

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**08 CV 2391**

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KEVIN MCKEOWN,

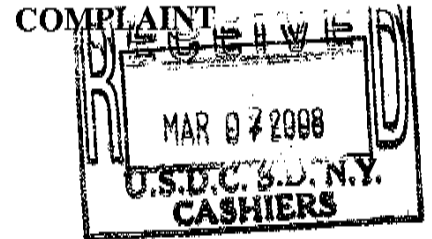
Plaintiff,

Civil Action No. \_\_\_\_\_

-against-

THE STATE OF NEW YORK; THE OFFICE OF COURT  
ADMINISTRATION OF THE UNIFIED COURT SYSTEM;  
THOMAS J. CAHILL, in his official and individual capacity;  
SHERRY M. COHEN, in her official and individual capacity;  
NANCY J. BARRY, in her official and individual capacity;  
JOSEPH M. ACCETTA, in his official and individual capacity,  
ROBERT M. DIBELLA, in his official and individual capacity;  
MCQUADE & MCQUADE, ESQS.; JOSEPH F. MCQUADE,  
individually and as a partner of MCQUADE & MCQUADE;  
and JOHN and JANE DOES, 1-20,

Defendants.  
-----x



JURY TRIAL DEMANDED

**PLAINTIFF** Kevin McKeown, *Pro Se*, as and for his Complaint against the above-captioned defendants, alleges upon knowledge as to his own facts and upon information and belief as to all other matters:

**PRELIMINARY STATEMENT**

1. This is a civil action seeking injunctive relief, monetary relief, compensatory and punitive damages, disbursements, costs and fees for violations of rights, brought pursuant to 42 U.S.C. § 1983; the First and Fourteenth Amendments to the United States Constitution; and State law claims.

2. Specifically, plaintiff alleges that all of the above-captioned defendants wantonly, recklessly, knowingly and purposefully, acting individually and in conspiracy with each other, sought to deprive plaintiff of his Constitutional rights, by means of misrepresentation, fraud, harassment, manipulation of laws, rules, and regulations and for various other reasons. Plaintiff is aware of three related pending cases against the New York State Office of Court Administration

of the Unified Court System concerning, *inter alia*, “white-washing” of complaints against certain select attorneys and other state employees for “political reasons.”

3. At all times relevant, the defendants, individually and in concert with each other, acted to ‘white-wash’ and otherwise conceal various improper actions devised to prevent the rightful return of over \$100,000.00 stolen from American Red Cross 9/11 donations, and as reported in the *New York Times* on April 28, 2006, “*Red Cross Quietly Settles Case of a \$120,000 Theft*,” and that additionally resulted in the subsequent fraud against the insurance company that partially paid out on the Red Cross 9/11 donation theft claim.

4. Plaintiff also specifically brings claims against Joseph F. McQuade (in his individual capacity and in his capacity as a partner of McQuade & McQuade, Esqs., (hereinafter “McQuade & McQuade”) for alleged fraud, harassment, breach of contract and breach of fiduciary duties.

#### **JURISDICTION AND VENUE**

5. Jurisdiction of this Court is invoked under 28 U.S.C. §1331, 28 U.S.C. §§1343(3) and (4), and the First and Fourteenth Amendments to the United States Constitution. Pendent jurisdiction over Plaintiff’s state law claims is proper pursuant to 28 U.S.C. §1367.

6. This Court has jurisdiction pursuant to 42 U.S.C. §1983, because defendant the State of New York is a “state actor” within the meaning of §1983; and the Offices of Court Administration of the Unified Court System and the New York State Supreme Court Appellate Division, First Department, Departmental Disciplinary Committee is an arm of the State of New York and are “state actors” within the meaning of § 1983.

7. Venue herein is proper under 28 U.S.C. § 1391(b); the cause of action arose in the Southern District of New York, all of the parties reside in, or worked at all times relevant, in the State of New York, and because the events or omissions giving rise to plaintiff’s claims occurred in this judicial district.

### **THE PARTIES**

8. At all times relevant in this Complaint, plaintiff is an individual residing in the State of New York. At all times relevant hereto, plaintiff was a complainant and witness to the various grievance complaints contained herein.

9. At all times relevant to this Complaint, defendant STATE OF NEW YORK (hereinafter "State") is a sovereign state of the United States of America. At all times relevant herein, defendant State was an employer within the meaning of the Constitution of the State of New York and was a governmental entity acting under color of the laws, statutes, ordinances, regulations, policies, customs and usages of the State of New York.

10. At all times relevant to this Complaint, defendant OFFICE OF COURT ADMINISTRATION OF THE UNIFIED COURT SYSTEM and the New York State Supreme Court, Appellate Division, First Department, Departmental Disciplinary Committee (collectively hereinafter "OCA") are and were at all relevant times governmental entities created by and authorized under the laws of the State of New York. At all times relevant herein, defendant OCA was a governmental entity acting under color of the laws, statutes, ordinances, regulations, policies, customs and usages of the State of New York.

11. At all times relevant to this Complaint, defendant Thomas J. Cahill (hereinafter "Cahill"), sued here in his official and individual capacity, is an attorney, who, upon information and belief, resides in the State of Connecticut. At all times relevant herein, defendant Cahill was employed as Chief Counsel for the Departmental Disciplinary Committee ("DDC"); was a policy maker for administrative and employment-related matters at the DDC; and was an employer within the meaning of the Constitution of the State of New York.

12. At all times relevant to this Complaint defendant Sherry Cohen (hereinafter "Cohen"), sued in her official and individual capacity, was upon information and belief, a citizen

of the United States, residing in the State of New York. At all times relevant herein, defendant Cohen was employed by OCA as a DDC supervising attorney.

13. At all times relevant to this Complaint, defendant Nancy J. Barry (hereinafter "Barry"), sued here in her official and individual capacity, is an attorney, who, upon information and belief, resides in the State of New York. At all times relevant herein, Defendant Barry was employed by OCA as principal attorney.

14. At all times relevant to this Complaint, defendant Joseph M. Accetta (hereinafter "Accetta"), sued here in his official and individual capacity, is an attorney, who, upon information and belief, resides in the State of New York. At all times relevant herein, defendant Accetta was employed by OCA as a New York State court attorney.

15. At all times relevant to this Complaint, defendant Robert M. DiBella (hereinafter "DiBella"), sued here in his official and individual capacity, is an attorney, who, upon information and belief, resides in the State of New York. At all times relevant herein, defendant Accetta was employed by OCA as a New York State court attorney.

16. At all times relevant to this Complaint, defendant McQuade & McQuade, Esqs. (hereinafter "McQuade & McQuade") is a domestic professional service limited liability company, providing legal services to the public, located at 104 East 40<sup>th</sup> Street, New York, New York 10016.

17. At all times relevant to this Complaint, defendant Joseph F. McQuade (hereinafter "McQuade"), sued here in his individual capacity and as partner of defendant law firm McQuade & McQuade, is an attorney, who, upon information and belief, resides in the State of New York. At all times relevant herein, defendant McQuade has been a partner in the defendant law firm McQuade & McQuade located at 104 East 40<sup>th</sup> Street in New York, New York.

### **FACTUAL BACKGROUND**

18. Upon information and belief, on or about September 2, 2003, plaintiff and Mary Virga (hereinafter "Virga") formally engaged, by virtue of a fully executed retainer agreement, the legal services of defendant McQuade and defendant law firm McQuade & McQuade, to jointly represent them in the estate of their mother. Plaintiff and Virga had both been named as co-fiduciaries in the decedent's, Margaret McKeown (hereinafter "Margaret"), last will and testament, and within days of being formally retained, McQuade filed a joint petition for probate in court on behalf of both co-clients.

19. At the time of her death in New York on August 26, 2003, Margaret had four living children who were beneficiaries under the will: Ronald P. McKeown, Jr. ("Ronald"), a resident of Connecticut; Thomas J. McKeown, Sr. ("Thomas"), a resident of Connecticut; Kevin McKeown ("Kevin" or "plaintiff"), residing in New York; and Mary Megan McKeown Virga ("Virga"), a resident of Florida.

20. Upon information and belief, during September and October of 2003, plaintiff fully advised McQuade that he (the plaintiff) and the decedent had, until her death, been actively engaged in resolving certain legal issues concerning Ronald. McQuade was fully informed that Ronald: (a) was out on bail after being arrested in Connecticut on charges of stealing over \$100,000.00 in 9/11 Red Cross donation monies; (b) was mentally incompetent and at the time had been under court-ordered psychiatric in and outpatient care for nearly 18 months; (c) had an outstanding judgment against him by the State of Texas for over \$490,000.00 for collected but unpaid sales taxes due the State of Texas, and a Texas State judgment for conversion; (d) had a \$250,000.00 federal tax lien against him; (e) had claims against him by the American Red Cross in excess of \$120,000.00; (f) that the State of Connecticut had a claim against Ronald pertaining to the pending criminal charges;

and (g) that Ronald had attempted suicide numerous times since his arrest for stealing the Red Cross 9/11 donation monies.

21. Upon information and belief, in or about September and October of 2003, McQuade was made fully aware that plaintiff wanted to expeditiously fulfill their mother's intention to repay the Red Cross monies even though it was not so directed pursuant to her last will and testament. McQuade was informed by plaintiff that the repayment of the Red Cross monies would be equally borne by the four surviving children. There came a time, however, and upon information and belief, when McQuade, Virga, and others who would financially gain, decided to devise certain improper legal implements so that no estate monies would be used to pay back the donation monies stolen from the Red Cross.

22. Upon information and belief, on September 24, 2003, and unbeknownst to plaintiff at the time, Virga executed, and McQuade notarized Virga's signature on an *ex parte* Verified Petition to revoke plaintiff's Preliminary Letters Testamentary- legal documents that McQuade had previously drafted to the detriment of plaintiff on behalf of one co-client in the very same proceeding.

23. Upon information and belief, on or about September 26, 2003, defendant McQuade presented a check to his co-clients, plaintiff and Virga, to be jointly signed, in the amount of \$18,370.92, and made payable to defendant McQuade & McQuade. The check cleared the bank, upon information and belief, on or about September 29, 2003.

24. Upon information and belief, on or about October 8, 2003, McQuade appeared in court with, and on behalf of, plaintiff and Virga, announcing on the record in open court, "Mary McKeown and Kevin McKeown both presently preliminary executors—co-executors."

25. Upon information and belief, on or about October 8, 2003, and shortly after the court hearing, and during a conference with defendant Accetta, plaintiff first learned that his

own retained attorney, McQuade, had filed in court his previously prepared, executed, notarized and submitted an *ex parte* order to show cause against plaintiff. At all times relevant, and upon information and belief, McQuade advanced court proceedings in the same matter on behalf of one co-client against another co-client, to wit, co-client Virga against co-client plaintiff, seeking a stay of his own co-client's authority to continue acting as an estate co-fiduciary.

26. Upon information and belief, defendant Accetta: (a) accepted McQuade's *ex parte* filing by Virga against plaintiff, knowing that McQuade was at that time simultaneously representing both parties in that proceeding, the therein petitioner and respondent; and (b) heard plaintiff say to McQuade during that first conference when first presented with the *ex parte* order to show cause, "What are you doing? You're *my* lawyer."

27. Upon information and belief, plaintiff's authority to act in his mother's estate was stayed on or about October 8, 2003 as a result of his own attorney's *ex parte* submission. Shortly thereafter, Virga's authority was stayed upon, *inter alia*, the presentation of official certified court documents evidencing the fact that Virga was a convicted felon; Virga's authority was then subsequently and permanently revoked.

28. Upon information and belief, and at all times relevant, defendant Accetta failed his duty as an attorney and as an OCA employee when he chose not to report or take any action against McQuade's breaches of the most fundamental attorney-client obligations. Although McQuade was ultimately disqualified from the estate many months later, it was only as a result of plaintiff's second submission to the court, protesting that impropriety.

29. Upon information and belief, and at all times relevant, defendant DiBella, acting in a supervisory position with OCA, and who was jointly handling and participating in the estate proceedings with defendant Accetta, failed his duty as an attorney and as an OCA employee when

he chose not to report or take any action against McQuade's breaches of the most fundamental attorney-client obligations.

30. Upon information and belief, in or about November of 2003, parties with interest in the estate were waiting in defendant Accetta's 8<sup>th</sup> floor office for a scheduled conference to begin. Seconds before defendants Accetta and DiBella of the OCA entered, DiBella was heard saying in a very raised voice, "I told you I didn't like this one."

31. Upon information and belief, and at all times relevant, defendants Accetta and DiBella, grossly and knowingly failed their obligations as attorneys, and as employees of OCA, to take appropriate action or to report the misconduct of defendant McQuade.

32. Upon information and belief, and though formally demanded on numerous occasions, McQuade has never provided plaintiff with copies of all documents while he was representing plaintiff.

**Plaintiff Files a Complaint with the DDC**

33. On or about May 17, 2006, plaintiff filed an ethics complaint with the DDC against McQuade complaining that: (a) McQuade improperly prepared, executed and filed false and misleading documents against plaintiff while in the attorney-client relationship; (b) McQuade grossly failed the requirement to possess basic knowledge of estate tax filing requirements; (c) McQuade continued to reject the then-two-year old (now 4 year) demand of plaintiff that he provide plaintiff with copies of files while plaintiff was his client; and (d) McQuade failed for over two years to provide a required Affidavit of legal Services to the Court.

**Plaintiff Discovers Corruption at the DDC**

34. In a letter dated on or about May 15, 2007, approximately one year later, and bearing the stamped signature of defendant Cahill, the DDC advised plaintiff that his complaint against McQuade had "been resolved by the Surrogate" and that the DDC would be taking no



further action. Plaintiff was stunned by the May 15, 2007 dated DDC advisement because, and upon information and belief: (a) the sole county Surrogate had recused himself from the estate nearly two years earlier on August 3, 2005; (b) there were no pending estate proceedings, and there had not been any for over one year; and (c) an acting-surrogate's authority had been terminated over fifteen months earlier on January 18, 2006, before plaintiff had even filed the McQuade complaint with the DDC.

**Plaintiff Discovers Outside Acts to Improperly Influence DDC Affairs**

35. In a letter dated on or about May 23, 2007, and upon information and belief, defendant Barry of OCA independently, and at the direction of, or in concert with defendants Accetta and DiBella, and possibly other OCA employees, conveyed incomplete and misleading information to plaintiff, and sent a copy of that unsolicited letter to defendant Cahill at the DDC. Upon information and belief, the Barry letter was intended to improperly influence the DDC by conveying, displaying and expressing a heightened level of interest by defendants Barry, Accetta and DiBella, and others, in plaintiff's ethics complaint against defendant McQuade.

**The DDC's Sham Findings**

36. On or about June 27, 2007, plaintiff provided documentation from the Surrogate's Court Clerk to Cahill establishing that the sole county Surrogate, Judge Scarpino, had previously recused himself on August 3, 2005 and that any authority by any Acting-Surrogate had been terminated January 18, 2006. Specifically, and upon information and belief, from January 18, 2006 until at least the date of Cahill's letter of May 15, 2007, there were no pending estate matters and there was no Surrogate assigned to the estate, who could, even if permitted, resolve *any* attorney ethics complaint plaintiff had filed with the DDC. To date, and upon information and belief, none of the issues raised in plaintiff's complaint against McQuade have been resolved.

37. In or about January of 2008, and during a personal meeting with defendant Cohen in the DDC offices, Cohen: (a) advised plaintiff that she was in charge of plaintiff's complaint; (b) advised plaintiff that she was responsible for the May 15, 2007 letter, bearing the name of defendant Cahill, and that advised plaintiff that the McQuade ethics complaint had "been resolved by the Surrogate." and, (c) refused to explain how, or under what authority, resolution of the McQuade ethics complaint by a non-existent person outside the DDC could be accomplished.

38. In or about December of 2007, and during a subsequent telephone conversation between Cahill and plaintiff, defendant Cahill: (a) could not provide plaintiff with the name of the mystery and unidentified "Surrogate" who had purportedly resolved all components of plaintiff's attorney ethics complaint against McQuade; (b) could not explain resolution by a non-existent Surrogate; (c) could not identify the person who presented such a false statement of fact to the DDC; and (d) could not provide plaintiff with any law, authority, opinion, directive or hint that conveyed the handling of ANY ethics complaint from the DDC to ANY judge or anyone else outside the DDC, except by appropriate referral or appointment by the Court itself.

39. Upon information and belief, and at all times relevant, defendants OCA, Cahill, Cohen, DiBella, Accetta, McQuade and John and Jane Does wantonly, recklessly, knowingly and purposefully, acting individually and in concert with each other, by means of misrepresentation, fraud, harassment, manipulation of laws, rules, regulations, and while acting in bad faith, sought to deprive plaintiff of his Constitutional right to fair and impartial proceedings, competent and effective counsel, and the seeking of relief by OCA administrative and ethics offices, *inter alia*, without improper or undue influence.

40. Upon information and belief, all defendants conspired with each other and agreed with each other to act in concert to deny plaintiff of a fair review of his filed ethics complaint and to deny plaintiff his rights to due process and equal protection of the laws.

**COUNT ONE**  
**(All Defendants)**  
**42 U.S.C. §1983**  
**DEPRIVATION OF RIGHTS and**  
**CONSPIRACY TO DEPRIVE RIGHTS UNDER**  
**THE FIRST and FOURTEENTH AMENDMENTS**

41. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 40 as though fully set forth herein.

42. As set forth above, the DDC is a division of the New York State Supreme Court, Appellate Division, First Judicial Department, and is therefore part of the New York State court system. As part of the New York State court system, the DDC is obligated to administer justice in a fair and honest manner.

43. The DDC is also an arm of the State of New York and a “state actor” within the meaning of § 1983. Defendants Cahill, Cohen, DiBella, Accetta and Barry are also “state actors” under § 1983.

44. Plaintiff has a Constitutional right to a fair and honest judicial system, free from corruption and bias, with impartial arbiters of the law. Through the conduct set forth above, including but not limited to their conduct in denying plaintiff access to fair and honest court proceedings, all defendants, collectively and each one of them individually, have engaged in actions and abuses which violate and deny plaintiff of his Constitutional rights, including his rights to due process and equal protection of the law, as provided under the Fourteenth Amendment of the United States Constitution.

45. Through the conduct set forth above, including but not limited to their conduct in denying plaintiff access to fair and honest court proceedings, and by colluding in bad faith in various improper *ex parte* communications, all defendants, collectively and each one of them individually, have engaged in actions and abuses which violate and deny plaintiff of his

Constitutional rights, including his right to petition the government under the First Amendment to the United States Constitution.

46. As a direct and proximate result of said acts, plaintiff has suffered and continues to suffer extreme loss of security in the Legal System and Judicial Process, emotional pain and suffering, loss of enjoyment of life, and lost of trust of lawyers, who are charged to uphold ethical standards within the legal system, and in the Court system.

47. As a result of the defendants denying plaintiff's rights, plaintiff is now and will continue to suffer irreparable injury and monetary damages, as well as damages for mental anguish, and humiliation. Plaintiff is entitled to damages in the amount of thirty million dollars (\$30,000,000.00) dollars as well as punitive damages, costs, and possible attorneys' fees for these violations.

**COUNT TWO**  
**(Defendants Joseph F. McQuade and McQuade & McQuade)**  
**BREACH OF CONTRACT**

48. Plaintiff repeats and reiterates the allegations set forth in paragraphs 1 through 47 as though fully set forth herein.

49. Upon information and belief, plaintiff entered into a legal and binding contract with defendant law firm McQuade & McQuade for legal representation concerning his legal interests and involvement in his mother's estate. Plaintiff met with defendant Joseph McQuade, a partner in that law firm, for the purpose of pursuing his interests in his mother's estate. Rather than properly representing plaintiff, or severing the relationship if he perceived a conflict, defendant McQuade knowingly, and with intentional deceit, in collusion with others involving improper *ex parte* communications, surreptitiously filed *ex parte* papers against his own client, the plaintiff. As a partner of the firm McQuade & McQuade, liability for Joseph McQuade's conduct is imputed to the firm.

50. By the actions set forth above, defendants Joseph McQuade and McQuade & McQuade breached their contract to provide legal representation to Plaintiff, and are therefore liable to plaintiff for damages in an amount to be determined at trial.

**COUNT THREE**  
**(Defendants Joseph F. McQuade and McQuade & McQuade)**  
**BREACH OF FIDUCIARY DUTY**

51. Plaintiff repeats and reiterates the allegations set forth in paragraphs 1 through 50 as though fully set forth herein.

52. As a client of defendant law firm McQuade & McQuade, the law firm and its partners owed plaintiff fiduciary duties of good faith, loyalty, and care.

53. When defendant McQuade drafted, executed and filed ex parte papers against his own client, the plaintiff, both McQuade and the McQuade & McQuade law firm breached their fiduciary duties to plaintiff. As a partner of the firm McQuade & McQuade, liability for Joseph McQuade's conduct is imputed to the firm. As a result, defendants McQuade and McQuade & McQuade, are liable to plaintiff for damages in an amount to be determined at trial.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully request that the Court enter judgment and an Order in favor of plaintiff as follows:

- a. First Cause of Action: in excess of thirty million (\$30,000,000.00) dollars as well as punitive damages, costs and attorney's fees.
- b. Second Cause of Action: in excess of thirty million (\$30,000,000.00) dollars as well as punitive damages, costs and attorney's fees.
- c. Third Cause of Action: in excess of thirty million (\$30,000,000.00) dollars as well as punitive damages, costs and attorney's fees.

- d. Awarding plaintiff punitive damages against all individual defendants;
- e. Appointing a federal monitor to oversee the day-to-day operations of the DDC for an indefinite period of time; and
- f. An Order granting such other legal and equitable relief as the court deems just and proper.


**JURY TRIAL IS DEMANDED**

Plaintiff demands a trial by jury on all claims so triable.

Dated: New York, New York  
March 7, 2008

Respectfully submitted,


KEVIN MCKEOWN

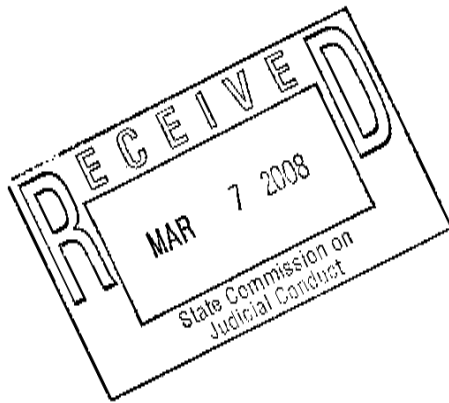
By:   
Kevin McKeown, *Pro Se*  
P.O. Box 616  
New York, New York 10156  
(212) 591-1022 tel  
kmck22333@aol.com

**DECLARATION UNDER PENALTY OF PERJURY**

The undersigned declares under penalty of perjury that he is the plaintiff in the above action, that he has read the above complaint and that the information contained in the complaint is true and correct, 28 U.S.C. § 1746; 18 U.S.C § 1621.

Executed at New York, New York on March 7, 2008.

  
Kevin McKeown



Kevin McKeown  
 P.O. Box 616  
 New York, New York 10156  
 212-591-1022 tel  
 212-591-6022 fax  
 kmck22333@aol.com

March 6, 2008

Mr. Robert H. Tembeckjian, Esq. Chief Counsel  
 New York State Commission on Judicial Conduct  
 61 Broadway – 12<sup>th</sup> floor  
 New York, New York 10006

**BY HAND DELIVERY**

Mr. Alan W. Friedberg, Esq., Chief Counsel  
 NYS Departmental Disciplinary Committee  
 61 Broadway – 2<sup>nd</sup> floor  
 New York, New York 10006

**BY HAND DELIVERY**

- Re:**
- 1. Matter of Joseph McQuade, Esq. Docket No.: 2006.1386  
 (complaint filed May 17, 2006)**
  - 2. Formal Complaint Against Justices Scarpino, Nicolai and Loehr  
 (complaint filed September 11, 2007)**

Gentlemen:

During a meeting on Wednesday, March 5, 2008, between myself and Mr. Friedberg at the offices of the Departmental Disciplinary Committee, I was informed by Mr. Friedberg that he was a “hands-on” person at the DDC, and that he had also been a very “hands-on” person of authority during his tenure at the SCJC.

While I have no reason to doubt Mr. Friedberg’s assertion of the high level of his involvement and knowledge of matters at offices where he has worked, I was stunned to learn from Mr. Friedberg that while at the SCJC he had never heard of the various complaints that I had filed against certain judges.

While I understand the volume of cases is high, there are some cases and allegations that are simply memorable, whether or not formal charges are ever filed. One such case is mine, and which was written about in the *New York Times*. And it involves 3 judges, case fixing, judicial steering by the administrative judge, a judge confronting a *pro se* party in the courthouse lobby, a judge’s close lawyer friend who filed a fraudulent

RECEIVED  
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2008 MAR - 7 P 15  
 DEPARTMENTAL DISCIPLINARY COMMITTEE

March 6, 2008

Mr. Robert H. Tembeckjian, Esq. Chief Counsel  
 New York State Commission on Judicial Conduct  
 61 Broadway – 12<sup>th</sup> floor  
 New York, New York 10006

**BY HAND DELIVERY**

Mr. Alan W. Friedberg, Esq., Chief Counsel  
 NYS Departmental Disciplinary Committee  
 61 Broadway – 2<sup>nd</sup> floor  
 New York, New York 10006

**BY HAND DELIVERY**

- Re:**
1. **Matter of Joseph McQuade, Esq. Docket No.: 2006.1386  
 (complaint filed May 17, 2006)**
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 (complaint filed September 11, 2007)**

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assignment of interest, \$100,000.00 stolen from the Red Cross in 9/11 donations and a suicide.

**One must ask, "Do you get a lot of complaints like this?"**

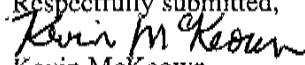
To be clear, I am quite alarmed that the number two person at the SCJC had never even heard of allegations, involving the same matter, against 3 judges (one a Surrogate, and one an Administrative Judge) concerning:

- (a) a judge who confronted the complainant in the courthouse lobby to discuss the case and relay his anger at being asked to recuse himself;
- (b) a judge who granted financial sanctions against the complainant but who later recused himself because an involved attorney was simultaneously advertising on the internet his close association with that judge while seeking, and receiving, those sanctions;
- (c) the judge's friend's client who committed suicide while out on bail for stealing over \$100,000.00 in Red Cross 9/11 donation monies;
- (d) an administrative judge who refused to transfer the estate case outside the county after recusal of the lone Surrogate, but who would later publicly receive election funds from the same involved attorney, and who also interfered with a DDC ethics inquiry; and
- (e) the same lawyer friend and financial supporter of the 3 justices had been accused of filing a fraudulent assignment so as to avoid paying back the \$100,000.00 stolen from American Red Cross 9/11 donation monies.

**Again, one must ask, "Do you get a lot of complaints like this?"**

While I am most grateful for Mr. Friedberg's time yesterday, I fail to understand the relevancy of his assertion to me during our meeting that the DDC does not act *sua sponte*. And while I asked for the meeting to ascertain answers responsive to my February 26, 2008 dated letter to Mr. Friedberg, I take no position to the suggestion that I re-re-submit my McQuade complaint, or that I file a new one.

I respectfully ask both of you to jointly review the very troubling issues as contained in the attached copy of my September 11, 2007 dated complaint to the SCJC, along with any and all other related material in your respective files. I respectfully submit that these issues require immediate and joint action by the committees you both oversee.

Respectfully submitted,  
  
 Kevin McKcown

Enclosures: April 28, 2006 *New York Times* article  
 June 3, 2005 Decision and Order  
 April 7, 2005 Order to Show Cause  
 August 3, 2005 Transcript  
 April 21, 2005 Internet Archive Affidavit

**September 11, 2007 COMPLAINT RE:**

**Hon. Anthony A. Scarpino, Jr.  
Hon. Francis A. Nicolai  
Hon. Gerald E. Loehr**

- 1.0 NATURE OF COMPLAINT:** Gross Misconduct  
Public Injustice & Corruption  
Denial of Due Process  
Obstruction of Justice
- 2.0 COMPLAINANT:** Kevin McKeown  
P.O. Box 616  
New York, New York 10156  
212-591-1022 tel 212-591-6022 fax  
kmck22333@aol.com
- 3.0 COMPLAINT AGAINST:**
- 3.1 Hon. Anthony A. Scarpino, Jr., Westchester County Surrogate  
3.2 Hon. Francis A. Nicolai, Westchester County Civil Court Judge  
3.3 Hon. Gerald E. Loehr, Westchester County Civil Court Judge  
(hereinafter collectively as “The Justices”)
- 4.0 OVERVIEW:**
- 4.1 The Justices fully considered and furthered financial sanctions against me in favor of attorney Frank W. Streng, who at all times relevant was simultaneously advertising his (Streng’s) implied favoritism with the Surrogate Court on his McCarthy Fingar LLP law firm website, and on the internet. Specifically, attorney Frank W. Streng was advertising the fact that he (Mr. Streng) had served on Surrogate Scarpino’s Election Transition Committee. In addition, The Justices were aware at all times relevant through court filings and correspondence that allegations were made that Mr. Streng drafted, executed and filed a fraudulent assignment of an approximate \$200,000.00 estate related asset concerning a pending claim over \$100,000.00 in stolen Red Cross 9/11 donation monies. Also, The Justices were knowledgeable that the “assignment” was executed by an impaired person who had been ordered by a criminal court judge to in-patient and out-patient care and who, in fact, committed suicide shortly after the purported “assignment” was executed (See attached *New York Times* Article)

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## 5.0 DETAILS:

- 5.1 **All Times Relevant-** The Justices were aware that attorney Streng had served on the Surrogate's Election Transition Committee when the Court considered and subsequently granted monetary sanctions to Mr. Streng on June 8, **2004** and on June 1, **2005**. It is notable that from at least early 2004, Surrogate Scarpino continuously failed to present for remittal, or to disqualify or recuse himself while he was considering the thereto related filings and issues which resulted in the June 8, 2004 and June 1, 2005 decisions.
- 5.2 **June 8, 2004-** Surrogate Scarpino granted monetary sanctions to attorney Streng at the same time Mr. Streng was advertising on the internet and the McCarthy Fingar firm website that he served on the Judge's Election Transition Committee.
- 5.3 **June 1, 2005-** Surrogate Scarpino again granted monetary sanctions to attorney Streng at the same time Mr. Streng was advertising on the internet that he served on the Judge's Election Transition Committee.
- 5.4 **All Times Relevant-** The Justices denied all requests to address the "fraudulent assignment" prepared, executed and filed by the same person who was advertising his implied favoritism with the court on the internet, Mr. Streng. In fact, Judge Scarpino denied *without prejudice to renew*, indicating that the issue could be raised at a future time in the estate accounting phase. But in that very same ruling Judge Scarpino imposed a motion prohibition. And acting-surrogate Loehr immediately imposed a total ban of any motions at his first hearing. Notably, Judges Scarpino and Loehr knowingly and purposely avoided ruling on the fraudulent assignment prepared by their close political associate Frank Streng.
- 5.5 **April 7, 2005-** Judge Scarpino again chose to ignore his duty to remit, disqualify or recuse himself on his own initiative when he signed an April 7, 2005 Order to Show Cause, which sought to have Mr. Streng and his law firm disqualified for advertising its implied favoritism with the Court, wherein documents were presented showing that Mr. Streng was in fact *actively* advertising on his law firm website and on the internet the fact that he was a "[m]ember, Transition Committee of Anthony A. Scarpino, Jr., Surrogate of Westchester County (2001)" Notably, and as also presented in the April 7, 2005 OSC, one website posting listed, "serves on the Transition Committee of Anthony A. Scarpino, Jr., Surrogate of Westchester County (**March, 2001 – present**)." (emphasis added) Subsequently, and at all times relevant, Judges Nicolai and Loehr would also ignore their duty to remove themselves from any involvement in the proceedings

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- 5.6 **June 3, 2005-** In his Decision and Order denying, *without prejudice to renew*, the disqualification of the McCarthy Fingar law firm and Mr. Streng, Surrogate Scarpino again ignored his own obligation to *sua sponte* disqualify or recuse himself, or to on his own initiative, present the matter for remittal. **Notably**, in the June 3, 2005 order, Judge Scarpino denies the requested relief *without prejudice to renew* (*See* attached June 3, 2005 Decision and Order, page 9) **Most Notably**, and less than one page later on page ten, Surrogate Scarpino pre-conditions his own *without prejudice to renew*, and orders,

...on its own motion the court hereby prohibits any of the parties and/or counsel from filing any additional motions/applications or commencing any additional proceedings in connection with this estate without the court's prior approval (i.e., by order to show cause) (see e.g. Matter of Brown, NYLJ, June 28, 1999, at 32, col 4 [Westchester]).

- 5.7 **August 3, 2005-** Westchester Surrogate Anthony Scarpino finally recuses himself from *The Estate of Margaret A. McKeown*, not on his own initiative but only after being requested to do so by the herein movant. (**Note #1:** on the record in open court on August 3, 2005, Judge Scarpino specifically voiced that the case may *not* be transferred outside of Westchester County) (*See* Court Transcript of August 3, 2005 Surrogate Scarpino Recusal Hearing) (**Note #2:** Judge Scarpino recused himself from my Order to Show Cause which pointed to the Surrogate's bias concerning attorney Frank W. Streng, who in these proceedings the Surrogate twice awarded financial sanctions to while attorney Streng was simultaneously advertising on the internet and his law firm website the fact that he was on Surrogate Scarpino's election transition committee. Judge Scarpino had denied motions *without prejudice to renew* concerning Mr. Streng's drafting, executing and filing of a fraudulent assignment in the estate proceedings concerning stolen Red Cross 9/11 donation monies, but before any motions could be renewed Surrogate Scarpino *Sua Sponte* ordered that no parties could file any additional motions. There is clear bias here by Judge Scarpino to protect a member of his Election Transition Team by denying my right to due process, and by obstructing justice concerning fraudulent assignment inquiries.

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- 5.8 On **August 8, 2005**, I overnighed a letter, with material attachments, to the 9<sup>th</sup> Judicial District Administrative Judge Nicolai specifically advising him of the troubling facts concerning the handling of my mother's estate, and I specifically requested that the case be transferred to another county. I had been mindful of Surrogate Scarpino's now-confirmed prophetic statement during the August 3, 2005 hearing that the case may stay in Westchester County. (*See* Transcript of August 8, 2005 recusal hearing)
- 5.9 **My August 8, 2005 letter, with material attachments, to Judge Nicolai specifically advises:**
- 5.9.1 "During oral argument on August 3<sup>rd</sup>, Surrogate Scarpino mentioned that the case may stay in Westchester County. I respectfully wish to bring to your attention certain facts that highlight the very troubling and unique circumstances surrounding this matter that strongly, I believe, suggest that this matter should be transferred to a county outside of Westchester." **See available August 8, 2005 dated two-page letter to the Hon. Francis A. Nicolai, which contains the following attachments:**
- (i) August 3, 2005 Decision and Order of Recusal (3 pages);
  - (ii) November 4, 2004 letter from Gary L. Cassella (1 page);
  - (iii) June 13, 2005 letter from Westchester Public Administrator (4 pages); and
  - (iv) April 25, 2005 e-mail from Public Administrator's attorney (1 page)
- 5.10 Judge Nicolai, I have since been informed, has had a long-standing political relationship with attorney Streng. And at all times relevant, Judge Nicolai failed his duty to avoid the appearance of impropriety. Subsequently, Judge Nicolai refused to transfer the matter outside Westchester County, choosing instead to assign the proceeding to the most junior county court judge, and longtime political associate, Justice Loehr.
- 5.11 At all times relevant, Judge Loehr was fully knowledgeable of issues concerning the fraudulent assignment and, *sua sponte*, directed his own motion prohibition so that the issue against attorney Streng could be litigated.

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## **6.0 CONCLUSION**

- 6.1 I believe The Justices have not only failed at all times during the estate proceedings to Avoid the Appearance of Impropriety by not presenting for remittal the known issues as presented herein, or by disqualifying or recusing themselves. But they collectively participated in a scheme to cover the misdeeds of their political friend, Mr. Streng. At no time did *any* of The Justices act in a way to assist in the \$100,000.00-plus repayment of the stolen 9/11 donations. The Justices grossly failed their duty to insure judicial integrity and impartiality of court proceedings in the Westchester County Surrogate Court.
- 6.2 I believe The Justices knowingly failed their judicial oath by denying due process and, remarkably, concerning an issue where their own close associate, attorney Frank Streng, filed papers meant only to prohibit the return of over \$100,000.00 in 9/11 donations stolen from the American Red Cross.
- 6.3 I believe appropriate inquiry and action is necessary as The Justices knowingly and with purpose chose to ignore their judicial obligation to submit for remittal, recuse or disqualify, or to correct any of the troubling acts against due process and justice. In fact, while ignoring their duty to avoid even the appearance of bias and impropriety, The Justices took deliberate action to thwart the right of due process, obstruct justice and disgrace simple decency by their acts against 9/11 victims.

DATED: September 11, 2007

Respectfully submitted,

  
Kevin McKeown

Enclosures: April 28, 2006 New York Times article  
June 3, 2005 Decision and Order  
April 7, 2005 Order to Show Cause  
August 3, 2005 Transcript  
April 21, 2005 Internet Archive Affidavit