

**THOMAS JOSEPH**  
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BRATTLEBORO, VERMONT 05303

March 11, 2015

Attorney Michael Kennedy, Bar Counsel  
Vermont Disciplinary Program  
Costello Courthouse  
32 Cherry Street, Suite 213  
Burlington, VT 05401

RE: Attorney Elizabeth R. Wohl  
Downs Rachlin Martin PLLC  
28 Mt. Vernon Street, Suite 501  
Brattleboro, VT 05301

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 Attorney Kennedy:

I am submitting today a formal complaint of attorney misconduct including purposeful misrepresentation(s) of fact and fraud by Attorney Elizabeth R. Wohl of Downs Rachlin Martin PLLC in her capacity as defense counsel for, The Brattleboro Retreat, in the above captioned matter.

Respectfully, I am writing to request a formal review of the legal documents Attorney Elizabeth R. Wohl has submitted together with *pro hac vice* counsel Attorney Matthew M. Curley of the Nashville, Tennessee firm Bass Berry & Sims PLLC.

Prior to this request, I filed a formal complaint with the Board of Professional Responsibility of the Supreme Court of Tennessee (File No: 37705-5-KB) who are now investigating the allegations of attorney misconduct as they relate to Attorney Matthew M. Curley who is licensed in the State of Tennessee. Only recently when reviewing a reply from Attorney Curley and his defense counsel did I realize that both Attorney Curley and Wohl were obligated to treat the facts in the federal complaint as true for purposes of their Motion to Dismiss analysis. The reality that they both abandoned their professional obligations including their own obligations to a heightened pleading standard given that the federal interests in the complaint were indeed primary demands a review by Attorney Wohl's peers in the State of Vermont. (Refer to 29 page submission to the TN BPR and specifically to *United States ex. rel. Fair Laboratory Practices Associates v. Quest Diagnostics Inc.*, 734 F.3d 154 (2d Cir. 2013).

Michael Kennedy, Esq.

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Attorney Wohl's co-counsel Attorney Curley was very much aware of the laws applicable to wartime. Indeed, in Attorney 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, Attorney Curley and his firm admit that the WSLA was long ago expected to be heard before the United States which it was earlier this year. The Supreme Court decision on related issues is due this summer.

Despite having a clear understanding of the law during wartime, Attorney Wohl and Curley filed misleading legal documents on behalf of their client, the defendant, The Brattleboro Retreat, intended to deceive the Court of information within their collective knowledge and reach that pertain to fraud litigation and specifically, the statute of limitations during wartime. As a result of Attorney Curley and Attorney Wohl's purposeful efforts to argue for a shorter statute of limitations despite controlling and persuasive case law to the contrary, 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 their pleadings before the Court, Attorney Wohl and Attorney 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." The enclosed 29 page submission to the TN BPR dated 02/16/15 provides direct evidence that both Attorney Curley and Attorney Wohl have affirmatively engaged in fraud before the tribunal and both pose a risk to the public by their continued practice of law.

Finally, it seems fitting that a high profile and historic psychiatric hospital here in Vermont would hire attorneys to continue their own deception and fraud before a federal court to avoid being held accountable under the law. I view Attorney Wohl's conduct to be egregious and view the collective misrepresentations of fact and fraud before the Court by both attorney's to be very serious and would ask that all disciplinary measures including disbarment be considered.

Thank you for your time and consideration. All relevant case documents can be found on PACER or accessed via my website at <http://www.brattlebororetreat.info/>

Sincerely,

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

Thomas Joseph

cc: Attorney Michael Simon Zachary  
United States Court of Appeals for the Second Circuit  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, New York 10007