



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

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Broome County Family Court Judge Should be Removed for Numerous Acts of Misconduct

The New York State Commission on Judicial Conduct has determined that Richard H. Miller, II, a Judge of the Family Court, Broome County, should be removed from office for engaging in numerous acts of misconduct:

- repeatedly making sexist and otherwise demeaning statements to a widowed female court clerk, such as:
 - “You look really hot in that outfit. You should always wear that outfit”;
 - “If I knew you could also cook, I would have gone for the widow”; and
 - “It’s nice to know I still have that effect on you” (in response to her apologizing for using a fan during a hot flash).
- screaming at and otherwise belittling another female court clerk and retaliating by filing a complaint against her after she complained about his having berated and demeaned her;

- failing to report and pay taxes on \$34,788 on his 2015 federal and state tax returns – \$27,388 of which was income from his prior law practice and \$7,400 of which was income from rental properties;
- failing to report \$15,600 in income from rental properties on his 2016 federal and state tax returns;
- failing to report \$15,600 in income from rental properties on his 2017 federal and state tax returns;
- failing to report to the Broome County Court Clerk the \$34,788 in extra-judicial income in 2015, the \$15,600 in 2016 and the \$15,600 in 2017;
- failing to disclose the \$27,388 in law-practice income on his 2015 or 2016 mandatory financial disclosure forms; and
- having his court secretary prepare a letter concerning his prior legal work.

Judge Miller filed amended tax returns, and only after the Commission proceedings against him had commenced, amended his financial disclosure forms and filed a report with the clerk of his court.

The Commission found that he failed to take responsibility for his misconduct, and it found his excuses “implausible.”

Prior Discipline

In 2002 Judge Miller was censured for presiding over a client’s case and representing defendants in cases originating in his court, practicing law in his court, and sending notices threatening arrest to a defendant in a civil case.

In 2015 the judge was privately cautioned for distributing and displaying misleading campaign signs implying he was the incumbent Family Court judge.

The Totality of the Misconduct

In determining to remove Judge Miller from office, the Commission concluded that the “[totality] of [his] current misconduct, his apparent failure to learn from his previous discipline, his failure to take responsibility for his actions and the unfortunate message another censure would send to the public, we believe that respondent should be removed from the bench to protect the integrity of the courts.”

Judge Miller has served as a Judge of the Family Court, Broome County since 2015. His current term expires on December 31, 2024. Previously he served as a part-time Justice of the Union Town Court (Broome County) from 1996 to 2014, and as a part-time Justice of the Johnson City Village Court (Broome County) from 2002 to 2014.

Statement by Commission Administrator

Commission Administrator Robert H. Tembeckjian made the following statement.

“Judge Miller committed numerous acts of serious misconduct, any one of which would require stern public discipline. Denigrating women and retaliating against one who complained, failing to report and pay taxes on significant sums of money, and failing to accept responsibility for his behavior, added to his prior disciplinary record, undermine public confidence in the courts and compel his removal from office.”

The Commission Proceedings

Judge Miller was served with a Formal Written Complaint dated July 9, 2018, containing four charges, and filed an answer dated August 8, 2018.

The Commission designated Robert A. Barrer, Esq. as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on January 7-11, 2019 in Binghamton, New York and on February 12, 2019 in Albany, New York. The referee filed a report dated June 20, 2019.

The parties submitted briefs with respect to the referee’s report and the issue of sanctions. The Commission recommended that the referee’s findings and conclusions be confirmed in part and disaffirmed in part. The judge recommended that the referee’s findings and conclusions be confirmed. Counsel to the Commission argued that the judge be removed from office. The judge’s counsel argued that a sanction no greater than censure be imposed. On October 17, 2019, the Commission heard oral argument.

The Commission Determination

The Commission filed a determination dated February 14, 2020, in which seven members concurred: Joseph W. Belluck, Esq. (the Commission Chair), Jodie Corngold, Judge John A. Falk, Taa Grays, Esq., Judge Leslie G. Leach, Judge Angela M. Mazzarelli, and Akosua Garcia Yeboah.

Paul B. Harding, Esq. (the Vice Chair) and Judge Robert J. Miller dissented as to the sanction, voting that the judge should be censured. Judge Miller filed an opinion concurring in part and dissenting in part in which Mr. Harding joined.

One member, Marvin Ray Raskin, Esq. was not present. There is currently one vacancy on the 11-member Commission.

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 Miller received it on February 24, 2020, 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 Miller does not request review by the Court of Appeals, the Court of Appeals will remove him 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 174 determinations of removal against judges in New York State. The Commission has issued 331 determinations of censure and 272 determinations of admonition.

The Court of Appeals has reviewed 99 Commission determinations. The Court accepted the Commission's sanctions in 83 cases (74 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 Miller was represented by Paul DerOhannesian of DerOhannesian and DerOhannesian, 677 Broadway, Suite 707, Albany, New York, 12207, (518) 465-6420; and Deborah A. Scalise of Scalise & Hamilton, PC, 670 White Plains Road, Suite 325, Scarsdale, New York 10583, (914) 725-2801.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission; Cathleen S. Cenci, Deputy Administrator in Charge of the Albany office; Senior Attorney S. Peter Pedrotty, and former staff attorney Eteena Tadjioqueu. Investigator Laura Misjak was assigned to the case.

Background Information on Judge Miller

First took office (Family Court):	2015
Current term expires:	December 31, 2024
Year Admitted to NYS Bar:	1994
Salary:	\$200,400

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
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MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT

Member	Appointing Authority	Term End
Joseph W. Belluck, Esq., Chair	Governor Andrew M. Cuomo	March 31, 2020
Paul B. Harding, Esq., Vice Chair	Former Assembly Minority Leader Brian M. Kolb	March 31, 2021
Jodie Corngold	Governor Andrew M. Cuomo	March 31, 2023
Taa Grays, Esq.	Former Senate Minority Leader Andrea Stewart-Cousins	March 31, 2020
Hon. John A. Falk	Chief Judge Janet DiFiore	March 31, 2021
Hon. Leslie G. Leach	Chief Judge Janet DiFiore	March 31, 2020
Hon. Angela M. Mazzairelli	Chief Judge Janet DiFiore	March 31, 2022
Hon. Robert J. Miller	Governor Andrew M. Cuomo	March 31, 2022
Marvin Ray Raskin, Esq.	Assembly Speaker Carl E. Heastie	March 31, 2022
Akosua Garcia Yeboah	Governor Andrew M. Cuomo	March 31, 2021
Vacant	Senate President Pro Tem Andrea Stewart-Cousins	March 31, 2023