

CENTER for JUDICIAL ACCOUNTABILITY, INC.

Post Office Box 8101
White Plains, New York 10602

Tel. (914)421-1200

E-Mail: mail@judgewatch.org
Website: www.judgewatch.org

Elena Ruth Sassower, Director

April 10, 2024

TO: Appellate Division, Fourth Department Attorney Grievance Committee
Seventh Judicial District (AD4-AGC7) Chair Steven Modica, Esq.

FROM: Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: (1) Full Committee Reconsideration of October 25, 2023 complaint against six Monroe County Law Department attorneys and three attorneys for the child;
(2) Complaint against Principal Counsel Eftihia Bourtis, Chief Counsel Cydney Kelly, & Other Colluding AD4-AGC7 staff for official misconduct.

Pursuant to [§1240.7\(e\)\(3\)](#) of the Rules for Attorney Disciplinary Matters, I file this written request for reconsideration of my [October 25, 2023 complaint against the following nine attorneys within the jurisdiction of AD4-AGC7](#)¹, which I had mailed to AD4-AGC Chief Counsel Cydney Kelly with ten complaint forms, dated January 29, 2024:

- “(1) [Monroe County Deputy Attorney Amanda Oren: #4007936 \(Rochester-2002\)](#);
(2) [former Monroe County Deputy Attorney Lori Ann Ricci: #2034940 \(Rochester-1986\)](#);
(3) [Monroe County Deputy Attorney Emily Marie Scott: #5474069 \(Rochester-2016\)](#);
(4) [Monroe County Attorney John Bringewatt: #4880969 \(Rochester-2011\)](#);
(5) [Monroe County Deputy Attorney Elizabeth Moeller: #4547501 \(Rochester-2008\)](#);
(6) [Monroe County Deputy Attorney Alissa Brennan: #5189329 \(Rochester-2014\)](#);

(7) [former Attorney for the Child Elena Tasikas: #4181798 \(Rochester-2004\)](#);
(8) [Attorney for the Child Sarah Fifield: #2871663 \(Fairport-1998\)](#);
(9) [Appellate Attorney for the Child Susan Gray: #1973684 \(Canandaigua-1985\)](#)”.

(October 25, 2023 complaint (at p. 2), hyperlinking to January 29, 2024 complaint forms).

¹ CJA’s website, www.judgewatch.org, contains a webpage for the October 25, 2023 complaint to AD4-AGC, from which all the correspondence herein hyperlinked or referred-to is accessible: <https://www.judgewatch.org/web-pages/searching-nys/attorney-discipline/oct-25-2023-complaint-to-AD4.htm>. It can also be reached via CJA’s left-side link “Searching for Champions-NYS”, which brings up a menu option: “Court-Controlled Attorney Grievance Committees”.

The complaints against all nine were “closed pursuant to 22 NYCRR 1240.7(d)(1)” by nine essentially identical [March 19, 2014 letters](#)² signed by Eftihia Bourtis, whose title, as reflected by the AD4-AGC7 letterhead, is “Principal Counsel”, though beneath her signature and typed name is the title “Principal Attorney”.

[§1240.7\(d\)\(1\)](#) is entitled “Disposition by the Chief Attorney” and reads:

“(i) The Chief Attorney may, after initial screening, decline to investigate a complaint for reasons including but not limited to the following: (A) the matter involves a person or conduct not covered by these Rules; (B) the allegations, if true, would not constitute professional misconduct; (C) the complaint seeks a legal remedy more appropriately obtained in another forum; or (D) the allegations are intertwined with another pending legal action or proceeding. The complainant shall be provided with a brief description of the basis of any disposition of a complaint by the Chief Attorney.”

Principal Counsel Bourtis does not identify herself as the “Chief Attorney” authorized to make dispositions pursuant to [§1240.7\(d\)\(1\)](#) – and, as plain from [the Appellate Division, Fourth Department’s website for its three attorney grievance committees](#), that title belongs to Chief Counsel Kelly. Not surprisingly then AD4-AGC7’s letterhead identifies Cydney Kelly as its Chief Counsel.

Nor does Principal Counsel Bourtis identify that I had sent my complaints against the nine attorneys to Chief Counsel Kelly, at the location from which she works, AD4-AGC8 in Buffalo, after speaking with her by phone on January 26, 2024, at which time she stated she was unaware of the October 25, 2023 complaint and of my October 25-26, 2024 e-mails to Chief Administrative Judge Zayas, requesting that he forward it to AD4-AGC.³

Although expressly authorized by [§1240.7\(d\)\(1\)](#), Chief Counsel Kelly had not “closed” the nine complaints. Instead, by nine [February 28, 2024 letters](#) that did not bear her name, except as part of the AD4-AGC8 letterhead, she had AD4-AGC8 Investigator Carolyn Stachura sign a letter,

² The above-hyperlinked illustrative March 19, 2024 letter pertains to my complaint against Deputy Monroe County Attorney Oren, who signed the initiating February 16, 2021 child abuse/neglect petition against the innocent parents. The particulars of its fraud and facial insufficiency fill the [Independent Expert Report](#) (*inter alia*, pp. 13-15, 19-23, 39-45, 47-52) that is the “starting point” of the complaint. Deputy County Attorney Oren then popped up to thwart the parents’ appeal by a fraudulent November 18, 2022 affirmation in opposition to their November 14, 2022 motion in Family Court to settle the record, which she may not have even served upon the parents – and this is reflected by the October 25, 2023 complaint (at p. 15).

³ This phone conversation is reflected by my ten January 29, 2024 complaint forms for the October 25, 2023 complaint and by my [January 31, 2024 e-mail to Chief Administrative Judge Zayas](#) entitled “Did you forward CJA’s October 25, 2023 complaint, as requested, to AGC-4 and to Statewide Coordinating Judge for Family Court Matters Rivera?” – with further correspondence on this subject posted on CJA’s webpage for the October 25, 2023 complaint to Chief Administrative Judge Zayas and Judge Rivera: <https://www.judgewatch.org/web-pages/searching-nys/judiciary/oct-25-23-complaint-zayas-rivera.htm>.

addressed to AD4-AGC7's Principal Counsel Mark Bennett, stating that each complaint was "forwarded" to him because the complained-against attorney "practices within the jurisdiction of the Seventh Judicial District" and that "By copy of this letter", I was being notified that it would be "reviewed" by AD4-AGC7.

Apparently, just as Chief Counsel Kelly chose not to sign those nine February 28, 2024 letters, so, too, did AD4-AGC7 Principal Counsel Bennett – who is senior to Principal Counsel Bourtis – choose to remove himself from the nine March 19, 2024 letters that Principal Counsel Bourtis would sign and send me.

The nine March 19, 2024 letters, whose only difference is the name of the complained-against attorney and the capacity in which she/he is complained-about, identically state:

"This will acknowledge receipt of your letter dated January 29, 2024. Staff Counsel [h]as reviewed your submission and determined that no action by this office is warranted.

The function of the Attorney Grievance Committee is to investigate and prosecute acts of professional misconduct committed by attorneys. After carefully reviewing your correspondence, we are unable to determine any professional misconduct on the part of this attorney. Your complaint alleges that [attorney x], acting in her [his] capacity as [xxx], engaged in 'conflict-of-interest/corruption' with regard to the Monroe County Family Court matter NA-01235-21. Our investigative authority does not extend to reviewing complaints about an attorney's exercise of judgement or decision making during the course of a legal matter.

This office is unable to conclude that [attorney x] disregarded a conflict of interest or was involved in corruption with regard to the matter in your complaint, and this file will be closed pursuant to 22 NYCRR 1240.7(d)(1)."

Please be advised of the confidentiality provisions of 90(10) of the Judiciary Law." (underlining added).

These letters are INDEFENSIBLE.

If "careful[] review" were done, "Staff Counsel" would know that my "letter dated January 29, 2024" is my complaint form for my October 25, 2023 complaint, whose recitations as to the nine complained-against attorneys are not uniformly "with regard to the Monroe County Family Court matter NA-01235-21", but, varying as to each, involve a Supreme Court action and appeals in each to the Appellate Division, Fourth Department and describe "professional misconduct" by each of the complained-against attorneys having nothing to do with any legitimate "exercise of judgment or decision making during the course of a legal matter". Indeed, the complaint specifies the violated Rules of Professional Conduct by its very first footnote:

“Rule 1.7: ‘Conflict of Interests: Current Clients’; Rule 3.1: ‘Non-Meritorious Claims and Contentions’; Rule 3.3: ‘Conduct Before a Tribunal’; Rule 8.4: ‘Misconduct’; Rule 5.1: ‘Responsibilities of Law Firms, Partners, Managers and Supervisory Lawyers’; Rule 5.2: ‘Responsibilities of a Subordinate Lawyer’; Rule 8.3: ‘Reporting Professional Misconduct’.” (October 25, 2023 complaint, at p. 1).

Only cursory review is needed of the 30-page sworn complaint – and its “starting point”, the [94-page February 22, 2022 Independent Expert Report](#), so-identified by the complaint (at p. 4) and by the nine January 29, 2024 complaint forms, the latter stating:

“The starting point for the October 25, 2023 complaint is my accompanying February 22, 2022 Independent Expert Report, about which I testified at the October 13, 2023 hearing of the Commission on Legislative, Judicial and Executive Compensation – and which, at the conclusion of the hearing, I gave, *in hand*, to its chair, Eugene Fahey, Esq.” (January 29, 2023 complaint forms, at p. 2).

– to know that the complaint could NOT be “closed pursuant to 22 NYCRR 1240.7(d)(1)”, *to wit*, without investigation, because it summarizes, with evidence, monstrous violations of New York’s Rules of Professional Conduct involving fraud, requiring investigation, pursuant to §1240.7(b).

Principal Counsel Bourtis then compounds her nine indefensible letters by *cc’ing* the complained-against attorneys on each – a direct violation of [Judiciary Law §90\(10\)](#) inasmuch as the attorneys would not have known of the complaint from AD4-AGC7, as it was “closed pursuant to 22 NYCRR 1240.7(d)(1)”, without the investigative steps of [§1240.7\(b\)\(2\)](#):

“direct the respondent to provide a written response to the complaint, and to appear and produce records before the Chief Attorney or a staff attorney for a formal interview or examination under oath”.

Quite possibly Principal Counsel Bourtis’ Judiciary Law §90(10) violation was the result of her mindlessly copying from [Investigator Stachura’s February 28, 2024 letter to me concerning the ONLY complaint not “forwarded”](#) to Principal Counsel Bennett, namely, my complaint against [“Louis Dingeldey, Jr./Attorney for Brighton Central School District #4103032 \(West Seneca-2003\)”](#). However, that complaint was not “closed pursuant to 22 NYCRR 1240.7(d)(1)”, but “dismissed” after the investigation implied by [Investigator Stachura](#) signing the February 28, 2024 letter, with a typed “S/” for Chief Counsel Kelly, after a paragraph reading:

“Under the authority of the Chief Counsel for the Attorney Grievance Committee, Cydney A. Kelly (*See: 22 NYCRR §1020.5 and §1240.7[(b)][4]*), this grievance has been reviewed with staff counsel and, after a careful examination of the matter, it has been determined that this grievance be dismissed.”.

I already sent a [March 29, 2024 letter to AD4-AGC8 Chair Pamela Thibodeau](#) for full Committee reconsideration of that February 28, 2024 letter dismissing my complaint against Attorney Dingeldey, to which I combined a complaint against Investigator Stachura and Chief Counsel Kelly.

As it is germane to my reconsideration request herein, to which I am also combining a complaint against Chief Counsel Kelly, Principal Counsel Bourtis, and other collusive staff, a copy is enclosed, along with the February 28, 2024 dismissal letter it challenges.

Tellingly, Principal Counsel Bourtis' nine March 19, 2024 letters do not identify the subsection of "[§1240.7\(d\)\(1\)](#)" pursuant to which my complaints against nine attorneys have been closed, without investigation. Presumably, it is (i)(B): "the allegations, if true, would not constitute professional misconduct". Yet, Investigator Stachura's February 28, 2024 letter pertaining to Attorney Dingeldey deemed those same "allegations" to "constitute professional misconduct" to be investigated and then dismissed for evidentiary insufficiency. These March 19th and February 28th letters – involving the same "allegations" – are plainly inconsistent. Indeed, my "allegations" against Deputy Monroe County Attorney Brennan are IDENTICAL to those against Attorney Dingeldey (pp. 7-8, 19-28) – both pertaining to the Supreme Court action and the appeal thereof, in which they operated in tandem. Consequently, AD4-AGC7's treatment of them should have been IDENTICAL to that of AD4-AGC8: investigation pursuant to "22 NYCRR §1020.5 and §1240.7[(b)[4]]," NOT a declination to investigate pursuant to §1240.7(d)(1).

Of course, there are two respects in which these inconsistent letters are identical:

- they do not inform me that pursuant to §1240.7(e)(3), I have 30 days within which to seek reconsideration of the disposition of my complaint – which would be the ethical, appropriate thing to do;
- they end with the same warning, *verbatim*: "Please be advised of the confidentiality provisions of 90(10) of the Judiciary Law" – which is meant to intimidate and is false. The confidentiality provisions of Judiciary Law §90(10) do NOT apply to complainants, who are free to publicize their own complaints and the Attorney Grievance Committee's actions/inactions with respect to same, [Civ. Rights Corps. v. Pestana](#) (SDNY/June 13, 2022).

§1240.7(e)(3) gives you discretion to refer reconsideration requests "to the full Committee, or a subcommittee thereof, for whatever action it deems appropriate." Such is plainly warranted by the serious and substantial nature of the October 25, 2023 complaint – and the above recitation of misconduct by Chief Counsel Kelly, Principal Counsel Bourtis, and other AD4-AGC7 staff – clearly motivated by their interest in covering up for complained-against attorneys who had been rewarded for their frauds and deceit by the very Appellate Division, Fourth Department justices who appoint all AD4-AGC counsel and other staff, in addition to all AD4-AGC members and you, as chair.

As ALL AD4-AGC7 members are responsible for the frauds perpetrated in the Committee's name, please promptly forward this letter to ALL members so that they can discharge their duties, including pursuant to [Rule 8.3\(a\) of New York's Rules of Professional Conduct](#), which you and they are charged with enforcing.

Finally, and further bearing on Chief Counsel Kelly's misconduct, she sent me a [March 29, 2024 letter](#) on AD4-AGC8 letterhead, signing it as Chief Counsel for the "Attorney Grievance Committees, Appellate Division, Fourth Department", advising that my October 25, 2023 complaint, received on February 1, 2024, "against attorney staff of the Appellate Division, Fourth Department" had been "transferred" to the Appellate Division, Third Department Attorney Grievance Committee for "review and determination".

This is disingenuous, at best. Apart from not stating when the "transfer" was made or its basis, I sent no complaint forms to AD4-AGC for the " attorney staff of the Appellate Division, Fourth Department". Rather, my October 25, 2023 complaint as to them was to Unified Court System Inspector General Kay-Ann Porter Campbell, to whom, on October 25, 2023, I e-mailed a [complaint form](#) specifying: "AD-4 Clerk, Deputy Clerk, & Principal Appellate Attorney, AD-4 Attorneys for the Children Program Director & Deputy", thereafter sending her a [February 1, 2024 e-mail](#) entitled "STATUS? – CJA's Oct 25, 2023 complaint vs 'corrupt attorney staff of the Appellate Division, Fourth Department'", asking:

"What is the status of my October 25, 2023 complaint against 'corrupt attorney staff of the Appellate Division, Fourth Department' within your jurisdiction, *to wit*,

- (1) AD-4 Deputy Clerk Alan Ross;
- (2) AD-4 Clerk Ann Dillon Flynn;
- (3) AD-4 Principal Appellate Court Attorney Adam Oshrin;
- (4) AD-4 Attorneys for Children Program Director Linda Kostin;
- (5) AD-4 Attorneys for Children Program Deputy Director Jennifer McLaren.

Will you be referring them to the Appellate Division, Fourth Department Attorney Grievance Committee for discipline, or must I do that independently?

Please promptly advise so that I may be guided accordingly."

I received no response and sent the Inspector General a follow-up [February 13, 2024 e-mail](#) entitled "Again, STATUS?..." – to which I received no response.

Nevertheless, I thereafter sent no complaint forms against AD4 attorney staff to AD4-AGC – and, if, without notifying me, Inspector General Porter Campbell made a referral, Chief Counsel Kelly's March 29, 2024 "transfer" letter should have indicated a *cc* to her.

In any event, the unexplained "transfer" plainly reflects that Chief Counsel Kelly recused AD4-AGC from handling my October 25, 2023 complaint against AD4 staff. By the same token, since my complaint against them involves their collusion in the flagrant professional misconduct of the ten complained-against attorneys – with or without the knowledge of the eight complained-against Appellate Division, Fourth Department justices – she should have recused AD4-AGC from the October 25, 2023 complaint against the ten attorneys, integrally part thereof.

Moreover, on February 1, 2024, when Chief Counsel Kelly received my October 25, 2023 complaint, with its ten January 29, 2024 complaint forms for ten attorneys based thereon, she also received, enclosed in the same envelope, my separate, yet related, [January 29, 2024 complaint form for Commission on Legislative, Judicial and Executive Compensation Chair Fahey](#)⁴ – related because I had furnished the Independent Expert Report and October 25, 2023 complaint to the Commission in support of my testimony before it as to the corruption infesting the judiciary, mandating investigation and disqualifying it from pay raises.

AD4-AGC Chief Counsel Kelly could not discharge her duties with respect to my October 25, 2023 complaint against the ten complained-against attorneys without corroborating my testimony of corruption infesting the judiciary that the complaint establishes, thereby also corroborating that the Commission’s December 4, 2023 “Report on Judicial Compensation” had covered-up such corruption and was, in that respect, a “false instrument”, as detailed by my [January 18, 2024 Opposition Report](#) on which my January 29, 2024 complaint against Attorney Fahey rests. She, therefore, betrayed her duties, *in toto*, both as to my October 25, 2023 complaint against the ten attorneys, above-recited, and as to my January 29, 2024 complaint against Attorney Fahey.

With respect to my January 29, 2024 complaint against Attorney Fahey, the particulars of Chief Counsel Kelly’s betrayal of duties are set forth by my [letter of today’s date to AD4-AGC8 Chair Thibodeau](#) for reconsideration of [AD4-AGC8’s March 27, 2024 letter](#), signed by Investigator Stachura, with a typed “S/” for Chief Counsel Kelly, purporting – after implied investigation pursuant to “22 NYCRR §1020.5 and §1240.7[(b)[4]]” – “that I had furnished “no evidence which would support a contention that Mr. Fahey has committed an ethical breach as outlined in the New York Rules of Professional Conduct” and dismissing the complaint.

I am available to answer questions, including under oath. Meantime, I ask that the foregoing be deemed as sworn by me as true under the penalties of perjury.

By copy of this letter to [UCS Inspector General Kay-Ann Porter Campbell](#), whose office has jurisdiction over the Appellate Division attorney grievance committees, I call on her to take belated investigative and corrective action, as is her duty.

s/Elena Ruth Sassower

cc: Unified Court System Inspector General Kay-Ann Porter Campbell

Enclosures

⁴ CJA’s webpage for my January 29, 2024 complaint to AD4-AGC8 against Attorney Fahey is: <https://www.judgewatch.org/web-pages/searching-nys/attorney-discipline/jan-29-2024-complaint-fahey-etc/menu-ad-4.htm> and it posts the March 27, 2024 dismissal letter and my letter of today’s date for reconsideration, hereinafter recited and linked.