

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

JUNE P. CHAPMAN,

A Justice of the Ellicottville Town Court,
Cattaraugus County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to respondent, June P. Chapman, a Justice of the Ellicottville Town Court, Cattaraugus County, pursuant to Section 44, subdivision 4, of the Judiciary Law, that the State Commission on Judicial Conduct has determined that cause exists to serve upon respondent the annexed Formal Written Complaint; and that, in accordance with said statute, respondent is requested within twenty (20) days of the service of the annexed Formal Written Complaint upon her to serve the Commission at its Rochester office, 400 Andrews Street, Suite 700, Rochester, New York 14604 with her verified Answer to the specific paragraphs of the Complaint.

Dated: March 5, 2008
New York, New York

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
New York, New York 10006
(212) 809-0566

To: Diane R. Tiveron, Esq.
Hogan & Willig
One John James Audubon Parkway
Suite 210
Amherst, New York 14228

EXHIBIT 1

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

JUNE P. CHAPMAN,

**FORMAL
WRITTEN COMPLAINT**

A Justice of the Ellicottville Town Court,
Cattaraugus County.

1. Article 6, Section 22, of the Constitution of the State of New York establishes a Commission on Judicial Conduct (“Commission”), and Section 44, subdivision 4, of the Judiciary Law empowers the Commission to direct that a Formal Written Complaint be drawn and served upon a judge.

2. The Commission has directed that a Formal Written Complaint be drawn and served upon June P. Chapman (“respondent”), a Justice of the Ellicottville Town Court, Cattaraugus County.

3. The factual allegations set forth in Charges I through IV state acts of judicial misconduct by respondent in violation of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct (“Rules”).

4. Respondent has been a Justice of the Ellicottville Town Court since January 1994. She is not an attorney.

CHARGE I

5. From on or about October 6, 2004, through on or about December 8, 2004, respondent failed to deposit into her official court account, within 72 hours of

receipt, bail checks in six criminal cases totaling \$12,625, sent to her by the Cattaraugus County Sheriff's Department, notwithstanding the requirements of Section 214.9(a) of the Uniform Court Rules for the Justice Courts, and notwithstanding that the Commission determined on October 6, 2004, to censure her for having failed to deposit bail monies into her court account within 72 hours of receipt.

Specifications to Charge I

6. On October 6, 2004, the Commission determined that respondent should be censured for having failed to deposit bail monies into her court account within 72 hours of receipt. Respondent stipulated to and accepted the determination.

7. On or about October 6, 2004, the Cattaraugus County Sheriff's Department forwarded to respondent a check for \$5,000, representing bail for Thomas Hosie, who had been arraigned by respondent on the charge of Criminal Possession Of A Controlled Substance, 3rd Degree.

8. Respondent deposited the bail for Mr. Hosie on December 2, 2004.

9. On or about October 15, 2004, the Cattaraugus County Sheriff's Department forwarded to respondent a check for \$5,000, representing bail for Anthony Morale, whom respondent had arraigned on a charge of Robbery.

10. Respondent deposited the bail for Mr. Morale on December 2, 2004.

11. On or about October 25, 2004, the Cattaraugus County Sheriff's Department forwarded to respondent a check for \$975, representing bail for Jon R. Riley, whom respondent had arraigned on a charge of Inciting To Riot.

12. Respondent deposited the bail for Mr. Riley on December 2, 2004.

13. On or about October 25, 2004, the Cattaraugus County Sheriff's Department forwarded to respondent a check for \$500 for Richard Cavallero, II, whom respondent had arraigned on a charge of Aggravated Unlicensed Operation, 3rd Degree.

14. Respondent deposited the bail for Mr. Cavallaro on December 2, 2004.

15. On or about October 27, 2004, the Cattaraugus County Sheriff's Department forwarded to respondent a check for \$750 for Keith Wisniewski, whom respondent had arraigned on a charge of Driving While Intoxicated.

16. Respondent deposited the bail for Mr. Wisniewski on December 2, 2004.

17. On or about November 29, 2004, the Cattaraugus County Sheriff's Department forwarded to respondent a check for \$400 for Sean Fleming, whom respondent had arraigned on a charge of Aggravated Unlicensed Operation.

18. Respondent deposited the bail for Mr. Fleming on December 8, 2004.

19. By reason of the foregoing, respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that respondent failed to uphold the integrity and independence of the judiciary in that she failed to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety in that she failed to respect and comply with the law and act in a manner that upholds

public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that she failed to give precedence to her judicial duties over her other activities, in violation of Section 100.3(A) of the Rules, failed to be faithful to the law and to maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, failed to diligently discharge her administrative responsibilities and maintain professional competence in judicial administration, in violation of Section 100.3(C)(1) of the Rules, and failed to require her court staff to observe the standards of fidelity and diligence that apply to her, in violation of Section 100.3(C)(2) of the Rules.

CHARGE II

20. From on or about February 4, 2004, through the present, as set forth on the annexed Schedule A, respondent has failed to report and remit to the State Comptroller \$3,220 in fines and fees received from 22 defendants between February 4, 2004, and August 8, 2005, notwithstanding the requirements of Sections 2020 and 2021 of the Uniform Justice Court Act, Section 1803 of the Vehicle and Traffic Law and Section 27(1) of the Town Law.

21. By reason of the foregoing, respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that respondent failed to uphold the integrity and independence of the judiciary in that she failed to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety

in that she failed to respect and comply with the law and act in a manner that upholds public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that she failed to give precedence to her judicial duties over her other activities, in violation of Section 100.3(A) of the Rules, failed to be faithful to the law and to maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, failed to diligently discharge her administrative responsibilities and maintain professional competence in judicial administration, in violation of Section 100.3(C)(1) of the Rules, and failed to require her court staff to observe the standards of fidelity and diligence that apply to her, in violation of Section 100.3(C)(2) of the Rules.

CHARGE III

22. In two criminal cases in 2006, respondent failed to take action to effectuate each defendant's right to counsel within 24 hours of arraignment, notwithstanding the requirements of Sections 170.10(3) and (4) and 180.10(3) and (4) of the Criminal Procedure Law and Section 200.26(c) of the Uniform Rules for Courts Exercising Criminal Jurisdiction, in that she delayed assigning counsel for over a month in one case and took no action to assign counsel in the other.

Specifications to Charge III

People v. Scott A. Kelly

23. On or about February 4, 2006, respondent arraigned the defendant in *People v. Scott A. Kelly* on a felony charge of Criminal Possession Of A Weapon, 4th Degree, and committed him to the Cattaraugus County Jail in lieu of \$10,000 bail.

24. Mr. Kelly had pleaded not guilty before respondent and requested assigned counsel. Respondent did not notify the Cattaraugus County Public Defender or otherwise assign counsel.

25. On or about February 8, 2006, Mr. Kelly reappeared before respondent, who re-committed him to jail in lieu of \$10,000 bail and scheduled a felony hearing for February 9, 2006. Respondent did not notify the Cattaraugus County Public Defender or otherwise assign counsel.

26. On or about February 9, 2006, Mr. Kelly appeared without counsel before respondent, who conducted a felony hearing at which the Assistant District Attorney was present. The charge was reduced to a misdemeanor charge of Criminal Possession Of A Weapon, 3rd Degree, and respondent committed Mr. Kelly to jail in lieu of \$2,000 bail and scheduled the next appearance for March 8, 2006.

27. On or about February 15, 2006, bail was posted and Mr. Kelly was released from jail.

28. On or about March 8, 2006, respondent assigned the Cattaraugus County Public Defender to represent Mr. Kelly.

People v. Keith R. Johnson

29. On or about June 28, 2006, respondent arraigned Keith R. Johnson on charges of Assault, 3rd Degree, a misdemeanor, and Trespass, a violation, and committed him to the Cattaraugus County Jail in lieu of \$500 bail.

30. Mr. Johnson had pleaded not guilty before respondent and requested assigned counsel.

31. The charge originated in the jurisdiction of East Otto, a town adjoining the Town of Ellicottville. Respondent directed that Mr. Johnson appear in the East Otto Town Court on July 10, 2006. Respondent did not forward the pertinent documents to the East Otto Town Court, such as the accusatory instrument or a copy of her commitment order.

32. Respondent took no action to assign counsel to Mr. Johnson at or after the arraignment.

33. On or about July 10, 2006, Mr. Johnson, who was still in jail, appeared in the East Otto Town Court and was assigned counsel by a judge of that court.

34. By reason of the foregoing, respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that respondent failed to uphold the integrity and independence of the judiciary in that she failed to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety in that she failed to respect and comply with the law and act in a manner that upholds public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that she failed to be faithful to the law and to maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, failed to diligently discharge her administrative responsibilities and maintain professional competence in judicial administration, in violation of Section 100.3(C)(1) of the Rules, and failed to

accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law, in violation of Section 100.3(B)(6) of the Rules.

CHARGE IV

35. Between on or about April 13, 2005, and on or about July 19, 2006, notwithstanding requests by the District Attorney and defense counsel, respondent failed to schedule proceedings in *People v. Lynn L. Law*, in which the defendant was charged with Aggravated Unlicensed Operation, 1st Degree, a felony, and Driving While Intoxicated, Failure To Submit To A Chemical Test, Failure To Maintain Right, and Leaving The Scene Of An Accident, with the result that all charges were dismissed for failure to provide a speedy trial.

Specifications to Charge IV

36. On or about March 7, 2005, the defendant was arrested in the Town of Ellicottville.

37. On or about March 8, 2005, respondent arraigned the defendant and committed him to the Cattaraugus County Jail in lieu of \$600 bail. The defendant appeared without counsel.

38. On or about April 13, 2005, respondent re-arraigned the defendant on the same charges in the presence of his attorney, Bryan D. Milks. The defendant pleaded not guilty to all the charges.

39. From on or about April 13, 2005, through on or about July 19, 2006, respondent neither scheduled a felony hearing as required by Section 180.10(2) of the Criminal Procedure Law nor took any other action to schedule further proceedings in the

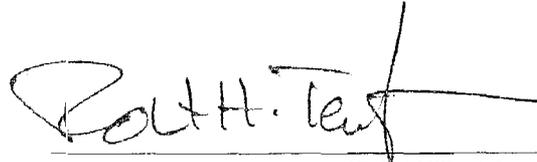
matter, notwithstanding requests by the District Attorney and defense counsel that proceedings be scheduled.

40. On or about July 19, 2006, respondent granted Mr. Milks' motion to dismiss all the charges for failure to provide the defendant a speedy trial as required by Sections 30.20 and 30.30 of the Criminal Procedure Law.

41. By reason of the foregoing, respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that respondent failed to uphold the integrity and independence of the judiciary in that she failed to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety in that she failed to respect and comply with the law and act in a manner that upholds public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that she failed to be faithful to the law and to maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, failed to diligently discharge her administrative responsibilities and maintain professional competence in judicial administration, in violation of Section 100.3(C)(1) of the Rules, and failed to accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law, in violation of Section 100.3(B)(6) of the Rules.

WHEREFORE, by reason of the foregoing, the Commission should take whatever further action it deems appropriate in accordance with its powers under the Constitution and the Judiciary Law of the State of New York.

Dated: March 5, 2008
New York, New York

A handwritten signature in black ink, appearing to read "Robert H. Tembeckjian", written over a horizontal line.

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
New York, New York 10006
212-809-0566

Schedule A

**Traffic Cases in Which Fines and Fees
Were Not Reported to the State Comptroller**

January 2004 – August 2005

<u>Defendant</u>	<u>Receipt Number</u>	<u>Receipt Date</u>	<u>Amount Received</u>
Matthew Havercroft	002579	02/04/04	\$ 215.00
Cody Green	002600	02/18/04	150.00
Timothy Tasner	002601	02/18/04	145.00
David Smith	002602	02/18/04	145.00
Michael R. Wallner	002603	02/18/04	155.00
Timothy Johnson	002604	02/18/04	150.00
Jason Dahl	002621	03/31/04	80.00
Michael Brummer	002622	03/31/04	145.00
Wendy Frank	002623	03/31/04	145.00
Mathew Ziembee	002624	03/31/04	105.00
Robert Gershberg	002625	03/31/04	105.00
Andrew Demme	002669	05/19/04	45.00
Cody Green	003927	06/09/04	50.00
James Felik	002684	06/23/04	250.00
Edward C.	002706	07/07/04	145.00
Kelly Law	002707	07/07/04	145.00
Yousef Nanas	002724	08/04/04	145.00
Joshua Belle	002731	08/18/04	250.00
Kurt Oldenburg	003248	03/12/05	200.00
Michael Hollander	003250	03/12/05	90.00
Barbara Bastow	004208	08/03/05	200.00
Martin Wysacki	003139	08/08/05	160.00
TOTAL:			\$ 3,220.00

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

VERIFICATION

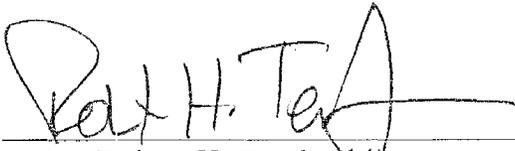
JUNE P. CHAPMAN,

A Justice of the Ellicottville Town Court,
Cattaraugus County.
-----X

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

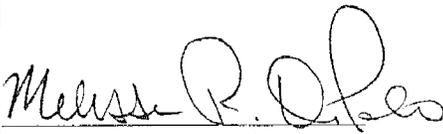
ROBERT H. TEMBECKJIAN, being duly sworn, deposes and says:

1. I am the Administrator of the State Commission on Judicial Conduct.
2. I have read the foregoing Formal Written Complaint and, upon information and belief, all matters stated therein are true.
3. The basis for said information and belief is the files and records of the State Commission on Judicial Conduct.



Robert H. Tembeckjian

Sworn to before me this
5th day of March 2008



Notary Public

Melissa R. DiPalo
Notary Public, State of New York
No. 02DI6065643
Qualified in Kings County
Commission Expires 10.22.09