

# Open Letter

Correcting the title of your front-page story, "Lawsuit Claims Judicial Commission Protecting Judges Accused of Misconduct", December 2001, my public interest lawsuit against the New York State Commission on Judicial Conduct doesn't "claim" anything. Rather, it documents, by READILY-VERIFIABLE PROOF, the Commission's corruption. Indeed, the case file - physically containing the case files of two other lawsuits against the Commission - DOCUMENTARILY establishes that the Commission has been dismissing, without investigation, the very kinds of judicial misconduct complaints the lay requires it to investigate and that in all three lawsuits the Commission engaged in fraudulent defense tactics because it had no legitimate defense - and was rewarded by FIVE fraudulent judicial decisions without which it would not have survived.

Also READILY-VERIFIABLE from the file is that the criminal ramifications of the lawsuit directly reach Governor Pataki. Detailed is the fact that in 1996, our non-partisan citizens' organization, the Center for Judicial Accountability, Inc. (CJA), delivered to the Governor a copy of the file of the first lawsuit against the Commission, along with petition signatures of 1,500 New Yorkers calling for an official investigation. The Governor simply ignored this, as likewise all our many follow-up entreaties, both public and private. Then, in 1998, with knowledge that this first lawsuit had arisen from the Commission's unlawful dismissals of judicial misconduct complaints against Appellate Division, Second Department Justice Albert Rosenblatt, the Governor appointed Justice Rosenblatt to the Court of Appeals. Indeed, the Governor did so in face of notice that Justice Rosenblatt was believed to have perjured himself on his publicly-inaccessible application to the Court of Appeals and that I had filed a judicial misconduct complaint with the Commission based on this believed perjury. As my lawsuit documents, the Commission "sat" on this filed complaint until after the State Senate Judiciary Committee rammed through Justice Rosenblatt's confirmation by an unprecedented, no-notice, by-invitation-only confirmation "hearing", at which no opposition testimony was permitted. Thereupon, the Commission unlawfully dismissed it, without investigation. This unlawful dismissal is the basis of my lawsuit against the Commission - which I have brought pro bono publico, on behalf of the public good.

Indisputable court records confirm how this lawsuit landed before Court of Claims Judge William Wetzel, in whose law firm Governor Pataki had once worked and who was among the first of the Governor's judicial appointees in 1995. In violation of "random selection" rules, the Administrative Judge of Supreme Court/New York County "steered" the lawsuit to Justice Wetzel in November 1999. By then, Justice Wetzel's appointive term had expired and he was completely dependent upon the Governor for each and every day he remained on the bench.

Under such circumstances, Justice Wetzel's duty was to recuse himself from a case whose ramifications would strike his benefactor, the Governor, and I set this forth in my written application for his recusal. The application also detailed the further disqualifying fact that Justice Wetzel had recently been the beneficiary of the Commission's "pro-

tectionism" when it had unlawfully dismissed a judicial misconduct complaint against him. Indeed, this complaint concerned a 1994 fundraiser which Justice Wetzel, then a Briarcliff Manor Justice, had held for then gubernatorial candidate Pataki. Longtime readers of MartineLLi Publications may be familiar with this judicial complaint as it was featured in a November 4, 1999 "Guest Editorial" written by the complainant's author, cable TV reporter Clay Tiffany.

The file of my lawsuit shows that Justice Wetzel denied my recusal application the only way he could - without findings and without identifying any of the grounds I had set forth as warranting his recusal. Simultaneously, he "threw" the lawsuit by a fraudulent decision which, "in every material respect, falsified, fabricated, and distorted the record of the proceeding". This is particularized by my appellate papers.

The appellate file documents what happened next: CJA wrote the Governor, detailing Justice Wetzel's misconduct and that of the Administrative Judge - and transmitted a copy of the substantiating case file. This so that the Governor could take immediate steps to secure their removal from the bench and to launch an official investigation into the Commission's corruption and the corruption of the judicial process in the three lawsuits against it. Instead, the Governor did what he had previously. He completely ignored this evidentiary proof, as well as all our subsequent voluminous correspondence. Indeed, he thereafter elevated the Administrative Judge, Stephen G. Crane, to the Appellate Division, Second Department and reappointed Justice Wetzel to the Court of Claims.

Last December, the Appellate Division, First Department "threw" my appeal of Justice Wetzel's fraudulent decision with a fraudulent decision of its own. It, too, "perverts the most basic adjudicative standards and obliterates anything resembling the rule of law". Respect for rules of judicial disqualification and conflict of interest also went "out the window". Thus, the final sentence of the appellate panel's seven-sentence decision purports to deny - without reasons or findings - my motion to have the appeal heard by a specially-designated panel of "retired or retiring judges, willing to disavow future judicial and/or political appointment." The best evidence of my entitlement to that relief - aside from the readily-verifiable fraudulence of the appellate decision - is what took place ten days after the decision: three of the five appellate panel members, whose appointive terms on the Appellate Division, were expiring were re-designated by the Governor. In the weeks since, one of these three panel members, a former law school classmate of the Governor, has been reported to be in the running for appointment by the Governor to be the Appellate Division's next Presiding Justice. A fourth panel member has also been reported to be in the running for the appointment.

The file of this politically-explosive lawsuit - with the potential to bring down the Governor, the Commission, and a "who's who" of this State's "leadership" - is now heading to the Court of Appeals. In the concluding words of Clay Tiffany's November 4, 1999 "Guest Editorial", "stay tuned".

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