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August 20, 2026

Via Certified USPS Priority Express (Tracking No. 9589 0710 5270 3128 4892 80)

Chief Judge Rowan D. Wilson
New York State Court of Appeals
20 Eagle Street
Albany, NY 12207

Re: *Matter of Joseph F. Kasper*

Dear Chief Judge Wilson:

We represent the Honorable Joseph F. Kasper in the above captioned matter. We write in response to the Court of Appeals letter, dated August 6, 2026, to request that Judge Kasper **not** be suspended.

PRELIMINARY POINT

Judge Kasper was elected in 2021 and has been a Judge of the New York City Civil Court, Queens County since 2022. He has never been disciplined.

This case presents a troubling usurpation of the powers of the Commission on Judicial Conduct (“CJC”) that threatens the perception of the independence of the judiciary in New York. The CJC seeks the removal of a judge whose conduct on the bench is unquestioned and, in all respects, commendable. He has effectively served the people of Queens without controversy, maintaining minimal backlog and dispensing efficient and fair justice. The misconduct, conceded from the beginning of this matter, is practicing law as a full-time judge, as a matter of misplaced loyalty to former clients in order to wind up litigation matters pending prior to Judge Kasper’s election. To remove or even suspend him under these circumstances would be an aberration of this Court’s precedent which will cast a chill on the perception of

* Albert Huber: admitted only in Florida.

judicial independence throughout the State judiciary.

Judge Kasper does not dispute misconduct, and he takes responsibility for it, agreeing that he should be disciplined, but not removed. Significantly, he gained nothing professionally, financially or personally from his misconduct, and none of it affected his judicial function, competently serving litigants who appeared before him. He harmed no one. There is no assertion that Judge Kasper was a “threat to the proper administration of justice,” *Matter of Tyler*, 75 N.Y.2d 525, 528 (1990)—the fulcrum of this Court’s removal cases. As this Court has repeatedly stated: “removal [...] should not be imposed for misconduct that amounts simply to poor judgment or even extremely poor judgment, but should be reserved for truly egregious circumstances.” *Matter of Mazzei*, 81 N.Y.2d 568, 572 (1993) (citations omitted). This is simply not such a case. Rather, this is a case definitively outside this Court’s removal precedents. To deviate from those precedents would be to chart a new course, inconsistent with this Court’s careful balance between overzealous judicial discipline and the perception and preservation of the independence of the judiciary.

With respect to suspension, Judge Kasper seeks to continue to fulfill the responsibilities of his elected office while review in this Court proceeds. Absent any showing by the CJC of any reason to even temporarily remove Judge Kasper from serving when no misconduct on the bench is alleged, suspension would be sending a message that the independence of the judiciary may be compromised by the CJC without any oversight.

BACKGROUND

On January 14, 2025, the CJC directed that a Formal Written Complaint be served, charging Judge Kasper with (1) unauthorized practice of law, remaining attorney of record in matters over which he presided as judge, and retention and control over client funds²; (2) aiding and abetting his paralegal to practice law; and (3) failing to file mandatory disclosure statements with the Ethics Commission for the Unified Court System. On September 3, 2025, the Administrator directed a Second Formal Written Complaint be served upon Judge Kasper, bringing a new charge alleging that Judge Kasper failed to cooperate with the CJC’s investigation of the Complaint against him and failed to disclose or produce information the CJC required of him.

These charges are belied by a fair reading of the Agreed Statement of Facts (“ASOF”).

First, Judge Kasper’s “practice of law” was not a deceitful attempt to improperly manipulate the judicial system, but rather a misguided effort to wind up his law practice, driven by a moral, personal, and ethical commitment to former clients who could not afford to retain new counsel. Judge Kasper engaged in unremunerated legal work while a judge in four

² Cases where he was attorney of record came up on his calendar and were adjourned for transfer to another judge. ASOF ¶¶63,65. All but \$7,540 of escrow money was properly disbursed from a 30-year-old escrow account; the balance goes to the Lawyer’s Fund for Client Protection according to the applicable rule. ASOF ¶ 78; 22 NYCRR Part 1200, Rule 1.15(f).

categories: (1) seeking adjournments; (2) closing cases that were essentially settled and near complete; (3) appearing at conferences to notify courts of his election; and (4) facilitating transfer of cases to new attorneys.

Second, Judge Kasper did not knowingly “aid and abet” his long-time paralegal’s practice of law but mistakenly believed that she was winding up his law practice through activities that fell within a paralegal’s duties acting under the supervision of incoming attorneys.³

Third, Judge Kasper’s untimely submission of financial disclosure statements was due to inadvertent errors as a new judge, as well as lack of computer skills. There was no active concealment, and Judge Kasper made his best efforts to disclose all required information.

Finally, Judge Kasper did not fail to cooperate with the CJC. Judge Kasper was forced to seek multiple extensions due to legitimate and serious medical problems (for which he provided extensive documentation and was granted a five-month health leave). Notwithstanding these medical issues, Judge Kasper participated in four days of deposition, submitted 300 pages of requested documents and provided over 20 hours of testimony during which he repeatedly and candidly acknowledged his misconduct.

On August 3, 2026, after briefing and a hearing on the matter, on the basis of an Agreed Statement of Facts, the CJC issued its determination (the “Determination”) recommending removal.

ARGUMENT

I. Suspension is Unwarranted Under Court of Appeals Precedent

Suspension is not warranted where, as here, Judge Kasper has not been recommended for discipline for any actions taken in his capacity as a judge. Where the charges “prejudice[] judicial administration as a matter of appearance rather than through affirmative prejudice to any litigant,” suspension is unwarranted. *Steinberg v. State Comm’n on Jud. Conduct*, 49 N.Y.2d 1014, 1015 (1980). While Judge Kasper’s off-the-bench conduct in practicing law and failing to supervise his former paralegal certainly amounts to poor judgment, it did not prejudice any litigant, nor will suspension serve the public interest by protecting litigants. The entirety of the Determination rests on Judge Kasper’s acts as a *lawyer* in cases that have all been formally transferred to different attorneys.

Moreover, as in *Steinberg*, the length of time since the Complaint was filed in January 2025 to the Commission’s determination in August 2026 weighs against suspension. *Id.* Judge Kasper has continued to serve the public without incident since the Complaint was filed and can continue to do so while this appeal is pending or until his retirement at the end of this year.

³ Judge Kasper knew that his paralegal was convicted of two false document felonies, ASOF ¶ 13, but believed that this did not disqualify her from working for him as a paralegal.

II. The Determination is Likely to be Reversed by the Court of Appeals

Judge Kasper should not be suspended where the Determination is likely to be reversed by this Court. The Court of Appeals has reduced removals to censures or admonitions in many cases in order to support the independence of the judiciary where: (1) clients and litigants suffered no prejudice; (2) the misconduct does not reflect deception, dishonesty, or vindictiveness; and (3) the judge has cooperated with the CJC.

A. Clients and Litigants Suffered No Prejudice

No clients or litigants suffered any harm or prejudice from Judge Kasper's conduct; this weighs significantly against removal and suspension. For example, in *Matter of Kelso*, the Court of Appeals reduced a CJC removal recommendation to a censure where a judge made misrepresentations to a client by stating that he had filed a proceeding when none had been filed and offered to pay a client to stop him from filing a grievance. 61 N.Y.2d 82 (1984). There, the Court reasoned that no client suffered prejudice because the civil action was barred by statute anyway and that the judge did not receive fees that were to be paid to the client. *Id.* Moreover, the Court noted that while the conduct "marred the integrity of the Bench" it "[did] not rise to a level where it must be concluded that petitioner can no longer serve effectively or that his continued services will be contrary to the best interests of the judiciary." *Id.* at 88. Similarly, here, no client was prejudiced by Judge Kasper's actions and no cases were compromised. All cases have since been formally transferred to different attorneys and Judge Kasper is no longer attorney of record. Judge Kasper's conduct on the bench and towards litigants remains free of discipline. Accordingly, his continued services are not contrary to the best interests of the judiciary or the public.

B. Judge Kasper's Conduct Does Not Reflect Deception or Dishonesty

Judge Kasper's off-the-bench conduct certainly amounts to poor judgment. But it does not evince any deception, let alone deception that warrants removal or suspension. The touchstone for removal is dishonesty and deceit because "deception is antithetical to the role of a Judge who is sworn to uphold the law and seek the truth." *Matter of Myers v. State Comm'n on Jud. Conduct*, 67 N.Y.2d 550, 554 (1986). This is why, in *Matter of Alessandro*, this Court focused on intent and reduced a CJC removal recommendation to Admonition where a judge's failure to disclose a mortgage and false statements on his financial disclosure statement reflected "carelessness rather than deliberate concealment." 13 N.Y.2d 238, 249 (2009). Similarly, Judge Kasper never hid or misrepresented that he was an elected judge. In fact, he proudly revealed his status to multiple courts, opposing counsel, and clients. ASOF ¶¶ 28, 31, 41, 47. And he never used his position as a judge for his own or any client's benefit. Instead, Judge Kasper mistakenly believed that he was permissibly winding down his law practice, reflecting "carelessness" and poor judgment rather than deliberate concealment or deception. *Alessandro*, 13 N.Y.2d at 238.

This Court also reduced a CJC removal recommendation where a judge abused bail processes and failed to set bail without legal justification, reasoning that "[n]othing . . . suggests that [the judge] acted to advance his own interests over those of the defendants or that

he was vindictive, biased, abusive or venal[.]” but rather the judge’s actions “were motivated primarily by compassion.” *Matter of LaBelle*, 79 N.Y.2d 350, 363 (1992) (reducing removal to a censure); *see also Matter of Edwards*, 67 N.Y.2d 153 (1986) (reducing a CJC recommended removal to a censure where a judge served for twenty-one years, and his conduct had never been called into question and where the judge’s judgment was clouded by his son’s involvement). Similarly, here, poor judgment, carelessness, misunderstandings of his obligations, and compassion for his former clients clouded Judge Kasper’s judgment and led to improper legal activities. But these activities are not the callous disregard for judicial ethics that warrant removal or suspension under this Court’s precedent.

C. Judge Kasper Has Cooperated with the CJC

Finally, the Determination distorts Judge Kasper’s extensive cooperation with the CJC—a factor this Court has frequently weighed in favor of reducing CJC removal recommendations. *See, e.g., Kelso*, 61 N.Y.2d at 82 (judge was candid and cooperative); *LaBelle*, 79 N.Y.2d at 350 (judge was forthright, cooperative, and contrite before the CJC and readily agreed to change practice found to be improper); *Edwards*, 67 N.Y.2d at 153 (judge cooperated with the CJC and admitted to impropriety).

Here, Judge Kasper requested good faith extensions based on serious medical issues and medical documentation. ASOF ¶¶ 203-210; Exhibits A147-148. Notwithstanding these medical issues, Judge Kasper participated in four days of deposition, submitted 300 pages of requested documents and provided over 20 hours of testimony during which he repeatedly and candidly acknowledged his misconduct. Judge Kasper further submitted briefing and appeared for oral argument before the Commission.

CONCLUSION

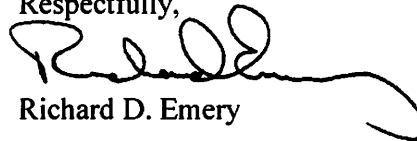
The CJC’s decision rested on its unsupported, *ipse dixit* finding that Judge Kasper’s misconduct “undermined confidence in the integrity of the judiciary.” Determination at 68. However, Judge Kasper’s conduct is not close to the callous deliberate disregard of judicial ethics and deceit that warrants removal or suspension under this Court’s precedent.

Notably, judges throughout the State are permitted to practice law after they are elected to part-time judicial offices equivalent to Judge Kasper’s Civil Court status. Judge Kasper violated the Rules of Judicial Conduct governing full-time judges. But that violation is obtuse to “public confidence in the integrity and impartiality of the judiciary.” *Matter of Backal*, 87 N.Y.2d 1, 5 (1995).

Judge Kasper has never denied his actions and has acknowledged that his conduct violated the Rules. Judge Kasper’s good faith recognition of his misconduct and his offers to resolve this proceeding short of removal have been rewarded by CJC’s pursuit and the concomitant costly reputational, emotional, and enervating disciplinary process. To suspend him would be further injury and send a morale threatening message to the judiciary at large.

For the reasons set forth herein and in Judge Kasper's forthcoming appeal, this Court should not suspend Judge Kasper pending a full review of the proceedings.⁴

Respectfully,

A handwritten signature in black ink, appearing to read 'R. Emery', with a long, sweeping horizontal line extending to the right.

Richard D. Emery

cc.

Via Certified USPS Priority Express (Tracking No. 9589 0710 5270 3128 4892 97)

New York State Commission on Judicial Conduct

61 Broadway, Suite 1200

New York, NY 10006

⁴ If the Court finds that Judge Kasper should be suspended, this suspension should be with pay, in accordance with Judiciary Law Section 44(8)(c).