



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT

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## NEWS RELEASE

*January 9, 2014*

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### **Bronx Supreme Court Justice Should Be Censured for Having Staff Perform Personal Tasks and Inviting Them to Participate in Religious Observances and Activities**

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The New York State Commission on Judicial Conduct has determined that Mary Brigantti-Hughes, a Justice of the Supreme Court, 12<sup>th</sup> Judicial District, Bronx County, should be censured for having her staff perform non-work-related personal tasks for her, and inviting them to participate in religious observances and activities in and out of the courthouse.

Judge Brigantti-Hughes agreed to the censure.

#### **Personal Tasks**

The Commission found that, on an average of approximately five times a year between 2006 and 2011, Judge Brigantti-Hughes had her staff perform certain personal tasks during regular business hours, such as supervising her young child at the courthouse or picking up and watching the child after school, driving her on personal errands or typing and photocopying religious material for her personal use. The Commission stated that such use of her staff for extra-judicial activities

was not “*de minimis* and went well beyond the professional courtesies or occasional acts of personal assistance that might ordinarily be provided in emergency situations by subordinates to supervisors, or vice versa.” The Commission found that it was “neither mitigating nor acceptable” that Judge Brigantti-Hughes was “motivated by the belief that she ‘was maximizing her time in the courtroom.’” The Commission stated that “tasks of a personal nature remain a judge’s personal responsibilities and should not be discharged using public resources.”

### **Religious Activities**

On several occasions from 2006 to 2011 Judge Brigantti-Hughes invited her court staff to join her in prayer sessions in her chambers during the work day and to attend religious events at her church after regular business hours. The Commission noted that although she had obtained permission in 2003 from the Office of Court Administration (OCA) to use court facilities during the lunch hour for bible study/prayer group meetings, Judge Brigantti-Hughes “violated the letter and spirit” of OCA’s advice in that the prayer meetings took place at times other than the lunch hour and admittedly “were implicitly coercive given her role as judge and employer.”

The Commission’s decision states: “By creating an environment in which some staff felt pressure to engage in religious activities, [the judge’s] actions impinged on the important separation between church and state, one of the most basic tenets of the federal and state constitutions.”

In determining the appropriate sanction, the Commission noted that Judge Brigantti-Hughes acknowledged that her conduct was improper and that the judge “may have believed that her religious activities in the workplace were consistent with the advice she received with her First Amendment right to exercise her religious beliefs.”

Judge Brigantti-Hughes acknowledged that “the right to the free exercise of her religious beliefs must be balanced with the right of her subordinates to freely exercise their own religious beliefs and be free of coercion to engage in the religious practices of others.”

### **Tenure as a Judge**

Judge Brigantti-Hughes has served as a Supreme Court Justice since 2005. Her current term expires on December 31, 2018. She previously served as a judge of the New York City Civil Court from 1998-2004.

**The Commission Proceedings**

Judge Brigantti-Hughes was served with a Formal Written Complaint dated June 13, 2013, containing one charge.

On November 8, 2013, the Administrator of the Commission, Judge Brigantti-Hughes and Judge Brigantti-Hughes' attorney entered into an Agreed Statement of Facts, stipulating as to the facts and sanction and waiving further submissions and oral argument.

The Commission accepted the Agreed Statement on December 12, 2013.

**The Commission Determination**

The Commission filed a determination dated December 17, 2013, in which nine members concurred: Judge Thomas A. Klonick (the Commission Chair), Judge Terry Jane Ruderman (the Vice Chair), Judge Rolando T. Acosta, Joseph W. Belluck, Esq., Joel Cohen, Esq., Jodie Corngold, Paul B. Harding, Esq., Richard A. Stoloff, Esq., and Judge David A. Weinstein.

One member, Richard D. Emery, Esq., did not participate. There is currently one vacancy on the 11-member Commission.

**Statement by Commission Administrator**

Commission Administrator Robert H. Tembeckjian made the following statement.

“Absent aggravating circumstances, occasional acts of personal assistance by a court employee toward a judge would not result in discipline. Ordinary professional courtesies and emergencies sometimes result in extra-curricular assistance by subordinates to supervisors, and vice versa. In this case, however, Judge Brigantti-Hughes called upon her subordinates to perform personal tasks more than occasionally in non-emergency circumstances, and she repeatedly crossed a line with sincere but inherently coercive invitations to religious activities, all of which require public discipline. To her credit, Judge Brigantti-Hughes cooperated with the Commission, acknowledged violating the applicable ethics rules and promptly discontinued the problematic behavior.”

**Press Availability**

Mr. Tembeckjian will be in New York City on Thursday, January 9, 2014 and is available throughout the day by telephone: (646) 386-4800.

**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. Judge Brigantti-Hughes received it on January 6, 2014, and the Commission was subsequently notified by the Court of Appeals that service was complete. Consequently, the matter is now public.

A judge may either accept the Commission's determination or, within 30 days from receipt, 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 Brigantti-Hughes does not request review by the Court of Appeals, the Commission will censure her in accordance with the determination.

If a Commission 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 issued 309 determinations of censure against judges in New York State. The Commission has issued 252 determinations of admonition and 168 determinations of removal.

The Court of Appeals has reviewed 94 Commission determinations. The Court accepted the Commission's sanctions in 78 cases (69 of which were removals, six were censures and three were admonitions). Of the remaining 16 cases, two sanctions were increased from censure to removal, and 13 were reduced: nine removal determinations were modified to censure, one removal was modified to admonition, two censures were modified to admonition, and one censure was rejected and the charges dismissed. The Court remitted one matter to the Commission for further proceedings. One request for review is pending.

**Counsel**

In the proceedings before the Commission, Judge Brigantti-Hughes was represented by Ben B. Rubinowitz, Esq., of Gair, Gair, Conason, Steigman, Mackauf, Bloom & Rubinowitz, 80 Pine Street, Floor 34, New York, New York 10005, (212) 943-1090.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission, Principal Attorney Pamela Tishman, and Staff Attorney Erica Sparkler. Senior Investigator Ethan Beckett assisted in the investigation.

### **Background Information on Judge Brigantti-Hughes**

First Took Office (Supreme Court):	2005
Current Term Expires:	12/31/2018
Year Admitted to the	
New York State Bar:	1987
Judicial Salary:	\$167,700
Prior Judicial Office:	1998-2004: Judge of the New York City Civil Court – During a portion of her term as a Civil Court Judge, she also served as a Judge of the New York City Criminal Court.

### **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  
Suite 1200  
New York, New York 10006

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

400 Andrews Street  
Suite 700  
Rochester, New York 14604

**MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT**

<b>Member</b>	<b>Appointing Authority</b>	<b>Term End</b>
Hon. Thomas A. Klonick, Chair	Chief Judge Jonathan Lippman	March 31, 2017
Hon. Terry Jane Ruderman, Vice Chair	Chief Judge Jonathan Lippman	March 31, 2016
Hon. Rolando T. Acosta	Chief Judge Jonathan Lippman	March 31, 2014
Joseph W. Belluck, Esq.	Governor Andrew M. Cuomo	March 31, 2016
Joel Cohen, Esq.	Assembly Speaker Sheldon Silver	March 31, 2014
Jodie Corngold	Governor Andrew M. Cuomo	March 31, 2015
Richard D. Emery, Esq.	Former Senate Minority Leader John L. Sampson	March 31, 2016
Paul B. Harding, Esq.	Former Assembly Minority Leader James Tedisco	March 31, 2017
Richard A. Stoloff, Esq.	Senate President Pro Tem Dean Skelos	March 31, 2015
Hon. David A. Weinstein	Governor Andrew M. Cuomo	March 31, 2014
Vacant	Governor	March 31, 2017