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FOR LITIGATION

October 22, 2019

Hon. John P. Asiello  
Clerk of the Court of Appeals  
Court of Appeals Hall  
20 Eagle Street  
Albany, New York 12207

*Re: Matter of Hon. Paul H. Senzer*

Dear Mr. Asiello:

Thank you for your letter of October 16, 2019, inviting comment by the Commission on Judicial Conduct regarding the Court's consideration of the suspension of Paul H. Senzer from his position as a Justice of the Northport Village Court, Suffolk County, and whether such suspension should be with or without pay.

On October 9, 2019, the Commission filed a determination pursuant to Judiciary Law §44(4) that Judge Senzer should be removed from office. Pursuant to Judiciary Law §44(8)(a), the Court has authority to suspend a judge or justice from office while there is pending a determination by the Commission for his or her removal.

While the Commission has made recommendations to the Court regarding suspension pursuant to Judiciary Law § 44(8)(a) or (b) when judges are charged with felonies and/or other crimes involving moral turpitude, historically it has refrained from making such recommendations in

*Hon. John P. Asiello*

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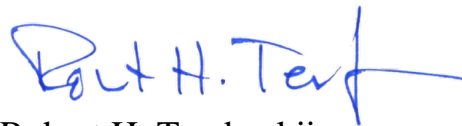
cases where, as here, the Commission itself is a party. Such restraint has been based on a number of factors, including the following.

First, the Commission respects the Court's consistent practice of suspending with pay any judge whose removal determination is pending before it. The Commission believes this practice properly balances the various equities, including the likely diminution of public confidence in a judge whom the Commission has determined should be removed; the anomaly of having a judge hear cases while contemporaneously defending against removal from office; the possibility that the removal determination may be rejected or modified on review by the Court; and the ethical constraints inhibiting a judge from outside remunerative employment, even during a period of suspension without pay from judicial duties. At the same time, the Commission recognizes that there may at some time be circumstances that would lead to a variance of the Court's usual practice at this stage of proceedings regarding suspension with pay.

Second, the Commission, which regards any determination to remove a judge as being of utmost seriousness, does not wish even inadvertently to suggest that some removal decisions are more meritorious than others by, for example, taking varying positions case by case as to whether particular judges should be suspended.

Therefore, consistent with its usual practice, the Commission takes no position with respect to whether Judge Senzer should be suspended, leaving the matter to the sound discretion of the Court.

Very truly yours,



Robert H. Tembeckjian

cc: Judges of the Court of Appeals (via Mr. Asiello)  
Hon. Lawrence Marks, Chief Administrative Judge  
Michele Aulivola, Attorney for Judge Senzer  
(via postal and email service: [maulivola@ltesq.com](mailto:maulivola@ltesq.com))