

Michael T. Pearson, Attorney at Law

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January 31, 2012

The Honorable Paul Ingbretson
Chair
Committee on Redress of Grievances
House of Representatives
Legislative Office Building, Room 104
33 North State Street
Concord NH 03301-6334

Re: Petition # 26

Dear Representative Ingbretson:

I am writing this letter as counsel for Attorney Tracy A. Bernson. Attorney Bernson is in receipt of the notice you sent her concerning the February 2, 2012 hearing scheduled on "Petition # 26."

Article 31 of the New Hampshire Constitution obligates the Legislature to assemble for the redress of public grievances, and Article 32 gives people the right to request of the Legislature redress of wrongs done them and grievances they suffer. These Articles of the Bill of Rights do not empower the Legislature to adjudicate disputes and grievances between private parties. Rather, Article 72-a vests such judicial power in the Supreme Court, the Superior Courts and such lower courts as the Legislature deems to establish.

Attorney Bernson is a private citizen. She is not a government official, or an employee or agent of the government. Nor is she a member of the judiciary. She privately contracted with the parties in the matter of Bethany Youseff and Joshua Youseff to provide services as a guardian *ad litem*. She was not hired by the Court. She did not contract with the Court. She was not paid by the Court. Although, in the first instance, the Judicial Council paid Attorney Bernson's bill for services rendered in the case, the parties to that litigation remain obligated to pay for Attorney Bernson's services by reimbursing the Fund through the Office of Cost Containment.

The initial source of payment in the matter does not alter the fact that Mr. Youseff's complaints about Attorney Bernson are a private dispute between two citizens. It is not a public grievance. Processes exist for him to redress his complaints, and he has threatened repeatedly to avail himself of them. To date, for whatever reason, he has chosen not to do so.

Therefore, the Committee on Redress of Grievances has no jurisdiction over Attorney Bernson, or any grievance that Mr. Youseff feels he has with regard to her. Any effort by your Committee to compel Attorney Bernson's participation in its proceedings would be unconstitutional. Accordingly, we will resist through all appropriate legal channels any effort by the Committee to assert jurisdiction over her.

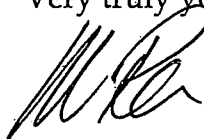
The Committee should understand that Mr. Youseff's dispute with Ms. Youseff was tried in numerous hearings before the Family Division. Through the process, he has been represented by no fewer than three attorneys. One was forced to withdraw from representation because Mr. Youseff refused to comply with Court orders. The other two attorneys withdrew from representation after the parenting matter concluded, but before the hearing on Ms. Youseff's allegation that Mr. Youseff committed fraud during the earlier divorce proceedings. It is my understanding that this matter may still be pending before the Court

During the hearing on Mr. Youseff's parenting rights, he was represented by two private lawyers. The Court gave him two days, at least, of hearing time to present and argue his cause, an extravagance given the current budgetary conditions of the courts of this State. The Court entered an order regarding Mr. Youseff's parenting time, one with which he disagreed. He sought reconsideration, but his request was denied. He subsequently failed to perfect his appeal to the New Hampshire Supreme Court, and it was accordingly dismissed.

These proceedings are a matter of public record at the Hooksett Family Division. Before the members of this Committee pass any judgment on the judicial officers that are the subject of Petition # 26, I encourage them to take the time to review the voluminous file created by Mr. Youseff's contumacious conduct before the Court.

Thank you for your attention to and consideration of these matters.

Very truly yours,



Michael Pearson

cc: The Honorable Terie Norelli
The Honorable Sandra Keans
The Honorable Timothy Horrigan
The Honorable John Lynch, Governor
The Honorable Linda Stewart Dalianis, Chief Justice of the Supreme Court
The Honorable Edwin Kelly, Administrative Judge, Circuit Court
Edward Mosca, Esquire, Legal Counsel to the House of Representatives
(edward.mosca@leg.state.nh.us)

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Joshua F. Youssef
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February 6th, 2012

To: Honorable Paul Ingbretson, Chairman
Committee on Redress of Grievances
N.H. House of Representatives
Legislative Office Bldg., Rm. 104
33 State St.
Concord, NH 03301

Re: Petition #26
Response to Jan. 31, 2012 Letter from Atty. Michael T. Pearson
Counsel for GAL Tracy A. Bernson

Dear Mr. Chairman Ingbretson,

I am writing to in response to a letter addressed to you dated 1/31/2012, sent by Michael T. Pearson, counsel for GAL Tracy A. Bernson, whom I name in my petition for redress of grievance with the committee, petition #26.

Mr. Pearson contends that the committee lacks jurisdiction over GAL Bernson because (he alleges) that she is a "private citizen." Bernson, is indeed a government employee *and/or* agent *and/or* contractor of the government in my matter, *Youssef v. Youssef*, Docket No. 05-M-955.

First, it is noteworthy that GAL Bernson was appointed as a "fund GAL," to be paid by the State of New Hampshire.

Mr. Pearson, in his letter, makes the following incorrect remarks:

- a) "[s]he is not...an employee or agent of the government."
- b) "[s]he was not hired by the court."
- c) "[s]he did not contract with the court."
- d) That I have not chosen to exercise processes available to me to redress my complaints.
- e) That one of my attorneys was forced to withdraw from representation because I refused to comply with court orders
- f) That the Court gave me two days, at least, of hearing time to present and argue my case.
- g) That somehow the "voluminous file created by [me]" was *somehow* due to my "contumacious conduct before the Court."

Immediate after (c) above, he concedes that she was paid by the Judicial Council. Mr. Pearson cannot have it both ways, but his contradictory statements would appear that he is trying.

In all seven statements above, Mr. Pearson has not represented the truth. Furthermore, an analysis of Bernson's role and how it was contracted and paid for will reveal that she is indeed both an employee and an agent of the government. Indeed she was selected by the Court, hired by the Court (by order of appointment as GAL), and, as previously noted, was paid by the Judicial Council.

As to the GAL stipulation/contract; I signed it under duress and undue influence, not knowing what I was signing, as I noted at the 2/2/2012 hearing, and I have been

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pursuing a challenge to the alleged obligation that I have to repay via the office of Cost Containment.

All of the elements of a contract involved "the government"

- i. *Offer* was made by the court to involve GAL Bernson. The Court offered to designate it a "fund paid GAL," the fund being the "*indigent fund*" which pays GALs from State of New Hampshire monies.
- ii. *Acceptance* was made by parties (though I signed under duress) and was ordered by the Court; hence it is in fact an "*inter partes*" stipulation.
- iii. *Consideration* was paid by the government. I have never paid GAL Bernson even a penny for her "services," so therefore it is impossible that this was a "private contract."

Additionally, Bernson *was* a court-appointed in her role as GAL, *is* an "officer of the court" in her capacity as an attorney, and at all times was responsible for answering to the Court and for maintaining conduct in accordance with the applicable GAL Ethics Rules and the N.H. Professional Rules of Conduct.

For at least the foregoing reasons, GAL Bernson *is* an employee, contractor, or agent of the government and is subject to the jurisdiction of the Committee for Redress of Grievances.

Why Mr. Pearson copied only *two* select members of the committee aside from your honor is curious, indeed.

Even more curious is why he would directly copy Supreme Court Chief Justice Dalianis, and Judge Edwin Kelly, both of whom have been involved in the issuance of orders concerning my ongoing case. This action, as counsel for Bernson, who was a full party to my case, constitutes *ex parte* communication with judges who have *both* taken part in proceedings concerning the ongoing case. This is wholly improper and both Atty. Pearson and Atty. Bernson knew or should have known this.

Why this matter would be copied to the Governor is beyond me, unless it is for the purpose of intimidating me, which it is not.

Finally, Pearson copies Edward Mosca in his capacity as "*Legal Counsel to the House of Representatives*," knowing full well that he is counsel for my ex-wife in this ongoing matter.

I am of the firm opinion that Mr. Mosca must stay far away from this petition as a matter of conflict of interest – and by conflict, I must clarify – if he wants to get involved, he must choose to whom he will devote his loyalty; to the Judicial Branch (as a bar member), or to this Legislature (which I believe raises a separation of power issue, as an active bar member, Bar Id. #9353). Multiplicative roles should not, and cannot not be permitted.

Please note, I have copied hereto, all of the recipients that Mr. Pearson's letter included, solely for clarification and rebuttal. Please note however that I have excluded Atty. Mosca, as I cannot tacitly sanction the endemic conflict of interest. I will not initiate correspondence copying judges directly, especially judges who are named in my petition, such as Judge Edwin Kelly, except for rebuttal.

Joshua F. Youssef

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In closing, Mr. Pearson has misrepresented the facts that appear in the record, and has made defamatory false statements about me in his letter. I am certain that the committee under your leadership will recognize the truth for what it is and proceed accordingly.

With high regard,



Joshua F. Youssef
Petitioner #26

Cc: State Representatives:

Speaker Wm. O'Brien, D.J. Bettencourt, Terie Norelli, Susan Emerson, Tony Soltani, Kevin Avar, Randall Brownrigg, Norma Champagne, Brian Chirichiello, Harry Hardwick, George Lambert, Charles Moore, James Waddell, Sandra Keans, Patrick Garrity, Jennifer Daler, Timothy Horrigan, Steven Lindsey, Robert Willette, Stella Tremblay

Governor John Lynch
Supreme Court Chief Justice Linda Stewart Dalianis
Circuit Court Administrative Judge Edwin Kelly