

STATE OF NEW YORK  
COMMISSION ON JUDICIAL CONDUCT

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In the Matter of the Proceeding  
Pursuant to Section 44, subdivision 4,  
of the Judiciary Law in Relation to

**DETERMINATION**

PAUL H. SENZER,

a Justice of the Northport Village Court,  
Suffolk County.

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THE COMMISSION:

Joseph W. Belluck, Esq., Chair  
Paul B. Harding, Esq., Vice Chair  
Jodie Corngold  
Honorable John A. Falk  
Taa Grays, Esq.  
Honorable Leslie G. Leach  
Honorable Angela M. Mazzarelli  
Honorable Robert J. Miller  
Marvin Ray Raskin, Esq.  
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Brenda Correa and Mark Levine, Of Counsel)  
for the Commission

Long Tuminello, LLP (by David Besso and Michelle Aulivola) for  
respondent

Respondent, Paul H. Senzer, a Justice of the Northport Village Court,

Suffolk County, was served with a Formal Written Complaint dated October 13, 2017,

containing one charge. The Formal Written Complaint alleged that over a four-month period in 2014 and 2015 respondent used racist, sexist, profane and otherwise degrading language in communications with legal clients. Respondent filed a Verified Answer dated December 12, 2017.

On December 11, 2017, respondent's counsel filed a motion for summary determination and/or dismissal of the Formal Written Complaint. Commission counsel opposed the motion on March 1, 2018, and respondent's counsel replied on March 6, 2018. By Decision and Order dated March 16, 2018, the Commission denied respondent's motion in all respects.

By Order dated March 29, 2018, the Commission designated Honorable John P. Collins as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on August 6 and 7, 2018, in New York City. The referee filed a report dated January 26, 2019, in which he sustained the charge except for respondent's alleged use of a racial epithet.

The parties submitted briefs to the Commission with respect to the referee's report and the issue of sanctions. Both parties recommended that the referee's findings and conclusions be confirmed in part and disaffirmed in part. Commission counsel argued that the charge was sustained in its entirety and recommended the sanction of removal; respondent's counsel argued that respondent's language in private communications with clients did not constitute misconduct but that if misconduct is found, a confidential caution was appropriate. The Commission heard oral argument on

May 30, 2019 and thereafter considered the record of the proceeding and made the following findings of fact.

1. Respondent has been a Justice of the Northport Village Court, Suffolk County, since 1994. His current term expires on March 31, 2022. Since 2013 he has also served as a hearing officer for the Suffolk County Traffic and Parking Violations Agency. Respondent was admitted to the practice of law in New York in 1981.

2. As a part-time judge who is permitted to practice law, respondent has maintained a private law practice. In the course of his law practice, respondent represented Jennifer Coleman in two matters from 2013 to 2015.

3. Respondent has known Ms. Coleman for approximately 30 years. She was his house cleaner for several years and occasionally provided cat-sitting services.

4. In or about 2013, Ms. Coleman retained respondent to represent her in an employment discrimination matter based on her claim against a school district where she had been a part-time custodian. A hearing in the matter was held before an administrative law judge on November 5 and 6, 2014. Ms. Coleman's claim was dismissed.

5. Later in November 2014, Ms. Coleman and her husband Walter Coleman, a maintenance mechanic, retained respondent to represent them in a Family Court matter against their daughter in which they were seeking visitation rights to their grandchild. Prior to being retained, respondent had some discussion with the Colemans

about their problems with their daughter, with whom they had a strained relationship, though he initially declined to represent them in Family Court because he was too busy.

6. Between October 24, 2014, and February 22, 2015, respondent sent nine emails in connection with the Family Court matter to the Colemans at their shared email account in which he:

- Referred to their daughter several times as a “bitch”;
- Stated that their daughter’s “lawyer is a cunt on wheels (sorry for the profanity...and don’t quote me), so be prepared” and, in another email, referred to the lawyer as “eyelashes”;
- After cautioning the Colemans not to contact their grandchild’s school, stated, “You should know by now that people who work in schools are assholes”<sup>1</sup>;
- Stated, with respect to a scheduled court appearance, “We will appear entirely calm and reasonable...let your daughter act like the asshole she is”;
- Stated in the subject line of an email, in reference to the daughter and her former husband, “THE TWO SCUMBAGS WERE SERVED”; and
- Stated in reference to the Family Court referee, around the time respondent advised the Colemans to withdraw their petition, “[Y]ou may have noticed that the ‘judge’ is an asshole. An ‘asshole’ can issue a warrant for your

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<sup>1</sup> It seems likely this was intended as a reference to individuals involved in the events underlying Ms. Coleman’s earlier lawsuit against the school district where she had been employed.

arrest.”

7. In February 2015, the Colemans withdrew their petition for visitation and the matter was discontinued.

8. At the hearing before the referee, Ms. Coleman testified that after the Family Court matter ended, she contacted respondent because she thought she was owed a refund, but she did not hear from him. A few months later, after reading a news article about a lawsuit filed against respondent, she contacted the lawyer in that matter, Christopher Cassar, and gave him copies of respondent’s emails. Mr. Cassar filed a complaint with the Commission. The lawsuit against respondent was dismissed.

9. The referee found that respondent showed “sincere contriteness.” At the hearing, respondent testified that he has “profound and deep regret” for the words he used and that his language in the emails was “atrocious” and “reflect[s] very poorly on me as an attorney and obviously, as a judge.” He stated that it did not occur to him at the time that sending the emails had any connection with his judicial role, but he has “learned the hard way that [it] certainly does.” He testified that in the course of exchanging many emails with clients who were longtime acquaintances, he became “far too conversational and far too familiar” and that using such vulgar language was a “misguided” effort to “empathize with” and “be supportive of” his clients since Ms. Coleman had used similar language to describe her daughter and others. He further testified, “I suspect that what I was doing was pandering or patronizing her in trying to bring myself down to that level,” although he admitted that is “not an excuse.” He acknowledged that his obscene

reference to the daughter's lawyer, which he described as an attempt "to convey to the client that she was up against a very aggressive adversary who could be counted upon to be zealous," was an inexcusable sexual slur. He admitted that using the term showed insensitivity to his client particularly since in the employment matter in which he represented her, her supervisor had used the epithet towards her and other women. He stated that he recognizes that it is inappropriate for an attorney to use any language that denigrates the legal profession, and "I'm sorry to say, I fell down."

10. On February 4, 2002, respondent was previously issued a letter of dismissal and caution by the Commission for making sarcastic, disrespectful comments during a court proceeding.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.4(A)(1), 100.4(A)(2) and 100.4(A)(3) 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 insofar as it is consistent with the above findings and conclusions<sup>2</sup>, and respondent's misconduct is established.

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<sup>2</sup> As discussed below, paragraph 7 of the Formal Written Complaint, which alleged that respondent used a racial epithet in reference to the administrative law judge in a conversation with the Colemans during a hearing recess in the employment matter, is not sustained and therefore is dismissed.

The record establishes that in a series of emails to clients whom he was representing in a Family Court matter, respondent, a part-time judge who is permitted to practice law, repeatedly denigrated the participants in the matter – not only the clients’ adversary, but officers of the court – in profane, vulgar and sexist terms. Although off the bench, respondent’s statements were manifestly improper and reflect adversely on the judiciary as a whole, since judges are required “at all times” to abide by “high standards of conduct” that promote “public confidence in the integrity and impartiality of the judiciary.” (Rules, §§100.1, 100.2(A)) Based on the totality of the record before us, including the nature and frequency of respondent’s comments, his repeated use of such language to legal clients, and his earlier caution for making sarcastic and disrespectful comments in court, we conclude that respondent lacks fitness to serve as a judge and, accordingly, that his removal from office is warranted.

Over a period of several months, respondent’s email communications with his clients, his former house cleaner and her husband whom he was representing in a grandparent visitation matter, contained crude and derogatory epithets referring to various individuals involved in their case. In the context of informing and advising them about the case, he referred to the clients’ daughter and her former husband, his clients’ adversaries in the matter, as “the two scumbags,” and referred to the daughter as an “asshole” and a “bitch” (or “that bitch”) on multiple occasions. Cautioning his clients not to contact their grandchild’s school, he used the same profanity referring to the school’s staff (“You should know by now that people who work in schools are assholes”).

Referring to the daughter's lawyer, respondent's language was equally vulgar and sexist ("a cunt on wheels" and "eyelashes"). His profane insults extended even to the court referee ("you may have noticed that the 'judge' is an asshole. An 'asshole' can issue a warrant for your arrest").

The impropriety of such language requires little discussion. Criticism of individuals involved in his clients' case is not the issue here, nor is the use of profanity in communicating with his clients. However, as the Court of Appeals has held, using crude language that reflects bias or otherwise diminishes respect for our system of justice, even off the bench, is inconsistent with a judge's ethical obligations. In *Matter of Assini*, 94 N.Y.2d 26, 29 (1999), which involved a judge who "repeatedly disparaged his judicial colleague in vile terms" in conversations with court employees and a town board member, the Court stated that such behavior was "absolutely indefensible" and "undermined not only the dignity of a fellow Justice, but also the stature and dignity of petitioner's court and the judicial system as a whole." See also, *Matter of Cerbone*, 61 N.Y.2d 93, 95 (1984) (judge used "abusive and profane" language during a confrontation in a bar); Rules, §§100.1, 100.2(A), *supra*, and 100.4(A)(2) (requiring a judge to avoid extra-judicial activity that "detract[s] from the dignity of judicial office"). At a minimum, gender-based slurs, which denigrate a woman's worth and abilities and convey an appearance of gender bias, should have no place in a judge's vocabulary. Significantly, respondent's offensive words were not thoughtless slips. They were included in emails he composed to his clients, where he had an opportunity to consider



his written words before sending messages that could be preserved and shared. Nor were they isolated lapses, as the record reveals.

Like the referee, we reject respondent's argument that his language in emails with clients does not rise to the level of misconduct since the communications were private and unrelated to his role as a judge. As the Court of Appeals stated nearly 40 years ago, a judge's off-the-bench behavior must comport with high ethical standards to ensure the public's respect for the judiciary as a whole since "[w]herever he travels, a Judge carries the mantle of his esteemed office with him." *Matter of Steinberg*, 51 N.Y.2d 74, 81 (1980) Thus,

[A] Judge may not so facilely divorce behavior off the Bench from the judicial function. Standards of conduct on a plane much higher than for those of society as a whole, must be observed by judicial officers so that the integrity and independence of the judiciary will be preserved. A Judge must conduct his everyday affairs in a manner beyond reproach. Any conduct, on or off the Bench, inconsistent with proper judicial demeanor subjects the judiciary as a whole to disrespect and impairs the usefulness of the individual Judge to carry out his or her constitutionally mandated function. . .

*Matter of Kuehnel*, 49 N.Y.2d 465, 469 (1980) (internal citations omitted); *see also*, *Matter of Mazzei*, 81 N.Y.2d 568, 572 (1993) ("Judges ... are held to higher standards of conduct than the public at large ... and thus what might be acceptable behavior when measured against societal norms could constitute 'truly egregious' conduct in the present context." (internal citations omitted)) Indeed, even private communications in a judge's home can constitute misconduct warranting removal. *Matter of Backal*, 87 N.Y.2d 1 (1995) In *Backal*, the Court specifically rejected the judge's argument that the

wrongfulness of her statements (advising an acquaintance about handling the proceeds from a drug transaction) was mitigated by the fact that the statements were made in her home “where she may have had an expectation of privacy.” *Id.* at 13. The Court emphasized, “Judges are accountable ‘at all times’ for their conduct—including their conversation—both on and off the Bench . . .” *Id.* at 13 (internal citations omitted).

Moreover, in the instant matter, both the context and substance of respondent’s off-the-bench statements were inextricably connected to his judicial role. As the Colemans’ attorney, respondent was communicating with them as an officer of the court, providing counsel and advice while discussing their case, and as a judge himself, he personified the legal system. His crude language disparaging others involved in his clients’ case, including other officers of the court, reflected poorly on himself as a representative of the legal system. By denigrating and insulting their adversary’s lawyer and the court referee in obscene and vulgar terms, he conveyed disrespect and disdain for the legal process itself, which was inconsistent with his role as a judge (*see* Rule 100.4(A)). Accordingly, we reject respondent’s argument that his statements to clients were private communications unrelated to his judicial role.<sup>3</sup>

We recognize that the attorney-client relationship can promote a level of candor, especially when, as here, clients are longtime acquaintances, and that respondent may well have “had an expectation of privacy” in his communications with the Colemans

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<sup>3</sup> Indeed, at the hearing before the referee, respondent acknowledged the connection, stating, “It just didn’t dawn on me, I’m sorry to say, that when I was sending emails to clients in connection with legal advice that that somehow had a nexus or a connection to my judicial persona but I’ve learned the hard way that [it] certainly does.”

about their case (*see Matter of Backal, supra*). Nevertheless, the Colemans were members of the public in addition to being respondent's legal clients and, as is evident here, clients can become disgruntled and relationships can fray. Every judge must be mindful of the duty to avoid any conduct or statements, even off the bench, that undermine public confidence in the judiciary or respect for our system of justice as a whole and judges are held to standards of conduct "on a plane much higher" than those for others. *Matter of Kuehnel, supra*, 49 N.Y.2d at 469. *Compare, Matter of Cunningham*, 57 N.Y.2d 270, 275-76 (1982), where the Court of Appeals found that the judge's misconduct (sending letters to another judge conveying the appearance that he would always affirm the other judge's sentencing determinations) was mitigated, though not excused, by the fact that it "was limited to the eyes of one person only" and came to light "from certain bizarre circumstances which could not have been anticipated . . . ."

Paragraph 7 of the Formal Written Complaint, which alleged that respondent used a racial epithet regarding the administrative law judge during a conversation with the Colemans, is not sustained and is therefore dismissed. While this allegation, standing alone, would unquestionably require removal if proved, we find no basis in the record for rejecting the conclusion of the referee, who saw and heard the witnesses, that the alleged comment was not proved by a preponderance of the evidence. The Commission may accept or reject a referee's findings, 22 NYCRR §§7000.6[f][1][iii], 7000.6[1]. When the record supports a referee's findings, the Commission accords deference to the referee's findings because he or she is in a position

to evaluate the credibility of witnesses firsthand. *See Matter of Mulroy*, 94 N.Y.2d 652, 656 (2000).

As the referee found and the evidence supports, the Colemans had become dissatisfied with respondent's representation and had unsuccessfully asked him for a refund. After reading a newspaper article which mentioned respondent in connection with a lawsuit against the Suffolk County Traffic and Parking Violations Agency, Ms. Coleman contacted the attorney who had filed the suit and provided him emails from respondent in an apparent effort to assist in that lawsuit against respondent and others. That attorney made the complaint against respondent to the Commission. While it is unclear on the record before us when the Colemans first complained about the alleged racial epithet, it appears it was sometime after the initial complaint by Mr. Cassar. In addition, as the referee found and the evidence supports, the alleged epithet "seems to have occurred out of the blue" and Ms. Coleman herself testified that she had never heard respondent make any similar remark in the many years that she had known him. Furthermore, the Colemans each testified differently about the context of the alleged epithet. On this record, we find no basis to overturn the conclusion of the referee who had the opportunity to directly evaluate the credibility of the witnesses.

Respondent's indefensible use of profane and sexist language is not mitigated in any way by his testimony that it may have been an intuitive effort to show support for his client's views by using the kind of language she used herself. While there is nothing in the record to support his claim about his client's vocabulary, even if that

were true, it would not excuse his inappropriate behavior. Indeed, in such circumstances it would be all the more imperative to set an appropriate tone by acting with dignity and decorum, instead of responding in kind. In any event, whether a judge's patently offensive language constitutes misconduct should not depend on the listener's own vocabulary or reaction to it. It must also be emphasized that the misconduct here is not simply the occasional use of vulgar and sexist language, but a pattern of statements that undermines respect for women and the legal system as a whole.

In view of the multiple, serious derelictions confirmed by the record before us as well as respondent's prior caution, we have concluded that respondent lacks fitness for judicial office and that his behavior has irredeemably damaged public confidence in his ability to continue to serve as a judge.<sup>4</sup> Accordingly, respondent should not be permitted to remain on the bench.

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

Mr. Belluck, Mr. Harding, Ms. Corngold, Judge Falk, Judge Leach, Judge Mazzairelli, Mr. Raskin and Ms. Yeboah concur, except as follows.

Mr. Belluck, Mr. Harding and Judge Mazzairelli dissent as to the dismissal of paragraph 7 of the Formal Written Complaint.

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<sup>4</sup> Although the referee found that respondent showed "sincere contriteness" for his actions, we are also mindful that at the hearing, instead of simply expressing remorse for his words, he also attempted to rationalize them and offered excuses. In any case, as the Court of Appeals has stated, "[i]n some instances . . . no amount of [contrition] will override inexcusable conduct." See, *Matter of Bauer*, 3 N.Y.3d 158, 165 (2004).


Mr. Belluck files an opinion concurring in part and dissenting in part,  
which Judge Mazzairelli joins.

Ms. Grays and Judge Miller were not present.

CERTIFICATION

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

Dated: October 9, 2019

  
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Celia A. Zahner, Esq.  
Clerk of the Commission  
New York State  
Commission on Judicial Conduct

STATE OF NEW YORK  
COMMISSION ON JUDICIAL CONDUCT

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In the Matter of the Proceeding  
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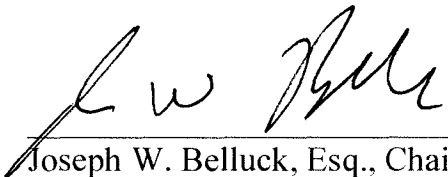
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OPINION BY MR.  
BELLUCK  
CONCURRING IN  
PART AND  
DISSENTING IN  
PART, WHICH JUDGE  
MAZZARELLI JOINS

I agree with the Determination to the extent it sustains that part of the Charge in the Formal Written Complaint based on respondent's repeated use of foul, intemperate and sexist language to describe his client's adversaries and a court referee and removes him from the bench. However, I disagree with the majority's decision to the extent it fails to sustain that part of the Charge that was based on respondent's use of a shocking racial epithet. The referee found that alleged comment was not proved by a preponderance of the evidence but respondent's liberal use of such profoundly crude and blatantly sexist language to describe his clients' daughter and her female lawyer makes utterly credible the allegation that he used racist language of a similarly extreme nature in reference to the administrative law judge.

Accordingly, I would sustain the entirety of the Charge and remove respondent from the bench on the basis of his use of all of the discriminatory language.

Dated: October 9, 2019



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Joseph W. Belluck, Esq., Chair  
New York State  
Commission on Judicial Conduct