

## **Ron Calzone**

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### **Office of Chief Disciplinary Counsel**

3335 American Avenue  
Jefferson City, MO 65109

January 2, 2010

#### **Re: Complaint against Caroline L. Hermeling, Robert L. Hess II, and Joann T. Sandifer**

Please find enclosed three OCDC complaint forms for the subject members of the Missouri Bar.

I am the proponent of record for two initiative petitions. The ballot titles drafted by the Secretary of State for those petitions were challenged by plaintiffs, Missouri Municipal League, et al in January of 2009. Because of our vested interest in the case, the Cole County Circuit Court allowed us to intervene.

That court ruled on the case on June 30, 2009 and plaintiffs appealed July 8, 2009. A decision on appeal is pending. The case is styled MISSOURI MUNICIPAL LEAGUE, et al. v. ROBIN CARNAHAN, et al.,

The three subject attorneys violated court rules and lawyer's code of conduct in the process of litigating the above mentioned case. In particular they violated Supreme Court Rule 55.03(c) by using the judicial system for the purpose of delaying the gathering of signatures for the aforementioned petitions.

It should be noted that access to the petition process is a constitutionally protected right of Missouri citizens – a power the people have “reserved” for themselves. (Mo. Cont. Art III, § 49) The constitution also places constraints on that process – most notably a limited time frame in which to collect the requisite signatures. The process begins by submitting a proposed petition to the Secretary of State - the earliest date for which is the day after the last preceding November general election. The petition, with the requisite signatures, must be filed no later than 6 months before the next general election. The Secretary of State typically uses at least a month of that time to draft the Ballot Title. These constitutionally prescribed limits result in less than 17 months to collect signatures, under the best of circumstances..

An opponent of a petition can succeed in defeating a petition by simply running the proponent out of the time needed to collect the many tens of thousands of required signatures through the inappropriate use of protracted litigation.

Caroline L. Hermeling (Mo. Bar #33998) is purported to be a “managing partner” of the firm representing the plaintiffs and employing Mr. Hess and Ms. Sandifer. Ms. Hermeling admitted that their “main objective” was to “delay the gathering of signatures”.

**Although it is appropriate to challenge a ballot title for fairness and sufficiency, using the courts for the partisan purpose of delaying a petition is gross misconduct.**

Evidence of the misconduct is provided in the attached Motion for Sanctions. That evidence includes an affidavit of one David E. Roland (Mo. Bar #60548) and an audio file of Ms. Hermeling's admission.

The misconduct by the plaintiffs' attorneys has resulted in monetary damages to my petition effort amounting to hundreds of thousands of dollars as well as a diminished likelihood of success. Evidence of that cost is supplied in the affidavit of Michael Arno, also supplied with the motion.

The right to the petition process and a fair and impartial legal system are among the most hallowed rights of Missourians. Both of these seminal rights have been trampled by this partisan misuse of the courts. I respectfully request that O.C.D.C. Investigate and take appropriate action sufficient to dissuade like conduct by those similarly situated in the future.

Respectfully submitted,

Ron Calzone