

DORIS L. SASSOWER

283 SOUNDVIEW AVENUE • WHITE PLAINS, N.Y. 10606 • 914/997-1677 • FAX: 914/684-6554

PRIVILEGED AND CONFIDENTIAL

July 26, 1991

Hon. Catherine T. England
Chairman, Grievance Committee
Tenth Judicial District
2556 Middle Country Road
Centereach, New York 11720

RE: File No. I-1044-91

Dear Judge England:

This letter is written to you in protest against the peremptory dismissal of my complaint against Harvey Landau, Esq., referred to your Committee by the Chief Counsel of the Ninth Judicial District. I had requested a referral to a Disciplinary Committee outside the Second Department for reasons which the unwarranted action of your Chief Counsel, Frank A. Finnerty, Esq., further supports. A copy of my complaint and covering letter requesting the referral, as well as Mr. Finnerty's July 22, 1991 letter of dismissal, are enclosed.

I am writing to you directly about this because Mr. Finnerty acknowledged to me--when I spoke to him on Thursday, July 25th, upon receipt of his letter advising me of the dismissal--that he took such action, sua sponte, without presentment of my complaint to you as Chairman or to the Committee as a whole. Mr. Finnerty attempted to justify his unilateral action by stating that he himself can dismiss a complaint that is "frivolous", and that, in his opinion, my complaint against Mr. Landau "did not state a cause of action for professional misconduct."

I do not believe that any objective lawyer reviewing my complaint could possibly reach such a conclusion. When I told this to Mr. Finnerty, he stated that my complaint had been reviewed by "the best lawyer in the disciplinary field in the state, if not the country". Upon asking Mr. Finnerty who that lawyer was, he unabashedly identified such person as himself.

Although Mr. Finnerty claims to have twenty years of experience with the Grievance Committee, I find no basis in Section 691.4 of the Rules of the Appellate Division, Second Department, for his sua sponte dismissal of the complaint. That section specifically contemplates committee action, i.e., it is the committee, not its Chief Counsel, who decides when a complaint shall be dismissed or whether stronger action should be taken. But in all cases the explicit, unambiguous mandate of the law is: "preliminary investigation and a majority vote of the full committee" (691.4, subdivision (e) (emphasis added)).

Moreover, Mr. Finnerty not only exceeded his authority by dismissing my complaint without presentment to the committee, he admitted to having done so without any preliminary investigation--which he said was unnecessary. Indeed, Mr. Finnerty stated that he had not even required Mr. Landau to furnish a response to my allegations.

When I specifically pointed out to Mr. Finnerty the undisclosed, unethical political relationship that existed between Mr. Landau and Justice Fredman at the time my case was pending before Justice Fredman, his response was "where is your proof?". However, Mr. Finnerty never requested any additional proof from me, and, as evidenced by his dismissal letter there is no reference to the need for further proof. In fact, had Mr. Finnerty done his job by calling upon Mr. Landau for a response, he would doubtless have ascertained that the political relationship is uncontroverted and incontrovertible.

It should be obvious from the foregoing that Mr. Finnerty has not been acting in good faith. On the one hand, he attempts to justify his unilateral dismissal of my complaint by saying it is "frivolous" and "does not state a cause of action"; and then, when confronted with the ethical rules proscribing the political relationship complained of, he shifts gears to claim that the dismissal rests on my "lack of proof".

Indeed, after I told Mr. Finnerty I could furnish all the proof he wanted, Mr. Finnerty urged as further reason for the dismissal that my complaint was about the judge and should be directed to the Commission on Judicial Conduct.

Mr. Finnerty apparently has no compunction about misrepresenting applicable ethical rules to complainants. He surely knows that an attorney is bound by ethical obligations independent of those which bind a judge, and that I am not limited to seeking redress against an attorney who has violated his ethical obligations simply because I also have a complaint against the judge involved in such violation.

After I called his attention specifically to Opinion 11 of the New York State Bar Association, which I had annexed as Exhibit "C" to my complaint--showing the unethical nature of Mr. Landau's representing a client in a pending matter before Justice Fredman, while, as Chairman of the Scarsdale Democratic Club, actively endorsing Justice Fredman's re-election campaign, Mr. Finnerty concocted yet another reason for his dismissal of the complaint. He told me that since he had "heard" that "proceedings" were "pending" against me, he would not prosecute my complaints. Mr. Finnerty did not explain why such claimed additional reason was

not set forth in his letter dismissing the complaint, or how such extraneous matter would justify the dismissal of my bona fide and documented complaint against Mr. Landau.

Instead, Mr. Finnerty's letter refers to the fact that I alleged monies owed by the client, as to which he advises me to pursue my civil remedies. That advice was clearly uncalled for. My complaint against the client was not the basis of my grievance against Mr. Landau. My complaint against Mr. Landau rests on a pattern and practice of unprofessional conduct, starting out with his surreptitiously taking an engagement from my client without my even having been discharged, then attempting to justify what he had done by pretending that I was discharged for cause so as to deny liability for unpaid fees, then stirring up a totally needless and frivolous litigation by claiming I had no right to retain experts on the client's behalf, even where both the law and my written retainer agreement provided I could retain experts. Both my right to retain experts, and the fact that I was discharged without cause were confirmed by the Judicial Hearing Officer who heard the case.

I believe investigation would confirm that Mr. Landau's intransigence in the subsequent proceedings he commenced against me before Justice Fredman is explainable only by his knowledge that he had Justice Fredman in his corner, based not only on Justice Fredman's animus toward me arising out of our prior adversarial relationship, for which His Honor refused to recuse himself, but also on Mr. Landau's undisclosed political involvement with him.

Either Mr. Finnerty does not know unethical conduct when he sees it, which is hardly likely--considering his vaunted years of experience in the field--or, he is deliberately closing his eyes to it. Indeed, although my complaint specifically cited numerous ethical violations against Mr. Landau, I stated therein that same was only a partial listing of Mr. Landau's ethical infractions and that I was prepared to detail and document further misconduct for the Committee. Nonetheless, Mr. Finnerty did not see fit even to write back to me requesting additional information prior to his July 22nd dismissal letter. That letter reflects Mr. Finnerty's disinterest in any investigation whatsoever and advises me that my only recourse is appellate review since the committee "has no authority to overrule or expound (sic) on a court decision", whatever that means.

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I find it hard to believe that Mr. Finnerty seriously believes that that was what I was asking the Grievance Committee to do. Surely, Mr. Finnerty does not really believe that the Grievance Committee has "no jurisdiction or authority" over an attorney who has obtained a decision in his favor by fraud or other unethical conduct, independent of any appellate rights that exist relative to that fraudulent decision.

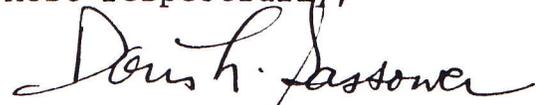
Since you yourself are a Judge and Fellow of the Academy of Matrimonial Lawyers, as well as the head of the Grievance Committee of the Tenth Judicial District, I would deeply appreciate your personal review of my serious and substantive grievance complaint against Mr. Landau, and the summary dismissal of same by your Chief Counsel.

I respectfully submit that Mr. Finnerty's handling of this serious matter can only be considered an unmitigated "whitewash" and that investigation by you and the Committee is essential to end Mr. Finnerty's obvious usurpation of the Committee's duties and his cavalier disregard of his responsibilities to complainants.

In that connection I might add that when I asked Mr. Finnerty to provide me with the names of the members of the Grievance Committee for the Tenth District, he refused to supply such public information, and told me that I could obtain same by calling the New York State Bar Association. I thereafter followed Mr. Finnerty's advice and made a long-distance call to Albany only to be told by the Bar Association that it does not maintain a list of the Committee's members, but that same should be readily available from the Chief Counsel of the Grievance Committee. Interestingly, that statement was confirmed by the Deputy Clerk of the Appellate Division, Second Department, Diana Kearse, who also advised me that she herself, prior to becoming Deputy Clerk on July 1st, had been employed by the Grievance Committee of the Tenth District.

I await your response.

Most respectfully,



DORIS L. SASSOWER

DLS/er
Enclosures

P 739 876 616



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