

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF THE TRIAL COURT
John Adams Courthouse
One Pemberton Square, Floor 1M
Boston, Massachusetts 02108
617-878-0203

Harry Spence
Court Administrator

January 27, 2017

Felix D. Arroyo, Register
36 Seymour Street, Apt. 3
Boston, MA 02132

RE: December 27, 2016 email message to Court Administrator Harry Spence

Dear Register Arroyo:

In your enclosed December 27, 2016 email message to Deputy Court Administrator Linda Medonis and me, you write: "I believe I have been stripped of many of my rights and responsibilities without my consent." This statement ignores the relevant facts. After Chief Justice Ordoñez and Deputy Court Administrator Medonis reported serious mismanagement of the Registry under your supervision, you agreed in writing that I would "identify a sitting First Assistant Register from another registry to serve in that capacity in [your] office". You further agreed that the temporary First Assistant Register "would have the skills and qualifications expected of someone in the role with little or no on the job training." October 7, 2016 letter of Suffolk Register of Probate Felix Arroyo to Court Administrator Harry Spence ("Agreement Letter").

I fulfilled this agreement by appointing Ms. Terri Cafazzo, the First Assistant Register of the Essex County Registry of Probate, to take over as Manager of Court Operations in the Suffolk Registry, temporarily, in order to address the operational crisis. Ms. Cafazzo also brought two competent staff members with her from the Essex Registry, who have been instrumental in helping her to restore proper practices and procedures in the Suffolk Registry. The extraordinary efforts of Ms. Cafazzo and her colleagues have prevented the further operational deterioration of the Suffolk Registry of Probate. While the Suffolk Registry suffered from some mismanagement prior to your arrival, the operational dysfunction and severe impediments to access to justice increased exponentially under you and your chosen First Assistant Register.

Concerning the supervision of the temporary Manager of Court Operations, you wrote to me:

We agreed that because of your role in recruiting and selecting the temporary First Assistant and because of my upcoming vacation two weeks after the selection and appointment ... it is best that you directly supervise this individual during their tenure to ensure that the process of improving the performance of the registry can be as quick and efficient as possible and there is no change or break in supervision.

Agreement Letter at 2 (emphasis added). The understanding was clear: I would appoint a temporary Manager of Court Operations who would reform and directly supervise the operation of the Registry in order to prevent the further loss of filings, dissemination of incorrect information, and mistreatment of court users that have existed under your tenure as Register.

In keeping with this agreement, you stated to the assembled Registry staff on October 17, 2016 in introducing Terri Cafazzo:

As of today Terri has oversight of the administration and operations of the Registry. She has been asked to take any and all measures to ensure that the users of this registry receive the services they deserve.

Please note that this means each and every one of you now fall under her authority. I will be meeting with Terri regularly and it is my hope that she will report that everyone is accepting her authority and working with her as we move forward.

Register Arroyo's Remarks to the assembled Suffolk Registry of Probate staff on October 17, 2016.

These remarks reflected the terms of the agreement between us. You agreed that you had failed in the management of the Suffolk Registry and, therefore, agreed to delegate Registry operations entirely to Ms. Cafazzo. You stated that you would not interfere in the operation of the Registry in any way while its procedures and staff management were being reformed. You said that interfering in the operations of the Registry would be a "third rail" to you and that you had no interest in playing any role in operations while Ms. Cafazzo attempted to bring the Registry to an acceptable level of operation.

Now that the efforts of Ms. Cafazzo and her colleagues have restored Registry operations and the management of its staff to effective functioning, you seek to retreat from the terms of the agreement. Ms. Cafazzo and her team have succeeded in quieting the outcry of incompetence from the Probate and Family Court Bar. Nevertheless, your December 27, 2016 email reflects your attempt to disown your agreement:

I have not explicitly nor implicitly turned over my duties as the elected Register of Probate to the executive branch of the court. I am aware of my statutory rights as an elected officer.... These statutory duties continue to be the traditional functions allocated to all other registers across the state over the years, yet there is the appearance that you seek to deny me my statutory rights as the elected Suffolk County Register of Probate.

The allegation that either I or anyone else in the Trial Court has attempted to deny your statutory rights as the elected Suffolk Register ignores the facts. Even though you completely lacked the knowledge, skills and professional commitment required to manage the Registry, you appointed as First Assistant Register Bruce Blaisdell, who, by your own admission at our meeting on October 5, 2016, also lacked the knowledge and skills required to competently manage the Registry. As a result, the Suffolk Registry lacked effective management, in fact, any management, from your swearing-in on January 7, 2015 until Ms. Cafazzo's arrival on October 17, 2016.

When it became clear that First Assistant Register Blaisdell would have to be removed, you relinquished your responsibility to terminate him and relied upon Deputy Court Administrator Medonis to fulfill your professional responsibility.

In October 2016, I informed you that there was only one alternative to my initiating disciplinary proceedings against you, up to and including petitioning for your removal. That alternative was for you to temporarily delegate the operation of the Suffolk Registry to a professional who is competent to manage it. Concomitant with that agreement, you agreed "to work collaboratively going forward and ... in selecting a permanent First Assistant Register with the qualifications and skills to competently execute their responsibilities as that is key to ensuring the success of the Registry." Agreement Letter at 2.

I agree with your statement that you should not be completely excluded from the hiring process. I acknowledge your concern with ensuring the racial and linguistic diversity of the Registry staff. However, hiring recommendations must also be evaluated by the Manager of Court Operations to determine if the candidate has the fundamental knowledge of Registry operations and Probate and Family Court procedures that is required to perform successfully in a management position. Fundamental competence in the functions of a position must be demonstrated.

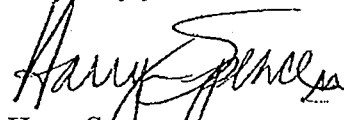
I am deeply concerned that you did not even attend the recent Suffolk Bench Bar meeting. Your lack of attendance sent a very clear message to the bar, and to others in attendance, that you are not supportive of Terri and her work, despite having been informed by many bar members and others how much the operations of the Registry have improved since her intervention. We are all spending countless hours to support the operation of the Registry and to put structures in place to ensure its success but, for some reason, you continue to do things that interfere with this effort, like failing to attend the bench bar meeting. One of the purposes of the bench bar meeting was to hear concerns and to illustrate how the operation has improved with the hope that we can interest experienced practitioners in applying for the position of First Assistant. Why would

anyone want to apply and enter a system that is broken and dysfunctional? Your absence illustrated dysfunction at the highest level.

We must move forward together. Alienating Ms. Cafazzo will only ensure that the Registry reorganization will fail. If you insist upon intervening in the agreed-upon reorganization and improvement of Registry operations, the Registry and its staff will quickly revert back to practices and policies that have been proven unsuccessful in the past. If that happens, we will be back where we began with the Registry in disarray and incapable of meeting the needs of the public and me being compelled to initiate disciplinary action against you. As you know, I have taken all the steps to date to avoid that outcome. I am relying upon you to be reasonable and not to take actions that are contrary to your best interests and the interests of the constituents whom you were elected to serve.

In light of the foregoing, I would ask that you honor your commitment to let Terri manage. Terri committed to the Suffolk Registry of Probate for 4 months and the end of her time is rapidly approaching. Since it would appear that we are not likely to have a First Assistant Register in place before she leaves, we may need a transitional manager to ensure that operations do not go back to where they were. Terri has stated that she is aware that some employees are simply waiting for the Registry to return to the way things were before her arrival. That cannot happen. Your strong statement to employees now and when Terri leaves must be that you approve of, and support, the new processes developed.

Very truly yours,



Harry Spence
Court Administrator

Enclosure

cc: Hon. Paula M. Carey, Chief Justice of the Trial Court
Hon. Angela M. Ordonez, Chief Justice of the Probate and Family Court
Linda M. Medonis, Deputy Court Administrator