

THOMAS JOSEPH
P.O. BOX 2111
BRATTLEBORO, VERMONT 05303

December 22, 2014

Ms. Catherine O'Hagan Wolfe, Clerk of the Court
United States Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

RE: Attorney Matthew M. Curley
Bass Berry & Sims PLC
150 Third Avenue South
Suite 2800
Nashville, TN 37201

Counsel for Defendant, The Brattleboro Retreat in the matter of
United States ex. rel. Thomas Joseph v. The Brattleboro Retreat
United States District Court, District of Vermont, Case No: 2:13-cv-55wks

Dear Ms. O'Hagan Wolfe:

INTRODUCTION

I am writing to file a formal Complaint of Attorney Misconduct with the United States Court of Appeals for the Second Circuit in regards to Attorney Matthew M. Curley of Bass, Berry & Sims PLC of Nashville, TN. I respectfully ask that a review be undertaken of the legal documents Mr. Matthew M. Curley has submitted as defense counsel for Defendant, The Brattleboro Retreat to the United States District Court, District of Vermont, as I believe they evidence purposeful deception and omission before a federal Court on behalf of his client, The Brattleboro Retreat.

Recently, I filed a Memorandum of Complaint with the Board of Professional Responsibility of The Supreme Court of Tennessee who have now opened a formal investigative file to investigate the allegations of ethical misconduct by Attorney Matthew M. Curley. Please refer to the correspondence from the Board which I have enclosed.

NATURE OF COMPLAINT

As a former federal prosecutor, Mr. Curley is very much aware of the laws applicable to wartime. Indeed, in Mr. Curley's own year-end 2013 Healthcare and Fraud Review available on the Bass Berry & Sims website, he concedes having this knowledge by discussing the Wartime Suspension of Limitations Act (WSLA) which provides for the tolling of any statute of limitations during wartime for any fraud-related litigation involving any federal agency. Further, Mr. Curley and his firm admit that the WSLA would likely make its way to the United States Supreme Court as the Supreme Court has granted certiorari in the matter of *United States ex. rel. Brown v. Kellogg Brown & Root*.

Despite having a clear understanding of the law during wartime, Mr. Curley filed misleading legal documents on behalf of his client, the Defendant, The Brattleboro Retreat, intended to deceive the Court of information within his personal knowledge and reach that pertain to fraud litigation and specifically, the statute of limitations during wartime. As a result of Mr. Curley's purposeful efforts to argue for a shorter statute of limitations, despite his personal knowledge of the WSLA, the Court dismissed many patient examples as time barred when these patient examples provided the Court with a level of particularity that details a devious scheme to defraud the federal government that spanned no less than ten years. This was no oversight or human error, but a deliberate effort to circumvent justice, confuse the Court, and carve out an escape from liability for his client, The Brattleboro Retreat for its years of misconduct described in the Complaint.

Additionally, in his pleadings before the Court, Mr. Curley deliberately misrepresented the facts as articulated in the Complaint to mislead the Court and ultimately a federal judge, the Honorable William K. Sessions, III. My attorneys highlighted this in our Opposition to the Brattleboro Retreat's Motion to Dismiss stating, "To paint the Complaint as overly vague, the Retreat's Motion flourishes discrete paragraphs in isolation, but does not provide the Court with the full context of these paragraphs."

Finally, it seems fitting that a high profile and historic psychiatric hospital here in Vermont would hire attorneys to continue their own deception before a federal Court to avoid being held accountable under the law. I view Mr. Curley's conduct, as well as his omissions before the Court to be very serious and would ask that all disciplinary measures including disbarment be considered.

Please feel welcome to contact me should you have any questions.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Thomas Joseph". The signature is written in a cursive, slightly slanted style.

Thomas Joseph



BOARD OF PROFESSIONAL RESPONSIBILITY
of the
SUPREME COURT OF TENNESSEE

SANDY L. GARRETT
CHIEF DISCIPLINARY COUNSEL

KRISANN HODGES
DEPUTY CHIEF DISCIPLINARY COUNSEL - LITIGATION

JAMES A. VICK
DEPUTY CHIEF DISCIPLINARY COUNSEL - INVESTIGATION
ETHICS COUNSEL

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WILLIAM C. MOODY
PRESTON SHIPP
EILEEN BURKHALTER SMITH
A. RUSSELL WILLIS
DISCIPLINARY COUNSEL

December 11, 2014

CONFIDENTIAL

Thomas Joseph
P.O. Box 2111
Brattleboro, VT 05303

When Responding Please Use:

Re: File No. 37705-5-KB
Respondent(s): Matthew Michael Curley

Dear Mr. Joseph:

We have opened an investigative file regarding your complaint of alleged ethical violations against the above attorney¹. An investigation will be conducted into your allegations and you will be notified of the results. Supreme Court Rule 9, Section 15(a) requires that a complete copy of your original complaint and any additional or supplemental written submissions be provided to the attorney. It could take a few months before the investigation will be concluded. If during this time, you learn additional information concerning this matter that you feel is relevant to our inquiry, please send it to us in writing.

You should understand that we do not represent your legal interests and cannot give you legal advice. The filing of this complaint does not preserve your legal rights or remedies in your underlying legal matter, such as legal malpractice or the statute of limitations, and is not an action to pursue a civil or monetary recovery. You should consult independent legal advice regarding such issues.

Our function is limited to consideration of whether there has been a violation of the Rules of Professional Conduct pursuant to the requirements imposed by Rule 9 of the Rules of the Tennessee Supreme Court.

We appreciate you bringing this matter to our attention.

Sandy Garrett
Chief Disciplinary Counsel

By: **Kevin D. Balkwill**
Disciplinary Counsel
615-695-0943

KDB:cg

¹All participants in any matter, investigation, or proceeding shall conduct themselves so as to maintain confidentiality. However, unless a protective order has been entered, nothing in this Section or these Rules shall prohibit the complainant, respondent-attorney, or any witness from disclosing the existence or substance of a complaint, matter, investigation, or proceeding under these Rules or from disclosing any documents or correspondence filed by, served on, or provided to that person. See Tenn. S. Ct. Rule 9 (32.7).

THOMAS JOSEPH
P.O. BOX 2111
BRATTLEBORO, VERMONT 05303

November 14, 2014

Board of Professional Responsibility
10 Cadillac Drive, Suite 220
Brentwood, TN 37027

RE: Attorney Matthew M. Curley
Bass Berry & Sims PLC
150 Third Avenue South
Suite 2800
Nashville, TN 37201

RECEIVED
BRATTLEBORO, VT

NOV 14 2014

CLERK'S OFFICE
U.S. DISTRICT COURT

Counsel for Defendant, The Brattleboro Retreat in the matter of
United States ex. rel. Thomas Joseph v. The Brattleboro Retreat
United States District Court, District of Vermont, Case No: 2:13-cv-55wks

To Whom It May Concern:

I am enclosing a complete and signed Memorandum of Complaint to the Board of Professional Responsibility of The Supreme Court of Tennessee. I respectfully ask that a review be undertaken of the legal documents Mr. Matthew M. Curley has submitted as defense counsel for Defendant, The Brattleboro Retreat, as I believe they evidence purposeful deception and omission before a federal Court on behalf of his client, The Brattleboro Retreat.

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purposeful efforts to argue for a shorter statute of limitations, despite his personal knowledge of the WSLA, the Court dismissed many patient examples as time barred when these patient examples provided the Court with a level of particularity that details a devious scheme to defraud the federal government that spanned no less than ten years. This was no oversight or human error, but a deliberate effort to circumvent justice, confuse the Court, and carve out an escape from liability for his client, The Brattleboro Retreat for its years of misconduct described in the Complaint.

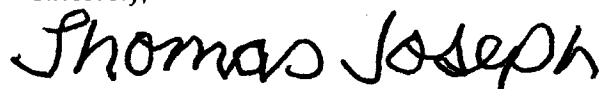
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Please feel welcome to contact me should you have any questions.

Thank you for your time and consideration.

Sincerely,



Thomas Joseph

cc: ✓ The Honorable William K. Sessions, III
United States District Court
District of Vermont
Hand Delivered to US District Court, Brattleboro, Vermont

Mr. Nikolas "Kolo" Kerest
Assistant United States Attorney
United States Department of Justice
Burlington, Vermont
Sent via e-mail