

Panel rules in favor of lawyer

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WINSTED - The reviewing committee of the Statewide Grievance Committee issued a proposed decision this week that community lawyer Charlene LaVoie did not commit an ethical violation when she obtained an affidavit from a selectman.

The committee voted 2-1 to dismiss former Mayor William M. McCabe's complaint against LaVoie.

"This is not only a victory for the citizens of Winchester, but all citizens of Connecticut," LaVoie stated in a prepared statement. "This is the first time in Connecticut that this issue was considered by the committee. Its conclusion reminds us that citizens are the source of governmental authority and there can be no barrier to citizen communication with their government officials about matters of public concern."

Former Mayor William H. McCabe, who lodged the complaint, said Friday he will oppose the decision before the Statewide Grievance Committee, which has the final say on the matter.

"I still think the main thing is

that the town needs to be protected from this type of behavior," McCabe said. He said it is a close decision that must be reviewed by the statewide panel.

McCabe complained to the Statewide Grievance Committee that LaVoie violated The Rules of Professional Responsibility for lawyers when she obtained an affidavit from selectmen, and now-Mayor John F. Gauger Jr., in 1991.

At the time LaVoie was challenging the Board of Selectmen's decision to pay a supplemental retirement benefit to a police officer. As a selectman, Gauger was a defendant in the case.

LaVoie obtained an affidavit from Gauger that supported LaVoie's challenge. At the time, Gauger publicly opposed the retirement benefit, and had discussed legal action over the issue with LaVoie.

McCabe charged LaVoie violated lawyers' ethics when she sought an affidavit from Gauger, a defendant in the case, without notifying attorney Stephen Allaire, who was defending the town in case.

Two members of the panel, at-

torney James Walsh and Carmen Dumarumma, stated LaVoie was allowed to contact Gauger, a defendant, because he volunteered the information, and his position on the issue was well known. "Under all the circumstances of the case, the public policy of First Amendment concerns and access to government officials outweigh the general purpose of Rule 4.2."

The two members of the committee did note that, in the future, LaVoie should give notice to a defendant lawyer of contact with a client.

The lone dissenter in the decision, attorney Harold B. Schram, believed that LaVoie clearly violated ethics. "There was no compelling First Amendment concern requiring plaintiff's counsel to communicate with Mr. Gauger. ... She made no attempt to obtain permission to speak with Mr. Gauger or to seek a deposition through legal procedures." Schram recommended she be reprimanded.

Before the reviewing committee's decision, a Litchfield County grievance panel found LaVoie violated ethics.