



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT
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NEWS RELEASE

FOR RELEASE November 18, 2008

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The New York State Commission on Judicial Conduct has issued determinations that Binghamton City Court Judges Mary Anne Lehmann and William C. Pelella (Broome County) should be publicly censured and publicly admonished, respectively. Both judges, who serve full-time, permitted attorneys from the law firm of their part-time colleague, Robert C. Murphy, to appear before them, contrary to the law and rules. (Judge Murphy agreed to leave office in June 2008 with a public acknowledgment that he had been charged with ethical violations in the same matter.¹)

In addition, Judge Lehmann failed to disqualify herself from cases in which the law firm representing her before the Commission appeared. In some instances she did not disclose the conflict.

The determinations can be found on the Commission's web site:

www.scjc.state.ny.us.

Background

Judge Murphy served as a part-time judge in the Binghamton City Court from June 14, 2002 until June 14, 2008. At the time of the misconduct, Judge Murphy was a partner in the Binghamton law firm of Pope, Tait & Murphy, whose

¹ The Commission decision and charges as to Judge Murphy are available on the Commission's website at: http://www.scjc.state.ny.us/Determinations/M/murphy_robert.htm.

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appearances in the Binghamton City Court were improper.² One of the firm's members, Alan J. Pope, served on the Commission from 1997 to 2006 and was its Chair from April to May 2006. Mr. Pope resigned from the Commission in May 2006 when investigation of the complaint against Judge Murphy was initiated.

The Commission filed separate Formal Written Complaints against Judges Murphy, Lehmann, and Pelella on June 15, 2007. Judge Murphy was charged with misconduct for allowing his law partners and associates to appear before Judges Lehmann and Pelella. Judges Lehmann and Pelella were charged with misconduct for presiding over such cases and for designating Judge Murphy's law firm as counsel in matters on the Binghamton City Court docket.

Judge Lehmann was served with a second Formal Written Complaint on January 9, 2008, for allowing the law partners and associates of her personal attorney to appear before her in Binghamton City Court. (Judge Lehmann changed attorneys).

The Commission Proceedings

The Commission's Administrator, Judge Lehmann and her new attorney entered into an Agreed Statement of Facts on June 6, 2008, and the Commission accepted it on June 18, 2008.

Each side submitted memoranda as to sanction, and the Commission hear oral argument on September 18, 2008.

The Administrator and Judge Pelella entered into an Agreed Statement of Facts on April 2, 2008, and the Commission accepted it on May 7, 2008.

Each side submitted memoranda as to sanction, and the Commission heard oral argument on September 19, 2008.

The Commission Determinations

The Commission filed its determination on October 28, 2008 that Judge Lehmann should be censured. Commission Chair Judge Thomas A. Klonick, Commission Vice Chair Stephen R. Coffey, Esq., and members Joseph W. Belluck, Esq., Richard D. Emery, Esq., Paul B. Harding, Esq., Elizabeth B. Hubbard, Marvin E. Jacob, Esq., Judge Karen K. Peters and Judge Terry Jane Ruderman concurred.

² . At times, as partnership agreements changed, the firm was called (1) O'Connor, Gacioch, Pope and Tait, and (2) Pope, Schrader and Murphy.

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Two members, Colleen C. DiPirro and Judge Jill Konviser, were not present.

The Commission filed its determination on October 28, 2008, that Judge Pelella should be admonished. Judge Klonick, Mr. Emery, Ms. Hubbard, Mr. Jacob, Judge Peters and Judge Ruderman concurred.

Mr. Belluck and Mr. Harding dissented and voted for the judge to be issued a confidential letter of caution.

Mr. Coffey, Ms. DiPirro and Judge Konviser were not present.

Court of Appeals Review

The Commission transmitted its determinations 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 Judges Lehmann and Pelella do not request review by the Court of Appeals, the Commission will sanction them 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 removed 158 judges, censured 272 judges and admonished 225 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.

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Counsel

Judge Lehmann was represented by William J. Dreyer, Dreyer Boyajian LLP, 75 Columbia Street, Albany, NY (518) 463-7784.

Judge Pelella represented himself.

Robert H. Tembeckjian, Administrator and Counsel to the Commission, Cathleen S. Cenci, Deputy Administrator for the Commission's Albany office, and Charles F. Farther, Esq., served as counsel to the Commission. Senior Investigator David M. Herr assisted in the investigations.

Members of the Commission

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

The Public File

The determinations are 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
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*November 18, 2008**Page 5***MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT**

Member	Appointing Authority	Term End
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
VACANT	Governor David A. Paterson	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