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21 July 2006

Colorado Supreme Court  
Attorney Regulation Advisory Committee  
600 17<sup>th</sup> Street, Suite 200  
Denver, CO 80202

**RE: Atty. Reg. # 21810**

I am filing the within grievance regarding the above-captioned attorney, Louise Culberson-Smith.

I have been in communication with Ms. Culberson-Smith (hereinafter “Respondent”) since the summer of 2000 (six years ago). The Respondent and I have shared significant differences regarding her disposition of my complaints (regarding a different attorney).<sup>1</sup>

I formally requested, by memorandum dated June 18, 2004, that the Respondent be substituted by a different investigator/complaint-handler, because of the Respondent’s disparate treatment of me during the course of the complaint process and because of her appearance of partiality. In the same correspondence, I referred to two other implied similar requests that I had made earlier, which had also been in writing. None of these requests were ever acknowledged and the Respondent continued to intercept my correspondence.

On March 4<sup>th</sup>, 2005, I served a claim notice under C.R.S. § 24-10-109, naming both John Gleason and the Respondent-attorney as potential defendants. On May 15<sup>th</sup>, July 1<sup>st</sup>, and July 20<sup>th</sup> 2005, I requested that my grievances be escalated to the Committee, pursuant to Rules 251.10 ~ 12. These requests were disregarded. On July 20<sup>th</sup> 2005, I again requested that a different assistant regulation counsel be substituted for the Respondent-attorney and on July 25<sup>th</sup> 2005, I sent a separate § 24-10-109 claim notice.

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<sup>1</sup> Specifically, I believe that the Respondent has intentionally stifled justiciable controversies (in this case, Rules violations), because of deep-seated resentment of me. I believe that she has, in bad faith, mischaracterized the evidentiary and ultimate facts regarding my claims; that she has exercised discretion that Rule 251.9 does not give her; and that she has created and implemented policies and procedures to discriminate against me as a “class-of-one.” For example, the Respondent has repeatedly informed me that, “*If you provide no judicial decision or findings that support your claims, the position of this office will remain unchanged.*” Rule 251.9 does not require a Complainant to support his claims with a judicial decision or findings—that is the job of the Attorney Regulation Counsel (to conduct an investigation to determine if clear-and-convincing evidence exists to support a sufficiently stated Rule violation claim and, if so, to pursue a judicial decision and findings thereof). A Complainant need only sufficiently allege a violation of the Rules.

The Respondent, not only continued to intercept my correspondence, but also defiantly informed me (by memoranda dated March 15, 2005 and March 24, 2005) that my “threats” to sue would have no impact on her decision-making. I strenuously objected to her references to my First Amendment petitioning, because it was not relevant to the report that I was filing regarding the other attorney and because she interpreted it as a personal attack, which appeared to be affecting her judgment.

In July of 2005, I was referred by Alec Rothrock, Chairman of the CBA Ethics Committee, to take my concerns to David Stark, chairperson for the Attorney Regulation Advisory [standing] Committee.<sup>2</sup> I initiated written complaints with Mr. Stark by electronic mail on July 26<sup>th</sup> and 27<sup>th</sup> of 2005. We also spoke by telephone on two other occasions. During one or both of these calls, Mr. Stark implied that he could not or would not take any action on my complaints without direction from the Colorado Supreme Court. He also assured me that my grievances with the OARC were, purportedly, being received and processed normally.<sup>3</sup>

In September of 2005, the Colorado Attorney General’s Office waived service for John Gleason and the Respondent-attorney in a civil suit that I initiated in federal court under 42 U.S.C. §§ 1983 & 1986, *Ex parte Young, inter alia*. Thereafter, I never addressed another memorandum to either John Gleason or the Respondent-attorney (because to communicate with either, directly, during the pendency of the federal case would have been inappropriate).

On December 8, 2005 –after I had initiated the federal proceedings– I filed another grievance with the OARC (concerning the other attorney). In the last paragraph, I wrote:

[B]ecause I have named both John Gleason and Louise Culberson-Smith as defendants in an ongoing federal suit, please assign the investigation of this matter to David Stark of the Attorney Regulation Advisory Committee and please take no action that would potentially threaten the federal court’s ongoing jurisdiction of the case.

Notwithstanding the ethical concerns (particularly, the appearance of partiality) of the Respondent-attorney’s continuing involvement *after* I respectfully and repeatedly had asked for her substitution (with any of the other ten other assistant attorneys) and *after* I had served a § 24-10-109 claim notice and *after* I had filed suit against her, the Respondent-attorney directly communicated with me

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<sup>2</sup> Mr. Rothrock’s suggestion was consistent with the Protocol for Complaints and Concerns Filed with the Attorney Regulation Advisory Committee, published by the Colorado Supreme Court *en banc* on May 27, 2004.

<sup>3</sup> Unfortunately, I have come to believe that neither is true because I have received no disposition or response to any of the nine (9) grievances or memoranda that I have filed with the OARC on or after July 20<sup>th</sup> of 2005.

by memorandum dated January 10<sup>th</sup> 2006. Following this unwelcome communication, I strenuously objected to the Respondent-attorney's continuing involvement and inappropriate direct-communications (which, I now believe could amount to evidence tampering, *inter alia*). In that January 23<sup>rd</sup> 2006 memorandum, I wrote, in pertinent part:

As a preliminary matter, I respectfully object, in the strongest of terms, to the handling of my complaint by Louise Culberson-Smith. Both Ms. Culberson-Smith (and Mr. Gleason) are defendants in a pending lawsuit that I have filed in federal court in September of 2005 and, therefore, it is inappropriate and an ethical conflict for either to establish or maintain communications directly with or from me during this time (in addition to the reasonable probability that neither could be expected to handle matters referred by me objectively). Further, I have repeatedly asked that Ms. Culberson-Smith be precluded from handling matters referred by me and, consequently, her continued persistence is in violation of the Protocol for Complaints and Concerns Filed with the Attorney Regulation Advisory Committee ordered by the Colorado Supreme Court on May 27, 2004. The Protocol provides that:

Matters relating to conduct of Attorney Regulation Counsel or his/her employees, other than matters which can be considered to be allegations of professional misconduct, shall be forwarded for review by the Personnel Committee. The Chair and Vice Chair of the Attorney Regulation Committee shall also be made aware of the matters raised. The Personnel Committee shall conduct an investigation into the matters raised and make a recommendation to the Committee as a whole.

*Id.* at ¶ 2. Although I have complained about Ms. Culberson-Smith's conduct, judgment, motives and overtly hostile demeanor towards me, I have never been informed that the matter was referred to the Personnel Committee or that the Chair and Vice Chair of the Attorney Regulation Committee had been informed or that any investigation had been conducted, which resulted in recommendations to the Committee. The Protocol also provides, that:

Matters relating to conduct of Attorney Regulation Counsel or his/her employees that would be considered to be allegations of professional misconduct shall be forwarded to the Chairperson of the Attorney Regulation Committee to be dealt with pursuant to that Committee's procedures.

*Id.* at ¶ 3. By this letter, I am raising an allegation of professional misconduct, because I believe that Ms. Culberson-Smith's continued involvement, in light of

the ongoing litigation and contentious nature of her communications to me, creates a conflict of interest, is an ethical aberration, is prejudicial to the administration of justice and is demonstrative of either a lack of clarity in judgment or deep-seated resentment or both. The Protocol further provides that:


Any other matters raised by such memoranda shall either be forwarded for review by an existing sub-committee or a new sub-committee shall be appointed by the Chair to review the matter. The sub-committee conducting the review shall conduct an investigation into the matters raised and make a recommendation to the Committee as a whole.

*Id.* at pp. 1-2 [footnote omitted]. Despite the fact that I have already filed a complaint against this Respondent attorney as of January of this year, I have no information to indicate that a new sub-committee member has been assigned to handle the case. In fact, I have received no response, whatever.

Earlier today, I phoned the Office of the Attorney Regulation Counsel to learn from [K/C]arla that the Respondent-attorney is still assigned to any and all complaint matters that are received by me.

Because the Respondent-attorney was a defendant represented by counsel competent and, because the subject matter of grievances against Madeline Wilson (and, who is a co-defendant in the federal case) is within the scope of the federal case, I believe that the Respondent-attorney, Louise Culberson-Smith, violated both the Rules of Professional Conduct and the Federal Rules of Civil Procedure by directly communicating with me. The Respondent-attorney should not have initiated or responded to any direct contact with me and her conduct is especially contumacious in light of the fact that I have sent numerous demands for her substitution and in light of the fact that there are ten (10) other qualified persons, who could process any complaint that I may file.

Most respectfully,



Sean Harrington

cc: Justice Michael L. Bender, Colorado Supreme Court  
Justice Nathan B. Coates, Colorado Supreme Court  
Alex Rothrock, Esq. by electronic mail ([arothrock@bfw-law.com](mailto:arothrock@bfw-law.com))  
David Stark, Esq. by electronic mail ([dstark@faegre.com](mailto:dstark@faegre.com))  
Colorado Attorney General, tort law section by electronic mail ([amy.colony@state.co.us](mailto:amy.colony@state.co.us))