

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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MICHAEL MANTELL,

Petitioner,

Index No.: 108655/99

-against-

AMENDED PETITION

NEW YORK STATE COMMISSION ON JUDICIAL
CONDUCT,

Respondent.
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Petitioner, as and for his petition to the Court, alleges as follows:

1. The respondent is subject to the jurisdiction of this Court by virtue of Article 78 of the Civil Practice Law and Rules.
2. The statute mandating the functioning of the respondent includes subdivision 1 of Section 44 of Article 2A of the Judiciary Law of the State of New York, which says:

Upon the receipt of a complaint (a) the commission shall conduct an investigation of the complaint; or (b) the commission may dismiss the complaint if it determines that the complaint on its face lacks merit (emphasis added).
3. The respondent, contrary to the provision of the Judiciary Law set forth above, did fail to conduct an investigation.
4. Heretofore, and commencing on September 28, 1998 and thereafter, by way of the attachment referred to in paragraph 5 below, the petitioner did submit a complaint to the respondent of and concerning the conduct of a Judge of the Criminal Court of

the City of New York, viz. Hon. Donna Recant.

5. The aforesaid complaint consists of the following items:

- (a) A letter from the petitioner to the respondent dated September 28, 1998;
- (b) A copy of an order signed by Judge Recant on September 14, 1998;
- (c) Copy of another order signed by Judge Recant on September 14, 1998.
- (d) A transcript of a hearing before Judge Recant in the Criminal Court of the City of New York, County of New York, on September 14, 1998.
- (e) A letter to Sean Manette, as Investigator on behalf of the respondent, dated October 20, 1998.

All of these items are attached hereto and are incorporated herein and labeled as Exhibit A.

6. The aforesaid complaint, in substance, and with particularity, alleges the following violations of office by Judge Recant.

I. Changing her ruling on a matter before her on the basis of her personal reaction to the attorney representing the defendant.

II. Engaging in a display of intemperate conduct which intimidated lawful advocacy on behalf of a criminal defendant.

III. Making remarks on the record which were a gross departure from required courtesy and civility.

IV. Engaging in an ex parte communication with the attorney for the defendant about a case which was before her.

V. Advising counsel, ex parte, what should be done by counsel to change the judge's attitude and her ruling on a criminal case.

VI. Having a spectator forcibly removed from the court room in which she was presiding for reasons only of her personal animosity.

7. The respondent advised of its refusal to conduct an investigation on January 4, 1999, by way of a letter to petitioner, a copy of which is attached hereto as Exhibit B, and incorporated herein.

8. With respect to each and every one of the six accusations referred to in paragraph 5 hereof, the refusal of the respondent to conduct an investigation was a failure to perform a duty enjoined upon it by law, and was affected by an error of law, and was arbitrary and capricious, and was an abuse of discretion.

WHEREFORE, petitioner respectfully requests that this Court enter an order directing the respondent to conduct an investigation of the aforesaid accusations, together with such other and further relief as may be just, proper and equitable.



MICHAEL MANTELL, Petitioner Pro Se

Dated: June 15, 1999

VERIFICATION

MICHAEL MANTELL, Petitioner, Pro Se affirms the truth of the following under the penalties of perjury:

That I have read the annexed AMENDED PETITION and know the contents thereof, and the same are true of my own knowledge.

Dated: New York, New York
June 15, 1999



MICHAEL MANTELL

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