



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT

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MARISA E. HARRISON  
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## NEWS RELEASE

*January 8, 2025*

**Contact:**

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### **Town Justice in Erie County Should Be Admonished for Using Judicial Office for Personal Benefit**

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The New York State Commission on Judicial Conduct has determined that Michael W. Cole, a Justice of the Alden Town and Village Courts (Erie County), should be admonished for using his judicial position to delay the processing of a small claims case filed against him, while he attempted to have the action withdrawn.

Judge Cole agreed to the admonition.

Judge Cole, who as a part-time judge is permitted to practice law, was hired as an attorney in 2018 and paid a \$1,500 retainer by a client with a family law matter. In 2019, after becoming dissatisfied with Judge Cole's representation, she made several requests for return of her retainer.

In 2021, after the now ex-client filed a small claims case against him in his own court, Judge Cole asked his court clerk to delay processing the claim while he attempted to get the ex-client to withdraw it. He did so knowing the case would be transferred to another court because of the obvious conflict.

Eventually, the matter was transferred to another court, Judge Cole sent the ex-client a check for the full amount at issue, and the case was closed without further action.

In its determination the Commission stated, “Instead of promptly disqualifying himself from the action filed against him in the court where he presides, [Judge Cole] improperly influenced court staff and delayed the processing of the claim. In this way, respondent violated well-established ethical standards and used his judicial status for his personal benefit.”

In accepting the jointly recommended sanction of admonition, the Commission considered that the judge “acknowledged that his conduct was improper and warrants public discipline.”

Judge Cole has been a Justice of Alden Village Court since 2019, having previously served as Associate Village Justice of that court from 2018 to 2019. He has been a Justice of the Alden Town Court since 2021. His current terms expire on March 31, 2025, and December 31, 2028, respectively.

### **Statement by Commission Administrator**

Commission Administrator Robert H. Tembeckjian made the following statement.

“Public confidence in the integrity of the legal system is undermined when a judge who is sued exerts the influence of judicial office to delay processing of the claim. To his credit, Judge Cole accepted responsibility for his conduct, resolved the lawsuit and cooperated with the Commission.”

### **The Commission Proceedings**

Judge Cole was served with a Formal Written Complaint dated September 17, 2024, containing one charge.

On October 22, 2024, the Administrator of the Commission, Judge Cole and his attorney entered into an Agreed Statement of Facts, stipulating to the facts and sanction and waiving further submissions and oral argument.

The Commission accepted the Agreed Statement on December 12, 2024.

**The Commission Determination**

The Commission filed a determination dated December 18, 2024, in which all 11 members concurred: Joseph W. Belluck, Esq. (the Commission Chair), Taa Grays, Esq. (the Vice Chair), Judge Fernando M. Camacho, Stefano Cambareri, Esq., Brian C. Doyle, Esq., Judge John A. Falk, Judge Robert J. Miller, Nina M. Moore, Ph.D., Marvin Ray Raskin, Esq., Judge Anil C. Singh and Akosua Garcia Yeboah.

**Court of Appeals Review**

The Commission transmitted its determination to the Chief Judge of the Court of Appeals, pursuant to Judiciary Law Section 44, subdivision 7. The Commission was notified on January 7, 2025, that Judge Cole had received the determination. Consequently, the matter is now public.

A judge may either accept the Commission's determination or, within 30 days from receipt, make a written request to the Chief Judge for a review of the determination by the Court of Appeals.

Pursuant to Judiciary Law Section 44, subdivision 7, if Judge Cole does not request review by the Court of Appeals, the Commission will admonish him in accordance with the determination.

If a Commission determination is reviewed by the Court of Appeals, the Court may accept the determined sanction, impose a different sanction including admonition, censure or removal, or impose no sanction.

**Statistics Relating to Prior Determinations**

Since 1978, the Commission has issued 287 determinations of admonition against judges in New York State. The Commission has issued 185 determinations of removal and 352 determinations of censure.

The Court of Appeals has reviewed 102 Commission determinations. The Court accepted the Commission's sanctions in 86 cases (77 of which were removals, six were censures and three were admonitions). Of the remaining 16 cases, two sanctions were increased from censure to removal, and 13 were reduced: nine removal determinations were modified to censure, one removal

was modified to admonition, two censures were modified to admonition, and one censure was rejected and the charges dismissed. The Court remitted one matter to the Commission for further proceedings. One request for review is currently pending.

### **Counsel**

Judge Cole was represented by Daniel M. Killelea of Gilmour & Killelea, LLP, 11198 Alexander Road, Attica, New York, 14011, (585) 937-8987.

The Commission was represented by Deputy Administrator John J. Postel, Senior Attorney David M. Duguay and Senior Investigator Vanessa Mangan.

### **Background Information on Judge Cole**

First Took Office:

Alden Village Court 2019

Alden Town Court 2021

Current Terms Expires:

Alden Village Court March 31, 2025

Alden Town Court December 31, 2028

Prior Judicial Office: 2018-2019

Associate Justice of the Alden  
Village Court

Year Admitted to the NYS Bar: 2001

### **Members of the Commission**

The Commission members serve four-year terms. A list of members is appended.

### **The Public File**

The determination and other records are available on the Commission's website: [www.cjc.ny.gov](http://www.cjc.ny.gov).

**MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT**

<b>Member</b>	<b>Appointing Authority</b>	<b>Term End</b>
Joseph W. Belluck, Esq., Chair	Governor Kathy Hochul	March 31, 2028
Taa Grays, Esq., Vice Chair	Senate President Pro Tem Andrea Stewart-Cousins	March 31, 2027
Hon. Fernando M. Camacho	Chief Judge Rowan Wilson	March 31, 2028
Stefano Cambareri, Esq.	Assembly Minority Leader William A. Barclay	March 31, 2025
Brian C. Doyle, Esq.	Senate Minority Leader Robert G. Ort	March 31, 2028
Hon. John A. Falk	Former Chief Judge Janet DiFiore	March 31, 2025
Hon. Robert J. Miller	Governor Kathy Hochul	March 31, 2026
Nina M. Moore, Ph.D.	Governor Kathy Hochul	March 31, 2027
Marvin Ray Raskin, Esq.	Assembly Speaker Carl E. Heastie	March 31, 2026
Hon. Anil C. Singh	Chief Judge Rowan Wilson	March 31, 2026
Akosua Garcia Yeboah	Former Governor Andrew M. Cuomo	March 31, 2025