

No. 1-13-1843

IN THE APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

In re: JOANNE MARIE DENNISON,)	Appeal from the Hearing Board
)	of the Illinois Attorney Registration
Attorney-Appellant,)	and Disciplinary Commission,
)	Chicago, Illinois.
v.)	
)	Commission No. 2013PR00001
)	
The ILLINOIS ARDC and Attorney)	Sang-Yul Lee,
JEROME LARKIN,)	Hearing Chair.
)	
Appellee-Administrator.)	

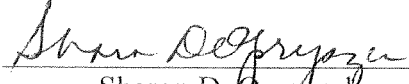
NOTICE OF FILING

TO: Joanne Marie Denison
Denison & Associates, PC
1512 N. Fremont St., #202
Chicago, IL 60642

PLEASE TAKE NOTICE that on June 20, 2013, I will file the Appearance, Notice of Motion and Motion to Dismiss for lack of jurisdiction, Pursuant to Supreme Court Rules 751 and 753, copies of which are attached, by causing the original and three copies to be delivered to the Illinois Appellate Court, First District, 160 N. LaSalle Street, Suite 1400, Chicago, Illinois, 60602.

Respectfully submitted,

Jerome Larkin, Administrator,
Attorney Registration and
Disciplinary Commission

By: 
Sharon D. Opryszek

Sharon D. Opryszek
Counsel for Administrator
130 East Randolph Drive, #1500
Chicago, Illinois 60601
Telephone: (312) 565-2600

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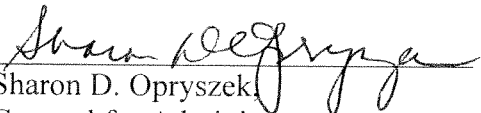
APPEARANCE

Sharon D. Opryszek hereby enters her appearance as counsel for the Appellee, JEROME LARKIN, Administrator of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois.

Respectfully submitted,

Jerome Larkin, Administrator
Attorney Registration and
Disciplinary Commission

By:


Sharon D. Opryszek,
Counsel for Administrator
130 East Randolph Drive, Suite 1500
Chicago, Illinois 60601
(312) 565-2600
Atty. No. 91502

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JEROME LARKIN,)	Hearing Chair.
)	
Administrator-Appellee.)	

MOTION TO DISMISS FOR LACK OF JURISDICTION
PURSUANT TO SUPREME COURT RULES 751 AND 753

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois, by his attorney, Sharon D. Opryszek, moves this Honorable Court, pursuant to Supreme Court Rules 751 and 753, to enter an order dismissing this appeal with prejudice, for the following reasons:

1. The matter at issue involves a disciplinary proceeding, In re Denison, 2013 PR 00001, which is presided over by Hearing Chair Sang-Yul Lee and

2. Pursuant to Supreme Court Rules 751 and 753, this court lacks jurisdiction to adjudicate an issue pending in an attorney disciplinary proceeding.

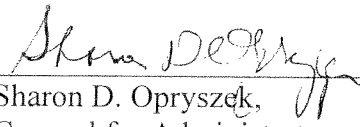
A memorandum in support of this motion to dismiss is attached hereto.

WHEREFORE, Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, respectfully requests that this Court enter an order dismissing, with prejudice, appellant's appeal.

Respectfully submitted,

Jerome Larkin, Administrator
Attorney Registration and
Disciplinary Commission

By:


Sharon D. Opryszek,
Counsel for Administrator
130 East Randolph Drive, Suite 1500
Chicago, Illinois 60601
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JEROME LARKIN,)	Hearing Chair.
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Administrator-Appellee.)	

MEMORANDUM IN SUPPORT OF
MOTION TO DISMISS FOR LACK OF JURISDICTION
PURSUANT TO SUPREME COURT RULES 751 AND 753

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Sharon D. Opryszek, hereby sets forth his memorandum in support of his motion to dismiss appellant's appeal in this matter.

Introduction

The appellant, Joanne Marie Denison, is the subject of a formal disciplinary matter currently before the Hearing Board of the Attorney Registration and Disciplinary Commission. The matter is docketed as Commission No. 2013PR00001 and the Hearing Chair is Sang-Yul Lee. Following is a brief explanation of the attorney disciplinary process and a description of the case pending against the appellant.

The Attorney Disciplinary Process

Illinois Supreme Court Rule 753 sets forth the stages of an attorney disciplinary proceeding. The proceeding begins with an investigation, which may lead to the voting of a

formal complaint by the Inquiry Board (Rule 753(a) and (b)). The Chair of a Hearing Board panel then presides over pretrial matters. At hearing, a three-member panel of the Hearing Board conducts an evidentiary hearing (Rule 753(c)). Either party may file exceptions to the written report or recommendation of the Hearing Board, and a panel of the Review Board will then preside over an appellate review of the Hearing Board's determination (Rule 753(d)). Either party may seek leave to file exceptions in the Illinois Supreme Court to the written report and recommendation of the Review Board (Rule 753(e)). Except in cases where the Hearing or Review Board recommends a reprimand by the Board, and neither party chooses to file exceptions from that recommendation, the Illinois Supreme Court is the only source of final orders of discipline, which are entered, in contested cases, when the Court rules on petitions for leave to file exceptions, unless it accepts the case for further consideration.

The Pending Disciplinary Case

In Appellant's disciplinary complaint, appellee alleged that the appellant posted false statements in her public blogs concerning the qualifications of a judge and adjudicatory officer or public legal officer, in violation of Illinois Rule of Professional Conduct 8.2. A copy of the disciplinary complaint, *In re Denison*, 2013 PR 00001, is attached as Exhibit 1. Appellant's blogs are entitled, ""marygsykes – An attorney blog concerning corruption and greed in the Probate Court of Cook County," and "marygsykes." (Exhibit 1, p. 2) The matter of which appellant blogs is a guardianship case pending in the Circuit Court of Cook County, Probate Division entitled *Estate of Mary Sykes*, docket number 2009 P 4585. (Exhibit 1, p.2-3) It is alleged that, in her blog, appellant posted false statements suggesting impropriety with the pending guardianship case, that the judges and court-appointed Guardians-ad-litem (hereinafter "GALs") were corrupt and had engaged in, or benefitted from, the financial exploitation of the *Sykes* matter and that the

judges and GALs had committed various crimes. (Exhibit 1, p. 7-8)

By reason of her blogging, Appellee alleged in the complaint, that Appellant engaged in the following professional misconduct (Exhibit 1, p.8):

- a. making a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, in violation of Rule 8.2 of the Illinois Rules of Professional Conduct;
- b. conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct;
- c. conduct that is prejudicial to the administration of justice, in violation of Rule 8.4(d) of the Illinois Rules of Professional Conduct;
- d. presenting, participating in presenting, or threatening to present criminal charges to obtain an advantage in a civil matter, in violation of Rule 8.4(g) of the Illinois Rules of Professional Conduct; and
- e. conduct which tends to defeat the administration of justice or to bring the courts or the legal profession into disrepute.

In a motion filed with the clerk's office of the ARDC on April 4, 2013, Appellant moved for dismissal of the complaint before the Hearing Board alleging, among other things, the Administrator's failure to comply with 735 ILCS 110 and Supreme Court Rule 216. A copy of Appellant's motion is attached as Exhibit 2. Appellee responded to the motion to dismiss by way of his motion to clarify and response to respondent's motion for dismissal. Copies of Appellee's motion to clarify and response are attached at Exhibit 3(a) and 3(b), respectively. On May 10, 2013, the Hearing Board Chair entered an order denying Appellant's motion to dismiss. A copy of that order is attached as Exhibit 4. Appellant filed her Notice of Appeal pursuant to Supreme Court Rule 303. A copy of Appellant's notice and docketing statement are attached as Exhibit 5.

Argument

This Court Lacks Jurisdiction to Decide Any Issue Pending in Appellant's Disciplinary Case.

The Illinois Supreme Court has the exclusive authority to regulate the practice of law in this State, authority that includes the discipline of attorneys. *In re Nesselson*, 76 Ill. 2d 135, 137-38, 390 N.E.2d 857, 858 (1979). Supreme Court Rule 751 provides that:

“The registration of, and disciplinary proceedings affecting, members of the Illinois bar, and unauthorized practice of law proceedings instituted under the authority of 752 (a), shall be under the administrative supervision of an Attorney Registration and Disciplinary Commission.”

Further, Supreme Court Rule 753 provides that discovery practice before the Hearing Board shall be in accord with the Code of Civil Procedure and the Supreme Court rules as “promulgated by the Commission pursuant to Supreme Court Rule 751 (a).” As such, this court is without jurisdiction for review of Hearing Chair Lee’s orders.

In *Ettinger v. Rolewick*, 140 Ill. App. 3d 295, 488 N.E.2d 598 (1st Dist. 1986), an attorney who was the subject of an ARDC investigation asked the circuit court to enjoin that body and its administrator from using, for purposes of a disciplinary proceeding, a transcript of his testimony at a federal criminal trial. The circuit court, although it rejected the defendants’ jurisdictional argument, granted the defendants’ motion to dismiss, and attorney Ettinger appealed. The Appellate Court concluded, however, that “it would be presumptuous of any court to exercise jurisdiction unless specifically directed to do so by the Illinois Supreme Court as its agent,” in connection with a request that would have the effect of precluding the Supreme Court from exercising its own jurisdiction “in considering the fitness of an attorney.” *Ettinger, supra*, 140 Ill. App. 3d at 301, 488 N.E.2d at 602. It reversed the judgment of the circuit court and remanded the matter with directions to vacate, for want of jurisdiction.

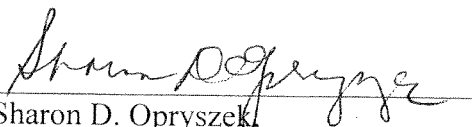
It is the Supreme Court that has the inherent power to regulate both the admission of attorneys to the practice of law and discipline of those attorneys admitted to practice. *In re W. Jason Mitan*, 75 Ill.2d 118, 123-124, 378 N.E.2d 278 (1979). The Supreme Court has delegated the administration of disciplinary functions to the ARDC and its officers, as well as the Inquiry Board, Hearing Board, and Review Board as agents of the Supreme Court. *Id.* As stated in appellant's docketing statement, she seeks appeal of the May 10, 2013 order of the Hearing Chair related to her motion to dismiss. Appellant is asking this court to issue a ruling in order to bind the agents of the Illinois Supreme Court during the course of a pending disciplinary proceeding. This court should recognize that it is without jurisdiction to adjudicate any issue arising in connection with the disciplinary proceeding, unless it is expressly directed to do so by the Illinois Supreme Court. *See, e.g.*, Supreme Court Rule 754, under which the Supreme Court might refer an enforcement proceeding to a circuit court.

Conclusion

For these reasons, appellant's request to appeal the May 10, 2013 order of Hearing Chair Lee should be denied and the appeal should be dismissed, with prejudice, for lack of jurisdiction pursuant to Supreme Court Rules 751 and 753.

Respectfully submitted,

Jerome Larkin, Administrator
Attorney Registration and
Disciplinary Commission

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Sharon D. Opryszek
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