Hearing probes into complaint against LaVoie

Former mayor claims attorney violated Rules of Conduct 4/16/94

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WINSTED — The Statewide Grievance Committee is expected to issue a decision in a couple of months on a complaint lodged against community lawyer Charlene LaVoie by former Mayor William H. McCabe.

A three-member subcommittee of the grievance committee conducted a hearing on the complaint Friday in Waterbury Superior Court.

McCabe claimed LaVoie violated attorneys' Professional Rules of Conduct when she took an affadavit from Selectman John F. Gauger Jr., now mayor, for a lawsuit against the town without notifying the town's lawyer at the time. The rules state an attorney cannot contact another lawyer's client in a case without informing the lawyer.

At the time LaVoie took Gauger's affidavit, she was arguing in court that selectmen wrongly approved a $10,000 supplementary retirement benefit to Capt. Francis J. O'Neill in 1991.

The case was dismissed in October because a petition asking for a town meeting to consider the payment was never certified by Town Clerk William T. Riiska.

In November, McCabe filed a complaint with the grievance committee. In December the local panel agreed a violation existed and sent the complaint on to the state level for consideration.

LaVoie, who is represented by attorney Burton Weinstein of Bridgeport, had requested the complaint be dismissed or the rule that she allegedly violated be clarified.

The panel did not act on her motion Friday.

Weinstein claimed an exemption to the rule exists for contact with other parties when they are public officials.

"There is no situation . . . that has been addressed yet where a public official seeks out an attorney and says, 'Hey, I'm on your side and I want to help'," Weinstein said Friday.

In a November letter LaVoie wrote to the local grievance panel, she said Gauger fully supported her legal action against the town. Before filing the suit, she discussed it with Mills, Gauger

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and other electors. Therefore, Gauger was not taken "unfair advantage" of when she took an affidavit from him later.

Weinstein also argued the payment was a matter of public concern and discussion is protected by the First Amendment. He likened McCabe's interpretation of the code to putting a gag on First Amendment rights.

LaVoie suggested in her letter to the local grievance panel that McCabe's motives may be political, stemming from a feud with Gauger and a dislike of LaVoie's role as community lawyer.

In his summary before the panel, McCabe stated the issue is not politics. "The only issue is, what are the rules that govern attorneys in litigation," he said.

Allaire was also at the hearing. He said he attended only because he had submitted an affidavit.

If the grievance committee does rule in his favor, ground will be set for future litigation, McCabe said Friday.

"I'm doing this for the town," McCabe said. "I wouldn't do it unless I felt it had some future benefit."