

**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

NORMAN A. PERKINS,

STIPULATION

a Justice of the Machias Town Court,
Cattaraugus County.

----- X

Subject to the approval of the Commission on Judicial Conduct

("Commission"):

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Esq., Administrator and Counsel to the Commission, and the Honorable Norman A. Perkins ("respondent"), as follows.

1. Respondent has served as a Justice of the Machias Town Court, Cattaraugus County, since 2004. His current term of office expires on December 31, 2011. Respondent is not an attorney.

2. Respondent was served by the Commission with a Formal Written Complaint dated October 12, 2010, which alleged *inter alia* that respondent : (1) in one matter, (a) issued two Warrants of Eviction notwithstanding that Notices of Petitions and/or Petitions had not been served and filed and no hearing had been held as required by law, and (b) was impatient, undignified and discourteous to the respondent's attorney

and encouraged the petitioner's husband to take private punitive action against the respondents; (2) in a second matter, issued a Warrant of Eviction notwithstanding that a Notice of Petition and/or Petition had not been served and filed as required by law; (3) advised parties in six small claims actions that they were required to retain an attorney if they wished to appeal his decision; and (4) commended a small claims litigant after he made a derogatory and insulting comment about Jewish people. The Formal Written Complaint is appended hereto as Exhibit 1.

3. Respondent tendered his resignation from judicial office on October 28, 2010, effective December 3, 2010, and has submitted copies to the Town of Machias and the Office of Court Administration. A copy of respondent's resignation letter is appended hereto as Exhibit 2.

4. Pursuant to Section 47 of the Judiciary Law, the Commission's jurisdiction over a judge continues for 120 days after resignation from office.

5. Respondent affirms that he will neither seek nor accept judicial office in the future.


6. Respondent understands that, should he remain on the bench beyond December 3, 2010, or return to the bench at any time, or otherwise abrogate the terms of this Stipulation, the Formal Written Complaint will be revived and proceed.

7. All the parties to this Stipulation respectfully request that the Commission close the pending matter based upon this Stipulation.

8. Respondent waives confidentiality as provided by Section 45 of the

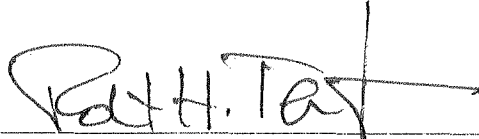
Judiciary Law to the limited extent that this Stipulation will be made public if accepted by the Commission.

Dated: 11/12/10



Honorable Norman A. Perkins
Respondent

Dated: 11/23/2010



Robert H. Tembeckjian, Esq.
Administrator & Counsel to the Commission
(**Kathleen Martin, Of Counsel**)

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

NORMAN A. PERKINS,

a Justice of the Machias Town Court,
Cattaraugus County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to respondent, Norman A. Perkins, a Justice of the Machias 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 him to serve the Commission at its Rochester office, 400 Andrews Street, Suite 700, Rochester, New York 14604, with his Answer to the specific paragraphs of the Complaint.

Dated: October 12, 2010
New York, New York

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
Suite 1200
New York, New York 10006
(646) 386-4800

To: Michael M. Mohun, Esq.
344 Kern Road
Cowlesville, New York 14037

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

NORMAN A. PERKINS,

a Justice of the Machias Town Court,
Cattaraugus County.

**FORMAL
WRITTEN COMPLAINT**

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 Norman A. Perkins ("respondent"), a Justice of the Machias 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 Machias Town Court, Cattaraugus County, since 2004. His current term expires on December 31, 2011. Respondent is not an attorney.

CHARGE I

5. In or about June 2009 and July 2009, respondent issued two Warrants of Eviction directing Tasha Tingue and Charles Miller to vacate premises owned by Cherri Tingue, notwithstanding that Notices of Petitions and/or Petitions had not been served and filed and no hearing had been held, as required by Sections 731 and 745 of the Real Property Actions and Proceedings Law ("RPAPL").

6. On or about July 22, 2009, while presiding over *Cherri Tingue v. Tasha Tingue and Charles Miller*, respondent was impatient, undignified and discourteous to Tasha Tingue's attorney, James J. Gildersleeve, and encouraged Cherri Tingue's husband to take private punitive action to dispossess Ms. Tingue and Mr. Miller from the trailer.

Specifications to Charge I

7. Respondent issued an undated Warrant of Eviction, directing Tasha Tingue and Charles Miller to vacate premises owned by Cherri Tingue. The Warrant stated that a Notice of Petition and Petition had been served on Ms. Tingue and Mr. Miller, that a hearing had been held on June 10, 2010, and that a judgment had been entered on the same date.

8. Notwithstanding the statement on the undated Warrant, no Notice of Petition and/or Petition had been served on Ms. Tingue or Mr. Miller, or filed in respondent's court, and respondent never held a hearing prior to issuing the undated Warrant, as required by RPAPL Sections 731 and 745.

9. On or about June 24, 2009, respondent issued a Small Claims Summons ("First Small Claims Summons") on behalf of Cherri Tingue, directing Tasha Tingue and Charles Miller to appear in court on July 22, 2009. The Summons demanded \$1,310 for unpaid rent and stated, "This will also be an eviction hearing."

10. On or about July 8, 2009, respondent issued a Final Order of Removal, based upon a petition purportedly filed with the court by Cherri Tingue and purportedly served on Tasha Tingue and Charles Miller, awarding possession of the premises to Cherri Tingue, issuing a Warrant, and ordering Ms. Tingue and Mr. Miller to pay \$1,350 for unpaid rent.

11. On or about July 16, 2009, Tasha Tingue's mother received the First Small Claims Summons and the Final Order of Removal directed to Tasha Tingue and Charles Miller.

12. On or about July 17, 2009, respondent issued a Warrant of Eviction, directing Tasha Tingue and Charles Miller to vacate the premises owned by Cherri Tingue. The Warrant stated that a Notice of Petition and Petition had been served on Ms. Tingue and Mr. Miller, that a hearing had been held on June 24, 2010, and that a judgment had been entered on the same date.

13. In fact, no Notice of Petition and/or Petition had been served on Ms. Tingue or Mr. Miller, or filed in respondent's court, and respondent did not hold a hearing prior to issuing the Warrant, as required by RPAPL Sections 731 and 745.

14. On or about July 22, 2009, Ms. Tingue and Mr. Miller appeared before respondent with their attorney, James J. Gildersleeve, in response to the First Small Claims Summons.

15. During the appearance, when Mr. Gildersleeve stated that a Notice of Petition and/or Petition had not been served on his clients, respondent angrily accused Mr. Gildersleeve of "making [him] look like a fool." When Mr. Gildersleeve tried to respond, respondent said, "Go sit down. You love making me look like an idiot. You did it once before."

16. During the proceeding, Mr. Gildersleeve attempted to explain that a Notice of Petition and/or Petition were required to commence a summary proceeding. Respondent repeatedly told Mr. Gildersleeve that he did not want to "deal" with him, and at one point, loudly and angrily ordered Mr. Gildersleeve to "Go sit down" and said "If this comes back, you send another attorney ... I'm not gonna deal with you. There's gotta be more. I'll deal with the District Attorney. I'll deal with the President of the United States, but I ain't dealing with you."

17. Respondent then loudly and angrily ordered Mr. Gildersleeve to "shut up and go sit down" when Gildersleeve attempted to assist Ms. Tingue and Mr. Miller as they tried to negotiate a resolution of the case with Cherri Tingue. Respondent then remarked, "All the education in the world don't give you no common sense, none."

18. At the same appearance, Cherri Tingue's husband, Gene, threatened to take possession of the trailer, shouting "I'll get a tractor. Son of a bitch." When Mr. Gildersleeve objected that Mr. Tingue was threatening to personally and physically

dispossess Ms. Tingué and Mr. Miller from the leased property, respondent replied, "Yeah, so would I."

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 by failing 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 he failed to respect and comply with the law and failed to act in a manner that promotes 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 he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, failed to require order and decorum in proceedings before him, in violation of Section 100.3(B)(2) of the Rules, failed to be patient, dignified and courteous to litigants, witnesses, lawyers and others with whom he dealt in an official capacity, in violation of Section 100.3 (B)(3) of the Rules, failed to perform his judicial duties without bias or prejudice against or in any favor of any person, in violation of Section 100.3(B)(4) 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 II

20. On or about July 15, 2009, in *Rivera v. Englehardt*, respondent issued a Warrant of Eviction directing Brandy Englehardt to vacate premises owned by Sheryl Rivera, notwithstanding that a Notice of Petition and/or Petition had not been served and filed, as required by RPAPL Section 731.

Specifications to Charge II

21. On or about May 27, 2009, respondent issued a Small Claims Summons on behalf of Sheryl Rivera directing Brandy Englehardt to appear in court on June 10, 2009. The Summons demanded \$1,355 for back rent, gave notice of a purported "eviction hearing" and stated "Please be ready for trial at this time."

22. On or about June 10, 2009, Ms. Rivera and Ms. Englehardt appeared before respondent. Respondent took testimony, after which he advised the parties that he would give them "something in writing."

23. On or about July 15, 2009, respondent issued a Warrant of Eviction against Brandy Englehardt.

24. No Notice of Petition and/or Petition was served on Ms. Englehardt, or filed in respondent's court, prior to the issuance of the warrant, as required by RPAPL Section 731.

25. 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 by failing 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 he failed to respect and comply with the law and failed to act in a manner that promotes 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 he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules.

CHARGE III

26. From in or about February 2009 through in or about August 2009, in six small claims actions, respondent, as a matter of practice, advised parties that they were required to retain an attorney if they wished to appeal his decision.

Specifications to Charge III

Sheryl Rivera v. Kathryn Becker and Ian Ginnick

27. On or about January 28, 2009, respondent issued a Small Claims Summons on behalf of Sheryl Rivera against Kathryn Becker and Ian Ginnick seeking a judgment of \$1,750 for unpaid back rent and fuel costs.

28. At a hearing on or about February 11, 2009, respondent advised the parties that they had 30 days to appeal his decision, that the appeal had to be filed in County Court and that they "have to have an attorney" to appeal.

Nicholas Garrey v. Rebecca Westfall

29. On or about January 21, 2009, respondent issued a Small Claims Summons on behalf of Nicholas Garrey against Rebecca Westfall seeking a judgment of \$1,159.99 for reimbursement of one-half of a shared judgment.

30. At a hearing on or about February 11, 2009, respondent advised the parties that they had 30 days to appeal his decision, that the appeal had to be filed in County Court and that they "have to have an attorney" to appeal.

Frances Owens v. Rebecca Rutherford and Ping Phansouri

31. On or about July 8, 2009, respondent issued a Small Claims Summons on behalf of Frances Owens against Rebecca Rutherford and Ping Phansouri seeking a judgment of \$2,360 for unpaid rent, unpaid utilities and property damage.

32. At a hearing on or about July 29, 2009, respondent advised the parties that they had 30 days to appeal his decision, that the appeal had to be filed in County Court and that they "gotta have an attorney" to appeal.

Paul and Michelle King v. Tim Weldon and Nicole Davis

33. On or about July 22, 2009, respondent issued a Small Claims Summons on behalf of Paul and Michelle King against Tim Weldon and Nicole Davis seeking a judgment of \$3,000 for back rent and damages.

34. At a hearing on or about August 12, 2009, respondent advised the parties that they had 30 days to appeal his decision, that the appeal had to be filed in County Court and that they "have to have an attorney" to appeal.

Corey Tingue v. Karen Haynes

35. On or about July 22, 2009, respondent issued a Small Claims Summons on behalf of Corey Tingue against Karen Haynes seeking a judgment of \$300 for a "Jack Russell."

36. At a hearing on or about August 12, 2009, respondent advised the parties twice that they had 30 days to appeal his decision, that the appeal had to be filed in County Court and that they "have to have an attorney" to appeal.

Connie Lipka v. Amy Schweickert and Tom Kingsland

37. On or about July 22, 2009, respondent issued a Small Claims Summons on behalf of Connie Lipka against Amy Schweickert and Tom Kingsland seeking a judgment of \$318.69 for "cell phone bills."

38. At a hearing on or about August 19, 2009, respondent advised the parties that they had 30 days to appeal his decision, that the appeal had to be filed in County Court and that they "have to have an attorney" to appeal.

39. 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 by failing 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 he failed to respect and comply with the law and failed to act in a manner that promotes 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 he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules.

CHARGE IV

40. On or about July 22, 2009, during a conversation with Corey Tingue, a claimant in a small claims action, respondent commended Mr. Tingue after he made a derogatory and insulting comment about Jewish people.

Specification to Charge IV

41. On or about July 22, 2009, Corey Tingue spoke with respondent about bringing a small claims action to obtain damages from Karen Haynes for causing his dog's death.

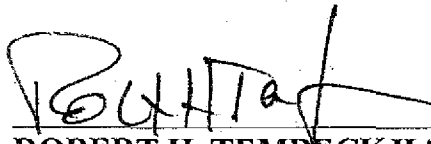
42. During the conversation, respondent asked Mr. Tingue the value of his dog, and Mr. Tingue responded, "Three, three and a half. They wanted three and a half and I jewed 'em down to three." Respondent replied to Mr. Tingue's statement by saying, "Good boy."

43. 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 by failing 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 he failed to respect and comply with the law and failed to act in a

manner that promotes 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 he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, failed to be patient, dignified and courteous to litigants, witnesses, lawyers and others with whom he dealt in an official capacity, in violation of Section 100.3(B)(3) of the Rules, failed to perform his judicial duties without bias or prejudice against or in favor of any person and by his words manifested bias and/or prejudice based upon national origin or religion, in violation of Section 100.3(B)(4) of the Rules, and initiated, permitted or considered *ex parte* communications, or considered other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding, 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: October 12, 2010
New York, New York


ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
Suite 1200
New York, New York 10006
(646) 386-4800

Honorable Norman A. Perkins
Town of Machias Justice
9588 Maple Avenue
Machias, NY 14101


October 28, 2010

Town of Machias
Att: Town Supervisor
Town Board
Town Clerk
9588 Maple Avenue
Machias, NY 14101

To Whom It May Concern:

Please accept this letter as my resignation as Town of Machias Justice. This resignation is effective December 3, 2010 at midnight.

Very truly yours,



NORMAN A. PERKINS
TOWN OF MACHIAS JUSTICE

cc: Office of Court Administration
Att: Honorable M. William Boller