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DANIEL JACOB D'ATTILO ET AL. *v.* STATEWIDE
GRIEVANCE COMMITTEE ET AL.
(SC 20059)

Robinson, C. J., and Mullins, Sheldon, Keller and Bright, Js.

Syllabus

The plaintiff parents, individually and on behalf of their minor child, sought a writ of mandamus compelling further action by the defendant local grievance panels in connection with certain grievance complaints that the plaintiffs had filed, which had been referred to the local panels by the defendant Statewide Grievance Committee. In their complaints, the plaintiffs alleged that seven attorneys had engaged in misconduct by misappropriating funds from a settlement agreement in a previous medical malpractice action. The local panels found that there was no probable cause to believe that five of those attorneys had engaged in unethical conduct and, therefore, dismissed the grievance complaints against them. The complaints against the remaining two attorneys, which were found to be supported by probable cause, were referred back to the Statewide Grievance Committee, which issued reprimands as to both attorneys. While the grievance proceedings were still pending, the plaintiffs brought the present action, claiming that the local panels had improperly dismissed the complaints against the five attorneys and seeking independent review of all seven complaints by the trial court under its inherent authority to oversee attorney conduct. The defendants subsequently filed a motion to dismiss, which the trial court granted, concluding that the plaintiffs lacked standing because they were neither statutorily nor classically aggrieved by the actions of the defendants. The trial court rendered judgment dismissing the action, from which the plaintiffs appealed. *Held* that the trial court having fully addressed in its memorandum of decision the arguments raised in this appeal, this court adopted that concise and well reasoned decision as a proper statement of the facts and the applicable law on the issues, and, accordingly, the judgment of the trial court was affirmed.

Argued May 4—officially released July 31, 2018

Procedural History

Action seeking, inter alia, a writ of mandamus compelling further action by the defendant grievance panels in connection with the dismissal of certain grievance complaints brought by the plaintiffs against their former attorneys, and for other relief, brought to the Superior Court in the judicial district of Hartford, where the court, *Sheridan, J.*, granted the defendants' motion to dismiss and rendered judgment thereon, from which the plaintiffs appealed. *Affirmed.*

Howard Altschuler for the appellants (plaintiffs).

Jane R. Rosenberg, solicitor general, with whom, on the brief, was *George Jepsen*, attorney general, for the appellees (defendants).

Opinion

PER CURIAM. The plaintiffs, Daniel Jacob D’Attilo, Cathy M. D’Attilo, and Domenic D’Attilo,¹ appeal² from the judgment of the trial court dismissing the present action, which was brought against the defendants, the Statewide Grievance Committee, the Fairfield Grievance Panel (Fairfield panel), and the Stamford-Norwalk Grievance Panel (Stamford panel),³ seeking a writ of mandamus and injunctive relief in challenging their handling of the plaintiffs’ grievance complaints against seven attorneys. On appeal, the plaintiffs claim that they were statutorily and classically aggrieved by certain decisions of those local panels dismissing their grievance complaints against five of those attorneys, and by certain other actions of the Statewide Grievance Committee with respect to the proceedings against the other two. We disagree and, accordingly, affirm the judgment of the trial court dismissing the present action for lack of standing.

The record reveals the following relevant facts and procedural history. On March 21, 2003, the plaintiffs retained the law firm of Koskoff, Koskoff & Bieder, P.C. (Koskoff firm), to represent them in a civil action, claiming that medical malpractice during Daniel’s birth had left him disabled for life. In January, 2012, after a jury had awarded the plaintiffs a verdict of \$58.6 million, the plaintiffs ultimately settled their medical malpractice case for \$25 million. In February, 2012, while still represented by the Koskoff firm, the plaintiffs retained the law firm of Day Pitney, LLP (Day Pitney), to advise them on numerous financial and tax issues related to the settlement. A dispute subsequently arose between the plaintiffs and their attorneys from both firms concerning the fees and expenses charged; the plaintiffs claimed that the Koskoff firm attorneys defrauded them and illegally misappropriated funds by retaining 28 percent of the \$25 million settlement in violation of the 10.64 percent fee cap set by General Statutes § 52-251c, which governed their retainer agreement, as well by charging more than \$600,000 in litigation expenses for which they had no original invoices or other proof of validity. The plaintiffs further claimed that the Day Pitney attorneys committed legal malpractice when they set up a trust for Daniel in a way that caused him to have to pay them \$65,000 annually in trustee fees, potentially for decades, including by the creation of a foundation that would be funded by at least \$5 million upon Daniel’s death, to be controlled by the Day Pitney attorneys or their successor, who would receive “unspecified legal fees ‘forever.’” In December, 2014, the plaintiffs brought a civil action against the Koskoff firm, Day Pitney, and seven individual attorneys at those law firms alleging conversion, a violation of § 52-251c (g), and statutory theft in violation of General Statutes § 52-564. In that action, the plaintiffs are seeking both

treble damages and the complete return of all legal fees paid. That action remains pending.

In February, 2015, the plaintiffs filed grievance complaints against five attorneys from the Koskoff firm and two attorneys from Day Pitney, alleging that those attorneys had committed numerous violations of the Rules of Professional Conduct while representing them, in particular the misappropriation of client funds. The complaints against the Koskoff firm attorneys were referred to the Fairfield panel, which, on July 17, 2015, dismissed claims against William M. Bloss, James D. Horwitz, and Joel H. Lichtenstein, but found probable cause of unethical conduct against Kathleen L. Nastri and Michael Koskoff. The complaints against the Day Pitney attorneys, Keith Bradoc Gallant and Rebecca Iannantuoni, were referred to the Stamford panel, which dismissed them on August 26, 2015.

Because the Fairfield panel had found probable cause to believe that Koskoff and Nastri had engaged in unethical conduct, it referred those grievances to the Statewide Grievance Committee for further action. The chief disciplinary counsel offered to settle the grievances in exchange for a reprimand for failing to provide the plaintiffs with a full accounting. Following several hearings on the grievances, the Statewide Grievance Committee rejected the plaintiffs' requests for a proposed decision pursuant to General Statutes §§ 51-90g (f)⁴ and 51-90h (a) and (b),⁵ informing the plaintiffs that it no longer issued proposed decisions, and stating that its actions are "governed by the Practice Book rules and not the General Statutes." Ultimately, on November 18, 2016, the Statewide Grievance Committee issued a final decision reprimanding Nastri for failing to keep billing records and failing to explain to the plaintiffs that a particular provision in the retainer agreement drafted by Koskoff, which affected the applicability of the fee cap statute, could be subject to different interpretations. On March 3, 2017, the Statewide Grievance Committee reprimanded Koskoff for failing to keep proper records. Throughout these proceedings, the Statewide Grievance Committee denied the plaintiffs' attempts to supplement the record, and the chief disciplinary counsel refused their requests to submit certain evidence unfavorable to the Koskoff firm attorneys.

While the grievance proceedings were pending, in February, 2016, the plaintiffs brought this action seeking a writ of mandamus and injunctive relief. In the first count of the complaint, the plaintiffs claimed that the decisions of the Fairfield panel and the Stamford panel to dismiss the grievance complaints were void as a matter of law because those local panels had failed to forward the complaints to the Statewide Grievance Committee, as required by Practice Book § 2-32 (i) (2),⁶ for further review pursuant to Practice Book § 2-34A (b) (1).⁷ The plaintiffs sought a writ of mandamus direct-

ing the local panels to reissue their opinions, removing the dismissals, and forwarding them and the case files to the Statewide Grievance Committee. In the second count of the complaint, the plaintiffs asked the trial court to invoke its inherent authority to oversee attorney conduct, enjoin the Statewide Grievance Committee from taking any further action, and to take control of the pending grievance proceedings.

The defendants moved to dismiss the amended complaint on February 19, 2016. The trial court held oral arguments on the motion to dismiss on April 11, 2016. On July 18, 2016, the trial court issued a memorandum of decision granting the motion to dismiss, concluding that the plaintiffs lacked standing because they were neither statutorily nor classically aggrieved, and rendered judgment accordingly.⁸ This appeal followed.

On appeal, the plaintiffs contend that the trial court improperly concluded that they, as complainants in an attorney disciplinary proceeding, lack standing to seek court intervention in those proceedings. The plaintiffs claim, in particular, standing to address the Statewide Grievance Committee's deprivation of their statutory rights under § 51-90g (a),⁹ which requires review of local panels' findings of lack of probable cause, and an infringement of their statutory right to a proposed decision under §§ 51-90g (f) and 51-90h (a) and (b). The plaintiffs further contend that the trial court improperly declined to use its inherent power to intervene in the disciplinary process, given the "deplorable" allegations against the attorneys and the Statewide Grievance Committee. They argue that they are classically aggrieved and statutorily aggrieved by implication.

Our examination of the record on appeal and the briefs and arguments of the parties persuades us that the judgment of the trial court should be affirmed. Because the trial court's memorandum of decision fully addresses the arguments raised in the present appeal, we adopt its concise and well reasoned decision as a statement of the facts and the applicable law on the issues. See *D'Attilo v. Statewide Grievance Committee*, Superior Court, judicial district of Hartford, Docket No. CV-16-6065012-S, (July 18, 2016) (reprinted at 329 Conn. 632, 2 A.3d [2018]). It would serve no useful purpose for us to repeat the discussion therein contained. See, e.g., *Woodruff v. Hemingway*, 297 Conn. 317, 321, 2 A.3d 857 (2010).

The judgment is affirmed.

¹ We note that the present action was commenced on behalf of Daniel Jacob D'Attilo, a minor child, by and through his parents, Cathy M. D'Attilo and Domenic D'Attilo, as next friends. We further note that Cathy M. D'Attilo and Domenic D'Attilo are also named as plaintiffs in their individual capacity. For the sake of simplicity, we refer to these parties collectively as the plaintiffs and to them individually by name.

² The plaintiffs appealed from the judgment of the trial court to the Appellate Court, and we transferred the appeal to this court pursuant to General Statutes § 51-199 (c) and Practice Book § 65-1.

³ In addition to the Statewide Grievance Committee, the Fairfield Panel,

and the Stamford Panel, the plaintiffs also named as defendants: Michael P. Bowler, in his official capacity as statewide bar counsel; Eugene J. Riccio, in his official capacity as counsel for the Stamford panel; Steven P. Kulas, in his official capacity as counsel for the Fairfield panel; the Office of the Chief Disciplinary Counsel; and Karyl L. Carrasquilla, in her official capacity as chief disciplinary counsel. For the sake of convenience, we refer to these parties collectively as the defendants and, where appropriate, individually by title.

⁴ General Statutes § 51-90g (f) provides: “The subcommittee shall submit its proposed decision to the State-Wide Grievance Committee, with copies to the complainant and respondent. The proposed decision shall be a matter of public record.”

⁵ General Statutes § 51-90h provides in relevant part: “(a) Within fourteen days of the issuance to the parties of the proposed decision, the complainant and respondent may submit to the State-Wide Grievance Committee a statement in support of, or in opposition to, the proposed decision. The State-Wide Grievance Committee may, in its discretion, request oral argument.

“(b) Within sixty days after the end of the fourteen-day period for the filing of statements, the State-Wide Grievance Committee shall review the record before the subcommittee and any statements filed with it, and shall issue a decision dismissing the complaint, reprimanding the respondent, imposing conditions in accordance with the rules established by the judges of the Superior Court, directing the State-Wide Bar Counsel to file a presentment against the respondent or referring the complaint to the same or a different reviewing subcommittee for further investigation and proposed decision”

⁶ Practice Book § 2-32 (i) provides: “The panel shall, within 110 days from the date the complaint was referred to it, unless such time is extended pursuant to subsection (j), do one of the following: (1) If the panel determines that probable cause exists that the respondent is guilty of misconduct, it shall file the following with the statewide grievance committee and with the disciplinary counsel: (A) its written determination that probable cause exists that the respondent is guilty of misconduct, (B) a copy of the complaint and response, (C) a transcript of any testimony heard by the panel, (D) a copy of any investigatory file and copies of any documents, transcripts or other written materials which were available to the panel. These materials shall constitute the panel’s record in the case. (2) If the panel determines that no probable cause exists that the respondent is guilty of misconduct, it shall dismiss the complaint unless there is an allegation in the complaint that the respondent committed a crime. Such dismissal shall be final and there shall be no review of the matter by the statewide grievance committee, but the panel shall file with the statewide grievance committee a copy of its decision dismissing the complaint and the materials set forth in subsection (i) (1) (B), (C) and (D). In cases in which there is an allegation in the complaint that the respondent committed a crime, the panel shall file with the statewide grievance committee and with disciplinary counsel its written determination that no probable cause exists and the materials set forth in subsection (i) (1) (B), (C) and (D). These materials shall constitute the panel’s record in the case.”

⁷ Practice Book § 2-34A (b) (1) provides in relevant part: “When, after a determination of no probable cause by a grievance panel, a complaint is forwarded to the statewide grievance committee because it contains an allegation that the respondent committed a crime, and the statewide grievance committee or a reviewing committee determines that a hearing shall be held concerning the complaint pursuant to Section 2-35 (c), the disciplinary counsel shall present the matter to such committee.”

⁸ We note that, although the trial court addressed the substance of count two of the complaint and, “in the exercise of its discretion, decline[d] to invoke its inherent powers to displace the ongoing disciplinary process”; see *Burton v. Mottolose*, 267 Conn. 1, 28, 835 A.2d 998 (2003), cert. denied, 541 U.S. 1073, 124 S. Ct. 2422, 158 L. Ed. 2d 983 (2004); it ultimately dismissed that count of the complaint on the ground that the plaintiffs lacked standing to affirmatively request such relief.

⁹ General Statutes § 51-90g (a) provides: “The State-Wide Grievance Committee may designate at least three members of the committee, including at least one-third who are not attorneys, to serve as a reviewing subcommittee for each determination made by a panel on a complaint. The committee shall regularly rotate membership on reviewing subcommittees and assignments of complaints from the various judicial districts. The State-Wide Grievance Committee or the subcommittee, if any, shall hold a hearing

concerning the complaint if the panel determined that probable cause exists that the attorney is guilty of misconduct. If the grievance panel determined that probable cause does not exist that the attorney is guilty of misconduct, the committee or subcommittee shall review the determination of no probable cause, take evidence if it deems it appropriate and, if it determines that probable cause does exist that the attorney is guilty of misconduct, shall take the following action: (1) If the State-Wide Grievance Committee reviewed the determination of the grievance panel it shall hold a hearing concerning the complaint or assign the matter to a subcommittee to hold the hearing; or (2) if a subcommittee reviewed the determination of the grievance panel it shall hold a hearing concerning the complaint or refer the matter to the State-Wide Grievance Committee which shall assign it to another subcommittee to hold the hearing. The committee or subcommittee shall not make a probable cause determination based, in full or in part, on a claim of misconduct not alleged in the complaint without first notifying the respondent that it is considering such action and affording the respondent the opportunity to be heard. An attorney who maintains his office for the practice of law in the same judicial district as the respondent may not sit on the reviewing subcommittee for that case.”
