



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT

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## NEWS RELEASE

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### **Clinton County Town Justice Censured for Hearing Cases Involving His Relatives, Co-Workers and Co-Justice**

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The New York State Commission on Judicial Conduct has determined that Jeffrey L. Menard, a Justice of the Mooers Town Court, Clinton County, should be censured for failing to disqualify himself in cases involving his nephews, his employers' sons and his co-justice.

Judge Menard testified in the Commission proceeding that he knew it was improper to preside over three traffic cases involving his nephews but did not transfer at least one such case because the matter "wasn't worth the hassle" and he "got lazy."

Judge Menard also (A) disposed of several traffic tickets issued to two of his co-workers, who were also the sons of his employers at a farm equipment business, and (B) handled four small claims actions in which his co-justice was the claimant.

Commission Administrator Robert H. Tembeckjian had argued that Judge Menard should be removed from office. Commission Members Richard D. Emery and Elizabeth Hubbard agreed that the judge should be removed. Mr. Emery wrote a

dissenting opinion. Commission Vice Chair Stephen R. Coffey voted that the judge should be admonished rather than censured.

The Commission may determine that a judge's misconduct requires removal, censure or admonition. A judge who is removed from office is barred by law from ever holding judicial office in the future. Censure is a public reprimand. Admonition is a milder public reprimand or warning. The Commission may also caution a judge confidentially.

“[Judge Mendard’s] failure to recuse in each of these circumstances, or even to disclose his relationship to the parties, cast doubt on the impartiality of his decisions and undermined public confidence in the integrity and independence of the judiciary as a whole,” the Commission decision said. Handling his co-justice’s cases “conveyed the appearance that he was complicit in using the court as a collection agency for his co-justice’s business.”

The determination, dated October 13, 2010, can be found on the Commission’s website: [www.scjc.state.ny.us](http://www.scjc.state.ny.us).

### **The Commission Proceedings**

Judge Menard was served with a Formal Written Complaint dated June 18, 2009, containing five charges, and filed an answer dated July 24, 2009.

On September 3, 2009, the Commission designated Matthew J. Kelly, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on October 28 and 29, 2009, and November 12, 2009.

The referee filed a report, which was received on March 16, 2010. The parties submitted briefs with respect to the referee’s report and the issue of sanctions. Commission counsel recommended the sanction of removal, and the judge’s attorney recommended admonition.

Judge Menard’s attorney waived oral argument. The Commission heard oral argument by Commission counsel on June 3, 2010.

### **The Commission Determination**

The Commission filed a determination dated October 13, 2010.

Judge Thomas A. Klonick (the Commission Chair), Stephen R. Coffey, Esq. (the Vice Chair), Judge Rolando T. Acosta, Joseph W. Belluck, Esq., Richard D. Emery, Esq., Paul B. Harding, Esq., Elizabeth B. Hubbard, Nina M. Moore, and Judge Terry Jane Ruderman concurred as to the judge's misconduct, except that Mr. Belluck voted to dismiss the charge of handling the co-justice's cases, and Judge Klonick and Ms. Moore voted to sustain a dismissed charge that the judge notarized his mother's petition in an eviction proceeding. A fifth charge was dismissed.

Six members concurred in the sanction of censure, and three members dissented: Mr. Coffey voted that the judge be admonished and Mr. Emery and Ms. Hubbard voted that the judge be removed from office. Mr. Emery filed a dissenting opinion.

Joel Cohen, Esq., did not participate, and Judge Karen K. Peters was not present.

### **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 of receipt, 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 Menard 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 287 judges in New York State. The Commission has issued a determination of removal as to 160 judges and has admonished 240 judges.

The Court of Appeals has reviewed 91 Commission determinations. The Court accepted the Commission's sanctions in 75 cases (66 of which were removals, six

were censures and three were admonitions). Of the remaining 16 cases, two sanctions were increased from censure to removal, and 13 were reduced: 9 removal determinations were modified to censure, one removal was modified to admonition, two censures were modified to admonition, and one censure was rejected and the charges dismissed. The Court remitted one matter to the Commission for further proceedings.

### **Counsel**

In the proceedings before the Commission, Judge Menard was represented by Stephen A. Johnston, Esq., 11 Oak Street, Plattsburgh, New York 12901, (518) 561-9550.

The Commission was represented by Robert H. Tembeckjian, Esq., Administrator and Counsel to the Commission, Senior Attorney Jill S. Polk, Esq., and former Senior Attorney Cheryl L. Randall, Esq. Senior Investigator David Herr assisted 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:

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|---|---|---|
| 61 Broadway, Suite 1200<br>New York, New York 10006 | Corning Tower, Suite 2301<br>Empire State Plaza<br>Albany, New York 12223 | 400 Andrews Street<br>Rochester, New York 14604 |
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**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 Jonathan Lippman                    | March 31, 2013  |
| Stephen R. Coffey, Esq., Vice Chair | Former Senate President Pro Tem Joseph L. Bruno | March 31, 2011  |
| Hon. Rolando T. Acosta              | Chief Judge Jonathan Lippman                    | March 31, 2014  |
| Joseph W. Belluck, Esq.             | Governor David A. Paterson                      | March 31, 2012  |
| Joel Cohen, Esq.                    | Assembly Speaker Sheldon Silver                 | March 31, 2014  |
| Richard D. Emery, Esq.              | Former Senate Minority Leader Malcolm A. Smith  | March 31, 2012  |
| Paul B. Harding, Esq.               | Former Assembly Minority Leader James Tedisco   | March 31, 2013  |
| Elizabeth B. Hubbard                | Governor David A. Paterson                      | March 31, 2011  |
| Nina M. Moore                       | Governor David A. Paterson                      | March 31, 2013  |
| Hon. Karen K. Peters                | Governor David A. Paterson                      | March 31, 2014  |
| Hon. Terry Jane Ruderman            | Former Chief Judge Judith S. Kaye               | March 31, 2012  |