

**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

**Determination**

CARMELO J. TAVORMINA,

a Judge of the Civil Court of the  
City of New York, Kings County.

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THE COMMISSION:

Mrs. Gene Robb, Chairwoman  
Honorable Myriam J. Altman  
Henry T. Berger, Esq.  
John J. Bower, Esq.  
Honorable Carmen Beauchamp Ciparick  
E. Garrett Cleary, Esq.  
Dolores Del Bello  
Victor A. Kovner, Esq.  
Honorable William J. Ostrowski\*  
Honorable Isaac Rubin  
John J. Sheehy, Esq.

APPEARANCES:

Gerald Stern (Alan W. Friedberg, Of Counsel) for the  
Commission

Santangelo, Santangelo & Cohen (By George L.  
Santangelo) for Respondent

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\* Judge Ostrowski's term expired on March 31, 1989. The vote in this matter was on March 30, 1989. The Honorable Eugene W. Salisbury was appointed to a term commencing April 1, 1989.

The respondent, Carmelo J. Tavormina, a judge of the Civil Court of the City of New York, Kings County, was served with a Formal Written Complaint dated September 26, 1988, alleging four instances of discourteous conduct. Respondent filed an answer dated October 26, 1988.

On February 16, 1989, the administrator of the Commission, respondent and respondent's counsel entered into an agreed statement of facts pursuant to Section 44, subdivision 5, of the Judiciary Law, waiving the hearing provided for in Section 44, subdivision 4, of the Judiciary Law and stipulating that the Commission make its determination based on the pleadings and the agreed upon facts. The Commission approved the agreed statement on February 17, 1989.

The administrator and respondent submitted memoranda as to sanction. Oral argument was waived.

On March 30, 1989, the Commission considered the record of the proceeding and made the following findings of fact.

As to Charge I of the Formal Written Complaint:

1. Respondent has been a judge of the Civil Court of the City of New York for 18 years.

2. On January 25, 1988, Lisa C. Pearlstein, an attorney with Brooklyn Legal Services Corporation A, and several other attorneys of Brooklyn Legal Services Corporation A

submitted a complaint to the Commission concerning respondent's courtroom demeanor.

3. On February 24, 1988, Ms. Pearlstein met with clients in respondent's empty courtroom. A court officer entered the courtroom and told Ms. Pearlstein and her clients that they could stay. Respondent then entered the courtroom and asked Ms. Pearlstein whether she had permission to be in the courtroom. She replied that the court officer had given permission. After the court officer explained what had occurred, respondent told Ms. Pearlstein, "There, you didn't have permission to enter. That's a big difference." Ms. Pearlstein and her clients left the courtroom.

4. Shortly thereafter, respondent approached Ms. Pearlstein in the public hallway outside the courtroom where she was standing next to her clients. Respondent yelled at Ms. Pearlstein that she had not had permission to enter the courtroom. Ms. Pearlstein responded that she had permission to be in the courtroom. Respondent yelled at Ms. Pearlstein, "He gave you permission to come in. That's the question I asked you. You're a liar. You don't listen to me." Ms. Pearlstein replied that she was listening to respondent but that perhaps she had misunderstood him.

5. Respondent asked the court officer, who was also in the hallway, whether he had given Ms. Pearlstein permission to enter the courtroom. The court officer responded negatively.

Respondent then yelled at Ms. Pearlstein, "You're a liar. Aren't you? Aren't you? You lied in there. You lie all the time. Don't you? Don't you?" Ms. Pearlstein responded negatively, and respondent yelled at her, "Stay out of my courtroom. Will you? Stay out of my life!" A court officer led respondent away from Ms. Pearlstein.

6. Respondent's remarks to Ms. Pearlstein about her being a liar were due, in part, to respondent's knowledge that Ms. Pearlstein had participated in the filing of a complaint with the Commission about respondent's conduct.

As to Charge II of the Formal Written Complaint:

7. On December 17, 1987, while presiding over a crowded courtroom, respondent gestured for New York City Assistant Corporation Counsel Gail Donoghue to come to the bench, and she did so. Respondent told Ms. Donoghue that there was no newspaper reading in court, and Ms. Donoghue replied that she had not been reading a newspaper. Respondent asked whether Ms. Donoghue was an attorney and whether she would read a newspaper in Supreme Court.

8. Ms. Donoghue apologized for having offended respondent. Respondent replied that this "was not good enough for me" and ordered Ms. Donoghue to leave the courtroom. Ms. Donoghue stated that she had a case on the calendar and wanted to make a record.

9. Respondent stated that he could have Ms. Donoghue placed in handcuffs. Respondent insisted that Ms. Donoghue leave the courtroom, and she did so.

10. As Ms. Donoghue was leaving the courtroom, respondent twice stated in a loud voice that there was no newspaper reading, food or sex in the courtroom.

As to Charge III of the Formal Written Complaint:

11. On November 19, 1987, Paul Peloquin, a newly-hired attorney with Brooklyn Legal Services Corporation A, appeared before respondent representing the defendant in Seerajini Sukhnanan v. Maria Santana. During a discussion concerning possible settlement, Mr. Peloquin conferred with his superior, Jim E. Provost, who was in court, concerning the terms of the possible settlement. Respondent asked the identity of Mr. Provost. Mr. Provost replied that he was Mr. Peloquin's supervisor and co-counsel and that Mr. Peloquin was inexperienced. Respondent yelled that there was only one attorney on a case. Respondent refused to allow Mr. Peloquin and Mr. Provost to confer.

As to Charge IV of the Formal Written Complaint:

12. On December 15, 1987, Adriana Agudelo, a law school graduate who was permitted to practice law and was employed by Brooklyn Legal Services Corporation A, was in the

spectator section of respondent's court while the court calendar was being called. Ms. Agudelo, who was about to leave the courtroom to go to another courtroom, spoke to Audrey Bazard, a client, in order to instruct her as to how to obtain an adjournment.

13. Respondent asked whether Ms. Agudelo was an attorney, whether she was something "special," and whether she deserved special privileges. Respondent loudly told Ms. Agudelo, "You're nothing." Ms. Agudelo attempted to apologize, but respondent did not permit her to do so.

14. On the same date, the case of Ms. Bazard was called while Ms. Agudelo was not in the courtroom. Respondent spoke to Ms. Bazard and stated that Ms. Agudelo was "a new attorney who didn't know what she was doing." Respondent stated that Ms. Agudelo was probably not in court because she was afraid that respondent would assign Ms. Bazard's case to Judge Theodore Diamond. The clerk then assigned the case to Judge Diamond.

**Additional finding:**

15. Respondent has acknowledged that his conduct on each of the four occasions was intemperate and discourteous.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections

100.1, 100.2, 100.3(a)(2) and 100.3(a)(3) of the Rules Governing Judicial Conduct; Canons 1, 2, 3A(2) and 3A(3) of the Code of Judicial Conduct, and Sections 700.5(a) and 700.5(e) of the Special Rules Concerning Court Decorum of the Appellate Division, Second Department. Charges I through IV of the Formal Written Complaint are sustained insofar as they are consistent with the findings herein, and respondent's misconduct is established.

On four occasions in as many months, respondent exhibited undignified, intemperate and discourteous conduct toward attorneys in his courtroom. His loud and continual accusations that Ms. Pearlstein was a "liar," in the presence of her clients, and his threat to have Ms. Donoghue placed in handcuffs, were especially egregious. Respondent failed to exhibit the dignity and courtesy expected of every judge. See Section 100.3(a)(3) of the Rules Governing Judicial Conduct; Matter of Evens, 1986 Annual Report 103 (Com. on Jud. Conduct, Sept. 18, 1985); Matter of Sena, 1981 Annual Report 117 (Com. on Jud. Conduct, Jan. 18, 1980); Matter of Hopeck, 1981 Annual Report 133 (Com. on Jud. Conduct, Aug. 15, 1980).

Respondent acknowledges that his anger at Ms. Pearlstein was prompted by his knowledge that she and others had

filed a complaint with the Commission concerning his demeanor. His continued verbal abuse of Ms. Pearlstein was plainly in retaliation for the fact that she had exercised her legal right. Such retaliation, standing alone, constitutes misconduct. Matter of Taylor, 1983 Annual Report 197 (Com. on Jud. Conduct, Jan. 13, 1982).

By reason of the foregoing, the Commission determines that the appropriate sanction is admonition.

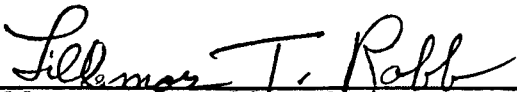
Mrs. Robb, Judge Altman, Mr. Berger, Mr. Bower, Judge Ciparick, Mr. Cleary, Mrs. Del Bello, Mr. Kovner, Judge Ostrowski and Mr. Sheehy concur.

Judge Rubin was not present.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct, containing the findings of fact and conclusions of law required by Section 44, subdivision 7, of the Judiciary Law.

Dated: May 3, 1989

  
Lillemor T. Robb, Chairwoman  
New York State  
Commission on Judicial Conduct