



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT  
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## NEWS RELEASE

*FOR RELEASE February 20, 2009*

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The New York State Commission on Judicial Conduct has determined that Phillip D. O'Donnell, a Justice of the Herkimer Village Court, Herkimer County, should be censured.

In a determination dated February 5, 2009, the Commission found that Judge O'Donnell did not schedule hearings or dispose of 28 criminal cases for periods of time up to six and a half years, neglected to file mandatory case disposition reports to the State Comptroller in a timely manner and, until the Commission began investigating, failed to disqualify himself in a case in which his daughter's friend was a defendant.

As a result of the Commission inquiry, Judge O'Donnell reexamined his court's administrative procedures and implemented case management controls in order to avoid such problems in the future.

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 O'Donnell was served with a Formal Written Complaint on September 2, 2008 containing three charges, and filed a verified answer dated September 30, 2008.

On January 20, 2009, the Administrator of the Commission, the judge's counsel and Judge O'Donnell entered into an Agreed Statement of Facts stipulating that the Commission would make its determination based upon the agreed facts, recommending that the judge be censured, and waiving further submissions and oral argument.

The Commission accepted the Agreed Statement on January 28, 2009.

### **The Commission Determination**

The Commission filed a determination dated February 5, 2009.

Commission Chair Hon. Thomas A. Klonick, Vice Chair Stephen R. Coffey, Esq., Joseph W. Belluck, Esq., Richard D. Emery, Esq., Paul B. Harding, Esq., Elizabeth B. Hubbard, Marvin E. Jacob, Esq., Hon. Jill Konviser, Hon. Karen K. Peters, and Hon. Terry Jane Ruderman concurred.

### **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 O'Donnell 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 273 judges in New York State, 193 of them town or village justices. (More than two-thirds of the judiciary in New York State are part-time). The Commission has issued a determination of removal as to 158 judges and has admonished 227 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 O'Donnell was represented by Scott W. Bush of Corrigan, McCoy & Bush, 220 Columbia Turnpike, Rensselaer, New York, 12144. (518) 477-4575. Robert H. Tembeckjian, Administrator and Counsel to the Commission, Cathleen Cenci, Deputy Administrator for the Commission's Albany office, and Senior Attorney Jill S. Polk served as counsel to the Commission. Senior Investigator Donald R. Payette assisted the Commission in the investigation.

### **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	Former 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
Richard D. Emery, Esq.	Former 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	Former Chief Judge Judith S. Kaye	March 31, 2010
Hon. Terry Jane Ruderman	Former Chief Judge Judith S. Kaye	March 31, 2012
VACANT	Governor David A. Paterson	March 31, 2009