



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

December 27, 2012

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Erie County Family Court Judge Should Be Censured for an Improper Hospital Visit, Discourtesy in Court, and Denial of Due Process

The New York State Commission on Judicial Conduct has determined that Paul G. Buchanan, a Judge of the Family Court, Erie County, should be censured for making an *ex parte* hospital visit to a party in a pending juvenile delinquency proceeding, discourtesy in court and denying due process in a custody case.

In 2009 Judge Buchanan visited a 14-year-old girl, over whose juvenile delinquency case he was presiding, in the psychiatric unit of a hospital. The judge did not disclose the visit, and when it later came to light, the judge initially ignored a motion that he disqualify himself but later transferred the matter to another court.

On two separate occasions in 2009 and 2010 the judge was discourteous to an attorney and a probation officer who were appearing before him. On both occasions the judge shouted, demeaned and berated them.

In 2010 Judge Buchanan refused to allow for cross-examination of the parties during a custody hearing. When the attorneys objected to the denial of due process, the judge became agitated and yelled at one of the attorneys.

In its determination the Commission stated that Judge Buchanan “violated the well-established prohibition against *ex parte* communications and overstepped the appropriate boundaries between a judge and a party in a pending matter.” The Commission said that the judge’s “misconduct [was] exacerbated by his failure to disclose the *ex parte* meeting and his failure to recuse himself promptly thereafter.”

The Commission also found that Judge Buchanan “violated his obligation to be patient, dignified and courteous to attorneys and others whom he deals in an official capacity.” Compounding his misconduct, the Commission found, the judge “failed to afford an essential element of due process,” when he did not allow for cross-examination, which “deprived the parties of a full right to be heard and created an appearance that he engineered the result.”

Judge Buchanan has served as a judge of the Family Court since 2004. His term in office expires on December 31, 2013.

The Commission Proceedings

Judge Buchanan was served with a Formal Written Complaint dated March 6, 2012 containing three charges, and filed an answer dated May 1, 2012.

On October 24, 2012, the Administrator of the Commission, Judge Buchanan and Judge Buchanan’s attorney entered into an Agreed Statement of Facts, stipulating as to the facts and sanction and waiving further submissions and oral argument.

The Commission accepted the Agreed Statement on December 6, 2012.

The Commission Determination

The Commission filed a determination dated December 11, 2012, which was unanimous. Judge Klonick (the Commission Chair), Judge Terry Jane Ruderman (the Vice Chair), Judge Rolando T. Acosta, Joel Cohen, Esq., Richard D. Emery, Esq., Paul B. Harding, Esq., Nina M. Moore, Richard A. Stoloff, Esq., and Judge David A. Weinstein concurred.

Joseph W. Belluck, Esq. did not participate. There is one vacancy on the 11-member Commission

Press Availability

Mr. Tembeckjian will be in New York City on December 27 and is available throughout the day by telephone: (646) 386-4800.

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. Judge Buchanan received it on December 18, 2012, and the Commission was subsequently notified by the Court of Appeals that service was complete. Consequently, the matter is now public.

A judge may either accept the Commission's determination or, within 30 days from 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 Buchanan does not request review by the Court of Appeals, the Commission will censure him in accordance with the determination.

If a Commission 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 issued 304 determinations of censure against judges in New York State. The Commission has issued 166 determinations of removal and 247 determinations of admonition.

The Court of Appeals has reviewed 92 Commission determinations. The Court accepted the Commission's sanctions in 76 cases (67 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: nine 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. One request for review is pending.

Counsel

In the proceedings before the Commission, Judge Buchanan was represented by Richard T. Sullivan of Harris Beach PLLC., 726 Exchange Street, Suite 1000, Buffalo, New York 14210, (716) 200-5114.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission, and Senior Attorney David M. Duguay. Investigator Vanessa Mangan 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:

61 Broadway Suite 1200 New York, New York 10006	Corning Tower, Suite 2301 Empire State Plaza Albany, New York 12223	400 Andrews Street Suite 700 Rochester, New York 14604
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MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT

Member	Appointing Authority	Term End
Hon. Thomas A. Klonick, Chair	Chief Judge Jonathan Lippman	March 31, 2013
Hon. Terry Jane Ruderman, Vice Chair	Chief Judge Jonathan Lippman	March 31, 2016
Hon. Rolando T. Acosta	Chief Judge Jonathan Lippman	March 31, 2014
Joseph W. Belluck, Esq.	Governor Andrew M. Cuomo	March 31, 2016
Joel Cohen, Esq.	Assembly Speaker Sheldon Silver	March 31, 2014
Richard D. Emery, Esq.	Senate Minority Leader John L. Sampson	March 31, 2016
Paul B. Harding, Esq.	Former Assembly Minority Leader James Tedisco	March 31, 2013
Nina M. Moore	Former Governor David A. Paterson	March 31, 2013
Richard A. Stoloff, Esq.	Senate President Pro Tem Dean Skelos	March 31, 2015
Hon. David A. Weinstein	Governor Andrew M. Cuomo	March 31, 2014
Vacant	Governor	March 31, 2015