



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

April 11, 2018

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NYC Civil Court Judge Should be Removed for Misconduct in Court and Intransigence with the Judicial Conduct Commission

The New York State Commission on Judicial Conduct has determined that Terrence C. O'Connor, a Judge of the New York City Civil Court, Queens County, should be removed from office for habitually mistreating attorneys, abusing his judicial power, failing to follow the law and repeatedly failing to cooperate with the Commission.

Among other things, Judge O'Connor repeatedly failed to provide his purported attorney's name and contact information,¹ refused to take an oath to tell the truth when he appeared at the Commission to testify during the investigation, then failed to appear on a subsequent date after the initial proceeding was adjourned. Moreover, after the Commission formally charged him with misconduct, Judge O'Connor refused to participate in the formal disciplinary hearing.

¹ No attorney appeared for the judge, who eventually gave the name of a recently deceased attorney, then claimed he could not participate until his dead attorney's estate had been settled.

In its determination, the Commission stated: “By failing to provide testimony as requested during the investigation, [Judge O’Connor] impeded the Commission’s efforts to obtain a full record of the relevant facts, thereby obstructing the Commission’s discharge of its lawful mandate and seriously exacerbating his misconduct.”

With respect to the underlying misconduct, the Commission found that:

- in two cases Judge O’Connor struck critical testimony from the record because lawyers absent-mindedly said “Okay” after witnesses answered a question, and he thereafter dismissed the cases for failing to prove a *prima facie* case;
- Judge O’Connor made impatient, discourteous, and undignified remarks to lawyers in three other cases; and,
- in nine cases, Judge O’Connor awarded counsel fees without complying with court-mandated procedures.

The Commission concluded: “Viewed in its entirety, [Judge O’Connor’s] conduct, seriously exacerbated by his failure to cooperate, demonstrates his unfitness for judicial office and thus warrants the sanction of removal.”

Judge O’Connor has served as a Judge of the Civil Court of the City of New York, Queens County, since 2009. His current term expires on December 31, 2018.

Prior Discipline

In 2013, Judge O’Connor was censured by the Commission for continuing to serve as a fiduciary after becoming a full-time judge and for misrepresenting his financial liabilities on four separate applications to become and remain eligible for fiduciary appointments.

The Commission Proceedings

Judge O’Connor was served with a Formal Written Complaint dated May 30, 2017, containing four charges, and filed an answer dated June 19, 2016.

The Commission designated Peter Bienstock, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on September 11 and 12, 2017, in New York City. Judge O’Connor did not appear at

the hearing or on two subsequent dates scheduled by the referee. The referee filed a report dated December 14, 2017.

Counsel to the Commission filed a brief recommending confirmation of the referee's report and the sanction of removal. Judge O'Connor filed a letter opposing the recommendations. On February 1, 2018, the Commission heard oral argument, at which the unrepresented judge did not appear.

The Commission Determination

The Commission filed a determination dated March 30, 2018, in which all 11 members concurred: Joseph W. Belluck, Esq. (the Commission Chair), Paul B. Harding, Esq. (the Vice Chair), Joel Cohen, Esq., Jodie Corngold, Judge John A. Falk, Judge Leslie G. Leach, Judge Angela M. Mazzarelli, Richard A. Stoloff, Esq., Judge David A. Weinstein and Akosua Garcia Yeboah.² Mr. Belluck and Mr. Cohen filed a joint concurring opinion.

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 O'Connor received it on April 2, 2018, 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 O'Connor does not request review by the Court of Appeals, the Court of Appeals will remove 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.

² Mr. Cohen's and Judge Weinstein's terms as members of the Commission ended on March 31, 2018, a day after the determination in this case was filed. Mr. Cohen was replaced by Marvin Ray Raskin, Esq., on April 1, 2018. Judge Weinstein's position is vacant.

Statistics Relating to Prior Determinations

Since 1978, the Commission has issued 171 determinations of removal against judges in New York State. The Commission has issued 321 determinations of censure and 268 determinations of admonition.

The Court of Appeals has reviewed 97 Commission determinations. The Court accepted the Commission's sanctions in 81 cases (72 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.

Statement by Commission Administrator

Commission Administrator Robert H. Tembeckjian made the following statement.

“Judges are obliged to cooperate with official disciplinary inquiries into their behavior. Public confidence in the integrity of the judiciary requires nothing less. Failing to cooperate, and acting in a manner intended to thwart an ethics inquiry, is itself misconduct, often more serious than the underlying misbehavior. Judge O'Connor was removed from office for his intransigence.”

Counsel

In the proceedings before the Commission, Judge O'Connor represented himself.

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; Edward Lindner, Deputy Administrator for Litigation; Senior Attorney Brenda Correa; and Staff Attorney Daniel W. Davis. Investigators Christina Partida and Drew Zagami assisted in the investigation.

Background Information on Judge O'Connor

First took office:	2009
Year Admitted to NYS Bar:	1977
Judicial Salary:	\$193,500
Current Term Expires:	December 31, 2018

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
Joseph W. Belluck, Esq., Chair	Governor Andrew M. Cuomo	March 31, 2020
Paul B. Harding, Esq., Vice Chair	Assembly Minority Leader Brian M. Kolb	March 31, 2021
Jodie Corngold	Governor Andrew M. Cuomo	March 31, 2019
Taa Grays, Esq.	Senate Minority Leader Andrea Stewart-Cousins	March 31, 2020
Hon. John A. Falk	Chief Judge Janet DiFiore	March 31, 2021
Hon. Leslie G. Leach	Chief Judge Janet DiFiore	March 31, 2020
Hon. Angela M. Mazzarelli	Chief Judge Janet DiFiore	March 31, 2022
Marvin Ray Raskin, Esq.	Assembly Speaker Carl E. Heastie	March 31, 2022
Richard A. Stoloff, Esq.	Former Senate President Pro Tem Dean Skelos	March 31, 2019
Akosua Garcia Yeboah	Governor Andrew M. Cuomo	March 31, 2021
Vacant	Governor Andrew M. Cuomo	March 31, 2022