

Williams, J.P., Mazzarelli, Lerner, Buckley, Friedman, JJ.

2291 Michael Mantell,
Petitioner-Appellant,

-against-

Pro Se

New York State Commission on
Judicial Conduct,
Respondent-Respondent.

Constantine A. Speres

Judgment, Supreme Court, New York County (Edward Lehner, J.), entered on or about September 30, 1999, which, in a proceeding pursuant to CPLR article 78 to compel respondent Commission to investigate petitioner attorney's complaint of judicial misconduct, granted respondent's motion to dismiss the petition, unanimously affirmed, without costs.

Petitioner lacks standing to assert that, under Judiciary Law § 44(1), respondent is required to investigate all facially meritorious complaints of judicial misconduct. Respondent's determination whether or not a complaint on its face lacks merit involves an exercise of discretion that is not amenable to mandamus (cf., Matter of Dyno v Rose, 260 AD2d 694, 698, appeal

dismissed 93 NY2d 998, lv denied 94 NY2d 753).

M-5760 Mantell v New York State Commission
on Judicial Conduct

Motion seeking leave to intervene and for
other related relief denied.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: NOVEMBER 16, 2000

Catherine O'Hagan Wolfe
CLERK