

Bob Ficalora

From: Bob Ficalora [bobfic@montauk.com]
Sent: Thursday, July 14, 2005 11:42 AM
To: 'Stephen G. Court, Esq'
Cc: Bob Ficalora; Carla Grimm; Carolyn Carson; Connie Judson; Helen Ficalora; Jay Sayers; Nancy Woodward; Richard Monahan; Stuart Bennett Vorpahl; William Grimm
Subject: RE: Your resignation
Importance: High

Dear Mr. Court,

Thanks for your input but I disagree, and reiterate my instructions to you.

I speak only truth to you. I have filed and perfected at least four appeals and know of no law or rule that provides for filing a notice of appeal to the Appellate Division with the trial court, especially one that that would preserve time on the appeal.

You filed papers that were without my permission and were unnecessary, contrary to my instructions and were potentially harmful. You have my permission to end our relationship; any repayment or return by you is entirely at your discretion. Please file a short notice of retraction of the "Notice of Appeal" and a notice of withdrawal as attorney for the MFOP/Montauk Trustee Corporation with the clerk at Riverhead with service of copies myself (631-614-4319) and to all parties.

I will begin looking for a new attorney immediately.

Sincerely,

Robert A. Ficalora

From: Stephen G. Court, Esq [mailto:courtlaw@optonline.net]
Sent: Thursday, July 14, 2005 9:42 AM
To: bobfic@montauk.com
Subject: Re: Your resignation

Bob, I have to disagree with your procedure for commencing an appeal. The notice is submitted to the trial court clerk who in turn submits their own form with notice to the appellate courts. This is just a notice requirement, a formality that has to be filed within a 30 day time period in order to preserve your right to perfect an appeal. It does not mean you WILL perfect an appeal, it just preserves your right to do so. That is all I did. (Upon the filing of the notice of appeal, you have 60 days to perfect same. However, you can request extensions from the appeals court.)

There is definately threshold to overcome in order to be granted an appeal in the Court of Appeals, especially if you want to bypass the Appellate Division all together. Seeing that Judge Loughlin's Decision denied the petition on procedural grounds, more particularly, because it was his opinion that it did not fall within the scope of an Article 78 Proceeding, it is my belief the appealable issue is a procedural one for the Appellate Division and not a Constitutional Issue ripe for the Court of Appeals. I will not argue with you if you believe otherwise.

The fact that a Notice of Appeal was submitted listing your intent to perfect your appeal with the Appellate Division doesn't interfere with your right to file a Notice of Appeal listing your intent to perfect your Appeal with the Court of Appeals. In essence, you can file 2 Notice of Appeals, one for the Appellate Courts and one for the Court of Appeals. It would then be up to you which appeal you want to perfect. Therefore, if anything I just gauranteed your right to pursue perfection in the Appellate arena. Again, in no way did I preclude your right to file an appeal with the Court of Appeals.

7/14/2005

Despite the above, I will submit a letter to all respondents and the Supreme Court withdrawing the Notice of Appeal if that is your wish. I can't see how this will help you in any way. If anything, it will preclude you from perfecting an appeal in that arena. Why would you want to limit your options?

Finally in response to your statement, "I think that you should give it up Steve, you screwed up and you screwed up big time. Don't try to make yourself a hero". I do not understand how can you say I screwed up when everything I did was under your direction? I am not attempting to make myself a hero, or try and make you look bad. In fact I am quite a humble, quiet person and do not like to attract much attention to myself, I despise unnecessary drama. But I will not sit back and do nothing when I am bombarded with untruths about my character and integrity. I am sorry our communication has come down to this level.

- Steve

STEPHEN G. COURT, ESQ.
50 Danes Street
Patchogue, NY 11772
(631) 758-2352 (ph) , (631) 730-5480 (fax)
email: courtlaw@optonline.net

----- Original Message -----

From: [Bob Ficalora](#)
To: [Stephen G. Court Esq.](#) ; [Bob Ficalora](#) ; [Carla Grimm](#) ; [Carolyn Carson](#) ; [Connie Judson](#) ; [Helen Ficalora](#) ; [Jay Sayers](#) ; [Nancy Woodward](#) ; [Richard Monahan](#) ; [Stuart Bennett Vorpahl](#) ; [William Grimm](#)
Cc: [Bob Ficalora](#)
Sent: Thursday, July 14, 2005 2:08 AM
Subject: FW: Your resignation

Dear Mr. Court and everyone,

I have searched my records and found nothing dated March 15th. Mr. Court was retained on February 28th filed his notice of appearance on March 2nd.and some Affirmations following on or around the 8th, but I have discovered no invoice.

Although what Steve says may be true, I certainly didn't see much of it, and it doesn't matter anyway because of the nature of his contract. His story about the extra \$2,000 is a crock, a fabrication and a lie.

I think that you should give it up Steve, you screwed up and you screwed up big time. Don't try to make yourself a hero. The "draconian" consequences that I thought were in your retainer agreement are not there. I gave you an out and you should take it gracefully.

Please retract your "Notice of Appeal" and file a notice of withdrawal with the clerk in Riverhead with service upon all parties.

Sincerely,

Robert A. Ficalora
Chief Executive Officer
Incorporated Township of Montauk.

From: Stephen G. Court, Esq [mailto:courtlaw@optonline.net]
Sent: Thursday, July 14, 2005 12:53 AM
To: bobfic@montauk.com
Subject: Re: Your resignation

Bob,

I would appreciate you being truthful and honest with your communication to your friends of Montauk. You state in your prior email, "To date, I have never seen an invoice from him." Yet, you received an invoice from me as early as March 18, 2005 regarding my legal fees covering all the work I completed through to March 15, 2005. (Copy attached hereto). I was overly generous with my time and energy for this matter and when preparing this invoice. With the amount of time I spent reviewing all your paperwork and preparing your file, I easily spent 90+ hours on this case through to March 15, 2005 yet I only billed 38 hours for Montauk. (Please note, this first invoice does not include any work I did from March 16 to present and I anticipate the total legal fees will amount to well over \$10,000, so when you argue your plea about the additional \$2,000, I would appreciate you taking this into consideration)

Secondly, I must remind you the additional \$2,000 was mutually agreed upon and it was for the extra work I had to do due in light of the denial of the application before the Appellate Division (which you were so sure would get approved.) If you read your retainer agreement, everything was presented under your assumption that the Appellate Court would sign the old Order to Show Cause, thereby opening the door to the extra attorney fees you promised would provide assistance with this matter. This, as you know, never materialized.

Your emails to your friends are very misleading. Your statement, "I gave him an additional \$2,000 not because he had earned it but because he said he needed it for personal reasons" is especially misleading. True, I stated my wife was expecting a child and I had a very small practice, but the agreement for the additional money was for the extra work I had to do, and I must say, I was not paid enough. I copied the original email you received from me regarding this fee increase and it is being forwarded to all your friends so they realize your deception. (See copy of email below).

I am not going to engage in a "Ficalora v. Barr" type of disagreement over all this stuff. I fulfilled all my obligations under the retainer agreement and tried my best to resurrect the case that was dead in the water when attorney Barr left you.. I painstakingly spent dozens of hours reviewing your files. I spent hours researching case law. I filed and served the application to Appellate Division for resurrection of the Order to Show Cause filed by attorney Barr. I thoroughly prepared for argument before the Appellate Court. I drove out to Brooklyn and appeared before the Appellate Court ready, willing and able to argue for Montauk. I filed an amended petition in the desperate hope of resurrecting your original petition. I drove out to Westhampton to personally serve the Town of Westhampton. I filed and served your amended petition. I requested oral argument before the Supreme Court. I was ready willing and able to argue before the Supreme Court. I responded to all answers submitted by Respondents. I preserved your right to Appeal, and most of all, I bit my tongue each time you disregarded any advice I gave you.

You act as though I did nothing. And you deceptively act as though I was retained to do an appeal. Your deceptive emails to your friends are inappropriate, illegitimate, insulting and, in light of all the work I did for you, extremely ungrateful.

Even though it was not under the retainer agreement, I was considering assisting you with your appeal without any expectation of compensation, but now I do not think I want to be a part of this anymore.

Kindly forward this email to all members on you board so they realize the truth of this matter.

- Stephen
 STEPHEN G. COURT, ESQ.
 50 Danes Street
 Patchogue, NY 11772
 (631) 758-2352 (ph) , (631) 730-5480 (fax)
 email: courtlaw@optonline.net

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Sent: Wednesday, July 13, 2005 10:14 AM

Subject: Your resignation

Hello Mr. Court and everyone,

I'm attaching a PDF of the Efax that I sent to all respondents. To the extent that Steve's "Notice of Appeal" to the trial court ever may have had any significance, it is now a nullity, void and of no effect.

Our contract with Mr. Court was for a \$5,000 retainer. I gave him an additional \$2,000 not because he had earned it but because he said he needed it for personal reasons. The \$1,000 was to purchase a scanner and to setup an Efax account and for other expenses that he might incur. To date, I have never seen an invoice from him.

I am still waiting for the courtesy of the phone call that I requested.

Robert A. Ficalora
CEO