

Top court drops bias complaint against judge

Panel suggested dismissing case for alleged anti-Semitic remark

By **MaryAnn Spoto**
STAR-LEDGER STAFF

The state Supreme Court has dismissed a complaint against a Superior Court judge accused of making an anti-Semitic slur to a Jewish attorney.

In a one-page order issued Monday, Chief Justice Stuart Rabner dismissed the complaint brought in 2009 by attorney William L. Gold against Superior Court Judge William L'E. Wertheimer, who was sitting in Union County.

The action came after the Advisory Committee on Judicial Conduct, which initially filed the complaint, issued a confidential report recommending the matter be dismissed, said Wertheimer's attorney, **Marc Wolin**. That report was based on a trial before the committee held in New Brunswick last year, Wolin said.

"I'm delighted with the Supreme Court's decision," Wolin said yesterday. "I'm most pleased for Judge Wertheimer, who has finally been vindicated after a difficult 1½ years."

Gold said the dismissal amounted to the Supreme Court's tolerance of anti-Semitic comments in the courtroom.

"I was pretty offended that at any level an anti-Semitic comment would be accepted by the court," Gold said. "He (Wertheimer) admitted he said

it."

Gold had complained to the advisory committee — a nine-member body composed of retired judges, members of the state Bar Association and the public — about the remark Wertheimer had made in his courtroom in Elizabeth.

According to the complaint, Wertheimer's comment came after he called Gold and his adversary, Michael Bubb, to a sidebar conversation out of the earshot of the jury to discuss the trial schedule.

The exchange occurred when Gold had asked he be allowed to leave by 4 p.m. on April 8, 2009, to attend a Passover Seder. Wertheimer eventually asked whether he should inform the jury that he would end the trial early so that one or both of the attorneys could attend a "Bund meeting."

The German-American Bund was an American Nazi organization in the 1930s whose members participated in anti-Semitic demonstrations.

Gold raised the issue with the judge the next day, prompting Wertheimer to apologize, according to the complaint. Wertheimer also told Gold the remark was not directed at him and was not meant to offend him.

In an August 2009 complaint filed by the advisory commit-

tee, Wertheimer was charged with violating four canons of the Code of Judicial Conduct. They require judges to avoid impugning the integrity and independence of the judiciary, to promote public confidence in the courtroom, to be patient, dignified and courteous and to avoid discrimination.

Based on the findings at trial, the committee issued its report the end of last year recommending dismissal of the charges, Wolin said. The

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*Attorney William Gold, who filed the
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committee did not explain its reasoning.

Wertheimer, who is a year from the mandatory retirement age of 70, has been chided by the committee previously. It issued him a letter of admonition in 2001 for not recusing himself from a case and in 2007 it issued him a letter of caution for his dealings with an assistant prosecutor of Nigerian descent.

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