

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 6, 2011.

PRESENT: Hon. James M. Catterson, Justice Presiding,
Karla Moskowitz
Leland G. DeGrasse
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

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In the Matter of the Application of
The Honorable Lee L. Holzman,
Petitioner-Appellant,

-against-

M-4508
Index No. 108251/11

The Commission on Judicial Conduct,
Respondent-Respondent.

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Petitioner-appellant having moved for a stay of all proceedings pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about September 22, 2011,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

All concur except Catterson, J., who dissents as follows:

Catterson, J. (dissenting)

I respectfully dissent because in my view we should grant petitioner's application, in part, to the extent of staying any hearing by the Commission until the conclusion of the criminal trial of Michael Lippman, Esq. Should Mr. Lippman be acquitted of all the charges against him, he would be available to testify in the proceedings against Surrogate Holzman.

In my view, this is the more prudent course of action at this point in time. It will allow the Surrogate to present a complete defense and will remove any argument that we are being precipitous in allowing the proceeding to go forward against the duly elected Surrogate when he is precluded from calling his chosen fact witness.

ENTER:



CLERK