



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](http://www.cjc.ny.gov)

## NEWS RELEASE

*October 15, 2014*

<b><i>Contacts:</i></b>	<b><i>Robert H. Tembeckjian, Administrator</i></b> <b><i>(646) 386-4800</i></b> <b><i>Marisa E. Harrison, Records Access Officer</i></b> <b><i>(646) 386-4791</i></b>
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### **Niagara Falls City Court Judge Should Be Admonished for Failing to Appoint an Interpreter**

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The New York State Commission on Judicial Conduct has determined that Robert P. Merino, a Judge of the Niagara Falls City Court, Niagara County, should be admonished for failing to protect a Spanish-speaking tenant's rights by failing to appoint an interpreter during an eviction proceeding.

Judge Merino agreed to the admonition.

In 2013, Judge Merino presided over a summary eviction proceeding involving a Spanish-speaking native of Puerto Rico, who had limited proficiency in English. At the outset of the proceeding the judge stated that he would adjourn the proceeding so that an interpreter could be provided. However, after asking the tenant some basic questions, to which the tenant had trouble responding, the judge decided to move forward without an interpreter and ultimately issued a warrant of eviction.

In its determination the Commission stated: “Access to interpreting services when needed is a critical element of access to justice.” The Commission found that Judge Merino “never made clear that the case would not be adjourned,” and “continued to ignore red flags indicating [the tenant’s] limited proficiency in English.” The Commission concluded that because of the lack of an interpreter the tenant’s “rights to be heard according to law and to meaningfully participate in the proceeding were compromised.” As the Commission noted, “the consequences of this case were significant: a family was summarily evicted.”

Judge Merino, has served as a Judge of the Niagara Falls City Court since 2008. His current term expires on December 31, 2017.

### **The Commission Proceedings**

Judge Merino was served with a Formal Written Complaint dated March 3, 2014, containing one charge, and filed an answer dated March 27, 2014.

On September 5, 2014, the Administrator of the Commission, Judge Merino and Judge Merino’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 September 18, 2014.

### **The Commission Determination**

The Commission filed a determination dated October 2, 2014, in which all ten members concurred: Judge Thomas A. Klonick (the Commission Chair), Judge Terry Jane Ruderman (the Vice Chair), Judge Rolando T. Acosta, 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.

There is currently one vacancy on the 11-member Commission.

### **Statement by Commission Administrator**

Commission Administrator Robert H. Tembeckjian made the following statement.

“It is fundamental to our system of justice that the accused understand what is going on in the courtroom, particularly if the proceeding can result in the loss of their home. To his credit, Judge Merino forthrightly acknowledged that he should have arranged for an interpreter in this eviction case. His ready acceptance of

responsibility gives the Commission confidence that he will be sensitive to such situations in the future.”

### **Press Availability**

Mr. Tembeckjian is available throughout the day by telephone: (646) 386-4791.

### **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 Merino received it on October 8, 2014, 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 Merino 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 254 determinations of admonition against judges in New York State. The Commission has issued 311 determinations of censure and 168 determinations of removal.

The Court of Appeals has reviewed 95 Commission determinations. The Court accepted the Commission's sanctions in 79 cases (70 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 Merino was represented by Terrence M. Connors, Esq., of Connors & Vilardo, LLP, 1000 Liberty Building, 424 Main Street, Buffalo, New York 14202, (716) 852-5533.

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.

**Background Information on Judge Merino**

First took office:	2008
Year Admitted to NYS Bar:	1973
Current Term Expires:	December 31, 2017
Salary:	\$146,400 (Source: Seethroughny.com)
Prior Judicial Office:	None

**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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*October 15, 2014**Page 5***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, 2018
Joseph W. Belluck, Esq.	Governor Andrew M. Cuomo	March 31, 2016
Joel Cohen, Esq.	Assembly Speaker Sheldon Silver	March 31, 2018
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, 2018
Vacant	Governor	March 31, 2017