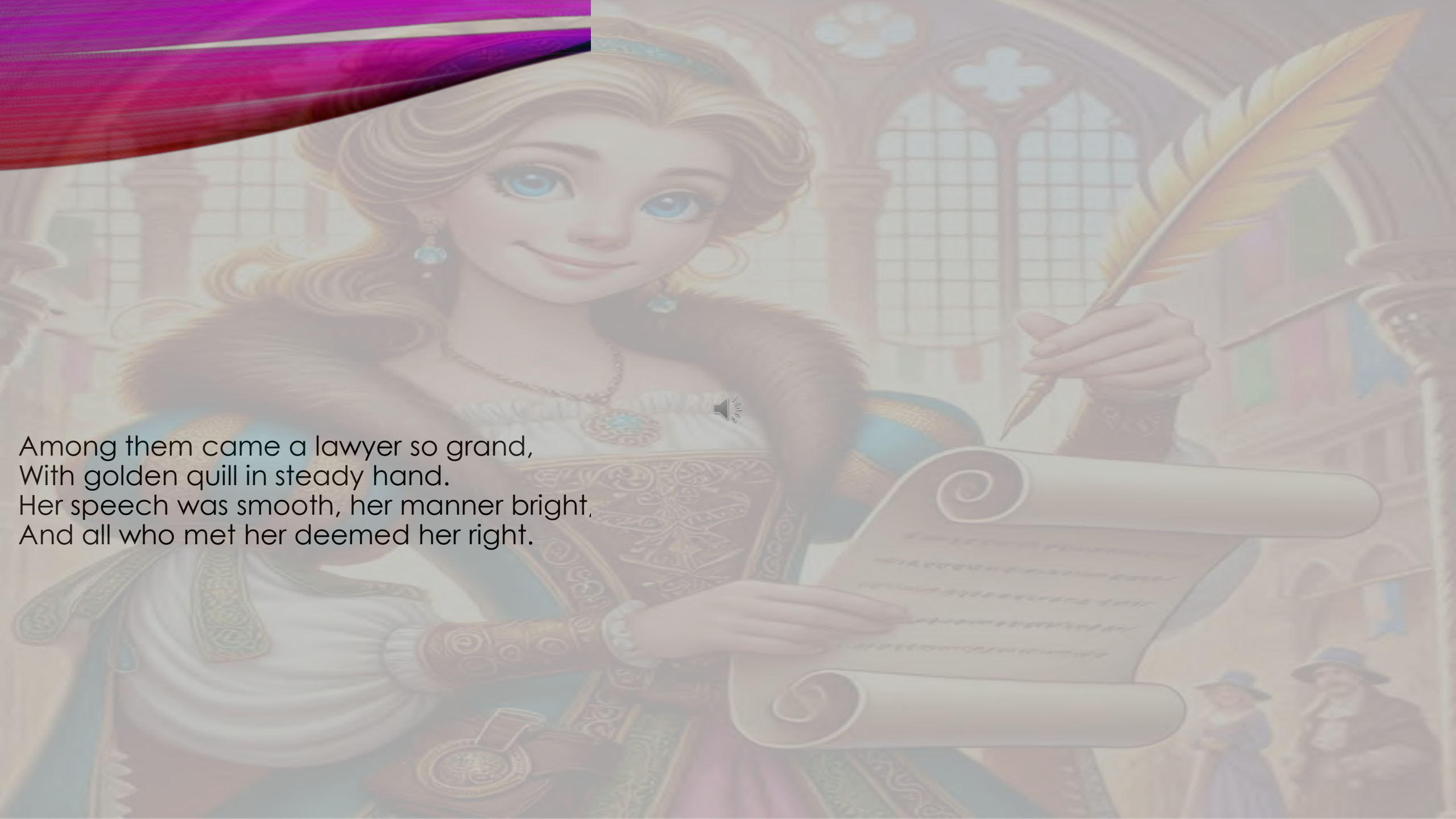


The False Clerk's Tale

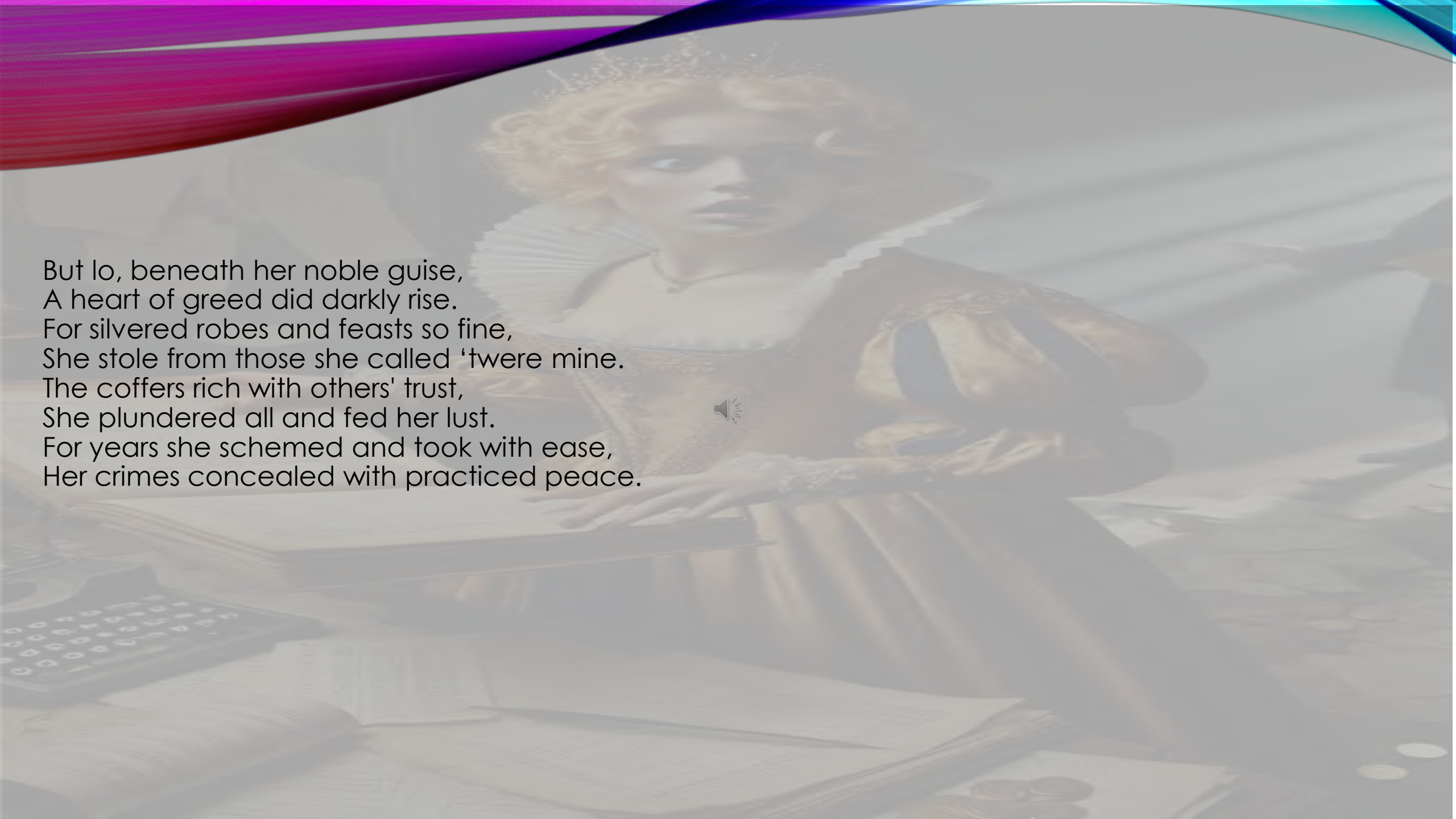


When April's gentle rains descend,
And winter's chill comes to an end,
The lawyers set to ride once more,
To gather where the judgments pour.

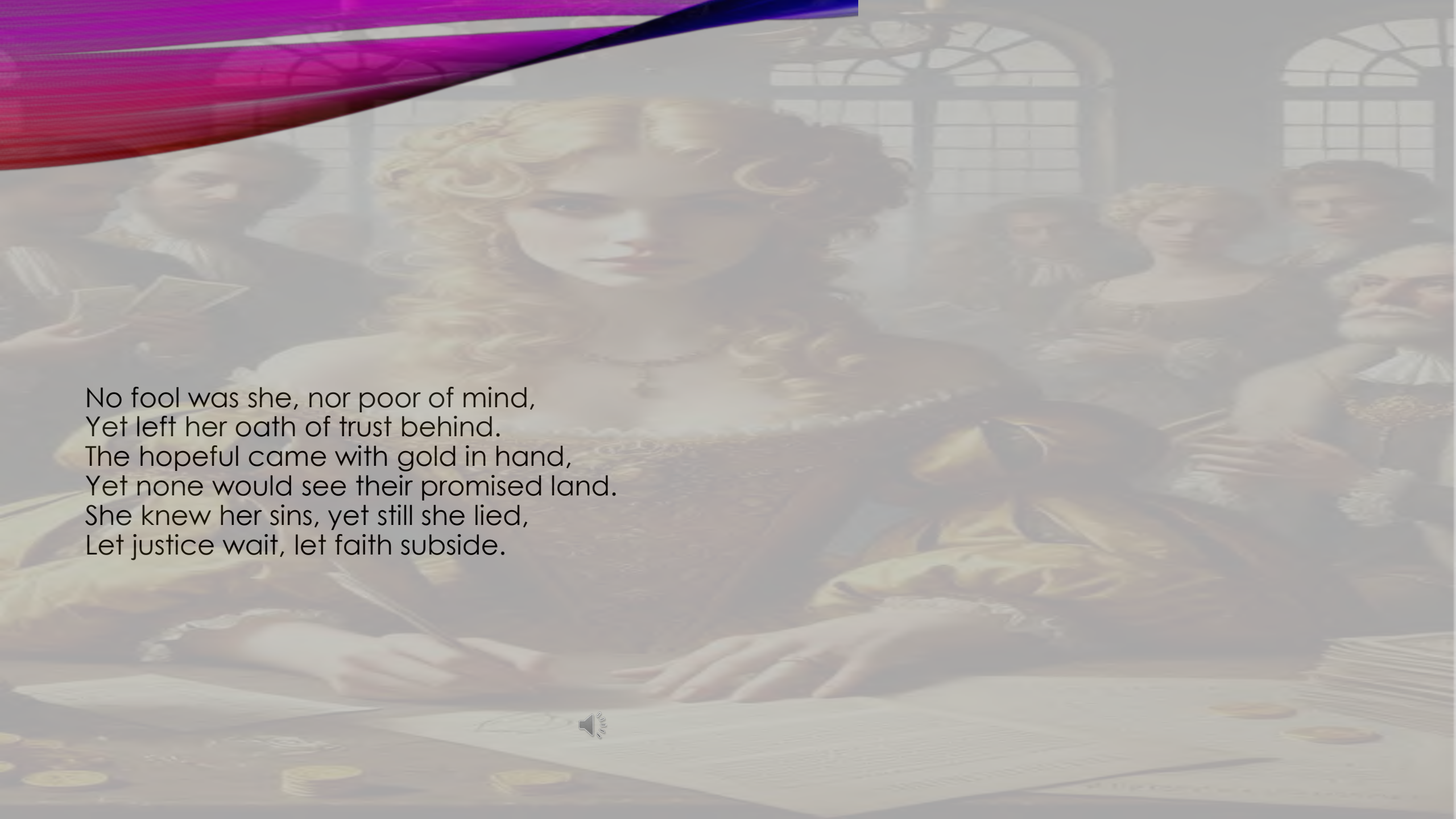




Among them came a lawyer so grand,
With golden quill in steady hand.
Her speech was smooth, her manner bright,
And all who met her deemed her right.

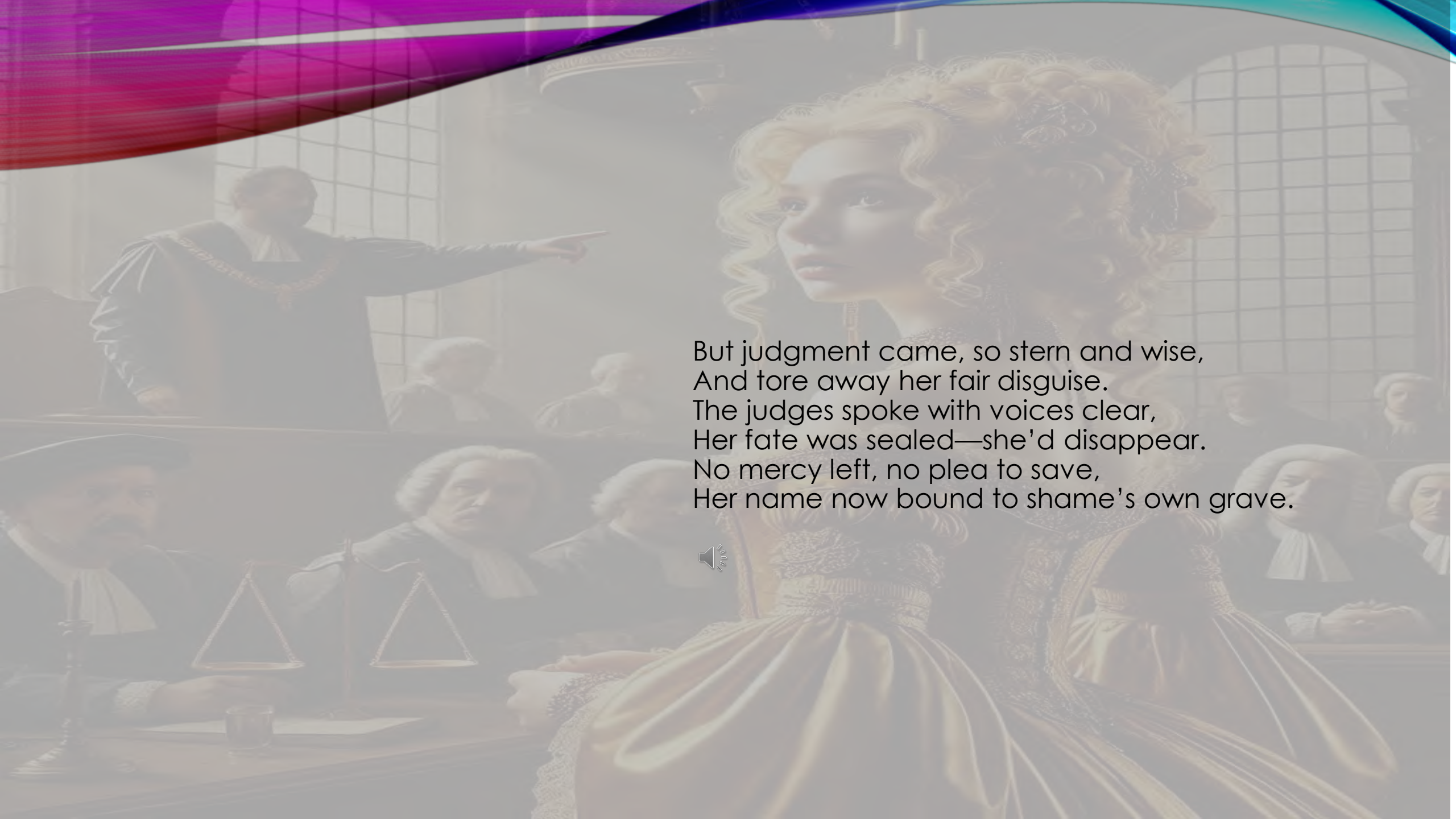
A woman with blonde, curly hair, wearing a dark, ornate historical dress with a large white ruffled collar, sits at a desk. She is looking directly at the camera with a serious expression. On the desk in front of her are several stacks of papers, a vintage typewriter on the left, and some coins on the right. The background is a soft, out-of-focus interior. A small speaker icon is visible near the center of the text.

But lo, beneath her noble guise,
A heart of greed did darkly rise.
For silvered robes and feasts so fine,
She stole from those she called 'twere mine.
The coffers rich with others' trust,
She plundered all and fed her lust.
For years she schemed and took with ease,
Her crimes concealed with practiced peace.



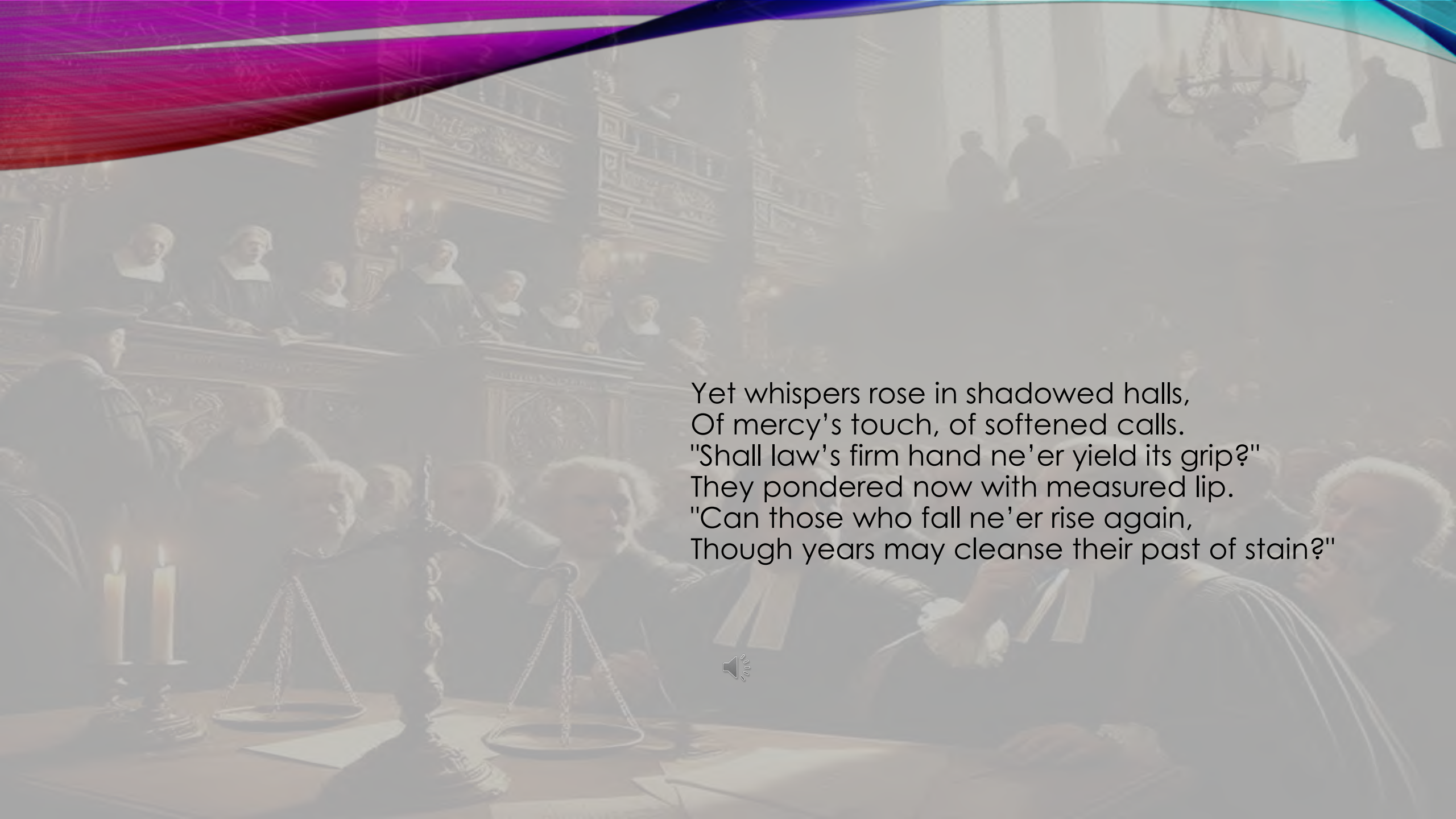
No fool was she, nor poor of mind,
Yet left her oath of trust behind.
The hopeful came with gold in hand,
Yet none would see their promised land.
She knew her sins, yet still she lied,
Let justice wait, let faith subside.





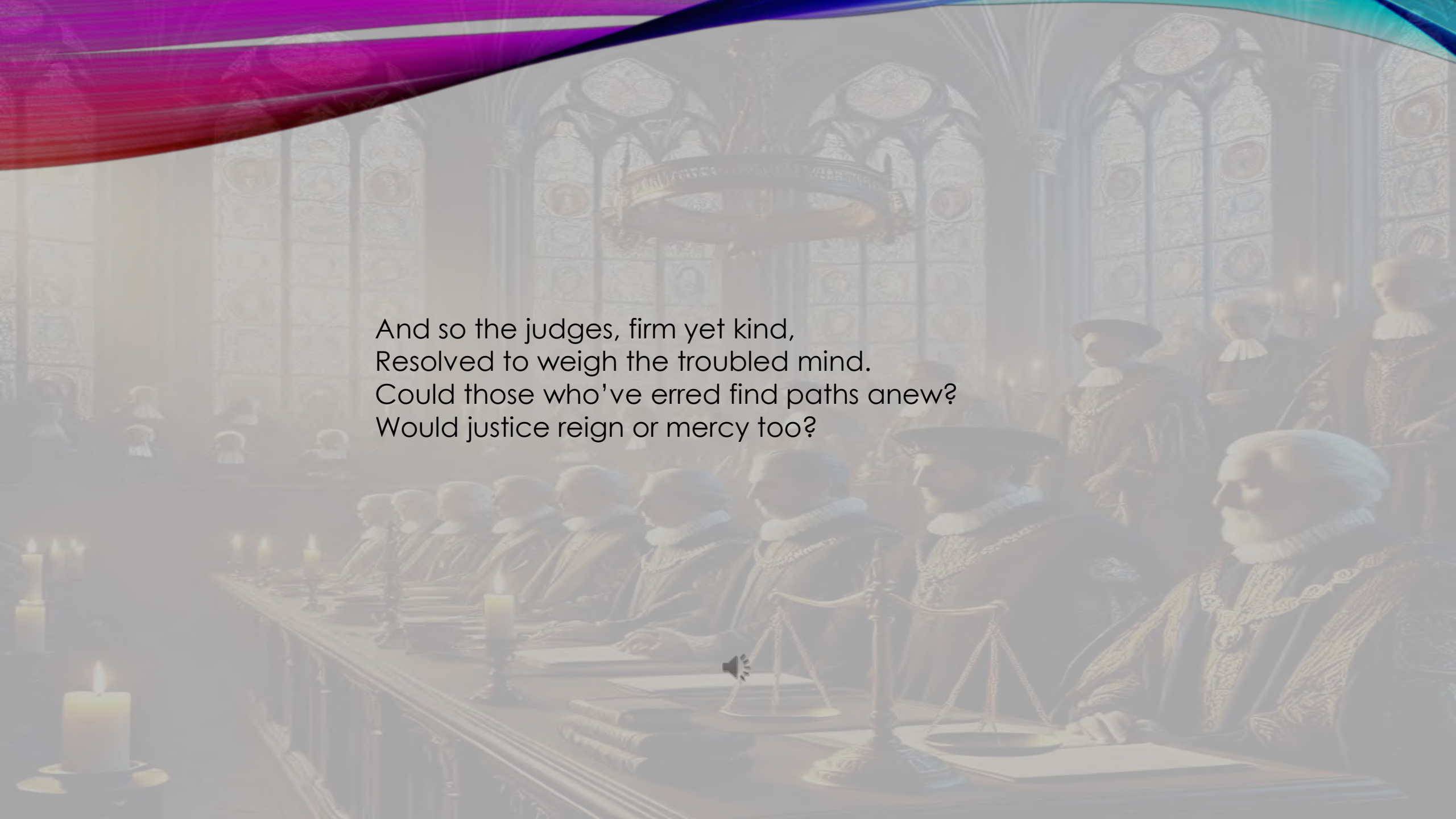
But judgment came, so stern and wise,
And tore away her fair disguise.
The judges spoke with voices clear,
Her fate was sealed—she'd disappear.
No mercy left, no plea to save,
Her name now bound to shame's own grave.



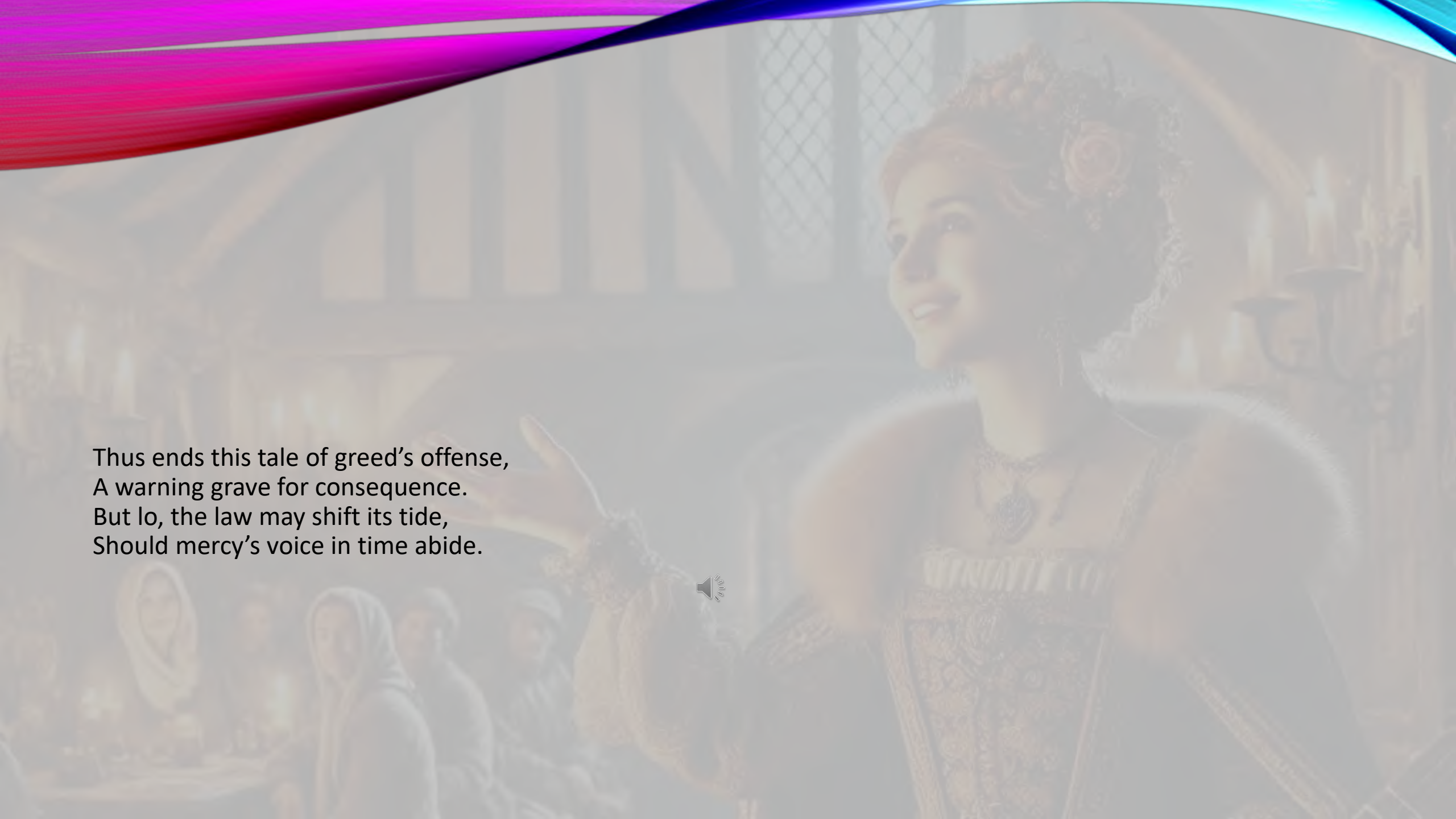
The background image is a faded, historical illustration of a courtroom. In the foreground, a man in a dark robe with a white collar stands at a podium, addressing a group of people. Behind him, several men in similar robes are seated at a long table. The room is filled with people, some standing and some seated, all looking towards the speaker. The architecture is grand, with high ceilings and large windows. The overall tone is somber and formal.

Yet whispers rose in shadowed halls,
Of mercy's touch, of softened calls.
"Shall law's firm hand ne'er yield its grip?"
They pondered now with measured lip.
"Can those who fall ne'er rise again,
Though years may cleanse their past of stain?"



A historical painting depicting a court scene. In the foreground, a long wooden bench is occupied by several judges in ornate, dark robes with white ruffled collars. They are seated at a long table covered with papers and books. A large, ornate scale of justice is prominently displayed on the table. In the background, more figures in period clothing are visible, standing near large, arched windows with intricate tracery. The room is dimly lit, with light coming from the windows and several lit candles on the table. A small speaker icon is visible near the bottom center of the image.

And so the judges, firm yet kind,
Resolved to weigh the troubled mind.
Could those who've erred find paths anew?
Would justice reign or mercy too?



Thus ends this tale of greed's offense,
A warning grave for consequence.
But lo, the law may shift its tide,
Should mercy's voice in time abide.





Matter of Dionne Larrel Wade (DRB)

Model Rules Implicated

- **MRPC 1.15(a)**

- A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of [five years] after termination of the representation.

- **MRPC 1.15(d)**

- Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

- **MRPC 8.1(a)**

- An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not: (a) knowingly make a false statement of material fact

- **MRPC 8.4(a)**

- It is professional misconduct for a lawyer to: (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

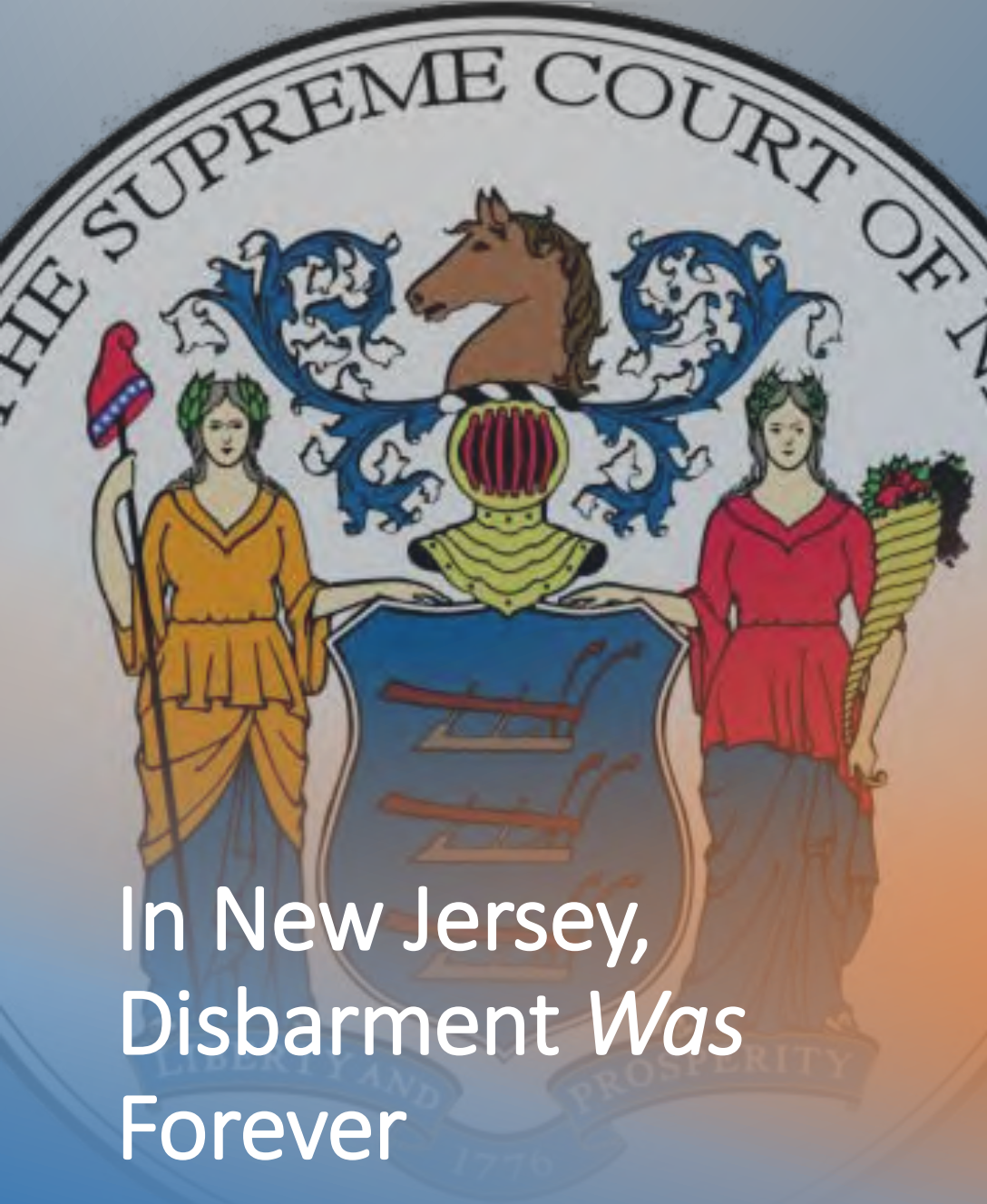
- **MRPC 8.4(b)**

- It is professional misconduct for a lawyer to: (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;



Matter of Dionne Larrel Wade (SCT)

- **Rules of Professional Conduct Implicated**
 - **RPC 1.15**
- **Case Law Discussed**
 - [*In re Wilson*](#), 81 N.J. 451 (1979)
 - Misappropriating client funds held in trust *will result in disbarment*
 - [*In re Hollendonner*](#), 102 N.J. 21 (1985)
 - Misappropriating client funds held in escrow account *will result in disbarment*



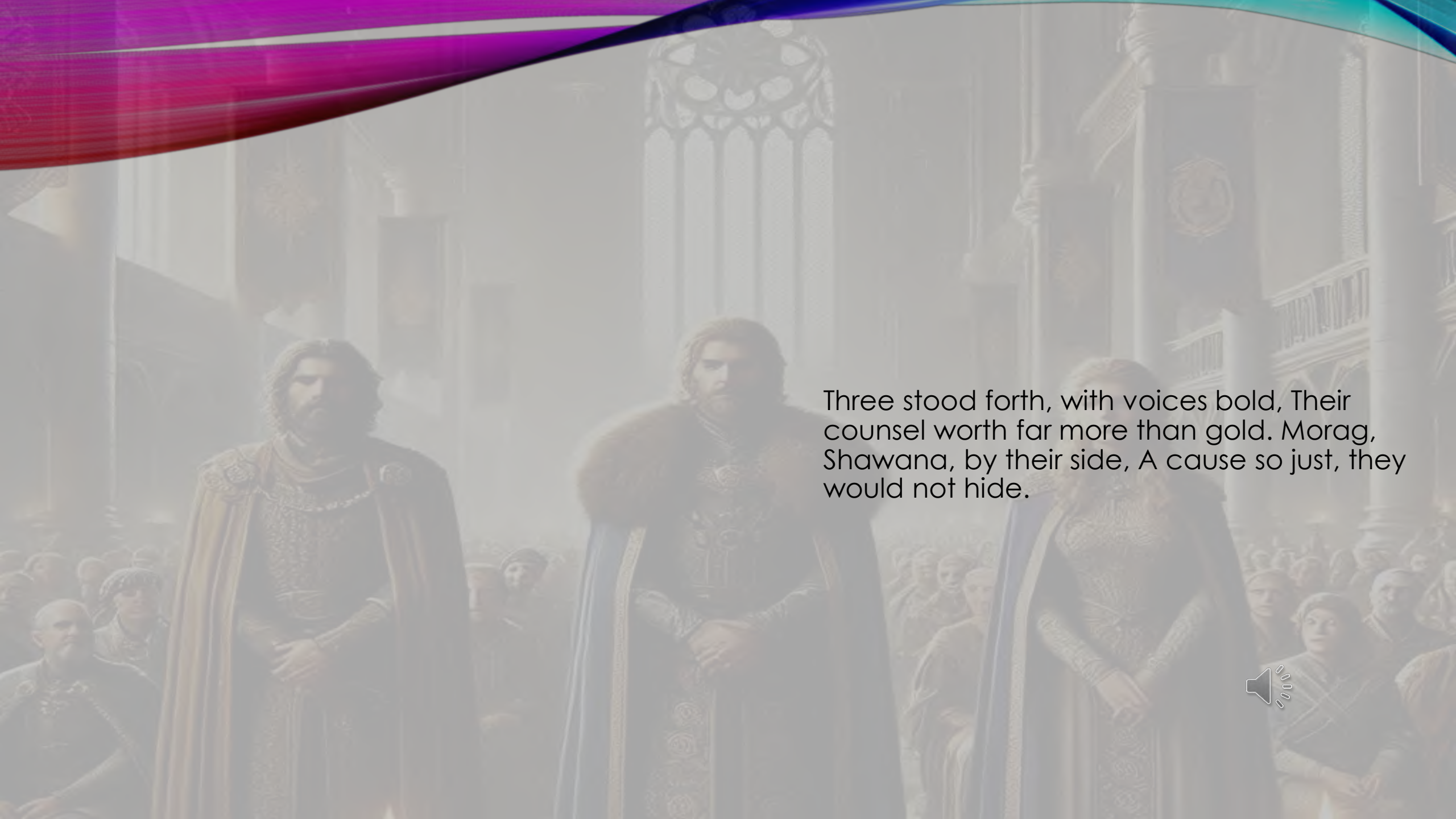
- Supreme Court Decision in *Wade* established a special committee to review if New Jersey should create a rigorous system that can determine if an attorney disbarred for misappropriating client funds deserves a second chance years later
- Committee [Report](#) issued on May 19, 2023
- Report sent out for public comment on June 29, 2023
- Supreme Court adopts [Rule 1:20-21A](#) establishing a process for readmission on October 14, 2024
 - All attorneys who have been disbarred one time may apply for readmission after five years from effective date of disbarment
 - Within 12 months of filing petition for readmission
 - Must pass NJ Bar exam
 - Must score 75 or higher on MPRE
 - Complete all designated CLE courses
 - Prior to readmission, applicant must prove
 - Requisite traits of honesty, integrity, fiscal responsibility and trustworthiness
 - Full compliance with all terms and conditions of all prior disciplinary orders
 - Reimbursed NJ Lawyers fund for Client Protection (or made arrangements to do so)
 - Pay all annual registration fees and charges
 - Obeyed applicable court rules where currently or previously licensed
 - Has not engaged in or attempted to engage in UPL
 - Rehabilitated medical, psychological or addiction issues which caused issues that led to disbarment
 - If disbarred in NJ due to reciprocal discipline, admission to jurisdiction where disbarred unless good cause for not doing so is shown for not seeking such

A wooden mannequin arm and hand are visible in the background, positioned on the left side of the frame. The arm is extended towards the center, with the hand open and fingers slightly spread. The wood has a light, natural finish. The background is a solid, light gray color.

The ScRibe's Tale

In Carolina's lands so fair and wide,
Where laws are penned and courts abide,
There rose a cry both loud and keen,
From scribes who sought to serve unseen.



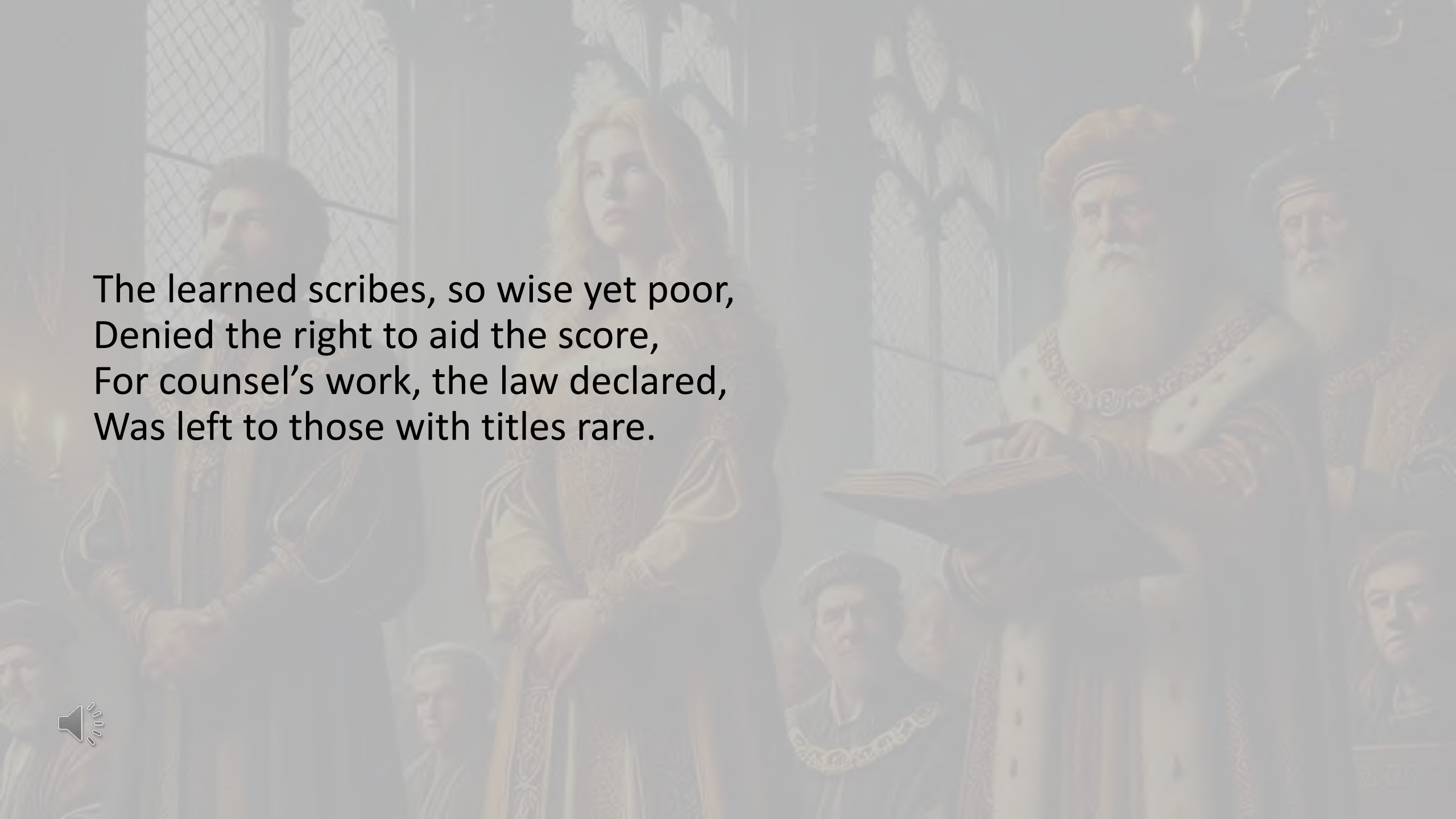


Three stood forth, with voices bold, Their
counsel worth far more than gold. Morag,
Shawana, by their side, A cause so just, they
would not hide.



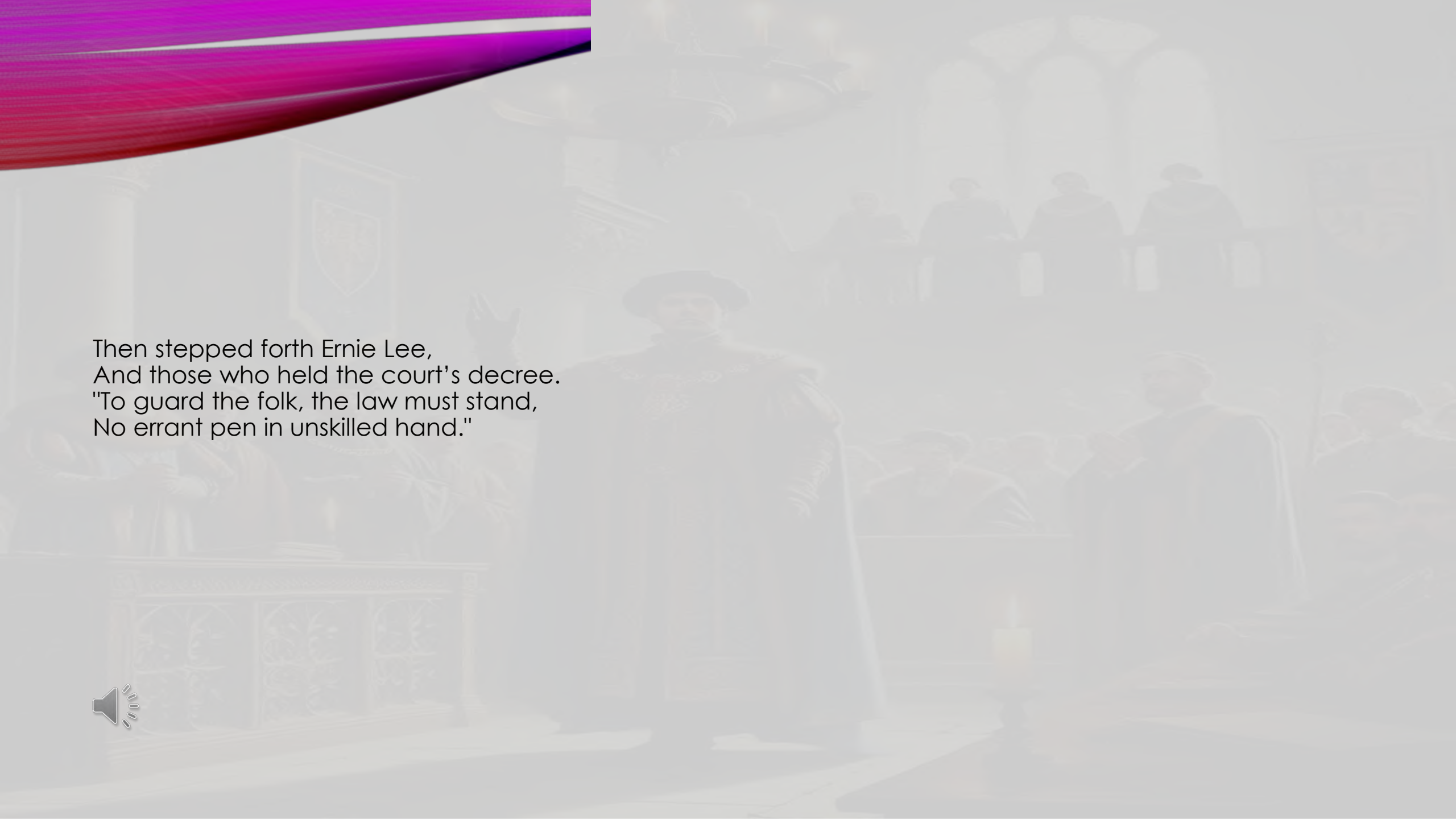
"The folk in need, they call on me,
To fill their forms and set them free!
Yet barred we are from this fair deed,
By laws that favor wealth and greed."





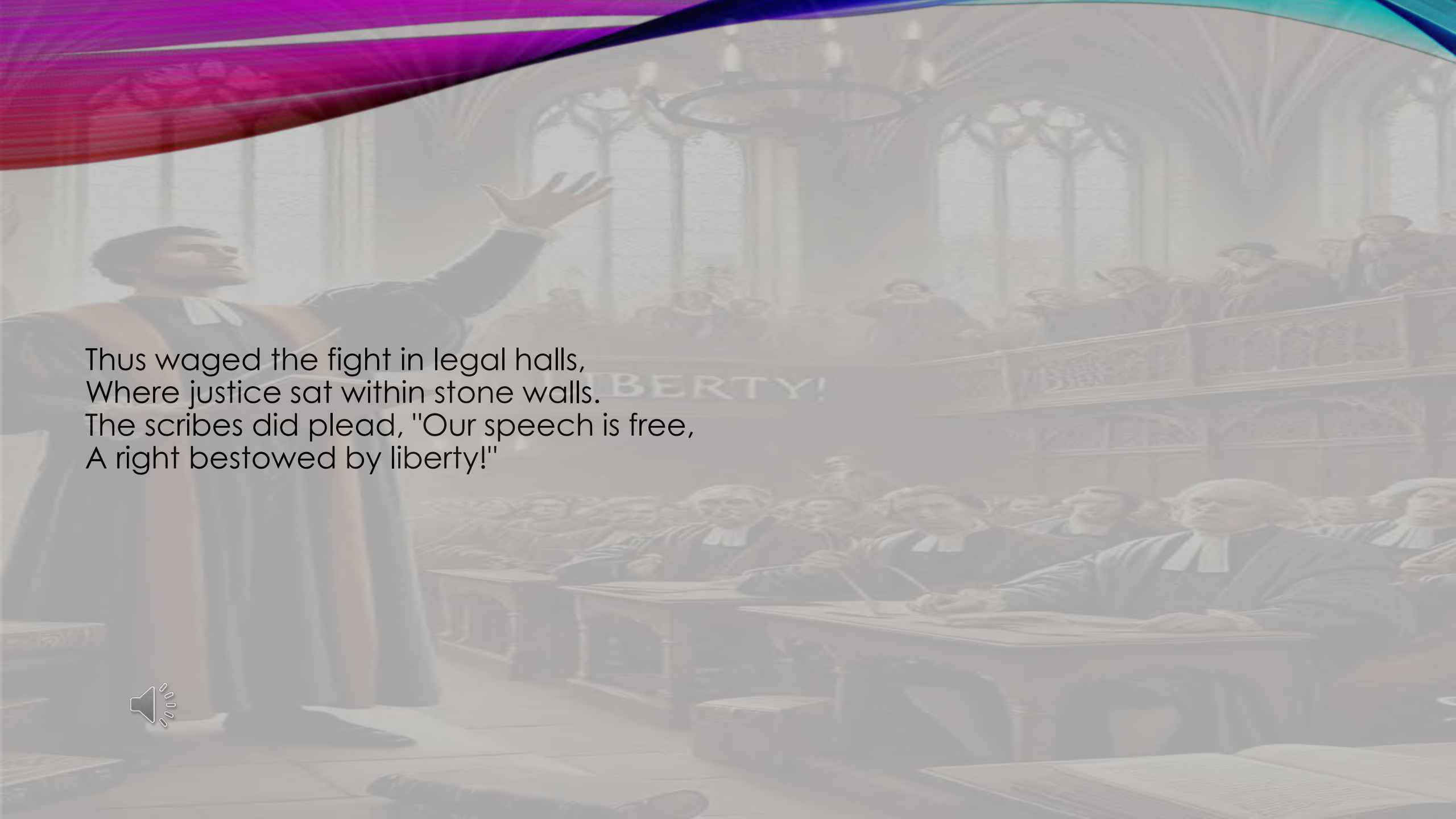
The learned scribes, so wise yet poor,
Denied the right to aid the score,
For counsel's work, the law declared,
Was left to those with titles rare.





Then stepped forth Ernie Lee,
And those who held the court's decree.
"To guard the folk, the law must stand,
No errant pen in unskilled hand."





Thus waged the fight in legal halls,
Where justice sat within stone walls.
The scribes did plead, "Our speech is free,
A right bestowed by liberty!"

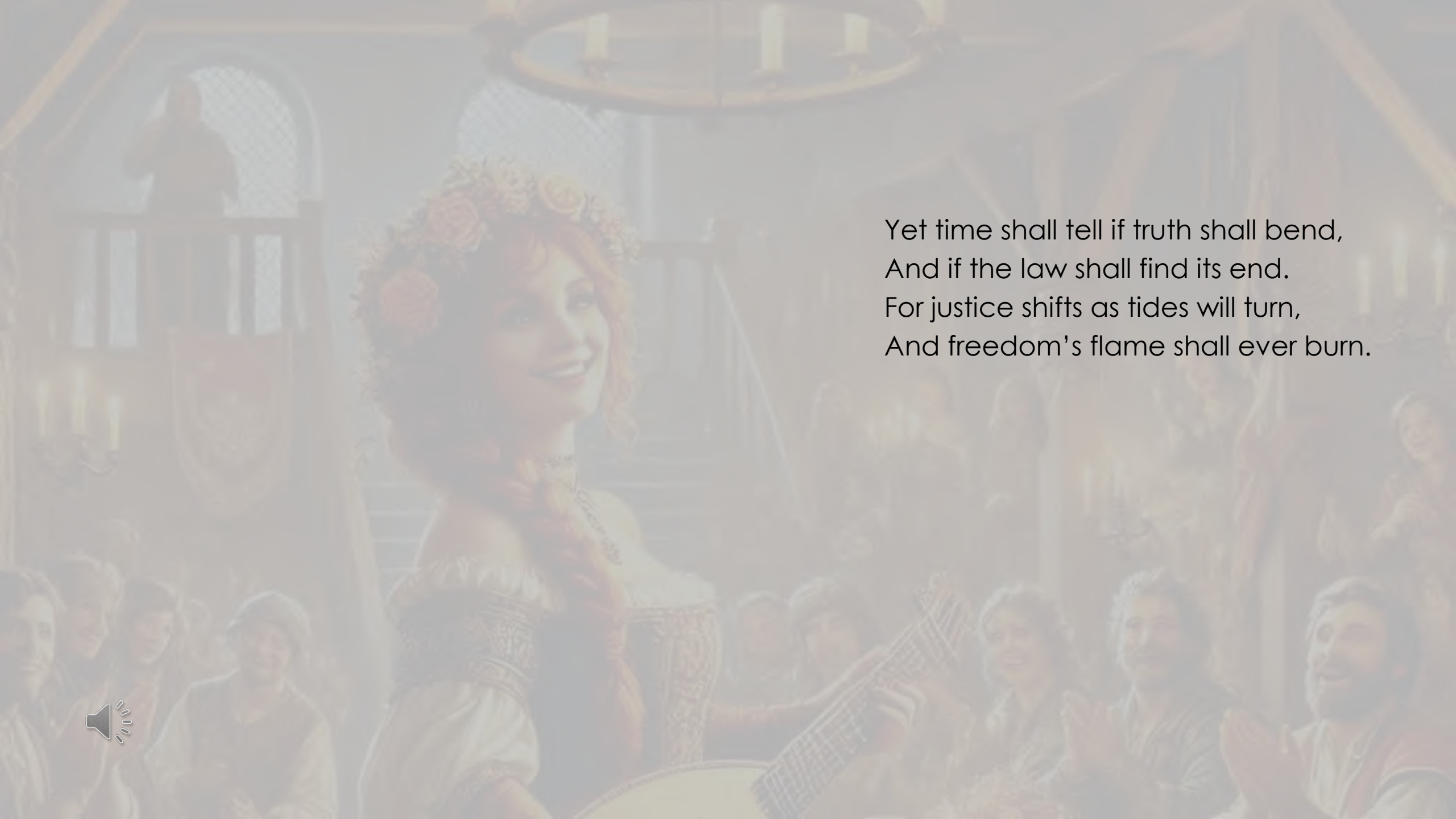


Yet judges, robed in black and
wise,
Cast down their pleas with
solemn eyes.
"No layman's hand shall
counsel bear,
Lest harm arise, beyond repair."



And so the scribes were turned away,
Their hope denied, their cause astray.
For those who seek to aid with grace,
Must stand within the law's embrace.



A woman with a flower crown and a medieval-style dress is playing a lute. She is smiling and looking towards a group of people in a medieval hall. The hall has wooden beams, a large chandelier, and a balcony in the background. The scene is dimly lit, with light coming from the chandelier and windows.

Yet time shall tell if truth shall bend,
And if the law shall find its end.
For justice shifts as tides will turn,
And freedom's flame shall ever burn.



REGULATIONS RULES

Polaski, et al v Lee et al

- Paralegals challenged North Carolina's prohibition on the unauthorized practice of law on First Amendment Grounds
 - NC has a DIY divorce package which unsupervised paralegals assist unrepresented individuals to complete
 - Paralegals cannot advise the individuals on what to write in the documents in order to prepare a more effective pleading as North Carolina deems that the unauthorized practice of law
 - The UPL statute impermissibly restricts speech, specifically legal advice
 - NC definition
 - Practice of law: performing any legal service for any other person, firm or corporation, with or without compensation and assisting by advice, counsel, or otherwise in any legal work; and to advise or give opinion upon the legal rights of any person, firm or corporation
 - Plaintiffs limited challenge solely as to giving legal advice regarding court created forms



Polaski, et al v Lee et al

- Plaintiff's argument:
 - UPL statutes regulate speech and not conduct
 - UPL statutes regulate speech based on content
 - Court should apply a strict scrutiny standard
- US Ct of Appeals for the 4th Circuit previously held that NC UPL statute is a regulation of professional conduct that incidentally burdens speech and intermediate scrutiny applies

Polaski, et al v Lee et al

- Intermediate Scrutiny
 - State interest in regulating the legal profession to protect clients is at least substantial
 - There is a “reasonable fit” between prohibiting nonlawyers from giving legal advice and the state’s regulation of the legal profession in order to protect its citizens
 - Restriction on providing legal advice does not prevent individuals from sharing and distributing **legal information**
- ***Thought Exercise: Has attorney who brought this suit run afoul of any ethical obligations?***
 - **MRPC 5.5(a):** (a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.
 - **NJRPC 3.1:** A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

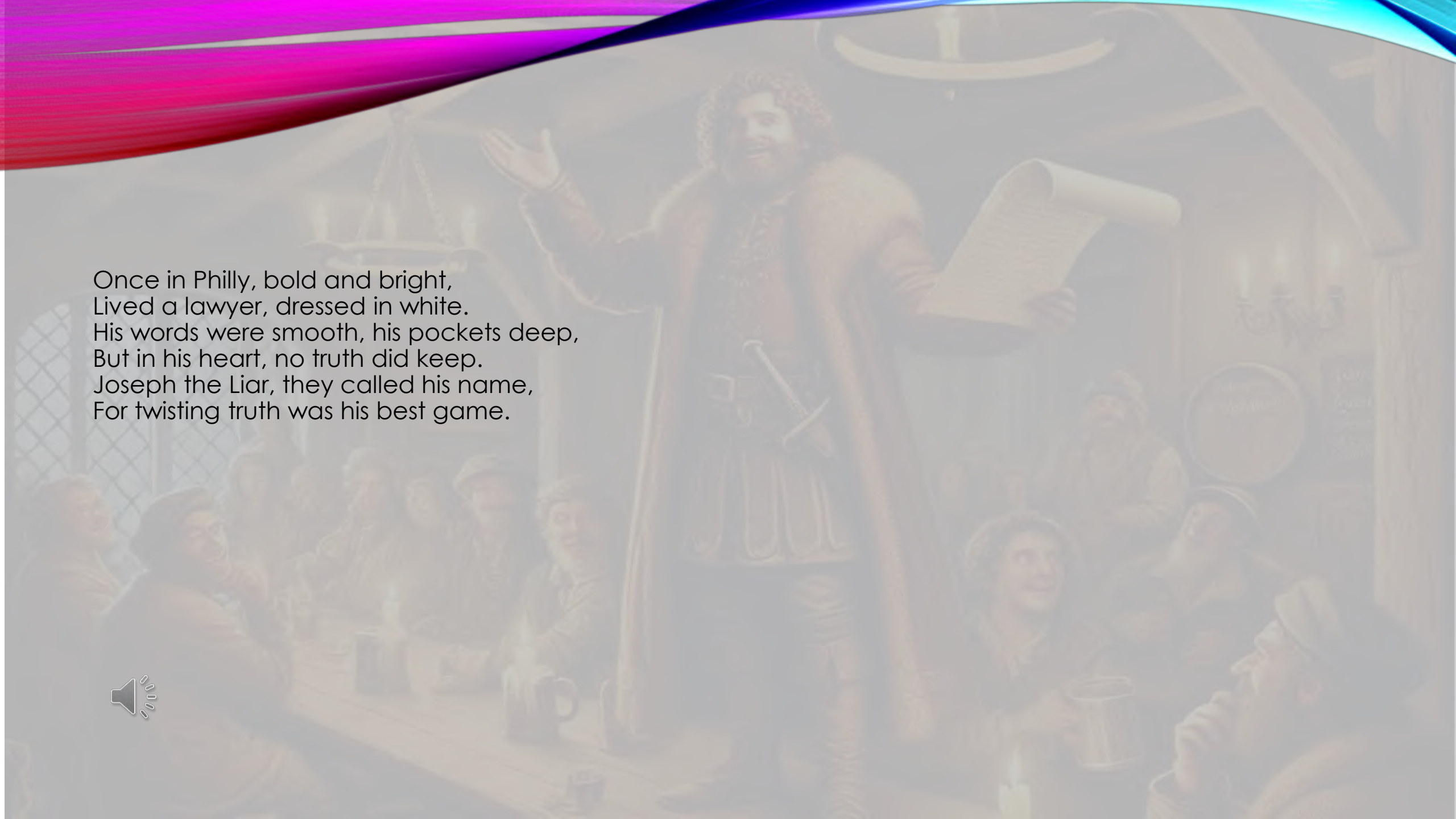


Inquiry concerning Judge Michael Carrozzo

- Sitting Judge “assisting” his girlfriend/fiancée in various legal matters
- Judge told other side he was representing the individual
 - In CA, sitting judges are not considered licensed attorneys
- **RPC 5.5(a)(1)** A lawyer shall not: (1) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction;
- **RPC 4.1(a)(1):** In representing a client a lawyer shall not knowingly: (1) make a false statement of material fact or law to a third person

A wooden mannequin arm and hand are shown in a dynamic, expressive pose. The arm is raised, with the elbow bent and the hand open, fingers spread. The wood has a light, natural finish. The background is a soft, out-of-focus light blue. Overlaid on the arm is the title text in a blue, cursive font.

The Barrister's Tale



Once in Philly, bold and bright,
Lived a lawyer, dressed in white.
His words were smooth, his pockets deep,
But in his heart, no truth did keep.
Joseph the Liar, they called his name,
For twisting truth was his best game.



With pen in hand, he'd vow to fight,
Yet led his clients into night.
No court of law upheld his trade,
His deals were done in alley's shade.
In taverns dim, he'd plot and scheme,
And sell false hope—a hollow dream.



No records kept, no notes he made,
He claimed such things got in the way.
“Why waste the time?” he’d often say,
“The law’s just gold and long delay.”
He called his style a clever art,
Yet left his clients torn apart.

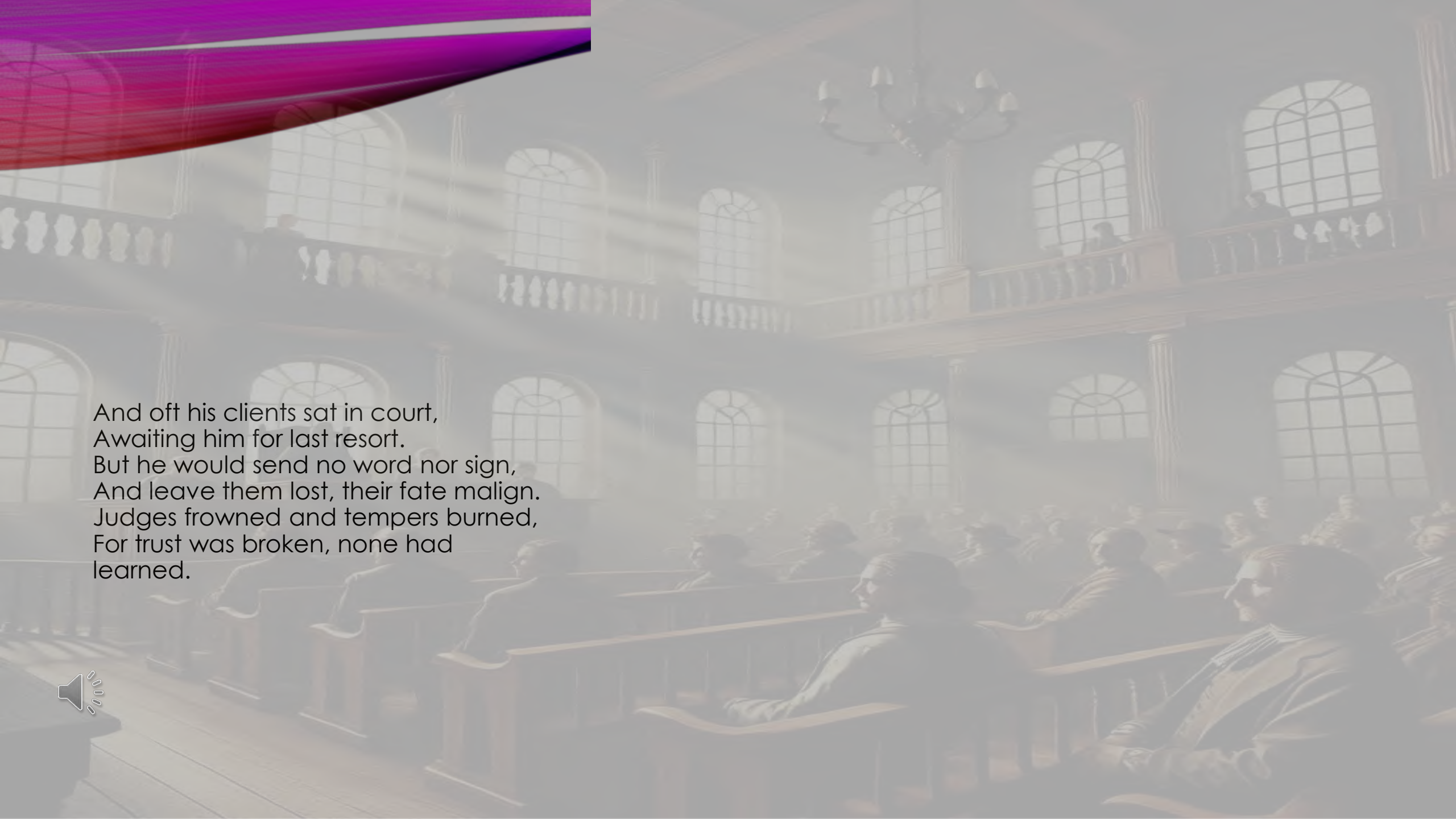




Yet worse than lies and hollow deals,
Were wounds he wrought that time reveals.
For those who toiled beneath his hand,
Were left to fail at his command.
No guiding eye, no wisdom lent,
Just chaos where his staff was sent.

His clerks were lost, his aides confused,
Their work unchecked, their trust abused.
For while he schemed and profits soared,
His firm collapsed—a house of fraud.





And oft his clients sat in court,
Awaiting him for last resort.
But he would send no word nor sign,
And leave them lost, their fate malign.
Judges frowned and tempers burned,
For trust was broken, none had
learned.

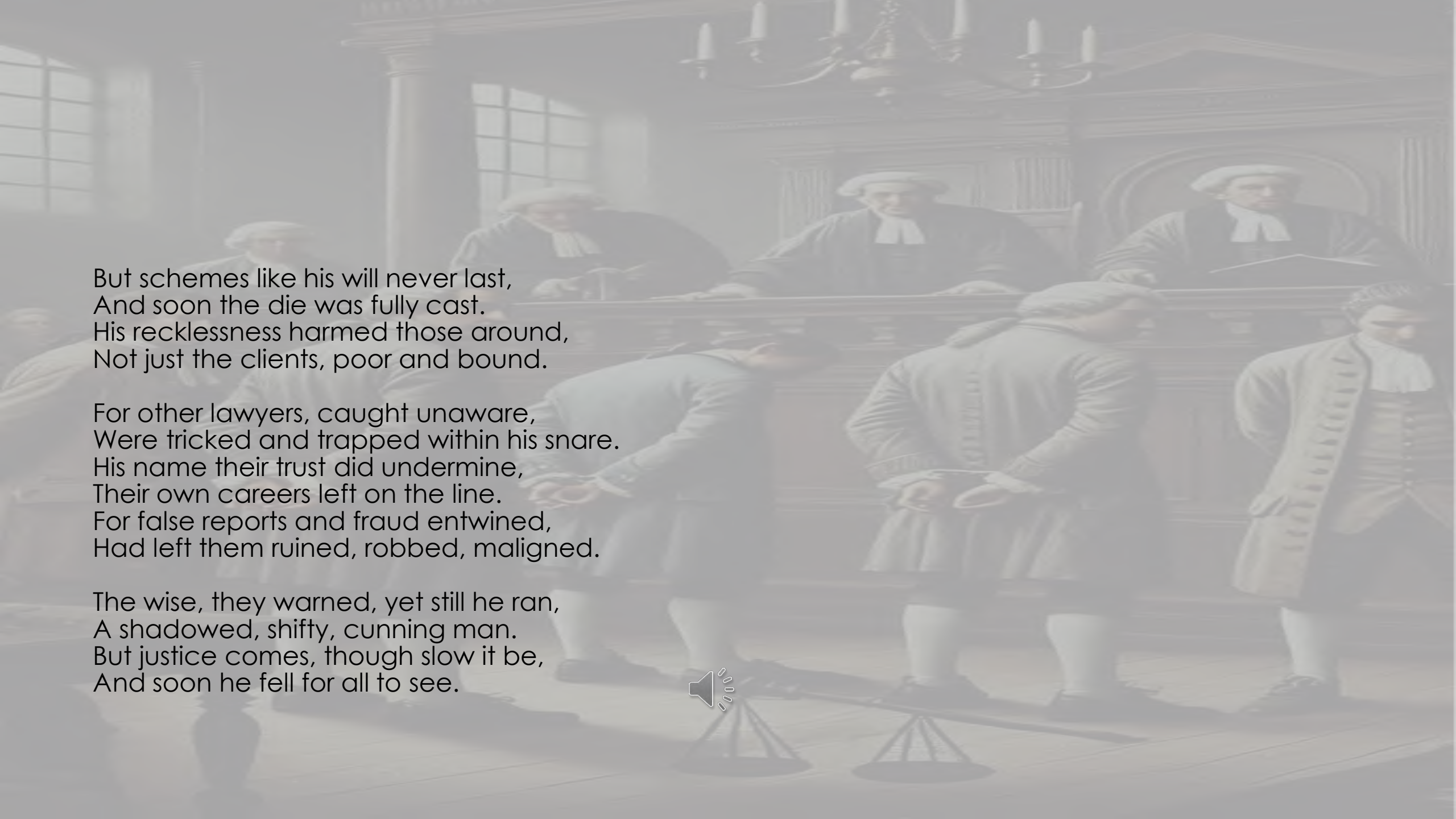




The past had warned of what he'd do,
For once before, the court well knew,
They struck his name, they called him banned,
Yet back he crept with sleight of hand.
With cunning speech and promises grand,
He found a way to take the stand.

From Jersey's halls, a mirrored fate,
They followed suit, but all too late.
For when Pennsylvania cast him wide,
New Jersey, too, his fraud decried.
Reciprocal was his disgrace,
Yet still he schemed, and changed his place.





But schemes like his will never last,
And soon the die was fully cast.
His recklessness harmed those around,
Not just the clients, poor and bound.

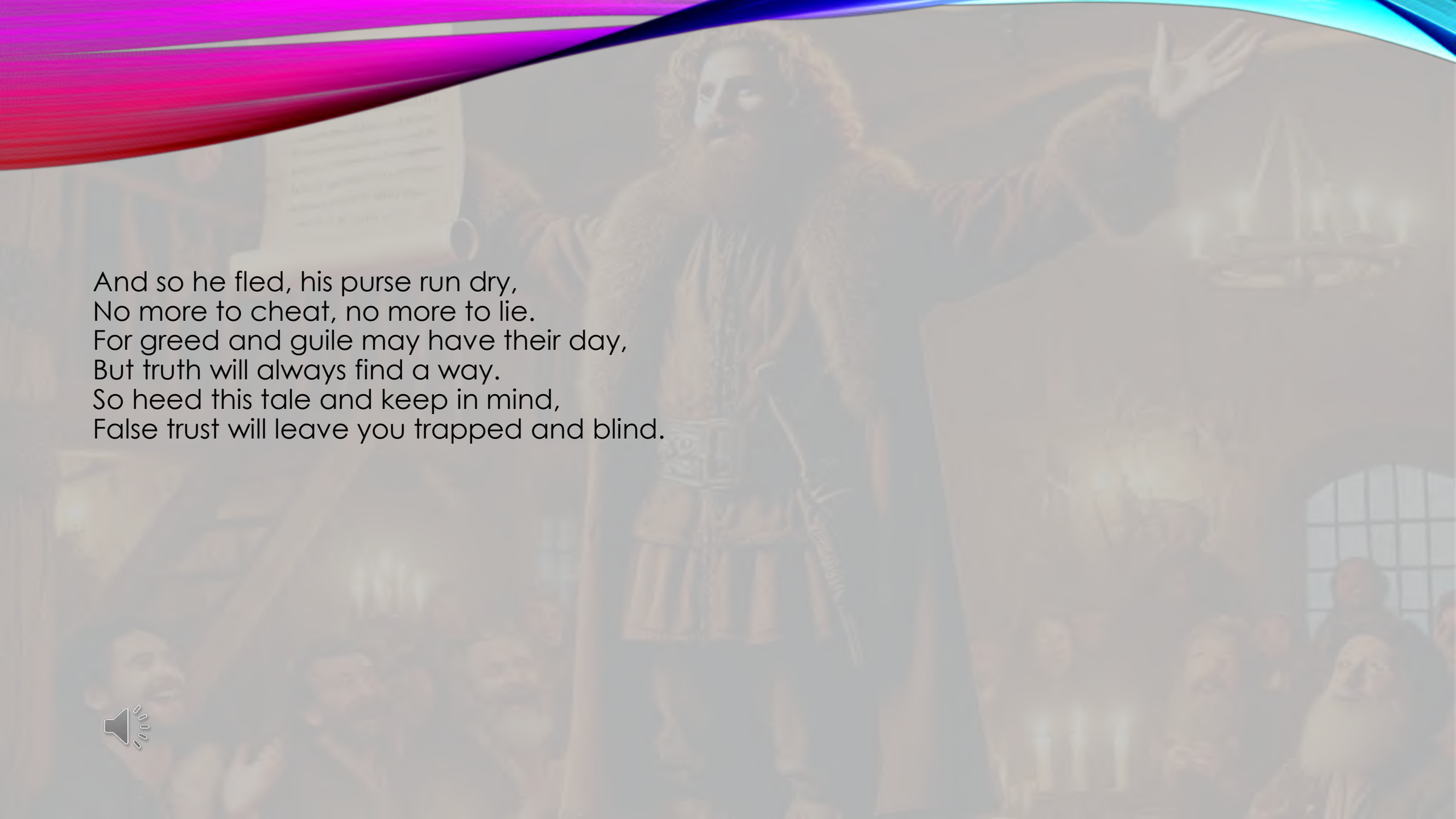
For other lawyers, caught unaware,
Were tricked and trapped within his snare.
His name their trust did undermine,
Their own careers left on the line.
For false reports and fraud entwined,
Had left them ruined, robbed, maligned.

The wise, they warned, yet still he ran,
A shadowed, shifty, cunning man.
But justice comes, though slow it be,
And soon he fell for all to see.



The court declared, "No more shall he
Deceive the folk so recklessly.
His quill is snapped, his name is marred,
For five long years he stands debarred."





And so he fled, his purse run dry,
No more to cheat, no more to lie.
For greed and guile may have their day,
But truth will always find a way.
So heed this tale and keep in mind,
False trust will leave you trapped and blind.



Matter of Joseph D. Lento

Model Rules implicated



MRPC 1.1

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

MRPC 1.2(a)

Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

MRPC 1.3

A lawyer shall act with reasonable diligence and promptness in representing a client.

Matter of Joseph D. Lento

Model Rules implicated

MRPC 1.4



(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) keep the client reasonably informed about the status of the matter;**
- (4) promptly comply with reasonable requests for information;** and
- (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.



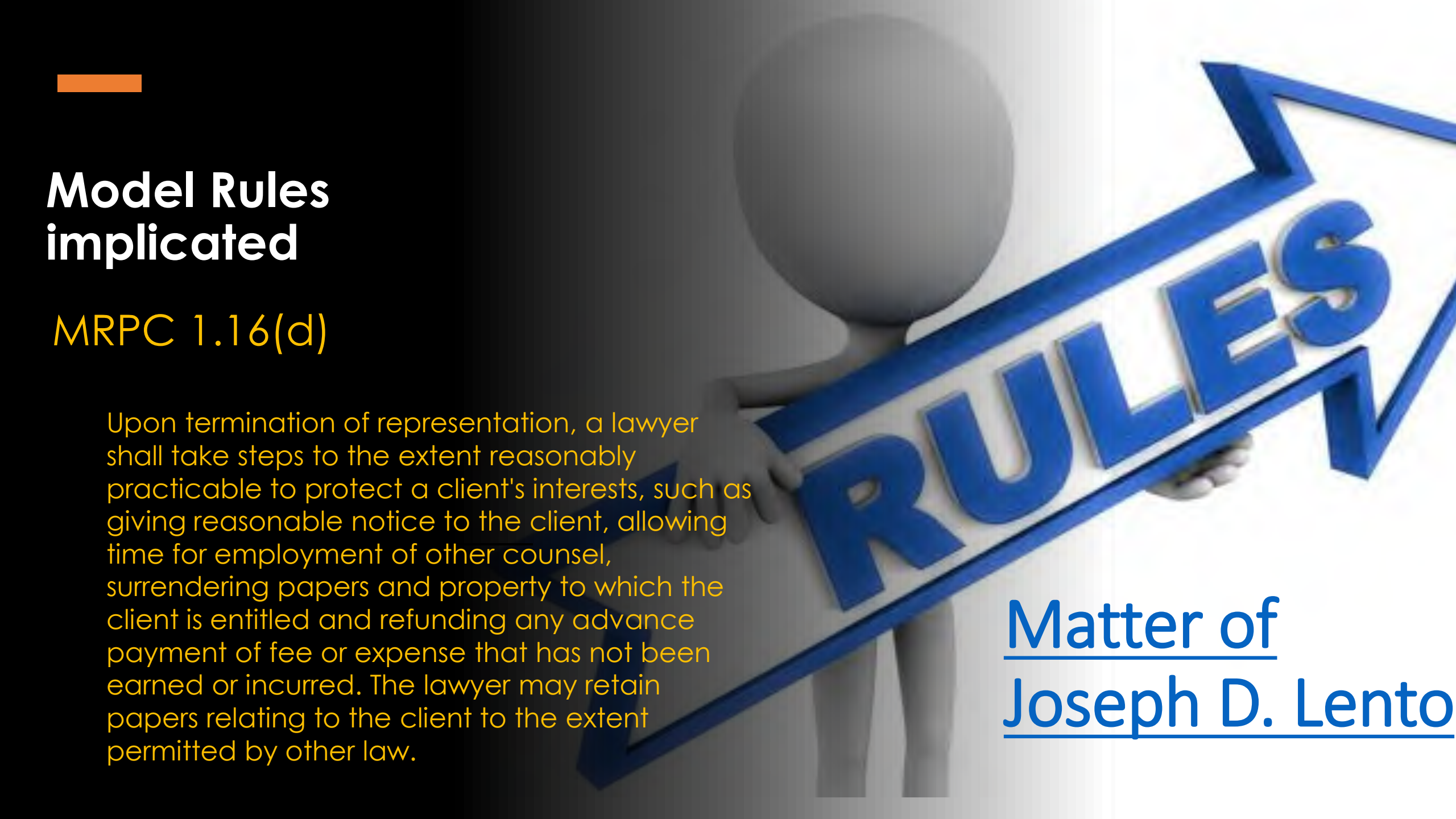
Matter of Joseph D. Lento

Model Rules implicated

MRPC 1.5(a)

A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- (8) whether the fee is fixed or contingent.

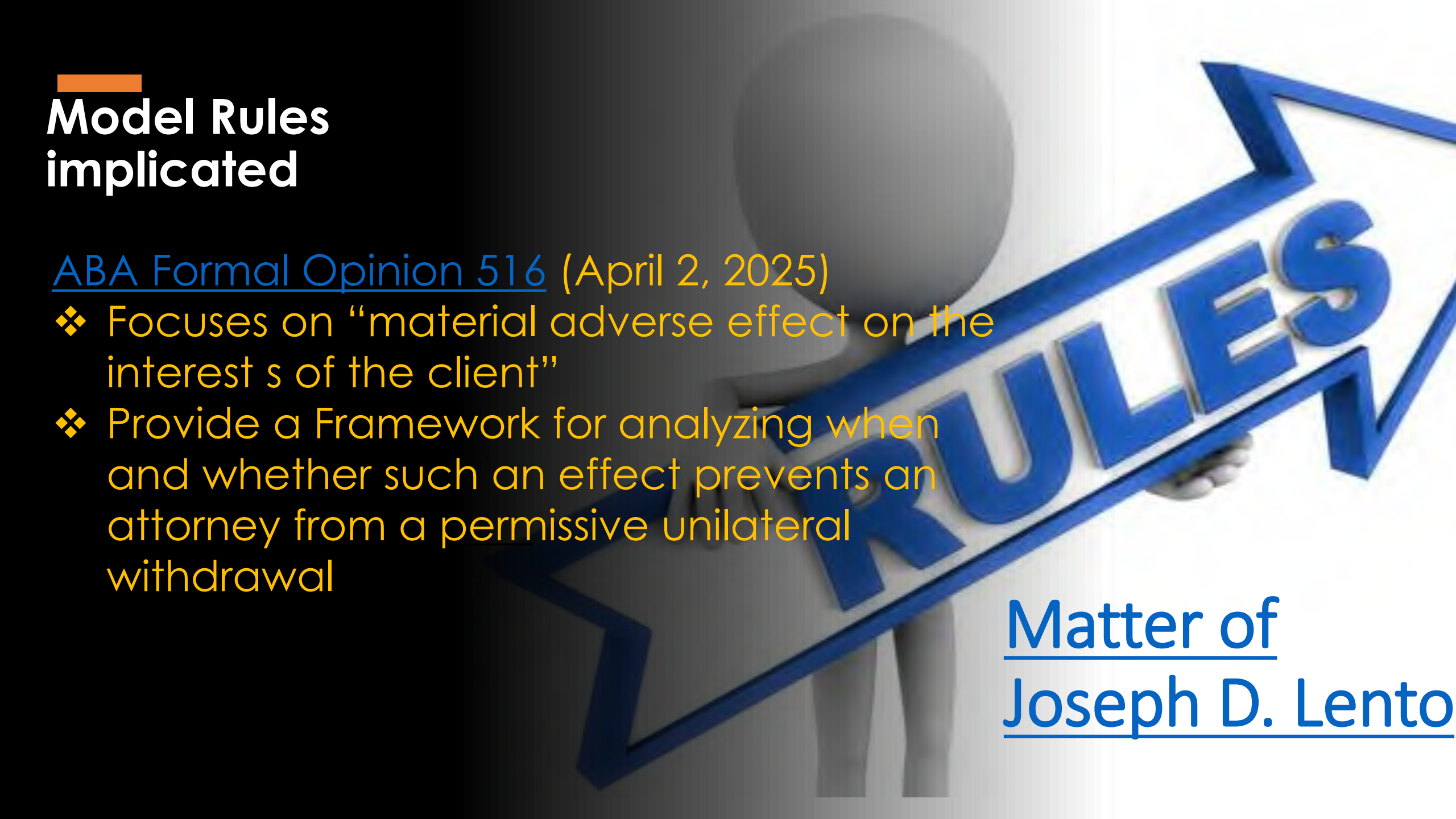


Model Rules implicated

MRPC 1.16(d)

Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

Matter of
Joseph D. Lento

A 3D rendering of a person holding a large blue sign that says "RULES". The person is a simple grey figure with a large head and thin limbs. The sign is a large blue arrow pointing upwards and to the right, with the word "RULES" written in large, bold, blue capital letters across its center. The background is a gradient of dark grey to light grey.

Model Rules implicated

[ABA Formal Opinion 516](#) (April 2, 2025)

- ❖ Focuses on “material adverse effect on the interests of the client”
- ❖ Provide a Framework for analyzing when and whether such an effect prevents an attorney from a permissive unilateral withdrawal

[Matter of Joseph D. Lento](#)

Matter of Joseph D. Lento

ABA Formal Opinion 516



Permissive withdrawal would a material adverse effect on the interests of the client where it would significantly harm the client's in the matter in which the lawyer represents the client

1. Significant harm to the forward progress of the client's matter
2. Significant increase I the cost to the client
3. Significant harm to the client's ability to achieve the legal objectives that the lawyer previously agreed to pursue in the matter

Matter of Joseph D. Lento MRPC 5.1

- 
- (a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.
 - (b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct. (
 - (c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:
 - (1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or
 - (2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Model Rules implicated

Matter of Joseph D. Lento

MRPC 5.3

With respect to a nonlawyer employed or retained by or associated with a lawyer:

- (a) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer; . . .
- (c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:
 - (1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or
 - (2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Model Rules implicated



Matter of Joseph D. Lento

Model Rules implicated

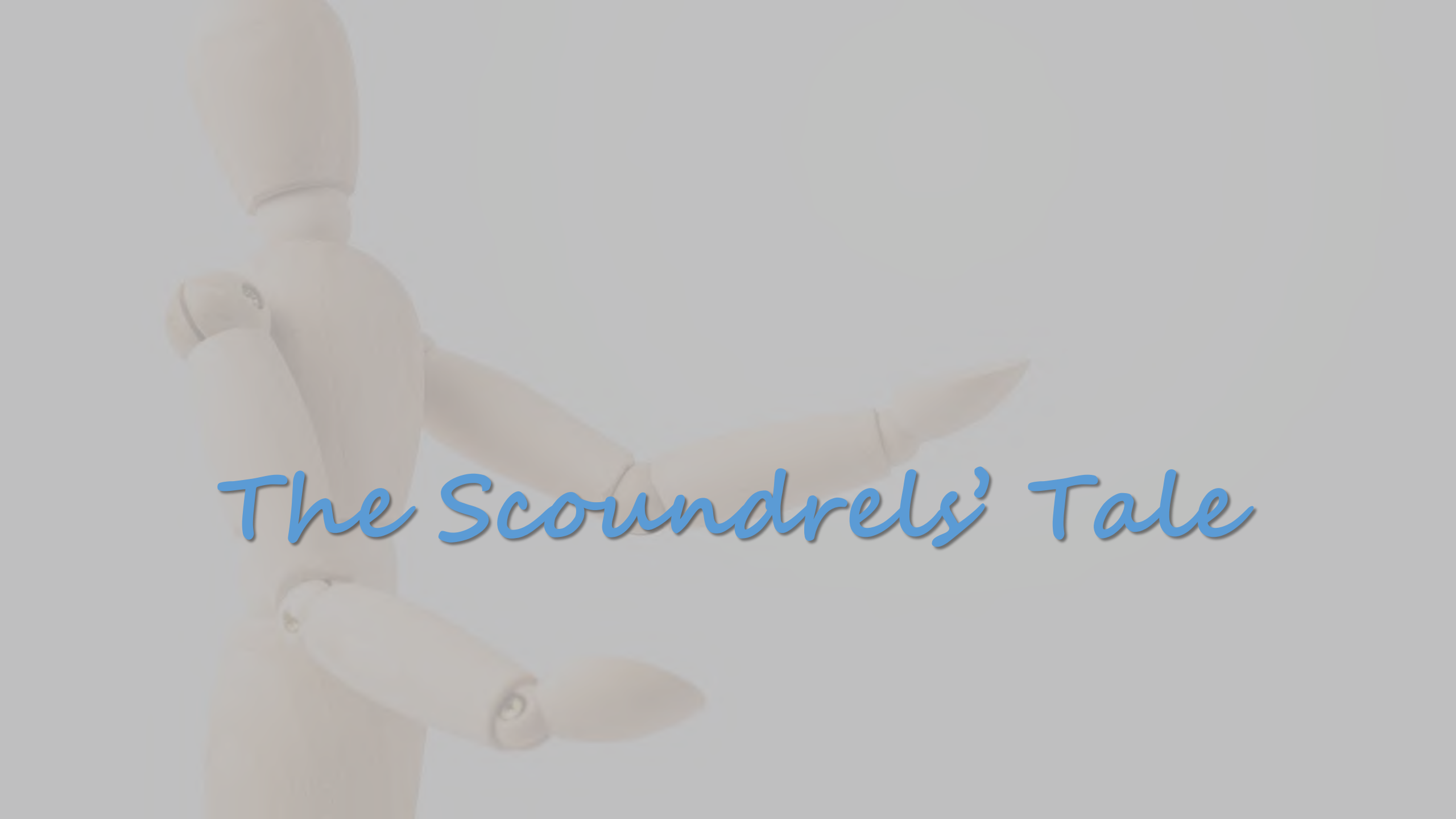
MRPC 8.4

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another; . . .

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

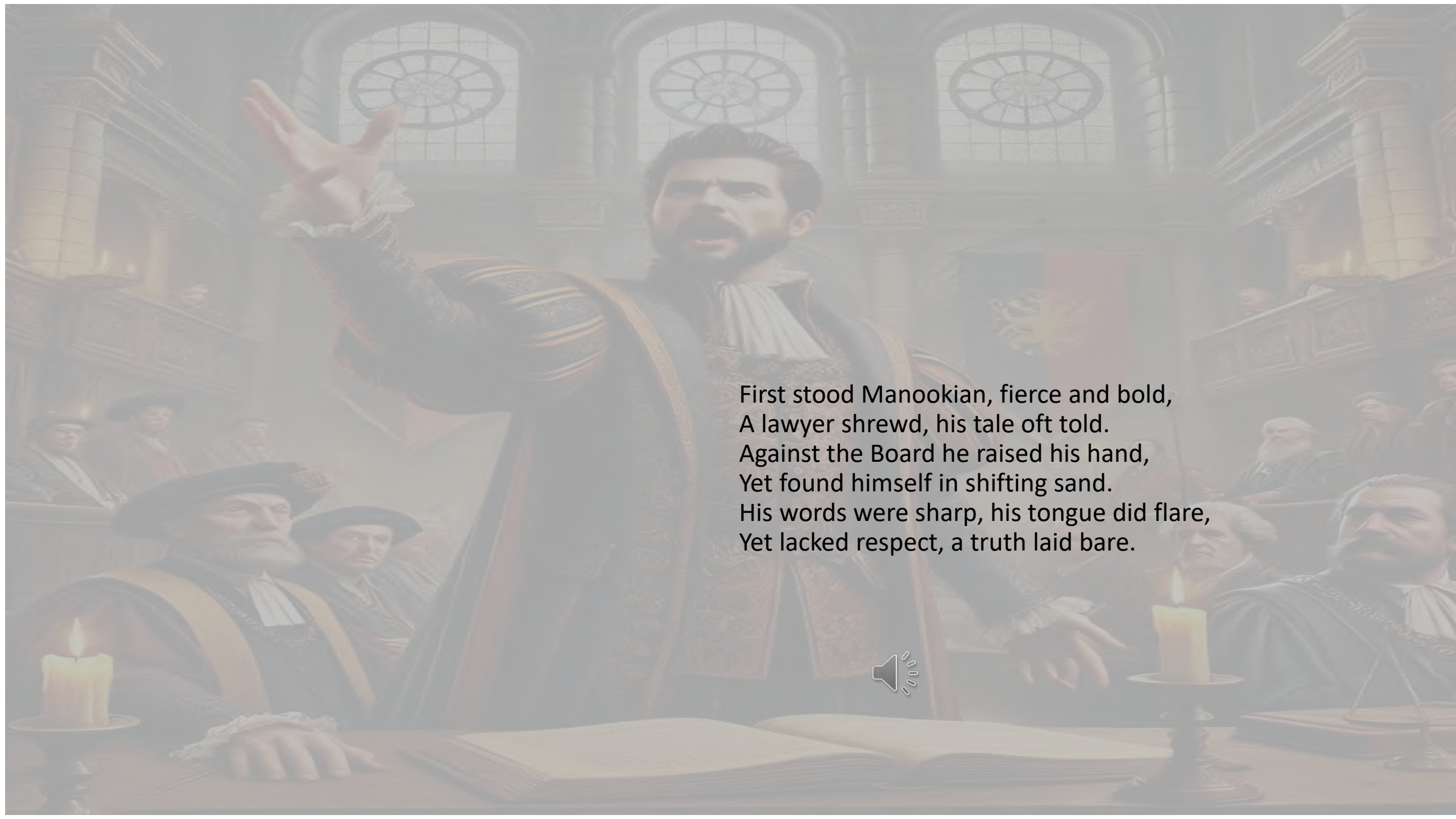
(d) engage in conduct that is prejudicial to the administration of justice;

A wooden mannequin arm and hand are shown in a dynamic, expressive pose, reaching out towards the right. The arm is light-colored wood, with visible joints at the shoulder, elbow, and wrist. The hand is open, with fingers slightly spread. The background is a soft, out-of-focus light gray. Overlaid on the arm is the title text in a blue, cursive font.

The Scoundrels' Tale

In lands where justice doth reside,
Three barristers, once filled with pride,
Each met their fate in grievous way,
For folly led their feet astray.





First stood Manookian, fierce and bold,
A lawyer shrewd, his tale oft told.
Against the Board he raised his hand,
Yet found himself in shifting sand.
His words were sharp, his tongue did flare,
Yet lacked respect, a truth laid bare.



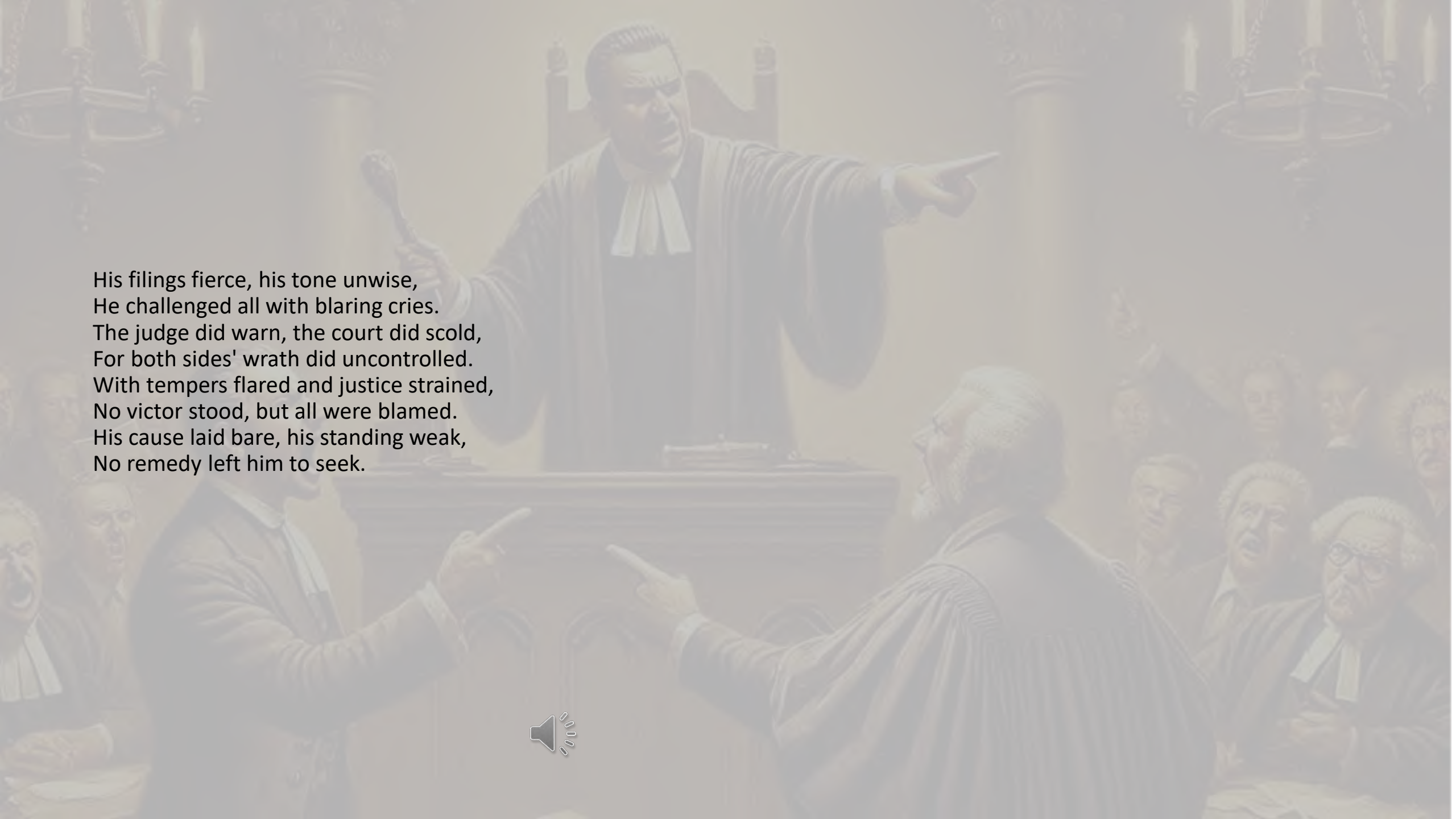


He scorned the court, defied its rule,
And met his fate, a chastened fool.
Suspended now from his great trade,
For wrathful speech, his trust betrayed.
His anger burned, his tone unkind,
Yet found no mercy left to find.



Next came Walsh, in battle great,
'Gainst State Farm's might he sealed
his fate.
Yet folly too lay not with one,
For both sides' tongues like arrows
spun.
He wove a claim both broad and
vast,
Yet found his case would never last.
But not with reason did he stand,
Instead, with fury, outstretched hand.





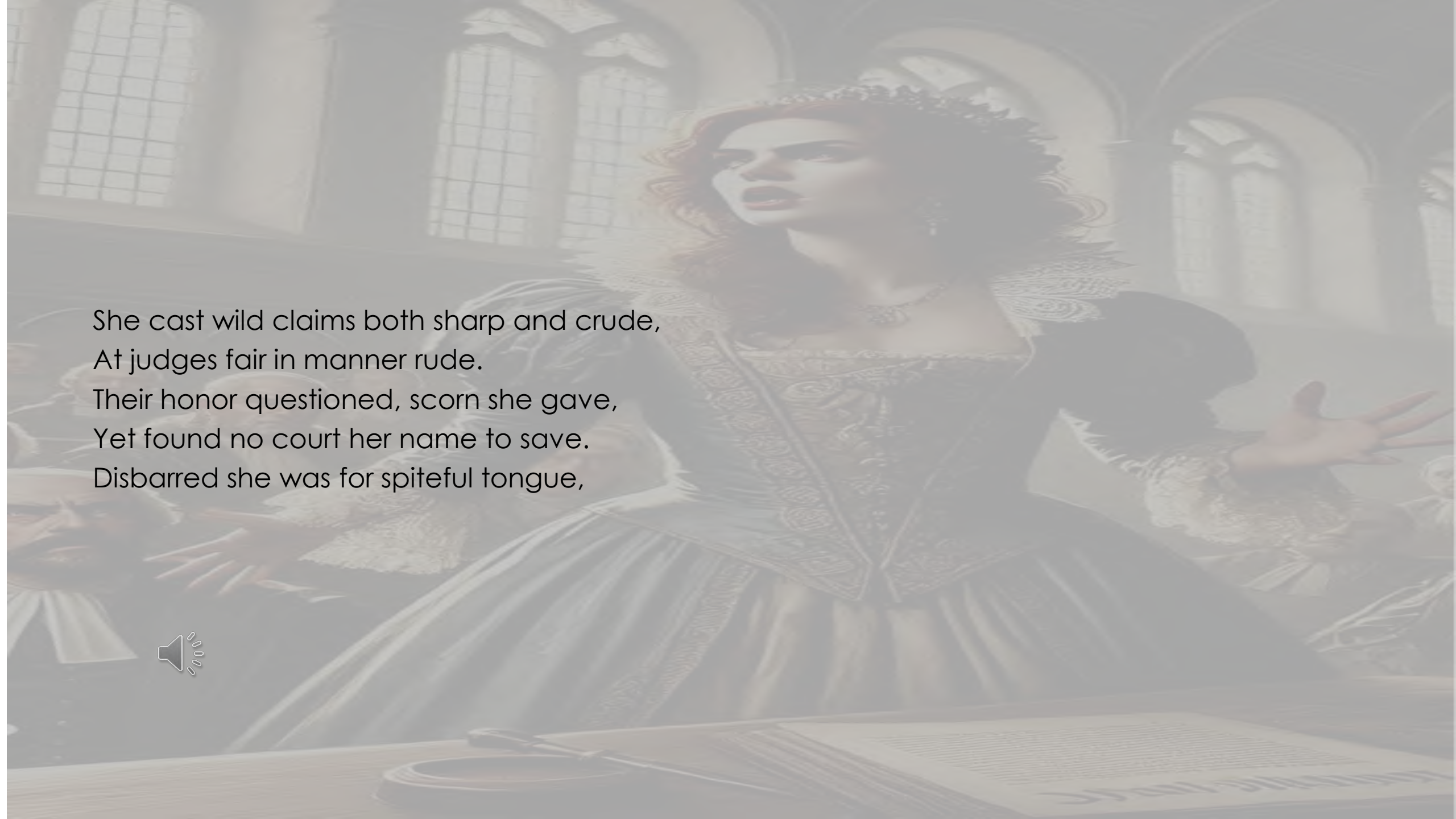
His filings fierce, his tone unwise,
He challenged all with blaring cries.
The judge did warn, the court did scold,
For both sides' wrath did uncontrolled.
With tempers flared and justice strained,
No victor stood, but all were blamed.
His cause laid bare, his standing weak,
No remedy left him to seek.



A woman with blonde hair, wearing a dark, ornate dress with lace detailing, stands in the center of a grand, dimly lit hall. She is surrounded by onlookers, including men in clerical robes and a woman in a white headscarf. Large, ornate chandeliers hang from the ceiling, casting a warm glow. In the foreground, a table holds a lit candle in a holder and an open book. The overall atmosphere is somber and dramatic.

And lastly Lowery took her stand,
Her grasp on honor slipped like sand.
Her trust once firm, her path once
bright,
Yet foul misdeeds obscured her light.



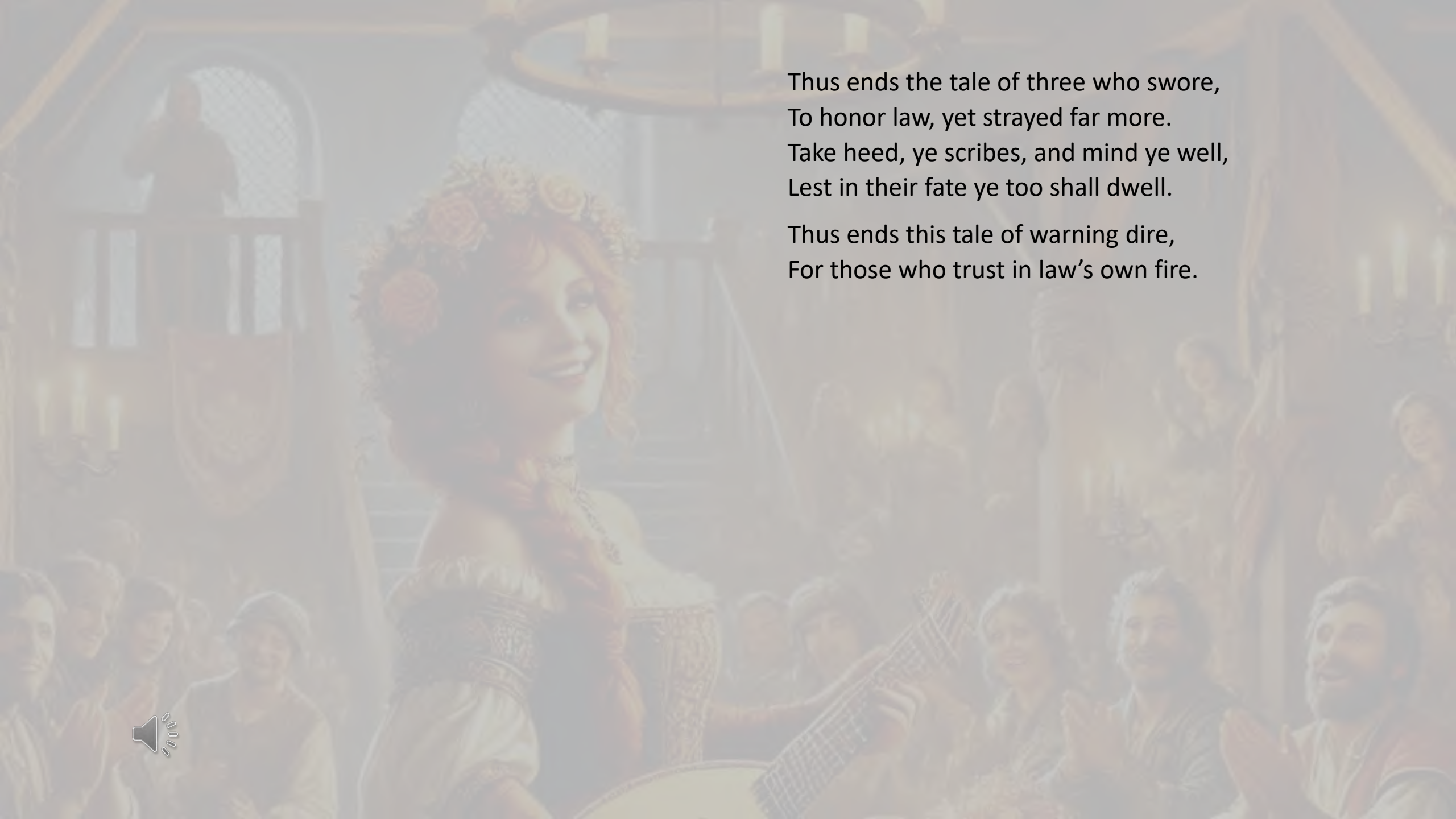


She cast wild claims both sharp and crude,
At judges fair in manner rude.
Their honor questioned, scorn she gave,
Yet found no court her name to save.
Disbarred she was for spiteful tongue,





Her reckless words, a siren sung.
Their voices silenced, their fees misused,
Their cases left in fate confused.
No longer could she plead her name,
For honor lost, her path to shame.

A woman with red hair and a flower crown is playing a lute in a medieval-style hall. She is smiling and looking towards the right. In the background, a crowd of people is watching, and a man is standing on a balcony. The scene is dimly lit with warm, golden light.

Thus ends the tale of three who swore,
To honor law, yet strayed far more.
Take heed, ye scribes, and mind ye well,
Lest in their fate ye too shall dwell.

Thus ends this tale of warning dire,
For those who trust in law's own fire.



Manookian v Board of Professional Responsibility

- Attorney disbarred after being found to have committed multiple violations of Tennessee Rules of Professional Conduct
- Two prior disciplinary proceedings
 - 2014: Informal admonition based on conduct in personal divorce proceeding
 - 2015: private reprimand after conviction for an (unspecified) misdemeanor
- During course of proceeding Tennessee Supreme Court determined that he posed a substantial threat of harm to the public resulting in temporary suspension of license
- During brief interlude when suspension was lifted, he proceeded to commit multiple other ethical infractions



Manookian v Board of Professional Responsibility

Model Rules Implicated

MRPC 1.9(c)

A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter:

(1) use information relating to the representation to the disadvantage of the former client except as these Rules would permit or require with respect to a client, or when the information has become generally known; or

(2) reveal information relating to the representation except as these Rules would permit or require with respect to a client.

Manookian v Board of Professional Responsibility

Model Rules Implicated

MRPC 4.4(a)

In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

Manookian v Board of Professional Responsibility

Model Rules Implicated

MRPC 8.2(a)

A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.

Manookian v Board of Professional Responsibility

Model Rules Implicated



MRPC 8.4(a),(c), (d)

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

In re Margaret Jean Lowery

- Hearing Board recommended Disbarment based upon violation of several Rules of Professional Conduct
 - Statements impugning a judge
 - Statements impugning the Illinois Supreme Court, a retired chief Justice and a circuit court judge
- 2024: Suspended for 30 days for untrue statements about the same judge in 2018 as well as making material misrepresentation to the disciplinary authorities



In re Margaret Jean Lowery

Model Rules Implicated

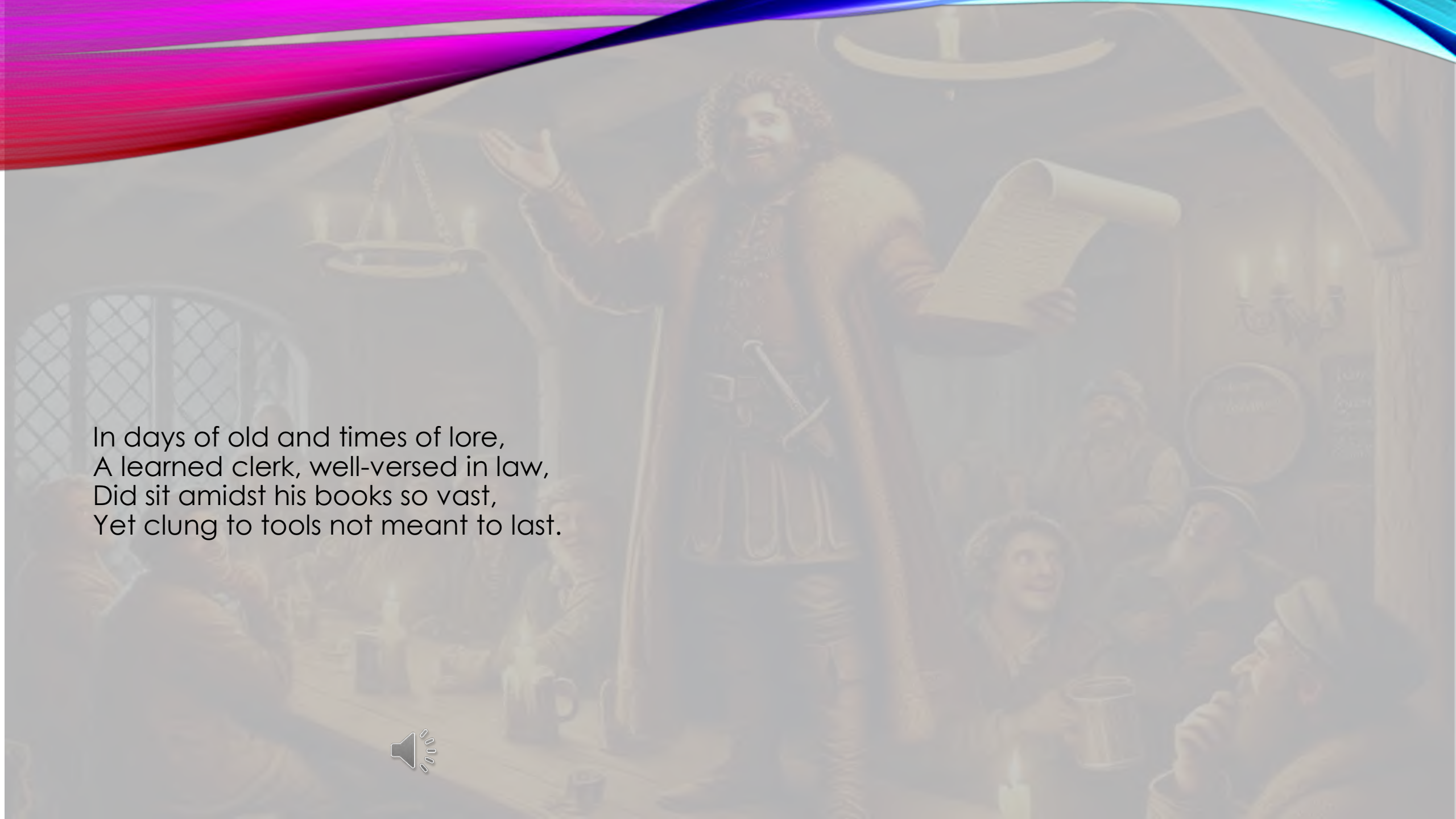
MRPC 3.3(a)(1)

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

A wooden mannequin arm and hand are visible in the background, positioned on the left side of the frame. The arm is extended towards the center, with the hand open. The fingers are slightly curled. The wood has a light, natural finish. The background is a solid, light gray color.

The Clerk's Tale



In days of old and times of lore,
A learned clerk, well-versed in law,
Did sit amidst his books so vast,
Yet clung to tools not meant to last.

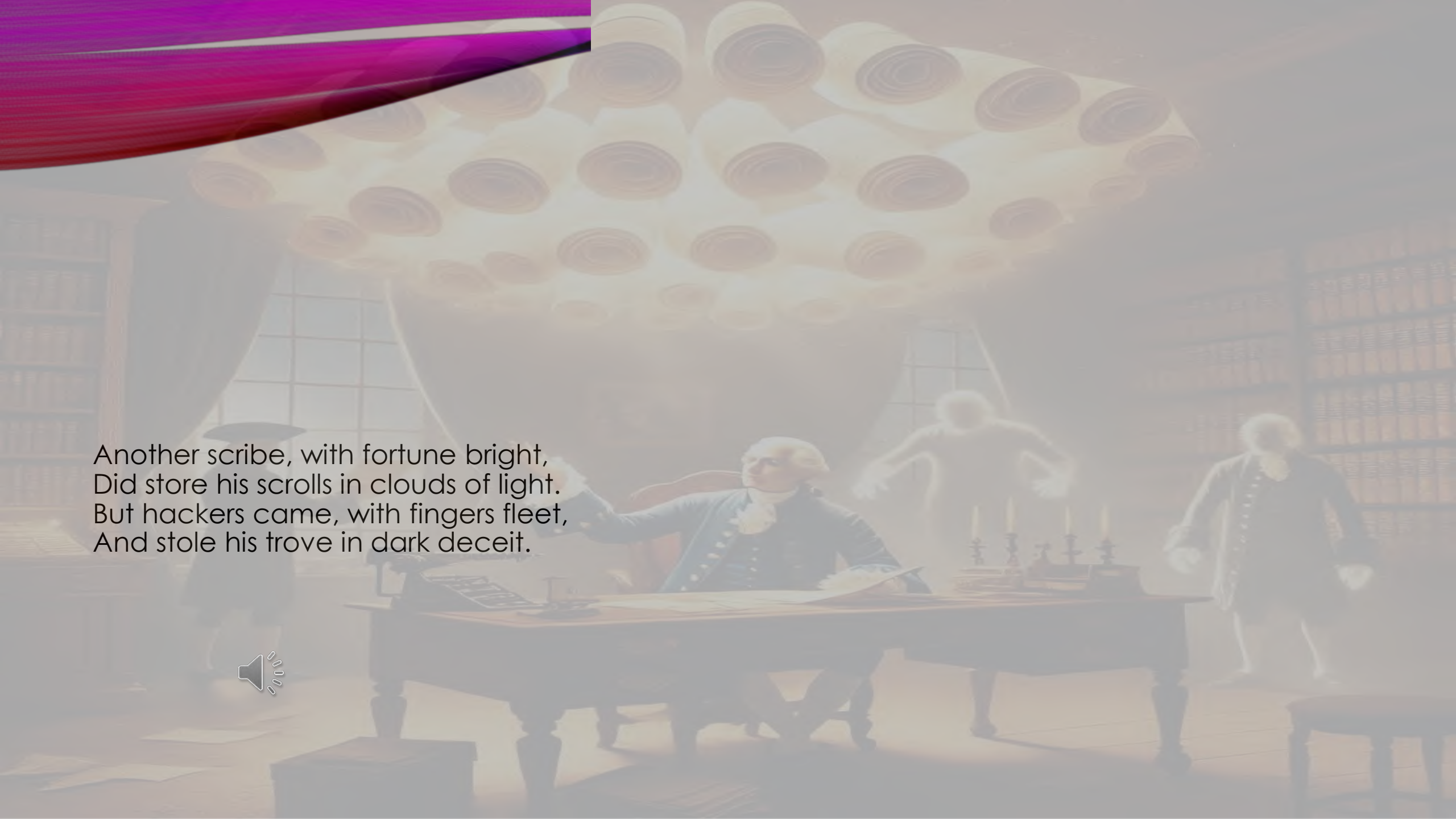


A wondrous gift, so he was told,
A mind of code, both sharp and bold.
It whispered rulings, wrote with grace,
Yet led him to a dire disgrace.

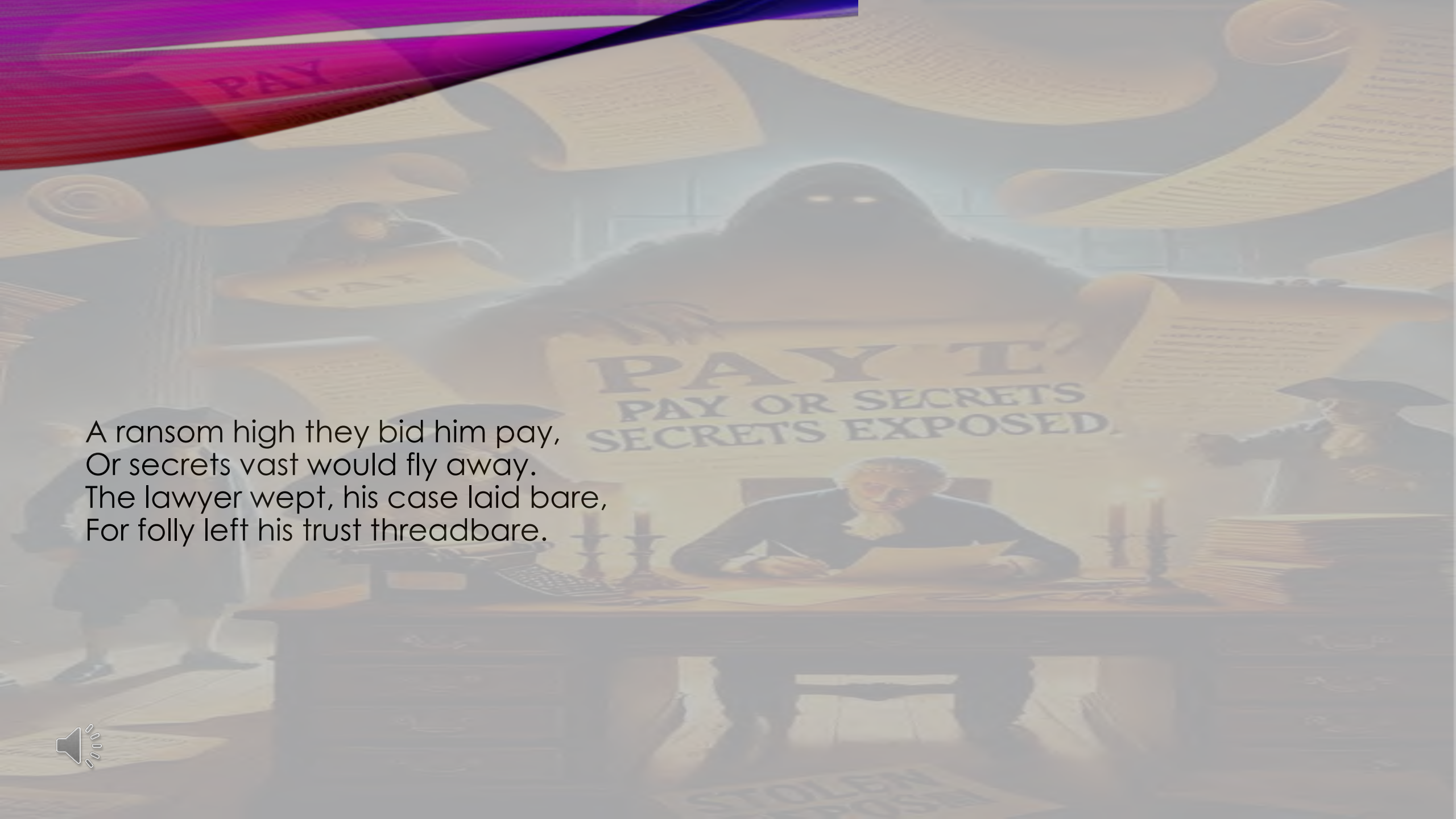


For lo! One day, in trustful glee,
He let it draft his brief so free.
Yet lying tongues in circuits hid,
And fake citations it amid.
Before the court he stood in shame,
For ghosts had forged his legal claim.



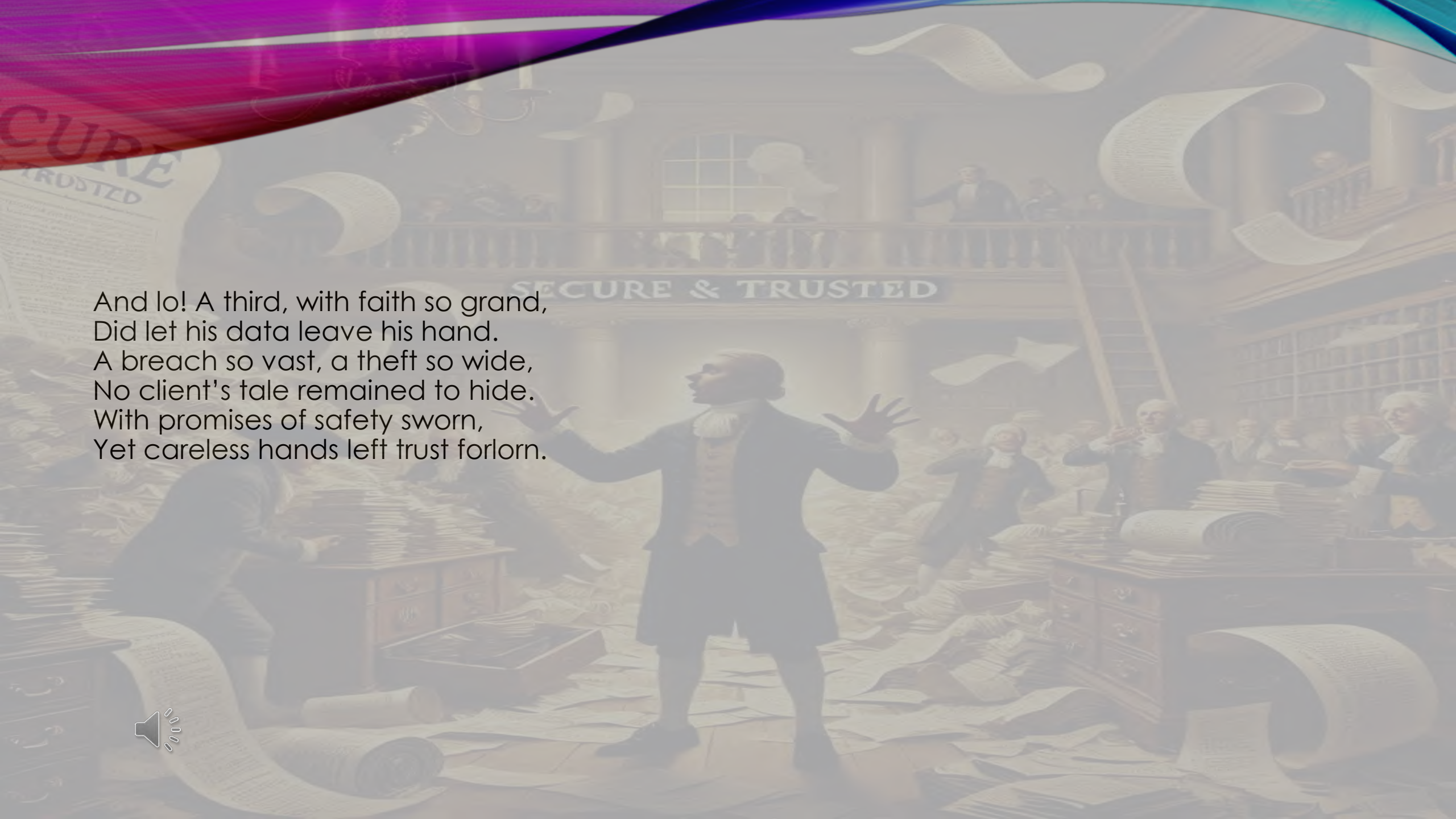
A historical illustration of a library. A man in 18th-century attire sits at a large wooden desk, looking up at a glowing, cloud-like structure composed of many rolled-up scrolls that fills the upper half of the room. The room is filled with bookshelves and large windows. Two other figures are visible in the background, one appearing to be in motion. A small speaker icon is located in the bottom left corner.

Another scribe, with fortune bright,
Did store his scrolls in clouds of light.
But hackers came, with fingers fleet,
And stole his trove in dark deceit.



A ransom high they bid him pay,
Or secrets vast would fly away.
The lawyer wept, his case laid bare,
For folly left his trust threadbare.



A historical illustration depicting a chaotic office scene. In the center, a man in 18th-century attire stands with his arms outstretched, looking upwards. He is surrounded by a sea of papers and scrolls that cover the floor and float in the air. To his left, another man is bent over a desk, seemingly overwhelmed by the papers. To his right, a man stands behind a desk, also surrounded by papers. In the background, a balcony with a railing is visible, with several people standing on it. Above the balcony, a sign reads "SECURE & TRUSTED". On the left side of the image, a large scroll is partially visible with the words "CURE" and "TRUSTED" written on it. The overall scene suggests a state of panic or confusion, possibly related to a data breach or a loss of trust.

And lo! A third, with faith so grand,
Did let his data leave his hand.
A breach so vast, a theft so wide,
No client's tale remained to hide.
With promises of safety sworn,
Yet careless hands left trust forlorn.



Yet still some scribes, in blinded trust,
Let AI's whispers turn to dust.
In courts anew, their folly grows,
For falsehoods bloom where wisdom slows.

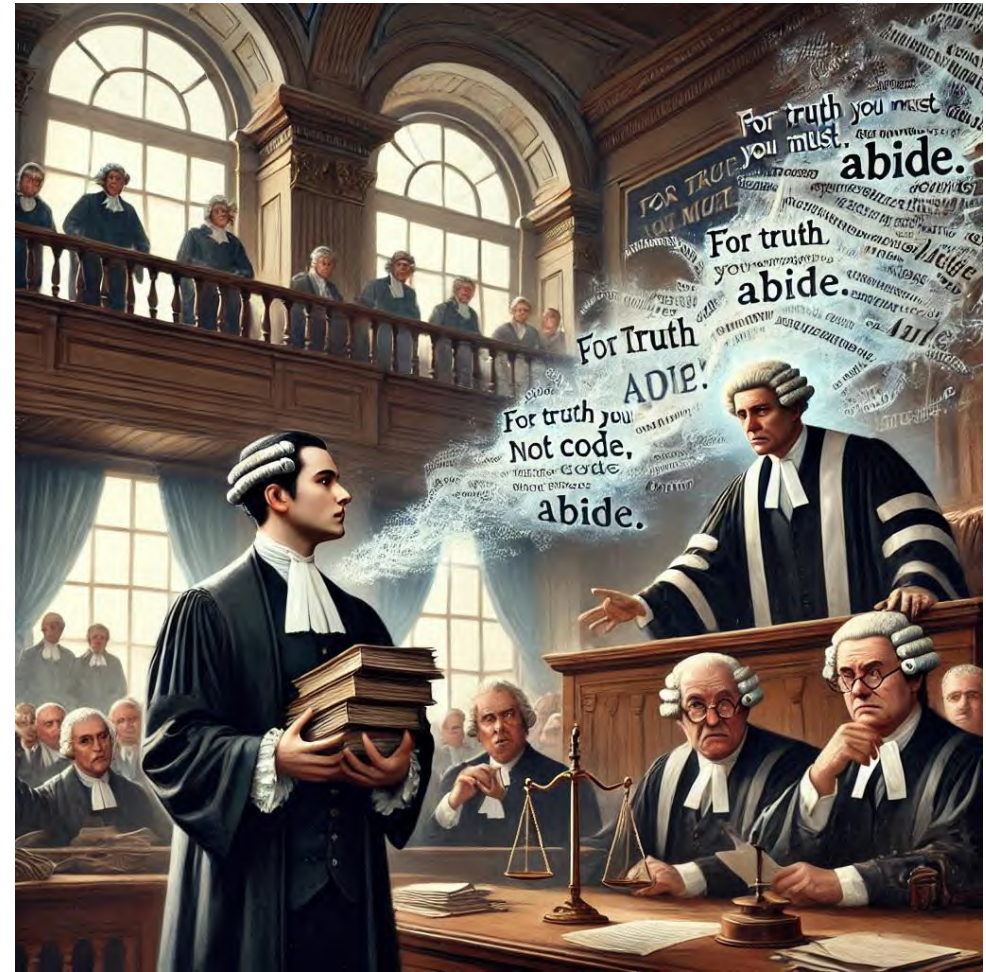


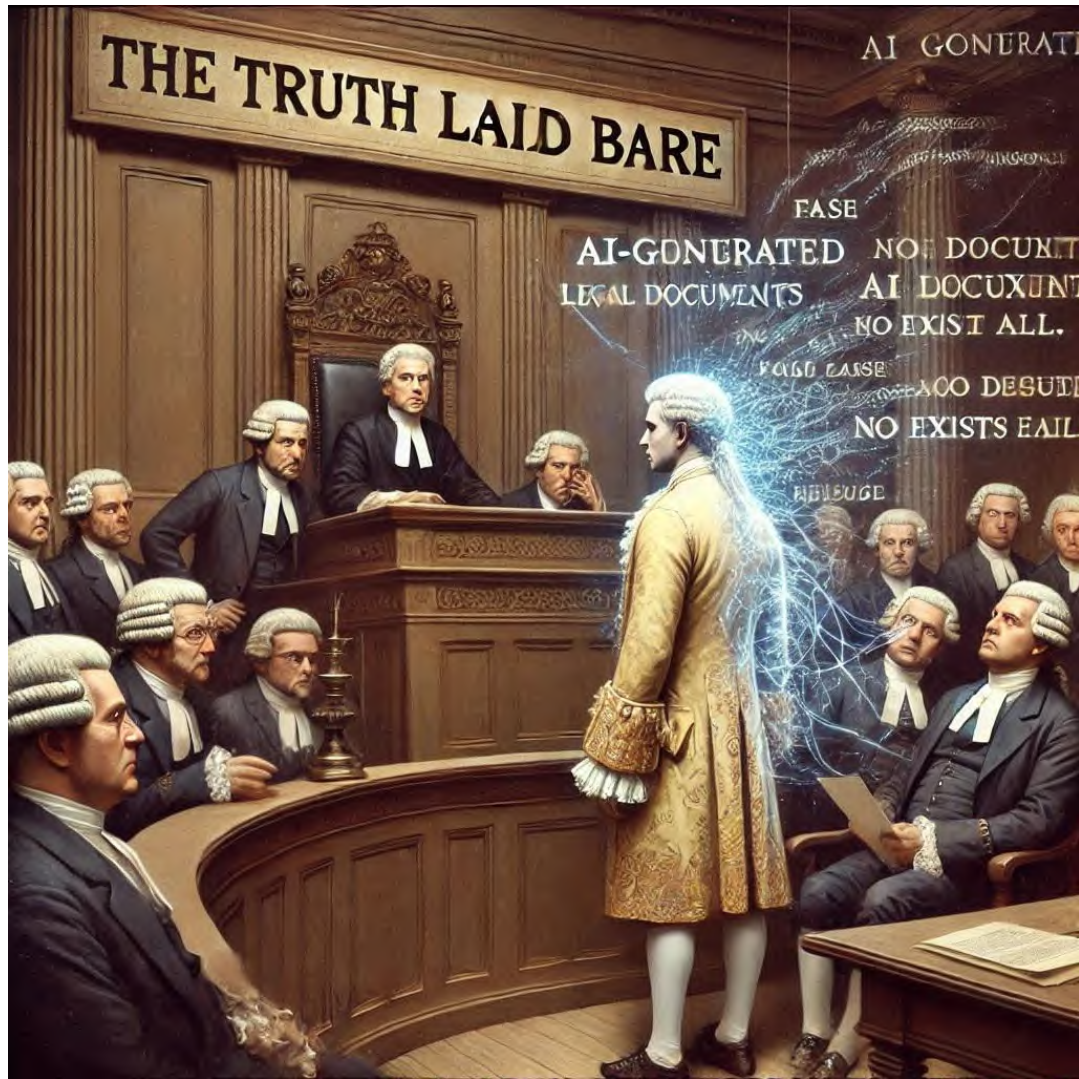
A lawyer bold, in robes of black,
Did place his faith in scripts that
lack.

His filings false, his claims untrue,
A tale oft told, yet ever new.

The judge did frown, the court
did chide,

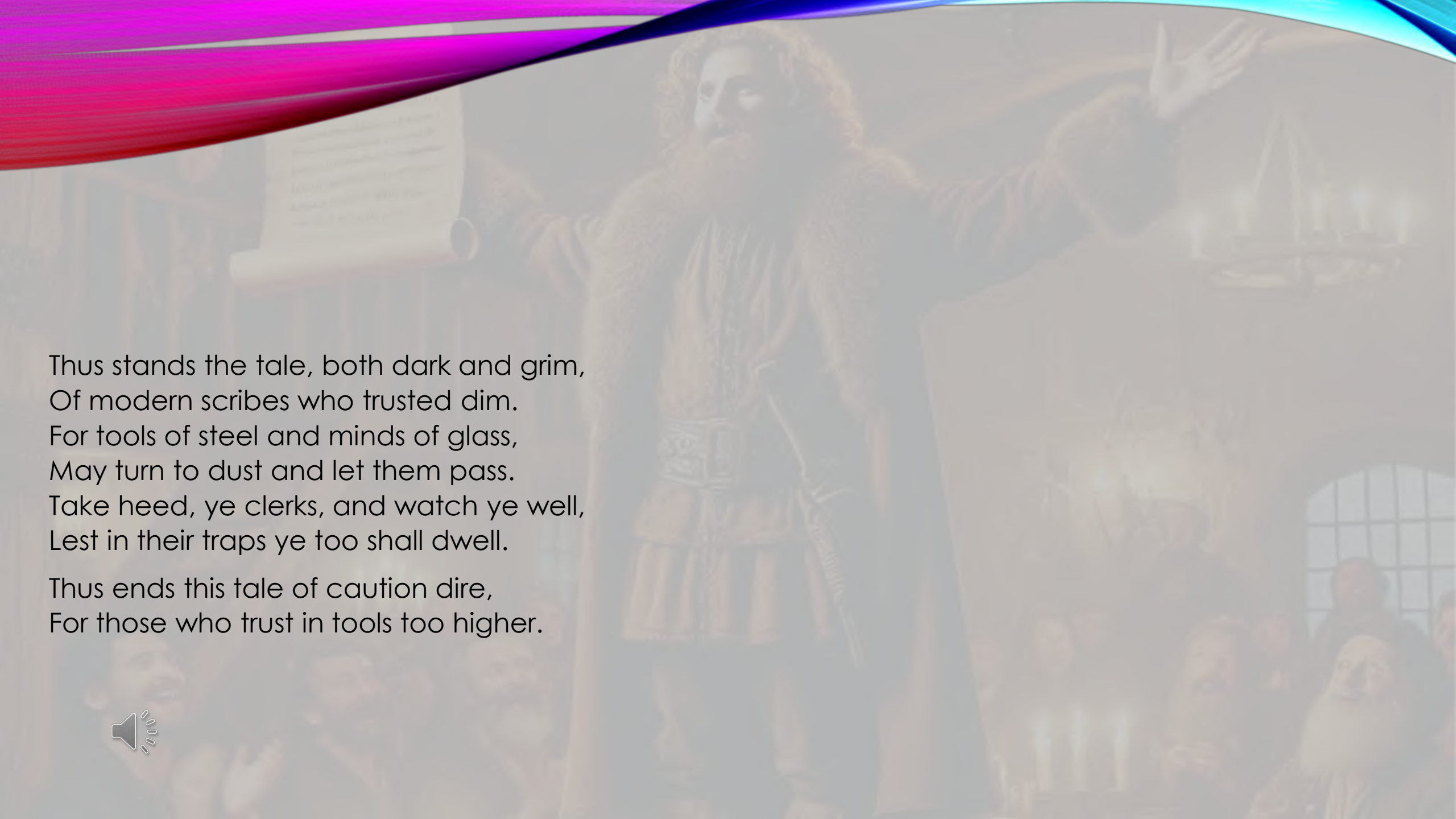
“For truth you must, not code,
abide.”





Another fool, both proud and vain,
Ignored the past, embraced the bane.
With fingers swift, he pressed his key,
And bade AI his counsel be.
The court beheld, the truth laid bare,
No case existed anywhere.





Thus stands the tale, both dark and grim,
Of modern scribes who trusted dim.
For tools of steel and minds of glass,
May turn to dust and let them pass.
Take heed, ye clerks, and watch ye well,
Lest in their traps ye too shall dwell.

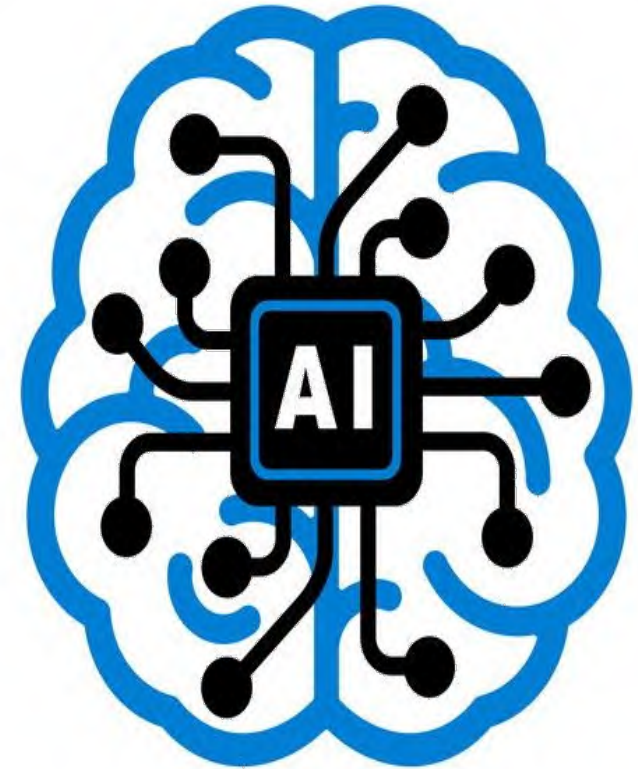
Thus ends this tale of caution dire,
For those who trust in tools too higher.



LAWYERS AND TECHNOLOGY

Generative AI Tools

- *Mata v Avianca* 2023 WL 4114965
- Fake citations are still being presented to the courts as part of attorney work product
- Phenomenon is not limited to US courts. There is at least one case reported from Australia
- Expert Witnesses are also using AI based tools as a short-cut with incorrect data being reported
 - J.G. v NYC Department of Education

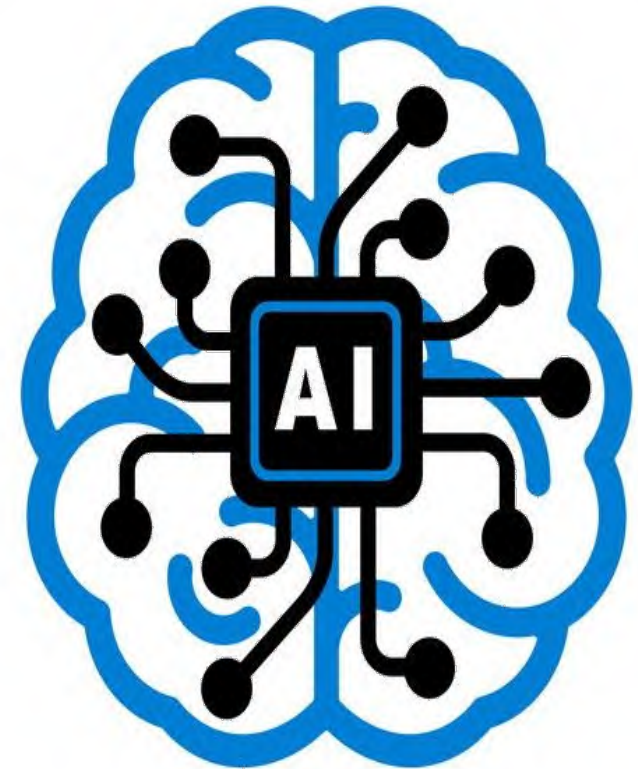


LAWYERS AND TECHNOLOGY

Generative AI Tools

**ABA Formal
Opinion 512
(7/29/2024)**

- MRPC 1.1: Competence
- Reasonable Understanding of the capabilities and limitations of the specific GAI technology being used
 - Acquire Reasonable Understanding
 - Draw on Expertise of others for guidance
 - Dynamic process
- Reliance on, or submission of, a GAI tool's output without independent verification or review of output could violate Rule 1.1
 - Scope of verification may depend on past experience with the tool or whether or not the tool is specifically designed for legal projects

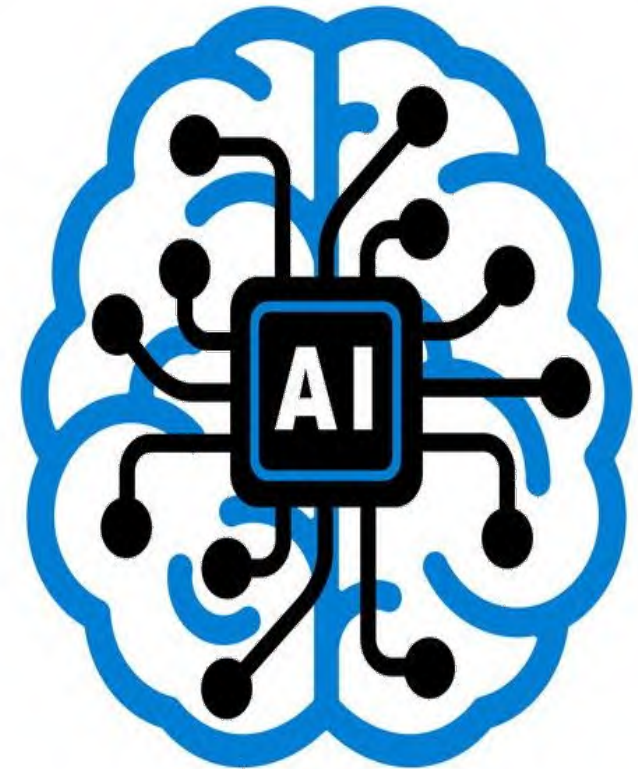


LAWYERS AND TECHNOLOGY

Generative AI Tools

ABA Formal Opinion 512 (7/29/2024)

- MRPC 1.6 Confidentiality
 - Remain cognizant of obligation to keep information confidential unless client gives informed consent to do otherwise, disclosure is impliedly authorized to carry out the representation or there is an exception permitting the disclosure
 - Assess likelihood of unauthorized disclosure, sensitivity of information, difficulty in implementing safeguards, whether safeguards negatively impact attorney's ability to represent client
 - Can information input to the GAI tool be accessed by someone not authorized to see it
 - Self learning GAI tool may inadvertently lead to disclosure even if tool usage is proprietary to firm
 - Read and understand terms of use, privacy policy and contractual terms
 - Consult with IT professionals

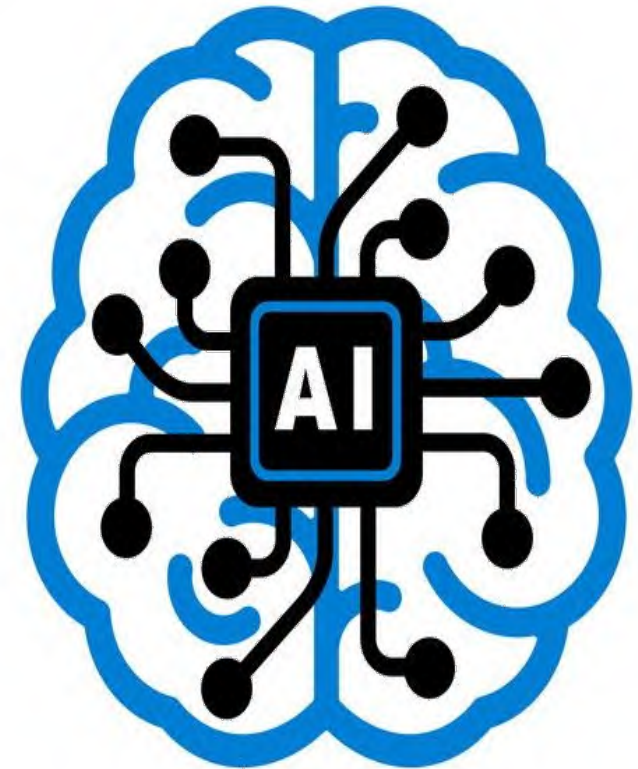


LAWYERS AND TECHNOLOGY

Generative AI Tools

**ABA Formal
Opinion
512
(7/29/2024)**

- MRPC 1.4 Communication
 - Rule may require attorney to disclose use of GAI tool during course of representation to the client
- MRPC 3.1 (prohibition on bringing frivolous claims)
- MRPC 3.3 (cannot knowingly make false statements of law or fact to tribunal)
- MRPC 8.4(c)
- MRPC 5.1 (Duty to supervise attorneys)
- MRPC 5.3 (Duty to supervise non-attorneys)
- MRPC 1.5 (Fees)



LAWYERS AND TECHNOLOGY

New Developments

[NJ State Bar Association Task Force on AI and the Law \(May 2024\)](#)

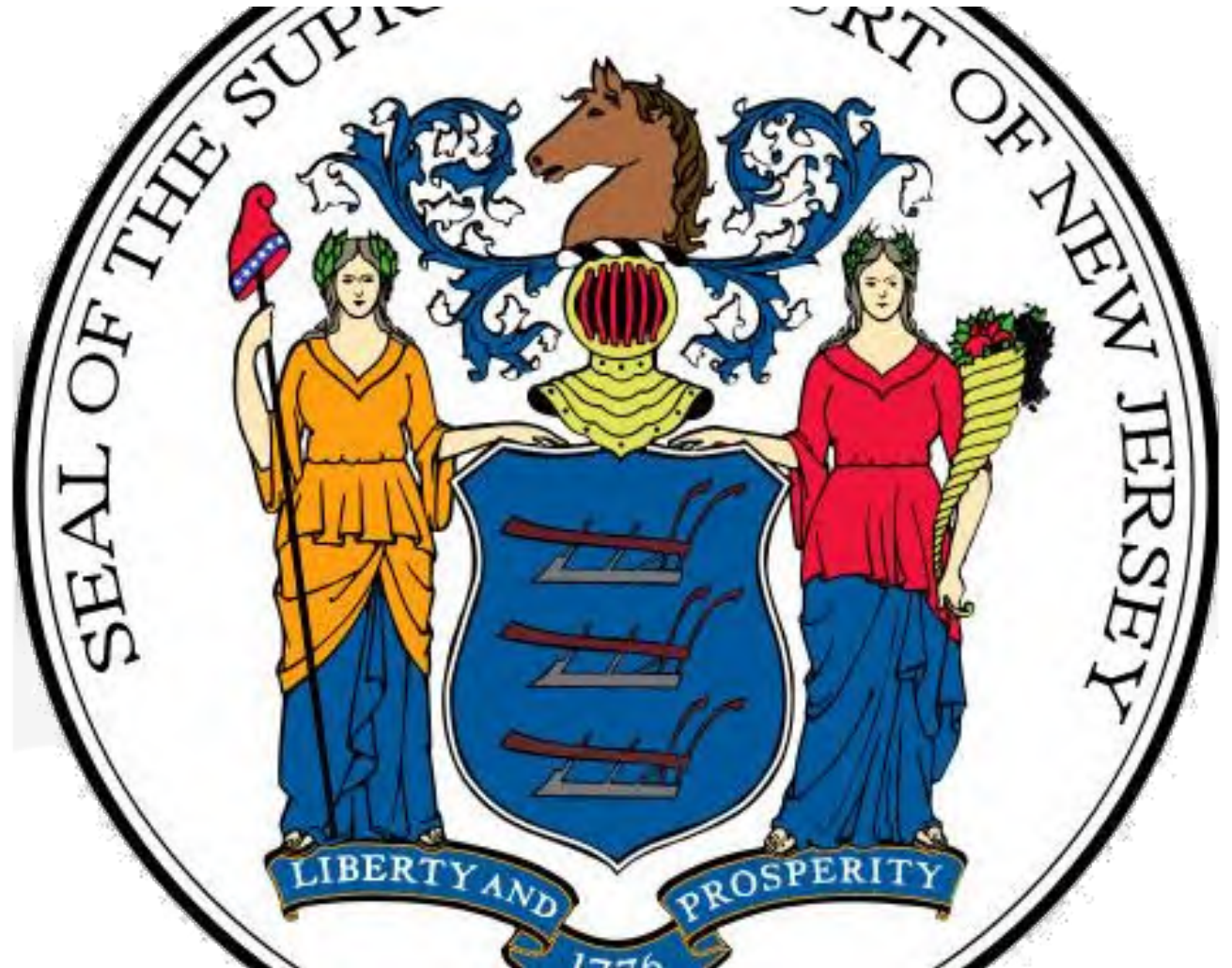
Proposed MCLE requirement that 1 of 5 required ethics credits in each two-year cycle be technology related

Proposal to add a comment to RPC 1.1 which is essentially the language of Comment 8 to MRPC 1.1

[Supreme Court Request for Comments](#)

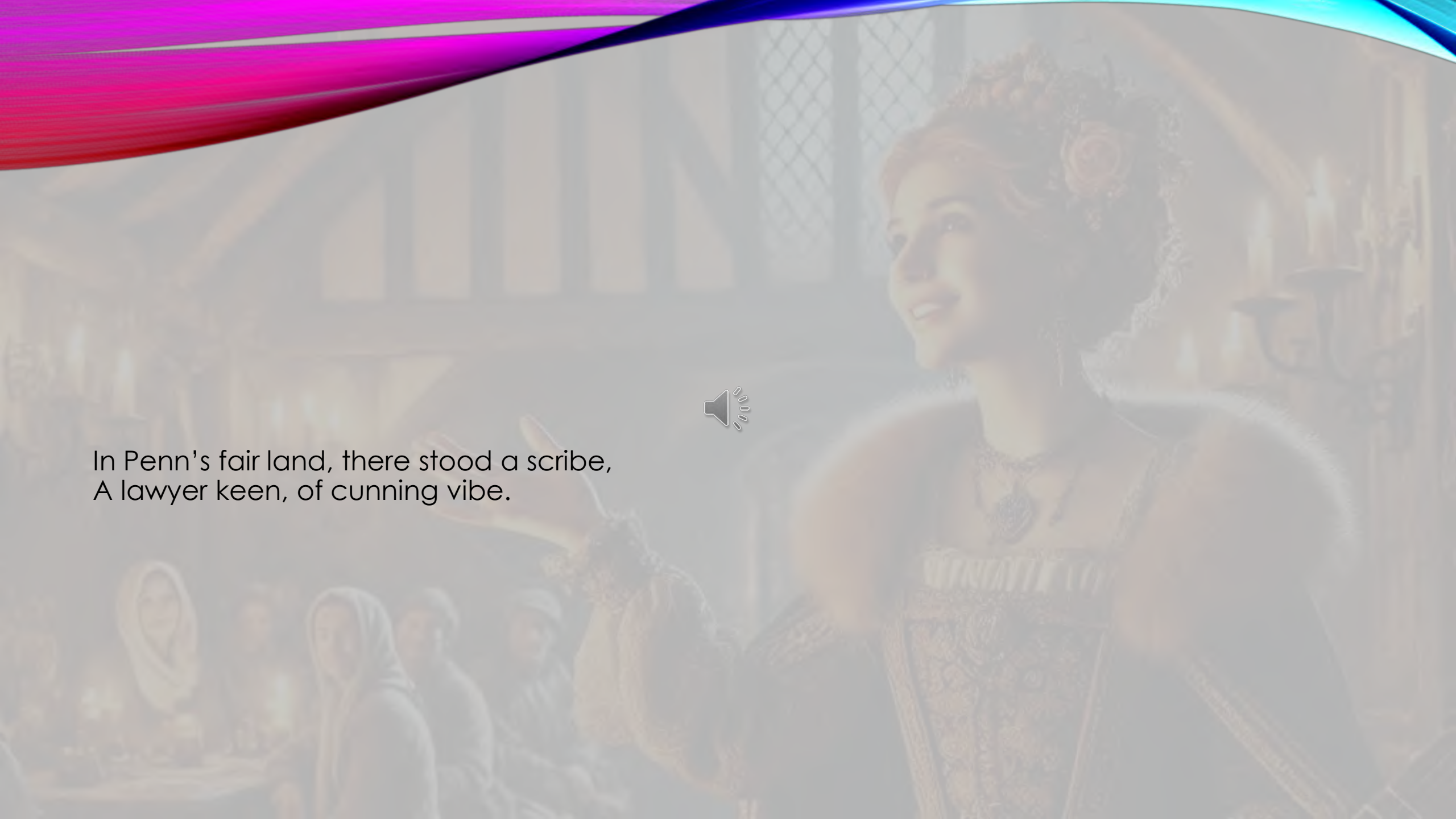
All comments were due on 12/20/2024

As of 2/22/25, no updates



A wooden mannequin arm and hand are visible in the background, positioned on the left side of the frame. The arm is extended, with the hand open and fingers slightly spread. The wood has a light, natural finish. The background is a solid, light gray color.

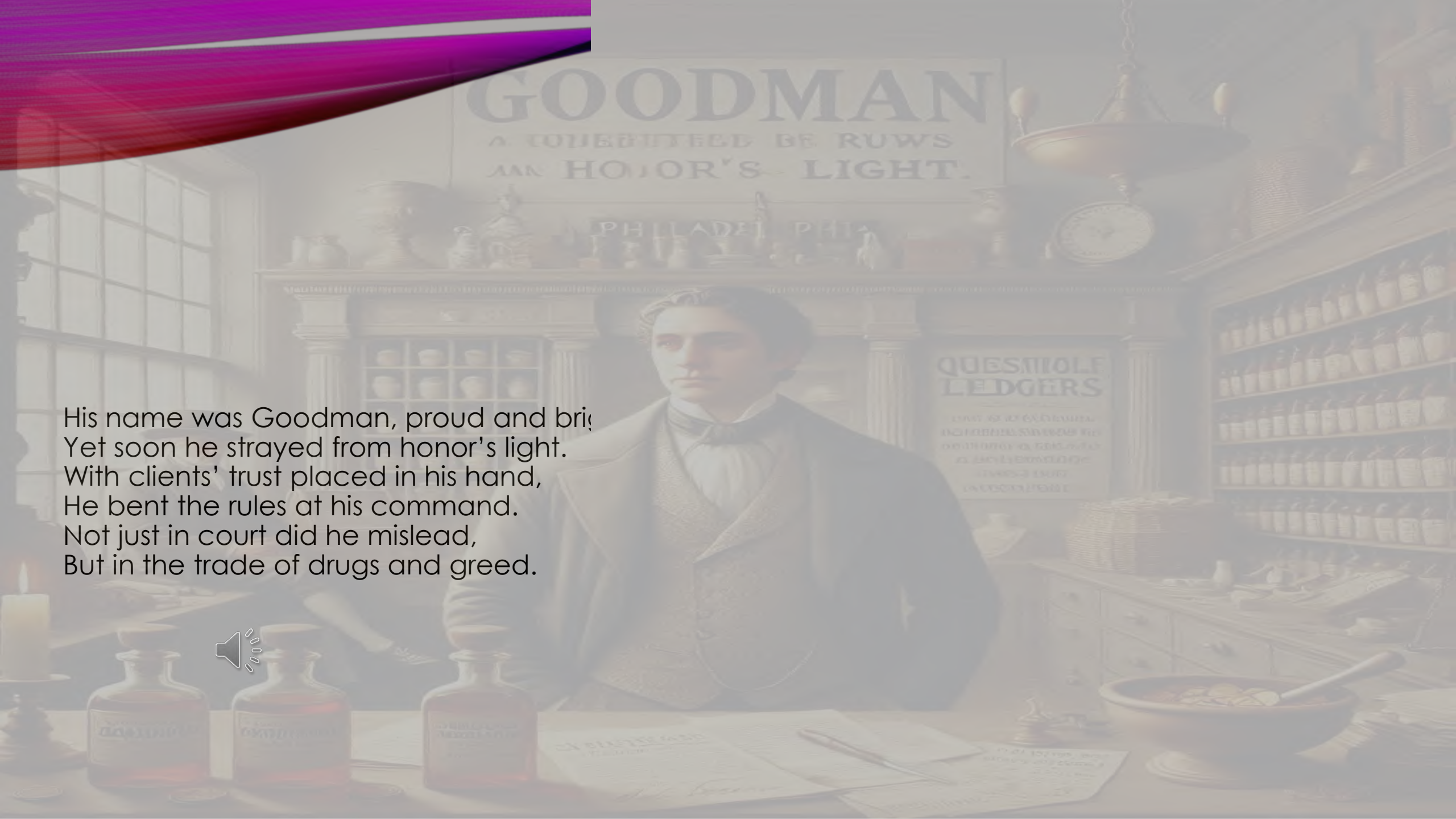
The Pharmacist's Tale



In Penn's fair land, there stood a scribe,
A lawyer keen, of cunning vibe.

Yet not just law did he embrace,
For pharmacy he too did chase.
By trade, he mixed both pills and writs,
Yet fate would bind them in his midst.





GOODMAN

A TOUGHEEED DE RUWS
AAN HONOR'S LIGHT.

PHILADELPHIA

QUESTIOLE
LEDGERS

His name was Goodman, proud and bright,
Yet soon he strayed from honor's light.
With clients' trust placed in his hand,
He bent the rules at his command.
Not just in court did he mislead,
But in the trade of drugs and greed.

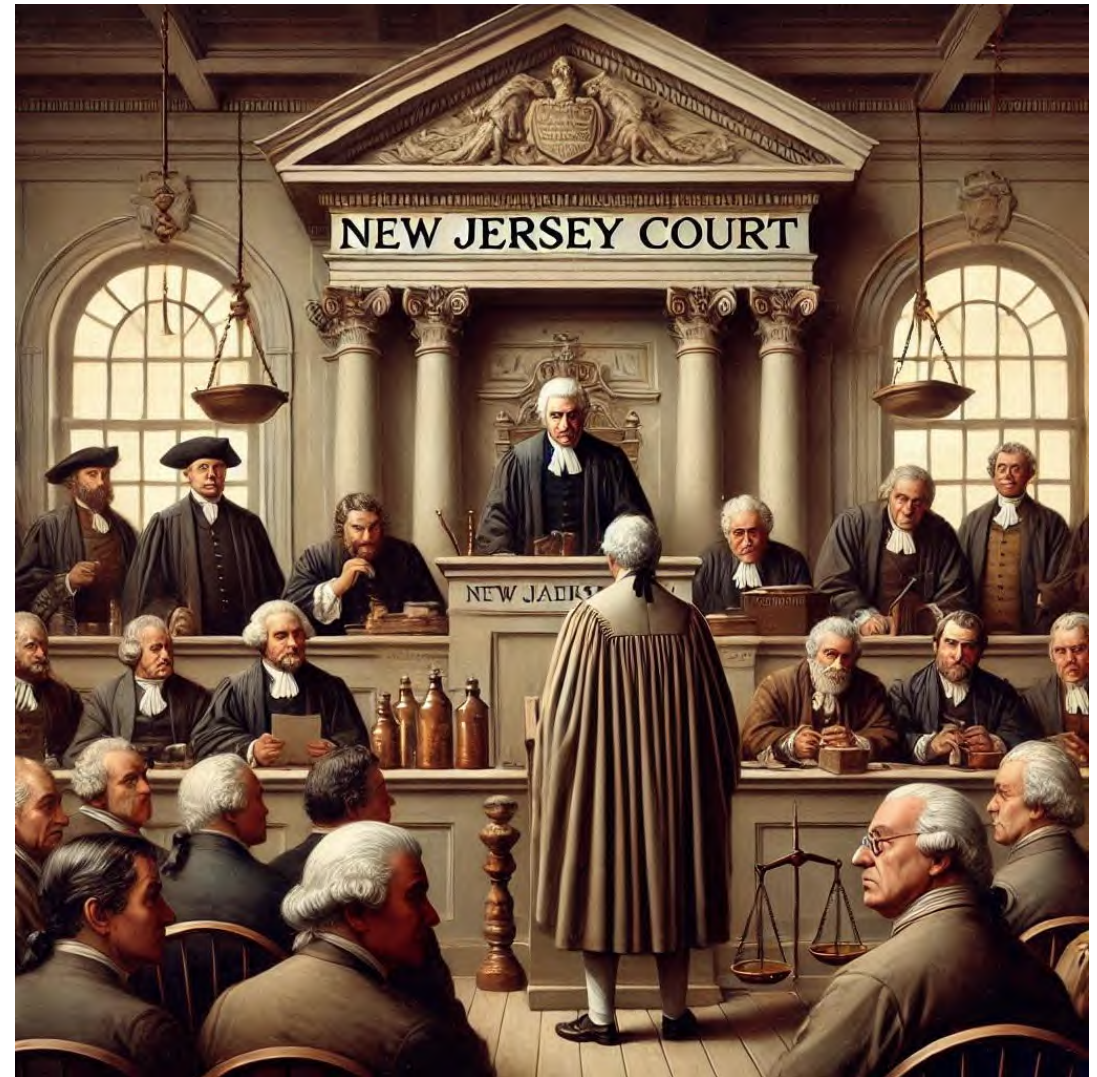


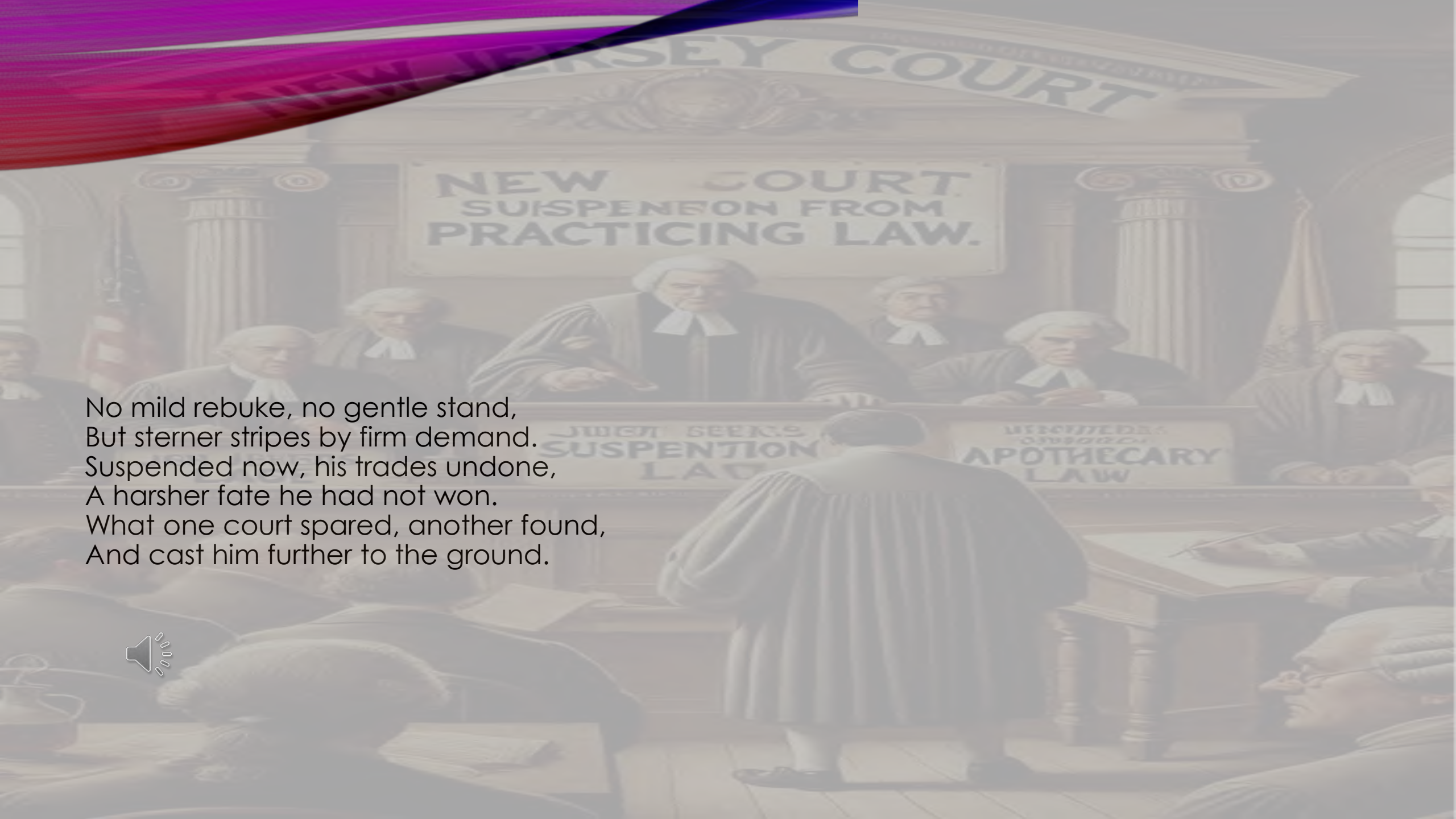


A reprimand, the court did say,
A lesser price he'd have to pay.
Yet judgment soft did not endure,
For justice sought to strike him sure.
The sins he bore behind the stand,
Did reach beyond the lawyer's hand



Across the bridge where Jersey lay,
The judges there had more to say.
"A lesson stern must now be learned,
For lesser flames must not be burned."
They viewed his deeds with sharper eyes,
For both his trades they did despise.



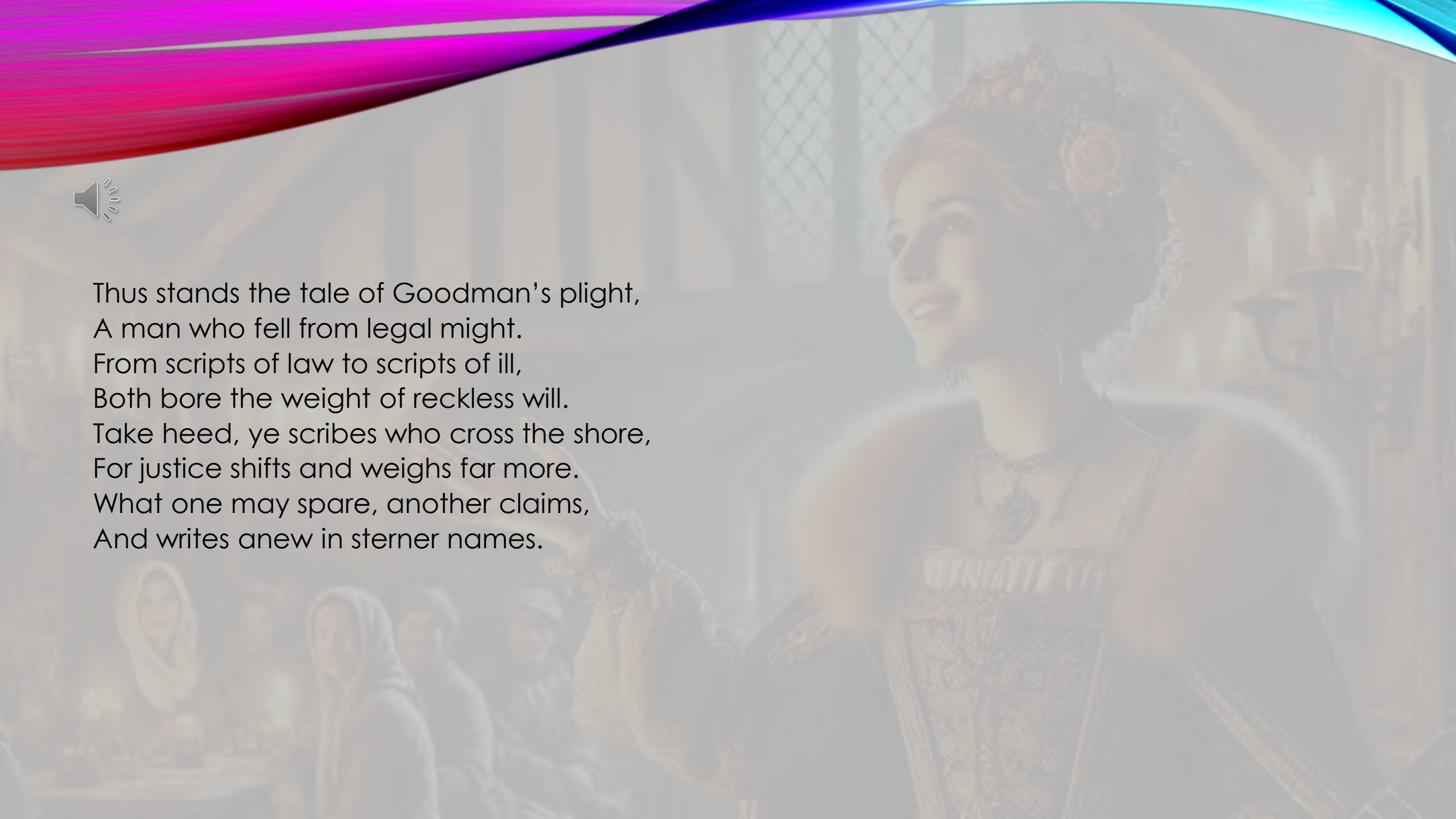


No mild rebuke, no gentle stand,
But sterner stripes by firm demand.
Suspended now, his trades undone,
A harsher fate he had not won.
What one court spared, another found,
And cast him further to the ground.





Thus stands the tale of Goodman's plight,
A man who fell from legal might.
From scripts of law to scripts of ill,
Both bore the weight of reckless will.
Take heed, ye scribes who cross the shore,
For justice shifts and weighs far more.
What one may spare, another claims,
And writes anew in sterner names.



Matter of Todd Andrew Goodman



Pennsylvania Discipline

- Direct Discipline
- Joint Application for Discipline on Consent
- Pled guilty and was convicted for improperly dispensing controlled substances
- Admitted to violations of Pa RPC 8.4(b)
It is professional misconduct to commit a criminal act which reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects
- Consents to suspension for one year and one day
Application cites substantial mitigating factors
- Pa Supreme Court approves agreement and makes suspension retroactive to a date one month after the beginning of interim suspension which commenced on 3/25/2024
- Term of suspension was therefore 13 months and 1 day



New Jersey Discipline

- Reciprocal Discipline
- [DRB Decision](#) gives a broader view of attorney's activity as a pharmacist
Goodman appears to be more actively involved in illegal distribution of controlled substances than his guilty plea seems to imply
- Finds violation of NJ RPC 8.4(b)
It is professional misconduct for a lawyer to: (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- Reminds attorneys of precedents support discipline for activities not involving practice of law
- Suspension for 3 years was consistent with NJ precedent
 - Not a unanimous recommendation
 - 7 votes for three-year suspension 1 vote for a one-year suspension
- NJ Supreme Court makes 3 year suspension effective as of date of temporary suspension



FINAL THOUGHTS



Questions????

Comments???



Thank you for attending this session



- ❖ Remember to sign out if you will be seeking CLE credit for this session
- ❖ Please complete the session evaluation in the conference app
- ❖ Don't forget to visit our exhibitors
- ❖ Please visit the charity raffle and silent auction and make you final bids and ticket placement for today's items



Contact Your Bards

Kathleen Kitson
Child Support Hearing Officer (ret.)
Trainer NJCS
kek61@ssw.Rutgers.edu



Maria Mancuso
Child Support Hearing Officer (ret.);
Trainer, NJCSI
maria.mancuso@cwalocal1032.org



Nicholas Palos
Support Magistrate, Kings
County Family Court
npalos@nycourts.gov

