



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT

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## NEWS RELEASE

*October 23, 2023*

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### **Town Justice in Westchester County Should Be Admonished for Trying To Get Lenient Treatment for His Mail Carrier over Parking Tickets**

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The New York State Commission on Judicial Conduct has determined that Benjamin L.F. Leavitt, a Justice of the Ossining Town Court, Westchester County, should be admonished for trying to influence another judge to be lenient with his mail carrier, who had received parking tickets unrelated to her job.

In September 2021, after being approached by his mail carrier, who was due in court in connection with various parking violations, Judge Leavitt sent the following text message to his co-judge:

“My mail carrier is on for a parking ticket. I told her I would talk with you. If you could take her postal service into account when deciding whether or not to go lower on the fine than [the village prosecutor] is recommending that would be great.”

The mail carrier appeared before the co-judge the next day and entered into a plea agreement with the village prosecutor. The fines imposed reflected the negotiated agreement. (The co-judge was not influenced by Judge Leavitt.)

The Commission determination stated that Judge Leavitt “violated his ethical obligations when he contacted his co-judge in an attempt to use his influence to assist his mail carrier...” In determining to admonish Judge Leavitt the Commission considered the judge’s unblemished career as a lawyer and a judge, and that he “promptly accepted responsibility for his misconduct.”

Judge Leavitt has been a Justice of the Ossining Town Court since 2020. His current term expires on December 31, 2023.

### **Statement by Commission Administrator**

Commission Administrator Robert H. Tembeckjian made the following statement.

“More than 40 years ago, the Commission rendered its first censure of a judge who sought lenient treatment for an acquaintance with a traffic ticket. By now, every judge should know it is wrong and disciplinable to meddle in a matter pending before another court or agency, or to ask a colleague to go easy on a friend, relative or anyone else, regardless of the nature of the case.”

### **The Commission Proceedings**

Judge Leavitt was served with a Formal Written Complaint dated October 4, 2022, containing one charge and filed an answer dated November 28, 2022.

By motion dated January 30, 2023, the Administrator moved for summary determination. The judge filed a response dated March 3, 2023, in which he did not oppose the motion and by letter dated March 9, 2023, the Administrator filed a reply. The motion was granted on April 20, 2023, determining that the factual allegations of the Complaint were sustained and that the judge’s misconduct was established.

Counsel to the Commission filed a brief arguing that the judge be censured, and the judge argued that a private letter of caution or admonition was appropriate. On July 20, 2023, the Commission heard oral argument.

### **The Commission Determination**

The Commission filed a determination dated September 21, 2023, in which six members concurred: Joseph W. Belluck (the Commission Chair), Judge Fernando M. Camacho, Judge John A. Falk, Judge Robert J. Miller, Judge Anil C. Singh and Akosua Garcia Yeboah.

Commission members Marvin Ray Raskin, and Graham B. Seiter dissented as to the sanction and voted that a private letter of caution was the appropriate disposition.

Two Commission members (Taa Grays and Ronald J. Rosenberg) did not participate. Nina M. Moore was not a member of the Commission when the matter was argued.

### **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. The Commission was notified on October 20, 2023, that Judge Leavitt had received the determination. 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 Leavitt does not request review by the Court of Appeals, the Commission will admonish 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 283 determinations of admonition against judges in New York State. The Commission has issued 179 determinations of removal and 349 determinations of censure.

The Court of Appeals has reviewed 102 Commission determinations. The Court accepted the Commission's sanctions in 86 cases (77 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.

### **Counsel**

Judge Leavitt represented himself.

The Commission was represented by Deputy Administrator Mark Levine, Senior Attorney Vickie Ma and Investigator Christina Partida.

### **Background Information on Judge Leavitt**

First Took Office:	2020
Current Term Expires:	December 31, 2023

### **Members of the Commission**

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

### **The Public File**

The determination and other records are available on the Commission's website: [www.cjc.ny.gov](http://www.cjc.ny.gov).

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

<b>Member</b>	<b>Appointing Authority</b>	<b>Term End</b>
Joseph W. Belluck, Esq., Chair	Former Governor Andrew M. Cuomo	March 31, 2024
Taa Grays, Esq., Vice Chair	Senate President Pro Tem Andrea Stewart-Cousins	March 31, 2027
Hon. Fernando M. Camacho	Former Chief Judge Janet DiFiore	March 31, 2024
Hon. John A. Falk	Former Chief Judge Janet DiFiore	March 31, 2025
Hon. Robert J. Miller	Former Governor Andrew M. Cuomo	March 31, 2026
Nina M. Moore	Governor Kathy Hochul	March 31, 2027
Marvin Ray Raskin, Esq.	Assembly Speaker Carl E. Heastie	March 31, 2026
Ronald J. Rosenberg, Esq.	Former Senate Minority Leader John J. Flanagan	March 31, 2024
Graham B. Seiter, Esq.	Assembly Minority Leader William A. Barclay	March 31, 2025
Hon. Anil C. Singh	Chief Judge Rowan D. Wilson	March 31, 2026
Akosua Garcia Yeboah	Former Governor Andrew M. Cuomo	March 31, 2025