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SUPREME COURT OF PENNSYLVANIA



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OFFICE OF DISCIPLINARY COUNSEL

June 17, 1998

Mr. Robert G. Kearns
R.R. 3, Box 254 A1
Hollidaysburg, PA 16648

Re: Ilissa Zimmerman, Esquire
File Reference #C4-98-647

Dear Mr. Kearns:

This will acknowledge receipt of your June 8, 1998 complaint recently filed with this office.

We have reviewed your complaint, which is filed at the number above, and made such inquiry into the matter as seemed appropriate. We then assessed the alleged facts against the provisions of the Rules of Professional Conduct.

After such evaluation, we dismissed the complaint.

The basis of your complaint concerns Attorney Zimmerman's actions as the *guardian ad litem* for your daughter, Stephanie J. Kearns. You believe that Attorney Zimmerman has not acted in the best interest of your daughter, who is her client, and that she has taken sides against you on the behalf of your wife. You believe that your daughter has deteriorated under the guardianship of Attorney Zimmerman and that Attorney Zimmerman may have even gone so far as to "coach" your wife in regard to the home atmosphere for your daughter.

As I am sure you are aware and was probably explained to you by your attorney, Attorney Zimmerman, as *guardian ad litem*, was appointed by the Court. She must act in the best interest of her client, your daughter, Stephanie. We are not in a position to determine that Attorney Zimmerman has not so acted. Rather, if you believe there are issues regarding the guardianship of your daughter, I can only suggest that you speak with your attorney as to any avenues available to you before the Court before whom

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Attorney Zimmerman was appointed. We cannot make any type of factual determination as to whether or not your daughter has been served by Attorney Zimmerman or what is in the best interest of your daughter. The appropriate forum for this matter is the Court.

Under the Rules of the Supreme Court of Pennsylvania, all complaints submitted to the Disciplinary Board or Disciplinary Counsel shall be confidential. (Rules 209(a) and 402 of the Pennsylvania Rules of Disciplinary Enforcement.) So long as you do not violate these rules of confidentiality, the rules provide that you shall be immune from civil suit based upon your communication or testimony in this matter. You will lose this immunity from suit if you do not treat your complaint as confidential. Additionally, all proceedings before the Disciplinary Board or Disciplinary Counsel are confidential until and unless certain events described in the rules occur.

These rules **do not** prohibit you from taking any other action you deem appropriate. For example, you may file a claim with an administrative agency or discuss the underlying basis of your claim with an attorney to determine whether any civil action is appropriate. You may also discuss your claim with the proper prosecution agency where required. What is prohibited is revealing that you have filed a complaint with the Disciplinary Board or Disciplinary Counsel, unless the events described in Rule 402 occur. Copies of Rules 209(a) and 402 of the Pennsylvania Rules of Disciplinary Enforcement are enclosed.

We appreciate the interest and concern with the legal profession which you showed by bringing this matter to our attention. Please be advised that the policy of the Office of Disciplinary Counsel is to retain closed complaint files for only one (1) year. Therefore, your file will be destroyed one (1) year from the date of this letter.

Very truly yours,

Rose M. Albarano

Rose Marie Albarano
Disciplinary Counsel-in-Charge

RMA/dg

Enclosure