



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT

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## NEWS RELEASE

*January 7, 2016*

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### **Kings County Supreme Court Justice Should Be Censured for Driving While Intoxicated and Asserting His Office**

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The New York State Commission on Judicial Conduct has determined that Carl J. Landicino, a Justice of the Supreme Court, Second Judicial District (Kings County), should be censured for driving after consuming alcohol in excess of the legal limit, which resulted in his pleading guilty to Driving While Intoxicated, a misdemeanor. The judge also repeatedly invoked his judicial office during his arrest in an effort to avoid being charged.

In 2012 Judge Landicino was pulled over by a New York State trooper in Albany County for speeding and driving erratically. After coming to a stop following a two-mile pursuit, the judge failed three sobriety field tests but refused to submit to a breath test. During and after his arrest he repeatedly identified himself as a judge. He also asked the trooper whether this is “how you treat a Supreme Court Judge.”

In its determination the Commission stated that Judge Landicino’s inebriated driving “endangered public safety and brought the judiciary as a whole into

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disrepute,” and that his repeated assertions of his judicial office were “egregious,” “exacerbating” and left “no doubt that he was seeking favorable treatment simply because of his judicial position.”

In determining the sanction of censure, which both sides recommended, the Commission considered as mitigating factors the judge’s ongoing rehabilitative efforts and his commitment to sobriety, which included both inpatient and outpatient programs, therapy, Alcoholics Anonymous and attendance at the Victim Impact Panel where he discussed his own experiences as a judge who is an alcoholic. These factors, the Commission found, were “compelling.” The Commission stated that “were it not for the abundant evidence that [Judge Landicino] has taken significant steps to rehabilitate himself, and seems to be succeeding, we would vote to remove him for his egregious conduct.” The Commission noted that it would have suspended the judge from office without pay if that sanction were available.

The Commission also stated that “while we give due weight to [Judge Landicino’s] rehabilitative efforts, we emphasize that the result in this case should not suggest that professing a commitment to sobriety *after* an alcohol-fueled incident of misconduct will guarantee that a judge can avoid removal for egregious misconduct.”

Judge Landicino has served as a Supreme Court Justice since 2012. His current term expires on December 31, 2025.

### **The Commission Proceedings**

Judge Landicino was served with a Formal Written Complaint dated March 5, 2014, containing two charges and filed an answer dated November 26, 2014.

The Commission rejected an Agreed Statement of Facts on July 17, 2014, and denied a request for reconsideration.

The Commission designated Hon. Felice K. Shea as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on February 9 and 10, 2015, in New York City, and the referee filed a report dated July 15, 2015.

The parties submitted briefs with respect to the referee’s report and the issue of sanction. On October 1, 2015, the Commission heard oral argument.

### **The Commission Determination**

The Commission filed a determination dated December 28, 2015, in which nine members concurred: Judge Thomas A. Klonick (the Commission Chair), Judge Terry Jane Ruderman (the Vice Chair), Judge Rolando T. Acosta, Joseph W. Belluck, Esq., Jodie Corngold, Richard D. Emery, Esq., Paul B. Harding, Esq., Richard A. Stoloff, Esq., and Judge David A. Weinstein. Mr. Belluck filed a concurring opinion in which Mr. Emery and Judge Weinstein joined.

One member, Joel Cohen, Esq., was not present.

There is currently one vacancy on the 11-member Commission

### **Statement by Commission Administrator**

Commission Administrator Robert H. Tembeckjian made the following statement.

“Driving while intoxicated is a serious and potentially deadly offense that undermines a judge’s obligation to respect and comply with the law and act at all times in a manner that promotes public confidence in the judiciary. In this case, Judge Landicino regarded his experience as a wake-up call and made sincere, meaningful efforts at rehabilitation for the disease of alcoholism, which thankfully never manifested itself while he was on the bench. On that basis, the Commission appropriately censured rather than remove the judge, and again urged that any judge who has a drinking problem seek help *before* it becomes a disciplinary issue.”

### **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 Landicino received it on January 4, 2016, 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 Landicino 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 315 determinations of censure against judges in New York State. The Commission has issued 260 determinations of admonition 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 Landicino was represented by David M. Godosky, of Godosky & Gentile, P.C., 61 Broadway, Suite 2010, New York, NY 10006, (212) 742-9706.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission; Mark Levine, Deputy Administrator in Charge of the New York City office, and Staff Attorney Erica K. Sparkler. Senior Investigator Ethan Beckett assisted in the investigation.

### **Background Information on Judge Landicino**

First took office:	2012
Year Admitted to NYS Bar:	1991
Current Term Expires:	December 31, 2025
Salary:	\$174,000
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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**MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT**

<b>Member</b>	<b>Appointing Authority</b>	<b>Term End</b>
Hon. Thomas A. Klonick, Chair	Former Chief Judge Jonathan Lippman	March 31, 2017
Hon. Terry Jane Ruderman, Vice Chair	Former Chief Judge Jonathan Lippman	March 31, 2016
Hon. Rolando T. Acosta	Former Chief Judge Jonathan Lippman	March 31, 2018
Joseph W. Belluck, Esq.	Governor Andrew M. Cuomo	March 31, 2016
Joel Cohen, Esq.	Former Assembly Speaker Sheldon Silver	March 31, 2018
Jodie Corngold	Governor Andrew M. Cuomo	March 31, 2019
Richard D. Emery, Esq.	Former Senate Minority Leader John L. Sampson	March 31, 2016
Paul B. Harding, Esq.	Assembly Minority Leader Brian M. Kolb	March 31, 2017
Richard A. Stoloff, Esq.	Former Senate President Pro Tem Dean Skelos	March 31, 2019
Hon. David A. Weinstein	Governor Andrew M. Cuomo	March 31, 2018
Vacant	Governor	March 31, 2017