

6631

I N S E N A T E

March 6, 2012

Introduced by Sen. OPPENHEIMER -- read twice and ordered printed, and
when printed to be committed to the Committee on Judiciary

AN ACT to amend the judiciary law, in relation to authorizing the accus-
ing party to submit a response to the dismissal of a complaint,
inquiry, investigation or proceeding relating to the conduct or disci-
pline of an attorney and relates to the sharing and return of evidence
or other materials associated with such complaint, inquiry, investi-
gation or proceeding

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 90 of the judiciary law is amended by adding a new
2 subdivision 11 to read as follows:
3 11. NOTWITHSTANDING SUBDIVISION TEN OF THIS SECTION OR ANY OTHER STAT-
4 UTE, RULE OR REGULATION TO THE CONTRARY:
5 A. WHEN THE DISCIPLINARY COMMITTEE FINDS A COMPLAINT OF ATTORNEY
6 MISCONDUCT SUBSTANTIAL ENOUGH TO REQUIRE AN ANSWER FROM THE ATTORNEY
7 ACCUSED OF MISCONDUCT, THE COMMITTEE SHALL PROVIDE THE COMPLAINANT WITH
8 A WRITTEN EXPLANATION OF ITS DECISION NOT TO PURSUE THE CLAIM OF ATTOR-
9 NEY MISCONDUCT AND AN OPPORTUNITY FOR THE COMPLAINANT TO RESPOND TO SUCH
10 DECISION;
11 B. THE DISCIPLINARY COMMITTEE SHALL PROVIDE EVIDENCE TO ALL PARTIES TO
12 THE COMPLAINT WHEN, IN THE COURSE OF INVESTIGATING A COMPLAINT OF ATTOR-
13 NEY MISCONDUCT, THE COMMITTEE CREATES, IDENTIFIES, OR RELIES UPON NEW
14 EVIDENCE AND SUCH EVIDENCE IS SHARED WITH ONE PARTY TO THE COMPLAINT;
15 C. THE DISCIPLINARY COMMITTEE SHALL, AT THE CLOSE OF THE HANDLING OF A
16 COMPLAINT OF ATTORNEY MISCONDUCT, PROMPTLY RETURN ANY OR ALL MATERIALS
17 PROVIDED TO THE COMMITTEE WHEN THE COMMITTEE IS ASKED BY EITHER SIDE TO
18 RETURN SUCH MATERIALS.
19 S 2. This act shall take effect immediately.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD13920-03-2