S T A T E O F N E W Y O R K

2601

2015-2016 Regular Sessions

I N S E N A T E

January 26, 2015

Introduced by Sen. LATIMER -- 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 accusing party to submit a response to the dismissal of a complaint, inquiry, investigation or proceeding relating to the conduct or discipline of an attorney and relates to the sharing and return of evidence or other materials associated with such complaint, inquiry, investigation or proceeding

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

Section 1. Section 90 of the judiciary law is amended by adding a new subdivision 11 to read as follows:

11. NOTWITHSTANDING SUBDIVISION TEN OF THIS SECTION OR ANY OTHER STATUTE, RULE OR REGULATION TO THE CONTRARY:

A. WHEN THE DISCIPLINARY COMMITTEE FINDS A COMPLAINT OF ATTORNEY MISCONDUCT SUBSTANTIAL ENOUGH TO REQUIRE AN ANSWER FROM THE ATTORNEY ACCUSED OF MISCONDUCT, THE COMMITTEE SHALL PROVIDE THE COMPLAINANT WITH A WRITTEN EXPLANATION OF ITS DECISION NOT TO PURSUE THE CLAIM OF ATTORNEY MISCONDUCT AND AN OPPORTUNITY FOR THE COMPLAINANT TO RESPOND TO SUCH DECISION;

B. THE DISCIPLINARY COMMITTEE SHALL PROVIDE EVIDENCE TO ALL PARTIES TO THE COMPLAINT WHEN, IN THE COURSE OF INVESTIGATING A COMPLAINT OF ATTORNEY MISCONDUCT, THE COMMITTEE CREATES, IDENTIFIES, OR RELIES UPON NEW EVIDENCE AND SUCH EVIDENCE IS SHARED WITH ONE PARTY TO THE COMPLAINT;

C. THE DISCIPLINARY COMMITTEE SHALL, AT THE CLOSE OF THE HANDLING OF A COMPLAINT OF ATTORNEY MISCONDUCT, PROMPTLY RETURN ANY OR ALL MATERIALS PROVIDED TO THE COMMITTEE WHEN THE COMMITTEE IS ASKED BY EITHER SIDE TO RETURN SUCH MATERIALS.

S 2. This act shall take effect immediately.

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

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