

Panel Rules On Affidavit In Winsted

By ALISTAIR HIGHT

WINSTED—An area grievance panel with jurisdiction over the conduct of attorneys has found that there is probable cause to believe that Community Lawyer Charlene LaVoie violated ethical standards when she obtained an affidavit from Selectman John F. Gauger Jr. while pursuing a legal action against the town.

Gail S. Kotowski, counsel to the Litchfield County arm of a statewide regulatory group, said Ms. LaVoie seems to have violated regulation 4.2 of the Code of Professional Conduct for attorneys because she spoke to Mr. Gauger, a defendant in the lawsuit she had filed against the town, though she had not sought permission of the town attorney. Those findings must now go to the Statewide Grievance Review Panel for formal action.

Ms. LaVoie, however, argues that the rule makes an exception for public officials and that the spirit of the rule is to protect vulnerable clients from being manipulated by opposing lawyers. Ms. LaVoie says that Mr. Gauger, who is now the Mayor, supported her lawsuit, which stemmed from a \$10,000 retirement payment to a police captain in 1991.

"I concluded and I believe there is a public official exception, and the only time the Connecticut Supreme Court has ever ruled on the question it said that the purpose of the rule is to protect the integrity of the lawyer-client relationship," Ms. LaVoie said. "In this case, everybody knew where John stood on the issue. Everything was done out in the open. John certainly doesn't feel that his rights were violated."

Mr. Gauger, then a selectman who often criticized Mayor William H. McCabe, cooperated with the Community Lawyer in opposing the payment and encouraged the lawsuit against the town. Ms. LaVoie says she cannot recall whether she approached Mr. Gauger for the affidavit or he approached her because it arose out of a "long-term cooperation" between them.

Ms. Kotowski acknowledges that the case is clouded by the political allegiances in the town, but she added: "Even where you have a sympathetic defendant, you still can't do that."

The case will now go before the statewide grievance panel for consideration. The panel, which regulates the actions of attorneys, has the power to issue reprimands when it finds evidence of a violation. In an extreme case, it could disbar a lawyer. A public hearing on the grievance will be scheduled within 120 days.

Mr. McCabe filed the grievance against Ms. LaVoie on Nov. 1, after the suit against the town was dismissed by Litchfield Superior Court.

In 1991, Ms. LaVoie sued over the payment given to retiring Police Capt. Francis J. O'Neill, mainly because town officials failed to act on a petition challenging the payment. The petition, it turned out, had not been certified by town clerk William B. Riiska. In a sworn affidavit for Ms. LaVoie on Oct. 3, Mr. Gauger wrote that he presumed the town clerk had certified the petition when it was received. The suit was dismissed Oct. 5.

Ms. LaVoie has been Community Lawyer in Winsted since 1990 and is paid by the Shafek Nader Trust for Community Interest.