

Court Penalizes a Lawyer Over Slurs in a 9/11 Filing

By Benjamin Weiser

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Hardball legal tactics are common in courts, but a California lawyer went too far when he filed court papers on behalf of his client, a widow whose husband died in the Sept. 11 terror attacks, that were “nothing more than a vehicle for making personal slurs” against a judge, a federal appeals court in Manhattan said on Wednesday.

The court harshly criticized and imposed small financial sanctions on the lawyer, Bruce Leichty, and his client, Ellen Mariani, whose husband had been aboard one of the planes to hit the World Trade Center.

A panel of two judges on the United States Court of Appeals for the Second Circuit said the lawyer had “engaged in a pattern of vexatious and duplicative filings, targeting opponents and judges with rude language, and asserting spurious legal positions.” They highlighted papers they said reflected “anti-Semitism in a raw and ugly form.” The court also called a document signed by Ms. Mariani offensive.

The dispute arose out of wrongful death lawsuits that had been filed by both Ms. Mariani and her stepdaughter, Lauren Peters. Eventually, as a result of an agreement in a New Hampshire probate court, a “neutral administrator” was to pursue only Ms. Peters’s suit, the appeals panel said.

Ms. Mariani “apparently had second thoughts” and repeatedly tried to intervene in Ms. Peters’s case, but the district court judge, Alvin K. Hellerstein, citing the probate court agreement, did not allow her to do so, a decision upheld on appeal.

In its ruling on Wednesday, the panel cited Ms. Mariani’s second appeal, calling it frivolous because it persisted in making arguments that had been clearly

rejected. But the judges, Peter W. Hall and Susan L. Carney, also noted that the appeal briefs featured “an escalating series of ad hominem attacks on opposing counsel and bombastic challenges to the integrity” of Judge Hellerstein.

They cited one brief which they said “consisted of little more than a series of offensive insinuations, unmistakably anti-Semitic, about Judge Hellerstein, his family members, their professional work and some of their personal charitable activities.”

Mr. Leichty said on Wednesday: “We believe that the two-judge panel erred in making this order and we are considering our options.” He and Ms. Mariani had denied in court papers that they were pursuing frivolous claims.

Charles R. Capace, a lawyer for the administrator who handled the stepdaughter’s lawsuit, estimated that the sanctions, to be based on court costs, were likely to be minimal. He said the ruling “expresses quite amply the appropriate opprobrium that the court should show toward this kind of behavior.”

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