

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

MICHAEL E. KNOPF,

a Justice of the Rathbone Town Court,
Steuben County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to Respondent, Michael E. Knopf, a Justice of the Rathbone Town Court, Steuben County, pursuant to Section 44, subdivision 4, of the Judiciary Law, that the State Commission on Judicial Conduct has determined that cause exists to serve upon Respondent the annexed Formal Written Complaint; and that, in accordance with said statute, Respondent is requested within twenty (20) days of the service of the annexed Formal Written Complaint upon him to serve the Commission at its Rochester office, 400 Andrews Street, Suite 700, Rochester, New York 14604, with his verified Answer to the specific paragraphs of the Complaint.

Dated: August 19, 2020
New York, New York

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006
(646) 386-4800

To: Honorable Michael E. Knopf
Rathbone Town Court
P.O. Box 142
Addison, New York 14801

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

**FORMAL
WRITTEN COMPLAINT**

MICHAEL E. KNOPF,

a Justice of the Rathbone Town Court,
Steuben County.

1. Article 6, Section 22, of the Constitution of the State of New York establishes a Commission on Judicial Conduct (“Commission”), and Section 44, subdivision 4, of the Judiciary Law empowers the Commission to direct that a Formal Written Complaint be drawn and served upon a judge.
2. The Commission has directed that a Formal Written Complaint be drawn and served upon Michael E. Knopf (“Respondent”), a Justice of the Rathbone Town Court, Steuben County.
3. The factual allegations set forth in Charge I state acts of judicial misconduct by Respondent in violation of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct (“Rules”).
4. Respondent has been a Justice of the Rathbone Town Court, Steuben County, since 2008. His current term expires on December 31, 2023. Respondent is not an attorney.

CHARGE I

5. From on or about December 26, 2018, to on or about January 15, 2019, in connection with *Paul Jones v Seneca Tarby*, a summary proceeding pending before him,

Respondent:

- A. engaged in conduct that lacked impartiality, fundamental fairness and professional competence in the law, in that he issued a warrant of eviction against Mr. Tarby after an *ex parte* proceeding at which only Mr. Jones appeared, notwithstanding that neither Respondent nor Mr. Tarby was ever presented with a notice of petition, petition or an affidavit of service as required by Sections 731 and 735 of the Real Property Actions and Proceedings Law (RPAPL);
- B. failed to record court proceedings as required by Section 30.1 of the Rules of the Chief Judge and Administrative Order 245/08 of the Chief Administrative Judge of the Courts; and
- C. failed to be patient, dignified and courteous during the proceedings, in that he made an insulting and derogatory remark about Mr. Tarby.

Specifications to Charge I

6. On or about December 14, 2018, Mr. Jones, a landlord, went to the Rathbone Town Court to commence a summary proceeding for eviction and back rent against his tenant, Mr. Tarby.

7. Mr. Jones presented the court with a rent demand letter for four months of back rent and a lease termination notice, which purportedly had been served on Mr.

Tarby on November 1, 2018. Mr. Jones's filing included an incomplete affidavit of service, signed only by him, alleging service of the lease termination notice.

8. On or about December 26, 2018, Respondent presided over *Paul Jones v Seneca Tarby*. Only Mr. Jones was present at this proceeding. Mr. Jones did not provide Respondent with a notice of petition, petition or executed affidavit of service indicating that a notice of petition and petition had been served on Mr. Tarby.

9. On or about December 28, 2018, Respondent issued a warrant of eviction against Mr. Tarby, notwithstanding that no notice of petition or petition had been served on Mr. Tarby as required by RPAPL Sections 731 and 735. A copy of the warrant of eviction, dated December 28, 2018, is annexed as Exhibit 1.

10. On or about January 15, 2019, prior to the execution of the warrant, David Kagle, Mr. Tarby's attorney, filed a motion by order to show cause to vacate the warrant on the basis that Mr. Tarby was never served with a notice of petition and petition as required by RPAPL Sections 731 and 735. A copy of the order to show cause, dated January 15, 2019, is annexed as Exhibit 2.

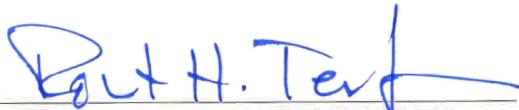
11. On or about January 15, 2019, Respondent presided over *Jones v Tarby* and granted the motion to vacate the warrant of eviction. At the conclusion of the proceeding, Respondent referred to Mr. Tarby as a "deadbeat" who did not pay his rent.

12. Respondent failed to mechanically record the proceeding on January 15, 2019, notwithstanding the requirement that he do so pursuant to Section 30.1 of the Rules of the Chief Judge and Administrative Order 245/08 of the Chief Administrative Judge of the Courts.

By reason of the foregoing, Respondent 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, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, failed to be patient, dignified and courteous to litigants, lawyers and/or others with whom the judge deals in an official capacity, in violation of Section 100.3(B)(3) of the Rules, failed to perform his judicial duties without bias or prejudice, in violation of Section 100.3(B)(4) of the Rules, failed to 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, in violation of Section 100.3(B)(6) of the Rules, and failed to diligently discharge his administrative responsibilities and maintain professional competence in judicial administration, in violation of Section 100.3(C)(1) of the Rules.

WHEREFORE, by reason of the foregoing, the Commission should take whatever further action it deems appropriate in accordance with its powers under the Constitution and the Judiciary Law of the State of New York.

Dated: August 19, 2020
New York, New York


ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006
(646) 386-4800

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

VERIFICATION

MICHAEL E. KNOFF,

a Justice of the Rathbone Town Court,
Steuben County.

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

ROBERT H. TEMBECKJIAN, being duly sworn, deposes and says:

1. I am the Administrator of the State Commission on Judicial Conduct.
2. I have read the foregoing Formal Written Complaint and, upon information and belief, all matters stated therein are true.
3. The basis for said information and belief is the files and records of the State Commission on Judicial Conduct.


Robert H. Tembeckjian

Sworn to before me this
19th day of August 2020


Notary Public

LATASHA Y. JOHNSON
Notary Public, State of New York
No.01JO6235579
Qualified in New York County
Commission Expires February 14, 2023

STATE OF NEW YORK
STEUBEN COUNTY

EXHIBIT 1
WARRANT OF EVICTION
RATHBONE TOWN COURT

Paul Jones;
Claimant

Seneca Tarby;
Defendant

JUDGMENT

TO THE COUNTY SHERIFF OF THE COUNTY OF STEUBEN:

Final judgement for petitioner having been entered in the above entitled proceeding of December 26, 2018 awarding to the petitioner the delivery and possession of premises hereafter described,

Therefore, I hereby command you to forthwith remove all persons from the property hereinafter described

6584 Chappel Rd.

Addison, NY 14801

and to put Petitioner in possession thereof, said Warrant to be effective on
12/28/2018



Michael E. Knopf
Town Justice

Dated: December 28, 2018

Tarby, DEFENDANT

RATHBONE TOWN COURT
COUNTY OF STEUBEN: STATE OF NEW YORK

-----x
PAUL JONES

Petitioner,

-against-

SENECA TARBY

Respondent.

**ORDER TO SHOW
CAUSE WITH
TEMPORARY
RESTRAINING ORDER**

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UPON the annexed affirmation of David Kagle, Esq. dated January 15, 2019, and upon all the papers and proceedings herein,

LET Petitioner show cause before this Court at 8088 County Route 21, Addison, New York on the 28th day of January 2019, at 6 in the forenoon of that day, or as soon thereafter as counsel may can be heard, why an order should not be granted pursuant to C.P.L.R. § 5015(a)(4) vacating the judgment and warrant of eviction and dismissing the proceeding for lack of jurisdiction on the grounds that Respondent was never served with a notice of petition and petition in this matter as required by Real Property Actions and Proceedings Law (R.P.A.P.L.) §§ 731 and 735.

TEMPORARY RESTRAINING ORDER

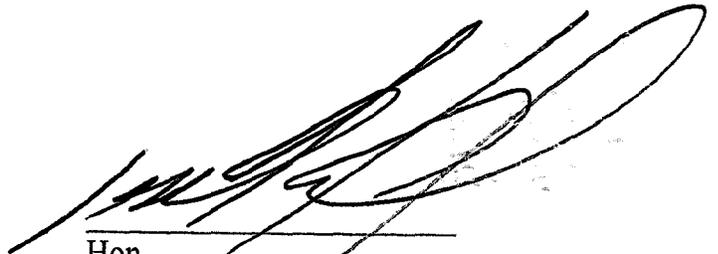
Sufficient Cause Appearing therefore, pending a hearing and determination of this Motion, it is hereby:

ORDERED that the judgment and warrant of eviction against Seneca Tarby, residing at 6584 Chappel Road, Addison, NY 14801, be stayed and that Petitioner, his agents, employees and other persons acting in concert with petitioner, including the office of the Steuben County Sheriff's Department, shall be enjoined from taking any action to enforce the judgment and

warrant of the Town Court or otherwise interfere with the Respondent's right to possession and quiet enjoyment of the subject premises.

LET service of a copy of this order and the papers upon which it is granted, upon Petitioner Paul Jones, by regular and certified mail to the last known address of Petitioner, or by personal delivery, on or before January 13, 2019, be deemed good and sufficient service, such service to be complete upon mailing or personal delivery.

ENTER: _____



Hon.
Town Court Justice