

**COLORADO SUPREME COURT  
ATTORNEY REGULATION COUNSEL**

Regulation Counsel  
John S. Gleason

Chief Deputy Regulation Counsel  
Nancy L. Cohen

Deputy Regulation Counsel  
James C. Coyle



Attorneys' Fund for Client Protection  
Unauthorized Practice of Law

Assistant  
Regulation Counsel

Stephen R. Fatzinger  
Luain T. Hensel  
Kim E. Ikeler  
Fredrick J. Kraus  
Charles E. Mortimer, Jr.  
Matthew A. Samuelson  
Gregory G. Sapakoff  
April M. Seekamp  
Louise Culberson-Smith  
James S. Sudler  
Douglas S. Timmerman

August 4, 2004

Charles H. Clements  
1741 Dallas Street  
Aurora, CO 80010-2018

Re: Request for investigation of Thomas C. Miller, #2004-2068

Dear Mr. Clements:

We have completed our review of your request for investigation on the above-referenced attorney. Your letter dated May 20, 2004 alleges that Mr. Miller engaged in an assortment of ethical violations over the course of representing you in a divorce case. The primary thrust of your request for investigation relates to an allegation that Mr. Miller acted in concert with others to deprive you of your right to file a lawsuit against governmental employees for malicious prosecution and possibly other civil claims. Additionally, you allege that Mr. Miller mishandled his responsibilities while acting as your lawyer in a divorce case. You believe that you have not been afforded due process of law.

Your letter indicates that you are having difficulty obtaining your file materials from Mr. Miller, and that he allowed the statute of limitations to expire on your civil claims. On August 3, 2004, I spoke with Mr. Miller. He advised that he returned a complete copy of your file materials to you on July 26, 2004. He indicated that Kevin Massaro facilitated the return of the documents. Additionally, Mr. Miller advised that he never agreed to file the civil action on your behalf. He advised that he explained in February 2004 that he did not believe any damages could be proven in the civil action based on statements you made in the course of your divorce.

At the end of your letter, you state that Mr. Miller has indicated to you that he is "longtime friends" with someone in this office. Please be advised that I have never met Mr. Miller, and Greg Sapakoff, the attorney to whom you addressed your letter, advised me that he has no prior relationship or other affiliation with Mr. Miller.

For this office to discipline an attorney, we must prove the attorney's misconduct by clear and convincing evidence. The information you provided

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does not demonstrate evidence that Mr. Miller acted unethically.

Although your letter contains numerous accusations about Mr. Miller's conduct, none of those accusations are supported by objective facts. Absent objective facts, I am unable to determine any ethical misconduct on the part of Mr. Miller. There is no documentation to support your allegation that Mr. Miller agreed to file a civil action on your behalf seeking to pursue damages for malicious prosecution or any other claim. Instead, the documentation provided supports the fact that you have numerous disagreements or disputes with Mr. Miller. This office cannot resolve any of those disagreements or disputes. You may choose to seek legal advice from a qualified attorney who can provide objective feedback regarding any possible recourse that may be available to you.

Finally, on July 2, 2004, I spoke with you telephonically and asked that you stop sending materials via facsimile to me or to Mr. Sapakoff. You ignored that request by sending further facsimiles to this office on July 9, 2004, July 17, 2004, July 20, 2004, and July 22, 2004. Each of those facsimiles was forwarded to me for review. Because there is no issue of ethical misconduct, please be advised that any further documentation you send to this office, via facsimile or otherwise, will not be reviewed and will be destroyed.

For the above reasons, this office has determined that the information you provided does not set forth facts, which if proven, would constitute grounds for the imposition of discipline by the offices of the Supreme Court of Colorado. Therefore, we are closing this matter and will take no further action on your request.

Sincerely,



Matthew A. Samuelson  
Assistant Regulation Counsel

MAS/rsl

cc: Thomas C. Miller, Esq.