

Thomas Thornton
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Gerald Stern, Esq., Administrator
Commission on Judicial Conduct
801 Second Avenue, 13th floor
New York, NY 10017

18 January 1998

Re: Hon. Phyllis B. Gangel-Jacob

Dear Mr. Stern:

This is to file a complaint against Justice Gangel-Jacob of the New York State Supreme Court, in connection with the case of *Thornton v. Thornton*, Index No. 305469/94.

As I will explain in some detail in this letter, Judge Gangel-Jacob has consistently violated elementary rules for judicial conduct throughout the proceedings in *Thornton v. Thornton*: she has been unfaithful to the law; impatient, undignified, and not only impolite but abusive; she has repeatedly denied me the right to be heard; and failed to dispose promptly of our case, thus effectively revoking my now almost eleven-year-old son's and my constitutional rights. Her bias against me has been evident since the day of the first court conference on July 1, 1994.

Judge Gangel-Jacob's conduct has been regularly insulting and threatening. While she is most abusive off the record, at least a few threats of her have been recorded and transcribed.

- During a conference on July 8, 1997 she wanted to proceed with a divorce based on abandonment. When she realized that this was legally not possible, she suggested that the divorce be based on cruelty, suggesting that I had hit the plaintiff and telling me to neither deny nor admit the charges. When I, a pro se defendant, replied I was going to deny them and proposed to draft a separation agreement to get a divorce one year later, she yelled at me, saying: "Your wife has a right to a divorce!" Then she advised me to talk to a lawyer, adding: "Believe me, you don't want a trial." Later she threatened that if I did indeed contest the divorce, the trial would "not take more than an hour. It will be a very quick trial."
- In June 1995, in the wake of the downsizing of the company I had been running for five years, I lost my job, after thirteen years of employment as a professor at Columbia University and Hunter College, editor and translator, and full-time executive editor at two respected New York publishing firms. When my search for suitable employment was unsuccessful, I became a free-lance editor and translator. Even though I have

Ex "H-1"

never been late with court-ordered child support payments, Judge Gangel-Jacob suggested on different occasions that I become a clerk at the Supreme Court; a cab driver; or a waiter. She yelled at me: "You can't be an entrepreneur!"

- On September 10, 1997 I reiterated in court that I would contest the divorce unless all restrictions in my access to my child were being lifted. Off the record, Judge Gangel-Jacob screamed at me, accusing me of "extortion" and "blackmail." Later, back on the record, she reversed herself, saying: "I don't think it's extortion. I don't think it's blackmail."
- She has made deprecatory remarks about my family, even though my family has never been discussed in court.

It seems obvious that Judge Gangel-Jacob's unethical conduct is the result of a deep-seated bias against men in general, as well as perhaps against me as a German citizen in particular. Her vindictiveness is so extreme as to entirely obliterate any consideration she may have for the interest of my child.

- When during a court conference on September 9, 1996 I requested that my son Dorian and I be allowed to meet at my place rather than a restaurant, she denied my request, stating: "Every child forms an emotional bond with his parents. That bond would only be reinforced if the visits took place at your apartment."
- A major charge against me is that in October 1995 I was asleep in the hallway of the plaintiff's apartment building, with the photograph of a not quite recognizable man serving as evidence. When I introduced in a hearing on May 21, 1996 two blown-up copies of that photograph to prove unequivocally that the allegation was entirely fabricated (the man in the photograph was clearly not me), Judge Gangel-Jacob declared that she too had photographs of herself that didn't look like her; that the plaintiff had known me for ten years and would recognize me. Judge Gangel-Jacob added: "Therefore (!) this doesn't diminish Mrs. Thornton's credibility." I pointed out that the plaintiff's claim that she had called the police, but that "I" had left her building by the time they arrived, was false, as, according to police records, no such complaint had been made, and I suggested that these records be subpoenaed. The judge ignored my suggestion.
- Both the court and my lawyer relied on the plaintiff's lawyer's statement that Judge Gangel-Jacob had on March 31, 1995 ordered supervised visitation for mid-week afternoon visits between my son and me (but not for weekend visits) after my lawyer and I had left the judge's chambers. The original court order had "disappeared," and the copy the plaintiff's lawyer had made for himself and passed on was largely illegible. Months later, in August 1995, the plaintiff's lawyer produced the original court order and the court and I realized that it did *not* stipulate supervision, but Judge Gangel-Jacob dismissed that as "moot" and "extraneous"; the judge did not object to her written order having been tampered with and falsified to invent the imposition of supervision—and unreasonable and unwarranted supervision has continued to this day.
- After the divorce trial, on September 11, 1997, the plaintiff's lawyer handed to the judge the two blown-up photographs of the stranger lying in the hallway of the plaintiff's apartment building which I had introduced the previous year as evidence that

charges against me were fabricated. Judge Gangel-Jacob asked me if I had copies of the prints. When I told her I did not, she stated she would put the photographs back into the county clerk's file. Since then, they have disappeared. (However, I found the negative I had made of the original positive, and in a letter dated December 18, 1997 I informed the judge that I had new prints made.)

- During a court conference on March 19, 1996 Judge Gangel-Jacob proposed that Patricia Hennessey, Esq. of Cohen, Hennessey & Bienstock P.C. serve as my son's pro bono law guardian. Ms. Hennessey is an old friend of the plaintiff's lawyer, with whom she went to law school, and the judge stated that the two had discussed our case several times during previous months. Despite grave misgivings, in a misguided effort at being conciliatory I consented to Ms. Hennessey's appointment after Judge Gangel-Jacob had suggested that Ms. Hennessey could serve on a trial basis. At the time I was not aware of Cohen, Hennessey & Bienstock's close connection with the judge. When it became clear that Ms. Hennessey did not in the least have my child's interest in mind (she never even observed or interviewed Dorian in my company and instead served as the plaintiff's second pro bono lawyer) but only wanted to ingratiate herself with Judge Gangel-Jacob, whose bias against me was obvious to everyone involved, I requested that Ms. Hennessey be dismissed. The request was ignored, and Ms. Hennessey served as "law guardian" until February 1997, when she resigned to go on maternity leave, long after she had done all the damage she could do.
- In 1995 the plaintiff refused to grant me court-ordered visitation for almost two months. After I had an altercation with her in the street, she alleged that I had repeatedly struck her and obtained an order of protection. A police officer's testimony later clearly proved in court that the plaintiff's charge was yet another fabrication. Through all this, the court so procrastinated with our case in ordering a hearing before a special referee and waiting for his report that as a result, I had no contact with my child for eight full months, between March and December.
- On December 1, 1995 Judge Gangel-Jacob ordered a familial psychological evaluation, which she said she expected to be submitted by the end of January 1996. She appointed Ava Siegler, Ph.D., a forensic psychologist who, as the judge put it, had done her favors before. Due to a heavy court-related workload and extended vacations, Dr. Siegler didn't begin the examination until July 1996 and her report was not submitted until November of that year—one year after the report had been ordered, and twenty months (!) after I had had at least somewhat reasonable visitation with my son. Dr. Siegler recommended immediate and drastically extended visitation (from one-and-one-half hours per week to ten hours per week) and a gradual but quick end to supervision. In all subsequent court conferences the judge virtually ignored Dr. Siegler's report. She extended visitation to three instead of the recommended ten hours, and to date she has refused—without giving any reason—to end supervision. Dr. Siegler had recommended that the plaintiff and I start splitting holidays with Dorian immediately, but since then my son and I haven't spent even part of one single holiday together; Dr. Siegler also recommended that my child see a new therapist—his old counselor had tried to inflame him and the court against me without so much as interviewing me, in person or on the phone—but Judge Gangel-Jacob refused to comply, again without stating a reason.

- Even though children's and fathers' rights groups had strongly advised me to beware of the Society for the Prevention of Cruelty to Children as a frequently antimale organization, in a letter dated March 14, 1996 I requested that the SPCC replace the then-supervisor, a friend of the plaintiff unqualified for the job, as I firmly believed *any* even remotely objective supervisor would issue a report fully supportive of my and my son's quest. My wife's lawyer claimed, both verbally and in writing, that the SPCC was "a fathers' rights group" (!), and Judge Gangel-Jacob complied with his request to deny my plea.

Thornton v. Thornton has been before Judge Gangel-Jacob since July 1994. Since March 1996 I have represented myself, while my wife has been represented pro bono. Rather than adhering to official court rules and regulations, Judge Gangel-Jacob has railroaded me, turning our case into a quagmire in which, I believe, even many legal experts would get lost.

- More than three-and-one-half years into the case, no custody hearing has taken place.
- In March 1997 I requested, in writing, a discovery schedule so a trial could finally bring an end to the proceedings. Judge Gangel-Jacob ignored my request.
- In July 1997 she dismissed without a hearing an Order to Show Cause I had submitted to be allowed standard visitation with my ten-year-old son, stating: "The motion is—I'm disposing of the motion, which will be decided in the context of the action for divorce, which is going to be heard in September. And/or if there is no trial, it will be, if there is no settlement, the motion will be—the motion is disposed of now. The issue you will be deciding in the context of the divorce trial which will take place in September unless the parties come to an agreement." (*Sic*)
- In direct contrast to her order, during the trial in September 1997 the judge explicitly and repeatedly forbade me to bring up issues related to visitation and custody—she pointed out again and again that she would allow only the grounds for divorce to be discussed. As a result, I am still denied standard access to my child, who even the judge admits has told her in two interviews how much he misses me. He has also expressed his desire to be with me to the former law guardian as well as our supervisor, but because of Judge Gangel-Jacob's bias and unethical conduct we have been denied reasonable parenting time for almost three (!) years.
- In September 1997 Judge Gangel-Jacob refused, without stating a reason, to hold a hearing on my request for discovery, which the plaintiff had (and still has) ignored. To date, the only Child Support Worksheet ever submitted to the court is three years and eight months old; it was based on the plaintiff's Statement of Net Worth in which she had suppressed approximately half of her income and fantastically inflated my income—of which the court is aware. Since discovery had not been completed, I could not file a note of issue and request a jury trial on the grounds for divorce.
- Immediately before the trial on September 10, 1997 I told Judge Gangel-Jacob that I had never been notified that a trial would take place, pointing out to her that I had heard about the court date only by happenstance: I had called the Hon. Jacqueline Silbermann's office to confirm that a hearing before her was taking place as requested and scheduled by her, and her clerk had informed me that it had been canceled as

apparently Judge Gangel-Jacob had scheduled a trial for September 10, 1997. A subsequent phone call to Judge Gangel-Jacob's clerk only confirmed that a court date was scheduled for September 10, but not if a trial was set. Neither could the calendar clerk confirm that a trial was scheduled. I was informed twice that no court date had been officially set.

- In short, when I arrived in Judge Gangel-Jacob's court room on September 10, I did not know if a trial was indeed going to take place. The judge ignored that, just as she ignored my pointing out to her that she was effectively denying me the right to a jury trial as well as to prepare for trial and the right to summon and subpoena witnesses.

After Judge Gangel-Jacob was removed from the matrimonial bench in the wake of numerous allegations of her extreme gender bias, our case was assigned to other judges: in May 1996 to the Hon. Richard Andrias, and in June 1997 to the Hon. Sherry Heitler; but both times Judge Gangel-Jacob requested that the case be transferred back to her. The three Supreme Court judges who were transferred from the matrimonial bench in January 1996 were supposed to hold on only to the handful among their complicated cases that had already gone to trial. Judge Gangel-Jacob held on to our case with all means available to her one year and nine months *before* it went to trial, and she did so even though she herself implied that ours was an uncomplicated case when she threatened me—on the record—by saying, "The trial will not take more than an hour. It will be a very quick trial."

I am fully aware of the (sometimes tragic) flexibility of the concept of "judicial discretion"; I know that Judge Gangel-Jacob is entitled to disregard my child's most fervent wish, to ignore, along with her own forensic expert's recommendation and the supervisor's repeated urgent requests, every single witness or affidavit I have ever brought or submitted to the court, all of which testified to my exceptional qualifications as a loving and responsible father; I realize that the judge may dismiss the fact that aside from the plaintiff *not one* witness has appeared or submitted an affidavit in by now more than three and a half years who has known my son and me and so much as questioned, much less refuted, my qualifications as a father; I have also come to realize that it is within the judge's power to treat me even worse than as if I were guilty of physical or sexual abuse (of which I have never even been charged, let alone convicted). I also understand that Judge Gangel-Jacob does not even have to enforce her own orders regarding visitation, which have been violated numerous times by the child's mother, no matter how cruelly-reduced visitation has been to begin with.

However, my son and I are helpless victims of Judge Gangel-Jacob's legal maneuverings which ignore the standard rules not only of civil practice but of civility; her lack of judicial temperament make her an unfit judge. Judge Gangel-Jacob has not merely been abusive to me. To the full extent to which depriving a child of a good and loving parent is child abuse, that judge is a child abuser. My son and I have been separated for almost three years; in 1995, I didn't see him at all for eight months, due to the court's inertia; last year we were together for no more than some seventy hours altogether, under demeaning conditions designed to make a meaningful relationship impossible—and yet when I requested in an Order to Show Cause to have standard access to my child or be given a

reason why the court insists on truncated visitation under conditions so detrimental to my son's well-being, the judge refused even to respond.

I feel I have basically exhausted my possibilities. In April 1996 I asked Judge Gangel-Jacob to recuse herself—to no avail. I have insisted that she base her decisions on laws and facts—in vain. Lawyers have told me that I will have no chance whatsoever if I turn to the Appellate Division without representation, which however I am forced to do, as our case has left me not only financially depleted but in debt for many years to come. In the meantime, my son is growing up without me, and his mother even intends to move him to a country where I don't have a work permit.

Despite these abominable circumstances, my son and I have managed to maintain a relationship full of affection, trust, and mutual respect, which even the court's and the child's mother's unconscionable hostility have not been able to destroy. Yet now we need your protection, and we need it urgently. I am aware that a slew of complaints about Judge Gangel-Jacob's unprofessional and unethical conduct has been made during the past several years and ask you to discipline that judge and stipulate that every future court conference and hearing before her be tape-recorded, as a stenographer can be ordered to stop recording, screaming fits are not identifiable as such on transcripts, and transcripts themselves can be doctored and are prohibitively expensive to boot.

Finally, for my child's sake, I implore you to do whatever is in your power to have my case reassigned: as the son of a respected former judge I know that there *are* judges who are ruled not by personal bias and venomous contempt but by a passion for justice.

I will gladly submit to you documents supporting my charges against Judge Gangel-Jacob and would welcome the chance to talk to you in person.

Thank you.

Sincerely,

Thania Tharsh

cc: Hon. Judith S. Kaye
ABC Eyewitness News (Ms. Cheryl Finandaca)
ABC, 20/20 (Mr. John Stossel)
ABC World News (Mr. Peter Jennings)
Children's Rights Council (David L. Levy, Esq. and Mr. Serge Prengel)
New York Times (Ms. Jan Hoffman, Messrs. Joseph Fried and Benjamin Weiser)
Parental Rights Inc. (Mr. Barry Tramantano)



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January 30, 1998

Mr. Thomas Thorton
Apartment 3-D
499 Fort Washington Avenue
New York, New York 10033

Dear Mr. Thorton:

This is to acknowledge receipt by the State Commission on Judicial Conduct of your complaint dated January 18, 1998.

Your complaint will be presented to the Commission, which will decide whether or not to inquire into it. We will be in touch with you after the Commission has had the opportunity to review the matter.

For your information, we have enclosed some background material about the Commission, its jurisdiction and its limitations. Please note that the Commission has no authority to assign another judge to your case.

Very truly yours,

Lee Kiklier
Administrative Assistant

LK:wg
Enclosure

EX "H-2"

Thomas Thornton
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Mr. Sean Manette
Commission on Judicial Conduct
801 Second Avenue, 13th floor
New York, NY 10017

Re: Complaint about Judge Gangel-Jacob

29 March 1998

Dear Mr. Manette:

After our phone conversation I thought about which of the numerous documents pertaining to the Thornton v. Thornton file to send you. I find it difficult to understand that the numerous concrete details I provided about the way Judge Gangel-Jacob has made a mockery of the democratic legal process and along the way terminated my son's and my constitutional rights have not at least led to an *investigation*. Perhaps you will understand that I now fear that any documentation I provide before an official investigation is underway may be used to further protect that judge.

Therefore I have decided to concentrate on just one of my complaints: that Judge Gangel-Jacob has consistently violated the rule that "[a] judge shall dispose promptly of the business of the court" (New York Rules of Court, §100.3(a)(5)), even though other rules (specifically, §§100.2(a), 100.3(a)(4), and 100.3(b)(3)) are directly affected by her violation of that judicial tenet.

- As I mentioned in my letter of complaint dated January 18, 1998, my case was twice assigned to other judges. In May 1996 I charged the plaintiff's attorney, Peter Breger, Esq., with repeatedly violating as well as fraudulently tampering with court orders and deliberately fabricating false charges against me. Judge Richard Andrias found the charges and exhibits included in my motion serious enough to sign an Order to Show Cause (see Enclosure 1). Yet he referred the case back to Judge Gangel-Jacob (Enclosure 2), who, since she couldn't dismiss my charges as unjustified, simply ruled that they were "moot" or "extraneous," in any case, "not . . . worthy of consideration" (see Enclosure 3).
- On June 9, 1997 I made a motion to have drastically extended and unsupervised visitation with my son or be given a reason why visitation should be supervised and truncated. Judge Heitler signed an Order to Show Cause (see Enclosure 4), but referred the case back to Judge Gangel-Jacob, who has refused to hold a hearing on

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this matter until this day, despite a second, similar motion I made on January 16, 1998. (See Enclosure 5, Judge Gangel-Jacob's ruling dated July 8, 1997, and Enclosures 6, some of the several pages containing her refusal to discuss visitation and custody during the "trial" on September 10 and 11, 1997.)

- On September 5, 1997, when I feared Judge Gangel-Jacob might conduct a trial on September 10, 1997 without notifying me, I submitted an Order to Show Cause requesting financial disclosure (a request the plaintiff's attorney had steadfastly ignored), so I could at least file a Note of Issue and request a jury trial on the grounds for divorce. Judge Heitler, to whom the case was still assigned (five days before the trial!), refused to sign the order, arguing on September 15 (correctly) that a conference on the matter should be scheduled before a formal hearing. (See Enclosure 7.) My motion was then reassigned to Judge Gangel-Jacob, who has refused both to sign the Order to Show Cause and hold a conference on my request for disclosure.
- Enclosures 8 and 9 are copies of letters in which I requested the release of the forensic psychologist's report and a discovery schedule—requests I had also made verbally during court conferences. Both requests have been denied to date.

These documents should give you sufficient evidence that despite my consistent efforts, due process has been denied my son and me: almost four years into court proceedings, Judge Gangel-Jacob still has not held a hearing on visitation or custody, the child's mother continues to forbid him to call me on the phone—as the judge is well aware—and we haven't seen each other since January.

Sincerely,

Thana Thoub

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Mr. Sean Manette
Commission on Judicial Conduct
801 Second Avenue, 13th floor
New York, NY 10017

Re: Complaint about Judge Gangel-Jacob

Via Registered Mail

19 June 1998

Dear Mr. Manette:

In the City Bar's guide on *How to Complain about Lawyers and Judges* the public is promised that the Commission on Judicial Conduct will respond to a complaint within two months if it has decided against formally investigating the complaint. Since my first letter to Mr. Stern, more than five months have passed, and I still have not received a response.

As I mentioned to you on the phone almost three months ago, nothing has changed in Judge Gangel-Jacob's conduct since my first complaint: she has continued to be unfaithful to the law and to behave in an undignified manner, and she has failed to dispose promptly of the business before her, all of which constitute violations of the *New York Rules of Court*. I have been railroaded just as I was during the first three and a half years of our case.

On January 16, 1998 I submitted an Order to Show Cause why my ex-wife should be allowed to relocate to another country with our son Dorian, and why I should be denied standard visitation with him. At the same time I requested a custody hearing—none had ever taken place in our case, which was assigned to Judge Gangel-Jacob in June 1994—with the aim of obtaining legal and physical custody of our child.

On March 10 (almost eight weeks after filing my motion) the judge told us that she would decide on the issues "on submission." After I informed Judges Silbermann, Lippman, and Kaye of Judge Gangel-Jacob's intention to break the law by refusing to hold an obligatory hearing, on the night of Friday, March 27, I had two messages from Judge Gangel-Jacob's clerk, Mrs. A. Bailey, on my answering machine: the judge, she said, wanted to see all parties in three days, on Monday, March 30, at 10 a.m. There was no indication as to the agenda. The following day, Saturday, March 28, I sent Mrs. Bailey a fax informing her that I would be unavailable on Monday at 10 and asking what the judge wanted to see us

about.

On the afternoon of Monday, March 30 I had a message from the judge left earlier that morning, telling me that if I didn't show up in court by 12 noon, I would be "in default." She then sent me a fax informing me that a hearing on the relocation issue would be held on Wednesday, April 1, at 9:30 a.m., and Thursday, April 2; there would be no adjournments.

However, a conference did take place—without me. According to my transcript of the March 30 conference, the judge at some point told the court reporter to stop recording so she could engage in ex parte communication.

In my written confirmation of the receipt of the judge's notification, I repeated for the nth time my request for the release of the court-appointed psychologist's forensic report. (See my original letter of complaint.)

In the early morning of Tuesday, March 31 I asked by telefax if arguments would be heard on April 1 and 2, or if it was going to be an evidentiary hearing. In the early afternoon, Judge Gangel-Jacob replied that it would be an evidentiary hearing. However, her response to my request for the forensic report did not arrive until late that afternoon—on the day before the scheduled hearing—: the report, the judge said, was now available for my review, but clearly, it was too late in the day to obtain a copy, just as it was too late to subpoena the psychologist—or any other witnesses, for that matter.

I have kept the tape containing the judge's threatening as well as her clerk's messages and will be glad to make them, or a transcript of them, available to you, along with copies of all the faxes that were exchanged and their transmission reports.

On April 2, I was told that the judge had signed a divorce decree back in February, of which she had informed the plaintiff, but not me. When I protested, she yelled at me once again, saying it was my duty to check the county clerk's file every day, or at the very least, once a week. (The trial had taken place in September 1997, five and a half months earlier, and I had stopped checking the file after October 1997.) Clearly, this was a deliberate attempt at preventing me from appealing her decision, as the judge had signed "Findings of Fact" that had never been mentioned in court—not before, during, or after the trial.

While I understand your desire to protect the judiciary, I also believe that litigants, *as well as their children*, need to be protected from judges who exhibit utter disdain for the Rules of Court, the CPLR, the Constitution of the United States, and litigants against whom they are inexcusably biased.

I would appreciate being apprised of the Commission's progress in this matter.

Sincerely,

Theresa Thaw



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HON. WILLIAM C. THOMPSON
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ALBERT B. LAWRENCE
CLERK

July 1, 1998

CONFIDENTIAL

Mr. Thomas Thornton
499 Fort Washington Avenue
#3-D
New York, New York 10033

Dear Mr. Thornton:

The State Commission on Judicial Conduct has reviewed your letter of complaint dated January 18, 1998. The Commission has asked me to advise you that it has dismissed the complaint.

Upon careful consideration, the Commission concluded that there was insufficient indication of judicial misconduct to warrant an investigation.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Albert B. Lawrence".

Albert B. Lawrence, Esq.

ABL:dmc

EX 'H-5"



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JEAN M. SAVANYU
SENIOR ATTORNEY

July 7, 1998

Mr. Thomas Thornton
Apartment 3-D
499 Fort Washington Avenue
New York, New York 10033

Dear Mr. Thornton:

Clerk of the Commission, Albert B. Lawrence, Esq., has asked me to acknowledge receipt by the State Commission on Judicial Conduct of your complaint dated June 19, 1998.

Your complaint will be presented to the Commission, which will decide whether or not to inquire into it. We will be in touch with you after the Commission has had the opportunity to review the matter.

Very truly yours,

Lee Kiklier
Administrative Assistant

LK:wg

Ex "H-6"

Thomas Thornton
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Albert B. Lawrence, Esq.
New York State Commission on Judicial Conduct
38-40 State St.
Albany, NY 12207

9 July 1998

Re: Complaint about Judge Gangel-Jacob of the New York State Supreme Court

Dear Mr. Lawrence,

Thank you for your letter of July 1, 1998, informing me that the Commission found
"insufficient indication of judicial misconduct to warrant an investigation."

Please let me know on what date my complaint was presented to the Commission and the
names of those present.

Thank you.

Sincerely,

Thomas Thornton

EX "H-7"

Thomas Thornton
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Mr. Sean Manette
Commission on Judicial Conduct
801 Second Avenue, 13th floor
New York, NY 10017

25 July 1998

Re: Complaint about Judge Gangel-Jacob

Dear Mr. Manette,

As per your request, I am sending you the transcript of the messages Judge Gangel-Jacob and Ms. Althea Baily left on my telephone answering machine on March 27 and March 30, 1998. I have also been able to transfer the messages from my original microcassette to a regular tape, which I am also enclosing. Finally, I am sending you copies of the judge's and my telefaxes exchanged between March 27 and March 31 of this year.

Briefly, this was the sequence of events:

January 16, 1998: I submit an order to show cause why I should not be granted standard access to my son Dorian, why my ex-wife should be allowed to move with him to Canada, and why a custody hearing should not be held, more than three and a half years into the divorce proceedings. The parties are directed to appear before the judge on March (!) 10.

March 10: Judge Gangel-Jacob does not hold a hearing. When my ex-wife informs her that she intends to remarry and relocate to Canada in the immediate future, the judge tells the parties that she will "decide on submission."

March 11: I inform Judge Silbermann that Judge Gangel-Jacob intends to deny me the right to a full hearing, thus implicitly allowing my ex-wife to move our son out of the jurisdiction of New York. When Judge Silbermann replies that she does "not have the power or authority to reverse or modify rulings made by another judge"—which I had not asked for—I repeat my request to Judge Lippman (on March 19) and again to Judge Silbermann (on March 24). (The complete correspondence is available for your perusal upon request.)

Friday, March 27: At night I receive two messages from Judge Gangel-Jacob's clerk (left after 11:45 a.m.) that the judge wants to see all parties on the morning of Monday, March 30. From this point on, the enclosed transcripts and correspondence with Judge Gangel-

Jacob are self-explanatory.

The judge did meet with the plaintiff and her attorney. A transcript is enclosed. **The ex-parte communication is indicated on page 12 of the transcript. It took place two days before an out-of-court settlement, in the judge's presence. Judge Gangel-Jacob had made it very clear to me that I would not get custody and that my ex-wife would be allowed to relocate with our son. Therefore I agreed to grant my ex-wife custody as well as to leave the country in return for more liberal (yet still truncated) visitation. The judge, in fact, told me that I had ten minutes to agree to these terms, or the hearing would begin. It was quite clear that the plaintiff and her attorney knew exactly what they were expected to and what they did not have to agree to.**

I realize that the Commission has decided to dismiss my complaint of January 16, 1998 against Judge Gangel-Jacob. However, the complaints I expressed in my letter to you of June 19 are part of my original complaint. *Taken together*, they establish a clear pattern of bias and deceit on the judge's part, and I believe that ignoring my first letter would mean deliberately refusing to recognize that pattern. Therefore I am also enclosing a copy of my original complaint.

Sincerely,

Thana Thasab



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

38-40 STATE STREET
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TELEPHONE FACSIMILE

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HON. FREDERICK M. MARSHALL
HON. JUANITA BING NEWTON
ALAN J. POPE
HON. EUGENE W. SALISBURY
HON. WILLIAM C. THOMPSON
MEMBERS
ALBERT B. LAWRENCE
CLERK

July 29, 1998

CONFIDENTIAL

Mr. Thomas Thornton
Apartment 3D
499 Fort Washington Avenue
New York, New York 10033

Dear Mr. Thornton:

This is in response to your letter of July 9, 1998, concerning the Commission's disposition of your complaint.

The records of the Commission in matters such as yours are confidential by law. My letter of July 1, 1998, represents the extent of the notice and disclosure allowed by law.

Very truly yours,

Albert B. Lawrence, Esq.

ABL:dmc

EX "4-9"



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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212-949-8860 212-949-8864
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MEMBERS
ALBERT B. LAWRENCE
CLERK

GERALD STERN
ADMINISTRATOR & COUNSEL

ROBERT H. TEMBECKJIAN
DEPUTY ADMINISTRATOR &
DEPUTY COUNSEL

ALAN W. FRIEDBERG
SENIOR ATTORNEY

JEAN M. SAVANYU
SENIOR ATTORNEY

August 3, 1998

Mr. Thomas Thornton
Apartment 3-D
499 Ft. Washington Avenue
New York, New York 10033

Dear Mr. Thornton:

This is to acknowledge receipt by the State Commission on Judicial Conduct of your complaint dated July 25, 1998.

Your complaint will be presented to the Commission, which will decide whether or not to inquire into it. We will be in touch with you after the Commission has had the opportunity to review the matter.

Very truly yours,

Lee Kiklier
Administrative Assistant

LK:wg

EX * H-10 "



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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ALBERT B. LAWRENCE
CLERK

October 7, 1998

CONFIDENTIAL

Mr. Thomas Thornton
499 Fort Washington Avenue
#3-D
New York, New York 10033

Dear Mr. Thornton:

The State Commission on Judicial Conduct has reviewed your letters of complaint dated June 19 and July 25, 1998. The Commission has asked me to advise you that it has dismissed the complaints.

Upon careful consideration, the Commission concluded that there was insufficient indication of judicial misconduct to warrant an investigation.

Very truly yours,

Albert B. Lawrence, Esq.

ABL:dmc

EX "H-11"

Thomas Thornton
499 Ft. Washington Ave. #3-D
New York, NY 10033
Phone and fax: 212.740.7008
E-mail: ThThornton@aol.com

Albert B. Lawrence, Esq.
Commission on Judicial Conduct
38-40 State St.
Albany, NY 12207

15 October 1998

Re: Judge Phyllis Gangel-Jacob

Dear Mr. Lawrence:

I am in receipt of your letter dated October 7, 1998, in which you informed me that the Commission on Judicial Conduct found "insufficient indication of judicial misconduct" in my letters of complaint dated June 19 and July 25, 1998 "to warrant an investigation."

As Gerald Stern pointed out in a recent article in the *New York Law Journal* (issue of August 20, 1998), Section 44, paragraph 1 of the Judiciary Law stipulates that the Commission "shall conduct an investigation" upon receipt of a complaint, which may be dismissed only if "the complaint on its face lacks merit."

Since my complaints address specific violations of specific rules by Judge Gangel-Jacob, I request to be informed why the Commission determined that my complaint was not facially meritorious, and how it could make that determination without prior investigation.

Thank you.

Sincerely,

Thomas Thornton

Ex "H-12"



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COMMISSION ON JUDICIAL CONDUCT

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November 10, 1998

CONFIDENTIAL

Mr. Thomas Thornton
499 Fort Washington Avenue
#3D
New York, New York 10033

Dear Mr. Thornton:

This is in response to your letter of October 15, 1998, concerning the Commission's disposition of your complaint.

That a complaint is dismissed "on its face" means that it is dismissed without investigation. In other words, it was determined that the allegations in your complaint, even if proven, would not amount to judicial misconduct.

I am unable to provide you with more information concerning the Commission's disposition.

Very truly yours,

A handwritten signature in cursive script that reads "Albert B. Lawrence".

Albert B. Lawrence, Esq.

ABL:dmc

EX "H-13"