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*Via E-Mail [fk Shea@yahoo.com](mailto:fk Shea@yahoo.com)*

***and Regular Mail***

Hon. Felice K. Shea  
32 Washington Square West  
New York, New York 10011

**Re: *Matter of Hon. Lee L. Holzman***

Dear Judge Shea:

I ask Your Honor's permission to briefly respond to one point in the Commission's reply letter concerning Respondent's request for the issuance of subpoenas.

Administrative Counsel Farrington states that the rules require a "threshold finding of relevance before subpoenas can be issued" citing to Judiciary Law §42(1) and 22 NYCRR §700.6(e).

We respectfully note that Judiciary Law §42(1) states:

"The Commission shall have the following functions, powers and duties:

1. To conduct hearings and investigations, administer oaths or affirmations, subpoena witnesses, compel their attendance, examine them under oath or affirmation and require the production of any books, records, documents or other evidence that it may deem relevant or material to an investigation; and the commission may designate any of its members or any member of its staff to exercise any such powers, provided, however, that except as is otherwise provided in section forty-three of this article, only a member of the commission or the administrator shall exercise the power to subpoena witnesses or require the production of books, records, documents or other evidence."

This section relates to the powers of the Commission, its members or staff, not the Referee appointed to impartially determine discovery requests.

22 NYCRR §700.6(e) {Commission Rules}, the correct authority, states:

GODOSKY & GENTILE, P.C.

*Hon. Felice K. Shea*  
*August 12, 2011*  
*page 2*

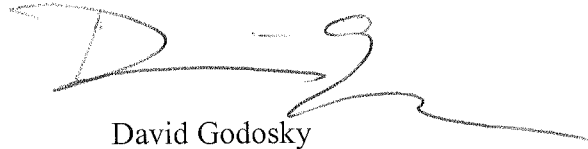
“e) Subpoenas. The judge who is the subject of a formal written complaint may request the referee designated by the commission to issue subpoenas on the judge's behalf. **The referee shall grant reasonable requests for subpoenas**” [emphasis added].

Our arguments as to the reasonableness of this request are already before Your Honor but we believe it is necessary and appropriate to point out the distinction in the statutory authorities cited by the Commission and the mandatory language of the Commission Rules.

Thank you for your consideration of this brief sur-reply.

Respectfully,

GODOSKY & GENTILE, PC

A handwritten signature in black ink, appearing to read 'D. G.', with a long horizontal flourish extending to the right.

David Godosky

cc: By Hand  
Mary C. Farrington  
Commission on Judicial Conduct  
61 Broadway  
New York, NY 10006