



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT
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NEWS RELEASE

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The New York State Commission on Judicial Conduct has determined that Ellen Yacknin, a Judge of the Rochester City Court, Monroe Country, should be admonished.

In a determination dated December 29, 2008, the Commission found that Judge Yacknin, while a candidate for Supreme Court in 2005, improperly sought political support, in the courtroom at the bench, from attorney Eftihia Bourtis, who was about to appear before her. Although the solicitation made Ms. Bourtis “uncomfortable,” she agreed to support the judge and let the campaign use her name.

“By asking for political support from an attorney standing before her in court, [Judge Yacknin] severely damaged any possibility that she could handle the attorney’s case without the appearance of bias,” the Commission said in its determination. “[The judge], by her actions, impaired her impartiality and the judiciary’s independence.”

The determination can be found on the Commission’s web site:
www.scjc.state.ny.us.

The Commission Proceedings

Judge Yacknin was served with a Formal Written Complaint on March 5, 2007 containing two charges, and filed an answer dated April 17, 2007.

In addition to being charged with improperly seeking the political support of an attorney who was about to appear before her, Judge Yacknin was charged with issuing and/or authorizing campaign literature that contained a misrepresentation.

This charge was not sustained, and was therefore dismissed.

The Commission designated Steven Wechsler, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on August 29, September 12, and October 31, 2007, in Rochester. Mr. Wechsler filed a report on July 18, 2008.

The parties submitted briefs with respect to the referee's report. Counsel to the Commission recommended the sanction of censure, and counsel for the judge recommended a confidential letter of caution. The Commission heard oral argument on October 24, 2008.

The Commission Determination

The Commission filed a determination dated December 29, 2008 dismissing the first charge. Eight of the Commission members concurred.

Commission vice chair Stephen R. Coffey, Esq. filed a concurring opinion, which Commission member Joseph W. Belluck, Esq., joined. Commission member Richard D. Emery, Esq. dissented in a separate opinion as to the sanction and voted that respondent be issued a letter of caution.

Colleen C. DiPirro, a Commission member who resigned after the vote was taken in this matter, and Commission member Marvin E. Jacob, Esq., were not present.

Court of Appeals Review

The Commission transmitted its determination to the Chief Judge of the Court of Appeals, pursuant to Judiciary Law Section 44, subdivision 7.

A judge may either accept the Commission's determination or, within 30 days from the date he or she received the determination, make a written request to the Chief Judge for a review of the determination by the Court of Appeals.

Pursuant to Judiciary Law Section 44, subdivision 7, if Judge Yacknin does not request review by the Court of Appeals, the Commission will admonish her in accordance with the determination.

If the Commission's determination is reviewed by the Court of Appeals, the Court may accept the determined sanction, impose a different sanction including admonition, censure or removal, or impose no sanction.

Statistics Relating to Prior Determinations

Since 1978, the Commission has admonished 227 judges in New York State, including 79 full-time judges. (More than two-thirds of the judiciary are part-time judges). The Commission has issued a determination of removal as to 158 judges and has censured 272 judges.

The Court of Appeals has reviewed 88 Commission determinations. The Court accepted the Commission's sanctions in 74 cases. Of the remaining 14 cases, two were increased from censure to removal, and twelve were reduced: nine removal determinations were modified to censure, two censure determinations were modified to admonition, and one censure was rejected and the charges dismissed.

Counsel

In the proceedings before the Commission, Judge Yacknin was represented by James C. Gocker of Trevett Cristo Salzer & Andolina, 2 State Street, 1000 Crossroads Building, Rochester, New York 14614, (585) 454-2181. Robert H. Tembeckjian, Administrator and Counsel to the Commission and John J. Postel, Deputy Administrator for the Commission's Rochester office, served as counsel to the Commission. Senior Investigator Rebecca Roberts assisted in the investigation.

Members of the Commission

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

The Public File

The determination is attached. The record of the proceedings upon which the determination is based is available for inspection by appointment during regular business hours at the Commission's three offices:

61 Broadway
New York, New York 10006

Corning Tower, Suite 2301
Empire State Plaza
Albany, New York 12223

400 Andrews Street
Rochester, New York 14604

MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT

Member	Appointing Authority	Term End
Hon. Thomas A. Klonick, Chair	Former Chief Judge Judith S. Kaye	March 31, 2009
Stephen R. Coffey, Esq., Vice Chair	Former Senate Majority Leader Joseph L. Bruno	March 31, 2011
Joseph W. Belluck, Esq.	Governor David A. Paterson	March 31, 2012
Richard D. Emery, Esq.	Senate Minority Leader Malcolm A. Smith	March 31, 2012
Paul B. Harding, Esq.	Assembly Minority Leader James Tedisco	March 31, 2009
Elizabeth B. Hubbard	Governor David A. Paterson	March 31, 2011
Marvin E. Jacob, Esq.	Assembly Speaker Sheldon Silver	March 31, 2010
Hon. Jill Konviser	Former Governor George E. Pataki	March 31, 2010
Hon. Karen K. Peters	Former Chief Judge Judith S. Kaye	March 31, 2010
Hon. Terry Jane Ruderman	Former Chief Judge Judith S. Kaye	March 31, 2012
Vacant	Governor David A. Paterson	March 31, 2009