To: The Commission for Judicial, Legislative and Executive compensation in New York, an opposition by Tatiana Neroni, a civil rights attorney suspended from the practice of law for exposing judicial misconduct in New York

1. **The majority of Commission's members are disqualified to sit on the Commission, and that fact alone makes the Commission and its conclusions and fact-findings illegitimate.**

Members of the Commission are predominantly attorneys whose livelihoods are in the hands of the judiciary and whose businesses and financial well-being is derived from the judiciary, and so were 100% of supporters of judicial pay raises.

I incorporate by reference my statements about disqualification of members of this Commission in my blog post here:

http://attorneyindependence.blogspot.com/2015/11/nys-commission-on-judicial-pay-raises.html

The Commission should be re-appointed, so that disinterested taxpayers with no ties to the judiciary and with no financial dependence on the judiciary, those people who are going to shoulder the burden of the judicial pay raises, be appointed to the panel.

Moreover, James Lack testified at the November 30, 2015 hearing and took the side of the judicial pay raise before all testimony and written submissions were in, which further disqualifies James Lack from the Commission, not to mention James Lack's widely reported unethical behavior, as reported in the links below.

The fact that James Lack never received appropriate discipline for his reported misconduct, neither as a judge nor as an attorney, speaks volumes about the unhealthy condition of New York judiciary that needs cleaning before any conversation about judicial pay raises can be had.

2. **The Commission should consider as a factor the reported corruption in the judiciary that keeps being raised and keeps being ignored by various commissions and agencies of New York government that are charged with reviewing such an issue as a factor in their decision-making.**

New York government, and this Commission, should not expect that New Yorkers will trust in the integrity of the judiciary more simply because facts of judicial misconduct and corruption are swept under the rug and the reporters oppressed, persecuted, penalized and generally chilled and gagged.

Corruption in the judicial system should be squarely addressed by the Commission, and pay raises to judges denied before judges start to uphold the law instead of ruling by their whims.

The public is watching, and the public is not stupid.

Time and again I witnessed that judges rule on their own whims rather than on the law, and do that knowingly and brazenly.

When judges are confronted as to unlawfulness of their actions, they either sanction the challengers in retaliation, or simply say "move up or move on", "move up" meaning "appeal".

People cannot afford to appeal, and it is well known that appellate judges rubber-stamp most appeals, "deferring" to the biased courts below.

Trial judges who immodestly glorified themselves and their alleged superb performance in their testimony to the Commission should be held accountable (which does not happen at this time) for knowingly disregarding applicable law and for knowing disregard of facts in the record, which happens every day in every court.

Judicial pay, as it happens with pay of any workers, should be tied to their performance.

Judges should not be rewarded for deliberate disdain of the rule of law and sticking to their whims or favors to well-connected attorneys and law firms.

3. **In many courts, jury trials are not provided for by law, and where jury trials are provided by law, decisions of cases without juries, through judicially coerced settlements, motions to dismiss and motions for a summary judgments liberally granted based on status and wealth of the litigant and their law firm is the rule rather than the exception.**

As to bench trials, there are weak rules of judicial disqualification set by courts, but not followed by judges.

The court rule of disqualification states that judges "shall" step down when there is even an "appearance" of impropriety, but judges, first, rule themselves on motions challenging them for their own misconduct, which only invites retaliation and prevents impartial review of motions to recuse and do not step down even when the impropriety is screaming into everybody's faces, and attorneys who fear the all-too-real threat of retaliation from the judiciary and are afraid to lose their licenses and livelihoods, are afraid to speak up about such impropriety.

There are fairly simple ways to fix the problem.

1) **same as there are rules of peremptory disqualification of jurors as fact-finders, the same rules should be introduced for judicial disqualification;**

2) **judges should be prohibited to decide motions to recuse against themselves; when a judge claims that he or she "examined his/her conscience" and found that the judge can be allegedly impartial to preside, that judge's "conscience" is an intangible that cannot be verified, X-rayed and attached to the record for further review; since the right to access to court, to due process, equal protection of laws and to impartial judicial review are all fundamental constitutional rights, decision of motions to recuse should not be "deferred to" or committed to a whim or "discretion" of the very same**

judges challenged for appearance of impropriety or for direct misconduct;

3) **Same as with jurors, judges should be disqualified for conflicts going down to the 6th degree of consanguinity and affinity, that is the law in New York for disqualification of jurors as fact-finders, and the same should be true for judges.**

When coming to the bench, a public official must necessarily lose privacy as to that public official's out-of-court connections and affiliations that may present a problem of a conflict of interest.

For that reason, a relational database should be commissioned where all judges, and judges secretaries and law clerks should enter their familial connections, to the 6th degree of consanguinity and affinity, affinity understood broadly to cover not only marital family ties, but also family ties not resulting in marriage, such as dating and committed romantic relationships outside of marriage.

All too often judges and their spouses, often attorney-spouses, have different last names which obscures conflicts of interest when such spouses or their law firms, appear in front of judges and receive favors from such judges.

The same happens with judges' relatives.

It is not a big secret that the legal profession is so lucrative (due to its anticompetitive "self"-regulation in violation of federal antitrust laws, similar to the self-regulation of the dental profession as noted by the U.S. Supreme Court in February of 2015 in the case North Carolina Board of Dental Examiners v Federal Trade Commission, the link is here):

http://www.supremecourt.gov/opinions/14pdf/13-534_19m2.pdf

That case was decided in February of 2015, yet New York judiciary that acts as a legislator regarding attorney regulation, did nothing to reform attorney disciplinary procedures to comply with CRIMINAL federal antitrust laws, and continues to run the disciplinary system as if it is not

a judiciary system, but a criminal cartel between judges and powerful private legal elite interests. Those criminal cartel interests make sure that attorney clans, including prosecutors, judges, private counsel and court clerks do not get demoted, do not get sanctioned for misconduct and get lucrative appointments, get their competition weeded out by the attorney disciplinary process and get ill-gained "victories" in their cases.

Currently, whole extended families are employed in the court system.

My FOIL requests, own experience in the courtroom and research shows that New York Court Office of Court Administration (NYS OCA) does not have an anti-nepotism and anti-cronyism policy and fiercely fights efforts of the public to get access to even the most basic information that would allow to verify some financial conflicts of interests of judges.

Time and again, over many years, I filed FOIL requests with NYS OCA, seeking access to the required semi-annual financial reports filed by judges with that agency. All I got back was blunt denials of my FOIL requests, moreover, the fact that I was making such FOIL requests was reported to the subject judges, and the same judges whose information I sought retaliated against me for seeking it.

Those semi-annual reports should be simply posted online by NYS OCA, so that the public should not have to ask for access to them, otherwise the requirement of filing such semi-annual reports achieves absolutely nothing and is a phony measure designed to report an appearance of compliance and transparency of information that is vital for the public to determine performance and potential conflicts of interest of its powerful “public servants” who most often believe they are not servants, but masters in the State of New York and in “their” courtrooms.

4) An anti-nepotism and anti-cronyism policy of employment should be in place.

The court system should not employ close relatives and entire family clans as they do nowadays.

The court system should not employ friends and close associates.

The court system should prohibit judges to give lucrative assignments to former law partners and current friends and law partners/employers of judges' relatives and friends, as it is done now.

5) **Judges must publicly disclose and post their membership in out-of-court organizations, so that the public should not be fighting, one person at a time, with bureaucracy in the New York State Court Administration to get those records for background research and investigation of conflicts in a particular court case**

When a party or attorney is litigating in court, that party or attorney must be assured that the judge presiding over his/her case did not engage in ex parte communications regarding the case, did not accept bribes in any forms, however small, in monetary or non-monetary benefits, from the opposing party or organization financially supported by the opposing party.

It is the unfortunate situation that ex parte communications of judges and powerful attorneys became the norm rather than the prohibited exception.

Many times I sent complaints against judges after either I or my then clients witnessed an ex parte communications. For example, Ulster County Supreme Court Justice Christopher Cahill called attorney Delice Seligman for an ex parte conference in front of a waiting room full of people and had his secretary prohibit me from entering that room while the ex parte conference was under way.

That was happening several feet away from the door to the chambers of the Chief Judge of the Appellate Division 3rd Department Karen Peters, apparenty, Judge Cahill had no shame and did not care that he is violating the rule of judicial conduct against ex parte communications.

When Delice Seligman (she later acknowledged the fact of the ex parte conference in an affirmation under oath) reappeared, she said that NOW judge Cahill wanted to see me.

I appeared at the door of Judge Cahill's chambers and said that NOW I did not want to have an ex parte communication with him and asked for his recusal.

Judge Cahill flew into a passion and yelled that he will turn me into the disciplinary committee for misconduct – I guess, the misconduct was that I exposed his misconduct. Publicly.

I FOILed NYS OCA for security videotapes showing Delice Seligman entering Judge Cahill's chambers and closing the door behind me, my attempt to enter after her, Judge Cahill's secretary's efforts to stop me and tell me to "go and sit down", my later exchange with judge Cahill from his doorway without entering and Judge Cahill's hysterics afterwards.

I provided to the New York State Commission for Judicial Conduct:

1) My affirmation as to what happened;
2) My then-client's sworn Affidavit as to what happened;
3) Another witness's sworn Affidavit as to what happened;
4) Affirmation of Attorney Delice Seligman of Kingston, NY where she badmouths me and my then-client, but still admits the fact of the ex parte communication and says that nothing bad occurred behind those closed doors, that it was nothing to worry about, that Seligman actually discussed with Judge Cahill how to benefit MY then-client, not hers.

NYS Commission for Judicial Conduct tossed the complaint without an explanation and without talking to me or witnesses.

I also provided to the NYS Commission for Judicial Conduct witness accounts about ex parte communications of:

- Judge Carl F. Becker, now retired, of Delaware County, Family, Surrogate and Supreme Court, on multiple occasions, with a transcript where then-Delaware County Attorney Richard Spinney acknowledges such ex parte communication – complaints were

tossed without anybody attempting to investigate and talk with me or other witnesses;

- A judge from Oxford village court;
- A judge from Green village court
- A Judge from Walton village court
- Supreme Court Justice Kevin Dowd, of Norwich, NY
- Supreme Court Justice Ferris Lebous, of Binghamton, NY

By the way, all of Supreme Court judges against whom I made motions to recuse sanctioned me, without fail, even if they were caught in documented misconduct, which clearly shows a tendency and a pattern belying the claim that New York State judges are "known for their excellence" and are true to their constitutional oath of office.

The truth is that the only time when the word "Constitution" can be safely pronounced by an attorney in a public hearing – is in support of judicial pay raise claiming that the pay raise is for "constitutional" judicial officers who violate the Constitution they are sworn to uphold left and right and gift themselves thereafter with unconstitutional absolute judicial immunity for such violations.

As to ex parte communications of judges I reported, those were ex parte communications which I either witnessed myself, or which were reported by my then-clients, or for which I had documentary evidence (transcripts with confessions of attorneys, billing records of opponents showing calls to chambers lasting for 15 minutes without an explanation of the reason).

My complaints to the Judicial Conduct Commission were invariably tossed without an attempt at investigation and without talking to witnesses, and judges, empowered by lack of discipline, continue with their ex parte communications during which they have a potential to fix cases.

Ex parte communications are prohibited because (1) the opponent is not present and does not know what is being discussed; (2) there is an appearance of impropriety and potential to fix cases.

The key words are “appearance” and “potential” – so whether Delice Seligman discussed her favorite cat with Judge Cahill or tried to fix the case for her client, is irrelevant, what is relevant is that there was an ex parte communication that Judge Cahill brazenly conducts in front of other attorneys, he just calls attorneys into his chambers separately, has the door closed into the opponent’s faces and puts a watchdog at the door blocking access to opponents.

Yet, brazen ex parte communications that can be documented are at least visible – even though such judges are not held accountable.

Even of more danger are those ex parte communications that are secret.

Settings for such ex parte communications may be completely benign – participation in non-profits that are created with the declared purpose of “promoting excellence in the legal profession”.

Yet, as I said above, whether Delice Seligman was “promoting excellence” behind those closed doors with Judge Christopher Cahill or was fixing a case and giving the judge a bribe – nobody can know, because there is no record, and because I, as her opponent, was not allowed to be present.

There is currently a task force working in the State of Connecticut at this time, according to reports, verifying possible case-fixing and court corruption through yet another “civic” organization where judges and attorneys participate, also promoting “excellence” in the legal profession.

http://www.commdiginews.com/life/connecticut-task-force-hears-accounts-of-victimization-by-family-court-11123/

New York public might not be aware of the existence and fast proliferation of such an organization as the American Inns of Court where many judges participate, where participation of judges is free, the organization is sponsored by private attorneys, according to scarce available sources, there is an appearance that participating judges attend monthly wining and dining at the expense of private attorneys under the guise of seminars “promoting excellence of the legal profession”.

My federal lawsuit trying to verify membership in the American Inns of Court of various high-ranking judges was thwarted by the very court whose judges participated in that same organization, and were similarly wined and dined, the name of the case is Neroni v Peebles in the U.S. District Court for the Northern District of New York, David Peebles being the court's chief Magistrate who participates as an officer in Albany chapter of the American Inn of Court.
https://dockets.justia.com/docket/new-york/nyndce/3:2014cv00584/98268

I encourage the Commission and the public to visit the website of that organization that says that it is not a fraternal order and not a social club, but has attributes of both.

http://home.innsofcourt.org/for-members/inns/the-judge-hugh-means-american-inn-of-court/about-the-american-inns-of-court.aspx

> An American Inn of Court is not a fraternal order, a social club, a course in continuing legal education, a lecture series, an apprenticeship system, or an adjunct of a law school's program. While an AIC partakes of some of each of these concepts, it is quite different in aim, scope, and effect.

So, our judges wine and dine on a monthly basis behind closed doors in organizations sponsored by private attorneys.

They also, by the way, wine and dine regularly at Albany Law School (I was a witness to those receptions when I was a student), and Albany Law School is heavily sponsored by politically powerful and rich law firms, so forget having those law firms or their attorneys being sanctions for misconduct by judges of the Appellate Division 3rd Department who eat and drink at those law firms' expense.

Judges, their families and their law clerks have all-expenses-paid trips at the expense of those organizations.

How can ANYBODY, ANY litigant or attorney be assured under these circumstances that his or her presiding judge did not discuss the case at a members-only reception in the American Inns of Court or a similar organization "promoting excellence of the legal profession", no doubt?

Moreover, there also exists a shady private organization called State-Federal Judicial Councils where federal and state judges fix federal cases against judges and other state public officials. The credo of that organization was expressed in a 1982 article by the then Chief Judge of the U.S. District Court for the Western District of New York Jack Weinstein – the organization is created in 1970, when the civil rights movement, and the number of civil rights lawsuits, were on the rise, and exists to "relieve tension" between federal and state judiciary, with a goal to make decisions to relieve such tension.

Here is the article, it is word-searchable.

http://scholarship.law.stjohns.edu/cgi/viewcontent.cgi?article=2206&context=lawreview

So, federal courts (presiding courts) created an organization with defendants (state judges, executive and legislative officials) to relieve tension between presiding courts and state defendants. That is called corruption, and it exists.

My FOIL request to NYS OCA, Judge Marks' domain, as to the composition of the New York State-Federal Judicial Council has been stalled for a long time now.

New York public may be unaware that there are so-called "advisory councils" in such State-Federal Judicial Councils where unknown judges "appoint" unknown attorneys (unknown unless they brag on their law firm's website of such "prestigious appointments") to those "Advisory Groups" through which private attorneys from large and powerful law firms "advise" state and federal judges before whom they appear and practice.

The same attorneys who are on the "Advisory Groups" show up also in the American Inns of Court, on various joint-with-judges committees of bar associations, "rule-making committees", "Commissions" such as this one – and at the same time appear in front of the judges they "advise" and herald their successes in such rigged appearances on their law firms' websites.

Since membership in those organizations is, once again, secret, and a federal lawsuit that sought to open such membership to the public was derailed by participants in those same organizations, the public – and the Commission, unless it has secret insider information through personal participation of its members - do not know which of the attorneys and judges who testified on November 30, 2015 participate in such secret-membership organizations, corrupt judicial process from behind the scenes and fix cases either as part of their agenda to "relieve tension between the federal judiciary and state officials" (State-Federal Judicial Councils) or to drum up business (American Inns of Court, Advisory Groups of State-Federal Judicial Councils, and similar organizations).

There should be a rule requiring judges and attorneys alike to publish on their official registration pages in the New York State Court Administration their membership in out-of-court organizations where judges are also members.

Otherwise, NONE of parties and attorneys from cases litigated for as long as American Inns of Court and State-Federal Judicial Councils exist can be assured that their cases were not fixed.

6) **It should be prohibited by law to punish parties and attorneys for advancing constitutional arguments, such punishment should be a case for a judge to be automatically taken off the bench; until judges stop blocking people's access to court to make a constitutional argument and to make a motion to recuse, they are not entitled to pay raises**

On November 13, 2015 I joined the growing number of attorneys across this state and this country who were punished for their professional activity as civil rights attorneys and for doing their duty of reporting judicial misconduct.

I request the Commission's attention to the dissent of democratic U.S. Senators to the proposed House bill 758 that is currently in the U.S. Senate, the bill is called Lawsuit Abuse Reduction Act and is a proposed amendment of Rule 11 for sanctions.

https://www.congress.gov/bill/114th-congress/house-bill/758/all-info

The dissent to that bill relates the history of Rule 11 and its disproportionate application to civil rights attorneys, and requests that it should be prohibited to punish attorneys for making constitutional arguments on behalf of their clients.

The bill has a provision protection development of novel constitutional arguments:

https://www.govtrack.us/congress/bills/114/hr758/text/rh

(b)
"Rule of construction
Nothing in this Act or an amendment made by this Act shall be construed to bar or impede the assertion or development of new claims, defenses, or remedies under Federal, State, or local laws, including civil rights laws, or under the Constitution of the United States".

New York court-created rule of frivolous conduct, 22 NYCRR 130 does not have such a protective provision, and judges use it as a tool of fighting against attorneys who dare to raise constitutional arguments and especially constitutional arguments pertaining to judicial impartiality on motions to recuse.

As a result of the fact that New York rule of frivolous conduct does not have a protective provision against punishments for constitutional arguments, I am such an attorney whose law license **was taken** for making constitutional arguments on behalf of my clients.

The dissent to H.R.L. 758 relates the history of Rule 11 and its disproportionate application to civil rights attorneys, and requests that it should be prohibited to punish attorneys for making constitutional arguments on behalf of their clients.

https://www.govtrack.us/congress/votes/114-2015/h501

> Why such a partisan response? The controversy behind the Lawsuit Abuse Protection Act comes from a disagreement about the actual effects of the legislation on legal efficiency, as well as the effects on civil rights cases. The bill has received major support from Republicans under the belief that the threat of significant penalties will reduce cases of pointless or harmful lawsuits that waste the court's time. However Democrats have come out against the law for two reasons. According to Minority Whip Steny Hoyer (D-MD5), Democrats believe that making sanctions mandatory would lead to more court cases disputing these sanctions; and that the criteria for a "frivolous case" would create an unfair bias against civil rights cases.

The bill is also strongly opposed by the U.S. President, on the same grounds:

https://www.whitehouse.gov/sites/default/files/omb/legislative/sap/114/saphr758r_20150916.pdf

> The Administration is particularly concerned that the new requirements could be used to target consumer and civil rights plaintiffs. Consumer abuse and civil rights cases can rely heavily on the discovery process to prove the merits of their claims. In addition, civil rights cases often seek to challenge the law or to extend existing precedents. The threat of mandatory sanctions for failure to withstand a Rule 11 challenge could chill meritorious claims by deterring worthy plaintiffs, who often lack the financial resources to pay costs and fees, from challenging existing laws or seeking novel interpretations of them.

I am the living (still) example of how an attorney raising constitutional arguments on behalf of their clients (including pro bono) can end up losing her law license FOR doing that. Once again, all of the three sanctions imposed by Becker upon me and that were used as the exclusive grounds to pull my law license, were made based on constitutional arguments on behalf of 4 clients, two of them indigent, one of them legally blind, and one of the cases for which I was sanctioned and for which my license was pulled I was doing pro bono.

It was on behalf of my indigent clients that I raised issues of Becker's illegitimacy as a judge – based on evidence from the Clerk's office.

I must say that I did not come to suing judges in federal court lightly.

Harassment of me, my family and my clients by judge Becker started in 2009. My first lawsuit was filed in 2011. Because of abuse, we had to remove our child from the local school and out of the State of New York.

Because of abuse (that included refusal of the local authorities to investigate and prosecute a burglary, attempted arson and intimidation into our house in Delhi, NY), we had to finally leave the State of New York and reside, at least partially, in another state.

Yet, we still have a residence in New York, and we remain property owners, taxpayers and involuntary cash-cows for the proposed judicial pay-raise.

I exhausted all legal avenues available to me before I sued Judge Carl Becker of Delaware County on behalf of myself, my husband and an indigent client – for her, my lawsuit was pro bono.

In 2009, I made a motion to recuse Judge Becker in another client's child neglect case.

That was the situation where Judge Becker presided over a mandatory bench-trial case where trial by jury was not available by statute, and where Judge Becker represented the Petitioner the Petitioner's witnesses for 27 years before coming to the bench.

There was no disclosure of such a representation, as required by court rules.

I made a motion to recuse. That was in late August - early September of 2009.

Other attorneys who participated in that case took me aside and told me that "everybody knows it, but nobody makes motions to recuse", for fear of retaliation from Judge Becker (who hastily "retired" from the bench before expiration of his term this year at about the same time when New York State Comptroller issued a scathing audit report blasting Delaware County and Judge Becker's friends for handing out $129 mln worth of contracts without public bidding, my FOIL request as to copies of those contracts is similarly stalled, as any other sensitive FOILs I made over the years).

http://www.osc.state.ny.us/localgov/audits/counties/2015/delaware.pdf

http://www.pressconnects.com/story/news/local/2015/04/14/delaware-county-audit/25779341/?from=global&sessionKey=&autologin=

http://www.watershedpost.com/2015/delaware-county-awarded-millions-vendors-without-competition-comptroll

Within a week of my first motion to recuse Becker in 2009, my husband and I were ourselves charged with a fabricated charge of child neglect of our own child, charged by Becker's friend Commission Moon (now also retired and exposed for his self-dealings recently in a court case and where his wife with a different last name was caught buying up properties foreclosed on by the Delaware County, a sort of insider trading).

http://www.thedailystar.com/news/local_news/county-pols-quarrel-over-impropriety-in-land-sale/article_3d35f2cd-d77d-5db1-8369-a10bc8ce7eb7.html

http://www.thedailystar.com/news/local_news/delaware-caseworker-steps-down-amid-probe/article_4c6d7c62-d1cd-584b-ba7b-443f03757b20.html

At a deposition, Commissioner Moon said that we wouldn't have been charged had we "opened that door" (and allowed search of our home law office).

So, Becker, who was very likely behind these charges (dismissed after 2 years of litigation) wanted the search of our law office to see what else I had against him.

Becker recused from our case, but the presiding judge communicated with him (she mentioned it) nevertheless.

Recusal from our case in 2009 did not prevent Becker from presiding over all other cases my then-attorney husband Frederick J. Neroni and I

handled in Delaware County Family and County courts, and repeatedly humiliated me verbally during those proceedings, to the point of cutting off my objections by statements like “close your mouth, Mrs. Neroni”.

I complained to the Judicial Conduct Commission – with the same result as always – the complaints were tossed without any investigation. It is apparently, proper for a judge to behave this way towards a middle-aged female attorney in the courtroom.

Events came to a head when I could not tolerate misconduct of Becker towards me and my clients any more and, in late November – early December of 2010 asked the New York State Commission for Judicial Conduct, based on Becker’s documented misconduct in 9 cases, to take him off the bench.

Instead, Becker was promoted to Acting Supreme Court justice, and assigned himself to all of my Supreme Court cases, including one case parallel to a County court criminal case where Becker committed misconduct.

I conducted research and found out that, according to County Law, a County judge must file a certificate of election as a pre-requisite of taking the bench and taking the oath of office.

I had it checked what was filed in the Delaware County Clerk’s office back in early March of 2011.

In August of 2010, several months prior, I received an answer from Delaware County Board of Elections regarding any documents pertaining to Judge Becker’s alleged 2002 election.

The Board of Elections said that their retention period for such documents was only 2010 and that, as of August of 2010, **they no longer had the original petitions and ballots pertaining to 2002 elections.**

Since no certificate of election was filed in 2002 before Becker took the bench, no certificate of election was on file in 2011, and there were no

original documents to certify that election from de novo (anew), the election was not and could not be certified.

I filed motions to vacate all orders of Judge Becker in two cases because he was not a legitimate judge.

At the end of March 2011, Becker had Delaware County Board of Election file a false certification of his 2002 elections (because the original documents from which the Board could make such a certification was no longer available), presided over my motion to vacate and recuse challenging his very legitimacy, sanctioned me in both cases "for frivolous conduct" – and turned his sanctions into the disciplinary committee.

I reported Becker to the Delaware County District Attorney's office. Chief Assistant District Attorney John Hubbard (who, according to public records, bought Becker's law office building and, possibly, practice) refused to investigate and prosecute and instead asked me "why are you doing this?". An interesting question from a prosecutor to a witness reporting commission of a crime by several public officials, including a judge.

Becker defrauded voters in yet another election by getting elected in 2012 based on false claims:

http://attorneyindependence.blogspot.com/2014/04/is-it-time-to-impeach-judge-carl-f.html#.Vl87moQqdaA

Becker was sued by multiple people for multiple acts of misconduct.

http://attorneyindependence.blogspot.com/2014/03/what-is-judicial-misconduct-in-ohio-is.html#.Vl88A4QotUQ

My state court lawsuit against Becker was dismissed by judge James Tormey, who, unbeknownst to me at the time, was presiding over a case where his own attorney, the New York State Attorney General, was arguing on Becker's behalf, which was grounds for absolute disqualification.

Moreover, a month before being assigned to the lawsuit against Becker, also unbeknownst to me, the State of New York settled, at taxpayers' expense, to the tune of $600,000, a lawsuit against James Tormey for conduct that had nothing to do with his judicial duties – for attempts to coerce a female attorney, a court employee, into political espionage, and viciously retaliating against her when she refused to do Tormey's bidding.

http://www.syracuse.com/news/index.ssf/2011/04/deal_in_lawsuit_claiming_judge.html

Becker was allowed to peacefully "retire" from the bench without discipline or losing his license despite his documented misconduct.

Tormey still continues to "serve" and will now be the beneficiary – at my expense – of the claimed judicial pay raise, even though his actions against Bobette Morin should have gotten him disbarred and criminally prosecuted.

After Morin v Tormey was settled, by the way, Tormey was sued yet again, by another female court employee, also for conspiracy to discriminate against her in collusion with Tormey's law school buddy, Onondaga County District Attorney William Fitzpatrick.

http://www.syracuse.com/news/index.ssf/2015/01/acquitted_of_leaking_secrets_court_interpreter_sues_top_judge_and_da_over_lack_o.html

I would like to remind this Commission that not only Tormey is now the Supreme Court Justice, but he is also remaining the Chief Administrative Judge of the huge 5th judicial district.

Bobette Morin filed affidavits with federal court that were enough to start judicial discipline, attorney discipline and criminal investigation against Tormey, to take him off the bench, disbar him and to put him behind bars for a long time.

That did not happen.

Nancy Rodriguez-Walker filed a verified Complaint and affidavits with the court which were, once again, enough to start judicial discipline, attorney discipline and criminal investigation against Tormey, to take him off the bench, disbar him and to put him behind bars for a long time.

I filed complaints with the Judicial Conduct Commission and affirmations in motions to recuse that were enough to take Tormey off the bench and disbar him.

Yet, it is I, the reporter of judicial misconduct, who lost my license based on Becker's sanctions by the criminal cartel controlled by Tormey.

None of these people are being disciplined, and continue to call themselves and command other people to call them "Honorable", where the only honor they have is in their undeserved job title.

By the way, several members of disciplinary committee who pulled my law license were direct subordinates of Tormey who obviously did his bidding because I repeatedly exposed Tormey's behavior in motions, in a federal lawsuit and in my blog.

How appropriate.

So, it is the public officials now claiming entitlement to pay raise that commit misconduct.

Yet, it is the whistleblower of that misconduct that suffers the consequences of reporting by losing her law license and livelihood for exposing a judge's misconduct in motions to recuse and disqualify.

As of November 13, 2015, my law license was taken based exclusively on Becker's sanctions imposed in 2011, imposed upon me after he recused from the child neglect case fabricated against us by Becker's buddy Commissioner Moon in 2009, after I filed numerous complaints against him asking to take him off the bench, after I asked the New York State Attorney General in May of 2011 to oust Becker out of office as a usurper of public office (through a writ of quo warranto), and after I sued Becker on June 27, 2011 in Delaware County Supreme Court.

There are no other reasons for suspension of my law license, only Becker's sanctions, imposed within 3 days, a month and a month and 10 days respectively, after I sued him.

By the way, before my license was taken, while all local attorneys knew about my disciplinary proceedings (because I openly, without a request for anonymity, removed those proceedings at first to the federal court that refused me help because I did not assert racial discrimination by state courts), local attorneys actually referred clients to me to ask me to make motions to recuse on their own clients' behalf.

The motivation for such referrals as those potential clients explained it to me (I did not take those referred cases, because there is a specific rule that an attorney should not get into a case in order to disqualify a judge) was:

1) "I do not want to be blackballed for making a motion to recuse on your behalf";
2) "She (me) did it before, she is good at it, and she has nothing to lose already"

That is the true (cowardly) face of the legal profession and of the judiciary whose unlawful retaliation the legal profession is afraid of if it does its duty to its clients, which belies the sickening honey-dripping praises by attorneys directed at our "excellent" and excellently corrupt judiciary at the November 30, 2015 hearing.

What happened to me, and to my husband because of my political stance on judicial misconduct (my husband was also disbarred without a hearing, and we just got new sworn evidence that he may have been railroaded), is not just my personal problem.

I am, probably, the most proliferant attorney-writer on the issue of judicial misconduct in the country.

My blog http://attorneyindependence.blogspot.com that I started in March of 2014, has by now nearly 400,000 views, and topics I cover are serious topics of legal theory that my readers nevertheless consider interesting.

I was criminally prosecuted (charges were dropped) by Tormey-controlled criminal cartel (attorney grievance committee) for blogging for public interest, for exposing judicial and prosecutorial corruption and for documented fabrication of court transcripts.

Nobody was disciplined other than I – the reporter of corruption.

In the process of my husband's and my own ordeal with our law licenses, I conducted research and came into contact with attorneys similarly sanctioned for doing our jobs, for criticizing judges in motions to recuse and for making sure our clients can have the benefit of their constitutional rights of access to court, due process, equal protection of laws and fair adjudication by an impartial judge.

No party and no attorney should be punished for making pleadings asserting a constitutional right.

I am known in the legal community as a diligent researcher, and all of my constitutional arguments, if that is even necessary, were based on my reasonable legal interpretation of the U.S. Constitution (which is sufficient for a legal argument), my thorough review and reasonable interpretation of the record (that challenged judges ignored) and thorough factual background investigation (often stalled by authorities by stalling my FOIL requests).

As dissenting Democratic Senators stated in opposition to H.R.L. 758 (Lawsuit Abuse Reduction Act), when a rule such as Rule 11 (which is the same as the state court rule of frivolous conduct, 22 NYCRR Article 130 which Judge Becker used against me and which resulted in the suspension of my law license based on his retaliatory sanctions) is used to sanction constitutional arguments, no innovation in constitutional litigation and social progress will occur, there then would have been no Brown v Board of Education, and no other cases where "out-of-mainstream" constitutional arguments resulted in major breakthroughs in overturning discrimination against women, racial, ethnic and sex-orientation minorities and other forms of discrimination.

Unfortunately, my case is not unique.

Across the country attorneys lose licenses for I have two graduate degrees unrelated to law and I will survive, whether my law license is restored or not.

I encourage the Commission to read law review articles of Professor Margaret Tarkington on the issue of attorney speech, she covers the issue of judicial retaliation against attorneys for doing their jobs – like Judge Becker did to me.

The Commission heard testimony that an increasing number of poor litigants cannot afford an attorney.

My now disbarred husband ran, for over 30 years, a free legal clinic in a rural under-served area. That was not taken into consideration.

I was the only attorney in the same rural under-served area who handled all aspects of proceedings, providing consistency for my clients.

I could handle, for the same client and in the same case:

- an administrative proceedings (indicated reports of child maltreatment);
- a child neglect proceeding;
- a parallel criminal proceeding; and
- a federal civil rights lawsuit addressing constitutional issues that Family and criminal courts could not address due to restrictions on their jurisdiction

Throughout my legal career I gave free legal advice in person and on the phone around the clock, same as my husband did for years and decades.

I handled large cases, with discovery, motions and trials, pro bono, to the detriment of my own family time.

No more. People will not now have attorneys in Delhi NY and surrounding areas who they would be able to call or to whom they would be able to come at any time of day or night, business day or weekend, to get free legal advice. We were very dangerous. We were

actually doing our jobs for our clients. We were actually exposing judicial misconduct. We could not escape with our law licenses, my husband or I.

It is not just I who cannot practice any more.

It is my now former clients who cannot have the benefit of my independent representation which I provided without regard or fear of retaliation.

An attorney must not be operating in fear of retaliation for doing her job for her client.

It is very easy for the Commission to verify just how honorable our judiciary is and how well it adheres to its constitutional oath of office.

The only thing the Commission needs to do is to have an under-cover investigator (a law student) ask any law ethics professor teaching in law schools in the State of New York a simple question:

- what is an attorney to do if the attorney comes across evidence that a judge is committing misconduct, in the case where the attorney is representing a client, or in another case? Should the attorney report such misconduct? Should the attorney confront the judge? Should the attorney make a motion to recuse?

I already ran this test.

The answer of the law professor was – first, rounded eyes, second that reporting or challenging a judge under the circumstances will be a career suicide.

So much for the honey-dripping praises of the judiciary.

So much for the presumption of integrity of the judiciary.

If an attorney, whose license and livelihood is in the hands of the judiciary, cannot do her job for her clients and ensure her client's constitutional right to an impartial judge for fear that the judge will

make sure her livelihood will be yanked in retaliation for such a challenge (like Judge Becker did to mine), there is no point expounding about integrity and excellence of our judiciary.

Reaction of attorneys under conditions where they are not drumming up their business by expressing praise to those who feed them, reaction of ethics professors, statistics of imposition of sanctions against civil rights, solo, independent, criminal defense and Family Court defense attorneys speaks loud and clear: this state's judiciary must first learn how to adhere to its own constitutional oath, and how to conduct itself with integrity, without favor or instilling fear amongst attorneys for doing their jobs.

7) **All court proceedings should be open to the public. My experience as an observer in New York courts of nearly 20 years, and as a participant-attorney of nearly 7 years, shows that parties in the so-called "private" proceedings do not benefit by their privacy.**

In fact, when parties whose privacy New York law allegedly protects waive that privacy and ask to open proceedings to the public, so that the public is able to observe judicial misconduct and, in child neglect, divorce and attorney disciplinary proceedings, also prosecutorial, law guardian or favored-attorney misconduct in the cases, most often such requests are denied.

Litigants do not benefit by the privacy, as declared by the law closing certain proceedings, and that includes juvenile proceedings.

The "Kids for Cash" scandal in Pennsylvania would not have been possible to be happening for so many years and to injure so many children and their families, had juvenile proceedings been open to the public.

8) **There should be established an institution of independent court monitors, whose identity would not be known to judges, and for that reason openness of all court proceedings to the public is a necessity.**

Similar to air marshals, such court monitors should be present during court proceedings, collect evidence of judicial misconduct and present it to public citizen panels, including the grand juries that will conduct investigation and impose discipline on an administrative level or return criminal indictments.

To enable proper work of such court monitors, public access to all court proceedings should be ensured, and it should be a crime for any court employee or officer to interfere with video-recording of any court proceeding by any individual present in that courtroom.

If the judiciary is as blameless and as squeaky clean as judges and interested witnesses such as representatives of bar associations testifying before the Commission indicated, they will have no reason to oppose their proceedings being video-taped.

Recent developments in the civil rights movement in the era of the Internet and social media showed that misconduct of public officials is easier to expose and address when there is videotaped evidence of that misconduct.

Many a police officer was suspended, fired and criminally charged for conduct that would have otherwise escaped review of the public, after being denied and generally stonewalled by police administrators.

Some judges were already subjected to discipline after videotapes of what they do in the courtroom hit the YouTube.

What is going inside the courtroom must be open to the public, and what is open to the public, should be open to preservation of the record by video-taping and spreading for other members of the public, the taxpayers and potential voters, to be able to see and be property informed of the real competence and fitness of members of the judiciary branch to do their jobs.

The judiciary, people who holds in their hands the power to split families, take people's liberty, commit people to mental health hospitals, take people's property, livelihood and reputation, should be held to

higher, not lower standards, and should be subjected to higher, not lower scrutiny, than the rest of public servants.

Yet, in New York, judges treat themselves and require to be treated as deities that can do no wrong, their integrity is supposedly "presumed", which makes no sense in view of their self-gifted immunity for malicious and corrupt acts on the bench, judges are untouchable by either civil liability, administrative, criminal or disciplinary process, disciplinary proceedings against judges are all but non-existent, the New York State Judicial Conduct Commission is ridden with conflicts of interest and rather deserves a name of New York State Glorified Shredder of Complaints Against Judges.

Judicial pay, as one of the witnesses before the Commission argued on November 30, 2015, must be tied to their performance, and judicial performance must be assessed, as any other employee evaluation, by the employer, in the context of public officials, whether judicial, executive or legislative, such employer should be judicial panels where all citizens will sit, same as with jury duty, on a rotational basis, and where rules of disqualification for personal interest will be strict.

9) Judicial pay should be tied to the economic capacity of taxpayers and the State to provide for such pay and pay raises, and to the federal poverty levels.

No reports from serious economists were presented to the Commission that would analyze whether New York can afford judicial pay raises proposed, requested, claimed and demanded from this Commission by the judiciary.

Instead, judges acted like spoiled children and claimed that the next door neighbor (judges in other states or in federal judiciary) earn more.

The statute for judicial pay raises provide for such pay raises only if the current pay is inadequate.

I an employee in a private business comes to her employer and claims that in the business next door employees in similar positions are paid more, the employer has a choice – to raise her pay or to deny her request, and the employer's consideration will be, as in any business, whether the employee's pay is inadequate, whether the employee's job performance entitles her for a pay raise, whether the business can afford the pay raise, and whether the pay in the neighboring business is reasonable or will result in the business to go under.

The same considerations are applicable to public officials.

New York taxpayers, according to the state ranking (see the link and comments here)

http://attorneyindependence.blogspot.com/2015/12/chief-administrative-judge-marks-new.html

already cannot shoulder the state's obligation, and New York is financing its obligations by nontax sources, meaning that taxpayers and their children are saddled with an ever growing debt.

I also draw the Commissions attention to the fact that, according to the interlinked report, the unreported/undeclared pension benefit obligations are 8.5 higher than the reported obligations and constitute $250 billion (!).

Moreover, general counsel for Estee Lauder who testified on November 30, 2015, stated (based on an unclear source) that allegedly judicial pay in New York state is 47th-lowest among the states. Even if that is so, for which there was no competent proof provided, such a level of judicial pay matches the 46th-lowest position of the State of New York as to its economic health. It is only appropriate for the government to be paid as much as taxpayers, under the current state of economy, can afford.

There was no evidence presented to the Commission indicating that judicial pay, which for all state court judges is higher than $100,000

and for the Supreme Court judges is at the level of $174,000, is "inadequate".

All that judges say is that they want to be paid as their neighbors are being paid. Well, other states that were referenced in testimony, are ranking higher in their economic health than New York.

New York is already experiencing an exodus of taxpayers, and that exodus continued since at least the year 2009, see links here:

2015 - http://watchdog.org/238999/new-york-taxpayer-20k-debt/

2009 - http://www.empirecenter.org/publications/empire-state-exodus/

2012 - http://www.cnsnews.com/news/article/escape-new-york-high-taxing-empire-state-loses-34-million-residents-10-years

2013 - http://www.theblaze.com/blog/2013/08/22/map-the-mass-exodus-of-taxpayers-from-new-york-california/

Yet, judges that demand additional pay from already overburdened taxpayers, fraudulently claimed to this Commission that New York economy is going strong and that the "camel" can carry more, such as millions, and likely, billions of dollars in combined judicial pay raise and benefits.

Moreover, it was most troubling to hear testimony, both from judges and judicial associations and especially from attorneys who derive their financial well-being from the judicial system, both in terms of licensing and in various other ways, such as fiduciary appointments and assignments and hopes for possible favoritism by judges for such judicial pay-raise advocacy, about the alleged "personal hardship" that judges are experiencing.

It was downright disturbing to hear testimony from **the Legal Aid Society attorney** that **because** of the bad state of economy in New York, and **because** there are many poor litigants who cannot afford

an attorney (which is, not in small part, due to monopoly for court representation held in the death grip by the legal profession "regulated" by the judiciary who is part of that legal profession and "regulates" that profession so that the rich and powerful law firms get richer and more powerful and critics of judicial misconduct who are actually helping the indigent lose their law licenses), judges who deal with those indigent pro se litigants should receive a judicial pay raise "for their patience".

Maybe, just maybe, if judges would not pull licenses from civil rights attorneys who criticize them while doing pro bono work, they would not have "had" to "deal" with so many unrepresented parties.

The mere fact that such positions are openly offered in a public hearing, by attorneys for the poor, in favor of pay raises of judicial salaries that exceed federal poverty levels over 10 times, reflects the complete disdain of the legal profession – and of the judiciary – to the needs of the public for access to court and legal representation.

It is the legal profession and the judiciary that created a quagmire of court rules and statutes that is impossible for a pro se indigent and often poorly educated litigant to navigate.

It is the legal profession who lobbies against the long overdue deregulation that would allow more affordable court representation for the poor, and the selective non-enforcement of attorney discipline against powerful attorneys, especially those related or connected through social, financial or political ties to judges, as well as the composition of attorney disciplinary committees of super-majorities of competitors, practicing attorneys, clearly indicate that attorney regulation by the judiciary is not for the benefit and protection of consumers, but for the benefit and protection of profits of the legal elite.

Yet, while it is the judiciary who has and is continuing to cause access-to-justice crisis in the State of New York, it is also the judiciary who claims pay raises to deal with "those pro se litigants".

Such arrogant attitude is unacceptable, such grounds for pay raise are unacceptable, and such a request alone must result in actually CUTTING judicial pay in order to be able to bridge access-to-justice gap.

10) There was testimony before the Commission that the judiciary loses "talent", that judges leave their positions because they earn on par or less than associates in large law firms.

First, the argument came from a judge in the Appellate Division 2nd Department.

Here is a story about what kind of "talent" the 2nd Department recently "lost" where there is an appearance that the Judiciary and the Legislature in New York are joined at the hip through familial contacts and "connected" law firms.

http://www.nydailynews.com/news/politics/skelos-brother-join-law-firm-senate-successor-article-1.2282549

It is a huge appearance of impropriety in how Peter Skelos grabbed a business opportunity with connections to his indicted brother.

If the judiciary loses this kind of "talent", taxpayers will only benefit.

Moreover, arguments regarding "losing talent", "creating impressions in the international business community" are simply not relevant to the issue of **adequacy of the current judicial salaries** and should not be considered by the Commission.

There was also testimony before the Commission on November 30, 2015 – by an opponent of pay raises - that judges are entitled ONLY and EXCLUSIVELY to a minimum pay for which an attorney of required competency will work as a judge.

Under the New York State Constitution, the only test of competency for a judge is that he or she is a licensed attorney for 10 years (and for that I would advocate to change New York State Constitution, because such a

test is obviously written into the Constitution by the lobbying efforts of the legal profession and contributes nothing to judicial qualifications).

Yet, while providing examples that judges are paid less or equally with associates in large law firms, I heard no testimony and saw no written submissions to this Commission (at least, none posted on the Commission's website) that would reflect the woeful condition of the market of legal services, the shrinking base of paying clients due to poorer state of economy, or that an average competent trial attorney in New York may earn far less than an average judge.

There is, according to the New York State bar association, over a quarter of a million attorneys in New York.

The easiest way to establish what is an adequate level of judicial pay is to circulate questionnaires among trial attorneys, and not only among the trial attorneys in large law firms doing international and commercial litigation with extra-rich clients, but trial attorneys in Family Court, in criminal courts, doing assigned cases for $60 to $75 an hour.

The Commission should ask those attorneys what would be the lowest salary that they will be happy with to leave their private practice and become a judge (if they disregard the issue whether they have the money and clout to run for a judge).

I am sure that numbers named by average attorneys will be much more modest than even the current judicial salaries.

If the Commission does not have time to do such a survey, that is the Commission's own fault, because the Commission had enough time, being appointed months ago, but did not do anything other than announce one extremely short public hearing, with testimony of a handful of people by invitation only, scheduled in just one location, New York City, and right after a Thanksgiving weekend, which necessarily dwindled the number of potential attendees to near nothing.

Even that inadequate public hearing was held with a very short notice, and even that notice had to been issued by the Commission under pressure from Elena Sassower, Director of the Center for Judicial Accountability who has been then mistreated by the Commission at the hearing and denied additional time to provide to the Commission detailed information necessary for the Commission's determination.

It is very clear that the 10-minute restrictions on testimony was slanted towards proponents rather than opponents of judicial pay raises. It is easy to praise the government in the 10-minute period, but it is not possible to provide all necessary facts criticizing the government, and without details, criticism of the government necessarily looks conclusory and may appear insufficient, which was apparently the intent of the Commission in setting such 10-minute restrictions.

In fact, the Commission had months to do its job.

In those months, numerous hearings without any time-restrictions on testimony, in various locations, could be held. If members of the Commission are too busy to do their jobs (as judges often are, claiming that pleadings are too detailed and too long for judges to even review them), due to their age or alternative engagements or business, they should not take that job to begin with.

I also see no announcement for any public hearings for pay raises of Legislative and Executive branch, so, I understand, these issues will be decided by the Commission clandestinely, without any public input or public hearings, which is against the law.

CONCLUSIONS

Most of the Commission members, those who are practicing attorneys, are disqualified from deciding the issue of judicial pay raises through financial interest.

Additionally, the retired judge Lack, according to press coverage, appears to lack (no pun intended) basic integrity, which also showed when he, despite being on the panel as a decision-maker, made

evidentiary statements at the November 30, 2015 hearing favoring proponents of judicial pay raise.

Substantively, there is no basis for the Commission to recommend judicial pay raises, with the present state of New York economy, the present level of judicial pay, the present level of judicial performance that the Commission did not explore and the present level of income in the legal profession across the State of New York that the Commission similarly did not explore.

Such pay raises will be an unfair burden on the already struggling taxpayers of the State of New York that New York taxpayers cannot afford.

Moreover, nothing in the testimony or written submissions to the Commission indicated that the current judicial pay is "inadequate", and the Commission, restricted in its findings by the statute allowing pay raises only if current pay raises are found "inadequate", has no authority to recommend judicial pay raises.

The current judicial salaries are more than adequate salary for a public official funded by taxpayers in a state where the income of an average New York taxpayer is around $52,000 and when the federal poverty level for 2015 is $11,700 for a single person, and are much more than the corrupt New York judiciary deserves.

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