

JUDICIAL COUNCIL OF THE SECOND CIRCUIT
COMPLAINT AGAINST JUDICIAL OFFICER UNDER 28 U.S.C. § 372(c)

INSTRUCTIONS:

- (a) All questions on this form must be answered.
- (b) A separate complaint form must be filled out for each judicial officer complained against.
- (c) Submit the correct number of copies of this form and the statement of facts. For a complaint against:

a court of appeals judge -- original and 3 copies

a district court judge or magistrate judge -- original and 4 copies

a bankruptcy judge -- original and 5 copies

(For further information see Rule 2(e)).

- (d) Service on the judicial officer will be made by the Clerk's office. (For further information See Rule 3(a)(1)).
- (e) Mail this form, the statement of facts and the appropriate number of copies to the Clerk, United States Court of Appeals, United States Courthouse, 40 Foley Square, New York, New York 10007.

1. Complainant's name: Stella Chertkova
Address: 37 Farms Village Rd.
Simsbury, CT 06070
Daytime telephone (with area code): (860) - 651-0105

2. Judge or magistrate judge complained about:

Name: A. Covello

Court: US District Court, District of Connecticut

EITHER

- (1) check the box and sign the form. You do not need a notary public if you check this box.

I declare under penalty of perjury that:

- (i) I have read rules 1 and 2 of the Rules of the Judicial Council of the Second Circuit Governing Complaints of Judicial Misconduct or Disability, and
- (2) The statements made in this complaint and attached statement of facts are true and correct to the best of my knowledge.

Helle Chu
(signature)

Executed on 7/27/00
(date)

OR

- (2) check the box below and sign this form in the presence of a notary public;

I swear (affirm) that--

- (i) I have read rules 1 and 2 of the Rules of the Judicial Council of the Second Circuit Governing Complaints of Judicial Misconduct or Disability, and
- (2) The statements made in this complaint and attached statement of facts are true and correct to the best of my knowledge.

(signature)

Executed on _____
(date)

Sworn and subscribed to
before me _____

(Notary Public)

My commission expires:

3. Does this complaint concern the behavior of the judge or magistrate judge in a particular lawsuit or lawsuits?

Yes No

If "yes," give the following information about each lawsuit (use the reverse side if there is more than one):

Court: US District Court, District of Connecticut

Docket number: 3:93CV2046 AVC and 3:97CV2708 AVC

Docket numbers of any appeals to the Second Circuit:

99-7859

Did a lawyer represent you?

Yes No

If "yes" give the name, address, and telephone number of your lawyer:

Judge Rintoul, Glastonbury, CT.
is no longer representing me.

4. Have you previously filed any complaints of judicial misconduct or disability against any judge or magistrate judge?

Yes No

If "Yes," give the docket number of each complaint.

5. You should attach a statement of facts on which your complaint is based, see rule 2(b), and

STATEMENT OF FACTS

Stella Chertkova has been the plaintiff in two cases run by Honorable Judge Covello. The first case - Chertkova v. Connecticut Life Insurance Company, docket # 3:93CV2046 (AVC) - was filed in 1993. In 1995 Judge Covello granted Motion for Summary Judgment in this case. The case was appealed and reversed by this Court in 1996. Shortly afterwards, the defendant filed the second Motion for Summary Judgment for counts III and IV of the case. Judge Covello granted the second Motion for Summary Judgment as well. The count I of the case was tried in the summer of 1999 and rendered a verdict for the defendant. Currently the case is in the Court of Appeals - USCA NO. 99-7859.

The second case - Chertkova v. Connecticut Specialty, ORION Corporation, docket # 3:97CV2708 (AVC) - was filed in 1997 and contains four counts. In 1999 the defendant in the case filed a Motion for Summary Judgment which Judge Covello granted on three counts and denied on one.

During the entire seven year time period Judge Covello demonstrated in many different ways that he is not capable of performing the duties required of a United States judge. While it is difficult to say whether Judge Covello's impaired judgement is the result of a mental disability or misconduct or both, it should be clear from the following that Judge Covello's conduct does not meet the standards expected of federal judicial officers.

A. Judge Covello does not read important written documents.

1. Judge Covello ruled on two Motions for Summary Judgment filed by the defendant in Chertkova v. Connecticut Life Insurance Company, docket # 3:93CV2046 (AVC). Judging from the version of facts introduced by Judge Covello in both Motions for Summary Judgment, it is apparent that Judge Covello never read the Statements of Facts presented by the plaintiff. For that matter, it is not clear if Judge Covello read any documents submitted by the plaintiff. A side by side comparison of the documents in the first Motion for Summary Judgment (see IRA-21¹ versus IRA-15 and IRA-16) reveals nothing that would indicate that Judge Covello was familiar with the facts of the case presented by the plaintiff. Even more conspicuously, after this Court remanded the ruling and presented its own version of facts, which did include the evidence introduced by the plaintiff (see *Chertkova v. Connecticut General Life Ins. Co.*, 92 F.3d 81, 88 (2d Cir. 1996)), Judge Covello apparently did not read the Court of Appeals' opinion either. (Compare FACTS in IRA-36 to the FACTS in *Chertkova*) In addition to the Court of Appeals opinion, Judge Covello was once again alerted to the plaintiff's version of facts in plaintiff's reply to the second Motion for Summary Judgment. Once again Judge Covello failed to read it. (See IRA-36 versus IRA-34)

2. Judge Covello ruled on Motion for Summary Judgment filed by the defendant, Connecticut Specialty, in Chertkova v. Connecticut Specialty, ORION Corporation, docket # 3:97CV2708 (AVC) in the summer of 2000. Side by side comparison of FACTS in the Ruling (see Exhibit 1) and FACTS document in the Plaintiff's Opposition to Motion for Summary Judgment (see Exhibit 2) does not show any evidence that Judge Covello was aware of the

¹IRA being Index to Record on Appeal, USCA NO. 99-7859, -n number of the document.

plaintiff's FACTS.

B. If inference in §A is incorrect and Judge Covello, in fact, did read all the documents presented by the plaintiff and by this Court, and still failed to include evidence introduced in them into his version of FACTS, it could only mean that Judge Covello's judgement and memory are severely impaired. This possibility is further buttressed by many confusions incurred in the matter of the proceedings. For instance:

1. During Jury selection for the Chertkova v. Connecticut Life Insurance Company trial on April 8, 1999, Judge Covello erroneously announced to the prospective jurors that the case name was Chertkova v. Connecticut Specialty, ORION Corporation. This mistake not only prejudicially alerted the jury that Ms. Chertkova was the plaintiff in another civil case as well, but also showed the difficulties Judge Covello has in properly running the matters of the Court.

2. Judge Covello includes into Material Facts events that do not exist in any record. For instance:

In the FACTS section of the ruling on Motion for Summary Judgment in Chertkova v. Connecticut Specialty, ORION Corporation, Judge Covello asserts:

a) *"Rosemary Matos stated that within the first month, 'a couple of people in her unit had come to [Matos] with some concerns about Stella's interpersonal style and how she was interacting with other people in the unit.'"* (Exh 1, p 3) Rosemary Matos said no such thing. (See Exhibit 3, the entire deposition of Rosemary Matos) In fact, Rosemary Matos admitted the opposite: she didn't hear any comments about Ms. Chertkova until after Ms. Chertkova was terminated. (See, Exh.3, p 51, pp65-66)

b) *"Resutek stated that she was told that Doug Sabadosa may leave if situation with Chertkova did not change."* Similarly, Ms. Resutek said nothing of the kind. (See Exh. 4, the entire deposition of Donna Resutek).

In the FACTS section of the ruling on the second Motion for Summary Judgment in Chertkova v. Connecticut Life Insurance Company Judge Covello asserts:

"Frank Claybrook, the leader of the meeting, informed the plaintiff that "the purpose of the meeting was to discuss and understand the operating values and goals and not to provide feedback as to whether management was currently meeting those goals". The quoted "fact" was not in the "undisputed facts" presented by the defendant and did not occur in reality. (See Appeal Brief, USCA NO. 99-7859, p14)

3. Judge Covello is confused by the documents he does read. For instance, in the FACTS section of the ruling on Motion for Summary Judgment in Chertkova v. Connecticut Specialty, ORION Corporation, Judge Covello asserts:

"Some employees, through their testimony, also expressed doubts as to Chertkova's technical skills. Two employees testified that Chertkova lacked technical and communication skills, and they assumed that was the reason for her termination. Chertkova also points to testimony that an employee thought her termination was partly due to "her inability to deliver the application". Resutek claimed that she gave Chertkova many revised deadlines for the

completion of her SPRS assignment.” (See Exh. 1, p 3)

None of these “facts” were presented by the defendant (see Exh. 5, Defendant’s Facts) - Connecticut Specialty knew better than to question plaintiff’s technical skills and the quality of her work. The cited “facts” were presented by the plaintiff herself in the Motion in Opposition to the Motion for Summary Judgment (see Exh. 6, pp 15-18) not for their truth, but, on the opposite, for their falsity - the testimonies not only contradicted the strong evidence presented by the plaintiff but also contradicted each other. Obviously, Judge Covello was not able to follow the logic in the argument of the section titled unambiguously “*Defendant gave many different reasons for terminating plaintiff, and the multitude of the reasons is by itself proof that they are contrived*”. Judge Covello erroneously assumed that the plaintiff presented this evidence to discredit herself rather than Connecticut Specialty witnesses and included the false statements by unscrupulous employees in the “material facts”.

4. Judge Covello’s does not remember the basics of the law.² For instance, he defined “hearsay”, as any statements referred to by plaintiff’s witnesses:

Dean Johnson testimony:

“*Q And did anything change between the two of you at that time, anything happen that she would talk to you about?*

A Well, as the summer went on, she had indicated that --

MR. DRAKE: Objection.

THE COURT: Try not to tell us what she said, just what you did or what you saw, things like that.” (See IRA-73, 3d Vol of Trial, p. 414)

Irina Shishov testimony:

“*. . . We always spend Thanksgiving together at my house. It's a tradition. And the reason I remember it so well is because this Thanksgiving meant a lot to us because we felt we have a lot to be grateful for, and that particular Thanksgiving Stella came later than usual, and she told me that she might --*

MR. DRAKE: Objection. Hearsay.

THE COURT: Just tell us what you observed, madam.”(See IRA-72, 2d Vol of Trial, p.190)

Stella Chertkova testimony:

“*Q And did other people speak on the issue of whether managers should have technical knowledge when they're managing technical people?*

A He pretty much thought that you should, but while I was sort of talking to him another woman, I think was Mitchell, Virginia, or something, I don't quite remember her name, said that yes, it does happen. But afterwards a woman that I don't know and don't really remember stopped and said that --

MS. YODER: Objection.

THE COURT: Don't tell us what someone else said.”

A For a while I was concerned how to present it to Jeff, and particularly that one user, Debra, forget her last name, she was a manager in Vorhees, complained about him personally, that he was rude, and that he was --

²One must assume that at some point he did know the law - how else could he have been appointed to the federal bench?

MS. YODER: *Objection, Your Honor.*

THE COURT: *Don't tell us what someone else said.*" (See IRA-72, 2d Vol of Trial, p. 296)

"Q And what caused you to leave that day?

A It was a combination of things. I was physically exhausted because of all the previous days and nights that I worked, and the stress that I was under, and the beeper that I was checking every few minutes, so I was physically getting to the point where I was terrified that I wouldn't be able to really respond to a serious problems and that I would be terminated for good reason. And that particular night I had from 2:00 to 5:00 I was in my office, so in driving I had almost fallen asleep. And I was afraid to take any time off, although I indicated in my E-mail to Terry that I could be late because of night, but I was afraid, and I was back at 8:30, and sometime during the day I got a phone call, and my backup was whispering --

MS. YODER: *Objection, Your Honor.*

THE COURT: *Don't tell us what someone else said, please.*

MS. RINTOUL: *Your Honor, I'm offering this to show her state of mind and the reason that she left early that day and not for the truth of the matter asserted. I'm asking her what caused her to leave that day. I don't believe that calls for anything --*

THE COURT: *The ruling stands.* (See IRA-73, 3d Vol of Trial, p. 358)³

"Hearsay", as defined in Rules of Civic Procedure, is "a statement, offered in evidence to prove the truth of the matter asserted" only, not any statement. In addition, even if a statement is a "hearsay", it can still fall into one of many exceptions and be allowed during a trial. A judge who rules out any statement offered by anybody for any reason can not possibly conduct a fair trial according to the federal law.

In some cases Judge Covello calls "hearsay" something that is not a statement at all:

"Q Now, did Mr. Hannigan have any role with regard to making decisions for the company on the projects that he worked on?"

MS. YODER: *Objection.*

THE COURT: *Sustained.*

MS. RINTOUL: *Your Honor, I don't know if the objection is on the basis of hearsay. I'm not offering it for the truth of the matter asserted. I'm offering it to show that an action was made, and I'm not offering it for the truth.*

THE COURT: *I sustained the objection on the basis that it's hearsay.*

Q (By Ms. Rintoul) Did Mr. --

THE COURT: *Why don't we call it a night. Madam, you can step down, Ms. Chertkova.* (See IRA-73, 3d Vol of Trial, p. 348)

So, in this case Ms. Rintoul's question, not statement, is defined by Judge Covello as a "hearsay".

5. Judge Covello is confused by matters that have more to do with English language than the law. For instance, in every ruling on a motion for summary judgment Judge Covello correctly states, that according to standard for summary judgment "*The courts must view all inferences and ambiguities in a light most favorable to the nonmoving party.*" (See Exh.1, p 5) Then he proceeds to exclude all evidence presented by the nonmoving party, except for unfavorable. This

³There are many more examples from the trial. Every statement was considered a hearsay before it was offered.

can only imply that Judge Covello either does not understand the meaning of the word “favorable” or is not sure what “nonmoving party” means.

6. Judge Covello has a poor grasp of the cases he rules on and does not take time to investigate the issues before ruling. For instance, the plaintiff’s FACTS document of Chertkova v. Connecticut Specialty, ORION Corporation stated:

“27. On Friday, October 10, 1997, plaintiff got a phone call from attorney Quinn, that his motion for time extension to submit Trial Document for CIGNA case had been denied by Court and that the document was due that afternoon. Attorney Quinn had to work on it urgently and needed plaintiff to look at the draft. He intended to communicate with plaintiff via fax. Plaintiff agreed, but asked that she is notified before the fax is sent. (Plaintiff, Ex. 45, ¶ 27)

28. Plaintiff received the first draft fax later that morning and made her comments to attorney Quinn on the phone. He then promised to send her updated version for final approval. The plaintiff waited for a long time and finally called attorney Quinn. His para-legal assistant answered the phone and said that she faxed the document “forty minutes ago”. Plaintiff rushed to the fax machine which was far away, in the Executive area, and found the Trial Document removed from the fax, laying down at the adjacent table. (Ex. 39, Plaintiff, Ex. 45, ¶ 28)

29. Plaintiff was very upset, because it meant someone in Executive area saw the document and its caption: “STELLA CHERTKOVA VS. CONNECTICUT GENERAL LIFE INSURANCE COMPANY”. (Plaintiff, Ex. 45, ¶ 29) “(Exh 2, pp 41-42)

The plaintiff presented the facsimile transmission report, stating that 22 pages were sent from the office of her attorney to ORION.

In his Ruling on the Motion for Summary Judgment Judge Covello wrote: “Chertkova implies that someone must have seen that facsimile, alerting ORION as to her previous claim * * * However, there is no evidence beyond Chertkova’s assertion proving what the contents of the facsimile were.” (Emphasis added, Exh 1, p 16)

In this example not only Judge Covello bluntly dis-believes the plaintiff (nonmoving party), which contradicts the standard for summary judgment, but he obviously does not realize that the Court in plaintiff’s previous claim is Judge Covello himself. Neither does Judge Covello realize that it would be very easy for him to see that on October 10, 1997, he indeed denied attorney Quinn’s motion for time extension to submit Trial Document for CIGNA case⁴ and that the Trial Document is in possession of the District Court and its size can be verified. (See Exh 8, p 14)

⁴The motion for time extension was submitted on October 8, (see Exh 8, p16) after Judge Covello denied motion for Certification and precluded the plaintiff from appeal. It is clear that on October 8th Attorney Quinn was not ready with the Trial Document and accordingly had to start working upon the denial of his time extension request, on October 10th. It is also undeniable that Attorney Quinn was in New London and the plaintiff was in Farmington, 1.5 hour away. It is proven that a fax was sent and contained 22 pages. To assume that plaintiff lied and that on the day when the Trial Document was due Attorney Quinn sent plaintiff a fax of the same length with something unrelated to the Trial Document, as Judge Covello does, should seem beyond reason to any rational person.