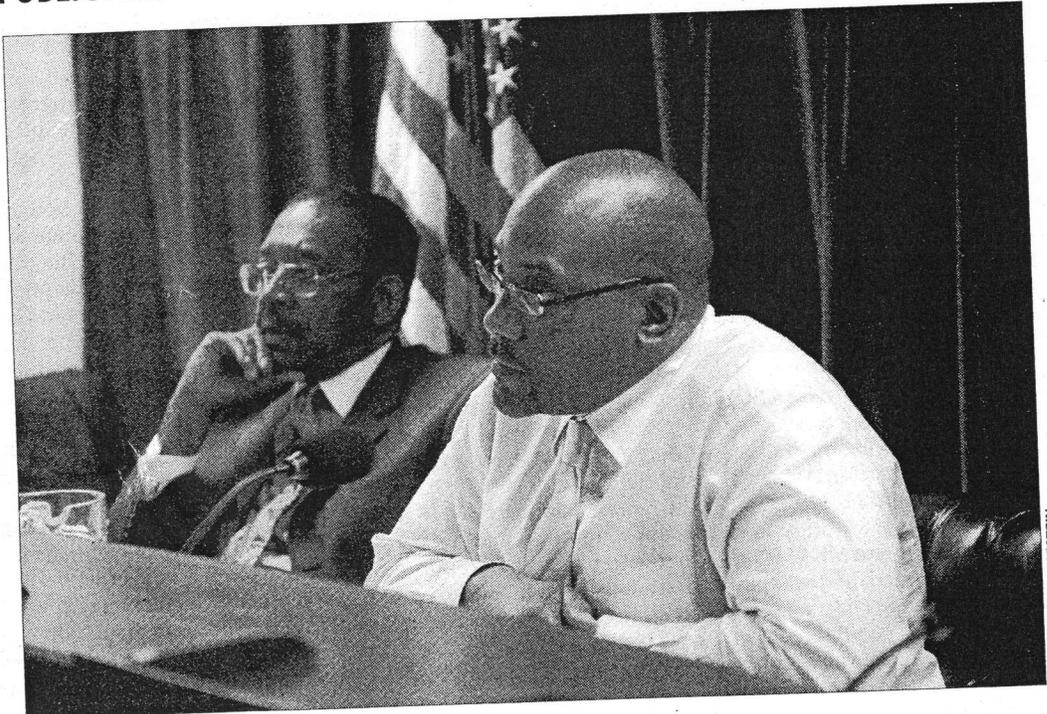


NY Law Journal
Sept. 25, 2009

PUBLIC AIRS CONCERNS ON DISCIPLINARY PROCEDURES



NYLJ / RICK KOPSTEIN

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A PANEL led by Senate Judiciary Committee Chairman **John Sampson**, D-Brooklyn, right, and including Senator **Ruben Diaz**, D-Bronx, left, held a second public hearing yesterday on the procedures for disciplining attorneys and judges. At the hearing, Senator Eric Adams, D-Brooklyn, suggested creating a task force to investigate alleged corruption in New York courts. The task force, Mr. Adams told some 80 people at the lower Manhattan hearing, "would assist us in navigating how this problem is being hidden from public view." Victor A. Kovner, a partner at Davis

Wright Tremaine and a former chairman of the Commission on Judicial Conduct, testified in support of more transparency by holding open hearings to remove "any rumor or innuendo" from the outcome of disciplinary proceedings for judges. Over four hours, a dozen witnesses complained about the confidential nature of the process, as well as about how their own cases had been handled. The panel's first hearing was held in Albany in June (NYLJ, June 6), and a third hearing may be held for Buffalo, although no date has been set.

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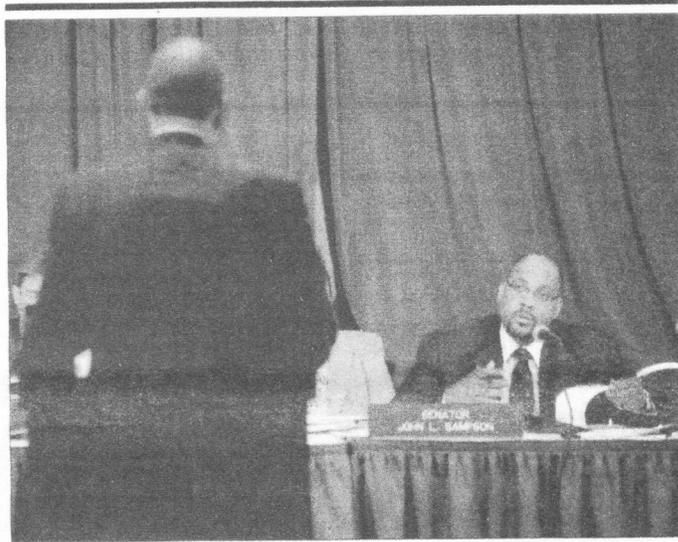


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TUESDAY, JUNE 9, 2009

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VOLUME 241—NO. 109 | \$3.00



SENATE judiciary committee chairman **John Sampson** questions **Martin Gold** during yesterday's hearing in Albany.

Grievances Against Lawyer, Judge Discipline Panels Aired at Capital

BY JOEL STASHENKO
ALBANY

MORE THAN two dozen critics of the systems for disciplining the state's judges and lawyers were given a public forum yesterday by the Senate's Ethics Committee to air wide-ranging grievances about courts and attorneys, as well as complaints that sometimes had little to do with either.

Committee Chairman John Sampson, the Brooklyn Democrat who also chairs the Senate's Judiciary Committee, said he wanted to provide a means of discussing "all these allegations, these conspiracy issues" surrounding the attorney disciplinary committees in the four departments of the Appellate Division and the Commission on Judicial Conduct.

In a hearing lasting more than four hours, the ethics committee also heard complaints about court-houses that are not handicapped-accessible, strong-armed court officers, doctored or destroyed

records, a "criminal enterprise" within Surrogate's Court and an alleged conspiracy orchestrated by the Roman Catholic Church to punish advocates for clergy sex abuse victims.

"Most people who go into litigation are convinced of the justice of their position," Martin R. Gold, a member of the First Department's Departmental Disciplinary Committee, said in an interview after hearing hours of testimony. "It's understandable. ...If things don't go well for them, they complain about their lawyers, they complain about the judges and when they don't get their complaints heard, they complain to the superior judges and the appellate judges, the state Senate, and everybody else."

To the extent there was common ground among witnesses yesterday, it was over eliminating some of the secrecy of the Commission on Judicial Conduct proceedings and the investigations and hearings conducted by the attorney disciplinary panels in » Page 7

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Grievances

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the four departments of the Appellate Division.

"Open up the proceedings to the public," urged James Montagnino, a state special referee. "Why should this be secret? Judges are public officials. They have a public trust."

Three years ago, Mr. Montagnino was at the center of a dispute in Westchester County that led to the reassignment of all four judges hearing divorce cases (NYLJ, June 26, 2006). He said yesterday he accepted his own reassignment to Albany County in the wake of that shake-up and is happy hearing cases for the Supreme Court, the Court of Claims and other state courts.

Robert Tembeckjian, the administrator for the Commission on Judicial Conduct, told the committee he favors public hearings for judges facing formal misconduct charges. Such hearings, held after a determination that probable or reasonable suspicion exists of misconduct, were public until 1978 but have been closed since.

"The commission's position has consistently been that the law up to 1978 was correct," Mr. Tembeckjian said.

After his testimony, Mr. Gold said he would favor opening to the public attorney disciplinary hearings in the First Department at a similar stage of the process.

"We are one of the most secretive in the country," said Mr. Gold, a partner with Sonnenschein Nath & Rosenthal.

More fundamental changes in the disciplinary processes were proposed by several other speakers.



Martin Gold, left, a member of the First Department's disciplinary committee, accompanied by **Alan Friedberg**, chief counsel to the committee, and **Christine Anderson**, right, a former staff attorney at the First Department committee, testify yesterday in Albany.

Christine C. Anderson, who worked for six years as a staff lawyer for the First Department's disciplinary committee before being discharged in 2007, said the 12-member advisory committee to the appellate panel should be eliminated. She accused the advisory committee, whose members make the call on which cases should be referred for discipline, is "rife with conflict."

"We don't need a policy committee," Ms. Anderson argued. "The D.A.'s office doesn't have a policy committee. They depend on the staff and the D.A. [when referring cases for prosecution]."

Ms. Anderson is pursuing a \$10 million suit against the First Department's disciplinary committee for allegedly firing her because she was complaining about discipline cases being "whitewashed" by her superiors (NYLJ, Oct. 30, 2007). Southern District Judge Shira A. Scheindlin threw out Ms. Anderson's claim that her dismissal was racially motivated, but preserved her claim based on a possible First Amendment violation (NYLJ, April 30, 2009).

Another attorney suing a disciplinary committee, John Aretakis, argued that the Third Department's committee improperly punished him for conduct committed in

the First Department when it suspended him for one year in 2008. Mr. Aretakis continued to contend that the Third Department leaders are too close to Albany's Roman Catholic diocese and that his suspension was his punishment for aggressively pursuing clergy sex abuse cases against priests and church administrators.

Mr. Aretakis is challenging his suspension in the Southern District.

Another witness, Kevin McKeown of Manhattan, argued for abandonment of the current lawyer disciplinary system altogether. In its place, he said only non-lawyers should be allowed to decide

when attorneys have engaged in misconduct.

"No lawyer can or should be permitted to sit in judgment of another attorney," he said yesterday.

Mr. McKeown is a member of several groups that allege widespread corruption in the courts and the legal profession, including Integrity in the Courts, Expose Corrupt Courts and FrankBrady.com. The groups lobbied Mr. Sampson to provide the public forums.

Assuming Mr. Sampson retains control over the committee in light of yesterday's apparent change in Senate leadership, there could



TIM ROSKE

be two additional hearings, one in New York City and in Buffalo. No dates or locations have been set.

Personal Attack

In testimony, Queens Supreme Court Justice Duane A. Hart launched into a personal attack against Mr. Tembeckjian and Alan Friedberg, Mr. Tembeckjian's former deputy who was responsible for the investigations that resulted in the Commission on Judicial Conduct twice censuring Justice Hart.

Mr. Friedberg appeared separately yesterday with Mr. Gold representing the First Department disciplinary committee, where Mr. Friedberg is now chief counsel.

Justice Hart contended that he was censured on the basis of "doctored documents" and other shady investigative activities involving Messrs. Tembeckjian and Friedberg. Justice Hart called for a special prosecutor to look into how the commission conducts its investigations and sanctions judges.

"In the situation you have right now, Mr. Tembeckjian has absolute powers," Justice Hart contended. "He can do anything he wants."

Mr. Sampson said he is "not interested in character assassination," but in changes to improve the system.

Mr. Tembeckjian said both censures against Justice Hart were affirmed by the Court of Appeals.

"As for [Justice Hart's] various and sundry attacks on me and the commission, his remarks bore little to no relation to the truth," Mr. Tembeckjian said in an interview.

@ Joel.Stashenko@incisivemedia.com