IN THE CIRCUIT COURT NO. 2

Of Baltimore City. 71

489 1939

J. HOWARD PAYNE
a n d
KARL FRANCIS PHILLIPS,
Complainants

vs.

THE MONUMENTAL CITY BAR ASSOCIATION, INCORPORATED, ET AL,
Defendants.

BILL OF COMPLAINT

(Petition for Injunction)

Original No 23,640a

Mr. Clerk, Please file, etc.

J. Howard Payne

J. Howard Payne

a n d

Karl F. Phillips

Karl Francis Phillips,

Solicitors for Complainants,
2 St. Paul St.,
Baltimore, Maryland.

Filed February 24 1939

J. EDWARD RICHARDSON & CO., BALTIMORE, MD.

IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY --

State of Maryland:

J. HOWARD PAYNE and KARL FRANCIS PHILLIPS, :

Complainants :

vs. :

THE MONUMENTAL CITY BAR ASSOCIATION, INCORPORATED; :
its official Executive and Grievance and Ethics
Committees; and Linwood G. Koger, President, :
Dallas F. Nicholas, Secretary, and A. B. Koger,
a member of the corporate body. :

Defendants.

Bill of Complaint

(Petition for Injunction)

TO THE HONORABLE THE JUDGES OF SAID COURT:

Your Orators, complaining, say:

1. That they are citizens of Baltimore, Maryland, practising attorneys-at-law of said City and State, and members of the above-styled corporate body defendant, hereinafter described as the Corporation.

2. That the defendant Corporation is a duly-organized and existing corporation under the Laws of the State of Maryland, operating under appropriate Constitution and By-laws, copy of which, marked "Exhibit A" is hereto attached, which your Orators pray may be made a part hereof; that the defendant A. B. Koger is a member of the corporation; that the defendants Linwood G. Koger and Dallas F. Nicholas are, respectively, President and Secretary of the Corporation, with principal place of business at 14 E. Pleasant Street, Baltimore City; and that the membership of the Corporation's Executive and Grievance and Ethics Committees are unknown to your Orators.

3. That in the course of its business, the defendant corporation did, on February 18, 1939, hold an improperly-called, irregularly conducted special meeting which was duly attended by your Orators and the individual defendants above-named; that this meeting was represented by defendants to be held in order to "dispose" of the "matter" of a certain formal motion and Bill of Exceptions, respectively, made and filed with the Corporation by your Orators in substantiation of their sincere view

that the mutual benefits and advancement of the defendant corporation, the legal profession as a whole, and the general public would be better served through philosophies and procedures widely different from those which the defendant corporation had previously announced in connection with its purpose to "investigate" &c the State's Attorney's Office of the City of Baltimore.

4. That, however, at no time during the course of the corporation's meeting on February 18th, aforesaid, were your Orators' Motion and Bill of Exceptions either granted or denied; but that during the proceedings of said meeting the defendant A. B. Koger unjustly, improperly, and falsely charged your Orators with "unprofessional conduct", the specifications and particular nature of which were deliberately omitted, and that the Corporation having confirmed both the charges and the omission of their specifications, your Orators are placed at great disadvantage and unwarranted professional embarrassment.

5. And your Orators, further complaining, say that although they are uninformed of said charges, so improperly adduced and filed, the defendant President Linwood G. Koger and the defendant Secretary, Dallas F. Nicholas, announced from the floor of the meeting of February 18th that the "charges" so improperly adduced and filed would later be made the subject of press publicity in Baltimore City; and that by innuendo even further injustices against your Orators were indicated by defendants.

6. That the above-described procedure and the prophecies of the defendants are improper, unlawful and prejudicial to your Orators under the Constitution and By-laws of the defendant corporation; are in absolute contravention to the Corporation's Constitution and By-laws; and, if continued will patently be misconstrued by the legal profession and the public at large, to the irreparable injury and damage to your Orators.

7. That your Orators have ever done equity to the defendants.

8. That your Orators are without adequate remedy at law in the premises.

TO THE END THEREFORE --

I. That the Court may take jurisdiction in the premises and enjoin the said defendants, and all of them, corporately and individually, from:

a. Continuing to proceed against your Orators in a manner contrary to the Constitution and By-laws of the Corporation --

And from:

b. Uttering, publishing, or releasing to people of press, either publicly or privately, any matter or fact related to or by innuendo or otherwise presumed to be related to the said "charges" unless and until the same are specificied and opportunity given to answer the same --

And from:

c. Proceeding further against your Orators unless and until, under the direction of this Court, such proceedings in the matter pending are conducted in accordance with the corporate body's Constitution and By-Laws.

II. That the costs of this suit be assessed against the defendants, and

III. That your Orators may have such other and further relief as their case may require.

May It Please Your Honor to grant unto your Orators the Writ of Subpoena directed to the said The Monumental City Bar Association, Inc., defendant herein, with principal Office and P. O. Address 14 E. Pleasant Street, Baltimore, Md., as well as to the defendants Linwood G. Koger, President, Dallas F. Nicholas, Secretary, of the same address, and A. B. Koger, corporate member, of 1301 Madison Avenue, Baltimore City, Md., and to the responsible officials of the Executive and the Grievance and Ethics Committees of the Corporation, whose offices are also believed to be at 14 E. Pleasant St., Baltimore, Md., commanding them and each of them to be and appear in this Court at some certain day to be named therein, and answer the premises and abide by and perform such decree as may be passed therein.

AND AS IN DUTY BOUND, ETC.

J. Howard Payne

a n d

Karl Francis Phillips

Complainants.

J. Howard Payne,)

a n d)

Karl Francis Phillips)

Solicitors for Complainants,
Office and P. O. Address,
2 St. Paul St.,
Baltimore, Maryland.

STATE OF MARYLAND, BALTIMORE CITY, To Wit:

I hereby certify that on this 24th day of February, 1939, before me the sucscriber, a Notary Public of the State of Maryland, City of Baltimore, personally appeared J. Howard Payne and Karl Francis Phillips, Complainants herein, and made oath in due form of law that the matters and facts set forth in this their Bill of Complaint and Petition for an Injunction are true to the best of their knowledge and belief.

As witness my hand and Notarial Seal.

Gertrude T. Fowler
Notary Public

My commission expires May 1, 1939

"EXHIBIT A"

CONSTITUTION

ARTICLE I.

Name.

This Association shall be called "The Monumental City Bar Association."

ARTICLE II.

Object.

The Association is established to aid in maintaining the ethics and dignity of the profession of the law; in providing legal science, and the administration of justice.

ARTICLE III.

Membership

Section 1. Any members of the Bar of Baltimore City who are members in good standing of this Association at the time of the adoption of this Constitution shall continue as members subject to the provisions of this Constitution and By-Laws.

Section 2. Any member of the Baltimore Bar who has a place in Baltimore City where he is regularly following this vocation at the time of his application may hereafter become a member, by election, and upon payment of the admission fee as hereinafter provided.

ARTICLE IV.

Officers and Committees

The officers of the Association shall be a President, a Vice-President, a Secretary and a Treasurer. Each officer shall take office upon his election and serve the term of one year or until his successor is elected.

There shall be an Executive Committee which shall consist of the President, the Vice-President, the Secretary, the Treasurer and the chairmen of all the standing committees of the Association; the President shall be chairman of the Executive Committee.

The standing committees of this Association, in addition to the Executive Committee, shall be:

1. A Judiciary committee, consisting of five members.

2. A committee on the amendment of the Law consisting of five members.

3. A committee on Grievances and Ethics, consisting of five members.

Section 1. All members of standing committees shall be appointed by the President who shall designate their respective chairmen.

ARTICLE V.

Executive Committee

The Executive Committee shall manage the Affairs of the Association, subject of the Constitution and By-Laws, and shall designate places for the meetings of the Association.

ARTICLE VI.

Meetings

There shall be an annual meeting of the Association on the first Saturday of December in each year, and a stated meeting on the first Saturday of February, April and June and October. At their annual and stated meetings, and at any regular adjourned meeting thereof, all the powers of the Association may be exercised.

Special meetings may be called (on such notice as shall be provided for in the By-Laws) at any time by the Executive Committee, and shall be called, upon like notice, upon the written request of five members of the Association. At such special meetings no business shall be transacted, except such as shall be specified in the call thereof.

The presence of seven members shall be necessary to constitute a quorum at any meeting of the Association.

ARTICLE VII.

Admission Fees and Annual Dues

The Admission fee shall be two dollars and fifty cents, to be paid on signing the Constitution. The annual dues shall be three dollars, payable annually, on the first Monday of October, of each year; provided however, that a different amount may be fixed in the By-Laws.

ARTICLE VIII.

Suspensions and Expulsions

Section 1. Any member failing to pay his dues for one year shall after thirty days notice from the Treasurer stand suspended, unless payment in full is made before the expiration of thirty days and shall not be eligible for reinstatement except upon the affirmative vote of a majority of the members present at a stated or annual meeting and the payment of all arrearages of dues, including dues accruing during the period of his suspension.

Section 2. Disbarment or suspension by any Court in the State of Maryland shall automatically terminate membership in this Association.

Section 3. Any member irrespective of the action of any Court, who shall have been found guilty of unprofessional conduct, in the opinion of a majority of the Executive Committee, may be expelled or suspended by a majority vote of the members of the Association at any stated meeting.

ARTICLE IX.

Elections and Appointments

All elections shall be by ballot. The officers elected shall enter upon their duties immediately upon their election. In case of a vacancy in any elective office, it shall be filled by appointment of the Executive Committee until the next annual election, except in the case of a vacancy occurring in the office of President, when the Vice-President shall succeed to the office of President.

ARTICLE X.

Amendments

This Constitution may be amended by a two-thirds vote of the members present at a stated or annual meeting of the Association provided, that notice of the proposed amendment, subscribed by three members, be given at a previous meeting.

BY-LAWS.

1. Duties of Officers.

Section 1. The President shall be the executive head of the Association and shall have general direction and control of its affairs consistent with the provisions of the Constitution and By-Laws and the direction of the Executive Committee; he shall preside at all meetings of the Association and shall be Chairman of the Executive Committee.

Section 2. The Vice-President shall in the absence of the President perform all of the duties pertaining to the office of the President and upon the death, resignation or disqualification of the President, shall succeed to the office of President and hold the same until the next annual election of officers.

Section 3. The Secretary shall keep a record of the proceedings of all meetings of the Association and of the Executive Committee and of all matters which a record shall be deemed advisable by the Association or the Executive Committee and shall conduct the correspondence of the Association with the concurrence of the President. He shall notify the officers and members of their election and shall issue notices of all meetings which notices shall be issued at least five days prior to said meetings.

Section 4. The treasurer shall collect and under the direction of the Executive Committee, deposit and disburse all funds of the Association. He shall report annually and oftener, if required. He shall keep regular accounts which shall be, at all times open to inspection by any member of the Executive Committee. His accounts shall be audited annually by the Executive Committee.

2. Order of Business

At each annual, stated or adjourned meeting of the Association, the order of business shall be as follows:

1. Reading of minutes of preceeding meeting.
2. Report of Executive Committee.
3. Report of Treasurer.
4. Reports of Standing Committees.
5. Reports of special Committees.
6. Elections, if any.
7. Unfinished business
8. New business.

The parliamentary rules and orders contained in Roberts Rules of Order, except as herein otherwise provided, shall govern all meetings of the Association, so far as the same are applicable.

3. Executive Committee

(a) The Executive Committee shall meet at least once a month except in July, August and September. They shall have power to make such regulations not inconsistent with the Constitution and By-Laws as shall be necessary for the protection of the property of the Association, and for the preservation of good order in its affairs. They shall keep a record of their meetings, which may be read at the ensuing meeting of the Association; and it shall be their duty to present business for the action of the Association. They shall have such general powers in the management of the affairs of the Association as may be necessary and not inconsistent with the provisions of these By-Laws, including the power to employ counsel on behalf of the Association where in their judgment it is necessary.

(b) No debts shall be incurred on behalf of the Association except by express resolution of the Executive Committee authorizing the incurring of the same in advance.

(c) The President shall appoint a sub-committee of the Executive Committee to manage all publicity for the Association and to issue regular releases to the press concerning activities of the Association. No member or officer of the Association shall issue any statement communication or release to the press concerning the Association except through and by the above named committee.

4. Duties and functions of Standing Committees.

Section 1. Committee on the Amendment of the Law. This Committee, the members of which shall be appointed for a period of one year, shall be charged with the duty of attending to all proposed changes in the law and of recommending such as in their opinion may be suitably endorsed by the Association.

Section 2. Judicial Committee. This committee, the members of which shall be appointed for one year shall have the duty to observe the operation of the judiciary system of Baltimore City, collect information in regard thereto and make such recommendations to the Association and to the Supreme Bench of Baltimore City, or any of the other Courts of Baltimore City with regard to any changes which this committee shall deem proper to be made in the practice and procedure of said Courts.

This committee shall have the further duty, whenever a Federal Judge is to be appointed to any of the United States Courts for the Fourth Judicial Circuit, or appointed or elected to

any Court in Baltimore City to the Court of Appeals of Maryland from Baltimore City, to investigate the character, ability and general qualifications of each available person and in reporting their findings, shall give consideration to only such persons distinguished for integrity, wisdom and sound legal knowledge, and to report the same within such time as to give the members of the Association a reasonable opportunity to be informed of their findings before such appointment or election is to take place.

Section 3.

Committee on Grievances and Ethics.

(a) This Committee shall be charged with the duty of hearing all complaints which may be made in matters affecting the interest of the legal profession, the practice of law, and the administration of justice and to report the same to the Executive Committee for its action with such recommendations as they may deem advisable and this committee may of its own initiative and in behalf of the Association institute and carry on proceedings against offenders, but only with the approval of the Executive Committee.

(b) No charges of any character against any such member of the Bar shall be considered by the Committee unless the same is made in writing and signed by the persons making the complaint. Every charge initiated by the Committee shall be signed by the Chairman.

(c) Immediately upon the receipt of any such charge or complaint the Committee shall take steps to investigate and inform itself with reference to the same, and to conduct hearings, and no action shall be taken by the Committee, other than a dismissal of the charge or complaint preferred, without full opportunity being given to the member of the Bar against whom such charge or complaint is made to be informed of the same, to examine the complaint, demand a hearing, and to be supported by witnesses and represented by counsel when desired and requested.

(d) Power and authority is hereby conferred upon said committee, subject to the right of the Executive Committee to fix the rate of compensation, to employ stenographers to take testimony at hearings before said committee whenever in the opinion of said committee a stenographic transcript is desirable and also in cases where the committee deems it necessary to employ stenographers in connection with the investigation of evidence, and a copy or copies of such stenographic transcript shall be furnished the accused member upon his request and at his expense.

(e) It shall be the duty of this committee, upon its own initiative, or in cooperation with individual members of the Bar, as well as Bar Association, to endeavor to maintain the standard of all professional activities upon the highest ethical level. To this Committee shall be addressed and referred inquiries as to the ethical principles covering conduct in given instances, and likewise complaint as to breaches of ethical conduct by members of the Bar.

The finding and/or determination of said Committee shall be reported to the Executive Committee with any recommendations that may have been decided upon, and it shall thereupon become the duty of the Executive Committee to consider and act upon such report and recommendations and refer their report to the Association at the next meeting.

(f) It shall be the duty of this Committee, either upon its own initiative, or upon request or complaint made to it, to investigate any violations of the Statute Laws of Maryland relating to the practice of the law by corporation and/or individuals not members of the Bar, and it shall also be the duty of this Committee to examine into and investigate practices and methods of procuring or conducting business by corporations and/or individuals not members of the Bar, customarily transacted by lawyers, which the committee may consider prejudicial to the welfare of the profession or to that of the public; and the Committee shall make a report to the executive committee of its findings, with any recommendation that may have been decided upon, and it shall thereupon become the duty of the Executive Committee to consider and act upon such report and recommendations and refer their report to the Association at the next meeting.

Section 4. The President shall appoint such special committees as he may deem necessary for the proper conduct of the business of the Association and their duties shall be such as the President may prescribe.

Section 5. Any member of the Executive Committee and of the standing committees who shall be absent from three consecutive meetings without satisfactory explanation shall be deemed to have resigned and his place shall be filled by the President until the next annual meeting.

4. Amendments.

These By-Laws may be amended at any stated, adjourned or annual meeting of the Association by a vote of two-thirds of those present, provided that the same is proposed to the Association at the stated or annual meeting previous to said annual, adjourned or stated meeting.

P66

Circuit Court No. 2

71 / 1939 Docket No. a 48

J. Howard Payne et al

vs.

The Monumental City Bar Assn, Inc 14 Pleasant St et al

SUBPOENA TO ANSWER BILL OF COMPLAINT

480

No. 23640 a

Copy 5 apr 4

Filed 6 *day of* March, 1939

J. Howard Payne
Karl F. Phillips *Solicitor*

3-10

EQUITY SUBPOENA

The State of Maryland

To

The Monumental City Bar
Association, Inc.
14 E Pleasant St

2/28/39 (3)
14 Pleasant St Sunwood G. Kozer, Resident
2/25/39 (3) Dallas F. Nicholas, Secretary
SP 2-25-39 A. B. Kozer
(10) 1301 Madison Ave

of Baltimore City, Greeting:

WE COMMAND AND ENJOIN YOU, That all excuses set aside, you do within the time limited by law, beginning on the second Monday of March, next, cause an appearance to be entered for you, and your Answer to be filed to the Complaint of

J. Howard Payne et al

against you exhibited in the CIRCUIT COURT No. 2 of BALTIMORE CITY.

HEREOF fail not, as you will answer the contrary at your peril:

WITNESS, the Honorable SAMUEL K. DENNIS, Chief Judge of the Supreme Bench of Baltimore City, the 9 day of January, 1939

Issued the 24 day of February, in the year 1939

Charles T. McCabb

Clerk.

MEMORANDUM:

You are required to file your Answer or other defense in the Clerk's Office, Room No. 235, in the Court House, Baltimore City, within fifteen days after the return day. (General Equity Rule 11.)

Summoned The Monumental City Bar Association Incorporated, a corporation by service on Dallas F. Nicholas, Secretary and a copy of the Process left with said Secretary. Also Notice of said summons left at the Principal Office of said Secretary. Also summoned Dallas F. Nicholas, Linwood G. Koger and A. B. Koger and a copy of theProcess left with each defendant

Bichy 2/25/39
Keene 2/28/39

Joseph C. Meagan
Sheriff

Fee $4.00

P 187

Circuit Court No. 2

71

19 39 a DOCKET NO. 48

J. Howard Payne
et al

vs.

The Monumental City
Bar Assn. et al
1214 Penna Ave

SUBPOENA TO ANSWER BILL OF COMPLAINT

4 Pd

No. 23640 a

Copy $ --Copied-(4)

Filed 7 *day of* Aug, 19 39

J. Howard Payne
Karl F. Phillips *Solicitor.*

3-10

EQUITY SUBPOENA

The State of Maryland

To 6/23/39 (3)

The Monumental City Bar Association, Inc.

6/23/39 (3) Linwood G. Koger, President

6/23/39 (3) Dallas F. Nicholas, Secretary

a B. Koger

14 E Pleasant St

Served 6-27-39

of Baltimore City, Greeting:

WE COMMAND AND ENJOIN YOU, That all excuses set aside, you do within the time limited by law, beginning on the second Monday of July, next, cause an appearance to be entered for you, and your Answer to be filed to the Complaint of

J Howard Payne et al

against you exhibited in the CIRCUIT COURT No. 2 of BALTIMORE CITY.

HEREOF fail not, as you will answer the contrary at your peril:

WITNESS, the Honorable SAMUEL K. DENNIS, Chief Judge of the Supreme Bench of Baltimore City, the 8 — day of May, 1939

Issued the 27 — day of June, in the year 1939

Charles A McHabb

Clerk.

MEMORANDUM:

You are required to file your Answer or other defense in the Clerk's Office, Room No. 235, in the Court House, Baltimore City, within fifteen days after the return day. (General Equity Rule 11.)

Summoned The Monumental City Bar Association Incorporated, a corporation by service on Dallas F. Nicholas, Secretary, and a copy of the Process left with said Secretary, also notice of said summons left at the principal office of said corporation. Also summoned Linwood G. Koger and Dallas F. NICHOLAS and a copy of the Process left with each defendant. Also summoned A. B. Koger and a copy of the Process left with Linwood G. Koger, the defendants attorney.

Keene 6-23-39
Bichy 6-27-39

Joseph C Deegan
Sheriff.

Fee $4.00

Service of copy admitted this 23rd day of June, 1939
Monmouth City Bar Assn
D. F. Nicholas Secy
Leonard A. Koger Secy.

Service admitted for
A B Koger 6/27/39
L L Koger Attorney
for defendant

409 21/1939

IN THE CIRCUIT COURT NO. 2

of

BALTIMORE CITY

J. HOWARD PAYNE and

KARL FRANCIS PHILLIPS

vs.

THE MONUMENTAL CITY
BAR ASSOCIATION, etc.

AFFIDAVIT OF SERVICE

No 23640a

5

MR. CLERK:

Please file.

Robert P. McGuinn
Attorney for Defendants.

ROBERT P. McGUINN

ATTORNEY AT LAW

22 SAINT PAUL STREET

BALTIMORE, MD.

FILED 10 March 1939

THE DAILY RECORD CO., BALTIMORE, MD.

AFFIDAVIT OF SERVICE

This is to certify that, I, Althea Fowlkes, of the City of Baltimore, State of Maryland, do hereby make oath in due form of the law, that on Thursday, March 9, 1939, at or about the hour of 2:30 P.M., I personally appeared at the offices of J. Howard Payne and Karl F. Phillips (2 Saint Paul Street) Complainants, in the matter of J. Howard Payne and Karl F. Phillips versus The Monumental City Bar Association, etc., and requested that service of a copy of the Defendants' Demurrer and Answer be received and admitted. That upon refusal of the said Complainant or the Attorney for one, or either of them, to accept the said service, a copy of the aforesaid Demurrer and Answer was left at the office of the Solicitor for either or both of the Complainants.

As witness my hand and seal.

Althea Fowlkes

STATE OF MARYLAND, BALTIMORE CITY, to wit:

I HEREBY CERTIFY that on this 10th day of March, 1939, before me, the subscriber, a Notary Public in the State of Maryland in and for Baltimore City personally appeared Althea Fowlkes, who made oath in due form of the law that the matters and facts set forth herein are true.

As witness my hand and notarial seal.

Sarah J. Amlicus
Notary Public.

IN THE CIRCUIT COURT NO. 2

Of Baltimore City. 21

48 a 1939

J. HOWARD PAYNE
a n d
KARL FRANCIS PHILLIPS,
Complainants

vs.

THE MONUMENTAL CITY BAR ASSOCIATION, INCORPORATED, ET AL,
Defendants.
(14 E. Pleasant St., City).

ORDER FOR PRELIMINARY INJUNCTION

HD 23640 a

37

Original, copy 2

Mr. Clerk, Please file, etc.

J. Howard Payne

a n d

Karl Francis Phillips

Solicitors for Complainants,
2 St. Paul St.,
Baltimore, Md.

February 24, 1939.

3-10

J. EDWARD RICHARDSON & CO., BALTIMORE, MD.

IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY --

State of Maryland.

J. HOWARD PAYNE and KARL FRANCIS PHILLIPS, :

Complainants :

:

vs. :

:

THE MONUMENTAL CITY BAR ASSOCIATION, INCORPORATED; :
(14 East Pleasant Street, City); its official
Executive and Grievance and Ethics Committees; and :
Linwood G. Koger, President, Dallas F. Nicholas, 1/25/39
Secretary, and A. B. Koger, a member of the corporate :
body.

OP2-25-39
10

Order for Interlocutory Injunction.

ORDERED, this 24th day of February, 1939, by the Circuit Court No. 2, of Baltimore City, Maryland, on the aforegoing petition, that a rule be and it is hereby laid on the said The Monumental City Bar Association, Incorporated, its official Executive Committee and Grievance and Ethics Committee; and Linwood G. Koger, its President, Dallas F. Nicholas, its Secretary, and A. B. Koger, one of its corporate members, all defendants herein, requiring them to show cause why the Preliminary Writ of Injunction should not issue, as prayed, and that the 11th day of March, 1939, be and it is hereby fixed for a hearing of the said Petition, provided that a copy of this order be served on the said defendants or their attorneys on or before the 1st day of March, 1939.

Roulan W. Williams

Judge

Copy of the within Order of Court served on Monumental City Bar Association Incorporated, a corporation by service on Dallas F. Nicholas Secretary on the 25th day of February 1939 in the Presence of Howard A. Keene Also copy of the within Order of Court served on A. B. Koger on the 25th day of February 1939 in the Presence of August S. Bichy

Fee $1.50

Joseph C. Deegan
Sheriff

52 19

Circuit Court No. 2

71
1939 Docket No. 484

J. Howard Payne et al

vs.

The Monumental City Bar Asso Inc.

(71)

Petition and Order to Take Testimony Under 30th Rule.

No. 23640 a

11

Copy 2 Lib 2

Filed 13 November 1939

71

J. Howard Payne et al

vs.

The Monumental Bar Asso Inc. et al

IN THE

Circuit Court No. 2.

—OF—

BALTIMORE CITY.

To the Honorable the Judge of the
Circuit Court No. 2 of Baltimore City:

The Plaintiff in this case respectfully shows unto your Honor

That he desires to examine orally, in open Court and in the presence of your Honor, certain witnesses who can testify to the facts and matters relevant to the allegations in the Bill of Complaint filed in this case.

Your Petitioner therefore prays your Honor to pass an order, according to the Statutes for such cases made and provided.

And as in duty bound will ever pray.

Robert P McGinnis
W. A. C. Hughes Jr.
George Evans
Solicitors for ~~Plaintiff.~~ Defendants

Upon the foregoing Petition and Application it is this 13th day of Nov., A. D. 1939, Ordered that the Petitioner have leave to take testimony as prayed and that the testimony to be offered be taken as required by the 30th Rule of this Court. And it is further Ordered that a copy of this Petition and Order be served on the Plaintiffs or their Solicitor, on or before the 18th day of Nov, 1939.

Roland Williams

Copy of the within Petition and Order of Court served on J. Howard Payne and Earl F. Phillips Solicitors on the 15-th day of November 1939 in the presence of Jerome P. Forestell

Joseph C. Reagan
Sheriff

Fee $1.50

SERVE ON

J. Howard Payne

Karl F Phillips

11/15/55 (21) Solo

2 St. Paul St

Circuit Court No. 2

71/1939 a DOCKET NO. 48

J Howard Payne et al

vs.

The Monumental City Bar Assn. et al

SUMMONS FOR WITNESS

NO. 23640 a
12

Filed 29 *day of* March, 19 40

1408 Penna Ave

Payne et al

vs.

Monumental City Bar Asso. Inc

Circuit Court No. 2 of Baltimore City

FLOOR ~~2~~, ROOM ~~211~~ 131, COURT HOUSE

Term, 19 40

Mr. Peter L. Woodbury Jr.

You are hereby summoned to attend this Court, on Friday *the* 29th *day of* March 19 40, *at 10 o'clock A. M., to testify for* Plaintiff.

By order of the Court,

JOSEPH C. DEEGAN, *Sheriff of Baltimore City*

(Bring this summons with you.)

Issued 3/27/40

☞ *Be punctual in attendance or you will be attached.*

32 *Deputy No.* 78

Not Est
Moved away
from 1418 Penn
No Down Town
Office

Bly

4 8 9 71

J. HOWARD PAYNE AND KARL FRANCIS PHILLIPS Complainants	"	IN THE
Vs.	"	CIRCUIT COURT NO. 2
THE MONUMENTAL CITY BAR ASSOCIATION, INCORPORATED; (14 East Pleasant Street, City): its official Executive and Grievance and Ethics Committees; and Linwood G. Koger, President, Dallas F. Nicholas, Secretary, and A. B. Koger, a member of the corporate body.	"	OF BALTIMORE CITY

::::::::::::::

SUBPOENA DUCES TECUM

3 To Mr. Dallas F. Nicholas: Sd
Secretary, Monumental City Bar Association, Incorporated

You are hereby notified to produce at the trial of the above entitled cause certain papers to wit: Before Judge Adams. Friday March 29-40 10 am room 131

a. The Corporation's minutes of any and all meetings held in December 1938.

b. The Corporation's minutes of the meeting or meetings next past preceding February 4, 1939, back to January 1, 1939.

c. Interchanging correspondence and communications between the corporation's Secretary Defendant, Dallas F. Nicholas and the Complaints, or either of them from February 4, 1939 to the date hereof.

d. A certain Bill of Exceptions, filed by the complainants with the defendant corporation on or about Jan. 11, 1939.

e. Certain press releases made by the Defendant corporation through its Defendant Secretary or other officials, particularly to the Daily Record, of Baltimore and appearing therein on or about January 10, 1939, together with the published notices in the said Daily Record, of Complainants' exceptions to the said releases, published on or about January 16, 1939 by the said Daily Record.

(over)

f. Minutes of meetings of the Defendant corporation, whether annual, stated, or special, held on February 4, and February 18, 1939, and at any other time since then.

g. Minutes of special meeting of the Defendant corporation held on February 18, 1939 and all notices, of the Defendant corporation as to any meetings held in December 1938, and in January and/or February 1939 and/or March 1939.

h. The Constitution and By-laws of the Defendant corporation, authenticated as original copies or as certified copies thereof under Maryland law in these matters.

i. A certain resolution introduced by the defendant, A. B. Koger, at the defendant corporation's special meeting February 18, 1939, charging the complainants herein with "unprofessional conduct" which resolution was "tabled" and

j. The original copy of a motion introduced by the Defendant, A. B. Koger, whose passage met by a vote tied at 4 to 4 on February 18, 1939, which was finally passed by a break of the tie upon vote of the President Defendant Linwood G. Koger, Presiding officer at said meeting.

_____

_____
Attorneys for Complainant

(over)

IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY --)
)
State of Maryland)

J. HOWARD PAYNE and KARL FRANCIS PHILLIPS,
Complainants

vs.

THE MONUMENTAL CITY BAR ASSOCIATION, INC., its official Executive and Grievance and Ethics Committees; and Linwood G. Koger, President, Dallas F. Nicholas, Secretary, and A. B. Koger, a member of the corporate body.
Defendants

Mr. Clerk:

Please issue summons for the following witnesses to testify for the Complainants in re the above entitled case in Circuit Court No. 2 pending. Before His Honor Judge Roland W. K. Adams Friday March 29/40 10 am room 131

		NAME	ADDRESS
10	1.	D. Lindsay Bayham Sd	1214 Pennsylvania Avenue
3	2.	Roy S. Bond Sd	14 E. Pleasant Street
10	3.	Norman W. Bishop Sd	1107 Druid Hill Avenue
11	4.	Arthur E. Brisde Sd	2330 McCulloh Street
11	5.	William T. Buckner Sd	2429 McCulloh Street
3	6.	Emory R. Cole Sd	14 E. Pleasant Street
3	7.	George W. Evans Sd	14 E. Pleasant Street
10	8.	William L. Fitzgerald Sd	1206 Druid Hill Avenue
3	9.	William I. Gosnell Sd	14 E. Pleasant Street
13	10.	John H. Hampton	1227 W. Lafayette Sd Avenue
10	11.	Gregory Hawkins Sd	1210 Pennsylvania Avenue
3	12.	Josiah F. Henry, Jr. Sd	22 St. Paul Street
3	13.	W. A. C. Hughes, Jr. Sd	22 St. Paul Street
10	14.	A. B. Koger Sd	1214 Pennsylvania Avenue
3	15.	Linwood G. Koger Sd	14 E. Pleasant Street
1p	16.	E. Everett Lane Sd	1607 Division Street
3	17.	Robert P. McGuinn Sd	22 St. Paul Street

(over)

IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY --)
)
State of Maryland)

J. HOWARD PAYNE and KARL FRANCIS PHILLIPS,
Complainants

vs.

MONUMENTAL CITY BAR ASSOCIATION, INC., its official Executive and Grievance and Ethics Committees; and Linwood G. Koger, President, Dallas F. Nicholas, Secretary, and A. B. Koger, a member of the corporate body.
Defendants

	NAME	ADDRESS
3	18. George W. F. McMechen Sd	14 E. Pleasant Street
3	19. Dallas F. Nicholas Sd	14 E. Pleasant Street
10	20. G. L. Pendleton Sd	1334 Druid Hill Avenue
3	21. Karl Francis Phillips Sd	2 St. Paul Street
10	22. William L. Thomas Sd	734 Dolphin Street
10	23. Thomas Knox Sd	557 Mosher Street
10	24. Peter L. Woodbury TE	1408 Pennsylvania Avenue

Summons For Witness Docket 48 Folio 71

In the Circuit Court No. 2 of Baltimore City

March Term, 19 40

The Sheriff will please summon the following witnesses,

returnable on Friday March 19 40 at 10 o'clock A. M. the 29th day of before Judge Adams Room 131

to testify for Plaintiff

in the case of Payne et al vs. The Monumental City Bar Assn. et Al

Charles A Herbert

Clerk of Circuit Court No. 2 of Baltimore City

IN THE CIRCUIT COURT NO.2

OF

BALTIMORE CITY 71/1939

48a

J.HOWARD PAYNE, et al

VS.

THE MONUMENTAL CITY BAR ASSOCIATION, Incorporated, et al

DEMURRER AND ANSWER TO SUPPLEMENTARY BILL OF COMPLAINT.

No 23640a

Mr.Clerk: 10

Please file.

George W. Evans

ATTORNEY FOR DEFENDANTS

GEORGE W.EVANS,
Attorney-at-Law
I4 E.Pleasant St.

fd 28 June 1939

J. HOWARD PAYNE and	:	IN THE CIRCUIT COURT NO. 2
KARL FRANCIS PHILLIPS	:	of
vs	:	
THE MONUMENTAL CITY BAR	:	BALTIMORE CITY
ASSOCIATION, Incorporated, et al.	:	

. . . . . .

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Defendants, by George W. Evans, Robert P. McGuinn and W. A. C. Hughes, Jr., their attorneys, Demur to the Complainants, Supplemental Petition and assign for reasons, the following grounds:

a. That the Petition fails to state a case entitling the Petitioners to any relief in Equity.

b. That this Court is without power to interfere in, or regulate matters of discipline or doctrine between members and the corporate body.

c. That the Petitioners have a plain and adequate remedy at law.

d. And for other reasons to be assigned at the hearing thereof.

The Defendants in no wise waiving, but on the contrary, saving and reserving unto themselves, and insisting upon all matters of defense in law or equity to the merits of the Bill of Complaint to which they may be entitled by Demurrer or otherwise, nevertheless, answering say:

1. Answering the first paragraph of the Supplementary Bill your Respondents admit the allegation alleging that action has been and still is pending since the filing of the original Bill of Complaint; further answering said paragraph your Respondents admit that at the last hearing the matter was indefinitely postponed; further answering your Respondents emphatically deny that the Court passed any order oral or written at the time of the hearing and

demand strict proof thereof.

2. The Respondents deny the allegations of paragraph 2 in their entirety and furthering answering say, that the Court suggested that the matter in controversy was properly the property of the Respondent corporation.

3. The respondents emphatically deny that the Court passed any Order as alleged in paragraph 3 and demand the strict proof thereof.

4. The Respondents emphatically deny the allegations of paragraph 4 in their entirety, and particularly the good faith of the Plaintiff-Solicitor Phillips, and on the contrary, these Respondents say that the Complainant-Solicitor Phillips called the Respondent-Solicitor McGuinn and advised the said McGuinn that he, the said Phillips desired the matter in controversy settled at an early date so that he, the said Phillips, "might resign from the Monumental City Bar Association, and practice law in peace." That the said McGuinn advised the said Phillips that he, the said McGuinn, could not in any way foretell, but would and did attempt to accelerate the action of the Respondent body corporate, and that he, the said Phillips and Payne would be, and were advised and notified of the meeting of June 3, 1939, which was the regular stated meeting of the Respondent corporation, and which meeting neither the Complainant Phillips, nor the Complainant Payne attended.

5. The Respondents admit that the Complainants were notified of the action of the corporate Respondent at its regular stated meeting of June 3, 1939, in dropping the Complainants Phillips and Payne from its membership, but these Respondents deny that the said Phillips and Payne had no knowledge of the reason for the action of the said corporate Respondent.

6. The Respondents emphatically deny the allegations of paragraph 6, and on the contrary aver that the actions of the

corporate Respondent were in due accord with its Constitution and By-Laws.

And having fully answered, these Defendants pray that the Bill of Complaint be dismissed and the Defendants awarded their proper costs.

And as in duty bound, etc.

George W. Evans

George W. Evans,

Robert P. McGuinn

Robert P. McGuinn

W. A. C. Hughes, Jr.

W. A. C. Hughes, Jr.

STATE OF MARYLAND, BALTIMORE CITY, to wit:

I hereby certify that on this 28th day of June, 1939, before me the subscriber, a Notary Public of the State of Maryland, City of Baltimore, personally appeared Linwood G. Koger as President and Dallas F. Nicholas as Secretary of the Monumental City Bar Association on behalf of the Association and the Respondents and, made oath in due form of law that the matters and facts set forth in the Answer are true to the best of their knowledge and belief and, that the Demurrer herein is not filed for the purpose of delay.

Witness my hand and Notarial Seal.

Helen C. Fisher

Notary Public

Service of copy admitted this 28th day of June 1939.

Joseph H. Philips

P 562

Circuit Court No. 2

71

1939 No. 48 Docket

J. HOWARD PAYNE, AND

KARL FRANCIS PHILLIPS

vs.

THE MONUMENTAL CITY BAR

ASSOCIATION, INC. ET AL.

INJUNCTION

(7)

No. 23640a

16

copy 1 — Copies 7

Filed 18 April 1940

3-10

MARYLAND, Sct.

THE STATE OF MARYLAND

To The Monumental City Bar Association
Incorporated,
Linwood G. Koger,
Dallas F. Nicholas,
A. B. Koger
Robert P. McGuinn
Emory R. Cole
William I. Gosnell

GREETING:

Whereas, J. Howard Payne and Karl Francis Phillips

ha ve exhibited to us in our CIRCUIT COURT No. 2 OF BALTIMORE CITY their Bill of complaint for relief in Equity, and for AN INJUNCTION to restrain you the said The Monumental City Bar Association, Incorporated, Linwood G. Koger, Dallas F. Nicholas, A. B. Kogers, Robert P. McGuinn, Emory R. Cole, and William I. Gosnell, and each of its officials committees and member -defendants herein from proceeding further corporately and /or individually as the case might be, in the prosecution of any complaint or complaints, whatsoever, relating to the said complainant~~s~~, herein, in their capacities and conduct as members in good standing of the said defendant The Monumental City Bar Association, Incorporated, in any manner or under any rules of procedure other than those which are duly prescribed in the Constitution and By Laws of the defendant Corporation.

until the matter can be heard and determined in equity.

Now, Therefore, these are to COMMAND and strictly to ENJOIN and PROHIBIT you, the said The Monumental City Bar Association, Incorporated, Linwood G. Koger, Dallas F. Nicholas, A. B. Kogers, Robert P. McGuinn, Emory R. Cole, and William I. Gosnell, from doing as above recited.

until the further order of our said Court in the premises.

Witness, The Honorable, JAMES P. GORTER, Chief Judge of the Supreme Bench of Baltimore City,

the 11th. day of March 1940

ISSUED the 12th day of April 1940

Charles A. McDebb

Clerk.

Injunction and Copy served on The Monumental City Bar Association, incorporated corporation, by service on Dallas F. Nicholas, Secretary at 12:20 P.M.
Also Injunction and Copy served on Linwood G. Koger at 12:21 P. M.
Also Injunction and Copy served on Dallas F. Nichloas at 12:22 P. M.
Also Injunction and Copy served on A. B. Koger at 12:23 P. M.
Also Injunction and Copy served on Robert P. McGuinn at 12:24 P. M.
Also Injunction and Copy served on Emory R. Cole at 12:25 P. M.
Also Injunction and Copy served on William I. Gosnell at 12:26 P. M.
on the 13th. day of April 1940 in the Presence of Harold A. Keene

Joseph C. Deegan
Sheriff

Fee $15.40

123 42

IN THE CIRCUIT COURT NO. 2
Baltimore City
Maryland

48a 71/1939

J. HOWARD PAYNE AND KARL FRANCIS PHILLIPS,

Complainants.

vs.

THE MONUMENTAL CITY BAR ASSOCIATION, INCORPORATED, Et al

Dallas F. Nicholas, Secretary,
14 E. Pleasant St., City.

Defendants.

SUPPLEMENTAL BILL OF COMPLAINT
and
ORDER OF COURT NISI, ETC.

Original: No 23'640a

Dated: June 16, 1939. 7-9

copy Lapin

Mr. Clerk: Please file, etc.

J. Howard Payne

J. Howard Payne

and

Karl F. Phillips

Karl F. Phillips,
Solicitors for Complainants -- 2 St. Paul St.,
Baltimore, Md.

3

Fd 27 June 1939

J. EDWARD RICHARDSON & CO., BALTIMORE, MD.

IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY --)
)
State of Maryland)

J. HOWARD PAYNE and KARL FRANCIS PHILLIPS, :
Complainants :
:
vs. :
Dallas F. Nicholas Secy 6/23/39 (3) :
THE MONUMENTAL CITY BAR ASSOCIATION, INC., its :
official Executive and Grievance and Ethics :
Committees; and Linwood G. Koger, President, :
Dallas F. Nicholas, Secretary, and A. B. Koger, :
a member of the corporate body. :
Defendants :

SUPPLEMENTAL BILL OF COMPLAINT AND PRAYERS FOR RELIEF.

TO THE HONORABLE THE JUDGES OF SAID COURT:

Your Orators, complaining supplementally, and introducing matters which have happened since the commencement of the original suit herein, material to and supporting the original bill and constituting actual injury to your Orators, say:

1. That the above-entitled action has been, and still is, pending before this Honorable Court since the date of filing the original Bill of Complaint herein, and that the last entry of record by the Court is styled "Indefinitely Postponed" and is supported by collateral oral orders of the Court, as more fully alleged hereinafter.

2. That in the course of this Honorable Court's oral orders, above, the Court directed, in substance, that the subject matter of the original suit, as to which the Bill of Complaint was filed, demurred to, and answered, should be taken back to the corporate defendant for consideration by itself and all other interested parties, including the litigants' Solicitors, and in accordance with the said Corporation's Constitution and By-Laws, with the view of amicable disposition, if possible, of the matters in controversy, with full and immediate recourse, however, at all times, to return to the Court for fair and final adjudication.

3. That, further, the Court in its oral order and collateral instructions regarding the said "Indefinite Postponement" of the original suit

herein, also suggested that the Corporation's considerations of the matters in controversy might better be presided over, if protest were made, by some one other than the present corporate President, Linwood G. Koger, against whom complainants have ever steadfastly protested, as the Court has been informed, in the matters in controversy.

4. That since the time of the said oral order of the Court and collateral instructions therein on the date of "Indefinite Postponement" complainant-solicitor, Karl F. Phillips, in good faith and zeal, has repeatedly importuned the defendants' Solicitor, Robert P. McGuinn, to follow up and abide by the Court's instructions and consult with, and act cooperatively with complainants' solicitor Phillips in the matter; but that although the said Solicitor McGuinn repeatedly promised to take such action and to advise complainants' solicitor Phillips of contemplated steps to be taken by his corporate client and fellow solicitors, the said McGuinn failed to keep his pledge and otherwise evaded complainant-solicitor Phillips in an effort by the latter made, in good faith, to carry out the Court's instructions.

5. That your Orators are now advised by the defendant Corporation, through its corporate Secretary, the defendant, Dallas F. Nicholas, that at a meeting of the Corporation, held on June 3, 1939, your Orators were "dropped" from the membership of the Corporation, though your Orators have never been advised of any just reason why they should be so "dropped".

6. That the actions of the corporation defendant in thus "dropping" from its membership the names of your Orators have now patently violated, and ignored, and contravened the orderly courts and discretion of this Honorable Court in the pending matter; have otherwise obstructed the administration of justice; and have furthered the actual injuries imposed upon complainants -- all in utter disregard, both directly and indirectly, of the contemplation of your Orators' equities and the oral orders and collateral instructions of this Honorable Court.

TO THE END, THEREFORE --

a. That the Court may actively reassert its jurisdiction in the

premises and enjoin the said defendants as to all matters in which your Orators sought relief in their original Bill of Complaint; and

b. That, further, an Order be passed by this Court directed to the defendant Corporation and its officers, agents, and/or servants, corporately and individually, and in whatsoever manner or form their acts have affected your Orators or their interests in this suit, both originally and supplementally, requiring the said defendant corporation to show cause why its action, taken on June 3, 1939, "dropping" complainants from the corporate roster should not be declared to be null and void and of no effect; and

c. That, conversely, your complainants be forthwith restored to full membership and good standing in the said defendant corporation; and

d. That your Orators may have such other and further relief as their case may require:

MAY IT PLEASE YOUR HONOR TO grant unto your Orators the Writ of Subpoena, directed to The Monumental City Bar Association, Inc., and its Secretary, the defendant, Dallas F. Nicholas, and its other agents, officers, and/or servants, with principal office and P. O. Address, 14 E. Pleasant St., Baltimore, Md., and to the responsible officials of the Executive and the Grievance and Ethics Committees of the Corporation, commanding them and each of them to be and appear in this Court at some certain day to be named therein, and answer the premises and abide by and perform such decree or decrees as may be passed therein.

AND AS IN DUTY BOUND, ETC.

J. Howard Payne

and

Karl Francis Phillips

Solicitors for Complainants,
2 St. Paul St., Baltimore, Md.

J. Howard Payne

and

Karl Francis Phillips

Complainants

STATE OF MARYLAND -- Baltimore City, To Wit:

I hereby certify that on this 16th day of June, 1939, before me the subscriber, a Notary Public of the State of Maryland, City of Baltimore, personally appeared J. Howard Payne and Karl Francis Phillips, Complainants herein, and made oath in due form of law that the matters and facts set forth in this their Supplemental Bill of Complaint are true to the best of their knowledge and belief.

As witness my hand and notarial seal.

Gertrude G. Fowler

Gertrude G. Fowler

Notary Public

My Commission expires May 1, 1941.

IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY --)
)
State of Maryland)

J. HOWARD PAYNE AND KARL FRANCIS PHILLIPS, :
Complainants :
:
:
vs. :
:
:
THE MONUMENTAL CITY BAR ASSOCIATION, INC., its :
official Executive and Grievance and Ethics :
Committees; and Linwood G. Koger, President, :
Dallas F. Nicholas, Secretary, and A. B. Koger, :
a member of the corporate body. :
Defendants. :

ORDER OF COURT NISI, ETC.,

ORDERED, This 27th day of June, 1939, by the Circuit Court No. 2 of Baltimore City, on the aforegoing Supplemental Petition, that the defendants, The Monumental City Bar Association, Incorporated, through its duly-authorized officers, agents, and/or servants, and, particuparly, its official Executive and Grievance and Ethics Committees; and Linwood G. Koger, President, Dallas, F. Nicholas, Secretary, and A. B. Koger, a member of the corporate body, appear before this Court [redacted] on the 28th day of June, 1939, at 10 o'clock, a. m., and then and there show cause, if any they may have --

(1) Why the action of the defendant Corporation of June 3, 1939, "dropping" the complainants herein from its corporate membership, should not be declared to be null and void and of no effect; and

(2) Why, conversely, the complainants herein should not be forthwith restored to full membership and good standing in the said defendant corporation

provided a copy of this Order be served on the said The Monumental City Bar Association and its duly-authorized officers, agents, and/or servants above-named, on or before the 27th day of June, 1939.

Roulan W. Williams
Judge

Copy of the within ~~Subpoena~~ Bill of Complaint and Order of Court served on The Monumental City Bar Association, Incorporated a Corporation by service on Dallas F. Nicholas, Secretary on the 23rd. day of June 1939 in the presence of Harold Keene.

Joseph C. Weegan
Sheriff.

Fee $0.75

Service of copy admitted this 23rd day of June, 1939.

Monumental City Bar Assn. D. F. Nicholas, Secy.
for Linwood T. Rogers, Pres.

IN THE CIRCUIT COURT NO. 2

of 48971

BALTIMORE CITY 1939

J. HOWARD PAYNE and

KARL FRANCIS PHILLIPS

vs.

THE MONUMENTAL CITY BAR

ASSOCIATION, Incorporated,
et al

DEMURRER AND ANSWER TO

BILL OF COMPLAINT

and EXHIBIT "A" "B" and "C"

MR. CLERK: No 236 40a

Please file.

Morgan Evans

Robert P. McGuinn

W. A. C. Hughes

Solicitors for Defendants.

ROBERT P. McGUINN

ATTORNEY AT LAW

22 SAINT PAUL STREET

BALTIMORE, MD.

FILED 9 March 1939

THE DAILY RECORD CO., BALTIMORE, MD.

J. HOWARD PAYNE and KARL FRANCIS PHILLIPS vs. THE MONUMENTAL CITY BAR ASSOCIATION, Incorporated, et al	*	IN THE CIRCUIT COURT NO. 2 of BALTIMORE CITY

****

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Defendants, by George W. Evans, Robert P. McGuinn and W. A. C. Hughes, Jr., their attorneys, Demur to the Complainants petition and assign for reasons, the following grounds:

a. That the Petition fails to state a case entitling the Petitioners to any relief in Equity.

b. That this Court is without power to interfere, in, or regulate matters of discipline or doctrine between members and the corporate body.

c. That anticipated action by the corporate body, which may or may not be injurious to the Complainants, cannot be made the cause of equitable relief.

d. That the Petitioners have a plain and adequate remedy at law.

e. That the Petitioners have failed to file exhibits of records or verified copies thereof in support of the essential averments of the Bill and the Complainants do not excuse their failure to file said records or exhibits.

f. That the Complainants' affidavit that the matters and facts set forth are true to the best of their knowledge and belief is insufficient.

g. And for other reasons to be assigned at the hearing hereof.

The Defendants in no wise waiving, but on the contrary, saving and reserving unto themselves, and insisting upon all

matters of defense in law or equity to the merits of the Bill of Complaint to which they may be entitled by Demurrer or otherwise, nevertheless, answering say:

1. They admit the allegations contained in paragraph one of the Bill of Complaint.

2. They admit the allegations contained in paragraph two of the Bill of Complaint (but not the Exhibit), except wherein it is alleged that the membership of the Executive, Grievance and Ethics Committees are unknown to the Complainants, and the Defendants aver that the Complainants have full and complete knowledge of the member ship of the said committees.

3. They emphatically deny each and every allegation contained in paragraph three of the Bill of Complaint. And for answer, these Defendants say that, heretofore, on or about January 13, 1939, the Complainants filed, what they called a "Motion to Rescind and Exceptions" to certain action taken by the corporate body. That due to ignorance or a wilful and malicious attempt to distort the facts, the Complainants incorporated into their alleged Motion and Exceptions, matters never contemplated or suggested by the corporate body, and copies of the said Motion and Exceptions were filed with persons and newspapers for the ill-concealed purpose of currying favor and prestige for the Complainants at the expense of the corporate body. The Defendants aver that the corporation held its regularly stated meeting on February 4, 1939, due notice of which, was given to the Orators on January 28, 1939, and notice of said meeting also appeared in the Daily Record. That the Complainants were advised that their "Motion and Bill of Exceptions" would be heard at this meeting, but while the Complainant, J. Howard Payne, attended the said meeting of February 4, 1939; the Complainant Karl F. Phillips, by letters under date of January 30, and 31, 1939, declined to attend said meeting.

At the said meeting of February 4, 1939, the Complainant, J. Howard Payne, pleaded that he did not have sufficient time in which to defend his position and begged for additional time. The Corporation, by vote of its membership, recessed the said meeting of February 4, 1939, subject to the special call of the President, so that the Complainants might have full opportunity to be heard. Accordingly on February 18, 1939, after due notice to the Complainants, the corporation met and said meeting was duly attended, without objection, by both of the Complainants.

4. The Defendants admit that no action was taken upon the Complainants' Motion and Bill of Exceptions at the meeting of February 18, 1939, but they deny each and every other allegation contained in paragraph four of the Bill of Complaint. Answering and clarifying the said fourth paragraph, these Defendants say that the business before the Corporation on February 18, was what, if any, action should be taken against the Complainants because of their unprecedented conduct in publicizing in a derogatory manner, the actions and honest convictions of the membership of the Corporation. As will be seen by reference to the certified copies of the minutes of the meetings held February 4th and 18th, attached to this Answer and marked Defendants' exhibits "A" and "B", respectively both of which are prayed to be taken as part hereof, the "Motion and Bill of Exception" had been ruled out of order, but the question before the body at the recessed meeting of February 18, 1939, was the good faith and honest intentions of the Complainants in pursuing the course they followed. At this meeting A. B. Koger, a lawyer and member of the corporate body, in good standing filed charges against the Complainants, Payne and Phillips, for conduct unbecoming a member of the body and he asked that the Grievance

Committee of the Monumental City Bar Association be called in session to hear further charges and witnesses. A copy of the charge perferred by the Defendant, Koger, is hereto attached and marked Defendants' exhibit "C" and prayed to be made a part hereof. And further answering these Defendants deny that the Complainants are placed at any disadvantage or professional embarrassment, but if, by chance such is the case, the Defendants say that such embarrassment and disadvantage was and is caused, wholly and solely, by the publicity the Complainants gave to a matter which was intended to be the private affair of the Corporation, but which for reasons, best known to themselves the Complainants, Payne and Phillipschose to violate the specific direction and action of the body that this whole affair be "kept secret", by taking steps and action calculated to arouse public curiosity.

5. The Defendants deny each and every allegation contained in paragraph five of the Bill of Complaint. Answering, the Defendants state the Complainants had full and complete knowledge of the charges against them for it was at their behest that a hearing and opportunity to defend was allowed them; and further it was at their request that the charges were filed in writing. The Defendants request and direct the Court's attention to the deliberate, false statement sworn to by the Complainants, Payne and Phillips, stating that the "charges" would be made the subject of press publicity. Defendants' exhibit "B" shows that the Defendant, Nicholas, made a motion that the whole matter be kept secret and said motion was duly passed. And the Defendants state that Complainants Payne and Phillips were present, voting or having the right to vote upon the motion, and they therefore knew the action of the body, yet, nevertheless they make a knowingly false statement in the attempt to influ-

ence this Court of Conscience.

6. The Defendants deny each and every allegation contained in paragraph six of the Bill of Complaint. And further answering, the said allegations, the Defendants say that the Complainants Payne and Phillips have not followed the rules of good equity pleading which requires full and ample disclosures and specification, and not mere conclusions of fact and law. Still further answering, the Defendants say that if the charges of conduct unbecoming a member of the corporation are misconstrued public and profession to mean charges of unprofessional conduct, this is something over which the Defendants have no control and is dammun absque injuria, and cannot be the basis for equitable intervention.

7., 8. The Defendants deny each allegation contained in paragraphs of seven and eight of the Bill of Complaint.

And for further Answer to the Bill of Complaint these Defendants say that the Complainants Payne and Phillips have not come into Court with "clean hands". They have incorporated into their Bill statements which are contrary to the facts. They have charged the Defendants with damaging or threatening to damage them by publicizing their actions, whereas the Defendants have acted quietly in order to protect them and whatever knowledge the public has of the activities of the Corporation is due to the actions of the Complainants. The Defendants say this Bill for an Injunction instituted by the Complainants is frivolous and has not been filed in good faith.

And having fully answered, these Defendants pray that the Bill of Complaint be dismissed and the Defendants awarded their proper costs.

AND AS IN DUTY BOUND, etc.

George Evans

Robert P. Gilmour

W. A. C. Hughes

Solicitors for Defendants.

Dallas F. Nicholas

Defendant.

STATE OF MARYLAND, BALTIMORE CITY, to wit:

I HEREBY CERTIFY that on this 9th day of March, 1939, before me, the subscriber, A Notary Public in the State of Maryland in and for Baltimore City, personally appeared Dallas F. Nicholas, individually and as Secretary of the Monumental City Bar Association, who for himself and on behalf of the corporate body and the other Defendants in the foregoing cause of action made oath in due form of law that the matters and facts contained in the foregoing Answer are true; and that the Demurrer herein is not interposed for the purpose of delay.

AS WITNESS my hand and Notarial Seal.

Sarah J. Ambers.

Notary Public.

C O P Y

D. Exhibit "A"

"February 4, 1939

The regular monthly meeting of the Monumental City Bar Assn was held on this date at #1210 Etting Street, the Assn being the guests of Messers Bond, Baynham & Bishop.

The minutes of the December meeting were read by the Secretary and, on motion of Mr. McGuinn, seconded by Mr. Buckner, they were approved as read.

The Committee appointed to wait upon Judges Niles & Frank reported it had been successful & that both Judge were sympathetic & would assist us, which report was duly received.

The Secretary then read the Motion and Exceptions filed by Messers. Payne & Phillips, together with letters from Mr. Phillips. The President ruled that the Motion was out of Order, but that since the matter was so important, the Exceptions would be heard.

Mr. Payne was called upon to defend or explain his position and he pleaded that he did not have enough time & that he felt a special meeting should be held solely for this matter. Both Messrs A. B. Koger and Gregory Hawkins expressed views at this point. It was then moved by Mr. Hughes, seconded by Mr. Fitzgerald that Mr. Payne be given ample time. The Chair ruled that Mr. Payne might start, and take as much time as he needed, with no limitation, other than that our guests were due at 10 P. M. It was next moved by Mr. McGuinn, seconded by Mr. Fitzgerald that a special call meeting be held, at which this matter be the sole business. This motion was lost.

The Secretary was requested to again read the Motion & Exceptions and just as this was concluded, Judge Smith arrived, and then Judge McLanahan.

These two Jurists gave us quite an interesting talk, being presented by the President and the Assn's response being given by the Secretary.

Upon the retirement of the Judges, the discussion of the "Motion etc.", was resumed. It was suggested and approved on motion of Mr. Bishop, seconded by Mr. Hughes, that if we had not concluded when Judge Niles arrived, that the meeting recess, subject to special call from the President. On motion, the Secretary again read the "Motion and Exceptions"- The President expressed his views as to the harm that had been attempted by this action & Publicity and then the report of the Executive Committee was called for. This report being only in the form of the Secretary's notes, he advised that he would have to submit it in that form and at this point, Judge Niles arrived.--

Judge Niles talked at length concerning the problems confronting him and us, and advised us that he would aid us. He was introduced by the President & the response was made by Mr. Fitzgerald. After Judge Niles' talk, he remained with us, engaging in round table discussion & joining us at our delectable repast.

From the collection of Dues $3.25 Gosnell 25¢ Hughes 25¢ McGuinn 25¢ Fitzgerald 25¢, Lane 25¢, Buckner 50¢, Baynham, Briscoe 50¢ Koger 25¢ G. Hawkins 25¢, Henry 25¢

Our next hosts- Messers, Briscoe, Buckner & Cole.
The meeting recessed , as above ordered.

Linwood G. Koger, President

Dallas F. Nicholas, Secretary"

STATE OF MARYLAND, BALTIMORE CITY, to wit:

I hereby certify that on this 9th day of March, 1939, before me the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City aforesaid, personally appeared Linwood G. Koger and Dallas F. Nicholas, President and Secretary respectively of the Monumental City Bar Association and made oath in due form of law that the foregoing copy of minutes of the meeting of the Association held on February 4th, 1939, is a true and correct copy of the minutes of such meeting.

Witness my hand and Notarial Seal

Helen C. Fisher

Notary Public

C O P Y

D. Exhibit "13"

"February 18, 1939

In accordance with the motion made at the meeting of Feb. 4, and pursuant to the call of the President, the meeting was opened by the President, who stated that, if there was no objection, he wished to present to the Assn the matter of recommending to the Governor, the names of members for appointment to the lower Judiciary. There being no objection, the following names were suggested - Linwood G. Koger, G. W. F. McMechen, A. E. Briscoe, Josiah F. Henry, D. F. Nicholas, Thomas Knox & J. Howard Payne & on motion of Mr. McGuinn by Mr. Knox, these names were ordered sent to the Governor- Karl Phillips voting "Present".

Next, the matter of the "Motion & Exceptions" of Messers Payne & Phillips was discussed. The following expressed views, Messers Payne & Phillips, in support of their contention,& Messers, McGuinn, A. B. Koger, Knox, Nicholas, Cole, Bishop, Gregory Hawkins and L. G. Koger, varying views.-

Mr. A. B. Koger seconded by Mr. McGuinn recommended that the Assn reprimand Messers Payne & Phillips for their actions and suspend them for one month--Both Messers Payne & Phillips objected to the procedure, & called for an interpretation of the Constitution. A general discussion followed and Mr. Gregory Hawkins, by Mr. Bishop moved that the matter be tabled, which motion was lost. Messers Payne & Phillips contending that the procedure was irregular and that "charges" should be preferred before the Body could act. Mr. A. B. Koger, with the consent of Mr. McGuinn, withdrew his previous motion of censure, and in its stead, filed or submitted "charges of conduct unbecoming a member of this Assn" against Messers Payne & Phillips. On motion of Mr. A. B. Koger by Mr. McGuinn, the charges were directed referred to the proper Committee. Unreadiness by Messers Payne, Bishop & Phillips, and the vote on the motion being a tie, the president cast the deciding vote in favor of the motion and the matter was referred to the Executive Committee.

On motion of Mr. Nicholas, by Mr. McGuinn, it was ordered that the proceedings with reference to the matter under discussion be kept secret.

Mr. Gregory Hawkins submitted his resignation as a member of the Assn, and requested that his name be withdrawn from our list.

After further general discussion, the meeting adjourned.

Linwood G. Koger, President

Dallas F. Nicholas, Secretary"

STATE OF MARYLAND, BALTIMORE CITY, to wit:

I hereby certify that on this 9th day of March, 1939, before me the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City aforesaid, personally appeared Linwood G. Koger and Dallas F. Nicholas, President and Secretary, respectively, of the Monumental City Bar Association and made oath in due form of law that the foregoing copy of minutes of the meeting of the Association held on February 18, 1939, is a true and correct copy of the minutes of such meeting.

Witness my hand and Notarial Seal.

Helen C. Fisher

Notary Public

D. Exhibit "C"

Baltimore, Md.

I hereby prefer charges against Messrs Karl Phillips & J. Howard Panye for conduct unbecoming a member of this body and ask that the Grievance Com. be called in session at which time further charges and witnesses will be presented.

(Signed) A. B. Koger

2/18/1939

Service of copy admitted this day of March, 1939.

48a 71/1939

IN THE CIRCUIT COURT NO. 2
of
BALTIMORE CITY, MARYLAND

J. HOWARD PAYNE

AND

KARL FRANCIS PHILLIPS,
Complainants

vs.

THE MONUMENTAL CITY BAR
ASSOCIATION, INC. et al
Defendants

DECREE

MR. CLERK:

Please file, etc.

No 23640a
15

J. Howard Payne

Filed 10 April 1940

IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY)
)
State of Maryland)

J. HOWARD PAYNE and KARL FRANCIS PHILLIPS, :
Complainants :
:
:
vs. :
:
:
THE MONUMENTAL CITY BAR ASSOCIATION, INCORPORATED, :
its official Executive and Grievance and Ethics :
Committees; and Linwood G. Koger, President, :
Dallas F. Nicholas, Secretary, and A. B. Koger, :
a member of the corporate body, :
Defendants. :

DECREE FOR WRIT OF INJUNCTION

This cause standing ready for hearing, and being submitted, the counsel for the parties were heard and the proceedings read and considered:

IT IS THEREUPON, This 10th day of April, 1940, by the Circuit Court No. 2, of Baltimore City, State of Maryland, ADJUDGED, ORDERED AND DECREED:

(1) That the action of the said The Monumental City Bar Association, Incorporated, on June 3, 1939, purporting to expel the complainants from said association be and the same is hereby declared null and void and of no effect to the end that the status of the said complainants herein, J. Howard Payne and/or Karl Francis Phillips as members of said association shall be the same as if the said action of June 3, 1939 had never been taken.

(2) That a permanent Writ of Injunction be issued by this Court restraining, the said defendant, The Monumental City Bar Association, Incorporated, (and each of its officials, committees and member-defendants herein, from proceeding further, corporately and/or individually, as the case might be, in the prosecution of any complaint or complaints, whatsoever, relating to the said complainants herein, J. Howard Payne and/or Karl Francis Phillips in their capacities and conduct as members in good standing of the said defendant, The Monumental City Bar Association, Incorporated, in any manner or under any rules of procedure other than those which are duly prescribed in the Constitution and By-Laws of the defendant corporation.

And it is further ordered that the above-named defendants pay the costs of these proceedings.

Thomas H. Adams

Judge

IN THE CIRCUIT COURT NO.2

OF

BALTIMORE CITY

48a 71/1939

J.HOWARD PAYNE and
KARL FRANCIS PHILLIPS,
Complainants

vs.

THE MONUMENTAL CITY BAR ASSOCIATION, INCORPORATED, its official Executive and Grievance and Ethics Committees; and LINWOOD G. KOGER, President, DALLAS F. NICHOLAS, Secretary, and A.B.KOGER, a member of the corporate body,
Defendants

ORDER

No 23640a

13

Fd 29 March 1940

J.HOWARD PAYNE and KARL FRANCIS PHILLIPS, Complainants	:	IN THE CIRCUIT COURT NO.2
vs.		
THE MONUMENTAL CITY BAR ASSOCIATION, INCORPORATED, its official Executive and Grievance and Ethics Committees; and LINWOOD G. KOGER, President, DALLAS F. NICHOLAS, Secretary, and A.B.KOGER, a member of the corporate body, Defendants	:	OF BALTIMORE CITY

This cause coming on for a hearing on demurrer to the supplemental Bill of Complaint, and being submitted, the Counsel for the parties were heard and the proceedings read and considered.

It is thereupon this 29th day of March, 1940 by the Circuit Court No.2 of Baltimore City, Adjudged, Ordered and Decreed that the demurrer in this case be and the same is hereby over-ruled.

Thomas Kelcoane

JUDGE

IN THE CIRCUIT COURT NO.2

OF

BALTIMORE CITY

71
48a/939

J.HOWARD PAYNE and
KARL FRANCIS PHILLIPS,
Complainants

vs.

THE MONUMENTAL CITY BAR ASSOCIATION, INCORPORATED, its official, Executive and Grievance and Ethics Committee; and LINWOOD G. KOGER, President, DALLAS F. NICHOLAS, Secretary; and A.B.KOGER, a member of the Corporate body,

Defendants

ORDER

No 23640a
14

Filed April 1940

J.HOWARD PAYNE and KARL FRANCIS PHILLIPS, Complainants	:	IN THE CIRCUIT COURT NO.2
	:	
VS.		
THE MONUMENTAL CITY BAR ASSOCIATION, INCORPORATED; its official Executive and Grievance and Ethics Committee; and Linwood G.Koger, President, DALLAS F.NICHOLAS, Secretary; and A.B.KOGER, a member of the Corporate body. Defendants	:	OF BALTIMORE CITY

This cause coming on for a hearing on demurrer to the Original Bill of Complaint, and being submitted, the Counsel for the parties were heard and the proceedings read and considered.

It is thereupon this 29th day of March, 1940 by the Circuit Court No.2 of Baltimore City, Adjudged, Ordered and Decreed that the demurrer in this case be and the same is hereby over-ruled.

Thomas J. Keech

JUDGE