



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT

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## NEWS RELEASE

*August 13, 2013*

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### **Rensselaer County Town Justice Should Be Admonished For Presiding Over The Disposition Of His Nephew's Speeding Ticket**

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The New York State Commission on Judicial Conduct has determined that Kenneth J. Marbot, a Justice of the Pittstown Town Court, Rensselaer County, should be admonished for disposing of a traffic case involving his nephew.

In December 2011 and January 2012, Judge Marbot presided over a case involving a speeding ticket issued to the son of his wife's sister. The judge did not disclose his relationship with the defendant. After the defendant pled not guilty, the judge sent the matter to the Assistant District Attorney (ADA), who made a plea offer reducing the charge to a parking violation. The judge reduced the charge, imposed a \$25 fine, and ordered the defendant to complete a defensive driving course.

In its determination the Commission stated that pursuant to the Rules Governing Judicial Conduct, a judge's disqualification is required when the judge's impartiality "might reasonably be questioned," including any matter in which a party is within the sixth degree of relationship to the judge or the judge's spouse.

The Commission wrote: “In and of itself, the appearance of a judge’s family member before the judge creates a serious appearance of impropriety.” The Commission further stated that “seeing his relative, with whom he socialized several times a year, standing before him in the courtroom certainly should have reminded [Judge Marbot] – the defendant’s uncle – of the clear conflict.”

Compounding the misconduct, the Commission found that the lenient sentence, although recommended by the ADA and notwithstanding the judge’s “assertion that the ticket was handled no differently than any similar ticket,” conveyed an appearance of favoritism, which “undermines public confidence in the integrity and impartiality of the judiciary.”

Judge Marbot, who is not an attorney, has served as a Justice of the Pittstown Town Court since 2009. His current term expires on December 31, 2016.

### **The Commission Proceedings**

Judge Marbot was served with a Formal Written Complaint dated June 13, 2013, and filed an answer dated June 19, 2013.

On July 25, 2013, the Administrator of the Commission, Judge Marbot and Judge Marbot’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 August 1, 2013.

### **The Commission Determination**

The Commission filed a determination dated August 6, 2013, in which nine members concurred: Judge Thomas A. Klonick (the Commission Chair), Judge Terry Jane Ruderman (the Vice Chair), Joseph W. Belluck, Esq., Joel Cohen, Esq., Jodie Corngold, Richard D. Emery, Esq., Paul B. Harding, Esq., Richard A. Stoloff, Esq., and Judge David A. Weinstein.

One member, Judge Rolando T. Acosta, was not present.

### **Press Availability**

Mr. Tembeckjian 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 Marbot received it on August 8, 2013, 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 Marbot does not request review by the Court of Appeals, the Commission will admonish 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 250 determinations of admonition against judges in New York State. The Commission has issued 305 determinations of censure and 167 determinations of removal.

The Court of Appeals has reviewed 93 Commission determinations. The Court accepted the Commission's sanctions in 77 cases (68 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 Marbot was represented by Peter J. Moschetti, Jr, Esq., of Anderson Moschetti and Taffany, PLLC, 26 Century Hill Drive, Suite 206, Latham, New York, 12110, (518) 785-4900.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission, and Cathleen S. Cenci, Deputy Administrator in Charge of the Albany office. Senior Investigator Donald Payette 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**

<b>Member</b>	<b>Appointing Authority</b>	<b>Term End</b>
Hon. Thomas A. Klonick, Chair	Chief Judge Jonathan Lippman	March 31, 2017
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
Jodie Corngold	Governor Andrew M. Cuomo	March 31, 2015
Richard D. Emery, Esq.	Former Senate Minority Leader John L. Sampson	March 31, 2016
Paul B. Harding, Esq.	Former Assembly Minority Leader James Tedisco	March 31, 2017
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, 2017