



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT  
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## NEWS RELEASE

*FOR RELEASE NOVEMBER 7, 2008*

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The New York State Commission on Judicial Conduct has determined that Michael R. Ambrecht, a Judge of the Court of Claims and Acting Justice of the Supreme Court, New York County, should be publicly censured.

In a determination dated October 29, 2008, the Commission said Judge Ambrecht should be disciplined for presiding over two cases in which his personal attorney appeared, and for making a “misleading” and “deceptive” disclosure about the relationship on the record in one case, and failing to disclose it at all in the second case. At the time of the appearances, the attorney was representing the judge in proceedings before the Commission.

“It is manifestly improper for a judge to sit on a case in which the judge’s personal attorney appears,” the Commission said in its decision.

A second charge against Judge Ambrecht was dismissed. (He was charged in the Formal Written Complaint with impropriety for conducting an improper investigation of the New York County District Attorney’s Office, improperly accusing that office of misconduct in a written opinion without determining the merits of the accusation or confirming that it was true, and having done so for political reasons at a time the incumbent DA was being challenged in a primary.)

The determination can be found on the Commission’s web site:  
[www.scjc.state.ny.us](http://www.scjc.state.ny.us).

### **The Commission Proceedings**

Judge Ambrecht was served with a Formal Written Complaint on February 17, 2007 containing two charges, and filed an answer dated April 24, 2007.

The Commission designated Judge Richard D. Simons as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on August 13, 14, 15, and 16, and December 5, 2007, in New York City. Judge Simons filed a report on January 18, 2008, finding that both charges were proven.

The parties submitted briefs in response to the referee's report. The Commission heard oral argument on June 19, 2008, and thereafter considered the record of the proceeding.

The Commission's Administrator, Robert H. Tembeckjian, recommended that the referee's findings be confirmed, that both charges be sustained, and that Judge Ambrecht be removed from office. The judge requested that the "political" charge be dismissed and that no more than a private caution be imposed on the "attorney conflict" charge.

The following Commission members did not participate: Mr. Emery, Mr. Jacob, Judge Konviser and Judge Ruderman.

### **The Commission Determination**

The Commission filed a determination dated October 29, 2008, dismissing the "political" charge by vote of 4-3 and sustaining the "lawyer conflict" charge by vote of 7-0. Commission member Joseph W. Belluck wrote a separate concurring opinion explaining his vote to dismiss the "political" charge, and Commission Chair Thomas A. Klonick wrote a dissenting opinion explaining his vote to sustain that charge.

### **Court of Appeals Review**

The Commission transmitted its determination to the Chief Judge of the Court of Appeals, pursuant to Judiciary Law Section 44, subdivision 7.

A judge may either accept the Commission's determination or, within 30 days from the date he received the determination, make a written request to the Chief Judge for a review of the determination by the Court of Appeals.

Pursuant to Judiciary Law Section 44, subdivision 7, if Judge Ambrecht does not request review by the Court of Appeals, the Commission will censure him in accordance with the determination.

If the Commission's determination is reviewed by the Court of Appeals, the Court may accept the determined sanction, impose a different sanction including admonition, censure or removal, or impose no sanction.

### **Statistics Relating to Prior Determinations**

Since 1978, the Commission has censured 271 judges in New York State. The Commission has also issued a determination of removal as to 158 judges and has admonished 224 judges.

The Court of Appeals has reviewed 88 Commission determinations. The Court accepted the Commission's sanctions in 74 cases. Of the remaining 14 cases, two were increased from censure to removal, and twelve were reduced: nine removal determinations were modified to censure, two censure determinations were modified to admonition, and one censure was rejected and the charges dismissed.

### **Counsel**

In the proceedings before the Commission, Judge Ambrecht was represented by: John S. Martin, Esq. of Martin & Obermaier LLC, 565 Fifth Avenue, New York, NY 10017 (212) 883-7688; Jeffrey A. Udell, Esq. of Olshan Grundman Frome Rosenzweig & Wolosky LLP, 65 East 55<sup>th</sup> Street, New York, NY 10022 (212-451) 2238; and by Joseph W. Bellacosa, Esq. Robert H. Tembeckjian, Esq., Administrator and Counsel to the Commission, Edward Lindner, Esq., Deputy Administrator for Litigation, and Brenda Correa, Esq., served as counsel to the Commission. Investigator Jamie C. Rosenman assisted in the Commission's investigation. Former Deputy Administrator Alan W. Friedberg had tried the case before the referee and thereafter left the Commission staff to become Chief Counsel to the Departmental Disciplinary Committee (Appellate Division, First Department).

### **Members of the Commission**

The Commission members serve four-year terms. A list of members is appended.

**The Public File**

The determination is attached. The record of the proceedings upon which the determination is based is available for inspection by appointment during regular business hours at the Commission's three offices:

61 Broadway  
New York, New York 10006

Corning Tower, Suite 2301  
Empire State Plaza  
Albany, New York 12223

400 Andrews Street  
Rochester, New York 14604

**MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT**

<b>Member</b>	<b>Appointing Authority</b>	<b>Term End</b>
Hon. Thomas A. Klonick, Chair	Chief Judge Judith S. Kaye	March 31, 2009
Stephen R. Coffey, Esq., Vice Chair	Former Senate Majority Leader Joseph L. Bruno	March 31, 2011
Joseph W. Belluck, Esq.	Governor David A. Paterson	March 31, 2012
Colleen C. DiPirro <sup>1</sup>	Former Governor George E. Pataki	March 31, 2009
Richard D. Emery, Esq.	Senate Minority Leader Malcolm A. Smith	March 31, 2012
Paul B. Harding, Esq.	Assembly Minority Leader James Tedisco	March 31, 2009
Elizabeth B. Hubbard	Governor David A. Paterson	March 31, 2011
Marvin E. Jacob, Esq.	Assembly Speaker Sheldon Silver	March 31, 2010
Hon. Jill Konviser	Former Governor George E. Pataki	March 31, 2010
Hon. Karen K. Peters	Chief Judge Judith S. Kaye	March 31, 2010
Hon. Terry Jane Ruderman	Chief Judge Judith S. Kaye	March 31, 2012

<sup>1</sup> Ms. DiPirro resigned from the Commission on October 30, 2008.