

DISTRICT II-A ETHICS COMMITTEE



BERGEN COUNTY – NORTH

William I. Strasser, Esq., Chair
Evelyn R. Storch, Esq., Vice Chair

Nina C. Remson, Esq.
SECRETARY OF THE COMMITTEE
One Bergen County Plaza, Room 365
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November 13, 2015

Attorneys:

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Steven P. Ross, Esq.
Jason D. Roth, Esq.
David L. Rutherford, Esq.
Diana Sherwood, Esq.
Ian M. Silvera, Esq.
David Torchin, Esq.

Re: **John Paff v. [REDACTED] Esq.**
Docket Nos: IIA-2015-0010E and IIA-2015-0011E
NOTIFICATION OF ADMINISTRATIVE DISMISSAL
DUE TO PENDING LITIGATION

Dear Mr. Paff:

It has come to our attention that there is related pending litigation concerning this matter. Please be informed that the Supreme Court of New Jersey has established a policy of not considering any grievance received from a litigant in a pending civil matter, either about the conduct of a trial attorney therein or about the underlying conduct of any attorney who is a party to the litigation, until the case is finally concluded, except in rare situations that involve clearly provable ethical violations or where the facts present a substantial threat of imminent harm to the public. A copy of New Jersey Court Rule 1:20-3(f) is attached. Your case does not meet these most stringent criteria, and therefore will not be processed at this time.

If after the civil litigation has ended you believe that any attorney of this state has engaged in unethical conduct therein, you are at liberty to re-file a grievance setting forth the facts supporting your allegations. At that time, this committee may investigate and consider all grievances made. Until such time, this matter will be administratively dismissed.

Very truly yours,

A handwritten signature in black ink, appearing to read "Nina C. Remson".

Nina C. Remson, Secretary
District II Ethics Committee

CC: Michael Furey, Esq., counsel for respondent(s)
William Strasser, Esq., Chair
Gail Price, Esq., Investigator
Al Garcia, Esq., O.A.E.

1:20-3. District Ethics Committees; Investigations

- **Rule 1:20-3(d) Office.** Each Ethics Committee shall receive grievances at the office of its secretary and at such additional places as shall be designated by the Director.

- **Rule 1:20-3(e) Screening; Docketing.** The secretary shall evaluate inquiries and grievances in accordance with this rule and shall docket, decline, or dismiss the matters within 45 days of their receipt. The secretary shall not conduct an investigation of a grievance.
 - (1) The secretary shall evaluate all information received by inquiry, grievance or from other sources alleging attorney unethical conduct or incapacity by an attorney maintaining an office in that district. If the attorney is subject to the jurisdiction of the Court and the grievance alleges facts which, if true, would constitute unethical conduct as defined by the Rules of Professional Conduct, case law or other authority, or incapacity, the matter shall be docketed and investigated.

 - (2) The secretary shall decline jurisdiction if:
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 - (A) the attorney is not subject to the jurisdiction of the Supreme Court of New Jersey, in which case the matter shall be declined and referred to the appropriate entity in any jurisdiction in which the attorney is admitted;
 - (B) the matter involves an inquiry or grievance regarding advertising or other related communications within the jurisdiction of the Committee on Attorney Advertising (R. 1:19A-2(a)), in which case the matter shall be sent to that committee unless the matter has been referred by the Advertising Committee in accordance with R. 1:19A-4(e) or (h);
 - (C) the facts stated in the inquiry or grievance involve circumstances which the Supreme Court has determined through the adoption of court rules or administrative guidelines will not be entertained, in which case the matter shall be declined;
 - (D) the grievance involves aspects of a substantial fee dispute and a charge of unethical conduct, unless so directed by the Director or unless the matter is referred by the Fee Committee in accordance with Rule 1:20A-4.

 - (3) The secretary, with concurrence by a designated public member, shall decline jurisdiction if the facts stated in the inquiry or grievance, if true, would not constitute unethical conduct or incapacity.

 - (4) If a grievance is not in writing and if the secretary concludes that the grievance must be declined under subsection (e)(2) or that the grievant alleges facts that, even if true, would not constitute unethical conduct or incapacity, the secretary shall so advise the grievant and that if the grievant wishes further consideration the secretary will provide a written attorney grievance form for completion. Unless declination is mandatory under subparagraph (e)(2), on receipt of a properly completed attorney grievance form the secretary will have the grievance reviewed by one or more public members of the Ethics Committee designated by the secretary. If a designated public member agrees with the secretary, the matter shall be declined. Otherwise, the matter shall be docketed and assigned for investigation.

 - (5) If a matter is declined, the secretary shall furnish a concise written statement to the grievant of the reasons therefor and shall enclose a copy of the court rule or written guideline for declination approved by the Supreme Court.

 - (6) There shall be no appeal from a decision to decline a grievance made in accordance with this rule. An appeal may be taken from dismissal of a grievance after docketing in accordance with R. 1:20-3(h).

- **Rule 1:20-3(f) Related Pending Litigation.** If a grievance alleges facts that, if true, would constitute unethical conduct and if those facts are substantially similar to the material allegations of pending civil or criminal litigation, the grievance shall be docketed and investigated if, in the opinion of the secretary or Director, the facts alleged clearly demonstrate provable ethical violations or if the facts alleged present a substantial threat of imminent harm to the public. All other grievances involving such related pending civil and criminal litigation may be declined and not docketed. If the matter has already been docketed when the related pending litigation is discovered, the matter may be administratively dismissed, provided the matter is still in the investigative stage. The grievant shall be informed in writing of any decision, together with a brief statement of the reasons therefor and a copy of any Court Rule or written guideline supporting declination. Once a formal complaint has been filed, the matter shall not be dismissed nor held in abeyance pending completion of the related litigation, unless so authorized by the Director. Whenever an attorney is a defendant in any criminal proceeding, the Director shall docket the matter and may, in the Director's discretion, investigate and prosecute the disciplinary case.