



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

ROBERT H. TEMBECKJIAN
ADMINISTRATOR & COUNSEL

61 BROADWAY, SUITE 1200
NEW YORK, NEW YORK 10006

MARISA E. HARRISON
RECORDS ACCESS OFFICER

646-386-4800 646-458-0037
TELEPHONE FACSIMILE
www.cjc.ny.gov

NEWS RELEASE

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Contact:

Robert H. Tembeckjian, Administrator
(646) 386-4800

Schenectady County Town Justice Should Be Censured for Conflicts in a Local Dog Ordinance Matter

The New York State Commission on Judicial Conduct has determined that Michelle A. Van Woert, a Justice of the Princetown Town Court, Schenectady County, should be censured for (1) failing to disqualify herself promptly after appearance tickets were issued to her and her sons in a local dog ordinance matter, (2) improperly communicating with the court to which the matters were transferred and (3) failing to keep proper records of the violations.

In late September and late October 2009, the local Animal Control Officer (ACO) issued tickets to Judge Van Woert and her sons for violation of a “loose dog” ordinance. Judge Van Woert did not disqualify herself until early January 2010, and then she inappropriately made substantive comments to the judges of the court where the matters were transferred, stating that the tickets were not properly served and that she hoped to be removed from the matter as the dog in question belonged to her son. She did not send the ACO a copy of the letter.

In its determination the Commission stated that “allowing the tickets issued to her and her children to languish in her court created an appearance of impropriety and

should have been avoided.” The Commission found that the judge’s *ex parte* communication with the transferee judges compounded her misconduct. The decision states: “Identifying the defendants as her sons, explaining why the service of the tickets was defective, and stating that she was ‘hopeful’ of having her name removed from the matter...all could be viewed as an attempt to assert her judicial office and influence the judges who would be deciding the matter.”

The Commission also found that the judge “created an appearance of impropriety” by failing to maintain complete and accurate records of the 2009 tickets and other tickets issued to the judge and her son in 2005. The Commission stated that since Judge Van Woeart and her sons were parties to the matters and since she also serves as the court clerk, the judge “should have been especially sensitive to the requirements regarding proper record-keeping.”

Judge Van Woeart, who is not an attorney, has served as a Justice of the Princetown Town Court since 1997. Her current term expires December 31, 2013.

The determination can be found on the Commission’s website: www.cjc.ny.gov.

The Commission Proceedings

Judge Van Woeart was served with a Formal Written Complaint dated January 10, 2012 containing two charges, and filed an answer dated February 2, 2012.

On June 6, 2012, the Administrator of the Commission, Judge Van Woeart and Judge Van Woeart’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 June 14, 2012, after rejecting an earlier Agreed Statement.

The Commission Determination

The Commission filed a determination dated August 20, 2012. Judge Klonick (the Commission Chair), Judge Terry Jane Ruderman (the Vice Chair), Judge Rolando T. Acosta, Joseph W. Belluck, Esq., Paul B. Harding, Esq., and Nina M. Moore concurred. One member, Richard A. Stoloff, Esq., filed a concurring opinion as to the sanction of censure but dissented as to some findings and conclusions.

Two members, Joel Cohen, Esq., and Richard D. Emery, Esq., dissented in separate opinions. Both members voted to reject the Agreed Statement of Facts on the basis that additional facts were needed in order to determine the appropriate sanction.

Judge Karen K. Peters did not participate. There is one vacancy on the 11-member Commission.

Statement by Commission Administrator

Commission Administrator Robert H. Tembeckjian made the following statement.

“It is a fundamental principle of judicial ethics that a judge must step away from any case in which his or her impartiality might reasonably be questioned, even a relatively minor matter such as a dog ordinance violation. A judge must also refrain from influencing other judges in the exercise of their discretion.

“Judge Van Woert now seems to appreciate that, has taken responsibility for her conduct and agrees to be censured for it.”

Press Availability

Mr. Tembeckjian will be in New York City on August 29 and is available throughout the day by telephone: (646) 386-4884.

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 Van Woert received it on August 23, 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 Van Woert does not request review by the Court of Appeals, the Commission will censure her 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 301 determinations of censure against judges in New York State. The Commission has issued 166 determinations of removal and 245 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.

Counsel

In the proceedings before the Commission, Judge Van Woert was represented by John R. Seebold of Capasso & Massaroni, LLP, 215 State Street, Schenectady, New York, (518) 631-4529.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission, and Senior Attorney Jill Polk. Investigator Ryan Fitzpatrick 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
Hon. Karen K. Peters	Former Governor David A. Paterson	March 31, 2014
Richard A. Stoloff, Esq.	Senate President Pro Tem Dean Skelos	March 31, 2015
Vacant	Governor	March 31, 2015