



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

ROBERT H. TEMBECKJIAN
ADMINISTRATOR & COUNSEL

61 BROADWAY, SUITE 1200
NEW YORK, NEW YORK 10006

MARISA E. HARRISON
PUBLIC RECORDS OFFICER

646-386-4800 646-458-0037
TELEPHONE FACSIMILE
www.cjc.ny.gov

NEWS RELEASE

February 11, 2021

Contact:

Marisa E. Harrison, Public Records Officer
(518) 288-8658

Town Justice in Chautauqua County Resigns While Under Investigation for Courthouse Misconduct and Failing to Cooperate

Mark A. Cunningham, a Justice of the Stockton Town Court, Chautauqua County, resigned while under investigation by the New York State Commission on Judicial Conduct for engaging in inappropriate behavior inside his courthouse and failing to cooperate with the Commission's inquiry. Judge Cunningham, who left office on January 18, 2021, agreed never to seek or accept judicial office at any time in the future. The Commission accepted a stipulation to that effect signed by the judge and the Commission's Administrator and closed its investigation.¹

In July 2020, the Commission apprised Judge Cunningham that it was investigating a complaint that he engaged in inappropriate behavior within his courthouse. In November 2020, the Commission further advised the judge that it was investigating his failure to cooperate with the investigation in that, over a period of four months, the judge did not respond to four letters of inquiry from the Commission concerning the complaint.

¹ The Stipulation was signed on January 26, 2021. The Commission accepted it and issued an order closing the matter on January 28, 2021.

Judge Cunningham waived the statutory provision of confidentiality applicable to Commission proceedings, to the limited extent that the stipulation and Commission's order accepting it and closing the case would be public.

Judge Cunningham, who is not an attorney, had been a Justice of the Stockton Town Court, Chautauqua County, since 2013. His current term would have expired on December 31, 2021.

The stipulation and the Commission's order closing the case can be found on the Commission's website: www.cjc.ny.gov.

Statement by Commission Administrator

Commission Administrator Robert H. Tembeckjian made the following statement.

“A judge is required to maintain decorum in the courtroom and, as the Court of Appeals has repeatedly affirmed, to cooperate with the Commission's inquiries. Having been apprised that he was being investigated for both, Judge Cunningham chose to resign and never return to the bench.”

Statistics Relating to Prior Commission Decisions

The Commission has accepted 100 such stipulations since the procedure was instituted in 2003.

Since 1978, the Commission has issued 276 determinations of admonition against judges in New York State, 337 determinations of censure and 175 determinations of removal.

The Court of Appeals has reviewed 101 Commission determinations. The Court accepted the Commission's sanctions in 85 cases (76 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 Cunningham represented himself.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission; John J. Postel, Deputy Administrator in Charge of the Rochester office; and Senior Attorney M. Kathleen Martin. Senior Investigator Betsy Sampson was assigned to the case.

Background Information on Judge Cunningham

First Took Office:	2013
Current Term Expires:	December 31, 2021

Members of the Commission

The Commission members serve four-year terms. A list of members is appended.

The Public File

The stipulation and order are attached. They are also available for inspection 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
---	---	--

MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT

Member	Appointing Authority	Term End
Joseph W. Belluck, Esq., Chair	Governor Andrew M. Cuomo	March 31, 2024
Taa Grays, Esq., Vice Chair	Senate President Pro Tem Andrea Stewart-Cousins	March 31, 2023
Hon. Fernando M. Camacho	Chief Judge Janet DiFiore	March 31, 2024
Jodie Corngold	Governor Andrew M. Cuomo	March 31, 2023
Hon. John A. Falk	Chief Judge Janet DiFiore	March 31, 2021
Paul B. Harding, Esq.	Former Assembly Minority Leader Brian M. Kolb	March 31, 2021
Hon. Angela M. Mazzaelli	Chief Judge Janet DiFiore	March 31, 2022
Hon. Robert J. Miller	Governor Andrew M. Cuomo	March 31, 2022
Marvin Ray Raskin, Esq.	Assembly Speaker Carl E. Heastie	March 31, 2022
Ronald J. Rosenberg, Esq.	Former Senate Minority Leader John J. Flanagan	March 31, 2024
Akosua Garcia Yeboah	Governor Andrew M. Cuomo	March 31, 2021