

NEW YORK STATE

**COMMISSION ON JUDICIAL
CONDUCT**



**ANNUAL REPORT
2022**

NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT



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NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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March 1, 2022

To Governor Kathy Hochul,
Chief Judge Janet DiFiore, and
The Legislature of the State of New York:

Pursuant to Section 42, paragraph 4, of the Judiciary Law of the State of New York, the New York State Commission on Judicial Conduct respectfully submits this Annual Report of its activities, covering the period from January 1 through December 31, 2021.

Respectfully submitted,

Robert H. Tembeckjian, Administrator
On Behalf of the Commission

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FOREWORD

For a second consecutive year, the coronavirus pandemic posed challenges for the Commission on Judicial Conduct in 2021, as it did for all of government. As Covid-19 infection rates ebbed and flowed, and as vaccines were approved and became widely available, the Commission was able to adjust from all-remote operations to a hybrid model in which staff rotated into the office part-time and worked from home part-time. Various precautions were implemented based on guidance from federal and state health authorities. Vaccines were mandated for all staff, and we are both pleased and relieved to report 100% compliance.

Much agency business continues to be conducted electronically, whether staff are operating in the office or from remote locations. Commission meetings, staff meetings, investigative interviews, depositions, disciplinary hearings and oral arguments have proceeded via remote video platforms. Documents have been disseminated and received by email as well as postal or courier services. Faxes transmitted to the office over telephone lines have been automatically digitized and rerouted to an electronic email in-box.

As a result of these and other adjustments to business-as-usual, the Commission was able to keep abreast of its constitutional responsibilities. For example:

- 1,938 new complaints were received and processed during the year, including more than 1,200 submitted electronically through the interactive complaint portal on the Commission’s website.
- 500 preliminary inquiries or full-scale investigations were authorized.
- 17 public dispositions were rendered: 13 permanent resignation stipulations, 2 censures and 2 admonitions.
- 20 confidential cautionary letters were issued to judges.

Mindful of the health and safety of its staff and those with whom it engages, hopeful that the disruptions attributable to Covid-19 will permanently recede, and guided by the best available science, the Commission plans to continue to phase in a return to conventional in-office operations. At the same time, the innovations implemented in remote/virtual electronic and administrative procedures, as necessitated by the pandemic will likely remain part of the “new normal” in the post-Covid era.

The Commission continues to appreciate the cooperation extended by all who interact with the agency in these unique and challenging times.

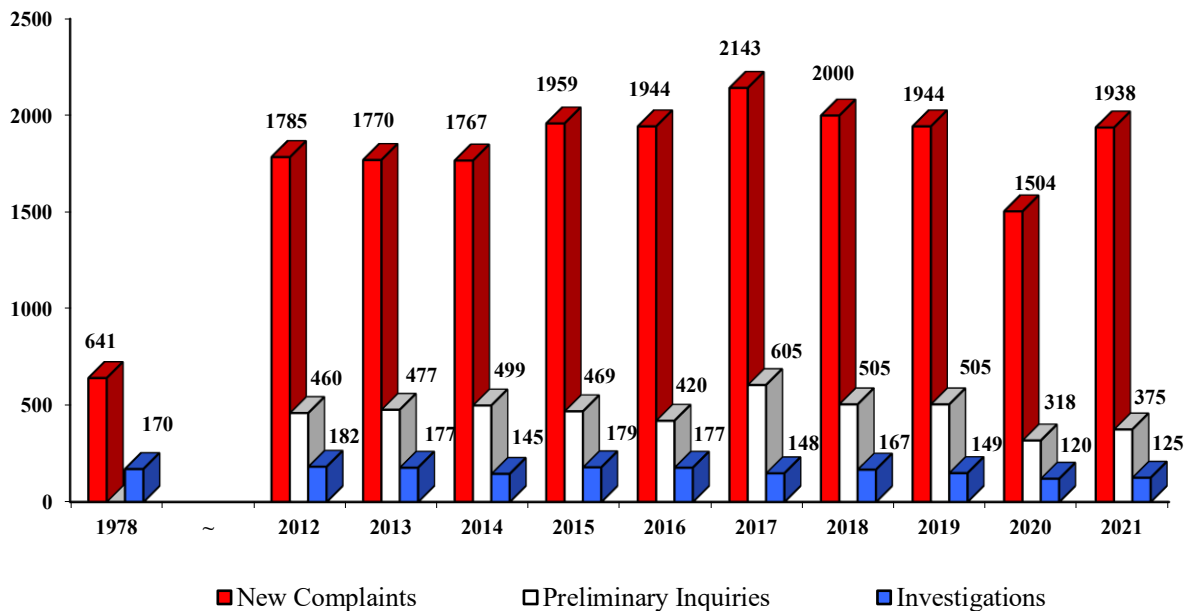
INTRODUCTION TO THE 2022 ANNUAL REPORT

The New York State Commission on Judicial Conduct is the independent agency designated by the State Constitution to review complaints of misconduct against judges and justices of the State Unified Court System and, where appropriate, render public disciplinary determinations of admonition, censure or removal from office. There are approximately 3,350 judicial positions in the system filled by approximately 3,150 individuals, in that some judges serve in more than one court.

The Commission's objective is to enforce high standards of conduct for judges, who must be free to act independently, on the merits and in good faith, but also must be held accountable should they commit misconduct. The text of the Rules Governing Judicial Conduct, promulgated by the Chief Administrator of the Courts on approval of the Court of Appeals, is annexed.

The number of complaints received annually by the Commission in the past 10 years has substantially increased compared to the first three decades of the Commission's existence. Since 2011, the Commission has averaged 1,875 new complaints per year, 463 preliminary inquiries and 157 investigations. Last year, 1,938 new complaints were received. Every complaint was reviewed by investigative and legal staff, and a report was prepared for each complaint. All such complaints and reports were reviewed by the entire Commission, which then voted on which complaints merited opening full scale investigations. As to these new complaints, there were 375 preliminary reviews and inquiries and 125 investigations.

This report covers Commission activity in the year 2021.



COMPLAINTS, INQUIRIES & INVESTIGATIONS IN THE LAST TEN YEARS

ACTION TAKEN IN 2021

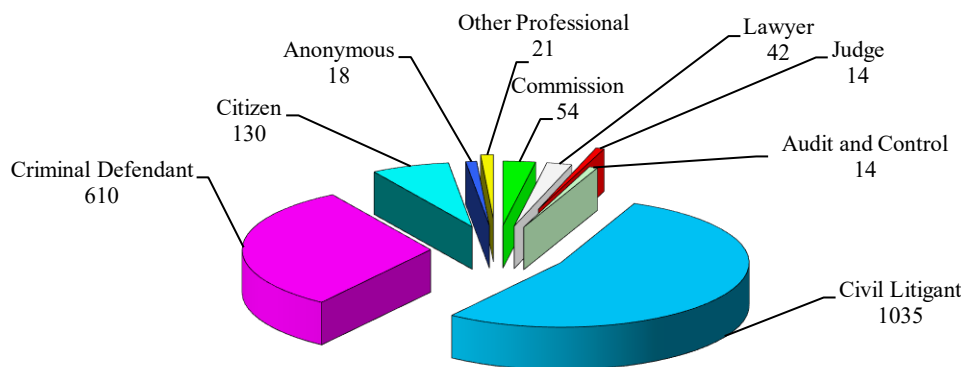
Following are summaries of the Commission's actions in 2021, including accounts of all public determinations, summaries of non-public dispositions, and various numerical breakdowns of complaints, investigations and other dispositions.

COMPLAINTS RECEIVED

The Commission received 1,938 new complaints in 2021. All complaints are summarized and analyzed by staff and reviewed by the Commission, which votes whether to investigate.

New complaints dismissed upon initial review are those that the Commission deems to be clearly without merit, not alleging misconduct or outside its jurisdiction, including complaints against non-judges, federal judges, administrative law judges, judicial hearing officers, referees and New York City Housing Court judges. Absent any underlying misconduct, such as demonstrated prejudice, conflict of interest or flagrant disregard of fundamental rights, the Commission does not investigate complaints concerning disputed judicial rulings or decisions. The Commission is not an appellate court and cannot intervene in a pending case or reverse or remand trial court decisions.

A breakdown of the sources of complaints received by the Commission in 2021 appears in the following chart.



COMPLAINT SOURCES IN 2021

PRELIMINARY INQUIRIES AND INVESTIGATIONS

The Commission's Operating Procedures and Rules authorize "preliminary analysis and clarification" and "preliminary fact-finding activities" by staff upon receipt of new complaints, to aid the Commission in determining whether an investigation is warranted. In 2021, staff conducted 375 such preliminary inquiries, requiring such steps as interviewing the attorneys involved, analyzing court files and reviewing trial transcripts.

In 125 matters, the Commission authorized full-fledged investigations. Depending on the nature of the complaint, an investigation may entail interviewing witnesses, subpoenaing witnesses to

testify and produce documents, assembling and analyzing various court, financial or other records, making court observations, and writing to or taking testimony from the judge.

During 2021, in addition to the 125 new investigations, there were 165 investigations pending from the previous year. The Commission disposed of the combined total of 290 investigations as follows:

- 45 complaints were dismissed outright.
- 23 complaints involving 19 different judges were dismissed with letters of dismissal and caution.
- 29 complaints involving 20 different judges were closed upon the judge's resignation, 10 becoming public by stipulation and 10 that were not public.
- Two complaints involving two different judges were closed upon vacancy of office due to reasons other than resignation, such as the expiration of the judge's term.
- 17 complaints involving 11 different judges resulted in formal charges being authorized.
- 174 investigations were pending as of December 31, 2021.

FORMAL WRITTEN COMPLAINTS

As of January 1, 2021, there were pending Formal Written Complaints in 12 matters involving 10 judges. In 2021, Formal Written Complaints were authorized in 17 additional matters involving 11 judges. Of the combined total of 29 matters involving 21 different judges, the Commission acted as follows:

- Four matters involving four different judges resulted in formal discipline (admonition, censure or removal).
- One matter involving one judge resulted in a letter of caution after formal disciplinary proceedings that resulted in a finding of misconduct.
- Six matters involving four different judges were closed upon the judge's resignation from office, three becoming public by stipulation and one that was not public.
- One matter involving one judge was closed upon the vacancy of office due to reasons other than resignation, such as the expiration of the judge's term.
- 17 matters involving 11 different judges were pending as of December 31, 2021.

SUMMARY OF ALL 2021 DISPOSITIONS

The Commission's investigations, hearings and dispositions in the past year involved judges of various courts, as indicated in the following ten tables.

TABLE 1: TOWN & VILLAGE JUSTICES – 1,776,* ALL PART-TIME

	<i>Lawyers</i>	<i>Non-Lawyers</i>	<i>Total</i>
Complaints Received	114	116	230
Complaints Investigated	32	41	73
Judges Cautioned After Investigation	4	5	9
Formal Written Complaints Authorized	3	3	6
Judges Cautioned After Formal Complaint	0	0	0
Judges Publicly Disciplined	2	2	4
Judges Vacating Office by Public Stipulation	3	9	12
Formal Complaints Dismissed or Closed	1	0	1

NOTE: Approximately 700 town and village justices are lawyers.

*Refers to the approximate number of such judges in the state unified court system.

TABLE 2: CITY COURT JUDGES – 347, ALL LAWYERS

	<i>Part-Time</i>	<i>Full-Time</i>	<i>Total</i>
Complaints Received	11	205	216
Complaints Investigated	0	15	15
Judges Cautioned After Investigation	1	3	4
Formal Written Complaints Authorized	0	2	2
Judges Cautioned After Formal Complaint	0	0	0
Judges Publicly Disciplined	0	0	0
Judges Vacating Office by Public Stipulation	0	0	0
Formal Complaints Dismissed or Closed	0	0	0

NOTE: Approximately 51 City Court Judges serve part-time.

TABLE 3: COUNTY COURT JUDGES – 94, FULL-TIME, ALL LAWYERS*

Complaints Received	223
Complaints Investigated	7
Judges Cautioned After Investigation	1
Formal Written Complaints Authorized	1
Judges Cautioned After Formal Complaint	0
Judges Publicly Disciplined	0
Judges Vacating Office by Public Stipulation	1
Formal Complaints Dismissed or Closed	0

*Includes six who also serve as Surrogates, six who also serve as Family Court Judges, and 39 who also serve as both Surrogates and Family Court Judges.

TABLE 4: FAMILY COURT JUDGES – 127, FULL-TIME, ALL LAWYERS

Complaints Received	343
Complaints Investigated	4
Judges Cautioned After Investigation	2
Formal Written Complaints Authorized	0
Judges Cautioned After Formal Complaint	0
Judges Publicly Disciplined	0
Judges Vacating Office by Public Stipulation	0
Formal Complaints Dismissed or Closed	0

TABLE 5: SURROGATES – 19, FULL-TIME, ALL LAWYERS*

Complaints Received	38
Complaints Investigated	5
Judges Cautioned After Investigation	1
Formal Written Complaints Authorized	0
Judges Cautioned After Formal Complaint	0
Judges Publicly Disciplined	0
Judges Vacating Office by Public Stipulation	0
Formal Complaints Dismissed or Closed	0

*Many Surrogates also serve concurrently as Judges of the County and/or Family Court.

TABLE 6: DISTRICT COURT JUDGES – 49, FULL-TIME, ALL LAWYERS

Complaints Received	23
Complaints Investigated	2
Judges Cautioned After Investigation	0
Formal Written Complaints Authorized	1
Judges Cautioned After Formal Complaint	0
Judges Publicly Disciplined	0
Judges Vacating Office by Public Stipulation	0
Formal Complaints Dismissed or Closed	0

TABLE 7: COURT OF CLAIMS JUDGES – 50, FULL-TIME, ALL LAWYERS

Complaints Received	79
Complaints Investigated	6
Judges Cautioned After Investigation	0
Formal Written Complaints Authorized	0
Judges Cautioned After Formal Complaint	0
Judges Publicly Disciplined	0
Judges Vacating Office by Public Stipulation	0
Formal Complaints Dismissed or Closed	0

TABLE 8: SUPREME COURT JUSTICES – 470, FULL-TIME, ALL LAWYERS*

Complaints Received	306
Complaints Investigated	8
Judges Cautioned After Investigation	2
Formal Written Complaints Authorized	1
Judges Cautioned After Formal Complaint	1
Judges Publicly Disciplined	0
Judges Vacating Office by Public Stipulation	0
Formal Complaints Dismissed or Closed	0

* Includes 12 who serve as Justices of the Appellate Term.

**TABLE 9: COURT OF APPEALS JUDGES – 7, FULL-TIME, ALL LAWYERS;
APPELLATE DIVISION JUSTICES – 71, FULL-TIME, ALL LAWYERS**

Complaints Received	117
Complaints Investigated	5
Judges Cautioned After Investigation	0
Formal Written Complaints Authorized	0
Judges Cautioned After Formal Complaint	0
Judges Publicly Disciplined	0
Judges Vacating Office by Public Stipulation	0
Formal Complaints Dismissed or Closed	0

**TABLE 10: NON-JUDGES AND OTHERS NOT WITHIN THE COMMISSION'S
JURISDICTION***

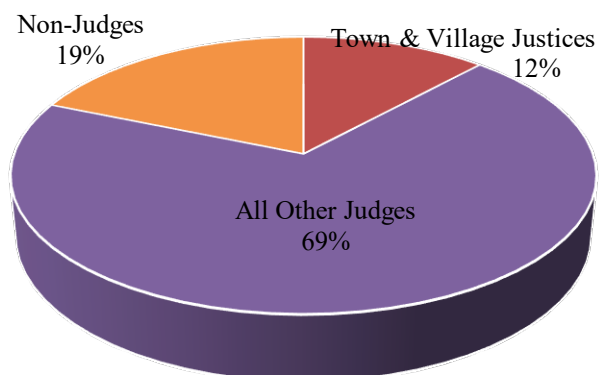
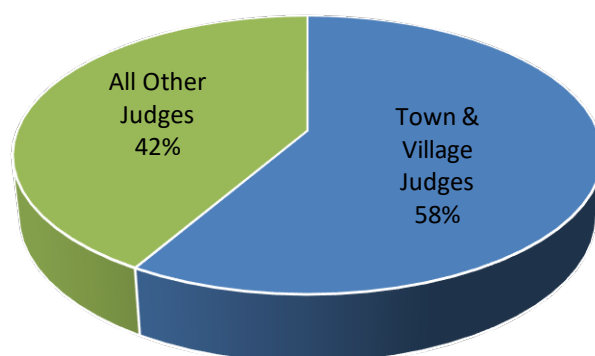
Complaints Received	363
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* The Commission reviews such complaints to determine whether to refer them to other agencies.

NOTE ON JURISDICTION

The Commission's jurisdiction is limited to judges and justices of the State Unified Court System. The Commission does not have jurisdiction over non-judges, retired judges, judicial hearing officers, administrative law judges (*i.e.* adjudicating officers in government agencies or public authorities such as the New York City Parking Violations Bureau), housing judges of the New York City Civil Court, or federal judges. Legislation that would have given the Commission jurisdiction over New York City housing judges was vetoed in the 1980s.

SUMMARY OF TABLES 1-10

**COMPLAINTS RECEIVED BY JUDGE TYPE****INVESTIGATIONS AUTHORIZED
TOWN & VILLAGE JUDGES v ALL OTHER JUDGES**

FORMAL PROCEEDINGS

The Commission may not impose a public disciplinary sanction against a judge unless a Formal Written Complaint, containing detailed charges of misconduct, has been served upon the respondent-judge and the respondent has been afforded an opportunity for a formal hearing.

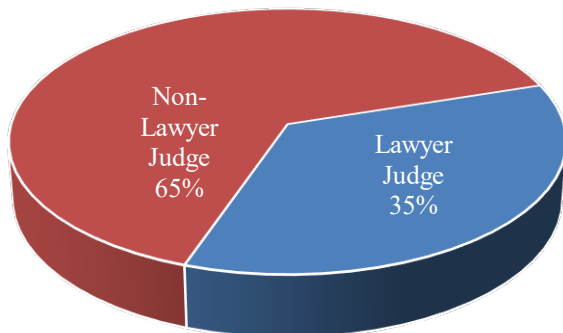
The confidentiality provision of the Judiciary Law (Article 2-A, Sections 44 and 45) prohibits public disclosure by the Commission of the charges, hearings or related matters, absent a waiver by the judge, until the case has been concluded and a determination of admonition, censure, removal or retirement has been rendered.

Following are summaries of those matters that were completed and made public during 2021. The actual texts are appended to this Report in Appendix F.

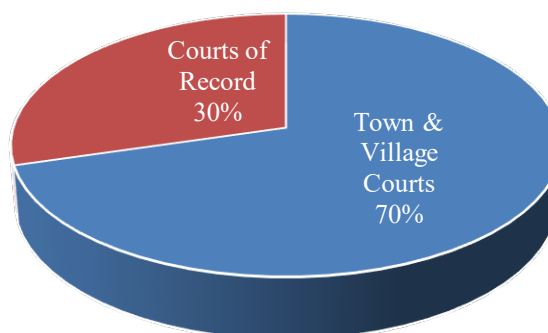
OVERVIEW OF 2021 DETERMINATIONS

The Commission rendered four formal disciplinary determinations in 2021: two censures and two admonitions. In addition, 13 matters were disposed of by stipulation made public by agreement of the parties (ten such stipulations were negotiated during the investigative stage, and three after a Formal Written Complaint had been served). Eleven of the judges were non-lawyer judges and six were lawyers. Sixteen of the 17 judges were town or village justices, and one was a judge of a higher court.

To put these numbers and percentages in some context, it should be noted that, of the roughly 3,150 judges in the state unified court system, approximately 56% are part-time town or village justices. About 61% of the town and village justices, *i.e.* 34% of all judges in the court system, are not lawyers. (Town and village justices serve part-time and need not be lawyers. Judges of all other courts must be lawyers.)



2021 DISPOSITIONS



1978-2021 DISPOSITIONS

DETERMINATIONS OF CENSURE

The Commission completed two formal proceedings in 2021 that resulted in public censure. The cases are summarized below and the full text can be found in Appendix F.

Matter of Donald F. Knab

On April 28, 2021, the Commission determined that Donald F. Knab, Jr., a Justice of the Rush Town Court, Monroe County, should be censured for knowingly mispending grant funds to buy an audio-visual system for the town court, without authorization, and for falsely indicating in financial reports that he spent the money in accordance with the grant's terms. In 2019 the Rush Town Court was awarded a grant of almost \$7,500 through the Justice Court Assistance Program (JCAP), to purchase a walk-through metal detector, a hand-held metal detector, a judicial robe, and a replacement exterior door. Having spent less than \$5,800 for these items, Judge Knab used the savings to buy audio-visual equipment for the court, knowing that he was not authorized to do so and was required to return the unspent funds to JCAP. Moreover, he falsely reported to JCAP that he had spent the entire grant amount on only the approved items, and he did not and could not submit receipts to verify his account. When JCAP challenged his account, Judge Knab submitted an accurate report, and the Town of Rush covered the cost of the AV system by reimbursing JCAP. The Commission stated: "As [Judge Knab] acknowledged, his improper conduct fell short of the high standards required of a judge and undermined confidence in the integrity of the judiciary." Judge Knab, who is not an attorney, did not request review by the Court of Appeals.

Matter of Erik P. Jacobsen

On October 8, 2021, the Commission determined Erik P. Jacobsen, a Justice of the Bedford Town Court, Westchester County, should be censured for the consequences of excessive drinking and driving, for which he was charged with, and pled guilty to, Driving While Intoxicated (DWI). In April 2019, after consuming a number of alcoholic beverages, Judge Jacobsen was pulled over after driving erratically, crossing into the oncoming traffic lane, and disobeying street signs. When asked by the police officer to exit the vehicle the judge refused, told them that they were "going to have to hurt [him]," and that they were "making a big mistake." After being warned several times that he would be tased if he did not comply, the judge was tased, removed from the vehicle, placed under arrest and taken to a hospital. Judge Jacobsen's blood was drawn at the hospital and his blood alcohol concentration (BAC) was .264%, more than three times the legal limit. He was charged with DWI, resisting arrest, failing to stop while facing a red signal and failure to use a designated lane. He pled guilty to DWI in full satisfaction of all the charges. The judge avers that after his arrest he sought treatment for the first time to address his grief and depression stemming from the death of his wife. In censuring Judge Jacobsen, the Commission stated that the judge has accepted responsibility for his conduct, acknowledged that that he should have sought treatment prior to his arrest, and has since engaged in "extensive treatment and rehabilitation." The Commission's decision noted that Judge Jacobsen's term of office expired at the end of the year and was not running for reelection. Judge Jacobsen, who is an attorney, did not request review by the Court of Appeals.

DETERMINATIONS OF ADMONITION

The Commission completed two formal proceedings in 2021 that resulted in public admonition. The cases are summarized as follows and the full texts can be found in Appendix F.

Matter of John R. Peck

On March 19, 2021, the Commission determined that John R. Peck, a Justice of the Gorham Town Court, Ontario County, should be admonished for publishing public Facebook posts in which he appeared in a police uniform and expressed his appreciation for law enforcement officers. In July 2020, Judge Peck, a retired law enforcement officer: (1) expressed appreciation and strong support on Facebook for members of law enforcement, which he called the “noblest of professions” in connection with a “Back the Blue” event; and (2) posted a photo of himself wearing a police uniform. Judge Peck’s Facebook settings were public and his post and photos garnered hundreds of “likes” and many comments, including one that identified him as “Judge!” In April 2019, the Commission privately cautioned the judge for posting to Facebook an improper public political comment in which he was critical of a candidate in an election for county sheriff. The Commission found that the judge’s public Facebook post “casts doubt on [the judge’s] ability to act impartially when he presided over matters which involved law enforcement personnel.” The Commission noted that the judge’s prior caution involving inappropriate Facebook comments should have made the judge “circumspect and particularly attentive” to his ethical obligations. Judge Peck, who is not an attorney, did not request review by the Court of Appeals.

Matter of Lisa R. Rana

On March 19, 2021, the Commission determined that Lisa R. Rana, a Justice of the East Hampton Town Court and the Sag Harbor Village Court, Suffolk County, should be admonished for engaging in prohibited political activity when she offered advice and edited campaign related materials for a candidate running for town office. Beginning in June 2019, Judge Rana began assisting David Gruber, a candidate for East Hampton Town Supervisor, with political opinion essays and letters to the editor that he intended to submit to local newspapers. Judge Rana provided substantive edits on political topics as well as stylistic suggestions. In addition to editing the articles and letters, the judge also emailed Mr. Gruber with additional substantive and strategic advice regarding his campaign. Judge Rana’s involvement in the Gruber campaign was publicly revealed when an article Mr. Gruber submitted to the press had “Track Changes” showing extensive edits by “lisa rana.” She had previously cautioned Mr. Gruber about Track Changes, saying it would be “very bad” if her involvement in his campaign became known. In its determination, the Commission stated that Judge Rana “admitted that she participated in prohibited political activity” and “acknowledged, even political activity that is anonymous violates the Rules [Governing Judicial Conduct].” Judge Rana, who is an attorney, did not request review by the Court of Appeals.

OTHER PUBLIC DISPOSITIONS

The Commission completed 13 other proceedings in 2021 that resulted in public dispositions. The cases are summarized below and the full text can be found in Appendix F. Ten of the matters were concluded during the investigative stage, and three after formal proceedings had been commenced.

Matter of Gregory H. Burkner

On January 28, 2021, pursuant to a stipulation, the Commission closed its investigation of a complaint against Gregory H. Burkner, a Justice of the Watson Town Court, Lewis County, who resigned from office after the Commission advised him that he was being investigated for vandalizing a town official's vehicle in reaction to the town's denial of his request to provide health insurance, to which he pleaded guilty. He pleaded guilty to a misdemeanor – criminal mischief in the fourth degree – for that offense. Judge Burkner, who is not an attorney, agreed that he would neither seek nor accept judicial office at any time in the future.

Matter of Mark A. Cunningham

On January 28, 2021, pursuant to a stipulation, the Commission closed its investigation of complaints against Mark A. Cunningham, a Justice of the Stockton Town Court, Chautauqua County, who resigned from office while under investigation for engaging in inappropriate behavior within his courthouse and failing to cooperate with the Commission's 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. Judge Cunningham, who is not an attorney, agreed that he would neither seek nor accept judicial office at any time in the future.

Matter of Amanda R. Ward

On January 28, 2021, pursuant to a stipulation, the Commission discontinued a proceeding involving Amanda R. Ward, a Justice of the Fallsburg Town Court, Sullivan County, who resigned from office after being served with a Formal Written Complaint for, among other things, presiding notwithstanding a disqualifying conflict with a party or witness and failing to disclose and/or recuse herself as required. In agreeing to resign the judge, who is not an attorney, affirmed that she would neither seek nor accept judicial office at any time in the future.

Matter of Mark A. DiVietro

On March 18, 2021, pursuant to a stipulation, the Commission closed its investigation of a complaint against Mark A. DiVietro, a Justice of the Owasco Town Court, Cayuga County. In July 2020, the Commission apprised Judge DiVietro that it was investigating allegations that in the fall of 2018, he repeatedly sent text messages to his then-girlfriend that contained threats about a former girlfriend. It was alleged that many of the text messages were vulgar, crude, demeaning and/or featured extreme gender-based slurs and profanity. The Commission also apprised Judge DiVietro that the Commission was investigating allegations that after arraigning a defendant on two felony charges and one misdemeanor charge in April 2019, he repeatedly engaged in unauthorized *ex parte* communications about the case with the defendant and multiple other individuals and, during one of the defendant's appearances in court, allegedly gave the defendant personal advice about how to avoid having his firearms confiscated by law enforcement.

authorities. Judge DiVietro, who is not an attorney, agreed that he would neither seek nor accept judicial office at any time in the future.

Matter of William A. Carter

On April 22, 2021, pursuant to a stipulation, the Commission closed its investigation of a complaint against William A. Carter, a Judge of the Albany County Court, who resigned from office after being apprised by the Commission that it was investigating a complaint alleging that, after a purported friend of his filed a pistol permit application, Judge Carter attempted to have the application assigned to himself, and thereafter initiated a conversation about the matter with the judge to whom the case had been assigned. Judge Carter denied the allegations in the complaint. Nevertheless, he vacated judicial office and agreed never to seek or accept judicial office at any time in the future.

Matter of Peter Gallanter

On April 22, 2021, pursuant to a stipulation, the Commission closed its investigation of a complaint against Peter Gallanter, a Justice of the Manorhaven Village Court, Nassau County, who resigned from office after being apprised by the Commission that it was investigating complaints that he (1) dismissed or reduced tickets in multiple cases for defendants with whom he had personal relationships, (2) repeatedly described female litigants and lawyers in demeaning and sexist terms and (3) improperly used a security camera to record proceedings in his courtroom. Judge Gallanter, who is an attorney, agreed that he would neither seek nor accept judicial office at any time in the future.

Matter of Larry D. Hartwell

On April 22, 2021, pursuant to a stipulation, the Commission closed its investigation of complaints against Larry D. Hartwell, a Justice of the Lyons Town Court, Wayne County, who resigned from office after being apprised by the Commission that it was investigating complaints alleging that he engaged repeatedly in unauthorized *ex parte* communications and gave the appearance of bias in a small claims matter. Judge Hartwell, who is not an attorney, agreed that he would neither seek nor accept judicial office at any time in the future.

Matter of Michael Ralph Miller

On April 22, 2021, pursuant to a stipulation, the Commission closed its investigation of a complaint against Michael Ralph Miller, a Justice of the Arcadia Town Court and the Newark Village Court, Wayne County, who resigned from office while under investigation after pleading guilty to violating a stay-away order of protection held by a former girlfriend. In October 2020, the judge pled guilty to criminal contempt in the second degree, a misdemeanor, and was sentenced to three years' probation. The guilty plea was in satisfaction of original charges that included stalking a former girlfriend. The sentence included a five-year, no-contact final order of protection for the victim, waiver of appeal, a requirement that he attend domestic violence and mental health counseling, and payment of fees totaling \$250. Judge Miller, who is an attorney, agreed that he would neither seek nor accept judicial office at any time in the future.

Matter of Ellen D. Fishkin

On June 10, 2021, pursuant to a stipulation, the Commission closed its investigation of complaints against Ellen D. Fishkin, a Justice of the Head of the Harbor Village Court, Suffolk County. The Commission apprised Judge Fishkin in April 2021 that it was investigating complaints alleging that she: (1) shoved or pushed a Suffolk County Assistant District Attorney (ADA) outside her courtroom, while court was in session and the courtroom was full of lawyers, litigants, and others; (2) accused a different ADA of being “anti-Semitic” when the ADA would not offer a lenient plea to an associate of the judge’s husband in a Vehicle and Traffic Law (VTL) matter; (3) inappropriately turned court audio recording equipment on and off in the middle of court proceedings; (4) presided over and took pleas in VTL matters without an ADA present; (5) locked the court while she was away to prevent the Associate Village Justice from presiding over matters in her absence; and (6) exhibited inappropriate demeanor on the bench and in interactions with Suffolk County prosecutors, other attorneys and litigants. In May 2021, the Commission apprised Judge Fishkin that it was also investigating a new matter brought to its attention concerning an audit of the court’s finances by the Office of the State Comptroller. Judge Fishkin, who is an attorney, agreed that she would neither seek nor accept judicial office at any time in the future.

Matter of Kenneth C. Knutsen

On June 10, 2021, pursuant to a stipulation, the Commission closed its investigation of a complaint against Kenneth C. Knutsen, a Justice of the Schoharie Town Court and an Associate Justice of the Schoharie Village Court, Schoharie County. The Commission apprised Judge Knutsen in April 2021 that it was investigating complaints alleging anti-LGBTQ bias and content on his personal Facebook page. His Facebook page also revealed numerous other posts containing: partisan political content; expressions of bias in favor of law enforcement and against criminal defendants; expressions of anti-Muslim bias; and prohibited public commentary on pending cases, including the murder trial of former Minneapolis Police Officer Derek Chauvin. Judge Knutsen, who is not an attorney, agreed that he would neither seek nor accept judicial office at any time in the future.

Matter of Jason Novak

On June 11, 2021, pursuant to a stipulation, the Commission discontinued a proceeding involving Jason Novak, a Justice of the Hornby Town Court, Steuben County, who resigned from office after being served with a Formal Written Complaint for failing for more than a year to attend or complete a judicial training and certification program required of all town and village justices who are not lawyers, and for failing to cooperate with the Commission during its investigation of the matter. Judge Novak, who is not an attorney, agreed that he would neither seek nor accept judicial office at any time in the future.

Matter of John R. Duyssen

On August 5, 2021, pursuant to a stipulation, the Commission closed its investigation of a complaint against John R. Duyssen, a Justice of the Leroy Town Court, Genesee County. Judge Dyussen was apprised by the Commission in January 2021, that it was investigating complaints arising from his arrest on criminal charges of harassment and endangering the welfare of a child, his invocation of his judicial office at the time of his arrest when he asked for a less restrictive Order of Protection to be recommended, and for his failure to comply with a court order, for

approximately three months, to surrender all of his firearms. The criminal charges were resolved with the judge consenting to a one-year comprehensive disposition plan monitored by the Wyoming County Department of Social Services, which he completed, and a court-ordered Adjournment in Contemplation of Dismissal. Judge Duyssen, who is not an attorney, agreed that he would neither seek nor accept judicial office at any time in the future.

Matter of Paul E. Sucher

On October 28, 2021, pursuant to a stipulation, the Commission discontinued a proceeding involving Paul E. Sucher, a Justice of the Ontario Town Court, Wayne County, who resigned from office after a formal disciplinary hearing on charges that he repeatedly made racist comments – including repeated use of the “N” word – and threats about a Black town employee. Judge Sucher, who is not an attorney, agreed that he would neither seek nor accept judicial office at any time in the future.

OTHER DISMISSED OR CLOSED FORMAL WRITTEN COMPLAINTS

The Commission disposed of two Formal Written Complaints in 2021 without rendering public disposition. One complaint was disposed of with a Letter of Caution, upon a finding by the Commission that judicial misconduct was established but that public discipline was not warranted. Another complaint was closed upon the vacancy of the judge’s office due to the expiration of the judge’s term, upon which the Commission lost jurisdiction.

MATTERS CLOSED UPON RESIGNATION

In 2021, 23 judges resigned while complaints against them were pending before the Commission, and the matters pertaining to those judges were closed. Four of those judges resigned while under formal charges by the Commission, three of which were pursuant to public stipulation. Nineteen judges resigned while under investigation, ten of those pursuant to public stipulation. By statute, the Commission may continue an inquiry for a period of 120 days following a judge’s resignation, but no sanction other than removal from office may be determined within such period. When rendered final by the Court of Appeals, the “removal” automatically bars the judge from holding judicial office in the future. Thus, no other action may be taken if the Commission decides within that 120-day period that removal is not warranted.

REFERRALS TO OTHER AGENCIES

Pursuant to Judiciary Law Section 44(10), the Commission may refer matters to other agencies. In 2021, the Commission referred 19 matters to other agencies. Seventeen matters were referred to the Office of Court Administration, typically dealing with relatively isolated instances of delay, poor record-keeping or other administrative issues. Two matters were referred to an attorney grievance committee.

LETTERS OF DISMISSAL AND CAUTION

A Letter of Dismissal and Caution contains confidential suggestions and recommendations to a judge upon conclusion of an investigation, in lieu of commencing formal disciplinary proceedings. A Letter of Caution is a similar communication to a judge upon conclusion of a formal disciplinary proceeding with a finding that the judge's misconduct is established, but where the Commission determines that public discipline is not warranted.

Cautionary letters are authorized by the Commission's Rules, 22 NYCRR 7000.1(1) and (m). They serve as an educational tool and, when warranted, allow the Commission to address a judge's conduct without making the matter public.

In 2021, the Commission issued 19 Letters of Dismissal and Caution and one Letter of Caution. Nine town or village justices were cautioned, including four who are lawyers. Eleven judges of higher courts – all lawyers, as required by law – were cautioned. The caution letters addressed various types of conduct as indicated below.

Assertion of Influence. Three judges were cautioned for lending the prestige of judicial office to advance their private interests. Two part-time judges who practice law were cautioned for referring to and detailing their judicial positions on their personal professional websites. Another judge was cautioned after a formal finding of misconduct for asserting her judicial office in the course of a disputed personal matter.

Audit and Control. One judge was cautioned for failing to file monthly reports and remittances with the State Comptroller in a timely manner.

Conflicts of Interest. All judges are required by the Rules to avoid conflicts of interest and to disqualify themselves or disclose on the record circumstances in which their impartiality might reasonably be questioned. A full-time judge, and a part-time judge who also practices law, were both cautioned when the former presided over a case involving the latter, and neither disclosed that the latter had previously served as the former's campaign chair. Another part-time judge was cautioned for using court resources in connection with his private practice of law.

Delay. One judge was cautioned for excessive delay in rendering a decision in a small claims case, notwithstanding the statutory requirement that a decision in such matters be issued within 30 days. Section 100.3(B)(7) of the Rules Governing Judicial Conduct requires a judge to dispose of all judicial matters promptly, efficiently and fairly.

Finances. One judge was cautioned for failing to file a financial disclosure statement in a timely manner with the Ethics Commission for the Unified Court System. Section 211(4) of the Judiciary Law and Section 40.2 of the Rules of the Chief Judge require judges to file an annual financial disclosure statement by May 15th of each succeeding year.

Inappropriate Demeanor. The Rules require every judge to be patient, dignified and courteous to litigants, attorneys and others with whom the judge deals in an official capacity. One judge was cautioned for yelling at a town board member. Another judge was cautioned for expelling two people from her courtroom after she observed a display of affection between them, without

warning or an explanation for her action. A third judge was cautioned for publicly commenting on a pending case on Facebook.

Improper *Ex Parte* Communications. One judge was cautioned for engaging in an isolated and a relatively minor instance of unauthorized out-of-court communication with a complaining witness in a pending matter.

Miscellaneous. The Rules prohibit judges from making any public comment about a pending or impending proceeding and require that a judge ensure similar abstention on behalf of court personnel. One judge was cautioned for failing to properly supervise an employee who commented publicly on a pending case. Another judge was cautioned for attempting to facilitate the hiring of his daughter by another judge.

Political Activity. Three judges were cautioned for engaging in improper political activity when they each made relatively minor inaccurate or misleading claims on campaign materials.

Violation of Rights. The Rules require that a judge respect, comply with, be faithful to and professionally competent in the law. Sections 100.2(A), 100.3(B)(1). Two judges were cautioned for relatively isolated incidents of violating or not protecting the rights of parties appearing before them. One judge was cautioned for granting an illegal reduction to a defendant without notice to the prosecution and without ensuring the defendant's right to counsel. Another judge was cautioned for failing to provide the accusatory instrument to a defendant at arraignment and at a subsequent appearance denying the defendant's request for documentation.

Follow Up on Caution Letters. Should the conduct addressed by a cautionary letter continue or be repeated, the Commission may authorize an investigation of a new complaint, which may lead to formal charges and further disciplinary proceedings. In certain instances, the Commission will authorize a follow-up review of the judge's conduct to assure that promised remedial action was indeed taken. In 1999, the Court of Appeals, in upholding the removal of a judge who *inter alia* used the power and prestige of his office to promote a particular private defensive driver program, noted that the judge had persisted in his conduct notwithstanding a prior caution from the Commission that he desist from such conduct. *Matter of Assini v Commission on Judicial Conduct*, 94 NY2d 26 (1999).

OBSERVATIONS AND RECOMMENDATIONS

The Commission traditionally devotes a section of its Annual Report to a discussion of topics of special note that have come to its attention in the course of considering complaints. It does so for public education purposes, to advise the judiciary as to potential misconduct that may be avoided, and pursuant to its statutory authority to make administrative and legislative recommendations.

FINANCIAL DISCLOSURE

All judges serving on courts of record in the New York State Unified Court System – that is, all courts except town and village courts – and all non-incumbent candidates seeking election to courts of record – are required by law to file annual financial disclosure statements, like those filed by other state officials and state government employees.

The underlying public policy, as embodied in the Ethics in Government Act of 1987, is clear: to promote public confidence in the integrity of state government institutions and officers, to discourage the use of public office to further private gain, and to preserve the integrity of governmental institutions. The Act prohibits certain activities, requires financial disclosure by certain State employees, and provides for public inspection of financial statement.

Among other things, the filing of public financial disclosure statements by judges provides a check on conflicts of interest. Litigants, lawyers and others have a means of identifying potential conflicts and, if necessary, moving to disqualify a judge from presiding over matters where such conflicts appear to exist. Of course, for the system to work as intended, judges and others who are obliged to file such statements must do so accurately. Even inadvertent omissions may thwart the intended purpose of the reporting requirement by concealing information about conflicts that might have prompted a litigant or lawyer to request a new judge in a case. Material omissions that were intentional or grossly negligent would be especially egregious and, if proven, lead to serious disciplinary consequences.

Since 1990, the Ethics Commission for the Unified Court System (UCS Ethics) has been responsible for administering the distribution, collection, review and maintenance of annual financial disclosure statements for all judges and those court system employees who are required by law to file. The powers, duties and procedures of the UCS Ethics are set forth in 22 NYCRR Parts 40 and 7400.

Section 211(4) of the Judiciary Law and Section 40.2 of the Rules of the Chief Judge require judges to file their annual financial disclosure statements by May 15 of each succeeding year. Section 100.5(A)(4)(g) of the Rules Governing Judicial Conduct require a judicial candidate to file a financial disclosure statement “within 20 days following the date on which the judge or non-judge becomes such a candidate.”

Full-time judges are also obliged under the Rules to report extra-judicial compensation annually to the clerk of the courts on which they sit. 22 NYCRR 100.4(H)(2).

A judge who fails to submit a timely disclosure statement is issued a “Notice to Cure” by UCS Ethics, usually providing 30 days notice. Failure to heed a Notice to Cure results in issuance of a

“Notice of Delinquency,” which UCS Ethics is also required to send to the Judicial Conduct Commission, pursuant to Section 40.1(k) of the Rules of the Chief Judge.

A Notice of Delinquency automatically triggers a Commission investigation against the allegedly tardy judge. Where investigation reveals a valid excuse, discipline would not be imposed. Where the judge’s explanation is not persuasive but the delinquency was a first-time oversight and the judge promptly files upon receipt of the UCS Ethics notice, the Commission may issue a confidential cautionary letter. However, where there are aggravating circumstances with respect to a judge’s financial disclosure statements, such as multiple instances of late filings or filings that contain material inaccuracies, public discipline may result.

In 2020, the Court of Appeals upheld the Commission’s determination to remove a Family Court judge from office, in part due to material deficiencies in various annual disclosure statements, such as the failure to report extra-judicial income. *Matter of Richard H. Miller, II*, 35 NY3d 484 (2020). Less egregious cases of late or inaccurate filings have resulted in censure or admonition. *See, Matter of McAndrews*, 2014 Annual Report 157; *Matter of Nora S. Anderson*, 2013 Annual Report 75; *Matter of Joseph S. Alessandro*, 13 NY3d 238 (2009); *Matter of Francis M. Alessandro, Id.*; *Matter of John J. Elliott*, 2003 Annual Report 107; *Matter of Robert T. Russell, Jr.*, 2001 Annual Report 121; and *Matter of Bernard Burstein*, 1994 Annual Report 57.

Financial disclosure is an important and uncomplicated judicial obligation, as to which discipline is almost always the result of easily averted self-inflicted error. All judges and judicial candidates can avoid the Commission’s attention in this regard by fulfilling their annual disclosure responsibilities in a timely and complete manner.

SOCIAL MEDIA AND THE JUDICIARY

Although the Commission has commented previously on the potential perils for judges who participate in social media, the continuing influx of complaints in this area compels another review of the subject.

The proliferation of social media poses special concerns for judges and others who are bound by codes of ethics, particularly in an era where so little is truly private, and electronic pages are easily “captured” by third parties, preserved and recirculated. The hasty or improvident post that is quickly withdrawn may endure and be seen far longer and wider than the creator intended or imagined.

Both the Commission and the Advisory Committee on Judicial Ethics have addressed judicial interactions on such internet platforms as Facebook and personal or professional websites, and they have articulated a common standard. Regardless of the forum – whether in person, writing or electronic media – a judge is bound by the Rules Governing Judicial Conduct to observe high standards of conduct and act at all times in a manner that promotes public confidence in judicial independence, integrity and impartiality.

In Formal Opinion 462 (2013), “Judge’s Use of Electronic Social Networking Media,” the American Bar Association cautioned judges who use electronic social media to “assume that comments posted [on such forums] will not remain within the circle of the judge’s connections.”

In Opinion [08-176](#) (2008), the New York Advisory Committee on Judicial Ethics stated that if a judge otherwise complies with the Rules Governing Judicial Conduct, he or she may join or make use of an internet-based social network but should exercise an appropriate degree of discretion in doing so. A judge should also stay abreast of changes to the features of any such network because new developments may have an impact upon the judge’s ethical obligations under the Rules.

[Opinion 11-125](#) (2011) delineates various categories of relationship – acquaintance, close social relationship, and close personal relationship – and the different tests to apply in determining the appropriate category and whether, based on the nature of the relationship, disclosure and/or recusal is required. It should be required reading for all judges.

In Opinion [13-39](#) (2013), citing Opinions [08-176](#) and [11-125](#), the Advisory Committee specifically addressed whether a judge must recuse from a case involving his or her “Facebook friends.” The Committee stated that “the mere status of being a ‘Facebook friend,’ without more, is an insufficient basis to require recusal,” and that there is no appearance of impropriety “based solely on having previously ‘friended’ certain individuals who are now involved in some manner in a pending action.” However, the Committee noted that “interpersonal relationships are varied, fact-dependent, and unique to the individuals involved.” Decisions to recuse would therefore be based on the “the nature of [the judges’] specific relationships with particular individuals and their ethical obligations resulting from those relationships.” A “mere ‘acquaintance[ship]’” would not require recusal. A “close social relationship,” however would require a judge to, “at the very least, disclose the relationship either in writing or on the record, even if the judge believes he/she can be fair and impartial.” *See* Opinion 11-125. Disqualification is required if a judge has a “close personal relationship” with a Facebook friend. *Id.*

In Opinion [14-05](#) (2014), the Advisory Committee addressed whether it is permissible to host a court website on a social network, specifically responding to an inquiry about the court establishing a Facebook page. The opinion noted that “many aspects of a social network could prove problematic for a court website,” and particularly highlighted the fact that Facebook and other social networks sell and display third-party advertisements without consulting the user. It also noted that such “advertisements are typically dynamic, in that they may change to reflect a particular user’s browsing history, and interactive, in that they invite users to navigate away from the visited page and explore other goods and services.” This would create at least an appearance that the court was endorsing or directing visitors to commercial products and services, and that would undermine the independence, impartiality and dignity of the judiciary and the courts.

Opinion [20-58](#) warns part-time judges who also practice law against publishing their decisions and opinions on a social media website, which would inevitably invite public comment and at least appear to be intertwining the judges’ law practices with their judicial roles.

Opinion [21-31](#) warns against even inadvertently promoting a civic, charitable or other organization’s fundraising activities in a social media campaign run by the organization.

In 2016, the Commission publicly admonished a judge who, *inter alia*, made comments on her Facebook page that were critical of the prosecution in a case against a local town council candidate. [Matter of Whitmarsh](#). The judge violated the rule that prohibits public comments about any proceeding pending or impending in any court within the United States or its territories, and in doing so referred to her judicial position, thus violating a separate rule prohibiting the use of the prestige of office to advance a private interest. Sections 100.3(B)(8), 100.2(C) of the Rules Governing Judicial Conduct

In 2018, the Commission publicly admonished a judge who entered a property without permission and took photos that he posted on Facebook with disparaging comments about the occupant, then failed to remove the Facebook posts promptly after assuring the Commission he would do so. [Matter of Fisher](#).

In 2020, the Commission censured one judge for *inter alia* commenting on a pending lawsuit via social media, and admonished another judge for promoting the campaign of a candidate for non-judicial office and for promoting controversial political causes. [Matter of Panepinto](#); [Matter of Schmidt](#).

In 2021, the Commission accepted the stipulated resignation of a judge who posted anti-LGBTQ messages on social media. [Matter of Knutsen](#). It also publicly admonished a judge whose social media account posted photos and statements that aligned the judge with law enforcement, thereby undermining the appearance of impartiality. [Matter of Peck](#).

A judge must be wary of inviting or engaging in social media dialogue with lawyers, litigants, witnesses or others who may be involved in pending litigation. Particularly where pseudonyms are used, the judge may not know that a person who responds to his/her posting may be involved in a case before the judge or a judicial colleague. At the very least, the appearance of impropriety may be created in such a circumstance, particularly if others who access the social media page are aware that the judge's correspondent is also involved in a matter pending before the judge.

As social media proliferates throughout society, the number of social-media-related complaints submitted to the Commission is growing. Every such complaint will be individually evaluated, and as it did in [Whitmarsh](#) and [Fisher](#), the Commission will determine whether the judge's conduct complied with or violated judicial ethics, regardless of the social forum or platform in which it occurred. It is not a defense to claim that the judge was merely reposting or commenting on someone else's problematic message.

The Commission strongly encourages judges to remember that social media posts are fraught with potential ethical concerns. Think carefully *before* posting, especially when engaged in a heated discussion, and consider that a moment of reflection and restraint now may avert aggravation and disciplinary consequences later.

THE COMMISSION'S BUDGET

Although the Commission performs a purely Judicial Branch function and is not an Executive agency reporting to the Governor, it was determined in 1978 that the Commission's annual funding request would be submitted to the Legislature by the Governor in the Executive Budget. This is intended to avoid the obvious conflict that would arise were the Commission's budget to be controlled by the very Judicial Branch whose officers it may investigate and discipline.

Where the Executive and the Commission have not agreed on the proposed annual budget and the Executive has unilaterally recommended a figure, the Commission has successfully appealed to the Legislature for additional funding. Twice in the last three years, for example, the Legislature added a total of \$660,000 to the Executive's recommendation, appropriating \$6,356,000 last year. After years of financial constraints that among other things resulted in staff reductions of 26%, the Commission was able to rebuild and start filling vacant positions.

This year, after mutually respectful and substantive communications evincing the Governor's appreciation of the Commission's constitutional mandate and independence, the Executive Budget recommends \$7,189,000, as the Commission requested. This represents an increase of \$840,000, which will allow the Commission to continue to rebuild and hire additional staff, implement much-needed case-management and records-keeping software, and meet mandated increases in rent and other contractual obligations.

SELECTED BUDGET FIGURES: 1978 TO PRESENT

Fiscal Year	Annual Budget ¹	New Complaints ²	Prelim Inquiries	New Investigations	Pending Year End	Public Dispositions	Full-Time Staff
1978	1.6m	641	N.A.	170	324	24	63
1988	2.2m	1109	N.A.	200	141	14	41
1996	1.7m	1490	492	192	172	15	20
2006	2.8m	1500	375	267	275	14	28
2007	4.8m	1711	413	192	238	27	51
2008	5.2m	1923	354	262	208	21	49
2017	5.6m	2143	605	148	173	16	41
2018	5.7m	2000	505	167	206	19	38
2019	6.0m	1944	505	149	231	13	42
2020	6.0m	1504	318	120	177	24	39
2021	6.4m	1938	375	125	191	17	43
2022	7.2m ³	~	~	~	~	~	~

¹ Budget figures are rounded off; budget figures are fiscal year (Apr 1 – Mar 31).

² Complaint figures are calendar year (Jan 1 – Dec 31).

³ Proposed

CONCLUSION

Public confidence in the independence, integrity, impartiality and high standards of the judiciary, and in an independent disciplinary system that helps keep judges accountable for their conduct, is essential to the rule of law. The members of the New York State Commission on Judicial Conduct are confident that the Commission's work contributes to those ideals, to a heightened awareness of the appropriate standards of ethics incumbent on all judges, and to the fair and proper administration of justice.

Respectfully submitted,

JOSEPH W. BELLUCK, ESQ., *CHAIR*
TAA GRAYS, ESQ., *VICE CHAIR*
HON. FERNANDO M. CAMACHO
JODIE CORNGOLD
HON. JOHN A. FALK
HON. ANGELA M. MAZZARELLI
HON. ROBERT J. MILLER
MARVIN RAY RASKIN, ESQ.
RONALD J. ROSENBERG, ESQ.
GRAHAM B. SEITER, ESQ.
AKOSUA GARCIA YEBOAH

APPENDIX A: BIOGRAPHIES OF COMMISSION MEMBERS

There are 11 members of the Commission on Judicial Conduct. Each serves a renewable four-year term. Four members are appointed by the Governor, three by the Chief Judge, and one each by the Speaker of the Assembly, the Minority Leader of the Assembly, the Temporary President of the Senate (Majority Leader) and the Minority Leader of the Senate.

Of the four members appointed by the Governor, one shall be a judge, one shall be a member of the New York State bar but not a judge, and two shall not be members of the bar, judges or retired judges. Of the three members appointed by the Chief Judge, one shall be a justice of the Appellate Division, one shall be a judge of a court other than the Court of Appeals or Appellate Division, and one shall be a justice of a town or village court. None of the four members appointed by the legislative leaders shall be judges or retired judges.

The Commission elects a Chair and a Vice Chair from among its members for renewable two-year terms, and appoints an Administrator who shall be a member of the New York State bar who is not a judge or retired judge. The Administrator appoints and directs the agency staff. The Commission also has a Clerk who plays no role in the investigation or litigation of complaints but assists the Commission in its consideration of formal charges, preparation of determinations and related matters.

Member	Appointing Authority	Year First App'ted	Expiration of Present Term
Joseph W. Belluck	(Former) Governor Andrew M. Cuomo	2008	3/31/2024
Taa Grays	Senate President Pro Tem Andrea Stewart-Cousins	2017	3/31/2023
Fernando M. Camacho	Chief Judge Janet DiFiore	2021	3/31/2024
Jodie Comgold	(Former) Governor Andrew M. Cuomo	2013	3/31/2023
John A. Falk	Chief Judge Janet DiFiore	2017	3/31/2025
Angela M. Mazzaelli	Chief Judge Janet DiFiore	2017	3/31/2022
Robert J. Miller	(Former) Governor Andrew M. Cuomo	2018	3/31/2022
Marvin Ray Raskin	Assembly Speaker Carl Heastie	2018	3/31/2022
Ronald J. Rosenberg	(Former) Senate Minority Leader John J. Flanagan	2020	3/31/2024
Graham B. Seiter	Assembly Minority Leader William A. Barclay	2021	3/31/2025
Akosua Garcia Yeboah	(Former) Governor Andrew M. Cuomo	2016	3/31/2025

Joseph W. Belluck, Esq., *Chair of the Commission*, graduated magna cum laude from the SUNY-Buffalo School of Law in 1994, where he served as Articles Editor of the Buffalo Law Review and where he is an adjunct lecturer on mass torts. He is a partner in the Manhattan law firm of Belluck & Fox, LLP, which focuses on asbestos and serious injury litigation. Mr. Belluck previously served as counsel to the New York State Attorney General, representing the State of New York in its litigation against the tobacco industry, as a judicial law clerk for Justice Lloyd Doggett of the Texas Supreme Court, as staff attorney for Public Citizen in Washington, D.C., and as Director of Attorney Services for Trial Lawyers Care, an organization dedicated to providing free legal assistance to victims of the September 11, 2001 terrorist attacks. Mr. Belluck has lectured frequently on asbestos, product liability, tort law and tobacco control policy. He is an active member of several bar associations, including the New York State Trial Lawyers Association and was a recipient of the New York State Bar Association's Legal Ethics Award. He is also a member of the SUNY Board of Trustees and sits on the board of several not-for-profit organizations.

Taa Grays, Esq., *Vice Chair of the Commission*, is a graduate of Harvard University, cum laude, and Georgetown University Law Center. She is Vice President & Associate General Counsel for Information Governance at MetLife, Inc., having served in other senior positions at MetLife since 2003. Prior to MetLife, she previously served as an Assistant District Attorney in the Bronx from 1997 - 2003. Ms. Grays is the Secretary of the New York State Bar Association, is on the New York Law Journal Board of Editors and has served as President of the Metropolitan Black Bar Association, the Network of Bar Leaders and the Association of Black Women. She has received numerous awards and recognition for her leadership in bar and diversity endeavors.

Honorable Fernando M. Camacho is a graduate of Columbia College and Fordham University School of Law. He previously served as judge of the New York City Criminal Court from 1997 to 2008 and as Administrative Judge for Criminal Matters, 11th Judicial District from 2008 to 2012. Justice Camacho was appointed to the Court of Claims in 2009 and has served as an Acting Justice of the Supreme Court, Suffolk County, since 2013. Justice Camacho began his career in the Manhattan District Attorney's Office, where he served from 1985 until 1995 when he left to work in private practice.

Jodie Corngold graduated from Swarthmore College. In her professional life she was responsible for all print and website communications for several nonprofit organizations, including a synagogue and a college preparatory school in Brooklyn. She is an ESL tutor and sits on several committees of the Brooklyn Public Library. Ms. Corngold is a marathon runner and is engaged in a variety of activities associated with her alma mater.

Honorable John A. Falk is a graduate of LeMoyne College and the University of Dayton School of Law. He is a partner with the firm Faraci Lange, LLP, in Rochester, where he focuses on personal injury litigation. He previously served as an Assistant District Attorney in Monroe County prosecuting violent felony offenses. He has served as a Justice of the Brighton Town Court since 2008. Justice Falk is a member of the American Board of Trial Advocates, the American Association for Justice, the New York State Trial Lawyers Association, the New York State Bar Association, the Monroe County Bar Association, the Genesee Valley Trial Lawyers Association, the New York State Magistrates Association, and the Monroe County Magistrates Association. He has been a lecturer for the Monroe County Bar Association and the Monroe Community College Police Academy and is active in the greater Rochester community, having served on such boards

as the Western New York Chapter of the American Liver Foundation, the Town of Brighton Planning Board and the Parks and Recreation Citizens' Advisory Committee.

Honorable Angela M. Mazzarelli is a graduate of Brandeis University and the Columbia University School of Law, where she was a teaching fellow in property law. In 1985, she was elected to the Civil Court of the City of New York and was assigned to sit in the Criminal Court, where she sat until 1988, when she was designated as an Acting Supreme Court Justice. She has served as an elected Supreme Court Justice since 1992. She presently serves as a Justice of the Appellate Division, First Department, having been appointed in 1994. Prior to her judicial career, Justice Mazzarelli served as a Bronx Legal Services lawyer, as a Law Assistant in the Civil Term of the Supreme Court in Manhattan, and later as a Principal Law Clerk to a state Supreme Court Justice. She also was a partner in the law firm Wresien & Mazzarelli, specializing in civil litigation. Justice Mazzarelli is a member of the New York State Commission on Forensic Science and is the former Chair of the Executive Committee of the Board of Trustees of the Practising Law Institute. She serves as a member of the Board of Directors of the National Organization of Italian American Women and was a member and co-vice Chair of the New York Pattern Jury Instructions Committee for over ten years.

Honorable Robert J. Miller is a graduate of Brooklyn College and the Georgetown University Law Center. In 2007, he was elected to the Supreme Court, Second Judicial District, and in 2010 he was appointed to the Appellate Division, Second Department. Prior to his judicial career Justice Miller was a partner in several law firms, including Reed Smith and Parker Duryee Rosoff & Haft. Justice Miller is a frequent lecturer at a variety of Continuing Legal Education programs and has long been active in various civic and bar associations endeavors. Justice Miller is the Chair of the New York State Ethics Commission and is a member of the New York State-Federal Judicial Council.

Marvin Ray Raskin, Esq., is a graduate of New York Law School, where he served as Editor-in-Chief of the law school publication *Equitas*. He has maintained a private practice in the Bronx since 1977 and has an office in Yorktown Heights. Mr. Raskin previously served as an assistant district attorney in the Bronx. He has been a member of the Bronx County Bar Association for over 40 years, was elected president in 1994, and since 1996 has been Chair of its Criminal Courts Committee. Mr. Raskin served on the New York City Mayor's Advisory Committee on the Judiciary, 2007-2017, under Mayors Bloomberg and DiBlasio. He is presently the Vice-Chair of the Central Screening Committee, Assigned Counsel Plan, for the Appellate Division, First Department. Among his professional awards are the New York County Lawyers Pro Bono Award for free legal services rendered to the Courts and the Public, The New York Law Journal award for Attorney's Who Lead by Example, and the President's Award for Extraordinary Service Award by the Bronx County Bar Association. Mr. Raskin regularly lectures on criminal law and procedure and legal ethics in the metropolitan area and has been an Adjunct Assistant Professor at the Herbert H. Lehman College of the City University of New York.

Ronald J. Rosenberg, Esq., is a graduate of Hofstra University and St. John's University School of Law. He is a senior partner with the Garden City firm of Rosenberg Calica & Birney LLP. His practice includes commercial, business, real estate, land use and municipal litigations and transactions and business entity formation and litigation. Mr. Rosenberg began his career as an associate with a Manhattan law firm and later started his own firm, the Law Offices of Ronald J. Rosenberg. He previously served as Chair of the Banking Committee and as a member of the

Judiciary Committee of the Nassau County Bar Association. He has been a member of the Florida Bar since 1979. He has also been appointed by various Supreme Court Justices to serve as a Special Referee, Referee, and Receiver. Mr. Rosenberg is a featured columnist in the Long Island Business News and has appeared on television as a legal commentator on various news shows including “Good Day, New York.”

Graham B. Seiter, Esq., is a graduate of Saint Lawrence University and Syracuse University College of Law. Mr. Seiter is an attorney in private practice with an office in Oswego County. His law practice includes family law, criminal defense, real estate, estate planning and business formation. He has also served as the Town Attorney to the Town of Richland, New York, since 2019. Mr. Seiter began his career with the law firm Caraccioli & Associates, PLLC. He is currently the president of the Oswego County Bar Association.

Akosua Garcia Yeboah received her B.A. from the State University of New York at New Paltz and holds a Master of Science degree in Urban Planning and Environmental Studies from Rensselaer Polytechnic Institute. She is a former Senior Information Technology Project Manager for the City of Albany. She previously worked for the IBM Corporation as a Systems Engineer and I.T. Consultant. Ms. Yeboah is a former member of the Attorney Grievance Committee of the Appellate Division, Third Department. She also served as a member of the Commission on Statewide Attorney Discipline. Ms. Yeboah served two terms on the Albany Citizen’s Police Review Board as a Board member and as Secretary of the Board. She was also a member of the Advisory Board of the Center for Women in Government & Civil Society, and Chair of the Advisory Board of the New York State Office of the Advocate for Persons with Disabilities.

RECENT MEMBER

Paul B. Harding, Esq., served on the Commission from 2006 to 2021. He is a graduate of the State University of New York at Oswego and the Albany Law School at Union University. He is the Managing Partner in the law firm of Martin, Harding & Mazzotti, LLP in Albany, New York. He is on the Board of Directors of the New York State Trial Lawyers Association and the Marketing and Client Services Committee for the American Association for Justice. He is also a member of the New York State Bar Association and the Albany County Bar Association. He previously sat on the Steering Committee for the Legal Project, which was established by the Capital District Women's Bar Association to provide a variety of free and low cost legal services to the working poor, victims of domestic violence and other underserved individuals in the Capital District of New York State.

APPENDIX B: BIOGRAPHIES OF COMMISSION ATTORNEYS

Eric Arnone, *Senior Attorney*, is a graduate of New York University (magna cum laude) and Brooklyn Law School. Prior to joining the Commission Staff, he served for ten years as an Assistant District Attorney in Manhattan where he was assigned to the Trial Division, Homicide Investigations Unit and the Violent Criminal Enterprises Unit. After leaving the Manhattan D.A., he entered private practice with a focus on criminal defense and both state and federal civil litigation.

Denise Buckley, *Senior Litigation Counsel*, earned her J.D. at NYU School of Law and B.A. (magna cum laude, in cursu honorum) at Fordham University. Denise has over twenty years of experience in the field of litigation in three different countries. After working in New York City for six years as an insurance defense lawyer, she travelled to Scotland, U.K., where she earned an LL.M. at the University of Edinburgh and worked as a Professional Support Lawyer for Biggart Baillie Solicitors in their Edinburgh and Glasgow offices. She worked for the Chief State Solicitor's Office in Dublin, Ireland as a State Solicitor for eight years representing the Irish government in judicial review proceedings across a broad range of legal issues. Before assuming her current role with the CJC, she worked as an Assistant Attorney General with the Albany Litigation Bureau of the New York State Office of the Attorney General for six years where she represented the State of New York, its officers, and agencies in actions and proceedings across many substantive areas of the law. Denise also has served as an Adjunct Lecturer at Albany Law School of Union College and a volunteer at Capital City Rescue Mission.

Cathleen S. Cenci, *Deputy Administrator in Charge of the Commission's Albany office*, is a graduate of Potsdam College (summa cum laude) and the Albany Law School of Union University. In 1979, she completed the Course Superior at the Institute of Touraine in Tours, France. Ms. Cenci joined the Commission staff in 1985. She has been a judge of the Albany Law School moot court competitions and a member of Albany County Big Brothers/Big Sisters.

Brenda Correa, *Principal Attorney*, is a graduate of the University of Massachusetts at Amherst and Elisabeth Haub School of Law at Pace University (cum laude). Prior to joining the Commission staff, she served as an Assistant District Attorney in the New York County District Attorney's Office under Robert M. Morgenthau. She also worked as an associate for Wilentz Goldman & Spitzer, PA, in the area of toxic torts and Kaufman Borgeest & Ryan, LLP, in the area of legal malpractice defense and as Professional Responsibility Counsel for Foley & Lardner, LLP.

Daniel W. Davis, *Former Staff Attorney*, was a graduate of New York University (cum laude), earned a Masters in Public Administration at NYU and graduated from the Benjamin N. Cardozo School of Law, where he was Articles Editor on the law review and a teaching assistant. Prior to joining the Commission staff, he was Senior Consultant with a business advisory firm.

Kelvin S. Davis, *Staff Attorney*, is a graduate of Yale University and the University of Virginia Law School. Prior to joining the Commission staff, he served as an Assistant Staff Judge Advocate in the United States Air Force and as Judicial Law Clerk to New Jersey Superior Court Judge Eugene H. Austin.

Melissa DiPalo, *Senior Attorney*, is a graduate of the University of Richmond and Brooklyn Law School. She previously served as Administrative Counsel and as a Staff Attorney at the Commission. She has also served as an Assistant District Attorney in the Bronx and as a Court Attorney in Kings County Civil Court.

David M. Duguay, *Senior Attorney*, is a graduate of the State University of New York at Buffalo (summa cum laude) and the SUNY at Buffalo Law School. Prior to joining the Commission's staff, he was Special Assistant Public Defender and Town Court Supervisor in the Monroe County Public Defender's Office. He served previously as a staff attorney with Legal Services, Inc., of Chambersburg, Pennsylvania.

Stephanie A. Fix, *Staff Attorney*, is a graduate of the State University of New York at Brockport and Quinnipiac College School of Law in Connecticut. Prior to joining the Commission staff she was in private practice focusing on civil litigation and professional liability in Manhattan and Rochester. She has served on the Monroe County Bar Association (MCBA) Board of Trustees and is a member of the MCBA's Professional Performance Committee. She has served on the Bishop Kearney High School Board of Trustees. Ms. Fix received the President's Award for Professionalism from the Monroe County Bar Association in 2004 for her participation with the ABA "Dialogue on Freedom" initiative. She is a member of the New York State Bar Association and Greater Rochester Association of Women Attorneys (GRAWA). Ms. Fix is an adjunct professor at St. John Fisher College.

Alan W. Friedberg, *Special Counsel*, is a graduate of Brooklyn College, the Brooklyn Law School and the New York University Law School, where he earned an LL.M. in Criminal Justice. He previously served as Chief Counsel to the Departmental Disciplinary Committee of the Appellate Division, First Department, as Deputy Administrator in Charge of the Commission's New York City Office, as a Senior Attorney at the Commission, as a staff attorney in the Law Office of the New York City Board of Education, as an adjunct professor of business law at Brooklyn College, and as a junior high school teacher in the New York City public school system.

Stella Gilliland, *Staff Attorney*, is a graduate of Lewis and Clark College and Fordham University School of Law. She previously served as Deputy State Public Defender with the Colorado Public Defender in Alamosa, Colorado.

Shruti Joshi, *Staff Attorney*, completed her Bachelor of Arts and Bachelor of Law degree from Symbiosis Law School in India and Masters in Intellectual Property Law from George Washington University Law School in Washington, D.C. Prior to joining the Commission staff, she worked at the Legal Aid Society of Northeastern New York in Albany where she represented low-income clients in foreclosure and housing cases. Shruti practiced in India as an in-house counsel for

PepsiCo, Inc. before moving to the United States of America. She is dual-qualified, with license to practice in New York and India.

Adam B. Kahan, *Staff Attorney*, is a graduate of Duke University (summa cum laude) and University of Virginia School of Law, where he served as Articles Editor for the Virginia Journal of International Law. Prior to joining the Commission Staff, he was in private practice focusing on capital markets and private fund formation at Simpson Thacher & Bartlett in Manhattan.

Kathleen E. Klein, *Senior Attorney*, is a graduate of State University of New York College at Fredonia (cum laude) and Pace University School of Law where she was a Merit Scholarship recipient. Prior to joining the Commission Staff, she served as a Senior Assistant District Attorney with the Ulster County District Attorney's Office. She worked in private practice as a litigator, but began her career negotiating contracts for fractional aircraft ownership for CitationShares Sales, Inc. in Greenwich, Connecticut.

Mark Levine, *Deputy Administrator in Charge of the Commission's New York office*, is a graduate of the State University of New York at Buffalo and Brooklyn Law School. He previously served as Principal Law Clerk to Acting Supreme Court Justice Jill Konviser and Supreme Court Justice Phylis Skloot Bamberger, as an Assistant Attorney General in New York, as an Assistant District Attorney in Queens, and as law clerk to United States District Court Judge Jacob Mishler. Mr. Levine also practiced law with the law firms of Patterson, Belknap, Webb & Tyler, and Weil, Gotshal & Manges.

Edward Lindner, *Deputy Administrator for Litigation*, is a graduate of the University of Arizona and Cornell Law School, where he was a member of the Board of Editors of the Cornell International Law Journal. Prior to joining the Commission's staff, he was an Assistant Solicitor General in the Division of Appeals & Opinions for the New York State Attorney General. He has been a Board Member and volunteer for various community organizations, including Catholic Charities, The Children's Museum at Saratoga, the Saratoga Springs Public Library and the Saratoga Springs Preservation Foundation.

Jennifer L. Lowry, *Principal Attorney*, is a graduate of Barnard College (magna cum laude) and Fordham Law School, where she received the Archibald R. Murray Public Service Award and served as the Managing Editor of the Environmental Law Journal. Prior to joining the Commission, she served as Principal Law Clerk to Acting Supreme Court Justice Jill Konviser. She previously served as an Assistant District Attorney in New York County, assigned to the Trial Division, Sex Crimes and Domestic Violence Units, and the Appeals Bureau, and as an Assistant District Attorney in Westchester County, assigned to the Special Prosecutions and Local Courts and Grand Jury Divisions.

Vickie Ma, *Senior Attorney*, is a graduate of the University of Wisconsin at Madison and Albany Law School, where she was Associate Editor of the Law Review. Prior to joining the Commission staff, she served as an Assistant District Attorney in Kings County. She previously worked for the Commission from 2000 to 2006, when she left for a legal consultant position in private industry.

M. Kathleen Martin, *Senior Attorney*, is a graduate of Mount Holyoke College and Cornell Law School (cum laude). Prior to joining the Commission's staff, she was an attorney at the Eastman Kodak Company, where among other things she held positions as Legal Counsel to the Health Group, Director of Intellectual Property Transactions and Director of Corporate Management Strategy Deployment. She also served as Vice President and Senior Associate Counsel at Chase Manhattan Bank, and in private practice with the firm of Nixon, Hargrave, Devans & Doyle.

S. Peter Pedrotty, *Senior Attorney*, is a graduate of St. Michael's College (cum laude) and the Albany Law School of Union University (magna cum laude). Prior to joining the Commission staff, he served as an Appellate Court Attorney at the Appellate Division, Third Department, and was engaged in the private practice of law in Saratoga County and with the law firm of Clifford Chance US LLP in Manhattan.

John J. Postel, *Deputy Administrator in Charge of the Commission's Rochester office*, is a graduate of the University of Albany and the Albany Law School of Union University. He joined the Commission staff in 1980. Mr. Postel serves on the Board of Directors of the Association of Judicial Disciplinary Counsel. He is a past president of the Governing Council of St. Thomas More R.C. Parish. He is a former officer of the Pittsford-Mendon Ponds Association and a former President of the Stonybrook Association. He served as the advisor to the Sutherland High School Mock Trial Team for eight years. He is the Vice President and a past Treasurer of the Pittsford Golden Lions Football Club, Inc. He is an assistant director and coach for Pittsford Community Lacrosse. He is an active member of the Pittsford Mustangs Soccer Club, Inc.

David Stromes, *Litigation Counsel*, is a graduate of Brandeis University and Brooklyn Law School. Prior to joining the Commission's staff, he served for nearly 12 years as an Assistant District Attorney in the Appeals Division of the New York County District Attorney's Office. He also has taught Appellate Advocacy as an adjunct professor at Brooklyn Law School.

Robert H. Tembeckjian, *Administrator and Counsel*, is a graduate of Syracuse University, the Fordham University School of Law and Harvard University's Kennedy School of Government, where he earned a Masters in Public Administration. He was a Fulbright Scholar to Armenia in 1994, teaching graduate courses and lecturing on constitutional law and ethics at the American University of Armenia and Yerevan State University. He also advised the Armenian Parliament on its drafting of a new constitution. Mr. Tembeckjian served on the Advisory Committee to the American Bar Association Commission to Evaluate the Model Code of Judicial Conduct from 2003-07. He is on the Board of Directors of the Association of Judicial Disciplinary Counsel and previously served as a Trustee of the Westwood Mutual Funds and the United Nations International School, and on the Board of Directors of the Civic Education Project. Mr. Tembeckjian has served on various ethics and professional responsibility committees of the New York State and New York City Bar Associations, and he has published numerous articles in legal periodicals on judicial ethics and discipline. He was a member of the editorial board of the Justice System Journal, a publication of the National Center for State Courts, from 2007-10.

Celia A. Zahner, *Clerk of the Commission*, is a graduate of Colgate University and Harvard Law School. She previously served as Special Counsel to the Independent Investigations Officer and the Chief Investigator appointed pursuant to the Consent Order in *United States v International Brotherhood of Teamsters*. Ms. Zahner also served as a Staff Attorney in the Law Enforcement Bureau of the New York City Commission on Human Rights and as a Staff Attorney in the Criminal Defense Division of the Legal Aid Society.

APPENDIX C: REFEREES WHO SERVED IN 2021

Referee	City/Town	County
Howard Benjamin, Esq.	New York	New York
A. Vincent Buzard, Esq.	Pittsford	Monroe
Linda J. Clark, Esq.	Albany	Albany
David M. Garber, Esq.	Syracuse	Onondaga
Thomas F. Gleason, Esq.	Albany	Albany
Ronald Goldstock, Esq.	Larchmont	Westchester
Michael J. Hutter, Esq.	Albany	Albany
Gregory S. Mills, Esq.	Clifton Park	Saratoga
Hugh H. Mo, Esq.	New York	New York
Steven E. North, Esq.	New York	New York
Margaret M. Reston, Esq.	Rochester	Monroe
Michael Whiteman, Esq.	Albany	Albany

APPENDIX D: THE COMMISSION'S POWERS, DUTIES AND HISTORY

Creation of the New York State Commission on Judicial Conduct

For decades prior to the creation of the Commission on Judicial Conduct, judges in New York State were subject to professional discipline by a patchwork of courts and procedures. The system, which relied on judges to discipline fellow judges, was ineffective. In the 100 years prior to the creation of the Commission, only 23 judges were disciplined by the patchwork system of *ad hoc* judicial disciplinary bodies. For example, an *ad hoc* Court on the Judiciary was convened only six times prior to 1974. There was no staff or even an office to receive and investigate complaints against judges.

Starting in 1974, the Legislature changed the judicial disciplinary system, creating a temporary commission with a full-time professional staff to investigate and prosecute cases of judicial misconduct. In 1976 and again in 1977, the electorate overwhelmingly endorsed and strengthened the new commission, making it permanent and expanding its powers by amending the State Constitution.

The Commission's Powers, Duties, Operations and History

The State Commission on Judicial Conduct is the disciplinary agency constitutionally designated to review complaints of judicial misconduct in New York State. The Commission's objective is to enforce the obligation of judges to observe high standards of conduct while safeguarding their right to decide cases independently. The Commission does not act as an appellate court. It does not review judicial decisions or alleged errors of law, nor does it issue advisory opinions, give legal advice or represent litigants. When appropriate, it refers complaints to other agencies

By offering a forum for citizens with conduct-related complaints, and by disciplining those judges who transgress ethical constraints, the Commission seeks to insure compliance with established standards of ethical judicial behavior, thereby promoting public confidence in the integrity and honor of the judiciary.

All 50 states and the District of Columbia have adopted a commission system to meet these goals.

In New York, a temporary commission created by the Legislature in 1974 began operations in January 1975. It was made permanent in September 1976 by a constitutional amendment. A second constitutional amendment, effective on April 1, 1978, created the present Commission with expanded membership and jurisdiction. (For clarity, the Commission, which operated from September 1976 through March 1978, will be referred to as the "former" Commission.)

Membership and Staff

The Commission is composed of 11 members serving four-year terms. Four members are appointed by the Governor, three by the Chief Judge of the Court of Appeals, and one by each of the four leaders of the Legislature. The Constitution requires that four members be judges, at least one be an attorney, and at least two be lay persons. The Commission elects one of its members to be chairperson and

appoints an Administrator and a Clerk. The Administrator is responsible for hiring staff and supervising staff activities subject to the Commission's direction and policies. The Commission's principal office is in New York City. Offices are also maintained in Albany and Rochester.

The following individuals have served on the Commission since its inception. Asterisks denote those members who chaired the Commission.

Hon. Rolando T. Acosta (2010-17)
Hon. Sylvia G. Ash (2016)
Hon. Fritz W. Alexander, II (1979-85)
Hon. Myriam J. Altman (1988-93)
Helaine M. Barnett (1990-96)
Herbert L. Bellamy, Sr. (1990-94)
*Joseph W. Belluck (2008-present)
*Henry T. Berger (1988-2004)
*John J. Bower (1982-90)
Hon. Evelyn L. Braun (1994-95)
David Bromberg (1975-88)
Jeremy Ann Brown (1997-2001)
Hon. Fernando M. Camacho (2021-present)
Hon. Richard J. Cardamone (1978-81)
Hon. Frances A. Ciardullo (2001-05)
Hon. Carmen Beauchamp Ciparick (1985-93)
E. Garrett Cleary (1981-96)
Stephen R. Coffey (1995-2011)
Joel Cohen (2010-18)
Jodie Corngold (2013-present)
Howard Coughlin (1974-76)
Mary Ann Crotty (1994-98)
Dolores DelBello (1976-94)
Colleen C. DiPirro (2004-08)
Richard D. Emery (2004-17)
Hon. Herbert B. Evans (1978-79)
Hon. John A. Falk (2017-present)
*Raoul Lionel Felder (2003-08)
*William Fitzpatrick (1974-75)
*Lawrence S. Goldman (1990-2006)
Taa Grays (2017-present)
Hon. Louis M. Greenblott (1976-78)
Paul B. Harding (2006-2021)
Christina Hernandez (1999-2006)
Hon. James D. Hopkins (1974-76)
Elizabeth B. Hubbard (2008-2011)
Marvin E. Jacob (2006-09)
Hon. Daniel W. Joy (1998-2000)

Michael M. Kirsch (1974-82)
 *Hon. Thomas A. Klonick (2005-17)
 Hon. Jill Konviser (2006-10)
 *Victor A. Kovner (1975-90)
 William B. Lawless (1974-75)
 Hon. Leslie G. Leach (2016-20)
 Hon. Daniel F. Luciano (1995-2006)
 William V. Maggipinto (1974-81)
 Hon. Frederick M. Marshall (1996-2002)
 Hon. Angela M. Mazzairelli (2017-present)
 Hon. Ann T. Mikoll (1974-78)
 Hon. Robert J. Miller (2018-present)
 Mary Holt Moore (2002-03)
 Nina M. Moore (2009-13)
 Hon. Juanita Bing Newton (1994-99)
 Hon. William J. Ostrowski (1982-89)
 Hon. Karen K. Peters (2000-12)
 *Alan J. Pope (1997-2006)
 Marvin Ray Raskin (2018-present)
 *Lillemor T. Robb (1974-88)
 Ronald J. Rosenberg (2020-present)
 Hon. Isaac Rubin (1979-90)
 Hon. Terry Jane Ruderman (1999-2016)
 *Hon. Eugene W. Salisbury (1989-2001)
 Barry C. Sample (1994-97)
 Graham B. Seiter (2021-present)
 Hon. Felice K. Shea (1978-88)
 John J. Sheehy (1983-95)
 Hon. Morton B. Silberman (1978)
 Richard A. Stoloff (2011-19)
 Hon. William C. Thompson (1990-98)
 Carroll L. Wainwright, Jr. (1974-83)
 Hon. David A. Weinstein (2012-18)
 Akosua Garcia Yeboah (2016-present)

The Commission's Authority

The Commission has the authority to receive and review written complaints of misconduct against judges, initiate complaints on its own motion, conduct investigations, file Formal Written Complaints and conduct formal hearings thereon, subpoena witnesses and documents, and make appropriate determinations as to dismissing complaints or disciplining judges within the state unified court system. This authority is derived from Article 6, Section 22, of the Constitution of the State of New York, and Article 2-A of the Judiciary Law of the State of New York.

By provision of the State Constitution (Article 6, Section 22), the Commission:

shall receive, initiate, investigate and hear complaints with respect to the conduct, qualifications, fitness to perform or performance of official duties of any judge or justice of the unified court system...and may determine that a judge or justice be admonished, censured or removed from office for cause, including, but not limited to, misconduct in office, persistent failure to perform his duties, habitual intemperance, and conduct, on or off the bench, prejudicial to the administration of justice, or that a judge or justice be retired for mental or physical disability preventing the proper performance of his judicial duties.

The types of complaints that may be investigated by the Commission include improper demeanor, conflicts of interest, violations of defendants' or litigants' rights, intoxication, bias, prejudice, favoritism, gross neglect, corruption, certain prohibited political activity and other misconduct on or off the bench.

Standards of conduct are set forth primarily in the Rules Governing Judicial Conduct (originally promulgated by the Administrative Board of the Judicial Conference and subsequently adopted by the Chief Administrator of the Courts with the approval of the Court of Appeals) and the Code of Judicial Conduct (adopted by the New York State Bar Association).

If the Commission determines that disciplinary action is warranted, it may render a determination to impose one of four sanctions, subject to review by the Court of Appeals upon timely request by the respondent-judge. If review is not requested within 30 days of service of the determination upon the judge, the determination becomes final. The Commission may render determinations to:

- admonish a judge publicly;
- censure a judge publicly;
- remove a judge from office;
- retire a judge for disability.

In accordance with its rules, the Commission may also issue a confidential letter of dismissal and caution to a judge, despite a dismissal of the complaint, when it is determined that the circumstances so warrant. In some cases the Commission has issued such a letter after charges of misconduct have been sustained.

Procedures

The Commission meets several times a year. At its meetings, the Commission reviews each new complaint of misconduct and makes an initial decision whether to investigate or dismiss the complaint. It also reviews staff reports on ongoing matters, makes final determinations on completed proceedings, considers motions and entertains oral arguments pertaining to cases in which judges have been served with formal charges, and conducts other Commission business.

No investigation may be commenced by staff without authorization by the Commission. The filing of formal charges also must be authorized by the Commission.

After the Commission authorizes an investigation, the Administrator assigns the complaint to a staff attorney, who works with investigative staff. If appropriate, witnesses are interviewed and court records are examined. The judge may be asked to respond in writing to the allegations. In some instances, the Commission requires the appearance of the judge to testify during the course of the investigation. The judge's testimony is under oath, and a Commission member or referee designated by the Commission must be present. Although such an "investigative appearance" is not a formal hearing, the judge is entitled to be represented by counsel. The judge may also submit evidentiary data and materials for the Commission's consideration.

If the Commission finds after an investigation that the circumstances so warrant, it will direct its Administrator to serve upon the judge a Formal Written Complaint containing specific charges of misconduct. The Formal Written Complaint institutes the formal disciplinary proceeding. After receiving the judge's answer, the Commission may, if it determines there are no disputed issues of fact, grant a motion for summary determination. It may also accept an agreed statement of facts submitted by the Administrator and the respondent-judge. Where there are factual disputes that make summary determination inappropriate or that are not resolved by an agreed statement of facts, the Commission will appoint a referee to conduct a formal hearing and report proposed findings of fact and conclusions of law. Referees are designated by the Commission from a panel of attorneys and former judges. Following the Commission's receipt of the referee's report, on a motion to confirm or disaffirm the report, both the administrator and the respondent may submit legal memoranda and present oral argument on issues of misconduct and sanction. The respondent-judge (in addition to his or her counsel) may appear and be heard at oral argument.

In deciding motions, considering proposed agreed statements of fact and making determinations with respect to misconduct and sanction, and in considering other matters pertaining to cases in which Formal Written Complaints have been served, the Commission deliberates in executive session, without the presence or assistance of its Administrator or regular staff. The Clerk of the Commission assists the Commission in executive session, but does not participate in either an investigative or adversarial capacity in any cases pending before the Commission.

The Commission may dismiss a complaint at any stage during the investigation or adjudication.

When the Commission determines that a judge should be admonished, censured, removed or retired, its written determination is forwarded to the Chief Judge of the Court of Appeals, who in turn serves it upon the respondent-judge. Upon completion of service, the Commission's determination and the record of its proceedings become public. (Prior to this point, by operation of the strict provisions in Article 2-A of the Judiciary Law, all proceedings and records are confidential.) The respondent-judge has 30 days to request full review of the Commission's determination by the Court of Appeals. The Court may accept or reject the Commission's findings of fact or conclusions of law, make new or different findings of fact or conclusions of law, accept or reject the determined sanction, or make a different determination as to sanction. If no request for review is made within 30 days, the sanction determined by the Commission becomes effective.

Temporary State Commission on Judicial Conduct

The Temporary State Commission on Judicial Conduct was established in late 1974 and commenced operations in January 1975. The temporary Commission had the authority to investigate allegations of misconduct against judges in the state unified court system, make confidential suggestions and recommendations in the nature of admonitions to judges when appropriate and, in more serious cases, recommend that formal disciplinary proceedings be commenced in the appropriate court. All disciplinary proceedings in the Court on the Judiciary and most in the Appellate Division were public.

The temporary Commission was composed of two judges, five lawyers and two lay persons. It functioned through August 31, 1976, when it was succeeded by a permanent commission created by amendment to the State Constitution.

The temporary Commission received 724 complaints, dismissed 441 upon initial review and commenced 283 investigations during its tenure. It admonished 19 judges and initiated formal disciplinary proceedings against eight judges, in either the Appellate Division or the Court on the Judiciary. One of these judges was removed from office and one was censured. The remaining six matters were pending when the temporary Commission was superseded by its successor Commission. Five judges resigned while under investigation.

Former State Commission on Judicial Conduct

The temporary Commission was succeeded on September 1, 1976, by the State Commission on Judicial Conduct, established by a constitutional amendment overwhelmingly approved by the New York State electorate and supplemented by legislative enactment (Article 2-A of the Judiciary Law). The former Commission's tenure lasted through March 31, 1978, when it was replaced by the present Commission.

The former Commission was empowered to investigate allegations of misconduct against judges, impose certain disciplinary sanctions and, when appropriate, initiate formal disciplinary proceedings in the Court on the Judiciary, which, by the same constitutional amendment, had been given jurisdiction over all 3,500 judges in the unified court system. The sanctions that could be imposed by the former Commission were private admonition, public censure, suspension without pay for up to six months, and retirement for physical or mental disability. Censure, suspension and retirement actions could not be imposed until the judge had been afforded an opportunity for a full adversary hearing. These Commission sanctions were also subject to a *de novo* hearing in the Court on the Judiciary at the request of the judge.

The former Commission, like the temporary Commission, was composed of two judges, five lawyers and two lay persons, and its jurisdiction extended to judges within the state unified court system. The former Commission was authorized to continue all matters left pending by the temporary Commission.

The former Commission considered 1,418 complaints, dismissed 629 upon initial review, authorized 789 investigations and continued 162 investigations left pending by the temporary Commission.

During its tenure, the former Commission took action that resulted in the following:

- 15 judges were publicly censured;
- 40 judges were privately admonished;
- 17 judges were issued confidential letters of suggestion and recommendation.

The former Commission also initiated formal disciplinary proceedings in the Court on the Judiciary against 45 judges and continued six proceedings left pending by the temporary Commission. Those proceedings resulted in the following:

- 1 removal;
- 2 suspensions;
- 3 censures;
- 10 cases closed upon resignation of the judge;
- 2 cases closed upon expiration of the judge's term;
- 1 proceeding closed without discipline and with instruction by the Court on the Judiciary that the matter be deemed confidential.

The remaining 32 proceedings were pending when the former Commission expired. They were continued by the present Commission.

In addition to the ten judges who resigned after proceedings had been commenced in the Court on the Judiciary, 28 other judges resigned while under investigation by the former Commission.

Continuation from 1978 to 1980 of Formal Proceedings Commenced by the Temporary and Former Commissions

Thirty-two formal disciplinary proceedings which had been initiated in the Court on the Judiciary by either the temporary or former Commission were pending when the former Commission was superseded on April 1, 1978, and were continued without interruption by the present Commission.

The last five of these 32 proceedings were concluded in 1980, with the following results, reported in greater detail in the Commission's previous annual reports:

- 4 judges were removed from office;
- 1 judge was suspended without pay for six months;
- 2 judges were suspended without pay for four months;
- 21 judges were censured;
- 1 judge was directed to reform his conduct consistent with the Court's opinion;
- 1 judge was barred from holding future judicial office after he resigned; and
- 2 judges died before the matters were concluded.

The 1978 Constitutional Amendment

The present Commission was created by amendment to the State Constitution, effective April 1, 1978. The amendment created an 11-member Commission (superseding the nine-member former Commission), broadened the scope of the Commission's authority and streamlined the procedure for disciplining judges within the state unified court system. The Court on the Judiciary was abolished, pending completion of those cases that had already been commenced before it. All formal disciplinary hearings under the new amendment are conducted by the Commission.

Subsequently, the State Legislature amended Article 2-A of the Judiciary Law, the Commission's governing statute, to implement the new provisions of the constitutional amendment.

Summary of Complaints Considered since the Commission's Inception

Since January 1975, when the temporary Commission commenced operations, 63,909 complaints of judicial misconduct have been considered by the temporary, former and present Commissions. Of these, 54,354 were dismissed upon initial review or after a preliminary review and inquiry, and 9,555 investigations were authorized. Of the 9,555 investigations authorized, the following dispositions have been made through December 31, 2021:

- 1,195 complaints involving 890 judges resulted in disciplinary action (this does not include the 110 public stipulations in which judges agreed to vacate judicial office). (See details below and on the following page.)
- 1,863 complaints resulted in cautionary letters to the judge involved. The actual number of such letters totals 1,714, 93 of which were issued after formal charges had been sustained and determinations made that the judge had engaged in misconduct.
- 924 complaints involving 639 judges were closed upon resignation of the judge during investigation or in the course of disciplinary proceedings.
- 636 complaints were closed upon vacancy of office by the judge other than by resignation.
- 4,746 complaints were dismissed without action after investigation.
- 191 complaints are pending.

Of the 1,195 disciplinary matters against 890 judges as noted above, the following actions have been recorded since 1975 in matters initiated by the temporary, former or present Commission. (It should be noted that several complaints against a single judge may be disposed of in a single action. This accounts for the apparent discrepancy between the number of complaints and the number of judges

acted upon.) These figures take into account the 101 decisions by the Court of Appeals, 16 of which modified a Commission determination.

- 173 judges were removed from office;
- 3 judges were suspended without pay for six months (under previous law);
- 2 judges were suspended without pay for four months (under previous law);
- 370 judges were censured publicly;
- 282 judges were admonished publicly;
- 59 judges were admonished confidentially by the temporary or former Commission; and
- 1 matter was dismissed by the Court of Appeals upon the judge's request for review.

Court of Appeals Reviews

Since 1978, the Court of Appeals, on request of the respondent-judge, has reviewed 101 determinations filed by the present Commission. Of these 101 matters:

- The Court accepted the Commission's sanctions in 85 cases (76 of which were removals, 6 were censures and 3 were admonitions);
- The Court increased the sanction from censure to removal in 2 cases;
- The Court reduced the sanction in 13 cases:
 - 9 removals were modified to censures;
 - 1 removal was modified to admonition;
 - 2 censures were modified to admonitions; and
 - 1 censure was rejected and the charges were dismissed.
- The Court remitted 1 matter to the Commission for further proceedings.

APPENDIX E: RULES GOVERNING JUDICIAL CONDUCT

22 NYCRR § 100 *et seq.*

Rules of the Chief Administrator of the Courts Governing Judicial Conduct

Preamble

Section 100.0 Terminology.

Section 100.1 A judge shall uphold the integrity and independence of the judiciary.

Section 100.2 A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

Section 100.3 A judge shall perform the duties of judicial office impartially and diligently.

Section 100.4 A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.

Section 100.5 A judge or candidate for elective judicial office shall refrain from inappropriate political activity.

Section 100.6 Application of the rules of judicial conduct.

Preamble

The rules governing judicial conduct are rules of reason. They should be applied consistently with constitutional requirements, statutes, other court rules and decisional law and in the context of all relevant circumstances. The rules are to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

The rules are designed to provide guidance to judges and candidates for elective judicial office and to provide a structure for regulating conduct through disciplinary agencies. They are not designed or intended as a basis for civil liability or criminal prosecution.

The text of the rules is intended to govern conduct of judges and candidates for elective judicial office and to be binding upon them. It is not intended, however, that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of

the text and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system.

The rules are not intended as an exhaustive guide for conduct. Judges and judicial candidates also should be governed in their judicial and personal conduct by general ethical standards. The rules are intended, however, to state basic standards which should govern their conduct and to provide guidance to assist them in establishing and maintaining high standards of judicial and personal conduct.

Section 100.0 Terminology.

The following terms used in this Part are defined as follows:

(A) A "candidate" is a person seeking selection for or retention in public office by election. A person becomes a candidate for public office as soon as he or she makes a public announcement of candidacy, or authorizes solicitation or acceptance of contributions.

(B) "Court personnel" does not include the lawyers in a proceeding before a judge.

(C) The "degree of relationship" is calculated according to the civil law system. That is, where the judge and the party are in the same line of descent, degree is ascertained by ascending or descending from the judge to the party, counting a degree for each person, including the party but excluding the judge. Where the judge and the party are in different lines of descent, degree is ascertained by ascending from the judge to the common ancestor, and descending to the party, counting a degree for each person in both lines, including the common ancestor and the party but excluding the judge. The following persons are relatives within the fourth degree of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, first cousin, child, grandchild, great-grandchild, nephew or niece. The sixth degree of relationship includes second cousins.

(D) "Economic interest" denotes ownership of a more than de minimis legal or equitable interest, or a relationship as officer, director, advisor or other active participant in the affairs of a party, except that

(1) ownership of an interest in a mutual or common investment fund that holds securities is not an economic interest in such securities unless the judge participates in the management of the fund or a proceeding pending or impending before the judge could substantially affect the value of the interest;

(2) service by a judge as an officer, director, advisor or other active participant in an educational, religious, charitable, cultural, fraternal or civic organization, or service by a judge's spouse or child as an officer, director, advisor or other active participant in any organization does not create an economic interest in securities held by that organization;

(3) a deposit in a financial institution, the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association or of a member in a credit union, or a similar proprietary interest, is not an economic interest in the organization, unless a proceeding pending or impending before the judge could substantially affect the value of the interest;

(4) ownership of government securities is not an economic interest in the issuer unless a proceeding pending or impending before the judge could substantially affect the value of the securities.

(5) "De minimis" denotes an insignificant interest that could not raise reasonable questions as to a judge's impartiality.

(E) "Fiduciary" includes such relationships as executor, administrator, trustee, and guardian.

(F) "Knowingly", "knowledge", "known" or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

(G) "Law" denotes court rules as well as statutes, constitutional provisions and decisional law.

(H) "Member of the candidate's family" denotes a spouse, child, grandchild, parent, grandparent or other relative or person with whom the candidate maintains a close familial relationship.

(I) "Member of the judge's family" denotes a spouse, child, grandchild, parent, grandparent or other relative or person with whom the judge maintains a close familial relationship.

(J) "Member of the judge's family residing in the judge's household" denotes any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides in the judge's household.

(K) "Nonpublic information" denotes information that, by law, is not available to the public. Nonpublic information may include but is not limited to: information that is sealed by statute or court order, impounded or communicated in camera; and information offered in grand jury proceedings, presentencing reports, dependency cases or psychiatric reports.

(L) A "part-time judge", including an acting part-time judge, is a judge who serves repeatedly on a part-time basis by election or under a continuing appointment.

(M) "Political organization" denotes a political party, political club or other group, the principal purpose of which is to further the election or appointment of candidates to political office.

(N) "Public election" includes primary and general elections; it includes partisan elections, nonpartisan elections and retention elections.

(O) "Require". The rules prescribing that a judge "require" certain conduct of others, like all of the rules in this Part, are rules of reason. The use of the term "require" in that context means a judge is to exercise reasonable direction and control over the conduct of those persons subject to the judge's direction and control.

(P) "Rules"; citation. Unless otherwise made clear by the citation in the text, references to individual components of the rules are cited as follows:

"Part"-refers to Part 100.

"Section"-refers to a provision consisting of 100 followed by a decimal (100.1).

"Subdivision"-refers to a provision designated by a capital letter (A).

"Paragraph"-refers to a provision designated by an arabic numeral (1).

"Subparagraph"-refers to a provision designated by a lower-case letter (a).

(Q) "Window Period" denotes a period beginning nine months before a primary election, judicial nominating convention, party caucus or other party meeting for nominating candidates for the elective judicial office for which a judge or non-judge is an announced candidate, or for which a committee or other organization has publicly solicited or supported the judge's or non-judge's candidacy, and ending, if the judge or non-judge is a candidate in the general election for that office, six months after the general election, or if he or she is not a candidate in the general election, six months after the date of the primary election, convention, caucus or meeting.

(R) "Impartiality" denotes absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintaining an open mind in considering issues that may come before the judge.

(S) An "independent" judiciary is one free of outside influences or control.

(T) "Integrity" denotes probity, fairness, honesty, uprightness and soundness of character. "Integrity" also includes a firm adherence to this Part or its standard of values.

(U) A "pending proceeding" is one that has begun but not yet reached its final disposition.

(V) An "impending proceeding" is one that is reasonably foreseeable but has not yet been commenced.

Historical Note

Sec. filed Feb. 1, 1996 eff. Jan. 1, 1996.

Amended (D) and (D)(5) on [Sept. 9, 2004](#).

Added (R) - (V) on [Feb. 14, 2006](#)

Section 100.1 A judge shall uphold the integrity and independence of the judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Part 100 are to be construed and applied to further that objective.

Historical Note

Sec. filed Aug. 1, 1972; renum. 111.1, new added by renum. and amd. 33.1, filed Feb. 2, 1982; repealed, new filed Feb. 1, 1996 eff. Jan. 1, 1996.

Section 100.2 A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

(A) A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(B) A judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment.

(C) A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.

(D) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of age, race, creed, color, sex, sexual orientation, gender identity, gender expression, religion, national origin, disability or marital status. This provision does not prohibit a judge from holding membership in an organization that is dedicated to the preservation of religious, ethnic, cultural or other values of legitimate common interest to its members.

Historical Note

Sec. filed Aug. 1, 1972; renum. 111.2, new added by renum. and amd. 33.2, filed Feb. 2, 1982; repealed, new filed Feb. 1, 1996 eff. Jan. 1, 1996.

Amended (D) on [Jun. 25, 2018](#)

Section 100.3 A judge shall perform the duties of judicial office impartially and diligently.

(A) **Judicial Duties in General.** The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply.

(B) Adjudicative Responsibilities.

(1) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor or fear of criticism.

(2) A judge shall require order and decorum in proceedings before the judge.

(3) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.

(4) A judge shall perform judicial duties without bias or prejudice against or in favor of any person. A judge in the performance of judicial duties shall not, by words or conduct, manifest bias or prejudice, including but not limited to bias or prejudice based upon age, race, creed, color, sex, sexual orientation, gender identity, gender expression, religion, national origin, disability, marital status or socioeconomic status, and shall require staff, court officials and others subject to the judge's direction and control to refrain from such words or conduct.

(5) A judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon age, race, creed, color, sex, sexual orientation, gender identity, gender expression, religion, national origin, disability, marital status or socioeconomic status, against parties, witnesses, counsel or others. This paragraph does not preclude legitimate advocacy when age, race, creed, color, sex, sexual orientation, religion, national origin, disability, marital status or socioeconomic status, or other similar factors are issues in the proceeding.

(6) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers concerning a pending or impending proceeding, except:

(a) Ex parte communications that are made for scheduling or administrative purposes and that do not affect a substantial right of any party are authorized, provided the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and the judge, insofar as practical and appropriate, makes provision for prompt notification of other parties or their lawyers of the substance of the ex parte communication and allows an opportunity to respond.

(b) A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and a copy of such advice if the advice is given in writing and the substance of the advice if it is given orally, and affords the parties reasonable opportunity to respond.

(c) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

(d) A judge, with the consent of the parties, may confer separately with the parties and their lawyers on agreed-upon matters.

(e) A judge may initiate or consider any ex parte communications when authorized by law to do so.

(7) A judge shall dispose of all judicial matters promptly, efficiently and fairly.

(8) A judge shall not make any public comment about a pending or impending proceeding in any court within the United States or its territories. The judge shall require similar abstention on the part of court personnel subject to the judge's direction and control. This paragraph does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This paragraph does not apply to proceedings in which the judge is a litigant in a personal capacity.

(9) A judge shall not:

(a) make pledges or promises of conduct in office that are inconsistent with the impartial performance of the adjudicative duties of the office;

(b) with respect to cases, controversies or issues that are likely to come before the court, make commitments that are inconsistent with the impartial performance of the adjudicative duties of the office.

(10) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.

(11) A judge shall not disclose or use, for any purpose unrelated to judicial duties, nonpublic information acquired in a judicial capacity.

(12) It is not a violation of this Rule for a judge to make reasonable efforts to facilitate the ability of unrepresented litigants to have their matters fairly heard.

(C) Administrative Responsibilities.

(1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.

(2) A judge shall require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.

(3) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered. A judge shall not appoint or vote for the appointment of any person as a member of the judge's staff or that of the court of which the judge is a member, or as an appointee in a judicial proceeding, who is a relative within the fourth degree of relationship of either the judge or the judge's spouse or the spouse of such a person. A judge shall refrain from recommending a relative within the fourth degree of relationship of either the judge or the judge's spouse or the spouse of such person for appointment or employment to another judge serving in the same court. A judge also shall comply with the requirements of Part 8 of the Rules of the Chief Judge (22 NYCRR Part 8) relating to the Appointment of relatives of judges. Nothing in this paragraph shall prohibit appointment of the spouse, domestic partner, or unrelated household member of the town or village justice, or other relative as clerk of the town or village court in which such justice sits, provided that the justice obtains the prior approval of the Chief Administrator of the Courts, which may be given upon a showing of good cause.

(D) Disciplinary Responsibilities.

(1) A judge who receives information indicating a substantial likelihood that another judge has committed a substantial violation of this Part shall take appropriate action.

(2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a substantial violation of the Rules of Professional Conduct (22 NYCRR Part 1200) shall take appropriate action.

(3) Acts of a judge in the discharge of disciplinary responsibilities are part of a judge's judicial duties.

(E) Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(a) (i) the judge has a personal bias or prejudice concerning a party or (ii) the judge has personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) the judge knows that (i) the judge served as a lawyer in the matter in controversy, or (ii) a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or (iii) the judge has been a material witness concerning it;

(c) the judge knows that he or she, individually or as a fiduciary, or the judge's spouse or minor child residing in the judge's household has an economic interest in the subject matter in controversy or in a party to the proceeding or has any other interest that could be substantially affected by the proceeding;

(d) the judge knows that the judge or the judge's spouse, or a person known by the judge to be within the sixth degree of relationship to either of them, or the spouse of such a person:

(i) is a party to the proceeding;

(ii) is an officer, director or trustee of a party;

(iii) has an interest that could be substantially affected by the proceeding;

(e) The judge knows that the judge or the judge's spouse, or a person known by the judge to be within the fourth degree of relationship to either of them, or the spouse of such a person, is acting as a lawyer in the proceeding or is likely to be a material witness in the proceeding. Where the judge knows the relationship to be within the second degree, (i) the judge must disqualify him/herself without the possibility of remittal if such person personally appears in the courtroom during the proceeding or is likely to do so, but (ii) may permit remittal of disqualification provided such person remains permanently absent from the courtroom.

(f) the judge, while a judge or while a candidate for judicial office, has made a pledge or promise of conduct in office that is inconsistent with the impartial performance of the adjudicative duties of the office or has made a public statement not in the judge's adjudicative capacity that commits the judge with respect to

(i) an issue in the proceeding; or

(ii) the parties or controversy in the proceeding.

(g) notwithstanding the provisions of subparagraphs (c) and (d) above, if a judge would be disqualified because of the appearance or discovery, after the matter was assigned to the judge, that the judge individually or as fiduciary, the judge's spouse, or a minor child residing in his or her household has an economic interest in a party to the proceeding, disqualification is not required if the judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.

(2) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse and minor children residing in the judge's household.

(F) Remittal of Disqualification. A judge disqualified by the terms of subdivision (E), except subparagraph (1)(a)(i), subparagraph (1)(b)(i) or (iii), or subparagraph (1)(d)(i) or subparagraph (1)(e)(i) of this section, may disclose on the record the basis of the judge's disqualification. If, following such disclosure of any basis for disqualification, the parties who have appeared and

not defaulted and their lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge believes that he or she will be impartial and is willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

Amended (B)(9)-(11) & (E)(f) -(E)(g) [Feb. 14, 2006](#)

Amended (B)(9)-(11) & (E)(f) -(E)(g) [Feb. 14, 2006](#)

Amended (C)(3) on [May 6, 2014](#)

Added (B)(12) effective [Mar. 26, 2015](#)

Amended (B)(4) & (B)(5) on [Jun. 25, 2018](#)

Amended (E)(1)(e) & (F) on [Dec. 12, 2018](#) effective January 1, 2019

Amended (D)(2) on [May 7, 2019](#), effective May 6, 2019

Section 100.4 A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations

(A) **Extra-Judicial Activities in General.** A judge shall conduct all of the judge's extra-judicial activities so that they do not:

- (1) cast reasonable doubt on the judge's capacity to act impartially as a judge;
- (2) detract from the dignity of judicial office; or
- (3) interfere with the proper performance of judicial duties and are not incompatible with judicial office.

(B) **Avocational Activities.** A judge may speak, write, lecture, teach and participate in extra-judicial activities subject to the requirements of this Part.

(C) Governmental, Civic, or Charitable Activities.

(1) A full-time judge shall not appear at a public hearing before an executive or legislative body or official except on matters concerning the law, the legal system or the administration of justice or except when acting pro se in a matter involving the judge or the judge's interests.

(2)(a) A full-time judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy in matters other than the improvement of the law, the legal system or the administration of justice. A judge may, however, represent a country, state or locality on ceremonial occasions or in connection with historical, educational or cultural activities.

(b) A judge shall not accept appointment or employment as a peace officer or police officer as those terms are defined in section 1.20 of the Criminal Procedure Law.

(3) A judge may be a member or serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice or of an educational, religious, charitable, cultural, fraternal or civic

organization not conducted for profit, subject to the following limitations and the other requirements of this Part.

(a) A judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely that the organization

(i) will be engaged in proceedings that ordinarily would come before the judge, or

(ii) if the judge is a full-time judge, will be engaged regularly in adversary proceedings in any court.

(b) A judge as an officer, director, trustee or non-legal advisor, or a member or otherwise:

(i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund-raising activities;

(ii) may not be a speaker or the guest of honor at an organization's fund-raising events, but the judge may attend such events. Nothing in this subparagraph shall prohibit a judge from being a speaker or guest of honor at a court employee organization, bar association or law school function or from accepting at another organization's fund-raising event an unadvertised award ancillary to such event;

(iii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law, the legal system or the administration of justice; and

(iv) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation, but may be listed as an officer, director or trustee of such an organization. Use of an organization's regular letterhead for fund-raising or membership solicitation does not violate this provision, provided the letterhead lists only the judge's name and office or other position in the organization, and, if comparable designations are listed for other persons, the judge's judicial designation.

(D) Financial Activities.

(1) A judge shall not engage in financial and business dealings that:

(a) may reasonably be perceived to exploit the judge's judicial position;

(b) involve the judge with any business, organization or activity that ordinarily will come before the judge; or

(c) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.

(2) A judge, subject to the requirements of this Part, may hold and manage investments of the judge and members of the judge's family, including real estate.

(3) A full-time judge shall not serve as an officer, director, manager, general partner, advisor, employee or other active participant of any business entity, except that:

(a) the foregoing restriction shall not be applicable to a judge who assumed judicial office prior to July 1, 1965, and maintained such position or activity continuously since that date; and

(b) a judge, subject to the requirements of this Part, may manage and participate in a business entity engaged solely in investment of the financial resources of the judge or members of the judge's family; and

(c) any person who may be appointed to fill a full-time judicial vacancy on an interim or temporary basis pending an election to fill such vacancy may apply to the Chief Administrator of the Courts for exemption from this paragraph during the period of such interim or temporary appointment.

(4) A judge shall manage the judge's investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge shall divest himself or herself of investments and other financial interests that might require frequent disqualification.

(5) A judge shall not accept, and shall urge members of the judge's family residing in the judge's household not to accept, a gift, bequest, favor or loan from anyone except:

(a) a gift incident to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law, the legal system or the administration of justice;

(b) a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member of a judge residing in the judge's household, including gifts, awards and benefits for the use of both the spouse or other family member and the judge (as spouse or family member), provided the gift, award or benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties;

(c) ordinary social hospitality;

(d) a gift from a relative or friend, for a special occasion such as a wedding, anniversary or birthday, if the gift is fairly commensurate with the occasion and the relationship;

(e) a gift, bequest, favor or loan from a relative or close personal friend whose appearance or interest in a case would in any event require disqualification under section 100.3(E);

(f) a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges;

(g) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or

(h) any other gift, bequest, favor or loan, only if: the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge; and if its value exceeds \$150.00, the judge reports it in the same manner as the judge reports compensation in Section 100.4(H).

(E) Fiduciary Activities.

(1) A full-time judge shall not serve as executor, administrator or other personal representative, trustee, guardian, attorney in fact or other fiduciary, designated by an instrument executed after January 1, 1974, except for the estate, trust or person of a member of the judge's family, or, with the approval of the Chief Administrator of the Courts, a person not a member of the judge's family with whom the judge has maintained a longstanding personal relationship of trust and confidence, and then only if such services will not interfere with the proper performance of judicial duties.

(2) The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary capacity.

(3) Any person who may be appointed to fill a full-time judicial vacancy on an interim or temporary basis pending an election to fill such vacancy may apply to the Chief Administrator of the Courts for exemption from paragraphs (1) and (2) during the period of such interim or temporary appointment.

(F) Service as Arbitrator or Mediator. A full-time judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law.

(G) Practice of Law. A full-time judge shall not practice law. Notwithstanding this prohibition, a judge may act pro se and may, without compensation, give legal advice to a member of the judge's family.

(H) Compensation, Reimbursement and Reporting.

(1) *Compensation and Reimbursement.* A full-time judge may receive compensation and reimbursement of expenses for the extra-judicial activities permitted by this Part, if the source of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety, subject to the following restrictions:

(a) Compensation shall not exceed a reasonable amount nor shall it exceed what a person who is not a judge would receive for the same activity.

(b) Expense reimbursement shall be limited to the actual cost of travel, food and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse or guest. Any payment in excess of such an amount is compensation.

(c) No full-time judge shall solicit or receive compensation for extra-judicial activities performed for or on behalf of: (1) New York State, its political subdivisions or any office or agency thereof; (2) a school, college or university that is financially supported primarily by New York State or any of its political subdivisions, or any officially recognized body of students thereof, except that a judge may receive the ordinary compensation for a lecture or for teaching a regular course of study at any college or university if the teaching does not conflict with the proper performance of judicial duties; or (3) any private legal aid bureau or society designated to represent indigents in accordance with article 18-B of the County Law.

(2) *Public Reports.* A full-time judge shall report the date, place and nature of any activity for which the judge received compensation in excess of \$150, and the name of the payor and the

amount of compensation so received. Compensation or income of a spouse attributed to the judge by operation of a community property law is not extra-judicial compensation to the judge. The judge's report shall be made at least annually and shall be filed as a public document in the office of the clerk of the court on which the judge serves or other office designated by law.

(I) **Financial Disclosure.** Disclosure of a judge's income, debts, investments or other assets is required only to the extent provided in this section and in section 100.3(F), or as required by Part 40 of the Rules of the Chief Judge (22 NYCRR Part 40), or as otherwise required by law.

Historical Note

Sec. filed Aug. 1, 1972; amd. filed Nov. 26, 1976; renum. 111.4, new added by renum. and amd. 33.4, filed Feb. 2, 1982; repealed, new filed Feb. 1, 1996; amds. filed: Feb. 27, 1996; Feb. 9, 1998 eff. Jan. 23, 1998. Amended (C)(3)(b)(ii).

Section 100.5 A judge or candidate for elective judicial office shall refrain from inappropriate political activity.

(A) Incumbent Judges and Others Running for Public Election to Judicial Office.

(1) Neither a sitting judge nor a candidate for public election to judicial office shall directly or indirectly engage in any political activity except (i) as otherwise authorized by this section or by law, (ii) to vote and to identify himself or herself as a member of a political party, and (iii) on behalf of measures to improve the law, the legal system or the administration of justice. Prohibited political activity shall include:

- (a) acting as a leader or holding an office in a political organization;
- (b) except as provided in Section 100.5(A)(3), being a member of a political organization other than enrollment and membership in a political party;
- (c) engaging in any partisan political activity, provided that nothing in this section shall prohibit a judge or candidate from participating in his or her own campaign for elective judicial office or shall restrict a non-judge holder of public office in the exercise of the functions of that office;
- (d) participating in any political campaign for any office or permitting his or her name to be used in connection with any activity of a political organization;
- (e) publicly endorsing or publicly opposing (other than by running against) another candidate for public office;
- (f) making speeches on behalf of a political organization or another candidate;
- (g) attending political gatherings;
- (h) soliciting funds for, paying an assessment to, or making a contribution to a political organization or candidate; or
- (i) purchasing tickets for politically sponsored dinners or other functions, including any such function for a non-political purpose.

(2) A judge or non-judge who is a candidate for public election to judicial office may participate in his or her own campaign for judicial office as provided in this section and may contribute to

his or her own campaign as permitted under the Election Law. During the Window Period as defined in subdivision (Q) of section 100.0 of this Part, a judge or non-judge who is a candidate for public election to judicial office, except as prohibited by law, may:

- (i) attend and speak to gatherings on his or her own behalf, provided that the candidate does not personally solicit contributions;
- (ii) appear in newspaper, television and other media advertisements supporting his or her candidacy, and distribute pamphlets and other promotional campaign literature supporting his or her candidacy;
- (iii) appear at gatherings, and in newspaper, television and other media advertisements with the candidates who make up the slate of which the judge or candidate is a part;
- (iv) permit the candidate's name to be listed on election materials along with the names of other candidates for elective public office;
- (v) purchase two tickets to, and attend, politically sponsored dinners and other functions, provided that the cost of the ticket to such dinner or other function shall not exceed the proportionate cost of the dinner or function. The cost of the ticket shall be deemed to constitute the proportionate cost of the dinner or function if the cost of the ticket is \$250 or less. A candidate may not pay more than \$250 for a ticket unless he or she obtains a statement from the sponsor of the dinner or function that the amount paid represents the proportionate cost of the dinner or function.

(3) A non-judge who is a candidate for public election to judicial office may also be a member of a political organization and continue to pay ordinary assessments and ordinary contributions to such organization.

(4) A judge or a non-judge who is a candidate for public election to judicial office:

- (a) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the impartiality, integrity and independence of the judiciary, and shall encourage members of the candidate's family to adhere to the same standards of political conduct in support of the candidate as apply to the candidate;
- (b) shall prohibit employees and officials who serve at the pleasure of the candidate, and shall discourage other employees and officials subject to the candidate's direction and control, from doing on the candidate's behalf what the candidate is prohibited from doing under this Part;
- (c) except to the extent permitted by Section 100.5(A)(5), shall not authorize or knowingly permit any person to do for the candidate what the candidate is prohibited from doing under this Part;
- (d) shall not:
 - (i) make pledges or promises of conduct in office that are inconsistent with the impartial performance of the adjudicative duties of the office;

(ii) with respect to cases, controversies or issues that are likely to come before the court, make commitments that are inconsistent with the impartial performance of the adjudicative duties of the office;

(iii) knowingly make any false statement or misrepresent the identity, qualifications, current position or other fact concerning the candidate or an opponent; but

(e) may respond to personal attacks or attacks on the candidate's record as long as the response does not violate subparagraphs 100.5(A)(4)(a) and (d).

(f) shall complete a campaign ethics education program developed or approved by the Chief Administrator or his or her designee within 30 days after the candidate makes a public announcement of candidacy, files a designating petition with the Board of Elections, receives a nomination for judicial office, or authorizes solicitation or acceptance of contributions, whichever is earliest. Written proof of compliance must be filed with the Judicial Campaign Ethics Center within 14 days of completing the training, unless the candidate is granted a waiver of this requirement for good cause shown. This provision shall apply to all candidates for elective judicial office in the Unified Court System except for town and village justices.

(g) shall file with the Ethics Commission for the Unified Court System a financial disclosure statement containing the information and in the form set forth in the Annual Statement of Financial Disclosure adopted by the Chief Judge of the State of New York. Such statement shall be filed within 20 days following the date on which the judge or non-judge becomes such a candidate; provided, however, that the Ethics Commission for the Unified Court System may grant an additional period of time within which to file such statement in accordance with rules promulgated pursuant to section 40.1(i)(3) of the Rules of the Chief Judge of the State of New York (22 NYCRR). Notwithstanding the foregoing, compliance with this subparagraph shall not be necessary where a judge or non-judge already is or was required to file a financial disclosure statement for the preceding calendar year pursuant to Part 40 of the Rules of the Chief Judge. This requirement shall not apply to candidates for election to town and village courts.

(5) A judge or candidate for public election to judicial office shall not personally solicit or accept campaign contributions, but may establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions and support from the public, including lawyers, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. Such committees may solicit and accept such contributions and support only during the Window Period. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

(6) A judge or a non-judge who is a candidate for public election to judicial office may not permit the use of campaign contributions or personal funds to pay for campaign-related goods or services for which fair value was not received.

(B) Judge as Candidate for Nonjudicial Office. A judge shall resign from judicial office upon becoming a candidate for elective nonjudicial office either in a primary or in a general election, except that the judge may continue to hold judicial office while being a candidate for election to

or serving as a delegate in a state constitutional convention if the judge is otherwise permitted by law to do so.

(C) Judge's Staff. A judge shall prohibit members of the judge's staff who are the judge's personal appointees from engaging in the following political activity:

(1) holding an elective office in a political organization, except as a delegate to a judicial nominating convention or a member of a county committee other than the executive committee of a county committee;

(2) contributing, directly or indirectly, money or other valuable consideration in amounts exceeding \$500 in the aggregate during any calendar year to all political campaigns for political office, and other partisan political activity including, but not limited to, the purchasing of tickets to political functions, except that this \$500 limitation shall not apply to an appointee's contributions to his or her own campaign. Where an appointee is a candidate for judicial office, reference also shall be made to appropriate sections of the Election Law;

(3) personally soliciting funds in connection with a partisan political purpose, or personally selling tickets to or promoting a fund-raising activity of a political candidate, political party, or partisan political club; or

(4) political conduct prohibited by section 50.5 of the Rules of the Chief Judge (22 NYCRR 50.5).

Historical Note

Sec. filed Aug. 1, 1972; renum. 111.5, new added by renum. and amd. 33.5, filed Feb. 2, 1982; amds. filed: Dec. 21, 1983; May 8, 1985; March 2, 1989; April 11, 1989; Oct. 30, 1989; Oct. 31, 1990; repealed, new filed; amd. filed March 25, 1996 eff. March 21, 1996. Amended (A)(2)(v).

Amended 100.5 (A)(2)(v), (A)(4)(a), (A)(4)(d)(i)-(ii), (A)(4)(f), (A)(6), (A)(7) on [Feb. 14, 2006](#)

Added 100.5 (A)(4)(g) on [Sept. 1, 2006](#)

Amended 100.5 (A)(4)(g) on [Sept. 1, 2006](#)

Amended 100.5 (A)(4)(f) on [Oct. 24, 2007](#)

Deleted 100.5(A)(7) on [May 7, 2019](#), effective May 6, 2019

Amended 100.5 (A)(4)(f) on [January 13, 2020](#), effective January 31, 2020

Section 100.6 Application of the rules of judicial conduct.

(A) General Application. All judges in the unified court system and all other persons to whom by their terms these rules apply, e.g., candidates for elective judicial office, shall comply with these rules of judicial conduct, except as provided below. All other persons, including judicial hearing officers, who perform judicial functions within the judicial system shall comply with such rules in the performance of their judicial functions and otherwise shall so far as practical and appropriate use such rules as guides to their conduct.

(B) Part-Time Judge. A part-time judge:

(1) is not required to comply with sections 100.4(C)(1), 100.4(C)(2)(a), 100.4(C)(3)(a)(ii), 100.4(E)(1), 100.4(F), 100.4(G), and 100.4(H);

(2) shall not practice law in the court on which the judge serves, or in any other court in the county in which his or her court is located, before a judge who is permitted to practice law, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto;

(3) shall not permit his or her partners or associates to practice law in the court in which he or she is a judge, and shall not permit the practice of law in his or her court by the law partners or associates of another judge of the same court who is permitted to practice law, but may permit the practice of law in his or her court by the partners or associates of a judge of a court in another town, village or city who is permitted to practice law;

(4) may accept private employment or public employment in a federal, state or municipal department or agency, provided that such employment is not incompatible with judicial office and does not conflict or interfere with the proper performance of the judge's duties.

(5) Nothing in this rule shall further limit the practice of law by the partners or associates of a part-time judge in any court to which such part-time judge is temporarily assigned to serve pursuant to section 106(2) of the Uniform Justice Court Act or Section 107 of the Uniform City Court Act in front of another judge serving in that court before whom the partners or associates are permitted to appear absent such temporary assignment.

(C) Administrative Law Judges. The provisions of this Part are not applicable to administrative law judges unless adopted by the rules of the employing agency.

(D) Time for Compliance. A person to whom these rules become applicable shall comply immediately with all provisions of this Part, except that, with respect to sections 100.4(D)(3) and 100.4(E), such person may make application to the Chief Administrator for additional time to comply, in no event to exceed one year, which the Chief Administrator may grant for good cause shown.

(E) Relationship to Code of Judicial Conduct. To the extent that any provision of the Code of Judicial Conduct as adopted by the New York State Bar Association is inconsistent with any of these rules, these rules shall prevail.

Historical Note

Sec. filed Aug. 1, 1972; repealed, new added by renum. 100.7, filed Nov. 26, 1976; renum. 111.6, new added by renum. and amd. 33.6, filed Feb. 2, 1982; repealed, new filed Feb. 1, 1996 eff. Jan. 1, 1996.

Amended 100.6(E) [Feb. 14, 2006](#)

Added 100.6(B)5 on [Mar. 24, 2010](#)

APPENDIX F:
DECISIONS RENDERED BY THE
COMMISSION IN 2021

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

GREGORY H. BURKER,

a Justice of the Watson Town Court,
Lewis County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Paul B. Harding, Esq.
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and M. Kathleen Martin, Of Counsel)
for the Commission

Honorable Gregory H. Burkner, *pro se*

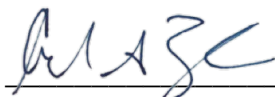
The matter having come before the Commission on January 28, 2021; and
the Commission having before it the Stipulation dated January 11, 2021; and Judge

Burker having affirmed that he vacated his judicial office as of December 31, 2020; and having affirmed that having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: January 28, 2021



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

GREGORY H. BURKER,

STIPULATION

A Justice of the Watson Town Court,
Lewis County.

THE FOLLOWING IS HEREBY STIPULATED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct, and the Honorable Gregory H. Burkner.

1. Judge Gregory H. Burkner has been a Justice of the Watson Town Court, Lewis County, since January 1999. His current term expires on December 31, 2023. Judge Burkner is not an attorney.

2. On October 29, 2020, the Commission authorized an investigation of a complaint alleging that Judge Burkner had been charged with criminal mischief for allegedly vandalizing a town official's vehicle by "keying" it while it was parked in a parking lot, apparently in reaction to the town's denial of his request to provide health insurance. Also on October 29, 2020, Judge Burkner pled guilty to criminal mischief in the fourth degree, a misdemeanor, in connection with the incident.

3. Judge Burkner has tendered his resignation by letter dated December 24, 2020, a copy of which is annexed as Exhibit A. Judge Burkner affirms that he will vacate judicial office as of December 31, 2020.

4. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from a judge's resignation to complete proceedings and, if it so determines, render and file a determination that the judge should be removed from office.

5. Judge Burkner affirms that, once he vacates his judicial office on December 31, 2020, he will neither seek nor accept any judicial office at any time in the future.

6. Judge Burkner understands that, should he abrogate the terms of this Stipulation and seek or hold any judicial position at any time in the future, the Commission's investigation of the complaint would be revived, he would be served with a Formal Written Complaint on authorization of the Commission, and the matter would proceed to a hearing before a referee.

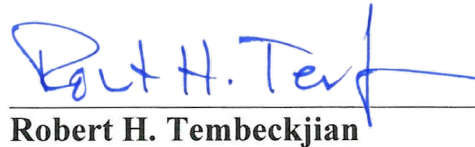
7. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

8. Judge Burkner waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (1) this Stipulation will become public upon being signed by the signatories below, and (2) the Commission's Decision and Order regarding this Stipulation will become public.

Dated: 12-24-20


Honorable Gregory H. Burkner

Dated: January 11, 2021


Robert H. Tembeckjian

Administrator and Counsel to the Commission
(John J. Postel and M. Kathleen Martin,
Of Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV
EXHIBIT A: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

WILLIAM A. CARTER,

a Judge of the County Court,
Albany County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Honorable Angela M. Mazzaelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and S. Peter Pedrotty, Of Counsel)
for the Commission

Stephen F. Downs for Judge Carter

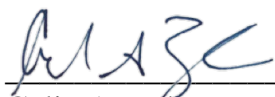
The matter having come before the Commission on April 22, 2021; and the
Commission having before it the Stipulation dated April 7, 2021; and Judge Carter
having affirmed that he vacated his judicial office on March 30, 2021; and having

affirmed that having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: April 22, 2021



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

WILLIAM A. CARTER,

STIPULATION

a Judge of the County Court, Albany County.

THE FOLLOWING IS HEREBY STIPULATED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct ("Commission"), and the Honorable William A. Carter and his attorney, Stephen F. Downs, Esq.

1. William A. Carter was admitted to the practice of law in New York in 1992. He has been a Judge of the County Court, Albany County, since January 2017, having previously served as a Judge of the Albany City Court, Albany County, from 2002 to 2016. Judge Carter's current term expires on December 31, 2026.

2. On March 2, 2021, the Commission apprised Judge Carter that it was investigating a complaint alleging that, after a purported friend of his filed a pistol permit application, Judge Carter attempted to have the application assigned to himself, and thereafter initiated a conversation about the matter with the judge to whom the case had been assigned.

3. Judge Carter denies the allegations in the complaint.

4. Judge Carter vacated judicial office on March 30, 2021. A copy of the notice to that effect from the Office of Court Administration to the Commission is appended as Exhibit 1.

5. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from a judge's resignation to complete proceedings and, if it so determines, render and file a determination that the judge should be removed from office.

6. Judge Carter affirms that, having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future.

7. Judge Carter understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission's investigation of the complaint would be revived, he could be served with a Formal Written Complaint on authorization of the Commission, and the matter could proceed to a hearing before a referee.


8. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded by the terms of this Stipulation, without further proceedings.

9. Judge Carter waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (A) this Stipulation will become public upon being signed by the signatories below, and (B) the Commission's Decision and Order regarding this Stipulation will become public.


Dated: 4/7/2021


Honorable William A. Carter

Dated: 4/7/21


Stephen F. Downs
Attorney for Judge Carter

Dated: April 7, 2021


Robert H. Tembeckjian
Administrator and Counsel to the Commission
(Cathleen S. Cenci, S. Peter Pedrotty, Of Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV
EXHIBIT 1: LETTER CONFIRMING JUDGE'S RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

MARK A. CUNNINGHAM,

a Justice of the Stockton Town Court,
Chautauqua County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Paul B. Harding, Esq.
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and M. Kathleen Martin, Of Counsel)
for the Commission

Honorable Mark A. Cunningham, *pro se*


The matter having come before the Commission on January 28, 2021; and
the Commission having before it the Stipulation dated January 26, 2021; and Judge

Cunningham having affirmed that he vacated his judicial office as of January 18, 2021; and having affirmed that having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: January 28, 2021



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

MARK A. CUNNINGHAM,

STIPULATION

a Justice of the Stockton Town Court,
Chautauqua County.

THE FOLLOWING IS HEREBY STIPULATED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct (“Commission”), and the Honorable Mark A. Cunningham.

1. Judge Cunningham has been a Justice of the Stockton Town Court, Chautauqua County, since January 1, 2013. His current term expires on December 31, 2021. Judge Cunningham is not an attorney.
2. In July 2020, the Commission apprised Judge Cunningham that it was investigating a complaint alleging that, between in or about December 2019 and March 2020, he engaged in conduct within his courthouse that was inappropriate and inconsistent with his ethical obligations to act at all times in a manner that promotes public confidence in the integrity of the judiciary and to conduct his extra-judicial activities so as not to detract from the dignity of his judicial office. By letter dated November 5, 2020, the Commission further advised Judge Cunningham that it was also investigating his failure to cooperate with the investigation in that, over a period of four

months, he did not respond to four letters of inquiry from the Commission regarding the complaint.

3. Judge Cunningham resigned his judicial office by letter dated January 18, 2021, a copy of which is annexed as Exhibit A. Judge Cunningham affirms that he vacated judicial office as of January 18, 2021.

4. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from a judge's resignation to complete proceedings and, if it so determines, render and file a determination that the judge should be removed from office.

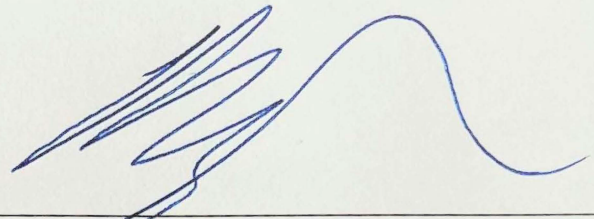
5. Judge Cunningham affirms that, having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future.

6. Judge Cunningham affirms his understanding that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission's investigation of the complaint would be revived, he would be served with a Formal Written Complaint upon authorization of the Commission, and the matter would proceed to a hearing before a referee.

7. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

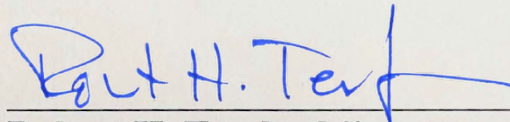
8. Judge Cunningham waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (1) this Stipulation will become public upon being signed by the signatories below, and (2) the Commission's Decision and Order regarding this Stipulation will become public.

Dated: 01/26/2021



Honorable **Mark A. Cunningham**

Dated: January 26, 2021



Robert H. Tembeckjian

Administrator and Counsel to the Commission
(**John J. Postel** and **M. Kathleen Martin**,
Of Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV
EXHIBIT A: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

MARK A. DiVIETRO,

a Justice of the Owasco Town Court,
Cayuga County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Paul B. Harding, Esq.
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and M. Kathleen Martin, Of Counsel)
for the Commission

Honorable Mark A. DiVietro, *pro se*

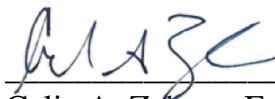
The matter having come before the Commission on March 11, 2021; and
the Commission having before it the Stipulation dated March 11, 2021; and Judge

DiVietro having tendered his resignation from the Owasco Town Court by letter dated March 11, 2021 effective March 15, 2021; and having affirmed that he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: March 18, 2021



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

MARK A. DIVIETRO,

STIPULATION

a Justice of the Owasco Town Court,
Cayuga County.

THE FOLLOWING IS HEREBY STIPULATED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct (“Commission”), and the Honorable Mark A. DiVietro.

1. Judge DiVietro has been a Justice of the Owasco Town Court, Cayuga County, since January 1, 2011. His current term expires on December 31, 2022. Judge DiVietro is not an attorney.

2. Judge DiVietro was apprised by the Commission in July 2020 that it was investigating allegations that, *inter alia*, in the fall of 2018, he repeatedly sent text messages to his then-girlfriend that contained threats about a former girlfriend. Many of the text messages were allegedly vulgar, crude, demeaning and/or featured extreme gender-based slurs and profanity.

3. Judge DiVietro was also apprised by the Commission in July 2020 that it was investigating allegations that, after arraigning the defendant in *People v Robert L. Brown* on two felony charges and one misdemeanor charge in April 2019, he repeatedly engaged in unauthorized *ex parte* communications about the case with the defendant and multiple

other individuals and, during one of the defendant's appearances in court, allegedly gave the defendant personal advice about how to avoid having his firearms confiscated by law enforcement.

4. Judge DiVietro has tendered his resignation by letter dated March 11, 2021, a copy of which is annexed as Exhibit A. Judge DiVietro affirms that he will vacate his judicial office as of March 15, 2021.

5. Judge DiVietro affirms that, after vacating his judicial office, he will neither seek nor accept judicial office at any time in the future.

6. Judge DiVietro understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission's investigation of the complaint would be revived, he would be served with a Formal Written Complaint upon authorization of the Commission, and the matter would proceed to a hearing before a referee.

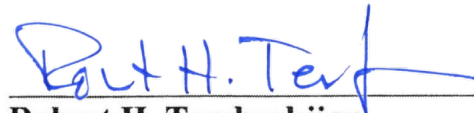
7. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

8. Judge DiVietro waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (1) this Stipulation will become public upon being signed by the signatories below, and (2) the Commission's Decision and Order regarding this Stipulation will become public.

Dated: 3/11/21


Honorable Mark A. DiVietro

Dated: March 11, 2021


Robert H. Tembeckjian
Administrator and Counsel to the Commission
(**John J. Postel** and **M. Kathleen Martin**,
Of Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV
EXHIBIT A: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

JOHN R. DUYSSSEN,

a Justice of the Leroy Town Court,
Genesee County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Graham B. Seiter, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and David M. Duguay, Of Counsel) for
the Commission

Gilmour & Killelea, LLP (by Daniel M. Killelea) for Judge Duyssen

The matter having come before the Commission on August 5, 2021; and the
Commission having before it the Stipulation dated July 22, 2021; and Judge Duyssen

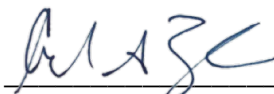
having affirmed that he vacated his judicial office on July 8, 2021; and having affirmed that having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Ms. Grays and Judge Mazzealli did not participate.

Dated: August 5, 2021



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

JOHN R. DUYSSSEN,

STIPULATION

a Justice of the Leroy Town Court,
Genesee County.

THE FOLLOWING IS HEREBY STIPULATED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct (“Commission”), and the Honorable John R. Duyssen and his attorney, Daniel Killelea, of Law Offices of Gilmour & Killelea, LLP.

1. John R. Duyssen has been a Justice of the Leroy Town Court, Genesee County, since January 2018. His term expires on December 31, 2021. Judge Duyssen is not an attorney.
2. In January 2021, the Commission apprised Judge Duyssen that it was investigating complaints arising from his arrest on criminal charges of harassment and endangering the welfare of a child, his invocation of his judicial office at the time of his arrest to a New York State Police Investigator whom he asked to recommend a less restrictive Order of Protection, and his failure for approximately three months to comply with a court order to surrender all of his firearms.
3. The criminal charges were resolved with (A) Judge Duyssen consenting to a one-year comprehensive disposition plan monitored by the Wyoming County Department

of Social Services, which he completed in February 2020 and (B) by a court-ordered Adjournment in Contemplation of Dismissal.

4. Judge Duyssen has tendered his resignation from judicial office by letter dated June 18, 2021, a copy of which is annexed as Exhibit A. Judge Duyssen affirms that he vacated judicial office as of July 8, 2021.

5. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from a judge's resignation to complete proceedings and, if it so determines, render and file a determination that the judge should be removed from office.

6. Judge Duyssen affirms that, having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future.

7. Judge Duyssen understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the present proceedings before the Commission would be revived, he would be served with a Formal Written Complaint on authorization of the Commission, and the matter would proceed to a hearing before a referee.

8. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

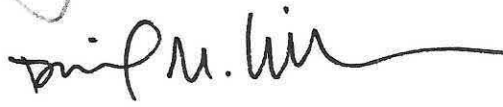
9. Judge Duyssen waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (1) this Stipulation will become public upon being signed by the signatories below, and (2) the Commission's Decision and Order regarding this Stipulation will become public.

Dated: 7-21-2021



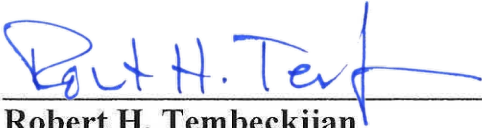
Honorable John R. Duyssen

Dated: 7-21-2021



Daniel M. Killelea
Law Offices of Gilmour & Killelea
Attorney for John R. Duyssen

Dated: July 22, 2021



Robert H. Tembeckjian
Administrator and Counsel to the Commission
(**John J. Postel** and **David M. Duguay**,
Of Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV
EXHIBIT A: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

ELLEN D. FISHKIN,

a Justice of the Head of the Harbor Village Court,
Suffolk County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Graham B. Seiter, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Mark Levine and Daniel Davis, Of Counsel) for the
Commission

Honorable Ellen D. Fishkin, *pro se*

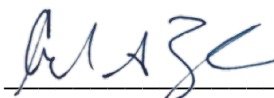
The matter having come before the Commission on June 10, 2021; and the
Commission having before it the Stipulation dated May 17, 2021; and Judge Fishkin

having affirmed that she vacated her judicial office on May 6, 2021; and having affirmed that having vacated her judicial office, she will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: June 10, 2021



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

ELLEN D. FISHKIN,

STIPULATION

a Justice of the Head of the Harbor Village Court,
Suffolk County.

THE FOLLOWING IS HEREBY STIPULATED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct (“Commission”), and the Honorable Ellen D. Fishkin.

1. Ellen D. Fishkin was admitted to the practice of law in New York in 1992. She has been a Justice of the Head of the Harbor Village Court, Suffolk County, since 1996. Judge Fishkin’s current term expires on April 3, 2023.

2. On April 2, 2021, the Commission apprised Judge Fishkin that it was investigating complaints alleging that she: (1) shoved or pushed a Suffolk County Assistant District Attorney (“ADA”) outside her courtroom on the evening of March 21, 2019, when court was in session and the courtroom was full of lawyers, litigants, and others; (2) accused a different Suffolk County ADA of being “anti-Semitic” when the ADA would not offer a lenient plea to an associate of the judge’s husband in a Vehicle and Traffic Law (“VTL”) matter; (3) turned court audio recording equipment on and off in the middle of court proceedings; (4) presided over and took pleas in VTL matters without an ADA present; (5) locked the court while she traveled to prevent the Associate

Village Court Justice from presiding over matters in her absence; and (6) exhibited inappropriate demeanor on the bench and in interactions with Suffolk County ADAs and other attorneys and litigants. Judge Fishkin was notified by the Commission to appear on May 6, 2021, to give testimony in connection with the investigation. After the Commission adjourned the matter due to a scheduling conflict, her appearance to give testimony was rescheduled to June 14, 2021.

3. On May 11, 2021, the Commission apprised Judge Fishkin of a new matter that had been brought to its attention concerning an audit of the court's finances by the Office of the State Comptroller.

4. On May 11, 2021, the Office of Court Administration notified the Commission that Judge Fishkin vacated judicial office on May 6, 2021. A copy of the notice to that effect is appended as Exhibit 1.

5. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from a judge's resignation to complete proceedings and, if it so determines, render and file a determination that the judge should be removed from office.

6. Judge Fishkin affirms that, having vacated her judicial office, she will neither seek nor accept judicial office at any time in the future.

7. Judge Fishkin understands that, should she abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission's investigation of the complaints would be revived, she would be served with a Formal Written Complaint on authorization of the Commission, and the matter would proceed to a hearing before a referee.

8. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.


9. Judge Fishkin waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (1) this Stipulation will become public upon being signed by the signatories below, and (2) the Commission's Decision and Order regarding this Stipulation will become public.

Dated:

5/18/21


Honorable Ellen Fishkin

Dated: May 17, 2021


Robert H. Tembeckjian
Administrator and Counsel to the Commission
(Mark Levine and Daniel Davis, Of Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV
EXHIBIT 1: LETTER CONFIRMING JUDGE'S RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

PETER GALLANTER,

a Justice of the Manorhaven Village Court,
Nassau County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Honorable Angela M. Mazzaelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Mark Levine and Stella Gilliland, Of Counsel) for the
Commission

Honorable Peter Gallanter, *pro se*

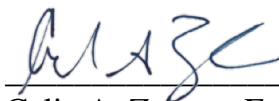
The matter having come before the Commission on April 22, 2021; and the
Commission having before it the Stipulation dated April 7, 2021; and Judge Gallanter
having affirmed that he vacated his judicial office effective April 5, 2021; and having

affirmed that having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: April 22, 2021



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

PETER GALLANTER,

STIPULATION

a Justice of the Manorhaven Village Court,
Nassau County.

THE FOLLOWING IS HEREBY STIPULATED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct ("Commission"), and the Honorable Peter Gallanter.

1. Peter Gallanter has been a Justice of the Manorhaven Village Court, Nassau County, since July 1, 2008. His current term expires on July 6, 2021.
2. Judge Gallanter was apprised by the Commission in March 2021 that it was investigating complaints that he (1) dismissed or reduced tickets in multiple cases for defendants with whom he had personal relationships, (2) repeatedly described female litigants and lawyers in demeaning and sexist terms, and (3) improperly used a security camera to record proceedings in his courtroom.
3. Judge Gallanter has tendered his resignation in writing, a copy of which is annexed as Exhibit 1. Judge Gallanter affirms that he vacated judicial office as of April 5, 2021.
4. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from a judge's resignation to complete proceedings and, if it so determines, render and file a determination that the judge should be removed from office.

5. Judge Gallanter affirms that, having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future.

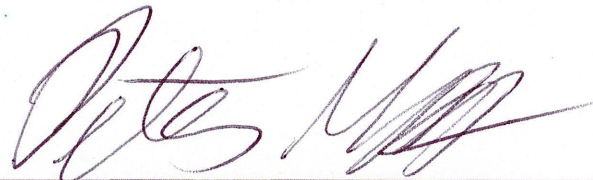
6. Judge Gallanter understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission's investigation of the complaints would be revived, he would be served with a Formal Written Complaint on authorization of the Commission, and the matter would proceed to a hearing before a referee.

7. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

8. Judge Gallanter waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (1) this Stipulation will become public upon being signed by the signatories below, and (2) the Commission's Decision and Order regarding this Stipulation will become public.

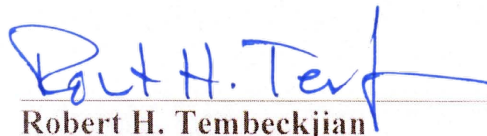
Dated:

4/7/21



Honorable Peter Gallanter

Dated: April 7, 2021



Robert H. Tembeckjian

Administrator and Counsel to the Commission
(Mark Levine, Stella Gilliland, Of Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV
EXHIBIT 1: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

LARRY D. HARTWELL,

a Justice of the Lyons Town Court,
Wayne County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and David M. Duguay, Of Counsel) for
the Commission

Honorable Larry D. Hartwell, *pro se*

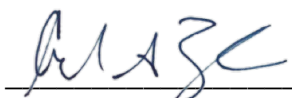
The matter having come before the Commission on April 22, 2021; and the
Commission having before it the Stipulation dated April 5, 2021; and Judge Hartwell

having affirmed that he vacated his judicial office as of April 9, 2021; and having affirmed that having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: April 22, 2021



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

LARRY D. HARTWELL,

STIPULATION

a Justice of the Lyons Town Court,
Wayne County.

THE FOLLOWING IS HEREBY STIPULATED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct (“Commission”), and the Honorable Larry D. Hartwell.

1. Larry D. Hartwell has been a Justice of the Lyons Town Court, Wayne County, since January 1, 2012. His current term expires on December 31, 2023. Judge Hartwell is not an attorney.

2. Judge Hartwell was apprised by the Commission in March 2021 that it was investigating complaints alleging that he engaged repeatedly in unauthorized *ex parte* communications and gave the appearance of bias in a small claims matter.

3. Judge Hartwell has tendered his resignation by letter dated March 29, 2021, a copy of which is annexed as Exhibit A. Judge Hartwell affirms that he will vacate judicial office as of April 9, 2021.

4. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from a judge’s resignation to complete proceedings and, if it so determines, render and file a determination that the judge should be removed from office.

5. Judge Hartwell affirms that after vacating his judicial office, he will neither seek nor accept judicial office at any time in the future.

6. Judge Hartwell understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission's investigation of these complaints would be revived, he would be served with a Formal Written Complaint on authorization of the Commission, and the matter would proceed to a hearing before a referee.

7. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

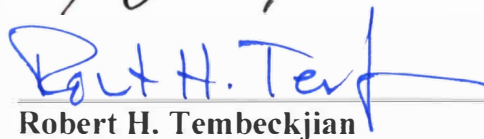
8. Judge Hartwell waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (1) this Stipulation will become public upon being signed by the signatories below, and (2) the Commission's Decision and Order regarding this Stipulation will become public.

Dated: 4/5/21



Honorable Larry D. Hartwell

Dated: April 5, 2021



Robert H. Tembeckjian

Administrator and Counsel to the Commission
(John J. Postel and David M. Duguay, Of
Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV
EXHIBIT A: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

ERIK P. JACOBSEN,

a Justice of the Bedford Town Court,
Westchester County.

DETERMINATION

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Honorable Angela M. Mazzairelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Graham B. Seiter, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Mark Levine and Eric Arnone, Of Counsel)
for the Commission

Gerstenzang, Sills, Cohn & Gerstenzang (by Peter Gerstenzang) for
respondent

Respondent, Erik P. Jacobsen, a Justice of the Bedford Town Court, Westchester

County, was served with a Formal Written Complaint dated June 22, 2021, containing one charge. The Formal Written Complaint alleged that on April 22, 2019, in the Village of Mount Kisco, New York, respondent operated his motor vehicle while under the influence of alcohol and refused to cooperate with police officers from the Westchester County Department of Public Safety after they stopped his car and attempted to arrest him for Driving While Intoxicated. Respondent filed a Verified Answer dated July 6, 2021.

On August 30, 2021, the Administrator, respondent's counsel and respondent entered into an Agreed Statement of Facts pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be censured and waiving further submissions and oral argument.

On September 23, 2021, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent has been a Justice of the Bedford Town Court, Westchester County, since 2010. His current term expires on December 31, 2021. As noted below, respondent is not running for re-election and will vacate judicial office when his term expires.
2. Respondent was admitted to the practice of law in New York in 1994. In addition to his service as a judge, which is a part-time position, respondent is engaged in the practice of law, with an office in Bedford, New York.

3. In the late evening hours of April 21, 2019, into the early morning hours of April 22, 2019, respondent drove his car from Yonkers, New York, to Mount Kisco, New York, after voluntarily consuming a number of alcoholic beverages.

4. At around the same time, the Westchester County Department of Public Safety received a 911 call reporting that a silver Mercedes-Benz was driving erratically on the Saw Mill River Parkway, near Mount Kisco. The car belonged to respondent.

5. Westchester County Police Officers Ahmid Bitawi and Mathieu Ricozzi drove to the area, where they observed respondent's silver Mercedes-Benz exit the Parkway at Kisco Avenue and cross into the incoming lane of traffic before returning to the correct lane of travel. Shortly thereafter, respondent's car stopped underneath a red traffic light, atop the crosswalk and in a left-turn-only turning lane, then proceeded straight when the light turned green. Officer Bitawi activated his vehicle's emergency lights and siren and pulled over respondent's car in the vicinity of 90 South Bedford Road.

6. Upon approaching respondent's car, Officer Bitawi observed respondent, the sole occupant, behind the wheel. Officer Bitawi informed respondent that he had passed a red light, and he requested respondent's driver's license and vehicle registration. Respondent handed the officer his license and pointed to a registration sticker on his windshield, stating that he did not have a registration card with him.

7. In conversing with respondent, Officer Bitawi detected a strong odor of alcohol on his breath and observed that he had red glassy eyes and was slurring his

speech. Officer Bitawi asked respondent if he had been drinking that night, and respondent said that he had not.

8. Officer Bitawi asked respondent several times to get out of his car but respondent refused, stating, “no” and “no I will not.” When Officer Bitawi informed respondent he could remove him from the car, respondent stated, “you can if you want but I will not.”

9. Officer Bitawi told respondent that he smelled alcohol on his breath and respondent stated, “you don’t.” Officer Bitawi asked respondent how much he had to drink that night, and respondent answered, “nothing, thank you.”

10. Officer Bitawi asked respondent to get out of the vehicle again and respondent stated, “No, I’m not stepping out of the vehicle. I’ve done nothing. I’ve given you my identification.”

11. Officers Bitawi and Ricozzi both tried to pull respondent from his vehicle but were unsuccessful. The officers informed respondent that he was under arrest and repeatedly directed him to get out of the car, but respondent held tightly to the steering wheel and stated, “this is unbelievable,” “you’re going to have to hurt me,” “where’s my phone,” and “you’re making a big mistake.”

12. At that point, Officer Bitawi informed respondent that he would be forced to discharge his taser unless respondent complied. Respondent replied, “I’m doing nothing, you can’t tase me.”

13. The officers asked respondent several more times to get out of the car. When respondent continued to refuse, Officer Bitawi deployed his taser on respondent.

Thereafter, the officers pulled respondent out of the car, placed him under arrest and took him to a hospital.

14. On April 22, 2019, hospital personnel drew three vials of blood from respondent – one each at approximately 1:34 AM, 4:07 AM, and 7:56 AM. On April 26, 2019, a warrant to seize and search respondent’s blood for analysis was issued. A toxicology specialist analyzed the three vials drawn at the hospital and found them to contain blood alcohol concentrations of .264%, .18% and .10%, respectively.

15. On June 4, 2019, respondent appeared in Rye City Court¹ and was charged with a misdemeanor for Driving While Intoxicated, in violation of Vehicle and Traffic Law (VTL) Section 1192(3); a misdemeanor for Resisting Arrest, in violation of Penal Law Section 205.30; a traffic infraction for failing to stop while facing a red signal, in violation of VTL Section 1111(d)(1); and a traffic infraction for failure to use a designated lane, in violation of VTL Section 1128(c).

16. On October 31, 2019, a Superseding Information was filed charging respondent with a misdemeanor for Obstructing Governmental Administration, in violation of Penal Law Section 195.05 and a misdemeanor for Resisting Arrest, in violation of Penal Law Section 205.30.

17. On August 25, 2020, respondent appeared before Rye City Court Judge Joseph L. Latwin and pled guilty to Driving While Intoxicated, a misdemeanor, in violation of VTL Section 1192(3), in full satisfaction of all the charges.

¹ The case against respondent was transferred to Rye City Court after the Mount Kisco Town Court justices recused themselves from the matter.

18. On November 9, 2020, Judge Latwin sentenced respondent to a one-year Conditional Discharge with a \$500 fine and a \$395 surcharge. Respondent was required to continue participating in private counseling and an attorney monitoring program and to attend the Victim Impact Panel, Impaired Driver's Program, and Alcoholics Anonymous. Respondent's driver's license was revoked for a period of six months and he was required to have an "Ignition Interlock Device" installed on his car for one year.

Additional Factors

19. Respondent has no prior arrest history or history of alcohol or substance abuse.

20. At no time did respondent invoke his judicial office or ask for any special consideration from any police officer, emergency service personnel or health care provider.

21. Respondent avers that the precipitating factor that led to his intoxication at the time of his arrest was the profound grief he experienced upon losing his wife of 15 years in February 2018, following her protracted battle with cancer. During the Commission's investigation, respondent testified that he was actively involved in his wife's treatment to the extent that he disengaged from his law practice and that his only professional attention was to his judgeship. He further testified that, during her illness, he provided extensive home care to his wife while she endured a series of painful and failed treatments.

22. Respondent fully acknowledges that the emotional pain he felt at the time of his arrest does not in any way excuse or mitigate his decision to drive while intoxicated and to refuse to cooperate with police.

23. Respondent admits that, given the high level of his intoxication, he should not have been driving, and there is no excuse for his behavior toward the officers who stopped and arrested him. Respondent describes his conduct at the time of his arrest as “shameful and deeply humiliating” and acknowledges that his criminal conviction and refusal to cooperate with the police – which was the product of his high level of intoxication – were inconsistent with the high standards of conduct that judges are required to observe.

24. In the wake of his arrest, respondent – for the first time – sought extensive treatment to address his grief and depression. Respondent consulted with representatives from the New York State Judicial Wellness Committee and the New York City Bar Association Lawyers Assistance Program, who recommended an extensive series of treatments. Respondent sought the following treatments on his own, without court intervention:

- A. In May of 2019, respondent voluntarily enrolled in Inter-Care, an outpatient alcohol and substance abuse treatment program that met twice weekly. Respondent successfully completed the program after attending 57 of 58 sessions and was discharged in November of 2019. In December of 2019, respondent chose to enter Inter-Care’s Continuing Care program (which provides a lower level of care) and successfully completed that phase of the program in October of 2020 with a 100% attendance rate. During the entire course of treatment, respondent received an individualized treatment plan designed to assist and support him and to enhance his coping skills to maintain ongoing recovery. Respondent also provided random weekly toxicology samples, all of which came back negative.

- B. Beginning in May of 2019, respondent attended psychotherapy with a licensed clinical social worker. Based on this treatment, it was determined that respondent's substance abuse disorder resulted from a continuing series of blows to both his and his deceased wife's hopes and expectations for their lives due to her illness, and which was aggravated upon her death. According to the social worker, respondent was sober and abstinent from all alcohol since the time of his arrest in April 2019 through July 2021 and has achieved the highest level of remission according to DSM-5² standards. Respondent avers that his treatment is ongoing.
- C. On August 1, 2019, respondent joined Gilda's Club, a cancer support community, where he received individual bereavement therapy and attended a support group coordinated by a licensed social worker entitled, "Living with Loss." Respondent attended both programs for an aggregate period of approximately five months. Both programs ended on account of the Coronavirus pandemic.
- D. Respondent avers that he continues to attend virtual Alcoholics Anonymous ("AA") meetings, as in-person meetings have been suspended due to the Coronavirus pandemic, and that he maintains contact with an AA sponsor.

25. At the time sentence was imposed in respondent's criminal case, the sentencing judge made the following remarks about respondent:

"After the unfortunate events, the defendant seems to have affirmatively [sought] the help that he needed and seriously participated in...way more than the usual programs available to those with alcohol issues. He sought out, entered and completed an outpatient program and attended sessions religiously. He provided weekly samples and all tested negative. He then continued – he entered a continuing care program and maintained his sobriety. He also entered private counseling sessions and attended AA meetings. He also joined the monitoring program and signed the monitoring agreement. All of this was done on his own without Court intervention. This Court has not seen any other defendant do as much as this defendant."

26. Respondent acknowledges that he should have sought treatment before the incident occurred. He avers that the circumstances surrounding his arrest were a trigger

² Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition

for him to begin the process of addressing and recovering from the devastation of the loss of his wife.

27. Respondent avers that he has not consumed an alcoholic drink since April 22, 2019, and the Administrator has no information to the contrary. On August 12, 2020, three months prior to his sentencing, respondent contracted with Start Smart to install and monitor Ignition Interlock Devices in each of his three cars, as well as provide and monitor a hand-held breath test device called the “BreathCheck.” In accordance with his sentence, respondent was also required by the sentencing judge to install an Ignition Interlock Device for six months, which he has opted to keep installed in his vehicles despite the expiration of the six-month mandate. He also continues to utilize the hand-held BreathCheck device, which requires him to provide breath samples at random times throughout the day.

28. Since his arrest, respondent has resumed his law practice and entered a six-month training program to become certified as an Emergency Medical Technician, passing both hospital and New York State physical examinations. Respondent avers that he is completely committed to continuing his treatment and to absolute sobriety.

29. Respondent has been contrite and cooperative with the Commission throughout this inquiry and has expressed embarrassment and remorse for his behavior and any diminution of respect for the judiciary it may have caused.

30. Respondent recognizes that his conduct had the potential to put innocent lives at risk of death and serious injury.

31. Respondent has an otherwise unblemished record during his approximately 10 years on the bench.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A) and 100.4(A)(2) of the Rules Governing Judicial Conduct (“Rules”) and should be disciplined for cause pursuant to Article VI, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law. Charge I of the Formal Written Complaint is sustained insofar as it is consistent with the above findings and conclusions and respondent’s misconduct is established.

It is the responsibility of every judge to act at all times in a manner that promotes public confidence in the integrity of the judiciary and to avoid conduct that detracts from the dignity of judicial office. Respondent violated his ethical obligation to respect and comply with the law by driving his vehicle while under the influence of alcohol which caused him to drive erratically and prompted a 911 call to be made about his driving. Prior to stopping his vehicle, the responding police officers observed respondent operating his vehicle in a dangerous manner. In addition, respondent repeatedly refused to comply with the police officers’ directions that he get out of his car which resulted in a taser being deployed on respondent. Subsequent to his arrest, respondent’s blood alcohol concentration exceeded the threshold for aggravated Driving While Intoxicated. VTL Section 1192(2a). Respondent subsequently pled guilty to Driving While Intoxicated in violation of VTL Section 1192(3). As respondent has acknowledged, his unlawful and reckless conduct endangered public safety and brought the judiciary into disrepute.

As a judge entrusted with the responsibility of applying the law and exercising judgment over the conduct of others, respondent is “obligated to conduct [himself] at all times in a manner that reflected [his] own personal respect for the letter and spirit of the law.” *Matter of Backal*, 87 N.Y.2d 1, 7 (1995). Any departure from this strict standard of personal conduct undermines his effectiveness as a judge and impairs the public's respect for the judiciary as a whole.

In prior cases involving alcohol-related driving offenses, in determining the appropriate disposition, the Commission has considered various mitigating and aggravating factors including: the degree of intoxication, whether the judge caused an accident or injury, whether the conduct was an isolated incident or part of a pattern, whether the judge was cooperative during arrest, whether the judge asserted his or her judicial office and sought preferential treatment, whether the judge accepted responsibility for the offense and the need and willingness of the judge to seek treatment. *See, e.g., Matter of Miranda*, 2021 NYSCJC Annual Report 224 [censure] (DWAI conviction; judge crashed his car and asserted his judicial office during his arrest); *Matter of Petucci*, 2021 NYSCJC Annual Report 272 [censure] (DWAI conviction; judge lost control of his car and crashed into a building, was belligerent to responding officers and was carrying a loaded handgun at the time of the incident); *Matter of Astacio*, 2019 NYSCJC Annual Report 71, *aff'd*, 32 N.Y.3d 131 (2018) [removal] (DWI conviction; judge was uncooperative during arrest and asserted her judicial office; judge also engaged in additional misconduct related to her judicial duties); *Matter of Landicino*, 2016 NYSCJC Annual Report 129 [censure] (DWI conviction; judge repeatedly asserted

his judicial office during arrest; subsequently he made extensive efforts to rehabilitate himself); *Matter of Newman*, 2014 NYSCJC Annual Report 164 [censure] (DWAI conviction after rear-ending a car at a traffic light; judge was uncooperative during arrest); *Matter of Apple*, 2013 NYSCJC Annual Report 95 [censure] (DWI conviction after rear-ending a car at a traffic light; blood alcohol concentration of .21%); *Matter of Maney*, 2011 NYSCJC Annual Report 106 [censure] (DWAI conviction; judge made illegal U-turn to avoid sobriety checkpoint, repeatedly identified himself as a judge and asked for “professional courtesy”); *Matter of Martineck*, 2011 NYSCJC Annual Report 116 [censure] (DWI conviction after driving erratically and hitting a mile marker); *Matter of Burke*, 2010 NYSCJC Annual Report 110 [censure] (DWAI conviction after causing an accident; additional misconduct included presiding over two cases without disclosure of her relationship with a complaining witness); *Matter of Mills*, 2006 NYSCJC Annual Report 218 [censure] (although judge was acquitted of DWI, she admitted driving after consuming alcoholic beverages and making offensive statements to the arresting officers).

In this case, respondent was under the influence of alcohol which caused him to drive erratically including crossing over into an incoming lane of traffic. Respondent’s misconduct was aggravated by his high blood alcohol concentration. His misconduct was further aggravated when he was repeatedly uncooperative during his arrest which resulted in a responding police officer deploying his taser on respondent. This conduct is inconsistent with a judge’s obligation to maintain high standards of conduct at all times, both on and off the bench, in order to promote public confidence in the integrity of the

judiciary. (Rules §§100.1 and 100.2(A))

In mitigation, respondent has accepted responsibility for his conduct and has had an unblemished judicial record. In addition, while respondent has acknowledged that he should have sought treatment before his arrest, shortly after his arrest, he voluntarily consulted with representatives of the New York State Judicial Wellness Committee and the New York City Bar Association Lawyers Assistance Program and has engaged in extensive treatment and rehabilitation, including voluntary monitoring. Respondent avers that his arrest was a trigger for him to obtain the help he needed and that he has not consumed an alcoholic drink since the incident more than two years ago.

In accepting the jointly recommended sanction of censure, we have taken into consideration that respondent's misconduct involved one incident, that he has engaged in ongoing treatment and avers that he is fully committed to his sobriety. We trust that respondent has learned from this experience and in the future will act in strict accordance with his obligation to abide by the Rules Governing Judicial Conduct.


By reason of the foregoing, the Commission determines that the appropriate disposition is censure.

Mr. Belluck, Ms. Grays, Judge Camacho, Ms. Corngold, Judge Falk, Judge Mazzarelli, Judge Miller, Mr. Raskin, Mr. Rosenberg, Mr. Seiter and Ms. Yeboah concur.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on
Judicial Conduct.

Dated: October 8, 2021

A handwritten signature in blue ink, appearing to read 'CAZ', is written over a horizontal line.

Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

DETERMINATION

DONALD F. KNAB, JR.,

a Justice of the Rush Town Court,
Monroe County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and M. Kathleen Martin, Of Counsel)
for the Commission

The Law Office of Gilmour & Killelea, LLP (by Daniel M. Killelea) for
Respondent

Respondent, Donald F. Knab, Jr., a Justice of the Rush Town Court, Monroe
County, was served with a Formal Written Complaint dated November 30, 2020,
containing one charge. Respondent filed a Verified Answer dated December 24, 2020.

The Formal Written Complaint alleged that on September 2, 2019, respondent knowingly submitted materially false statements on a Reconciliation Report he filed with the Unified Court System’s Office of Justice Court Support (“OJCS”) regarding a 2018-2019 grant from the Justice Court Assistance Program (“JCAP”). In addition, it was alleged that in October 2019, respondent used unexpended and unreturned grant funds to buy an audio-visual system for the Rush Town Court, notwithstanding that he knew he had not been authorized to make that purchase.

On April 16, 2021, the Administrator, respondent’s counsel and respondent entered into an Agreed Statement of Facts pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be censured and waiving further submissions and oral argument.

On April 22, 2021, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent has been a Justice of the Rush Town Court, Monroe County, since 2016. His current term expires on December 31, 2024. He is not an attorney.
2. The Unified Court System’s Office of Justice Court Support periodically makes funds available to town and village courts in the form of grants administered through the Justice Court Assistance Program. The courts must spend the funds on specified items or categories of items that JCAP designates, and they must account for such expenditures in written reports to JCAP.

3. Respondent was aware of the foregoing JCAP protocols, having properly executed and accurately reported on the JCAP grant to his court for 2016-2017.

4. On January 14, 2019, respondent was notified by letter and an enclosed Reconciliation Report that: (A) the Rush Town Court had been awarded a 2018-2019 JCAP grant in the amount of \$7,479.47; and (B) the funds had to be spent and a Reconciliation Report had to be returned with paid receipts within 180 days of receipt of the funds. Copies of the award letter and the Reconciliation Report are annexed to the Agreed Statement of Facts as Exhibit A and Exhibit B, respectively.

5. The Reconciliation Report stated that grant funds could be used to purchase only the items that had been specifically authorized: a walk-through metal detector for \$4,238.47; a hand-held metal detector for \$120.00; exterior renovations/repairs (i.e. replacing a door) for \$2,871.00; and a judicial robe for \$250.00. The Reconciliation Report also described the authorized manner in which savings resulting from purchase prices that were lower than the award amounts could be applied, stating *inter alia*, that JCAP approval was required for the expenditure of any savings that exceeded 10% and that savings of less than 10% could only be spent “*toward another grant item or towards consumable office supplies.*”

6. On March 29, 2019, the Town of Rush purchased a walk-through metal detector for the court from Promark International, Inc., for \$4,056.47, a lower cost than the approved amount of \$4,238.47. The Promark invoice dated March 29, 2019, the Town of Rush general voucher dated May 6, 2019, the Town of Rush voucher dated May 21, 2019, and the Town of Rush cancelled check dated May 23, 2019, all reflect an

expenditure of \$4,056.47. Copies of those documents are annexed to the Agreed Statement of Facts as Exhibit C. That expenditure was \$182.00 (or approximately 4.3%) less than the awarded amount.

7. Respondent did not purchase a hand-held metal detector, which had been approved for purchase in the amount of \$120.00.

8. Between May 6, 2019, and May 24, 2019, the Town of Rush purchased various components for the replacement of a door from three separate suppliers: C.M. Armitage, West Fire Systems, Inc., and Rochester Colonial Manufacturing Corp. The sum total of those components – comprised of \$475.00 to Armitage, \$213.50 to West Fire, and \$760.00 to Rochester Colonial – was \$1,448.50, a lower cost than the approved amount of \$2,871.00. Copies of the Armitage invoice dated May 6, 2019, the Town of Rush general voucher dated June 7, 2019, the Town of Rush voucher dated June 11, 2019, and the Town of Rush cancelled check dated June 13, 2019, all in the amount of \$475.00, are annexed to the Agreed Statement of Facts as Exhibit D. Copies of the West Fire invoice dated May 17, 2019, the Town of Rush voucher dated June 11, 2019, and the Town of Rush cancelled check dated June 13, 2019, all in the amount of \$213.50, are annexed to the Agreed Statement of Facts as Exhibit E. Copies of the Rochester Colonial invoice dated May 24, 2019, the Town of Rush general voucher dated April 27, 2019, the Town of Rush voucher dated July 9, 2019, and the Town of Rush cancelled check dated July 11, 2019, all in the amount of \$760.00, are annexed to the Agreed Statement of Facts as Exhibit F. The sum of those expenditures was \$1,422.50 (or approximately 50%) less than the awarded amount.

9. On October 25, 2019, respondent purchased a judicial robe from Craft Clothes, Inc., for \$260.00, which was \$10.00 more than the approved grant amount of \$250.00. Copies of the Craft Clothes invoice dated October 28, 2019, and the Town of Rush voucher dated December 17, 2019, both in the amount of \$260.00, are annexed to the Agreed Statement of Facts as Exhibit G.

10. On September 2, 2019, respondent signed and submitted his 2018-2019 JCAP Reconciliation Report. Respondent knew at the time he filed the Reconciliation Report that the amounts he reported for each expenditure were not accurate.

11. In particular, respondent represented that he had spent the entire grant amount of \$7,479.47 on the walk-through metal detector, the hand-held metal detector, the door improvements and a judicial robe, when he knew he had spent only \$5,764.97.¹ The Reconciliation Report did not disclose that respondent realized a savings of \$1,714.50, and respondent did not submit receipts to certify the amount he actually spent on authorized purchases. A copy of the Reconciliation Report, dated September 2, 2019, is annexed to the Agreed Statement of Facts as Exhibit H.

12. Notwithstanding that he knew it would not be permitted without JCAP approval, respondent intended to spend the \$1,714.50 toward the purchase of an unapproved audio-visual system for his court.

¹ Although respondent had not purchased the judicial robe at the time that he filed the Reconciliation Report, he included that expenditure, which he subsequently made in October 2019.

13. On October 25, 2019, respondent approved a Town of Rush voucher in the amount of \$3,387.00, for the purchase of an audio-visual system, including a 50-inch LED TV and assorted accessories, from The PinPoint Group, Inc., by signing his name in the box on the form labeled, “Department Approval.” A copy of the voucher, dated October 25, 2019, is annexed to the Agreed Statement of Facts as Exhibit I.

14. On November 14, 2019, the Town of Rush issued a check in the amount of \$3,387.00 to The PinPoint Group, Inc., for the audio-visual equipment. Copies of The PinPoint Group invoice dated October 21, 2019, the Town of Rush voucher dated November 13, 2019, and the Town of Rush cancelled check dated November 14, 2019, all in the amount of \$3,387.00, are annexed to the Agreed Statement of Facts as Exhibit J.

15. On December 10, 2019, respondent was notified by email that his Reconciliation Report had been rejected by OJCS because he had not provided “paid receipts or invoices with the cancelled checks reflecting the funds have been spent.” A copy of the email from Kathleen M. Roberts of OJCS, dated December 10, 2019, to respondent, is annexed to the Agreed Statement of Facts as Exhibit K.

16. On December 23, 2019, respondent was notified by email that OJCS could not close the 2018-2019 grant cycle because the savings he realized from spending less than the awarded amount on the metal detectors and door renovations “were used to offset the cost of unapproved items.” OJCS requested that respondent return the money he had saved on the authorized items and subsequently spent on the AV equipment, advising him that “[a] court simply cannot use the savings to purchase items that were not

requested or approved.” A copy of the email from Ms. Roberts to respondent, dated December 23, 2019, is annexed to the Agreed Statement of Facts as Exhibit L.²

17. On January 30, 2020, the Town of Rush issued a check in the amount of \$1,714.50 to OJCS as a refund of JCAP grant monies which were expended on unapproved items. A copy of the check is annexed to the Agreed Statement of Facts as Exhibit M.

18. On January 31, 2020, respondent filed a revised 2018-2019 JCAP Reconciliation Report. That report and the accompanying documentation showed expenditures on approved items in the amount of \$5,764.97 and the return of \$1,714.50 in unused grant funds. A copy of the revised Reconciliation Report is annexed to the Agreed Statement of Facts as Exhibit N.

19. On February 6, 2020, OJCS sent an email to respondent noting that “[t]he Office of Justice Court Support received Rush Town Court’s returned grant funds in the amount of \$1,714.00,³ the completed 2018-19 JCAP Reconciliation Report, and documentation reflecting \$5,764.97 was spent accordingly. We are informing the Court this grant is now closed.” A copy of the email is annexed to the Agreed Statement of Facts as Exhibit O.

² OJSC originally requested a return in the amount of \$1,938.00, but subsequently determined that respondent owed only \$1,714.50. The \$223.50 difference resulted from the fact that respondent paid \$213.50 to West Fire that he had not adequately reported to OJCS until after December 23, 2019, and the fact that he spent an extra \$10.00 on the judicial robe above the approved amount.

³ This amount should have been recorded as \$1,714.50 rather than \$1,714.00.

Additional Factors

20. All monies from the 2018-2019 JCAP grant to the Rush Town Court have been accounted for, and it appears that all of the items respondent purchased with grant money are being used for court purposes.

21. The Town of Rush ultimately paid the entire purchase price of the audio-visual equipment, and it appears the equipment is being used for court purposes.

22. Respondent affirms that he did not personally benefit financially from any of the transactions described herein, and the Administrator has no evidence to the contrary. Respondent affirms that his sole purpose was to assist the court.

23. Nevertheless, respondent admits it was wrong to have used savings from the JCAP-funded grant to purchase items for the court that had neither been requested of nor approved by JCAP. Respondent also admits it was wrong to have submitted initial reports to JCAP that he knew to be inaccurate. He recognizes that such conduct undermines confidence in the integrity of the judiciary and in him individually, both among the public and within the court system, and he commits never to do so again.

24. Respondent has been cooperative and contrite with the Commission throughout this inquiry.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A) and 100.3(C)(1) of the Rules and should be disciplined for cause pursuant to Article 6, Section 22, subdivision (a) of the Constitution and Section 44, subdivision 1 of the Judiciary Law. Charge I of the Formal Written Complaint is sustained insofar as it is consistent with the above findings and

conclusions and respondent's misconduct is established.

Each judge is obligated to “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary” and must observe high standards of conduct “so that the integrity and independence of the judiciary will be preserved.” (Rules, §§100.1 and 100.2(A)) Section 100.3(C)(1) of the Rules requires that each judge “shall diligently discharge the judge’s administrative responsibilities... and maintain professional competence in judicial administration . . .” In *Matter of McDermott*, 2019 NYSCJC Annual Report 161, the Commission held, “[t]he handling of official funds is one of a judge's most important responsibilities. . . . This responsibility requires strict adherence to mandated procedures in order to avoid even the appearance that court funds have been mishandled or misappropriated.” *Id.* at 167.

Respondent violated his ethical obligations and brought reproach upon the judiciary when he signed a Reconciliation Report knowing it contained inaccurate information about the expenditure of JCAP grant money. For example, respondent reported that the full amount of the grant had been spent on approved items when he knew that was not true. In addition to signing the inaccurate report, respondent improperly used the JCAP grant money that had been saved to purchase an audio-visual system for court use despite knowing that he did not have the appropriate approval to use the funds in that manner. As respondent acknowledged, his improper conduct fell short of the high standards required of a judge and undermined confidence in the integrity of the judiciary.

In accepting the jointly recommended sanction of censure, we have taken into

consideration that respondent has admitted that his conduct warrants public discipline and that he has pledged to carefully comply with the Rules. We trust that respondent has learned from this experience and in the future will act in strict accordance with his obligation to abide by all the Rules Governing Judicial Conduct.

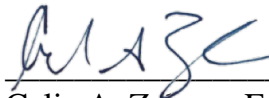
By reason of the foregoing, the Commission determines that the appropriate disposition is censure.

Mr. Belluck, Ms. Grays, Judge Camacho, Ms. Corngold, Judge Falk, Judge Mazzairelli, Judge Miller, Mr. Raskin, Mr. Rosenberg and Ms. Yeboah concur.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct.

Dated: April 28, 2021



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

KENNETH C. KNUTSEN,

a Justice of the Schoharie Town Court and an
Associate Justice of Schoharie Village Court,
Schoharie County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Graham B. Seiter, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and Kathleen E. Klein, Of
Counsel) for the Commission

Law Offices of John R. Seebold, PLLC (by John R. Seebold) for Judge Kenneth
C. Knutsen

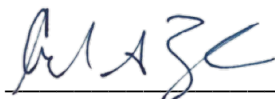
The matter having come before the Commission on June 10, 2021; and the

Commission having before it the Stipulation dated May 26, 2021; and Judge Knutsen having affirmed that he will vacate his judicial offices effective July 1, 2021; and having affirmed that once he vacates his judicial offices, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: June 10, 2021



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

KENNETH C. KNUTSEN,

STIPULATION

a Justice of the Schoharie Town Court and an
Associate Justice of the Schoharie Village Court,
Schoharie County.

THE FOLLOWING IS HEREBY STIPULATED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct (“Commission”), and the Honorable Kenneth C. Knutsen and his attorney, John R. Seebold, Esq., of Law Offices of John R. Seebold, PLLC.

1. Kenneth C. Knutsen has been a Justice of the Schoharie Town Court and an Associate Justice of the Schoharie Village Court, Schoharie County, since 2002. His current term as Schoharie Town Justice expires on December 31, 2022. His current term as Associate Schoharie Village Justice expires on December 31, 2021. Judge Knutsen is not an attorney.

2. In April 2021, the Commission informed Judge Knutsen that it was investigating a complaint alleging that he conveyed the impression of bias against LGBTQ individuals and publicly posted anti-LGBTQ content on his personal Facebook page. A review of the Facebook page revealed numerous other posts containing: partisan political content; expressions of bias in favor of law enforcement and against criminal

defendants; expressions of anti-Muslim bias; and prohibited commentary on pending cases, including the murder trial of former Minneapolis Police Officer Derek Chauvin.

3. Judge Knutsen was scheduled to give testimony concerning those allegations before a Commission referee on May 26, 2021. Instead, Judge Knutsen has tendered his resignation by letter dated May 26, 2021, a copy of which is annexed as Exhibit 1. Judge Knutsen affirms that he will vacate both of his judicial offices effective July 1, 2021.

4. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from a judge's resignation to complete proceedings and, if it so determines, render and file a determination that the judge should be removed from office.

5. Judge Knutsen affirms that, once he vacates his judicial offices, he will neither seek nor accept any judicial office at any time in the future.

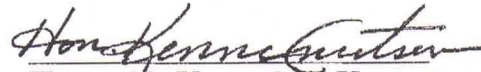
6. Judge Knutsen understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission's investigation of the complaint would be revived, he could be served with a Formal Written Complaint on authorization of the Commission, and the matter could proceed to a hearing before a referee.

7. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

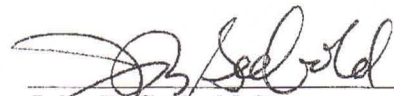
8. Judge Knutsen waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (A) this Stipulation will become public upon being

signed by the signatories below, and (B) the Commission's Decision and Order regarding this Stipulation will become public.


Dated: 5/26/21


Honorable Kenneth C. Knutsen

Dated: 5/26/2021


John R. Seebold, Esq.
Law Offices of John R. Seebold, PLLC
Attorney for Judge Kenneth C. Knutsen

Dated: May 26, 2021


Robert H. Tembeckjian
Administrator and Counsel to the Commission
(Cathleen S. Cenci and Kathleen E. Klein,
Of Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV
EXHIBIT 1: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

MICHAEL RALPH MILLER,

a Justice of the Arcadia Town Court and
a Justice of the Newark Village Court,
Wayne County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and M. Kathleen Martin, Of Counsel)
for the Commission

Zimmerman and Tyo (by Robert W. Zimmerman) for Judge Miller

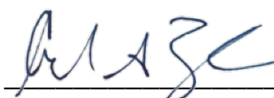
The matter having come before the Commission on April 22, 2021; and the
Commission having before it the Stipulation dated April 5, 2021; and Judge Miller

having affirmed that he vacated his judicial office effective April 16, 2021; and having affirmed that having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: April 22, 2021



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

MICHAEL RALPH MILLER,

STIPULATION

a Justice of the Arcadia Town Court and
a Justice of the Newark Village Court,
Wayne County.

THE FOLLOWING IS HEREBY STIPULATED by and between Robert H.
Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct
("Commission"), and the Honorable Michael Ralph Miller and his attorney, Robert W.
Zimmerman, of Zimmerman and Tyo.

1. Michael Ralph Miller has been a Justice of both the Arcadia Town Court and the Newark Village Court, Wayne County, since January 1, 2010. Both terms expire on December 31, 2022. Judge Miller is an attorney.
2. On June 23, 2020, the Commission authorized an investigation of a complaint alleging that Judge Miller had been charged with criminal contempt in the first degree, a felony, and stalking in the fourth degree, a misdemeanor, for violating a stay-away order of protection held by a former girlfriend.
3. On October 23, 2020, Judge Miller pled guilty to criminal contempt in the second degree, a misdemeanor under Section 215.50(3) of the Penal Law, in satisfaction of the first-degree contempt and fourth-degree stalking charges. On March 5, 2021, he

was sentenced to three years' probation. The sentence included a five-year, no-contact, final order of protection for the victim, a waiver of appeal, a requirement that he attend domestic violence and mental health counseling, and a mandated payment of both the DNA Data Bank Registration Fee (\$50.00) and the mandatory surcharge/Crime Victim Assistance Fee (\$200.00).

4. Judge Miller has tendered his resignations to both judicial offices by letter dated April 1, 2021, a copy of which is annexed as Exhibit A. Judge Miller affirms that he will vacate his judicial offices as of April 16, 2021.

5. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from a judge's resignation to complete proceedings and, if it so determines, render and file a determination that the judge should be removed from office.

6. Judge Miller affirms that, having vacated his judicial offices, he will neither seek nor accept judicial office at any time in the future.

7. Judge Miller understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission's investigation of the complaint would be revived, he would be served with a Formal Written Complaint on authorization of the Commission, and the matter would proceed to a hearing before a referee.

8. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

9. Judge Miller waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (1) this Stipulation will become public upon being signed by the signatories below, and (2) the Commission's Decision and Order regarding this Stipulation will become public.

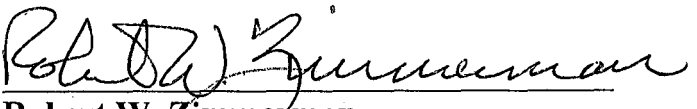
Dated:

3/31/21



Honorable Michael Ralph Miller

Dated:

3/31/2021


Robert W. Zimmerman
Zimmerman and Tyo
Attorney for Judge Miller

Dated: April 5, 2021


Robert H. Tembeckjian
Administrator and Counsel to the Commission
(John J. Postel and M. Kathleen Martin, Of
Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV
EXHIBIT A: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

JASON NOVAK,

a Justice of the Hornby Town Court,
Steuben County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Graham B. Seiter, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and M. Kathleen Martin, Of Counsel)
for the Commission

Honorable Jason Novak, *pro se*

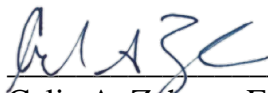
The matter having come before the Commission on June 10, 2021; and the
Commission having before it the Stipulation dated June 9, 2021; and Judge Novak having

affirmed that he vacated his judicial office as of June 7, 2021; and having affirmed that having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: June 11, 2021



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

JASON NOVAK

STIPULATION

a Justice of the Hornby Town Court,
Steuben County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct ("Commission"), and the Honorable Jason Novak ("Respondent") as follows:

1. Respondent has been a Justice of the Hornby Town Court, Steuben County, since 2020. His term expires December 31, 2023. Respondent is not an attorney.
2. Respondent was served with a Formal Written Complaint dated May 14, 2021, containing two charges. Charge I alleged that, for more than a year following the commencement of his judgeship in January 2020, Respondent failed to complete the judicial certification training program required by Article VI, Section 20(c) of the New York State Constitution and Section 105(a) of the Uniform Justice Court Act for all non-lawyer town and village court justices. Charge II alleged that Respondent failed to cooperate with the Commission during its investigation of the matter. The Formal Written Complaint is appended as Exhibit A.
3. Respondent enters into this Stipulation in lieu of filing an Answer to the Formal Written Complaint.

4. Respondent has tendered his resignation, by letter dated and effective June 7, 2021, a copy of which is appended as Exhibit B.

5. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from a judge's resignation to complete proceedings and, if it so determines, render and file a determination that the judge should be removed from office.

6. Respondent affirms that, having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future.

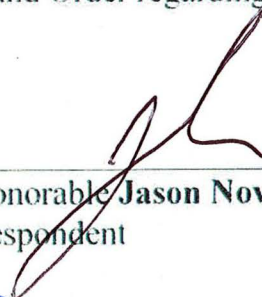
7. Respondent understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the present proceedings before the Commission will be revived and the matter will proceed to a hearing before a referee.

8. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

Respondent waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (1) this Stipulation will become public upon being signed by the signatories below, and (2) the Commission's Decision and Order regarding this Stipulation will become public.

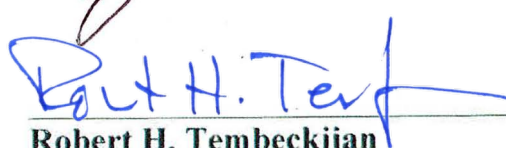
Dated:

6-9-21



Honorable Jason Novak
Respondent

Dated: June 9, 2021



Robert H. Tembeckjian
Administrator and Counsel to the Commission
(John J. Postel and M. Kathleen Martin, Of Counsel)

THE FOLLOWING EXHIBITS ARE AVAILABLE AT
WWW.CJC.NY.GOV

EXHIBIT A: FORMAL WRITTEN COMPLAINT

EXHIBIT B: RESPONDENT'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

JOHN R. PECK,

a Justice of the Gorham Town Court,
Ontario County.

DETERMINATION

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Paul B. Harding, Esq.
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and David M. Duguay, Of Counsel)
for the Commission

Honorable John R. Peck, *pro se*

Respondent, John R. Peck, a Justice of the Gorham Town Court, Ontario County,
was served with a Formal Written Complaint dated January 14, 2021, containing one
charge. Respondent submitted a letter dated January 21, 2021 in lieu of an Answer. The

Formal Written Complaint alleged that from July 21, 2020 through October 16, 2020, respondent publicly displayed on his Facebook page: (A) two photographs of himself wearing an Ontario County Sheriff's uniform, and (B) a post with his personal comments expressing his appreciation for law enforcement officers and describing his appearance at a "Back the Blue" event, which was held to show support for law enforcement. The post and photos garnered hundreds of "likes" and comments from other Facebook users. It was also alleged that respondent engaged in this conduct notwithstanding having been cautioned by the Commission in April 2019 for an inappropriate Facebook post regarding a candidate then running for a law enforcement position.

On February 22, 2021, the Administrator and respondent entered into an Agreed Statement of Facts pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be admonished and waiving further submissions and oral argument.

On March 11, 2021, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent has been a Justice of the Gorham Town Court, Ontario County, since 2018. His current term expires on December 31, 2021. Respondent is not an attorney.
2. On July 19, 2020, respondent attended a "Back the Blue" event in Ontario County, at which a procession of motorists drove their vehicles in a show of support for law enforcement. For approximately 30 minutes, respondent displayed a sign

approximately two feet by three feet (2' x 3') in dimension on which he had painted the words "Thank You" in blue lettering.

3. Facebook is an internet social networking website and platform that *inter alia* allows users to post and share content on their own Facebook pages as well as on the Facebook pages of other users and on Facebook groups. Facebook users are responsible for managing the privacy settings associated with their accounts. At the option of the account holder, the content of one's Facebook page – including photographs and textual posts – may be viewable online by the general public or restricted to one's Facebook "Friends." Other Facebook users who are able to view a given post or photograph may comment on the photograph, share it with other Facebook users, and/or "like" it by posting an icon to it, such as a heart, a thumbs-up, or a smiley face.

4. On July 21, 2020, respondent's Facebook page, which he made viewable to the public, displayed a "cover photo" depicting himself in his Ontario County Sheriff's uniform while standing with three other individuals, one of whom (his daughter) was wearing a similar uniform.¹ The photograph was taken at his daughter's police academy graduation in August 2018, which post-dated respondent's December 2017 retirement from the Ontario County Sheriff's Office. A copy of respondent's Facebook page bearing this photograph is appended as Exhibit A to the Agreed Statement of Facts.

5. Beginning on July 21, 2020, respondent's public Facebook page contained a post he wrote about his appearance at the "Back the Blue" event. In the post,

¹ Respondent initially uploaded this photograph to his Facebook account on or about November 9, 2018.

respondent showed his appreciation for members of what he called the “noblest of professions” by writing:

Today, my daughter ... and I stood at the side of the road and watched in appreciation as hundreds of motorcycles and other vehicles passed by ... It was the Back the Blue ride in support of law enforcement ...

I always tell her that she and her brothers and sisters in blue are still appreciated in OUR community. Today’s event, and the overwhelming number of participants is a true example of that appreciation. We both had tears streaming down our cheeks as folks waved and honked, acknowledging our sign thanking them for their support.

It is a tough time for law enforcement. To those of my friends who served or continue to, always remember that you have chosen the noblest of professions and you ARE making a difference ...

Appended to this post was a photograph depicting respondent and his daughter wearing Ontario County Sheriff’s Office uniforms. This photograph was taken at his daughter’s police academy graduation in August 2018, which post-dated respondent’s December 2017 retirement from the Ontario County Sheriff’s Office. A copy of this Facebook post and photograph is contained on page one of Exhibit B to the Agreed Statement of Facts.

6. By July 21, 2020, respondent’s “cover photo” had garnered approximately 277 Facebook “likes,” two “shares,” and 37 comments from other Facebook users. His public post containing the text and the second photograph referenced in paragraph 5 above had garnered approximately 940 Facebook “likes,” 355 “shares,” and 219 comments from other Facebook users. Among the comments was one that identified him as “Judge!” A copy of this comment is contained on page four of Exhibit B to the Agreed Statement of Facts.

7. Respondent engaged in the Facebook activity set forth herein notwithstanding that on April 24, 2019, the Commission had issued him a Letter of Dismissal and Caution for posting to Facebook in November of 2018 an improper public political comment in which he was critical of a candidate in an election for county sheriff. In the cautionary letter, the Commission specifically referred respondent's attention to the section of its 2019 Annual Report reminding judges that, irrespective of the forum, a judge's comments must comport with the Rules Governing Judicial Conduct ("Rules").² A copy of the Commission's letter is Exhibit C to the Agreed Statement of Facts.

Additional Factors

8. Respondent now recognizes that individuals viewing his Facebook posts, and seeing him in a law enforcement uniform, would reasonably question his ability to conduct himself in a fair and impartial manner while presiding over cases involving law enforcement.

9. Respondent takes full responsibility for his actions and has been cooperative and contrite with the Commission throughout its inquiry. He regrets his failure to abide by the Rules in this matter. He pledges to conduct himself in accordance with the Rules for the remainder of his tenure as a judge.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A) and 100.4(A)(1) of the Rules and should be disciplined for cause pursuant to Article 6, Section 22, subdivision (a) of the

² <http://cjc.ny.gov/Publications/AnnualReports/nyscjc.2019Annualreport.pdf>.

Constitution and Section 44, subdivision 1 of the Judiciary Law. Charge I of the Formal Written Complaint is sustained insofar as it is consistent with the above findings and conclusions and respondent's misconduct is established.

Each judge is obligated to “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary” and must observe high standards of conduct “so that the integrity and independence of the judiciary will be preserved.” (Rules, §§100.1 and 100.2(A)) Section 100.4(A)(1) of the Rules requires that each judge must conduct all of his or her “extra-judicial activities so that they do not . . . cast reasonable doubt on the judge's capacity to act impartially as a judge.” *Matter of Fisher*, 2019 NYSCJC Annual Report 126, 135 (“[e]very judge must understand that a judge's right to speak publicly is limited because of the important responsibilities a judge has in dispensing justice, maintaining impartiality and acting at all times in a manner that promotes public confidence in the judge's integrity.”); *Matter of Barringer*, 2006 NYSCJC Annual Report 97, 100 (“[t]he ethical standards require a judge to avoid extra-judicial conduct that casts doubt on the judge’s impartiality. . . Respondent’s public advocacy against a local road closure by the New York City Department of Environmental Protection (DEP) violated these standards by demonstrating that he no longer had the ability to be and appear to be impartial in matters involving the DEP.”).

When respondent, a Town Justice in Ontario County, posted on his public Facebook page pictures of himself in the uniform of the Ontario County Sheriff’s Office, he failed to comply with the Rules. In addition, respondent’s public Facebook post in which he aligned himself with and expressed his strong support for law enforcement

personnel, casts doubt on respondent's ability to act impartially when he presided over matters which involved law enforcement personnel. Respondent acknowledged that individuals who viewed his public Facebook posts would reasonably question his impartiality when he presided over cases involving law enforcement.

In April 2019, respondent received a Letter of Dismissal and Caution from the Commission regarding a public posting he made on Facebook about a candidate for Ontario County Sheriff. In the Commission's letter, respondent was specifically advised to review the section of the Commission's "2019 Annual Report reminding judges that, irrespective of the forum, a judge's public comments must comport with the Rules. . . ." Given his prior Letter of Dismissal and Caution from the Commission, respondent should have been circumspect and particularly attentive to his obligations under the Rules when he made Facebook posts. *Matter of Ayres*, 30 N.Y.3d 59, 64 (2017) ("the failure to heed a prior warning [is a] significant aggravating factor[] . . ."); *Matter of George*, 22 N.Y.3d 323, 331 (2013).

In accepting the jointly recommended sanction of admonition, we have taken into consideration that respondent has admitted that his conduct warrants public discipline and that he has pledged to carefully comply with the Rules. We trust that respondent has learned from this experience and in the future will act in strict accordance with his obligation to abide by all the Rules Governing Judicial Conduct.

By reason of the foregoing, the Commission determines that the appropriate disposition is admonition.

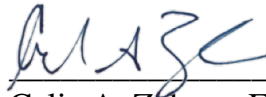
Mr. Belluck, Ms. Grays, Judge Camacho, Ms. Corngold, Judge Falk, Mr. Harding,

Judge Mazzairelli, Judge Miller, Mr. Raskin, Mr. Rosenberg and Ms. Yeboah concur.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on
Judicial Conduct.

Dated: March 19, 2021

A handwritten signature in blue ink, appearing to read 'CAZ', is written over a horizontal line.

Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

LISA R. RANA,

DETERMINATION

a Justice of the East Hampton Town Court and
the Sag Harbor Village Court,
Suffolk County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Paul B. Harding, Esq.
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Mark Levine and Stella Gilliland, Of Counsel)
for the Commission

Scalise & Hamilton, P.C. (by Deborah A. Scalise) for respondent

Respondent, Lisa R. Rana, a Justice of the East Hampton Town Court and the Sag
Harbor Village Court, Suffolk County, was served with a Formal Written Complaint

dated January 14, 2021, containing one charge. Respondent entered into an Agreed Statement of Facts in lieu of an Answer. The Formal Written Complaint alleged that from June 2019 to October 2019, respondent engaged in inappropriate political activity in that she (A) edited as many as eight political opinion essays and letters to the editor intended and/or submitted for publication by David Gruber, then a candidate for non-judicial elected office in the Town of East Hampton, and (B) offered written advice to Mr. Gruber regarding issues raised in his proposed submissions.

On March 5, 2021, the Administrator, respondent's counsel and respondent entered into an Agreed Statement of Facts pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be admonished and waiving further submissions and oral argument.

On March 11, 2021, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent was admitted to the practice of law in New York in 1992. She has been a Justice of the East Hampton Town Court, Suffolk County, since 2004, and a Justice of the Sag Harbor Village Court, Suffolk County, since 2011. Respondent's current terms as East Hampton Town Court Justice and Sag Harbor Village Court Justice expire on December 31, 2023, and June 30, 2023, respectively.

2. Beginning in April 2019, David Gruber was a candidate for East Hampton Town Supervisor, running on the Independence and Libertarian lines. Prior to that time, respondent was a candidate for reelection as East Hampton Town Court Justice, running

on the Republican and Conservative lines as well as the Independence and Libertarian lines.

3. In June 2019, Mr. Gruber began circulating drafts of political opinion essays and letters to the editor that he intended to submit for publication in local newspapers. The drafts were sent via email to members of his campaign staff, his running mates, and his friends, including respondent, whom he invited to edit his submissions.

4. From June 2019 through August 2019, respondent edited at least eight of Mr. Gruber's submissions using Microsoft Word's "Track Changes" feature which, when enabled, displayed all of respondent's proposed changes in demarcated colored text. All the submissions were statements in Mr. Gruber's name alone.

A. Although many of respondent's suggested edits to Mr. Gruber's draft submissions were stylistic, others were substantive and concerned political topics. For example, in a draft article dated August 5, 2019, which was published on August 8, 2019, respondent *inter alia* changed a reference about local political maneuvers from "corrupt bargain" to "backroom deal," and added a new sentence alleging that the Town Board had shown "ineptitude in addressing the emergency communications disaster in the Springs." A copy of the edited article showing the changes is appended as Exhibit 1 to the Agreed Statement of Facts.

B. In another version of the same draft article, respondent *inter alia*

deleted half a page in redline and then rewrote the text, stating that “public officials ha[d] shown their indifference to our residents on many . . . occasions.” A copy of this version of the article showing the changes is appended as Exhibit 2 to the Agreed Statement of Facts.

5. In addition to editing the articles and letters, respondent also emailed Mr. Gruber separately with additional advice, both substantive and strategic. On August 5, 2019, respondent emailed the following suggestion to Mr. Gruber:

David, if you start off with DW Wind, you will only reach the same people. This letter isn't about DDW and should not begin with that. If you start off talking about the upcoming election and that there is something new happening, others will start to read it. . . . The letter is about you guys, not 1 political issue. You can touch on these issues briefly but these issue mentions are only there to illustrate how and why you are different.

A copy of the email is appended as Exhibit 3 to the Agreed Statement of Facts.

6. In an email dated August 25, 2019, respondent wrote to Mr. Gruber:

We can tighten up the fusion party part. . . . Let me know what issues D[emocrat]s will want to have focused [sic] on. There are a lot of D[emocrat]s in Springs so focusing on Springs issues is important. (Emphasis added.)

A copy of the email is appended as Exhibit 4 to the Agreed Statement of Facts.

7. In an email dated August 1, 2019, respondent advised Mr. Gruber:

I agree that quoting Murphy is good but what he has really done in his quote is defined what the current status quo is. So, I noted that.

We refer to the status quo several times in the letter so using his words as the definition of what the status quo currently helps - I think. (Emphasis added.)

A copy of the email is appended as Exhibit 5 to the Agreed Statement of Facts.

8. On August 6, 2019, respondent emailed Mr. Gruber to express her concern that he had submitted an article to a local newspaper with her “Track Changes” edits still visible. Respondent expressed her belief that it would be “very bad...indeed” if her involvement in editing his articles were to be made public. After Mr. Gruber (incorrectly) assured her that he had not made this mistake, respondent continued to edit his submissions. A copy of the email is attached as Exhibit 6 to the Agreed Statement of Facts.

9. On October 17, 2019, a local newspaper revealed that Mr. Gruber had in fact submitted an article with the “Track Changes” feature enabled and showing that edits had been made by a user named “lisa rana.” When reached for comment by the newspaper, respondent did not deny having edited Mr. Gruber’s submissions.

Additional Factors

10. It is noted that respondent is charged with engaging in political activity, which is prohibited for other than her own campaign. She is not charged with misbehavior on the bench or with such actionable “deceitful” conduct as a lawyer making misrepresentations to a court or “ghostwriting” submissions for a litigant appearing to be acting *pro se*.

11. In 2005, the Commission confidentially cautioned respondent for personally preparing and approving a radio advertisement for her judicial candidacy that

misrepresented facts about her opponent's reasons for seeking judicial office.

12. Respondent avers that she and Mr. Gruber were friends prior to his decision to run for office in April of 2019.

13. Respondent resides in East Hampton and has long been active in her community. She has been an attorney licensed to practice law in the State of New York and Massachusetts for twenty-eight (28) years. Respondent avers, and the Administrator has no information to the contrary, that she has never been sanctioned by any court in any jurisdiction. She supports many local charities and grew up in the town where she now serves as a local Justice.

14. Respondent has been cooperative and contrite throughout the Commission's inquiry.

15. Respondent avers that she did not edit any political opinion essays and letters to the editor for any other political candidate and will not do so in the future.

16. Respondent has studied and appreciates that the Commission has publicly admonished other judges who have expressed support for political candidates by writing published letters on their behalf. *See Matter of Campbell*, 2005 NYSCJC Annual Report 133, *Matter of Cacciatore*, 1999 NYSCJC Annual Report 85, and *Matter of Decker*, 1995 NYSCJC Annual Report 111.

17. Respondent also appreciates that, as set forth in Opinion 16-85 of the Advisory Committee on Judicial Ethics, prohibited political activity is not rendered permissible by being conducted anonymously.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.5(A)(1)(c) and 100.5(A)(1)(d) of the Rules Governing Judicial Conduct (“Rules”) and should be disciplined for cause pursuant to Article 6, Section 22, subdivision (a) of the Constitution and Section 44, subdivision 1 of the Judiciary Law. Charge I of the Formal Written Complaint is sustained insofar as it is consistent with the above findings and conclusions and respondent’s misconduct is established.

Each judge is obligated to “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary” and must observe high standards of conduct “so that the integrity and independence of the judiciary will be preserved.” (Rules, §§100.1 and 100.2(A)) While judges are permitted to engage in political activity on behalf of their own campaigns for judicial office, the ethical Rules strictly prohibit a judge’s direct and indirect engagement in political activity. (Rules, § 100.5(A)(1)) With exceptions not applicable here, Sections 100.5(A)(1) (c) and (d) of the Rules prohibit judges from “engaging in any partisan political activity” and from “participating in any political campaign for any office. . . .”

In upholding the constitutionality of Sections 100.5(A)(1)(c) and (d) of the Rules, the Court of Appeals held that a judge’s participation in a political party’s “phone bank” in which he made calls to potential voters without giving his name or judicial title, violated these Rules. *In re Raab*, 100 N.Y.2d 305, 310 (2003). The Court held,

the rules are constitutionally permissible because they are narrowly tailored to further a number of compelling state interests, including preserving the impartiality and

independence of our state judiciary and maintaining public confidence in New York State’s court system. . . .

Once elected to the bench, a judge’s role is significantly different from others who take part in the political process and, for this reason, conduct that would be appropriate in other types of campaigns is inappropriate in judicial elections.

Id. at 312, 316. In *Matter of Campbell*, 2005 NYSCJC Annual Report 133, the Commission disciplined a judge for issuing campaign letters in which he endorsed two Town Board candidates. The Commission stated, “[p]articipation by judges and judicial candidates in the political campaigns of other candidates is strictly prohibited; a judge may not even make anonymous telephone calls while participating in a telephone bank on behalf of a candidate for public office.” *Id.* at 134 (citation omitted).

At the time of the misconduct at issue here, Mr. Gruber was running for elected office in East Hampton. Respondent admitted that she participated in prohibited political activity and prohibited campaign activity when she edited candidate Gruber’s draft submissions. As respondent acknowledged, even political activity that is anonymous violates the Rules. Respondent also violated the ethical rules when she provided strategic political advice to candidate Gruber.

Respondent, who has been a judge since 2004, should have been aware of the constraints on her political activity. Moreover, in 2005, respondent received a letter of Dismissal and Caution from the Commission which should have caused her to be particularly attentive to her obligation to comply with the Rules. *Matter of Ayres*, 30 N.Y.3d 59, 64 (2017); *Matter of George*, 22 N.Y.3d 323, 331 (2013).

In accepting the jointly recommended sanction of admonition, we have taken into

consideration that respondent has admitted that her conduct warrants public discipline and that she has pledged to fully comply with the Rules. We trust that respondent has learned from this experience and in the future will act in strict accordance with her obligation to abide by all the Rules Governing Judicial Conduct.

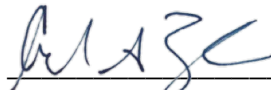
By reason of the foregoing, the Commission determines that the appropriate disposition is admonition.

Mr. Belluck, Ms. Grays, Judge Camacho, Ms. Corngold, Judge Falk, Mr. Harding, Judge Mazzairelli, Judge Miller, Mr. Raskin, Mr. Rosenberg and Ms. Yeboah concur.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct.

Dated: March 19, 2021



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

PAUL E. SUCHER,

a Justice of the Ontario Town Court,
Wayne County.

**DECISION
AND
ORDER**

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Graham B. Seiter, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and David M. Duguay, Of Counsel)
for the Commission

Charles A. Schiano, Sr. and Christopher A. Schiano for the Respondent

The matter having come before the Commission on October 28, 2021; and
the Commission having before it the Stipulation dated October 12, 2021; and respondent

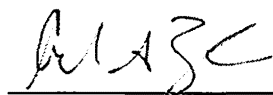
having been served with a Formal Written Complaint dated October 18, 2019, and having filed an Verified Answer dated November 12, 2019; and the Commission, by Order dated October 8, 2020, having designated A. Vincent Buzard, Esq. as referee to hear and report proposed findings of fact and conclusions of law; and a hearing having been held on February 16-19, 22-23 and June 8, 2021; and respondent having tendered his resignation effective October 7, 2021; and respondent having affirmed that having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future; and respondent having waived confidentiality as provided by Judiciary Law §45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded according to the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Judge Falk did not participate.

Dated: October 28, 2021



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

PAUL E. SUCHER,

STIPULATION

a Justice of the Ontario Town Court,
Wayne County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct (“Commission”), and the Honorable Paul E. Sucher (“Respondent”), who is represented in these proceedings by Christopher A. Schiano, Esq., and Charles A. Schiano, Sr., Esq., of the Schiano Law Office, P.C., as follows:

1. Respondent has been a Justice of the Ontario Town Court, Wayne County, since January 1, 2008. His current term expires on December 31, 2023. Respondent is not an attorney.
2. Respondent was served with a Formal Written Complaint dated October 18, 2019. It contained one charge alleging that Respondent repeatedly expressed views opposing interracial marriage, used a racial epithet on multiple occasions, and threatened the life of a Black town employee who was in a relationship with his White daughter. The Formal Written Complaint is appended as Exhibit A.
3. Respondent filed an Answer dated November 12, 2019, which is appended as Exhibit B.

4. By Order dated October 8, 2020, the Commission designated A. Vincent Buzard, Esq., as Referee to hear and report findings of fact and conclusions of law. A hearing was held virtually on February 16-19, 22-23, and June 8, 2021. A copy of the hearing transcript, with exhibits admitted into evidence, is appended as Exhibit C.

5. Respondent tendered his resignation, dated October 7, 2021, a copy of which is appended as Exhibit D. Respondent affirms that he vacated judicial office as of October 7, 2021.

6. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from a judge's resignation to complete proceedings and, if it so determines, render and file a determination that the judge should be removed from office.

7. Respondent affirms that, having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future.

8. Respondent understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any future time, the present proceedings will be revived, post-hearing briefs will be filed with a referee, and the matter will be presented before the Commission for determination as to misconduct and sanction.

9. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

10. Respondent waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (1) this Stipulation will become public upon being

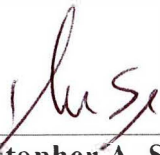
signed by the signatories below, and (2) the Commission's Decision and Order regarding this Stipulation will become public.

Dated: 10-7-2021


SIGNED AT THE
WAYNE COUNTY NURSING
HOME & REHAB CENTER
LYONS, NY.

Dated: 10-12-2021

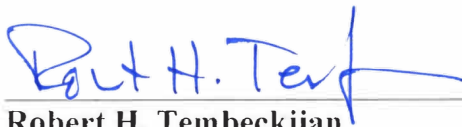

Honorable Paul E. Sucher
Respondent


Christopher A. Schiano, Esq.
Schiano Law Office, P.C.
Attorney for Respondent

Dated: 10-9-21


Charles A. Schiano, Sr., Esq.
Schiano Law Office, P.C.
Attorney for Respondent

Dated: October 12, 2021


Robert H. Tembeckjian
Administrator and Counsel to the Commission
(John J. Postel and David M. Duguay, Of
Counsel)

THE FOLLOWING EXHIBITS ARE AVAILABLE AT WWW.CJC.NY.GOV
EXHIBIT A: FORMAL WRITTEN COMPLAINT
EXHIBIT B: RESPONDENT'S ANSWER
EXHIBIT C: HEARING TRANSCRIPT & HEARING EXHIBITS
EXHIBIT D: RESPONDENT'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

AMANDA R. WARD,

a Justice of the Fallsburg Town Court,
Sullivan County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Paul B. Harding, Esq.
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Mark Levine and Stella Gilliland, Of Counsel) for the
Commission

O'Connell and Aronowitz (by Stephen R. Coffey) for Justice Ward

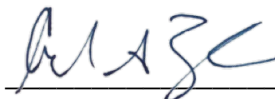
The matter having come before the Commission on January 28, 2021; and
the Commission having before it the Stipulation dated January 25, 2021; and Judge Ward

having affirmed that she vacated her judicial office as of October 31, 2020; and having affirmed that having vacated her judicial office, she will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: January 28, 2021



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

AMANDA R. WARD,

STIPULATION

a Justice of the Fallsburg Town Court,
Sullivan County.

THE FOLLOWING IS HEREBY STIPULATED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct, and the Honorable Amanda R. Ward and her attorney, Stephen R. Coffey, of O'Connell and Aronowitz.

1. Judge Amanda R. Ward has been a Justice of the Fallsburg Town Court, Sullivan County, since November 3, 2015. Although her current term would have expired on December 31, 2023, Judge Ward resigned from judicial office effective October 31, 2020.

2. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from a judge's resignation to complete proceedings and, if it so determines, render and file a determination that the judge should be removed from office.

3. On November 13, 2020, the Commission served Judge Ward with a Formal Written Complaint charging *inter alia* that she presided notwithstanding a disqualifying conflict with a party or witness but failed to disclose and/or recuse herself as required.

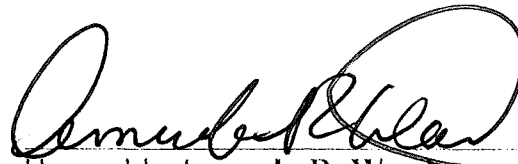
4. Judge Ward affirms that, having vacated her judicial office, she will neither seek nor accept judicial office at any time in the future.

5. Judge Ward understands that, should she abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission's proceeding would be revived.

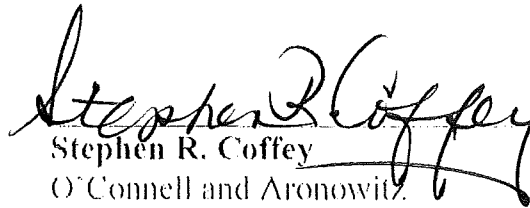
6. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

7. Judge Ward waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (1) this Stipulation will become public upon being signed by the signatories below, and (2) the Commission's Decision and Order regarding this Stipulation will become public.

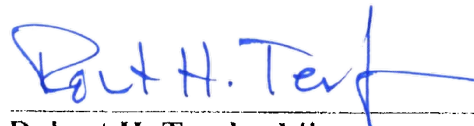
Dated: 1/19/21


Honorable Amanda R. Ward

Dated: 1/15/21


Stephen R. Coffey
O'Connell and Aronowitz
Attorney for Judge Ward

Dated: January 25, 2021


Robert H. Tembeckjian

Administrator and Counsel to the Commission
(Mark Levine and Stella Gilliland, Of Counsel)

APPENDIX G: STATISTICAL ANALYSIS OF COMPLAINTS

COMPLAINTS PENDING AS OF DECEMBER 31, 2020								
SUBJECT OF COMPLAINT		STATUS OF INVESTIGATED COMPLAINTS						TOTALS
		PENDING	DISMISSED	CAUTION	RESIGNED	CLOSED*	ACTION*	
INCORRECT RULING								
NON-JUDGES								
DEMEANOR		28	5	5	7	0	0	45
DELAYS		3	0	1	1	0	0	5
CONFLICT OF INTEREST		3	4	3	3	0	0	13
BIAS		0	2	0	0	0	0	2
CORRUPTION		3	0	0	1	0	0	4
INTOXICATION		0	0	0	0	0	1	1
DISABILITY/QUALIFICATIONS		0	0	0	0	0	0	0
POLITICAL ACTIVITY		11	10	5	1	1	1	29
FINANCES/RECORDS/TRAINING		7	0	2	2	0	1	12
TICKET-FIXING		0	1	1	0	0	0	2
ASSERTION OF INFLUENCE		7	4	2	2	0	1	16
VIOLATION OF RIGHTS		20	9	2	8	1	0	40
MISCELLANEOUS		5	1	1	1	0	0	8
TOTALS		87	36	22	26	2	4	177

*Matters are “closed” upon vacancy of office for reasons other than resignation. “Action” includes determinations of admonition, censure and removal from office by the Commission.

NEW COMPLAINTS CONSIDERED BY THE COMMISSION IN 2021								
SUBJECT OF COMPLAINT	DISMISSED ON FIRST REVIEW OR PRELIMINARY INQUIRY	STATUS OF INVESTIGATED COMPLAINTS						TOTALS
		PENDING	DISMISSED	CAUTION	RESIGNED	CLOSED*	ACTION*	
<i>INCORRECT RULING</i>	1099							1099
<i>NON-JUDGES</i>	393							363
<i>DEMEANOR</i>	83	23	2	0	1	0	0	109
<i>DELAYS</i>	29	3	0	0	0	0	0	32
<i>CONFLICT OF INTEREST</i>	21	7	1	1	2	0	0	32
<i>BIAS*</i>	90	5	1	0	1	0	0	97
<i>CORRUPTION</i>	69	3	0	0	1	0	0	73
<i>INTOXICATION</i>	2	0	0	0	0	0	0	2
<i>DISABILITY/QUALIFICATIONS</i>	1	1	0	0	0	0	0	2
<i>POLITICAL ACTIVITY</i>	8	6	1	0	0	0	0	15
<i>FINANCES/RECORDS/TRAINING</i>	7	22	2	1	1	0	0	33
<i>TICKET-FIXING</i>	0	2	0	0	1	0	0	3
<i>ASSERTION OF INFLUENCE</i>	3	10	0	0	1	0	0	14
<i>VIOLATION OF RIGHTS</i>	31	20	2	0	0	0	0	53
<i>MISCELLANEOUS</i>	7	3	0	0	1	0	0	11
TOTALS	1813	105	9	2	9	0	0	1938

*Matters are “closed” upon vacancy of office for reasons other than resignation. “Action” includes determinations of admonition, censure and removal from office by the Commission.

* Of the 97 bias complaints received in 2021, 18 were classified as bias against an individual, all of which were dismissed upon initial review. Seventy-nine were classified as bias based on a broader basis of race, culture, religion, gender or ethnicity, 72 of which was dismissed upon initial review. Of the remaining seven complaints, one was dismissed after investigation, and one resulted in the judge’s resignation from the bench. The remaining five are being investigated.

ALL COMPLAINTS CONSIDERED IN 2021: 1,938 NEW & 177 PENDING FROM 2020								
SUBJECT OF COMPLAINT	DISMISSED ON FIRST REVIEW OR PRELIMINARY INQUIRY	STATUS OF INVESTIGATED COMPLAINTS						TOTALS
		<i>PENDING</i>	<i>DISMISSED</i>	<i>CAUTION</i>	<i>RESIGNED</i>	<i>CLOSED*</i>	<i>ACTION*</i>	
<i>INCORRECT RULING</i>	1099							1099
<i>NON-JUDGES</i>	393							363
<i>DEMEANOR</i>	83	51	7	5	8	0	0	154
<i>DELAYS</i>	29	5	0	1	1	1	0	37
<i>CONFLICT OF INTEREST</i>	21	10	5	4	5	0	0	45
<i>BIAS</i>	90	5	3	0	1	0	0	99
<i>CORRUPTION</i>	69	6	0	0	2	0	0	77
<i>INTOXICATION</i>	2	0	0	0	0	0	1	3
<i>DISABILITY/QUALIFICATIONS</i>	1	1	0	0	0	0	0	2
<i>POLITICAL ACTIVITY</i>	8	17	11	5	1	1	1	44
<i>FINANCES/RECORDS/TRAINING</i>	7	29	2	3	3	0	1	45
<i>TICKET-FIXING</i>	0	2	1	1	1	0	0	5
<i>ASSERTION OF INFLUENCE</i>	3	17	4	2	3	0	1	30
<i>VIOLATION OF RIGHTS</i>	31	40	11	2	8	1	0	93
<i>MISCELLANEOUS</i>	7	8	1	1	2	0	0	19
TOTALS	1813	191	45	24	35	3	4	2115

*Matters are “closed” upon vacancy of office for reasons other than resignation. “Action” includes determinations of admonition, censure and removal from office by the Commission.

ALL COMPLAINTS CONSIDERED SINCE THE COMMISSION'S INCEPTION IN 1975								
SUBJECT OF COMPLAINT	DISMISSED ON FIRST REVIEW OR PRELIMINARY INQUIRY	STATUS OF INVESTIGATED COMPLAINTS						TOTALS
		<i>PENDING</i>	<i>DISMISSED</i>	<i>CAUTION</i>	<i>RESIGNED</i>	<i>CLOSED*</i>	<i>ACTION*</i>	
<i>INCORRECT RULING</i>	29,802							29,802
<i>NON-JUDGES</i>	9,488							9,488
<i>DEMEANOR</i>	4,358	51	1,394	375	173	142	284	6,777
<i>DELAYS</i>	1,773	5	209	114	42	24	34	2,201
<i>CONFLICT OF INTEREST</i>	932	10	548	195	69	36	148	1,938
<i>BIAS</i>	2,153	5	315	67	38	25	39	2,642
<i>CORRUPTION</i>	920	6	155	14	53	24	45	1,217
<i>INTOXICATION</i>	81	0	43	8	19	6	35	192
<i>DISABILITY/QUALIFICATIONS</i>	72	1	36	2	25	18	6	160
<i>POLITICAL ACTIVITY</i>	473	17	358	219	32	39	58	1,196
<i>FINANCES/RECORDS/TRAINING</i>	358	29	399	252	181	105	111	1,435
<i>TICKET-FIXING</i>	28	2	95	161	49	62	171	568
<i>ASSERTION OF INFLUENCE</i>	262	17	227	106	51	23	81	767
<i>VIOLATION OF RIGHTS</i>	2,748	40	687	257	150	82	122	4,086
<i>MISCELLANEOUS</i>	936	8	280	93	42	50	61	1,470
TOTALS	54,354	191	4,746	1,863	924	636	1,195	63,909

* Matters are “closed” upon vacancy of office for reasons other than resignation. “Action” includes determinations of admonition, censure and removal from office by the Commission since its inception in 1978, as well as suspensions and disciplinary proceedings commenced in the courts by the temporary and former commissions on judicial conduct operating from 1975 to 1978.



NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT

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(518) 299-1757 (FAX)**

**CORNING TOWER, SUITE 2301
EMPIRE STATE PLAZA
ALBANY, NEW YORK 12223
(518) 453-4600
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ROCHESTER, NEW YORK 14604
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