

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

DORIS T. APPEL,

a Justice of the Chatham Town Court,
Columbia County.

THE COMMISSION:

Raoul Lionel Felder, Esq., Chair
Honorable Thomas A. Klonick, Vice Chair
Stephen R. Coffey, Esq.
Colleen C. DiPirro
Richard D. Emery, Esq.
Paul B. Harding, Esq.
Marvin E. Jacob, Esq.
Honorable Jill Konviser
Honorable Karen K. Peters
Honorable Terry Jane Ruderman

APPEARANCES:

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

Roche, Corrigan, McCoy & Bush, PLLC (by Scott W. Bush) for the
Respondent

The respondent, Doris T. Appel, a Justice of the Chatham Town Court,
Columbia County, was served with a Formal Written Complaint dated September 15,

2006, containing one charge. The Formal Written Complaint alleged that respondent presided over two matters notwithstanding that she was biased against the defendants' attorney, and that thereafter she barred the attorney from appearing before her based on hearsay information. Respondent filed a Verified Answer dated October 6, 2006.

On March 27, 2007, the Administrator of the Commission, respondent's counsel and respondent entered into an Agreed Statement of Facts pursuant to Judiciary Law §44(5), 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 May 10, 2007, the Commission accepted the Agreed Statement and made the following determination.

1. Respondent has been a Justice of the Chatham Town Court since 1984. She is not an attorney.
2. On November 30, 2005, respondent's court clerk told respondent about a conversation between a state trooper and the deputy town attorney, which the clerk had overheard. The conversation concerned a traffic stop for speeding on or about September 17, 2005, involving attorney Juliane Massarelli and another motorist, during which Ms. Massarelli provided the other driver with her business card. Respondent concluded from this hearsay information that Ms. Massarelli had acted unprofessionally. Respondent also concluded that Ms. Massarelli believed she should receive special treatment in the adjudication of her speeding ticket, which was heard by respondent's co-judge, because

of her friendship with the deputy town attorney.

3. On the basis of the foregoing, respondent developed a personal bias against Ms. Massarelli.

4. On December 7, 2005, Ms. Massarelli appeared before respondent on behalf of two defendants charged with speeding in violation of the Vehicle and Traffic Law. About six weeks earlier, respondent had been presented with plea agreements in the cases, and Ms. Massarelli's appearance on December 7, 2005, without the defendants, was to supply respondent with proof of the completion by her clients of defensive driving courses and for respondent to assess fines.

5. On December 7, 2005, after finalizing the two Vehicle and Traffic Law charges, respondent informed Ms. Massarelli, in open court, that for personal reasons she did not explain, she would not permit Ms. Massarelli to appear before her in future cases. All of her future cases would be heard by respondent's co-judge Jason Shaw. Respondent refused Ms. Massarelli's request for an explanation at that time. Thereafter, Ms. Massarelli never reappeared before respondent, who never explained to her the reason for respondent's refusal to allow her to appear before her.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(B)(3), 100.3(B)(4) and 100.3(E)(1) of the Rules Governing Judicial Conduct ("Rules") and should be disciplined for cause, pursuant to Article 6, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charge I of the Formal

Written Complaint is sustained, and respondent's misconduct is established.

By presiding over the sentencing of two defendants represented by an attorney just before announcing that she was barring the attorney from appearing before her in the future, respondent violated Section 100.3(E) of the Rules, which requires disqualification in matters where the judge's impartiality might reasonably be questioned. As a judge, respondent is required to set aside her personal biases and to act impartially; she must not only be, but appear to be, impartial. If she could not do so because of a personal bias, she was required to disqualify herself. While the record gives no indication that respondent's handling of those two matters was influenced by her bias against the attorney, respondent should not have presided in the cases in view of her evident bias.

The record further establishes that respondent barred the attorney from appearing before her in any future matters based solely on unsubstantiated hearsay information about a purported overheard conversation. Without explanation, respondent effectively punished the attorney by announcing in open court that she was barring the attorney from appearing before her in any future case. Respondent's conduct was irresponsible, undignified and demeaning (Rules, §100.3[B][3]). *See, Matter of Hanofee*, 1990 Annual Report 109 (Comm. on Judicial Conduct) (judge refused to hear an attorney's cases for 88 days in an attempt to extract an apology for making remarks the judge deemed offensive). Moreover, by refusing to explain the reason for her precipitous action, respondent never gave the attorney an opportunity to refute the scurrilous information respondent had received.

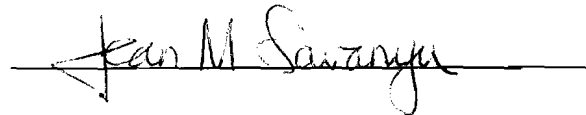
By reason of the foregoing, the Commission determines that the appropriate disposition is admonition.

Mr. Felder, Judge Klonick, Mr. Coffey, Ms. DiPirro, Mr. Emery, Mr. Harding, Mr. Jacob, Judge Konviser, Judge Peters and Judge Ruderman concur.

CERTIFICATION

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

Dated: May 14, 2007

A handwritten signature in cursive script, reading "Jean M. Savanyu", is written over a horizontal line.

Jean M. Savanyu, Esq., Clerk
New York State
Commission on Judicial Conduct