

ANNUAL REPORT

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NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT



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complaint alleged that those individuals violated his civil rights under 42 U.S.C. §1983, by their actions in investigating and bringing disciplinary charges against him, which he characterized as "false" and "moronic".

In November 1995, the defendants filed a motion to dismiss on the grounds of absolute immunity and qualified immunity, the doctrine of abstention, lack of subject matter

jurisdiction, and failure to assert any colorable constitutional claims.

In January 1996, the plaintiff filed a motion to disqualify the Attorney General's office from representing the defendants, on the grounds that the Attorney General had previously represented the plaintiff in prior (unrelated) matters. The defendants opposed the motion. Both motions are pending before federal District Court Judge Leonard Wexler.

Sassower v. Commission

In April 1995, an individual whose complaints had been dismissed by the Commission filed a petition in Supreme Court, New York County, seeking a declaration that the Commission's rule permitting "summary" dismissal of her complaints is unconstitutional. The Commission moved to dismiss for failure to state a cause of action.

In a decision dated July 13, 1995, Justice Herman Cahn upheld the constitutionality of the Commission's rules and procedures. Justice Cahn held that the term "investigate," as used in the State Constitution and the

Judiciary Law, does not require any specific form of inquiry and that the Commission's review of the petitioner's complaints, as attested to in letters sent to the petitioner, meets the constitutional and statutory mandate. Justice Cahn also denied the petitioner's requests for various other forms of relief, including the imposition of fines, an order requesting the Governor to appoint a special prosecutor to investigate her complaints, and an order referring the conduct of Commission members and staff to the district attorney for criminal and disciplinary prosecution.