

Monday, June 19, 2000



Attn: Judy Kridit for  
Mr. Peter G. McCabe, Secretary  
Committee on Rules of Practice and Procedure  
Administrative Office of the US Courts  
One Columbus Circle, NE  
Washington, DC

**00-BK-6**

**00-CV-D**

Dear Ms Kridit,

Attached is a copy of the letter that I sent to Mr. McCabe. Since that time, I have tried to address the issue here in Kansas City. I filed a complaint with the Federal Court in Wichita, KS as per local Rule 83.6.3. United States District Court of Kansas. They have taken no action on the attorney complaint.

I then contacted the acting Chief Judge of the 10<sup>th</sup> Circuit, Judge Tacha per the Office of the Chief Judge Seymour who was absent. Her response to no action on the disciplinary action was to issue a gag order to me stating the Federal Courts did not have any jurisdiction.

I also filed a request before the District Court of Kansas to amend a complaint against the law firm for the manipulation and alleged intent to defraud. The Federal Judge stated at a motion hearing on March 23<sup>rd</sup> that he considered the matter minor. The law clerk for the judge who has not taken any action with regard to the complaint stated the Federal Judge was "entertaining a motion to dismiss" and therefore, I do not even get the opportunity to have the issue even addressed in Federal court.

The Federal Judge for the District of Kansas also denied the Rule 60 motion to recall the case appealed to the 10<sup>th</sup> Circuit (97-2680). I do not agree that manipulation of the US Mail containing Federal court documents to be minor and believe the judge abused his judicial discretion when he refused to recall the case that was decided without the opportunity to respond due to the manipulation of the mail.

With a federal judge stonewalling my case against the attorney, I have done 3 things.

- 1) I have filed a request for a congressional inquiry with Congressman Moore, 3<sup>rd</sup> District of Kansas and they are closely monitoring the actions of the Tenth Circuit.
- 2) Filed a judicial complaint against the District Court of Kansas Judge for interference in due process and
- 3) Filed a civil lawsuit against the United States, District Court of Kansas for violation of Federal and Constitutional issues.

It is apparent the 10<sup>th</sup> Circuit does not care or want to address the issue of manipulation of the US mail through case precedent or attorney disciplinary action.

Therefore it is imperative that your committee either ignore and allow the practice to continue (malfeasance) or take some initiative to this manifest injustice.



Tom Scherer  
7916 West 60<sup>th</sup> St.  
Merriam, KS 66202-3009  
(913) 831-3654

Naïve Pro Se plaintiff

Case 97-2680 under appeal, 10<sup>th</sup> Cir., *Scherer v. GE Capital*

Case 99-2166, District of Kansas-*Scherer v. GE Capital*

Case 99-2172, District of Kansas, *Scherer v. GE Capital*

Case 99-2566, District of Kansas, *Scherer v. Bioff, Singer, and Finucane, LLP*, defendant  
Attorneys for failure to produce ERISA documents and intent to defraud.

## PROCEDURE IN DISCIPLINARY CASES

(a) **Jurisdiction.** Any lawyer admitted to practice law in this court, including any formerly admitted lawyer with respect to acts committed prior to resignation, suspension, disbarment, or transfer to inactive status, or with respect to acts subsequent thereto which amount to the practice of law in violation of these rules or of the Standards of Professional Conduct or any rules or standards subsequently adopted by the court in lieu thereof, and any lawyer specially admitted for a particular proceeding, or any lawyer not admitted to the bar of this court or the bar of Kansas who practices or attempts to practice law in this court is subject to the disciplinary jurisdiction of this court.

(b) **Complaints Generally.** Any person seeking to complain against an attorney practicing in this court for any cause or conduct which may justify disciplinary action shall do so in writing and under oath except that a complaint by a judge or magistrate judge of this court need not be verified. All complaints shall be filed in the record office of the clerk at Wichita and shall be referred by the clerk to the Disciplinary Panel for such action as may be required or authorized by these rules.

(c) **Initial Action by Disciplinary Panel.** If, after due consideration, the Disciplinary Panel shall:

(1) Find from the face of the complaint that it is frivolous, groundless or malicious, dismiss it. In which event the order shall recite the reasons for dismissal. When a complaint is dismissed under this subparagraph, the clerk shall mail a copy of the order of dismissal to the complainant by certified mail, return receipt requested;

(2) Find from the face of the complaint that the misconduct charged in the complaint would, if true, justify the imposition of disciplinary sanctions, it shall refer the matter to the chairperson of the Committee on Conduct of Attorneys who shall name a hearing panel consisting of three members of the Committee on Conduct of Attorneys, one of whom shall be designated as chairperson of the hearing panel.

(d) **Hearing Panel.** A hearing panel shall sit as a panel of inquiry and, upon reasonable notice to the complainant and

shall be recorded verbatim pursuant to 20 U.S.C. § 1025. The chairperson of the hearing panel conducting the inquiry is hereby designated and appointed master with authority to cause subpoenas to be issued commanding the appearance of witnesses, the production of books, papers, documents or tangible things designated therein at such hearings or such other time designated in the subpoena. The chairman of the hearing panel, as such master, is further authorized to administer oaths to the parties and witnesses. Should any witness fail or refuse to attend or to testify under oath, the name of that witness may be certified to the Disciplinary Panel which may order the initiation of contempt proceedings against such witness.

### (e) Investigation by Disciplinary Counsel.

(1) The chairman of the Committee on Conduct of Attorneys with the concurrence of the hearing panel and the approval of the Chief Judge may appoint one or more members of the bar of this court (or if circumstances require of the bar of another court) in good standing, as Disciplinary Counsel whose duty it shall be to investigate, present and prosecute charges and prepare all orders and judgments as directed by the hearing panel.

(2) Disciplinary Counsel shall conduct an initial investigation of the charges and shall submit a written report to the hearing panel recommending dismissal of the complaint, informal admonition of the attorney concerned, or prosecution of formal charges before a hearing panel. Disposition shall thereupon be made by a majority vote of the hearing panel unless it directs further investigation.

(3) If informal admonition is contemplated the attorney involved shall first be notified and may, by written request to the chairman of the Committee on Conduct of Attorneys, demand a formal hearing.

### (f) Formal Charges.

(1) If formal prosecution is directed or demanded, Disciplinary Counsel shall, after making such additional investigation as he deems necessary, prepare and file with the clerk a formal complaint which shall be sufficiently clear and specific to inform the respondent of the alleged misconduct. A copy of the complaint, together with a summons in the general form of a civil summons issued pursuant to Rule 4, Fed.R.Civ.P., shall be served

Thursday, March 02, 2000

**COPY**

Mr. Peter G. McCabe, Secretary  
Committee on Rules of Practice and Procedure  
Administrative Office of the US Courts  
One Columbus Circle, NE  
Washington, DC

Dear Mr. McCabe,

I wanted to inform you of my situation with the Federal Courts in Kansas in a practice called **“hardball tactics.”** I talked with an attorney in your office yesterday. He provided confirmation and acknowledgment of the manipulation of addresses and bar codes on pleadings filed with the Federal Courts.

I am a former examiner with the IRS and a fraud investigator and also have a Masters in Computers. I fully am aware of manipulation of documents. However, I was amazed when an attorney tried this **“tactic”** on me in not one but two federal court cases. The second time the law firm manipulated the bar codes, I was able to determine what happened. The first time it happened, I thought it was simply a common mistake or an act of negligence. In the second case, the zip+4 bar code was changed to Amarillo, TX creating a 19 day delay in my receipt of a motion in opposition to a request for summary judgment.

This also happened in the previous case against the same attorney. I was unable to timely reply and the Chief judge granted summary judgment. I informed the US Postal Inspectors here in Kansas City. They don't care. They stated there is no law against manipulation of the bar code. I do not agree. The bar code when it is placed on the envelope becomes the zip code, not the numeric zip code. I stated that it was intent to defraud. They still don't care and did very little.

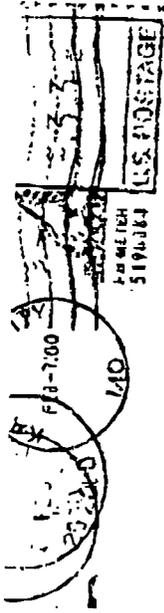
I have taken all available actions available to me. I simply find it hard to believe that the Federal court Chief judge's response to intent to deceive in a federal court case simply requires the offending attorney to simply refile the pleading with proper service. If we allow felonious conduct in our courts by attorneys, there most certainly is a severe problem in the fundamental backbone of our judiciary that in my opinion constitutes malfeasance. If a party is aware of conduct and does nothing about that conduct, that party can be held accountable. That party by failure to do anything about it, is acting in the role of an enabler. By doing nothing, the government is allowing these **“hardball tactics** to continue. Even your agency is aware.

I would appreciate some assistance in this case, would be most cooperative in providing any documents to support. Rule 60 provides some relief but I am unable to find any case citations. Hopefully, my case will also present some merit to the claims. However, what I am afraid of is the Courts do not want these **“hardball tactics”** known to the general public—part of that good old boy thing.

By the power and authority of your committee, I hope you can provide some modification in the rules and procedures to deal with these tactics. If I would have known the court would not do anything by ruling that a party cannot prove intent, then I would have considered using such tactics myself. Therefore, the defendant attorneys in my case had an unfair advantage. Therefore, there was not a fair trial.

Tom Scherer  
7916 West 60<sup>th</sup> St.  
Merriam, KS 66202-3009 or per the opposing attorney 79166-0662  
(913) 831-3654

Naïve Pro Se plaintiff  
Case 97-2680 under appeal, 10<sup>th</sup> Cir., *Scherer v. GE Capital*  
Case 99-2166, District of Kansas-*Scherer v. GE Capital*  
Case 99-2172, District of Kansas, *Scherer v. GE Capital*  
Case 99-2566, District of Kansas, *Scherer v. Bioff, Singer, and Finucane, LLP*, defendant  
Attorneys for failure to produce ERISA documents and intent to defraud.



RECEIVED FEB 2 9 2000

1 The first and last B&C area the frame bars

2 Each code character is 5 bars (see pg. 50 for the numeric value)

Thomas E. Scherer

7916 West 60th Street  
Merriam, Kansas 66202

10 bars

52 bars - CJ Field

52 bars - CJ Field

52 bars - CJ Field

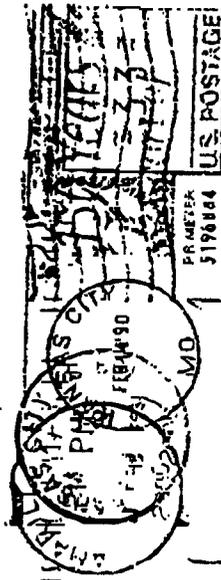
Delivery Point Bar Code

zip digit  
KZ 91166

2'5"

1/8"

BIOFF SINGER AND FINUCANE, LLP  
ATTORNEYS AT LAW  
THE STILLWELL BUILDING  
SUITE 400  
104 W. NINTH STREET  
KANSAS CITY, MISSOURI 64105-3116



3 corrections

ANGLE IS FROM THE TOP

Thomas E. Scherer  
7916 West 60th Street  
Merriam, Kansas 66202

This is the pattern called Pattern Skew

Because of this

RECEIVED FEB 2 9 2000

Pink Bars

Indicate a "picture" was taken because scanner could not read the bars

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE  
OF THE  
JUDICIAL CONFERENCE OF THE UNITED STATES  
WASHINGTON, D.C. 20544

ANTHONY J. SCIRICA  
CHAIR

PETER G. McCABE  
SECRETARY

CHAIRS OF ADVISORY COMMITTEES

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PAUL V. NIEMEYER  
CIVIL RULES

W. EUGENE DAVIS  
CRIMINAL RULES

MILTON I. SHADUR  
EVIDENCE RULES

July 11, 2000

Mr. Tom Scherer  
7916 West 60<sup>th</sup> Street  
Merriam, Kansas 66202-3009

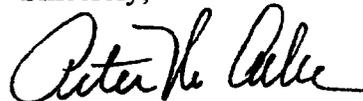
Dear Mr. Scherer:

Thank you for your letters of June 19, 2000, which reached my desk yesterday. I must apologize to you for the confusion that occurred in the processing of your correspondence. It is my consistent policy and practice to respond to all suggestions promptly.

We appreciate your suggestion to prevent the manipulation of bar codes in mailings. A copy of the suggestion has been sent to the chairs and reporters of the Advisory Committees on Bankruptcy and Civil Rules for their consideration.

We welcome your interest in the rulemaking process.

Sincerely,



Peter G. McCabe

cc: Honorable Adrian G. Duplantier  
Honorable Paul V. Niemeyer  
Honorable A. Thomas Small  
Honorable David F. Levi  
Professor Jeffrey W. Morris  
Professor Edward H. Cooper