



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

ROBERT H. TEMBECKJIAN
ADMINISTRATOR & COUNSEL

61 BROADWAY, SUITE 1200
NEW YORK, NEW YORK 10006

MARISA E. HARRISON
RECORDS ACCESS OFFICER

646-386-4800 646-458-0037
TELEPHONE FACSIMILE
www.cjc.ny.gov

NEWS RELEASE

November 14, 2013

Contacts:	<p><i>Robert H. Tembeckjian, Administrator</i> <i>(518) 453-4600</i></p> <p><i>Marisa E. Harrison, Records Access Officer</i> <i>(646) 386-4791</i></p>
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Albany County Surrogate's Court Judge Should be Removed for Presiding Over Cases Involving Attorneys with Whom She Had Personal and Professional Relationships

The New York State Commission on Judicial Conduct has determined that Cathryn M. Doyle, a Judge of the Surrogate's Court, Albany County, should be removed for presiding over matters involving her close friend, her personal attorney, and a lawyer who acted as her campaign manager. The judge was publicly censured by the Commission in 2007 for giving testimony that among other things was "evasive and deceptive," "misleading and obstructionist."

From 2007 to 2011 Judge Doyle failed to disqualify herself from, and took judicial action in, nine matters involving attorneys with whom she had close professional and personal relationships: four matters involving her close friend and personal attorney, Thomas J. Spargo; four matters involving attorney Matthew J. Kelly, the judge's *de facto* campaign manager in her 2007 failed campaign for a nomination to the state Supreme Court and later the campaign manager in her 2010 campaign for reelection as Surrogate; and one matter involving William Cade, the attorney who had represented her in an earlier Commission proceeding that resulted in her

censure in 2007. (Mr. Spargo was himself removed from judicial office after a Commission proceeding in 2006 and, in related proceedings, was disbarred by the Appellate Division and convicted of a felony in federal court.)

Among the judicial actions Judge Doyle took in these matters was admitting wills to probate, issuing letters of administration, signing decrees granting administration after probate, conducting conferences and issuing various orders, appointing guardians ad litem for infants named in a will, and determining that particular infants were intended trust beneficiaries of a will.

The judge acknowledged that she was familiar with the ethical requirements that she disqualify in all matters involving a close personal friend (Spargo), an attorney who within two years held a leadership role in a campaign (Kelly), or her personal attorney (Cade and Spargo). Judge Doyle failed either to disqualify herself at the outset or to disclose the nature of her relationships with these attorneys in nine cases.

Judge Doyle claimed there was no impropriety in presiding over matters that she described as “ministerial,” even if they involved friends, her own attorneys or a political aide. In its determination the Commission stated that “even if such matters often are or appear to be routine, the standards for disqualification do not distinguish between ‘ministerial’ proceedings and others, and provide no exception for uncontested or one-party matters.” The Commission added that “the duty to observe the most exacting ethical standards and to avoid even the appearance of impropriety is especially important in one-party, uncontested matters, when no one is present to object to or inhibit the judge's conduct.”

The Commission also rejected Judge Doyle’s contention that her failure to disqualify “was an exercise of discretion that, even if incorrect, cannot constitute misconduct.” The Commission stated that “if, as she maintains, she analyzed the applicable mandates and determined that her actions were permissible, her conduct shows exceedingly poor judgment and an inability to recognize impropriety.” The Commission stated that “[Judge Doyle’s] failure to recuse in each of these matters, or even disclose the relationships that cast doubt on her ability to be impartial, created an appearance of impropriety that undermines public confidence in the integrity and independence of the judiciary as a whole.”

In imposing the sanction of removal, the Commission underscored that the misconduct began soon after she was censured by the Commission in 2007 for giving “evasive” testimony in a proceeding inquiring into her actions in connection with a legal defense trust fund for Mr. Spargo, who was then a

Supreme Court Justice. The Commission stated that, “if not for her disciplinary history, [Judge Doyle] may have had a more credible argument to retain her judgeship.” The Commission concluded: “Under the circumstances, we are constrained to view [Judge Doyle’s] misconduct with particular severity since, in view of her censure in 2007, she should have been especially sensitive to her ethical obligations, including her duty to avoid even the appearance of impropriety.”

Judge Doyle has served as a Judge of the Albany County Surrogate’s Court since 2001. Her current term expires on December 31, 2020.

The Commission Proceedings

Judge Doyle was served with a Formal Written Complaint dated September 17, 2012, containing three charges, and filed an answer dated October 11, 2012.

The Commission designated H. Wayne Judge, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on March 19, 20 and 28, 2013, in Albany, and the referee filed a report dated June 25, 2013.

The parties submitted briefs with respect to the referee’s report and the issue of sanctions. Counsel to the Commission recommended the sanction of removal, and the judge’s counsel argued that removal was too harsh. On September 19, 2013, the Commission heard oral argument.

The Commission Determination

The Commission filed a determination dated November 12, 2013, in which eight 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, Richard D. Emery, Esq. and Richard A. Stoloff, Esq.

Two members, Paul B. Harding, Esq., and Judge David A. Weinstein, dissented as to the sanction and voted for censure. Mr. Harding filed a dissenting opinion, which Judge Weinstein joined.

Statement by Commission Administrator

Commission Administrator Robert H. Tembeckjian made the following statement.

“A judge must scrupulously avoid even the appearance of favoritism in the exercise of judicial power. It is unfortunate that the experience of being publicly censured for misconduct in 2007 did not heighten Judge Doyle’s sensitivity to judicial ethics and to the obligation to be candid and cooperative in a disciplinary proceeding.”

Press Availability

Mr. Tembeckjian will be in Albany on November 14, 2013, and is available throughout the day by telephone: (518) 453-4600.

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 Doyle received it on November 14, 2013, 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 Doyle does not request review by the Court of Appeals, the Court of Appeals will remove 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 168 determinations of removal against judges in New York State. The Commission has issued 307 determinations of censure and 251 determinations of admonition.

The Court of Appeals has reviewed 93 Commission determinations. The Court accepted the Commission’s sanctions in 77 cases (68 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 Doyle was represented by attorney William J. Dreyer of Dreyer Boyajian, LLP, 75 Columbia Street, Albany, New York 12210, (518) 463-7784.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission, and Cathleen S. Cenci, Deputy Administrator in Charge of the Albany office. Senior Investigator David Herr and Investigator Ryan Fitzpatrick assisted in the investigation.

Background Information on Judge Doyle

First took office:	2001
Current Term Expires:	12/31/2020
Year Admitted to the New York State Bar:	1979
Judicial Salary:	\$146,400
Prior Judicial Office:	None
Prior Judicial Discipline:	Censure – February 26, 2007 (2008 NYSCJC Annual Report 111)

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
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.	Assembly Minority Leader Brian M. Kolb	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