

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

ROBERT J. MULLER,

a Justice of the Supreme Court,
Fourth Judicial District, Warren County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to Respondent, Robert J. Muller, a Justice of the Supreme Court, Fourth Judicial District, Warren County, pursuant to Section 44, subdivision 4, of the Judiciary Law, that the State Commission on Judicial Conduct has determined that cause exists to serve upon Respondent the annexed Formal Written Complaint; and that, in accordance with said statute, Respondent is requested within twenty (20) days of the service of the annexed Formal Written Complaint upon him to serve the Commission at its Albany office, Corning Tower, Suite 2301, Albany, New York 12223, with his verified Answer to the specific paragraphs of the Complaint.

Dated: September 30, 2024
Albany, New York

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006
(646) 386-4800

To: Peter J. Moschetti, Jr., Esq.
Attorney for Respondent
26 Century Hill Drive, Suite 206
Latham, New York 12110

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

ROBERT J. MULLER,

**FORMAL
WRITTEN COMPLAINT**

a Justice of the Supreme Court,
Fourth Judicial District, Warren County.

1. Article VI, Section 22, of the Constitution of the State of New York establishes a Commission on Judicial Conduct (“Commission”), and Section 44, subdivision 4, of the Judiciary Law empowers the Commission to direct that a Formal Written Complaint be drawn and served upon a judge.
2. The Commission has directed that a Formal Written Complaint be drawn and served upon Robert J. Muller (“Respondent”), a Justice of the Supreme Court, Fourth Judicial District, Warren County.
3. The factual allegations set forth in Charges I, II and III state acts of judicial misconduct by Respondent in violation of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct (“Rules”).
4. Respondent was admitted to the practice of law in New York in 1979. He has been a Justice of the Supreme Court, Fourth Judicial District, Warren County, since January 1, 2009. Respondent’s current term expires on December 31, 2036.

CHARGE I

5. From in or about September 2022 to in or about January 2024, when the Appellate Division remanded the matter to a different judge, Respondent presided over and failed to disqualify himself from the personal injury case of *Minckler and Howell v Estate of Thomas Shelly, III, D'Ella, Inc., D'Ella Honda of Glens Falls, and D'Ella Automotive, Inc.* (hereinafter *Minckler v D'Ella*), notwithstanding the following:

- A. The law firm representing the D'Ella defendants – Bartlett, Pontiff, Stewart & Rhodes – held a fundraiser in support of Respondent's candidacy in 2022 for re-election as a Justice of the Supreme Court, and one of the partners in that firm was a member of Respondent's re-election committee;
- B. Counsel for the plaintiffs in *Minckler v D'Ella* cited the political association between Respondent and the Bartlett Pontiff firm in a letter seeking Respondent's recusal from the case on or about October 4, 2022;
- C. Multiple previously published opinions of the Advisory Committee on Judicial Ethics advised that a judge is required to recuse in such circumstances during the course of the campaign, and in some instances for two years thereafter, subject to remittal;

- D. On or about October 7, 2022, Respondent requested his own Opinion from the Judicial Campaign Ethics Subcommittee of the Advisory Committee on Judicial Ethics, summarizing the facts pertaining to the request that he recuse from *Minckler v D'Ella*;
- E. The Subcommittee issued Opinion SC2022-048 to Respondent, dated October 12, 2022, stating that he was disqualified, subject to remittal, from presiding over matters involving Bartlett Pontiff during the course of the campaign;
- F. Respondent withheld the opinion from the attorneys and parties until after his re-election on November 8, 2022, disclosing it to them by letter dated November 16, 2022, in which he declined to recuse himself from the case; and
- G. The plaintiff's counsel thereafter made a motion for Respondent's recusal, which he denied by order dated January 4, 2023.

Specifications to Charge I

6. In or about November 2020, *Minckler v D'Ella*, a personal injury case in Supreme Court, Warren County, was assigned to Respondent, who kept the assignment to in or about January 2024. Attorney Christopher P. Flint of the law firm Cooper Erving & Savage represented the plaintiffs. Attorney Kenneth L. Bobrow of the law firm Felt Evans represented the Estate of Thomas E. Shelly,

III, and Attorney Malcolm B. O'Hara, a principal at the law firm Bartlett, Pontiff, Stewart & Rhodes ("Bartlett Pontiff"), represented the *D'Elia* defendants.

7. In or about December 2021, Respondent publicly announced his candidacy for re-election as Supreme Court Justice for the Fourth Judicial District, Warren County, in the 2022 election cycle.

8. In or about August 2022, Respondent secured nominations from the Democratic and Conservative political parties and, among other things, formed the Committee to Re-Elect Robert J. Muller Supreme Court Justice and established a campaign website.

9. In or about September and October 2022, Respondent's campaign website listed Malcolm B. O'Hara as a member of his campaign committee and as one of several dozen attorneys who had endorsed Respondent's candidacy. Screenshots of the committee and endorsement pages from Respondent's campaign website are appended as Exhibit 1 and Exhibit 2, respectively.

10. In or about September and October 2022, Respondent's campaign website posted an invitation to a fundraiser for Respondent's campaign hosted by Bartlett Pontiff at the Queensbury Hotel in Glens Falls on October 6, 2022. A screenshot of the invitation is appended as Exhibit 3.

11. In or about late September 2022, the *Minckler* plaintiffs learned of Mr. O'Hara's and Bartlett Pontiff's involvement in Respondent's re-election

campaign from a source other than Respondent. Respondent had not disclosed to the parties in *Minckler v D'Ella* the involvement of either Mr. O'Hara or Bartlett Pontiff in his re-election campaign.

12. On or about October 3, 2022, during a phone conference in connection with the *Minckler* case, Mr. Flint requested on behalf of the plaintiffs that Respondent recuse himself based on the involvement of Mr. O'Hara and Bartlett Pontiff in his re-election campaign. Respondent instructed Mr. Flint to make his request in writing, on notice to defense counsel.

13. On or about October 4, 2022, Mr. Flint emailed a letter requesting Respondent's recusal to Respondent, with a copy to defense counsel, based on "Attorney O'Hara and the Bartlett Pontiff firm's direct fundraising involvement" in Respondent's re-election campaign. A copy of Mr. Flint's emailed letter is appended as Exhibit 4.

14. By email dated October 4, 2022, Mr. O'Hara said he disagreed with Mr. Flint's request, but disclosed that he was a member of Respondent's campaign committee and that he planned to write a letter on Respondent's behalf to a local newspaper. A copy of O'Hara's email is appended as Exhibit 5.

15. On or about October 6, 2022, during a video conference with the attorneys in the *Minckler* case, Respondent declined to recuse himself.

16. On or about October 6, 2022, at Respondent’s direction, his Principal Law Clerk, Jennifer Purcell Jeram, (A) advised the attorneys in *Minckler* via email that Respondent had sought an opinion from the Judicial Campaign Ethics Center¹ (“JCEC”) “relative to the issue of his recusal in this matter,” and (B) asked Mr. Flint to hold any motion practice in abeyance pending receipt of an opinion from JCEC, which Respondent would “promptly” share with all counsel. A copy of Ms. Jeram’s email is appended as Exhibit 6.

17. On or about October 6, 2022, Bartlett Pontiff held the fundraiser for Respondent’s re-election campaign at the Queensbury Hotel. Respondent and Mr. O’Hara were in attendance.

18. On or about October 7, 2022, Respondent sought advice from JCEC via telephone and email regarding Mr. Flint’s recusal request. A copy of Respondent’s written request is appended as Exhibit 7.

19. On or about October 12, 2022, Respondent received Opinion SC2022-048 from the Judicial Campaign Ethics Subcommittee, which advised Respondent *inter alia* that he was “disqualified, subject to remittal, from presiding over matters involving defense counsel and his law firm, including partners and associates, *during the course of [his] judicial campaign*” (emphasis in original).

¹ The Judicial Campaign Ethics Center and the Judicial Campaign Ethics Subcommittee are affiliated with the Unified Court System’s Advisory Committee on Judicial Ethics.

A copy of the opinion is appended as Exhibit 8. Respondent did not share the opinion with the parties or attorneys in the *Minckler* matter at that time.

20. In or about mid-October 2022, multiple local newspapers published a letter by Mr. O'Hara endorsing Respondent's re-election campaign.

21. On or about October 14, 2022, in connection with the *Minckler* case, Mr. O'Hara filed a motion to strike the plaintiffs' Note of Issue, which had been filed on or about September 21, 2022, and, alternatively, requested an extension of time to conduct an independent medical examination of the plaintiff.

22. By email dated October 20, 2022, Mr. Flint asked Respondent to hold Mr. O'Hara's motion in abeyance pending the outcome of Respondent's decision regarding recusal. A copy of the email is appended as Exhibit 9. Respondent did not respond to Mr. Flint's request.

23. On or about November 8, 2022, Respondent was re-elected to judicial office.

24. By letter dated November 16, 2022, Respondent provided the attorneys in the *Minckler* case with a copy of Opinion SC2022-048 and wrote, "I accept the subcommittee's guidance and decline the request for recusal." A copy of the letter is appended as Exhibit 10.

25. On or about November 23, 2022, the plaintiffs filed a formal motion for Respondent's recusal from the *Minckler* case.

26. By Order dated January 4, 2023, a copy of which is appended as Exhibit 11, Respondent denied the plaintiffs' recusal motion.

27. The plaintiffs appealed Respondent's denial of the recusal motion to the Appellate Division, Third Department, which by Memorandum and Order dated January 4, 2024, found that Respondent abused his discretion in denying the motion for recusal and *inter alia* criticized him for (A) not disclosing Mr. O'Hara's and Bartlett Pontiff's involvement in his re-election campaign, (B) disregarding the advice of Opinion SC2022-048 by not disqualifying himself after receiving it, and (C) failing to disclose the opinion until a month later, after he had been re-elected to judicial office. The Appellate Division remanded the case to another judge. A copy of the Appellate Division's Memorandum and Order is appended as Exhibit 12.

28. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article VI, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence

in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to disqualify himself, subject to remittal, in a proceeding in which his impartiality might reasonably be questioned, in violation of Section 100.3(E)(1) and (F) of the Rules.

CHARGE II

29. From in or about May 2022 to on or about November 8, 2022, Respondent failed to disqualify himself, subject to remittal, from numerous cases involving attorneys from four law firms that were engaged in fundraising for Respondent's 2022 judicial campaign, contrary to a number of previously published Advisory Opinions and notwithstanding that on or about October 12, 2022, Respondent received his own Advisory Opinion stating that his recusal from such cases, subject to remittal, was mandatory during his campaign.

Specifications to Charge II

30. In or about December 2021, Respondent publicly announced his candidacy for re-election as Supreme Court Justice for the Fourth Judicial District, Warren County, in the 2022 election cycle.

31. On or about May 12, 2022, the law firms of E. Stewart Jones Hacker Murphy and Maguire Cardona co-hosted a fundraiser for Respondent's judicial campaign at the Fort Orange Club in Albany, New York.

32. On or about July 28, 2022, the law firm of McPhillips, Fitzgerald & Cullum hosted a fundraiser for Respondent's judicial campaign at the Fort William Henry Conference Center, in Lake George, New York.

33. On or about October 6, 2022, Bartlett Pontiff hosted a fundraiser for Respondent's campaign at the Queensbury Hotel, in Queensbury, New York.

34. On or about October 12, 2022, Respondent received Opinion SC2022-048 from the Judicial Campaign Ethics Subcommittee of the Advisory Committee on Judicial Ethics, *inter alia* advising him that during his campaign, he was disqualified, subject to remittal, from presiding over matters involving counsel and a law firm that had hosted fundraisers for him (Exhibit 8).

35. On or about November 8, 2022, Respondent was re-elected to judicial office.

36. From in or about May 2022 to on or about November 8, 2022, Respondent failed to disqualify himself, subject to remittal, from cases involving attorneys from the law firms of (A) E. Stewart Jones Hacker Murphy, (B) Maguire Cardona, (C) McPhillips, Fitzgerald & Cullum, and (D) Bartlett Pontiff, as listed on the appended Schedule A, notwithstanding that each law firm was engaged in fundraising activity in support of Respondent's re-election campaign.

37. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article VI, Section 22, subdivision (a), of the Constitution and

Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to disqualify himself, subject to remittal, in a proceeding in which his impartiality might reasonably be questioned, in violation of Section 100.3(E)(1) and (F) of the Rules.

CHARGE III

38. From in or about December 2022 to in or about January 2024, Respondent failed to disqualify himself, subject to remittal, from three cases in which his 2022 judicial campaign committee Finance Chair and Finance Co-Chair appeared as attorneys, notwithstanding that multiple previously published Advisory Opinions stated that during a judge's campaign and for a period of two years following the election, the judge was required to disqualify himself, subject to remittal, in any case involving attorneys who held leadership positions in the judge's campaign.

Specifications to Charge III

39. In or about December 2021, Respondent publicly announced his candidacy for re-election as Supreme Court Justice for the Fourth Judicial District, Warren County, in the 2022 election cycle.

40. John J. Carusone, Jr., Esq., and Dennis J. Tarantino, Esq., held the positions of Finance Chair and Finance Co-Chair, respectively, on Respondent's campaign committee for re-election to judicial office.

41. On or about October 12, 2022, Respondent received Opinion SC2022-048 from the Judicial Campaign Ethics Subcommittee of the Advisory Committee on Judicial Ethics, *inter alia* advising him that during his campaign, he was disqualified, subject to remittal, from presiding over matters involving appearances by counsel who are active in his campaign (Exhibit 8). Opinion SC2022-048 also cited Advisory Opinions 03-64, 09-245 and 12-164, which each held *inter alia* that a judge must recuse, subject to remittal, in any case involving attorneys who held leadership positions in the judge's campaign, such as "campaign manager, campaign coordinator, finance chair or treasurer," during the campaign and for two years beyond the date of the election.

42. On or about November 8, 2022, Respondent was re-elected to judicial office.

43. From on or about December 21, 2022, to on or about August 24, 2023, Respondent failed to disqualify himself, subject to remittal, from *Cerilli v Town of Easton*, in which Mr. Carusone represented the plaintiff.

44. From on or about June 6, 2023, to on or about August 21, 2023, Respondent failed to disqualify himself, subject to remittal, from *City of Glens Falls v List of Delinquent Taxes 2021*, in which Mr. Tarantino represented the plaintiff.


45. From on or about July 27, 2023, to on or about January 4, 2024, Respondent failed to disqualify himself, subject to remittal, from *101 Fiddlers Elbow Road, LLC v Town of Greenwich et al.*, in which Mr. Carusone represented the plaintiff.

46. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article VI, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A)

of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to disqualify himself, subject to remittal, in a proceeding in which his impartiality might reasonably be questioned, in violation of Sections 100.3(E)(1) and (F) of the Rules.

WHEREFORE, by reason of the foregoing, the Commission should take whatever further action it deems appropriate in accordance with its powers under the Constitution and the Judiciary Law of the State of New York.

Dated: September 30, 2024
Albany, New York


ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006
(646) 386-4800

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EXHIBIT 2

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PERSONAL ENDORSEMENTS FOR JUDGE MULLER

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Ronald McDougall, Mayor
Village of Gouverneur (St. Lawrence County)
S. William Collins, Mayor
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Robert Pertell, Legislator
District 9 (Montgomery County)
Gerard Kassar, Chairperson
Conservative Party of New York
Robert "Bob" Landy, Councilman
Ward 2 City of Glens Falls (Warren County)
Kimberly Davis, Treasurer
Treasurer's Office (Clinton County)
Frank Lauri, Supervisor
Ward 2 City of Gloversville - (Fulton County)
Claudia K. Braymer, Supervisor
Ward 3 City of Glens Falls (Warren County)
Dennis Dickinson, Town Supervisor
Town of Lake George (Warren County)
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City of Saratoga Springs (Saratoga County)
Hon. Guido Loyola, Ret.
Schenectady City Court Judge
Supervisor Marie Born, Supervisor
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Gregory Young, Supervisor
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Courtney M. Haskins, Esq.
Donald W. Boyajian, Esq.
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Matthew J. Jones, Esq.
Richard F. Hunter, Esq.
Joseph T. Cardany, Esq.
Joseph Lavorando, Esq.

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Ogdensburg City Council

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Colm P. Ryan, Esq.
John F. Harwick, Esq.
Matthew D. Norfolk, Esq.
Julie A. Garcia, Esq.



James M. Brooks, Esq.
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David J. Taffany, Esq.
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Kevin F. Nichols, Esq.

Joseph P. Nichols, Esq.
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Julie A. Garcia, Esq.
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EXHIBIT 3

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Bartlett, Pontiff, Stewart, & Rhodes, P.C.
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ROBERT J. MULLER
Thursday, October 6, 2022 - 5:30pm - 7:30pm
The Queensbury Hotel, 88 Ridge Street, Glens Falls, NY
Admission \$25/person - \$40 per couple - *Cash or check only*
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MICHAEL A. KORNSTEIN
 SUSAN CARROLL PICOTTE
 PHILLIP G. STECK
 KELLY L. MALLOY POGODA
 DAVID C. ROWLEY
 CARLO A.C. DE OLIVEIRA ±

COOPER ERVING & SAVAGE LLP
 39 NORTH PEARL STREET
 ALBANY, NEW YORK 12207-2797
 (518) 449-3900
 FACSIMILE (518) 432-3111

Clifton Park Office

1520 Crescent Road – Suite 400
 Clifton Park, New York 12065
 (518) 371-0716

DENNIS W. HABEL
 CAROLINE W. T. LANG
 MATTHEW E. MINNIEFIELD

*ALSO ADMITTED IN VERMONT
 ±ALSO ADMITTED IN MASSACHUSETTS

JAMES FENIMORE COOPER
 (1888-1938)
 WM. VAN RENSSELAER ERVING
 (1925-1940)
 B. JERMAIN SAVAGE
 (1910-1952)

SENIOR COUNSEL
 TERRANCE P. CHRISTENSON

OF COUNSEL
 CHRISTOPHER P. FLINT*
 CAROLYN B. GEORGE

Reply to Albany Office
 t@cooperervng.com
 direct dial: (518) 432-3156

October 4, 2022

Via Email: ChambersRMuller@nycourts.gov

Hon. Robert J. Muller
 Supreme Court Chambers
 Warren County Municipal Center
 1340 State Route 9
 Lake George, New York 12845

**Re: Minckler and Howell v. Estate of Thomas Shelly, III, D'Ella, Inc., D'Ella
 Honda of Glens Falls, D'Ella Automotive, Inc.
 Index No.: EF2020-67770**

Dear Judge Muller:

My clients, Karen Minckler and Joseph Howell have become aware of Attorney O'Hara and the Bartlett Pontiff firm's direct fundraising involvement in your Honor's campaign for re-election. They are very uncomfortable with the apparent relationship and have instructed me to request that your Honor recuse himself from this matter.

Accordingly, I respectfully request on behalf of my clients that your Honor recuse himself from this case. In the event our request is granted, I further request that Fourth Judicial District Administrative Judge, Hon. Felix J. Catena be notified of the recusal as soon as possible, in order to facilitate prompt reassignment of the case and preservation of the January 23, 2023 trial date.

By copy of this letter via email, counsel for the respective defendants are placed on notice of this request.

FILED: WARREN COUNTY CLERK 11/23/2022 05:48 PM

NYSCEF DOC. NO. 68

INDEX NO. EF2020-67770

RECEIVED NYSCEF: 11/23/2022

Hon. Robert J. Muller
October 4, 2022
Page 2

Thank you.

Most Respectfully,

COOPER ERVING & SAVAGE LLP

A handwritten signature in black ink, appearing to read 'CP Flint', written over a horizontal line.

Christopher P. Flint, Esq.

CPF/it

cc: **Via Email**
Malcolm B. O'Hara, Esq. ([REDACTED]@bpsrlaw.com)
Kenneth L. Bobrow, Esq. ([REDACTED]@felt-evans.com)

FILED: WARREN COUNTY CLERK 11/23/2022 05:48 PM

NYSCEF DOC. NO. 69

INDEX NO. EF2020-67770
Page 1 of 1
RECEIVED NYSCEF: 11/23/2022**Christopher Flint - RE: Minckler v D'Ella et al Index No.: EF2020-67770**

From: "Malcolm B. O'Hara" <[REDACTED]@bpsrlaw.com>
To: Christopher Flint <[REDACTED]@coopererving.com>, "chambersrmuller@nycourts.g...
Date: 10/4/2022 12:20 PM
Subject: RE: Minckler v D'Ella et al Index No.: EF2020-67770
Cc: Iliana Torres <[REDACTED]@coopererving.com>, Ken Bobrow <[REDACTED]@felt-evans...

Chris, I respectfully disagree that this requires Judge Muller to recuse himself. In the spirit of full disclosure however I am listed as member of his committee along with numerous other trial lawyers throughout the district and he Capital Region. I also plan to write a letter on his behalf to the local paper. Again, I believe neither of these requires his recusal. Sincerely, Mal O'Hara

From: Christopher Flint <[REDACTED]@coopererving.com>
Sent: Tuesday, October 4, 2022 11:42 AM
To: chambersrmuller@nycourts.gov
Cc: Malcolm B. O'Hara <[REDACTED]@bpsrlaw.com>; Iliana Torres <[REDACTED]@coopererving.com>; Ken Bobrow <[REDACTED]@felt-evans.com>
Subject: Minckler v D'Ella et al Index No.: EF2020-67770

Dear Judge Muller:

Please see the attached correspondence relative to the above.

Respectfully,

Christopher P. Flint
Cooper Erving & Savage, LLP
 39 North Pearl Street
 Albany, NY 12207Chirs
(518) 449-3900
Fax: (518) 432-3111

FILED: WARREN COUNTY CLERK 11/23/2022 05:48 PM

NYSCEF DOC. NO. 71

INDEX NO. EF2020-67770
Page 1 of 1
RECEIVED NYSCEF: 11/23/2022**Christopher Flint - Minckler et al. v D'Ella, Inc., et al. (Index No. EF2020-67770; RJI No. 56-1-2020-0290)**

From: "ChambersRMuller@nycourts.gov" <chambersrmuller@nycourts.gov>
To: "[REDACTED]@coopererving.com" <[REDACTED]@coopererving.com>, "Kenneth L. Bobrow" ...
Date: 10/6/2022 12:26 PM
Subject: Minckler et al. v D'Ella, Inc., et al. (Index No. EF2020-67770; RJI No. 56-1-2020-0290)

Dear Counselors:

In follow-up to this morning's conference, please be advised that Justice Muller has sought an opinion from the Judicial Campaign Ethics Center relative to the issue of his recusal in this matter. He asks that Attorney Flint hold any motion practice in abeyance pending the receipt of this opinion, which he will promptly share with all counsel.

Thank you for your attention to the foregoing. If you could please confirm your receipt of this email, it would be much appreciated.

Very truly yours,

Jennifer Purcell Jeram
Principal Law Clerk to Hon. Robert J. Muller, J.S.C.
Warren County Courthouse
1340 State Route 9
Lake George, New York 12845
Telephone: (518) 480-6346

Hon. Robert J Muller

From: Hon. Robert J Muller
Sent: Tuesday, October 11, 2022 11:32 AM
To: contactJCEC
Subject: FW: Robert J.MULLER,

Just a follow up for a few opinions to share with counsel

Thanks

From: Hon. Robert J Muller
Sent: Friday, October 7, 2022 11:55 AM
To: contactJCEC <contactJCEC@nycourts.gov>
Subject: Robert J.MULLER,

I'm following up a recent telephone call on a recusal request that has surfaced in the midst of my re-election campaign. Plaintiff's counsel requests a recusal where one of the defense counsel is on my re-election committee and his firm sponsored a recent fundraiser. This issue has come up previously but with full disclosure on the record - counsel and their clients declined to ask for a recusal. I have a substantial amount of public support from the legal community in the 11 counties of the 4th JD counties where I serve. If I automatically recused this would eviscerate my calendar. I assume I'm not the first sitting judge requiring guidance on this issue.

I'm attaching a recent NYLJ article on the race, for some background.

Thanks
RJM

Hon. Robert J. Muller, J.S.C.
Chair – Bench Book for Trial Judges – New York
Warren County Courthouse
1340 State Route 9
Lake George, New York 12845
Telephone: (518) 480-6346

Please be CAREFUL when clicking links or opening attachments.

FILED: WARREN COUNTY CLERK 11/28/2022 05:48 PM

NYSCEF DOC. NO. 38

INDEX NO. EF2020-67770

RECEIVED NYSCEF: 11/28/2022

JUDICIAL CAMPAIGN ETHICS SUBCOMMITTEE
Advisory Committee on Judicial Ethics

Judicial Campaign Ethics Center
 25 Beaver Street
 New York, New York 10004
 1-888-600-JCEC (5232)
jcec@nycourts.gov

**Advisory Committee on
 Judicial Ethics**

Hon. Margaret T. Walsh
 Hon. Lillian Wan
Co-Chairs

October 12, 2022

**Judicial Campaign
 Ethics Center**

Hon. James D. Pagones
Subcommittee Chair

Hon. Emilio Colaiacovo
 Hon. Nelida Malave-Gonzalez
 Hon. James P. Murphy
Subcommittee Members

Rosemary Garland-Scott, Esq.
Executive Director

Hon. Robert Muller
 Warren County Courthouse
 1340 State Route 9
 Lake George, NY 12845

Re: SC2022-048

Dear Judge Muller:

Thank you for your attached inquiry, dated October 7, 2022, to the Judicial Campaign Ethics Center ("JCEC"). The Judicial Campaign Ethics Subcommittee (the "Subcommittee") has been delegated authority by the full Advisory Committee on Judicial Ethics (the "Committee") to provide candidates for judicial office with prompt responses to campaign-related ethics questions. The Subcommittee believes that your inquiry involves campaign-related activity, and therefore has determined that it may provide a response in this matter.

You have stated that you are a Supreme Court Justice, 4th Judicial District, seeking re-election to your current seat. You have stated that in a matter before you, plaintiff's counsel requested your recusal because one of the defense counsel serves on your re-election campaign committee and that attorney's law firm sponsored a recent fundraiser on your behalf. You have further stated that you have "a substantial amount of public support from the legal community" in your judicial district and that if you were to automatically recuse it would eviscerate your calendar.

In a telephone conversation with staff counsel, you explained that defense counsel has no "active" role in your campaign and is merely one of approximately 30 persons listed on your campaign letterhead. You have also stated that defense counsel's law firm has held only a single fund-raiser on your behalf. You have asked for guidance as to your recusal obligations under the circumstances.

The Committee has previously determined that the fact that a lawyer merely attends a judicial candidate's event, or voluntarily submitted his/her name to be used by the campaign committee, would not, standing alone, trigger any recusal obligations on the candidate's part, as long as the candidate believes he/she can be fair and impartial (Opinions 09-245; 04-106; 90-182). By contrast, the Committee has concluded that a judge who is running for re-election should exercise recusal, subject to remittal, when attorneys (or their partners or associates) who are engaged in fund-raising or in other active conduct in support of the judge's candidacy appear

FILED: WARREN COUNTY CLERK 11/28/2022 05:48 PM

NYSCEF DOC. NO. 58

INDEX NO. EF2020-67770

RECEIVED NYSCEF: 11/28/2022

before the judge *during the course of the campaign* (Opinions 03-64; 01-07; *see* Opinion 12-164). However, after the election, neither disclosure nor disqualification is required when the attorney (or his/her partners or associates) appears in the judge's court (*see id.*; Opinion 09-245).

Accordingly, you are advised that you are disqualified, subject to remittal, from presiding over matters involving defense counsel and his law firm, including partners and associates, *during the course of your judicial campaign* (*see* Opinion 03-64). You are further advised that you do not have any post-election disqualification or disclosure obligation when defense counsel or his law firm appears, as their involvement in your campaign consisted of hosting a single fund-raising event on your behalf (*see* Opinions 12-164; 09-245; 03-64).

The Subcommittee notes that ordinarily you would not be disqualified from presiding over matters involving defense counsel by virtue of his name appearing on your campaign letterhead since such listing, without more, constitutes a very minimal level of involvement in your judicial campaign for which even disclosure is not required (*see* Opinion 09-245).

Reliance on this Opinion. Please be advised that provided that your conduct comports with the advice contained herein, such conduct will be presumed proper for purposes of any subsequent investigation by the Commission on Judicial Conduct. You are further advised that this response provided by the Subcommittee, and the resulting presumption of propriety, applies only to you for conduct undertaken during your current window period. The presumption is expressly conditioned on the correctness and completeness of the facts supplied in your attached inquiry.

Mandatory Training Requirement. Please note that all judicial candidates (except those seeking Town or Village Justice positions) must complete a campaign ethics training program "any time after the candidate makes a public announcement of candidacy or authorizes solicitation or acceptance of contributions for a known judicial vacancy, but no later than 30 days after receiving the nomination for judicial office." 22 NYCRR 100.5(A)(4)(f). Please contact us at 1-888-600-JCEC (5232) to register for the training, or visit our website for further details.

Mandatory Financial Disclosure Requirement. All judicial candidates (except those seeking Town or Village Justice positions) must file a financial disclosure form for the preceding calendar year pursuant to *either* Part 40 *or* 22 NYCRR 100.5(A)(4)(g). Please visit our Financial Disclosures information page for general information on Rule 100.5(A)(4)(g), including a list of persons who are exempt from the rule. If you are not exempt, please contact the Ethics Commission as soon as possible to make sure you are in compliance.

For Further Assistance. The amended rules and a copy of the Judicial Campaign Ethics Handbook are also available on our web site. For further assistance on this or any other campaign-related ethics matter, please do not hesitate to contact us.

Very truly yours,

FILED: WARREN COUNTY CLERK 11/28/2022 05:48 PM

NYSCEF DOC. NO. 58

INDEX NO. EF2020-67770

RECEIVED NYSCEF: 11/28/2022

Hon. James D. Pagones (ret.)
Subcommittee Chair

Att.

FILED: WARREN COUNTY CLERK 11/23/2022 05:48 PM

NYSCEF DOC. NO. 72

INDEX NO. EF2020-67770
Page 1 of 1
RECEIVED NYSCEF: 11/23/2022**Christopher Flint - Minckler Motion to Strike**

From: Christopher Flint
To: chambersrmuller@nycourts.gov
Date: 10/20/2022 2:28 PM
Subject: Minckler Motion to Strike
Cc: [REDACTED]@bpsrlaw.com; Ken Bobrow

Dear Judge Muller:

I respectfully request that the Court hold in abeyance Attorney O'Hara's Motion to Strike and/or for an IME, presently returnable on October 27, 2022, until after your Honor makes a decision on the recusal issue.

I spoke with Mr. O'Hara, and he consents to this request.

Thank you for your attention to this matter.

Respectfully,

Christopher P. Flint
Cooper Erving & Savage, LLP
39 North Pearl Street
Albany, NY 12207
(518) 449-3900
Fax: (518) 432-3111

FILED: WARREN COUNTY CLERK 11/28/2022 05:48 PM

NYSCEF DOC. NO. 38

STATE OF NEW YORK

SUPREME COURT CHAMBERS

WARREN COUNTY MUNICIPAL CENTER

1340 STATE ROUTE 9

LAKE GEORGE, NY 12845

(518) 480-6346

ChambersRMuller@nycourts.gov

ROBERT J. MULLER
JUSTICE

INDEX NO. EF2020-67770

RECEIVED NYSCEF: 11/28/2022

JENNIFER P. JERAM
Principal Law ClerkELAINE A. MADISON
Secretary to Justice

November 16, 2022

Via NYSCEF and Email

Christopher P. Flint, Esq.
Cooper Erving & Savage, LLP
39 N. Pearl Street
Albany, NY 12207
Email: [REDACTED]@coopererving.com

Malcolm B. O'Hara, Esq.
Bartlett Pontiff Stewart & Rhodes
One Washington Street, P.O. Box 2168
Glens Falls, NY 12801
Email: [REDACTED]@bpsrlaw.com

RE: Karen Minckler and Joseph Howell v D'Ella, Inc. d/b/a D'Ella Honda of Glens Falls,
D'Ella Automotive, Inc. and Michael Swan, Warren County Treasurer, Administrator of
the Estate of Thomas E. Shelly, III, Deceased
Index No. EF2020-67770; RJN No. 56-1-2020-0290

Dear Counselors:

I am addressing a recusal request sought by Mr. Flint at his clients' direction and attach a copy of a letter from the Judicial Campaign Ethics Subcommittee dated October 12, 2022. This correspondence was responsive to an enquiry concerning my ethical obligations based upon the facts summarized in the enclosure. I accept the subcommittee's guidance and decline the request for recusal.

There is a conference scheduled for November 28, 2022 at 10:00 a.m. at the Warren County Courthouse at which time pending motions will be discussed.

Respectfully


 A large, stylized blue ink signature of Robert J. Muller, written over the word "Respectfully".

ROBERT J. MULLER
Supreme Court Justice

Attachment

FILED: WARREN COUNTY CLERK 11/28/2022 05:48 PM

NYSCEF DOC. NO. 38

INDEX NO. EF2020-67770

RECEIVED NYSCEF: 11/28/2022

JUDICIAL CAMPAIGN ETHICS SUBCOMMITTEE
Advisory Committee on Judicial Ethics

Judicial Campaign Ethics Center
 25 Beaver Street
 New York, New York 10004
 1-888-600-JCEC (5232)
jcec@nycourts.gov

**Advisory Committee on
 Judicial Ethics**

Hon. Margaret T. Walsh
 Hon. Lillian Wan
Co-Chairs

October 12, 2022

**Judicial Campaign
 Ethics Center**

Hon. James D. Pagones
Subcommittee Chair

Hon. Emilio Colaiacovo
 Hon. Nelida Malave-Gonzalez
 Hon. James P. Murphy
Subcommittee Members

Rosemary Garland-Scott, Esq.
Executive Director

Hon. Robert Muller
 Warren County Courthouse
 1340 State Route 9
 Lake George, NY 12845

Re: SC2022-048

Dear Judge Muller:

Thank you for your attached inquiry, dated October 7, 2022, to the Judicial Campaign Ethics Center ("JCEC"). The Judicial Campaign Ethics Subcommittee (the "Subcommittee") has been delegated authority by the full Advisory Committee on Judicial Ethics (the "Committee") to provide candidates for judicial office with prompt responses to campaign-related ethics questions. The Subcommittee believes that your inquiry involves campaign-related activity, and therefore has determined that it may provide a response in this matter.

You have stated that you are a Supreme Court Justice, 4th Judicial District, seeking re-election to your current seat. You have stated that in a matter before you, plaintiff's counsel requested your recusal because one of the defense counsel serves on your re-election campaign committee and that attorney's law firm sponsored a recent fundraiser on your behalf. You have further stated that you have "a substantial amount of public support from the legal community" in your judicial district and that if you were to automatically recuse it would eviscerate your calendar.

In a telephone conversation with staff counsel, you explained that defense counsel has no "active" role in your campaign and is merely one of approximately 30 persons listed on your campaign letterhead. You have also stated that defense counsel's law firm has held only a single fund-raiser on your behalf. You have asked for guidance as to your recusal obligations under the circumstances.

The Committee has previously determined that the fact that a lawyer merely attends a judicial candidate's event, or voluntarily submitted his/her name to be used by the campaign committee, would not, standing alone, trigger any recusal obligations on the candidate's part, as long as the candidate believes he/she can be fair and impartial (Opinions 09-245; 04-106; 90-182). By contrast, the Committee has concluded that a judge who is running for re-election should exercise recusal, subject to remittal, when attorneys (or their partners or associates) who are engaged in fund-raising or in other active conduct in support of the judge's candidacy appear

FILED: WARREN COUNTY CLERK 11/28/2022 05:48 PM

NYSCEF DOC. NO. 58

INDEX NO. EF2020-67770

RECEIVED NYSCEF: 11/28/2022

before the judge *during the course of the campaign* (Opinions 03-64; 01-07; *see* Opinion 12-164). However, after the election, neither disclosure nor disqualification is required when the attorney (or his/her partners or associates) appears in the judge's court (*see id.*; Opinion 09-245).

Accordingly, you are advised that you are disqualified, subject to remittal, from presiding over matters involving defense counsel and his law firm, including partners and associates, *during the course of your judicial campaign* (*see* Opinion 03-64). You are further advised that you do not have any post-election disqualification or disclosure obligation when defense counsel or his law firm appears, as their involvement in your campaign consisted of hosting a single fund-raising event on your behalf (*see* Opinions 12-164; 09-245; 03-64).

The Subcommittee notes that ordinarily you would not be disqualified from presiding over matters involving defense counsel by virtue of his name appearing on your campaign letterhead since such listing, without more, constitutes a very minimal level of involvement in your judicial campaign for which even disclosure is not required (*see* Opinion 09-245).

Reliance on this Opinion. Please be advised that provided that your conduct comports with the advice contained herein, such conduct will be presumed proper for purposes of any subsequent investigation by the Commission on Judicial Conduct. You are further advised that this response provided by the Subcommittee, and the resulting presumption of propriety, applies only to you for conduct undertaken during your current window period. The presumption is expressly conditioned on the correctness and completeness of the facts supplied in your attached inquiry.

Mandatory Training Requirement. Please note that all judicial candidates (except those seeking Town or Village Justice positions) must complete a campaign ethics training program "any time after the candidate makes a public announcement of candidacy or authorizes solicitation or acceptance of contributions for a known judicial vacancy, but no later than 30 days after receiving the nomination for judicial office." 22 NYCRR 100.5(A)(4)(f). Please contact us at 1-888-600-JCEC (5232) to register for the training, or visit our website for further details.

Mandatory Financial Disclosure Requirement. All judicial candidates (except those seeking Town or Village Justice positions) must file a financial disclosure form for the preceding calendar year pursuant to *either* Part 40 *or* 22 NYCRR 100.5(A)(4)(g). Please visit our Financial Disclosures information page for general information on Rule 100.5(A)(4)(g), including a list of persons who are exempt from the rule. If you are not exempt, please contact the Ethics Commission as soon as possible to make sure you are in compliance.

For Further Assistance. The amended rules and a copy of the Judicial Campaign Ethics Handbook are also available on our web site. For further assistance on this or any other campaign-related ethics matter, please do not hesitate to contact us.

Very truly yours,

FILED: WARREN COUNTY CLERK 11/28/2022 05:48 PM

NYSCEF DOC. NO. 58

INDEX NO. EF2020-67770

RECEIVED NYSCEF: 11/28/2022

Hon. James D. Pagones (ret.)
Subcommittee Chair

Att.

FILED: WARREN COUNTY CLERK 01/28/2023 05:25 AM

NYSCEF DOC. NO. 83

FILED: WARREN COUNTY CLERK 01/04/2023 01:12 PM

NYSCEF DOC. NO. 80



ROBERT J. MULLER
JUSTICE

STATE OF NEW YORK
SUPREME COURT CHAMBERS
WARREN COUNTY MUNICIPAL CENTER
1340 STATE ROUTE 9
LAKE GEORGE, NY 12845
(518) 480-6346
ChambersRMuller@nycourts.gov

January 4, 2023

INDEX NO. EF2020-67770

RECEIVED NYSCEF: 01/28/2023

INDEX NO. EF2020-67770

RECEIVED NYSCEF: 01/04/2023

JENNIFER P. JERAM
Principal Law Clerk

ELAINE A. MADISON
Secretary to Justice

VIA NYSCEF AND EMAIL

Christopher P. Flint, Esq.
Cooper Erving & Savage LLP
39 North Pearl Street
Albany, New York 12207
Email: [REDACTED]@coopererving.com

Malcolm B. O'Hara, Esq.
Bartlett, Pontiff, Stewart & Rhodes, P.C.
P.O. Box 2168, One Washington Street
Glens Falls, New York 12801
Email: [REDACTED]@bpsrlaw.com

Kenneth L. Bobrow, Esq.
Felt Evans, LLP
4-6 North Park Row
Clinton, New York 13323
Email: [REDACTED]@felt-evans.com

RE: Minckler et al. v D'Ella, Inc. et al.
Index No. EF2020-67770
RJI No. 56-1-2020-0290

Dear Counselors:

Before the Court in the above-referenced matter is plaintiff's motion for recusal by Notice of Motion electronically filed on November 23, 2022. The Court has considered NYSCEF document Nos. 61 through 76 and Judicial Campaign Ethics Subcommittee Opinion SC2022-048, dated October 12, 2022. Based upon the forgoing the motion for recusal is denied.

Also before the Court is a Notice of Motion to strike the Note of Issue electronically filed on October 14, 2022 and a Cross Motion to prohibit defendants from proceeding with a medical examination of plaintiff electronically filed on November 21, 2022. Oral argument relative to this Motion and Cross Motion has been scheduled for **January 13, 2023 at 9:30 A.M.**, with personal appearances expected at that time.

FILED: WARREN COUNTY CLERK 01/28/2023 05:25 AM

NYSCEF DOC. NO. 83

FILED: WARREN COUNTY CLERK 01/04/2023 01:12 PM

NYSCEF DOC. NO. 80

INDEX NO. EF2020-67770

RECEIVED NYSCEF: 01/28/2023

INDEX NO. EF2020-67770

RECEIVED NYSCEF: 01/04/2023

Hon. Robert J. Muller
January 4, 2023
Page 2 of 2

The trial previously scheduled for January 23, 2023 at 9:30 A.M. is hereby adjourned pending disposition of the Motion and Cross Motion.

It is SO ORDERED.

Respectfully,

01/04/2023


ROBERT J. MULLER
Supreme Court Justice



State of New York
Supreme Court, Appellate Division
Third Judicial Department

EXHIBIT 12

Decided and Entered: January 4, 2024

CV-23-0280

KAREN MINCKLER et al.,
Appellants,

v

D'ELLA, INC., Doing Business as
D'ELLA HONDA OF GLENS
FALLS, et al.,

Respondents,
et al.,
Defendant.

MEMORANDUM AND ORDER

Calendar Date: November 20, 2023

Before: Clark, J.P., Aarons, Reynolds Fitzgerald, McShan and Mackey, JJ.

Cooper Erving & Savage LLP, Albany (*Christopher P. Flint* of counsel), for appellants.

Bartlett, Pontiff, Stewart & Rhodes, PC, Glens Falls (*Malcolm B. O'Hara* of counsel), for respondents.

Clark, J.P.

Appeal from an order of the Supreme Court (Robert J. Muller, J.), entered January 4, 2023 in Warren County, which denied plaintiffs' motion for recusal.

The underlying action arises from an automobile accident that occurred in 2019 when plaintiff driver Karen Minckler suffered physical injuries. Minckler and her spouse, derivatively, commenced this action against, as is relevant here, defendants D'Ella Inc.,

doing business as D'Ella Honda of Glens Falls, and D'Ella Automotive Inc. (hereinafter collectively referred to as defendants), the owners of the other vehicle involved in the collision. Initially, the matter was assigned to Justice Martin D. Auffredou. However, Justice Auffredou recused himself after disclosing that defense counsel had served as the chair of his campaign committee in 2015, and the matter was reassigned to Justice Robert J. Muller.

In September 2022, plaintiffs learned that defense counsel and his law firm were supporting Justice Muller's reelection campaign by hosting an upcoming fundraising event for him. On October 3, 2022, during a phone conference with Justice Muller, plaintiffs, through their attorney, requested that Justice Muller recuse himself. Justice Muller asked that the request be put in writing on notice to defense counsel. The next day, plaintiffs emailed a request for recusal, and defendants opposed the request. Two days later, Justice Muller's principal law clerk emailed the parties advising them that Justice Muller had submitted an inquiry about the recusal issue to the Judicial Campaign Ethics Center (hereinafter the JCEC) and asking the parties to hold any motion practice in abeyance until a response was received. On October 14, 2022, defendants filed a motion to strike the note of issue and/or for an independent medical examination, which was held in abeyance on consent while the parties waited to hear from Justice Muller on the recusal issue. On November 16, 2022, Justice Muller issued a letter indicating that he would not recuse and attached an October 12, 2022 letter from the JCEC. On November 23, 2022, plaintiffs filed a formal motion seeking Justice Muller's recusal, which motion was denied on January 4, 2023. Plaintiffs appeal from that order.

A judge is prohibited from participating in any matter in which he or she is interested or has a familial relationship with any party (*see* Judiciary Law § 14). Where disqualification is not required pursuant to Judiciary Law § 14, "a judge's decision on a recusal motion is one of discretion, and when recusal is sought based upon impropriety as distinguished from legal disqualification, the judge is the sole arbiter" (*McAuliffe v McAuliffe*, 209 AD3d 1119, 1120 [3d Dept 2022] [internal quotation marks and citations omitted]). However, that discretion is not unlimited, and "judges must still recuse in cases where their impartiality 'might be reasonably questioned' " (Advisory Comm on Jud Ethics Op 19-76 [2019], quoting Rules Governing Jud Conduct [22 NYCRR] § 100.3 [E] [1]). Judges have an obligation to comport themselves within the bounds of judicial ethics and must avoid the appearance of impropriety at all times, particularly when running for election or reelection (*see* Rules Governing Jud Conduct [22 NYCRR] §§ 100.2; 100.3 [E]; *Concord Assoc., L.P. v EPT Concord, LLC*, 130 AD3d 1404, 1405-1406 [3d Dept 2015], *lv denied* 26 NY3d 912 [2015]). It is axiomatic that attorneys often assist judges

with their campaigns as lawyers often have contact with judges and can express opinions about their fitness to be judges. When an attorney who is assisting in a judge's campaign appears before that judge, the judge has a duty to disclose to the parties the nature and level of that attorney's involvement (*see* Advisory Comm on Jud Ethics Op 07-26 [2007]). Although the relationship between lawyers and judges can result in the judge's recusal during and after a campaign (*see* Advisory Comm on Jud Ethics Op 08-152 [2008]), an attorney's attendance at a single campaign event will not require the judge's recusal; recusal is only required where the attorney plays an active role in the judge's campaign (*see* Advisory Comm on Jud Ethics Op 09-245 [2010]).

Here, Justice Muller did not disclose to the parties that defense counsel and his law firm were providing assistance to his judicial campaign. Plaintiffs independently learned of the fundraiser, prompting them to raise the issue and seek the judge's recusal. The record establishes that the law firm hosted a fundraising event for Justice Muller, that the names of defense counsel and five other attorneys from his firm appeared as supporters on Justice Muller's campaign website and that defense counsel wrote a favorable opinion letter endorsing Justice Muller's candidacy which appeared in several news publications throughout the Fourth Judicial District. Furthermore, the JCEC's October 12, 2022 letter clearly states that Justice Muller was "disqualified, subject to remittal, from presiding over matters involving defense counsel and his law firm, including partners and associates, during the course of [his] judicial campaign" (emphasis omitted). Although we have no way of knowing Justice Muller's reasons or intentions, it is undisputed that he did not disclose the JCEC letter to the parties until a month after receiving it, when his campaign results became official, and he was elected to a new term of office. As judges need to avoid even the appearance of impropriety, Justice Muller should have disclosed the JCEC letter upon receipt and recused from the matter as soon as possible (*see* Rules Governing Jud Conduct [22 NYCRR] §100.3 [E] [1]; Advisory Comm on Jud Ethics Op 03-64 [2003]). Therefore, Justice Muller abused his discretion in denying plaintiffs' motion for recusal.

Reynolds Fitzgerald, McShan and Mackey, JJ., concur; Aarons, J., not taking part.

ORDERED that the order is reversed, on the law, without costs, motion granted, and matter remitted to the Supreme Court for further proceedings not inconsistent with this Court's decision before a different judge.

ENTER:

A handwritten signature in black ink, reading "Robert D. Mayberger". The signature is written in a cursive, flowing style with a large initial "R" and a stylized "D".

Robert D. Mayberger
Clerk of the Court

Schedule A

Index No.	Case Name	Law Firm(s) Involved (party represented)
EF2020-68040	<i>Bridgestone Retail Operations, LLC v Queensbury Town Board of Assessors et al.</i>	Bartlett Pontiff (for a respondent/intervenor)
EF2021-69246	<i>Bridgestone Retail Operations, LLC v Queensbury Town Board of Assessors et al.</i>	Bartlett Pontiff (for a respondent/intervenor)
EF2021-69663	<i>Dorn, Adam et al. v Town of Chester Zoning Board of Appeals et al.</i>	Bartlett Pontiff (for petitioners) McPhillips, Fitzgerald & Cullum LLP (for a respondent)
EF2022-70005	<i>Darrell R. Durfee et al. v Adam J. Gersten</i>	Bartlett Pontiff (for plaintiffs)
EF2019-66956	<i>Forest Lake Properties, Inc. v Town of Warrensburg et al.</i>	Bartlett Pontiff (for a respondent/intervenor)
EF2021-69230	<i>James Street LLC v Town of Lake George Board of Assessment Review et al.</i>	Bartlett Pontiff (for a respondent/intervenor)
EF2020-68009	<i>Medline Industries Inc. v The Assessors for the City of Glens Falls et al.</i>	Bartlett Pontiff (for respondents)
EF2021-69272	<i>Medline Industries Inc. v The Assessors for the City of Glens Falls et al.</i>	Bartlett Pontiff (for respondents)
EF2022-70325	<i>Nims Properties LLC et al. v Board of Assessment Review and Assessor of the City of Glens Falls et al.</i>	Bartlett Pontiff (for respondents)

EF2020-68118	<i>93 Maple LLC v Board of Assessors and Board of Assessment Review of the City of Glens Falls</i>	Bartlett Pontiff (for respondent/intervenor)
EF2021-69241	<i>93 Maple LLC v Board of Assessors and Board of Assessment Review of the City of Glens Falls</i>	Bartlett Pontiff (for respondents and respondent/intervenor)
65193	<i>Northern Hospitality Mgmt, LLC v The Quarters at Four Season Inn Condominium Assoc. et al.</i>	Bartlett Pontiff (for plaintiff)
EF2019-67013	<i>Pregis Innovative Packaging LLC v Queensbury Town of Assessor et al.</i>	Bartlett Pontiff (for respondent/intervenor)
EF2020-68012	<i>Pregis Innovative Packaging LLC v Queensbury Town of Assessor et al.</i>	Bartlett Pontiff (for respondent/intervenor)
EF2019-66787	<i>Rainbow Beach Assoc. v Samuel P. Hoopes III et al.</i>	Bartlett Pontiff (for defendants)
EF2021-69238	<i>Rite Aid Corp v Assessor and the Board of Assessment Review of the City of Glens Falls et al.</i>	Bartlett Pontiff (for respondents)
EF2021-69249	<i>The Roberts Gardens North Partnership v Board of Assessment Review of Queensbury et al.</i>	Bartlett Pontiff (for respondent/intervenor)
EF2022-70327	<i>The Roberts Gardens North Partnership v Board of Assessment Review of Queensbury et al.</i>	Bartlett Pontiff (for respondent/intervenor)
EF2021-69223	<i>Tree Care by Stan Hunt, Inc. et al. v Board of Assessment Review of Queensbury et al.</i>	Bartlett Pontiff (for respondent/intervenor)

EF2022-70337	<i>Tree Care by Stan Hunt, Inc. et al. v Board of Assessment Review of Queensbury et al.</i>	Bartlett Pontiff (for respondent/intervenor)
EF2021-69433	<i>The Triple F. Club, Inc. v Craig Gibney et al.</i>	Bartlett Pontiff (for respondents)
EF2022-70353	<i>Wal-Mart Real Estate Trust v Board of Assessment Review of the Town of Queensbury et al.</i>	Bartlett Pontiff (for respondent/intervenor)
EF2022-70528	<i>Whispering Pines Assoc., LLC et al. v Town of Queensbury Planning Board et al.</i>	Bartlett Pontiff (for a respondent)
EF2020-68253	<i>John D. Wright v Williams et al.</i>	Bartlett Pontiff (for a defendant)
EC2021-33122	<i>Nims Properties, LLC et al. v Board of Assessment Review of Kingsbury et al.</i>	Bartlett Pontiff (for respondent/intervenor)
EC2022-34172	<i>Nims Properties, LLC et al. v Board of Assessment Review of Kingsbury et al.</i>	Bartlett Pontiff (for respondent/intervenor)
EC2021-32953	<i>Randy Wilson v Eugene Williams, Jr.</i>	Bartlett Pontiff (for plaintiff)
EF2022-70232	<i>Martin M. Filler et al. v Nicholas Cutro, Jr.</i>	E. Stewart Jones Hacker Murphy LLP (for counterclaim/crossclaim defendant)
EF2022-70356	<i>206 Glen Street LLC v Assessor of the City of Glens Falls et al.</i>	E. Stewart Jones Hacker Murphy LLP (for petitioner)
EF2022-70357	<i>Union Square Properties LLC v Assessor of the City of Glens Falls et al.</i>	E. Stewart Jones Hacker Murphy LLP (for petitioner)

EF2022-34236	<i>Margaret Allen LE et al. v Assessor of the Town of Jackson et al.</i>	E. Stewart Jones Hacker Murphy LLP (for petitioners)
EC2021-33106	<i>Allenstbizpk LLC v Assessor of the Town of Fort Edward et al.</i>	E. Stewart Jones Hacker Murphy LLP (for petitioner) Bartlett Pontiff (for respondent/intervenor)
EC2022-34196	<i>Allenstbizpk LLC v Assessor of the Town of Fort Edward et al.</i>	E. Stewart Jones Hacker Murphy LLP (for petitioner) Bartlett Pontiff (for respondent/intervenor)
EC2022-34382	<i>George G. Gellert v Vertical Farms Equine LLC et al.</i>	E. Stewart Jones Hacker Murphy LLP (for petitioner)
EC2022-34129	<i>George g. Gellert v Nicholas Curto, Jr. et al.</i>	E. Stewart Jones Hacker Murphy LLP (for petitioner)
EC2022-34043	<i>George g. Gellert v Nicholas Curto, Jr. et al.</i>	E. Stewart Jones Hacker Murphy LLP (for petitioner)
EC2021-32898	<i>New York State Correctional Officers and Police Benevolent Assoc., Inc. v Patrick Brockway</i>	E. Stewart Jones Hacker Murphy LLP (for defendant)
EF2021-68657	<i>Brittany Rivers v Susan E. Bradford, M.D. et al.</i>	McPhillips, Fitzgerald, & Cullum LLP (for defendants)
EC2020-31343	<i>Wiley Sutphin v Bernice Mennis et al.</i>	Maguire Cardona, P.C. (for defendants)

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

VERIFICATION

ROBERT J. MULLER,

a Justice of the Supreme Court,
Fourth Judicial District, Warren County.

STATE OF NEW YORK)
 : ss.:
COUNTY OF ALBANY)

ROBERT H. TEMBECKJIAN, being duly sworn, deposes and says:

1. I am the Administrator of the State Commission on Judicial Conduct.
2. I have read the foregoing Formal Written Complaint and, upon
information and belief, all matters stated therein are true.
3. The basis for said information and belief is the files and records of
the State Commission on Judicial Conduct.



Robert H. Tembeckjian

Sworn to before me this
30th day of September 2024



Notary Public

Marisa Harrison Santos
Notary Public, State of New York
No. 01SA0003835
Qualified in Albany County
Commission Expires March 27, 2027

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

ROBERT J. MULLER,

a Justice of the Supreme Court,
Fourth Judicial District, Warren County.

Judge's Home Address

In the event that a determination of the Commission on Judicial Conduct is made in the above matter requiring transmittal to the Chief Judge and service upon the judge in accordance with Judiciary Law § 44, subd. 7, the Court of Appeals has asked the Commission to provide the judge's home address.

Judge's Home Address

Request and Authorization to Notify Judge's Attorney of Determination

In the event that a determination of the Commission on Judicial Conduct is made in the above matter requiring transmittal to the Chief Judge and service upon me in accordance with Judiciary Law § 44, subd. 7, the undersigned judge or justice:

(1) requests and authorizes the Chief Judge to cause a copy of my notification letter and a copy of the determination to be sent to my attorney(s) by mail:

Attorney's Name, Address, Telephone

(2) requests and authorizes the Clerk of the Commission to transmit this request to the Chief Judge together with the other required papers.

This request and authorization shall remain in force unless and until a revocation in writing by the undersigned judge or justice is received by the Commission.

Dated:

Signature of Judge or Justice

Acknowledgment:

Signature of Attorney for Judge or Justice

SEND TO: Clerk of the Commission
State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006