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SUPREME COURT OF THE STATE OF NEW YORK
1st JUDICIAL DISTRICT

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HEARING RE:

COMMISSION ON STATEWIDE ATTORNEY DISCIPLINE

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New York County Lawyers Association
14 Vesey Street
New York, New York 10007

August 11, 2015

BEFORE:

COMMISSION MEMBERS:
HONORABLE BARRY A. COZIER, Chair
HONORABLE PETER SKELOS
MARK C. ZAUDERER, ESQ.
ROBERT P. GUIDO, ESQ.
DEVIKA KEWALRAMANI, ESQ.
SEAN MORTON, ESQ.

Claudette Gumbs, Official Court Reporter
Monica Horvath, Official Court Reporter
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Claudette Gumbs

♀

24 an original referee review of facts add a whole lot to
25 delay the process.

26 Hearing panels, however, can offer in the First

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2 Department where they exist can be substantially
3 valuable in matters such as reinstatement matters and
4 things of that sort where it is useful to have a variety
5 of people hear the evidence, presentation-wise. And it
6 is a fairly simple presentation that can be done one
7 time.

8 Hearing panels are hard to convene and have for
9 lengthy processes because there are so many members and
10 it just makes scheduling things difficult and again
11 delays the process.

12 JUDGE COZIER: Thank you, Mr. Supple.

13 MR. SUPPLE: Thank you.

14  JUDGE COZIER: The next witness is
15 Professor Caprice Alves.

16 MS. ALVES: Hi. Thank you.

17 So I am here to speak I guess on behalf of
18 consumers like from a consumer's perspective and to the
19 point at which disciplinary charges, or findings should
20 be publicly revealed. I believe that complaints
21 themselves -- maybe I ~~agree~~ with Professor Gillers,
22 where he said as soon as there was probable cause for a
23 complaint to be processed it should be publicized.

24 I know that Judge Skelos, ~~has~~ said that

25 anecdotal testimony is not really valuable, but I'm
26 going to give a few examples and then say that those

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things do speak to the process. They do speak to the
3 structure of things and how the structure of things is
4 flawed and hurts consumers.

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One example is -- well, all three examples
6 involve lawyers. So shall I name the lawyers and give
7 you the specific examples?

8

JUDGE COZIER: No. I prefer you not name lawyers,
9 please.

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MS. ALVES: Okay.

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One particular lawyer was brought to the
attention of the First Department Grievance Committee
13 for bad deeds. Just unethical behavior with real estate
14 and things like that. He was actually my lawyer and I
15 made a complaint against him for things that he was
16 doing. And he actually tried to take my apartment
17 somehow that I owned and he said he was going to make me
18 an investor and different things. I brought the bad
19 behavior of this person to the Disciplinary Committee,
20 and they didn't act on the complaint that I submitted.

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After three years of me trying to get this
23 person -- the complaint processed against this person
24 they got tired of me and dismissed the complaint all
together. Three weeks after the complaint was dismissed

NYCtranscript.txt
25 he got arrested by the FBI.

26 I did a doctorate, and I just defended it last

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year, actually. And the title of my dissertation, is:

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"An Analysis Of the Perception~~s~~ of the Legal Profession

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Through The Eyes Of Dissatisfied Consumers of Legal

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Services in Manhattan, New York." An interpretative and

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analogical analysis.

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while I was doing my case studies, my

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comprehensive exams, ⁺I decided to do it on this

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particular lawyer and the situation with the First

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Department. As I was looking up things and doing my

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research for that case study, I found out that he was

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breaking the law for the whole three years that the

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Disciplinary Committee had his complaint.

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In Florida, he had someone sitting in prison

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while he robbed the family. He told the person to plead

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guilty, then he went ^{to Amsterdam} ~~against them~~ and he took the house,

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the rings, the cars, and everything from the family. He

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was rearrested, shipped back to Florida to face charges

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where he was practicing in Federal Court, where he

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didn't have a license. And now he is in prison for

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seven years.

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The second example is a gentleman, an attorney,

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a Brooklyn attorney, who represented an elderly, Harlem

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woman with a property that she owned and bought I think

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in 1956 or something like that. The property she paid

26 about \$190,000, for it and it is worth four million

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2 dollars now. She asked him to manage the building for
3 her and he did. He represented her. And first he would
4 keep the money from the tenants and not return it to
5 her, and then he got tired of that slow process so he
6 just marched into the building and stole the whole
7 thing. ^{He...} When a news reporter got wind of the story and
8 the things that he was doing previously they made a
9 report.

10 They did a report on this particular lawyer and
11 all of the outrageous bad deeds that he was committing,
12 so he sued the reporter for defamation, to stop the
13 reporter from ^{publicizing} publishing this information.

14 Long story short, that person is now in prison
15 for six years in federal prison. And for the past year,
16 although he has been in prison for a year now, the
17 lawyer's cite AVO and the court system's web cite said
18 that he was a lawyer in good standing with no
19 disciplinary records to be found.

20 The third example is a lawyer who represented
21 me. I have a high-end co-op in Manhattan and all we do
22 is disagree. So, ^{we} I decided to go to court one year and I
23 hired a lawyer and I guess he felt ~~liked~~ he was in a
24 win/win situation, I have this apartment, we have the
25 building, he can't loose, so, he was excessively,

26 billing ~~me~~ and doing bad things. And then because I was

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challenging his behavior he just decided to quit, but he kept all of the money that I gave him.

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After submitting these people to the Disciplinary Committee, all of the complaints that I submitted were dismissed. They would call each other and say not to represent me, the next lawyers and things like that. All of the complaints were dismissed. So the only thing that I had at my disposal was the opportunity to submit a consumer review. Which, I did. I put a ^{rip-off} report of him on-line and stated exactly what he did. For the last three years and two months he has been suing me for defamation frivolously, because he says that my complaint, my consumer review is not true and I am saying that it is true.

We are now on the fourth judge because they keep quitting. The judge's don't want to be bothered. And they have been doing improper things causing one judge to quit on the record and stated that they were sending him things improperly and all of these things. But, either way, we are on the fourth judge, three years and two months later. There is no end in sight. I'm fighting back against him and his frivolous claims. which I don't think he expected. But this is what is happening.

So, anecdotes aside the First Department

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2 receives 3,300, complaints a year. Out of the 3,300,
3 complaints that they receive they dismiss over
4 98 percent of them. The confidentiality laws don't allow
5 consumers to know that certain lawyers are capable of
6 certain behaviors. If you don't know that these
7 lawyers, particular lawyers, would be capable of
8 particular behaviors there is no way in the world that
9 you could be an informed consumer. You are susceptible
10 to the experiences of the three lawyers that I outlined.

11 That particular lawyer that is suing me has
12 actually been in litigation and is still in litigation,
13 with some of them 26 clients that he is either suing or
14 are suing him for excessive legal fees.

15 So, that is what I'm speaking to today. The
16 fact that the complaints should be public as soon as
17 there is probable cause or else consumers are not
18 protected from the egregious offenses of bad apples.

19 MR. : Thank you for your testimony.

20 MS. ALVES: Thank you.

21 (Applause.)

22 MR. ZAUDERER: If I understood you correctly,
23 you had perhaps three complaints that were filed and
24 they were dismissed?

25 MS. ALVES: More than three. But, yes.

26 MR. ZAUDERER: More than three.

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MS. ALVES: They were all dismissed.

One last point. The cases are dismissed with no proper explanation.

MR. ZAUDERER: That is what I was going to ask you.

MS. ALVES: Right.

The dismissal is just stayed. "We went through this process" -- and they spell out the process -- "we sent it to this committee and that committee and there was no finding of wrongdoing," and the consumer has -- I have a Doctorate degree. I have no way of understanding what that means or how to protect myself or other people in the future.

MR. ZAUDERER: So let me ask you about that. Did you ask the staff in the Disciplinary Committee for an oral explanation, or a written one and did they give you either?

MS. ALVES: Yes, sir. I did ask, many times.

MR. ZAUDERER: Tell me what the response was.

MS. ALVES: The response is always that they can not talk to you and tell you certain things because of confidentiality laws.

The written complaints were never anymore than, "we did an investigation and we didn't find wrongdoing." And, that is about it.

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In fact, I was told at one point that the consumers are not entitled by -- consumers don't have the ^{right} ~~write~~ to the Disciplinary Committee. That the Disciplinary Committee is sort of a luxury or just -- I can't think of the word to use -- just sort of a luxury, that is in place but consumers are not entitled to it. Therefore they don't give out their e-mail addresses and give you complete access to the Disciplinary Committee people.

MR. ZAUDERER: Thank you.

JUDGE COZIER: Thank you, Ms. Alves.

MS. ALVES: Thank you.



JUDGE COZIER: The next witness is Janice Lintz.

MS. LINTZ: Good evening. My name is Janice Schacter Lintz. I am a retired attorney who has testified on these issues before Congress and the Moreland Commission.

Attorney discipline should be consolidated. Geographic disparities should be eliminated. There needs to be uniformity across the state. Out-of-state attorneys shouldn't be able to enter our jurisdiction without being subject to ~~our~~ state's rules. We don't need more rules. We just need the rules we have enforced.

The perfect example of this is self