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BEFORE THE NEW YORK STATE SENATE  
STANDING COMMITTEE ON JUDICIARY

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Public Hearing on the  
Appellate Division First Department  
Departmental Disciplinary Committee,  
the Grievance Committees of the  
Various Judicial Districts, and the  
New York State Commission on Judicial Conduct

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Hearing Room 6  
Empire State Plaza  
Albany, NY

June 8, 2009  
10:35 a.m.

PRESIDING:

Senator John Sampson  
Chair  
Senate Standing Committee on Judiciary

PRESENT:

Senator John A. DeFrancisco (R)  
Senator Bill Perkins

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1                   CHAIRMAN SAMPSON:       I'd like to just  
2                   get this hearing started.  And I apologize  
3                   for my tardiness.

4                   First of all, I want to welcome all  
5                   those who are attending this hearing dealing  
6                   with the disciplinary process as it refers  
7                   to lawyers and also to judges in the State  
8                   of New York.  My name is Senator John  
9                   Sampson, I'm from the 19th Senatorial  
10                  District, along with my colleague Senator  
11                  John DeFrancisco, who is from the Syracuse  
12                  region.

13                  Am I correct, Senator?

14                  SENATOR DeFRANCISCO:       That's correct.

15                  CHAIRMAN SAMPSON:       And we want to  
16                  welcome you all here this morning.

17                  This is the first in a series of  
18                  hearings that will examine the disciplinary  
19                  process for lawyers and judges in the State  
20                  of New York.  When a complaint comes to a  
21                  disciplinary body, we want to know how is it  
22                  being handled, how many people examine the  
23                  complaint to decide what the process is,  
24                  what review mechanisms are in place to

1 ensure that once the decision is reached it  
2 is fair and according to the rules of law.

3 These are just a few questions that  
4 we'll be examining during the course of this  
5 hearing. I know many of you have traveled  
6 great distances to be here today to observe  
7 and to participate in today's hearing. I  
8 would like to take this opportunity to thank  
9 you all. Your participation and input on  
10 the disciplinary process will help the  
11 committee determine what if any measures are  
12 needed to improve or repair the system so  
13 that the members of the public as well as  
14 the lawyers and judges are all treated  
15 fairly and equitably by the disciplinary  
16 system.

17 This hearing has generated a great deal  
18 of interest from the public. A lot of  
19 people want to speak today, but  
20 unfortunately the committee was not able to  
21 accommodate them all due to the limited  
22 time. We have about 30 witnesses, close to  
23 30 witnesses. I'm going to try to ask  
24 everybody to keep their comments within five



1 minutes. We want to get to the point so we  
2 can have, you know, the interchange between  
3 questions and answers.

4 And due to the number of responses we  
5 received, the committee will conduct  
6 additional hearings in New York City as well  
7 as in Western New York so that we can get a  
8 better understanding of the total picture  
9 across the state and accommodate those who  
10 couldn't testify today.

11 As I indicated, we have about 30  
12 individuals who are going to testify, and I  
13 do apologize for that. But we're going to  
14 try to be as swift as possible.

15 As I said, this hearing will examine  
16 the disciplinary process for the judges and  
17 attorneys in the State of New York. Judges  
18 in our state are disciplined by the  
19 Commission on Judicial Conduct. The  
20 commission acts pursuant to Article 6,  
21 Section 22 of the New York State  
22 Constitution. This law was put in place in  
23 1978, after the people of New York spoke  
24 with one voice that there needed to be a

1 better system for judicial discipline.

2 The Legislature acted through the  
3 Judiciary Law to codify what the people  
4 asked for. Article 2 of the Judiciary Law  
5 sets out the powers and duties of the  
6 commission. The commission consists of 11  
7 individuals, four appointed by the Governor,  
8 one by the Temporary President of the  
9 Senate, one by the Minority Leader of the  
10 Senate, one by the Speaker of the Assembly,  
11 one by the Minority Leader of the Assembly,  
12 and three by the Chief Judge of the Court of  
13 Appeals.

14 This commission is empowered to  
15 censure, admonish or remove judges from  
16 office if necessary. They can subpoena  
17 witnesses, compel courts to release records  
18 to them, offer immunity to witnesses,  
19 investigate written complaints about judges  
20 or, on their initiative, conduct  
21 investigations concerning judges of the  
22 United Court System.

23 There are approximately 3500 judges and  
24 justices in the New York State Unified Court

1 System. Last year alone, there were 1900  
2 complaints of judicial misconduct, and of  
3 these the commission conducted 262  
4 full-fledged investigations, along with 174  
5 investigations that were pending from 2007.

6 Dealing with attorney discipline in  
7 New York is governed by the Appellate  
8 Division of the State of New York Supreme  
9 Court. The rules that govern attorney  
10 conduct and discipline are found in rules of  
11 professional conduct. Lawyers who violate  
12 those rules are subject to discipline. This  
13 discipline can take the form of a letter of  
14 caution, an order of public censure,  
15 suspension or disbarment of the attorneys.  
16 Only complaints that do result in formal  
17 disciplinary action, censure, suspension or  
18 disbarment are available to the public.

19 Once again, ladies and gentlemen, I  
20 want to thank you very much for being here  
21 today. We're going to try to conduct this  
22 hearing as quickly as possible in an orderly  
23 fashion.

24 And I would like to introduce one of my

1 colleagues who just came, Senator Perkins,  
2 from New York City, from Harlem.

3 But at this point in time I would like  
4 my colleague Senator DeFrancisco to say a  
5 few words.

6 SENATOR DeFRANCISCO: My words are  
7 very few.

8 Everybody is handing in a written  
9 presentation. Do me a favor, because I've  
10 gone through many, many hearings in the last  
11 17 years. Assume, just for the sake of  
12 argument, that we can read. You know, maybe  
13 that's a bad assumption on behalf of  
14 officials in state government, but let's  
15 assume that we can read. And get to the  
16 main points of your presentation.  
17 Otherwise, we'll never get you to say what's  
18 really on your mind and we get into a  
19 reading contest, which doesn't do anybody  
20 any good, and those who are here towards the  
21 end of the list will be here about 4 o'clock  
22 this afternoon waiting for their turn.

23 So please do that, and it will really  
24 be helpful for all of us. Thank you.

1                   CHAIRMAN SAMPSON:       Senator Bill  
2                   Perkins.

3                   SENATOR PERKINS:       I'm going to be  
4                   even briefer.

5                   I of course echo the sentiments of my  
6                   colleague in terms of the fact that the  
7                   testimony has been written, and a brief  
8                   summarization that allows us to sort of  
9                   explore your questions and concerns more  
10                  would be helpful.

11                  And I just also want to compliment the  
12                  chairman for his vision with respect to this  
13                  committee, and particularly on this issue  
14                  which is of such great importance to many of  
15                  us. And I just want to urge him to keep up  
16                  the good work.

17                  CHAIRMAN SAMPSON:       Thank you very  
18                  much, Senator Perkins.

19                  Without further ado, we're going to get  
20                  started. The first witness is Martin Gold,  
21                  a member of the First Department  
22                  Departmental Disciplinary Committee, and  
23                  also Alan Friedberg, chief counsel, First  
24                  Department Departmental Disciplinary

1           Committee.

2                   Welcome, gentlemen. Good morning.

3           MR. GOLD:       Good morning. Thank you.

4                   Mr. Chairman, distinguished members of  
5           the committee, my name is Martin R. Gold. I  
6           am a lawyer in New York City and a partner  
7           in Sonnenschein, Nath & Rosenthal, a large  
8           national law firm. I'm a volunteer member  
9           of the Departmental Disciplinary Committee  
10          for the First Judicial Department appointed  
11          by the Appellate Division. I am also a  
12          senior member of the policy committee of the  
13          Disciplinary Committee.

14                   The chairman of the committee, Mr. Roy  
15          Reardon, very much wanted to be here today  
16          and to attend this hearing and participate,  
17          but another commitment made that impossible.  
18          And he asked me to attend in his place, and  
19          it's my pleasure to do so.

20                   With me is our chief counsel, Alan  
21          Friedberg. Together we will provide you  
22          with a description of the operation of the  
23          attorney disciplinary system in the First  
24          Department and answer any questions you may

1 have concerning our operation.

2 The Departmental Disciplinary Committee  
3 was established by the Appellate Division,  
4 First Department, to assist in the court's  
5 role in disciplining attorneys in the First  
6 Department, which consists of New York and  
7 Bronx Counties. Members of the committee  
8 are all appointed by the Appellate Division.  
9 They are all volunteers.

10 There are approximately 80,000  
11 attorneys in the First Department. As I  
12 have indicated, Mr. Reardon is chairman of  
13 the committee. The committee also receives  
14 hands-on guidance from the Policy Committee  
15 appointed by the Appellate Division from the  
16 members of the committee. The Policy  
17 Committee oversees the general functioning  
18 of the committee and the staff and also  
19 provides direction on pending issues.

20 Now, the Appellate Division has adopted  
21 public rules and procedures governing the  
22 Departmental Disciplinary Committee and  
23 rules governing the conduct of attorneys.  
24 These rules are available to the public,

1 together with the rules of professional  
2 conduct which govern attorney conduct, on  
3 the Departmental Disciplinary Committee  
4 website, which is part of the Appellate  
5 Division website.

6 Also available on the website is  
7 information about the committee, including  
8 information concerning how a complaint can  
9 be filed. Information about filing a  
10 complaint is also available to members of  
11 the public who call or visit the committee's  
12 offices. Complaint forms are available in  
13 English, Spanish, and Chinese.

14 It is important to note that the  
15 purpose of attorney discipline is not to  
16 mediate disputes between attorneys and  
17 clients or to vindicate the rights of  
18 complainants. Such matters can best be  
19 handled by the court system. Generally fee  
20 disputes, issues of legal strategy, and  
21 single incidents of malpractice that might  
22 be addressed in a civil matter do not  
23 constitute misconduct. The Appellate  
24 Division and the committee must devote its



1 limited resources to the limited remedial  
2 options within its jurisdiction.

3 Pursuant to Section 90, Subdivision 10,  
4 as Senator Sampson mentioned, of the  
5 Judiciary Law, all materials concerning an  
6 investigation or proceeding concerning an  
7 attorney's conduct are sealed until the  
8 Appellate Division issues a decision  
9 sustaining charges of misconduct concerning  
10 an attorney. When the Appellate Division  
11 issues such a decision, the record of all of  
12 the proceedings becomes public.

13 The Office of the Chief Counsel of the  
14 Disciplinary Committee is staffed by 23  
15 attorneys. The staff attorneys screen  
16 complaints, investigate allegations of  
17 misconduct, and prosecute cases at hearings.  
18 As I have indicated, Mr. Alan Friedberg is  
19 the chief counsel.

20 Here is the process by which a  
21 complaint is handled. When a complaint is  
22 received at the committee, it is immediately  
23 assigned to a staff attorney to be screened.  
24 Investigations may also be commenced by the

1 chief counsel on his own initiative, even in  
2 the absence of a complaint from a third  
3 party.

4 Since numerous attorneys have offices  
5 in more than one location in the state, the  
6 address that an attorney lists in  
7 registering with the Office of Court  
8 Administration determines which disciplinary  
9 body exercises jurisdiction over that  
10 attorney. Complaints against an attorney  
11 who is registered at an address in another  
12 judicial department are referred to the  
13 appropriate disciplinary body. Accordingly,  
14 each regional disciplinary agency is able to  
15 keep a record of all complaints filed  
16 against that attorney.

17 Complaints against judges are referred  
18 to the Commission on Judicial Conduct; we  
19 have no jurisdiction over them.

20 The staff attorney who screens the  
21 complaint reviews the entire complaint,  
22 including attachments, and may choose to  
23 interview the complainant, obtain court  
24 documents, or obtain documents or

1 information from the attorney who is the  
2 subject of the complaint. If the staff  
3 attorney believes the allegations are likely  
4 to warrant formal charges, he or she refers  
5 the matter to the chief counsel for  
6 immediate assignment.

7 If the chief counsel concurs that the  
8 allegations are likely to warrant formal  
9 charges, the complaint is immediately  
10 assigned to a staff attorney for  
11 investigation, which may include obtaining a  
12 written response from the respondent  
13 attorney, scheduling testimony of the  
14 respondent attorney or others, and obtaining  
15 records, including court records and bank  
16 records. All of them, we have subpoena  
17 power to do that.

18 In cases where there's conclusive  
19 evidence of serious misconduct or failure to  
20 cooperate with the committee, the committee  
21 is authorized to make an immediate motion to  
22 seek an attorney's interim suspension during  
23 the proceedings.

24 If the allegations appear less serious,

1 the screening attorney may determine to seek  
2 the written response of the respondent  
3 attorney. When that is obtained, it is sent  
4 to the complainant, who is requested to  
5 reply to the attorney's response. After  
6 obtaining this information, the screening  
7 staff attorney may recommend, in writing,  
8 dismissal or assignment of the matter to a  
9 staff attorney for further investigation.

10 Each recommendation is reviewed by the  
11 chief counsel, who may determine to assign  
12 the matter to a staff attorney for  
13 investigation or recommend dismissal of the  
14 complaint.

15 If the recommendation of the chief  
16 counsel is to dismiss the complaint, the  
17 chief counsel signs the recommendation  
18 memorandum and the entire file, including  
19 the memorandum, is sent to one of the 55  
20 members of the Departmental Disciplinary  
21 Committee who must approve the dismissal.

22 If the complainant seeks  
23 reconsideration, the matter is sent to  
24 another attorney committee member who must

1           also approve dismissal. And if there's  
2           disagreement, we have procedures to deal  
3           with that.

4           The committee members are appointed by  
5           the Appellate Division and include  
6           experienced practicing attorneys, former  
7           prosecutors, and approximately one-third are  
8           lay members.

9           CHAIRMAN SAMPSON:        So this committee  
10          that reviews it, they are appointed by  
11          members of the disciplinary --

12          MR. GOLD:        These are the members of  
13          the committee, the disciplinary committee,  
14          all of whom were appointed by the court.

15          CHAIRMAN SAMPSON:        Okay.

16          MR. GOLD:        The types of complaints  
17          that are dismissed include those complaints  
18          expressing general dissatisfaction with the  
19          outcome of a case without an allegation of  
20          specific misconduct by an attorney, a very  
21          common kind of complaint. There's a losing  
22          side in every litigation.

23          CHAIRMAN SAMPSON:        We know that.  
24          And, Mr. Gold, we're just trying to keep

1 everything within five minutes, because we  
2 have quite a few --

3 MR. GOLD: Well, I'm going to the  
4 heart of what you're asking about --

5 CHAIRMAN SAMPSON: Okay. If you can,  
6 that would be great.

7 MR. GOLD: -- is how these things are  
8 reviewed internally and what are our  
9 procedures.

10 The committee has discretion to refer  
11 action concerning possible misconduct by an  
12 attorney until litigation in the court  
13 system is concluded. The exercise of that  
14 discretion is done on a case-by-case basis.

15 If the staff attorney determines that  
16 the allegations do not constitute  
17 misconduct, the screening attorney may  
18 recommend that the complaint be rejected  
19 without seeking a response from the  
20 respondent attorney. In such a case the  
21 screening attorney's written memorandum is  
22 reviewed again by the chief counsel, who, if  
23 he agrees with the recommendation, signs the  
24 memorandum, and again the entire file is

1 sent to a committee member who must approve  
2 the rejection.

3 Following an investigation, which may  
4 include depositions, subpoenaed documents,  
5 interviews, the attorney writes a memorandum  
6 recommending action on the complaint. The  
7 memorandum again must be approved by chief  
8 counsel. If the recommendation is for  
9 dismissal, the entire file again goes to a  
10 committee member for approval. And again,  
11 there's a procedure for reconsideration if  
12 the complainant seeks such reconsideration.

13 If the recommendation is for a letter  
14 of admonition or the filing of formal  
15 charges, it must be approved by two separate  
16 attorney members of the Policy Committee of  
17 the committee, which is composed of nine  
18 attorneys and three laypersons. The members  
19 review a file; if two members approve an  
20 admonition, a confidential admonition is  
21 sent to the respondent attorney and the  
22 complainant is notified.

23 An admonition, although private, is  
24 considered discipline and may be used as

1           aggravation if further charges are filed  
2           against the attorney. If two attorney  
3           members of the Policy Committee, after  
4           reviewing the file, approve charges, the  
5           Appellate Division appoints a referee who  
6           conducts a hearing, which is essentially a  
7           trial. The rules of evidence apply.

8           The referee's recommendation is then  
9           reviewed by a panel, usually of four members  
10          of the Disciplinary Committee, who make a  
11          recommendation to the Appellate Division as  
12          to misconduct or possible action.

13          SENATOR PERKINS:     Excuse me. Maybe  
14          we can get to the balance of what you're  
15          going to share with some questions that I  
16          think are coming up.

17          MR. GOLD:         Fine.

18          SENATOR PERKINS:     For instance -- if  
19          you don't mind, Mr. Chair -- I'm looking  
20          sort of like for some statistical  
21          information in terms of how many  
22          complaints --

23          MR. GOLD:         I'm coming to that, but  
24          I'll --



1                   SENATOR PERKINS:       So I might as well  
2                   ask the question so you can get to it, and  
3                   that way we can try and have a conversation.

4                   Because, you know, one of the wonderful  
5                   things, Mr. Chairman, is that this is such a  
6                   great turnout, there's a lot of folks here.  
7                   And it's going to take a lot of time, so --

8                   MR. GOLD:       Well, let me just jump to  
9                   the statistics that we have.

10                  SENATOR PERKINS:       Okay.

11                  MR. GOLD:       In 2008 the committee  
12                  received approximately 3300 complaints,  
13                  concerning attorneys. Five hundred  
14                  twenty-five of these were dismissed without  
15                  seeking responses from the respondent  
16                  attorney because these complaints did not  
17                  describe conduct that violated the rules  
18                  which the committee enforces. An additional  
19                  367 complaints were referred to other  
20                  disciplinary agencies, such as when a  
21                  complaint is made against an attorney in a  
22                  different department.

23                  And also included in that number are  
24                  complaints against nonattorneys, such as the

1           unauthorized practice of law. Those things  
2           we refer to the district attorney's office.

3           Of the remaining cases, responses are  
4           sought and other forms of investigation are  
5           commenced.

6           In 2008, 21 attorneys were disbarred  
7           after hearings, that's after full hearings.  
8           Eight attorneys submitted disciplinary  
9           resignations, 22 attorneys were suspended,  
10          and two were publicly censured. In  
11          addition, approximately 1900 complaints were  
12          dismissed by the committee and 58 attorneys  
13          received private admonitions.

14          Now, I can say -- these are the 2008  
15          statistics -- I've been a member of the  
16          committee for quite some time, and I would  
17          say that this was a representative year.

18          CHAIRMAN SAMPSON:       That's usually  
19          the -- that's the norm, or are there more  
20          complaints, less complaints?

21          MR. GOLD:        I think this is typical.

22          CHAIRMAN SAMPSON:       Typical?

23          MR. GOLD:        Mm-hmm. A typical kind of  
24          a year.

1                   CHAIRMAN SAMPSON:       And when you were  
2                   talking about the issue, if there is a  
3                   question where, say, the staff attorney is  
4                   uncertain whether this rises to the level of  
5                   an attorney being disciplined, does he then  
6                   go speak to the chief counsel?

7                   MR. GOLD:       Absolutely.   Each staff  
8                   attorney -- now, let me turn this one over  
9                   to Alan Friedberg, because he handles the  
10                  staff.

11                  MR. FRIEDBERG:       If there's any  
12                  question that there might be misconduct, we  
13                  would proceed with it.

14                  But we get many complaints that are  
15                  just somebody who might have lost a criminal  
16                  or civil case and just said "I lost, and I'm  
17                  blaming it on my lawyer."   If there's no  
18                  grounds for misconduct, then those are  
19                  rejected without seeking a response.

20                  But in most cases we do seek the  
21                  response of the attorney, and then that  
22                  response, which we call an answer, is sent  
23                  to the complainant for what we call a reply.  
24                  And then when that comes in, we make a

1 determination in every case.

2 And that's 3300 to 3500 complaints a  
3 year, I review them. And for any dismissal,  
4 a committee member must review it, an  
5 attorney committee member. And if  
6 reconsideration is sought, a second attorney  
7 committee member must review it.

8 For anything that may go to charges or  
9 an admonition, two attorney Policy Committee  
10 members must review it and approve.

11 CHAIRMAN SAMPSON: And dealing with  
12 the -- and usually there's one staff  
13 attorney who works on these complaints? Or,  
14 I mean --

15 MR. FRIEDBERG: Well, almost all the  
16 attorneys screen cases except for several of  
17 the supervisors. So it's just randomly  
18 given out to the next attorney. Our intake  
19 people just give it out --

20 CHAIRMAN SAMPSON: How many cases do  
21 they normally handle?

22 MR. FRIEDBERG: Well, they normally  
23 have about 50 cases for -- not for  
24 screening, for investigation. And they

1 probably would screen 3300 complaints  
2 divided by 21 or 20 attorneys who are  
3 screening, 150 a year, three a week, I'm  
4 assuming.

5 Most of our staff is very experienced.  
6 Many are former prosecutors.

7 MR. GOLD: Senator, let me just add  
8 one thing. In cases where there's internal  
9 disagreement or, say, the chief counsel in  
10 his own mind looks at a case and says "This  
11 one is kind of close, I don't know what we  
12 ought to do," he'll take it to the chairman,  
13 to Mr. Reardon.

14 Sometimes when Mr. Reardon looks at a  
15 case, he says, "Let's bring this to the  
16 whole Policy Committee."

17 CHAIRMAN SAMPSON: I gotcha. So if  
18 there's a question such as that, it then  
19 goes to the entire Policy Committee?

20 MR. GOLD: It could, yes.

21 CHAIRMAN SAMPSON: How many members  
22 of the Policy Committee?

23 MR. FRIEDBERG: There's 12. All  
24 appointed by the Appellate Division.

1                   CHAIRMAN SAMPSON:       And out of those  
2                   12 members, suppose you have a split? You  
3                   know, six say it doesn't rise to that level,  
4                   and the other six say it rises to a certain  
5                   level. What do we do in those instances?

6                   MR. FRIEDBERG:       That's theoretical.  
7                   It never really happens.

8                   CHAIRMAN SAMPSON:       Never really  
9                   happens.

10                  MR. FRIEDBERG:       If six people thought  
11                  it was misconduct, I'd have to say, well,  
12                  potentially it could be misconduct, and I'd  
13                  proceed. But generally it's fairly obvious.

14                  CHAIRMAN SAMPSON:       And most of the  
15                  cases that you see are usually mishandling  
16                  escrow or --

17                  MR. FRIEDBERG:       Well, most of the  
18                  complaints we get are neglect from the  
19                  clients.

20                  Most of the serious cases that result  
21                  in serious charges involve financial  
22                  matters, particularly escrow. Although  
23                  escrow is not the biggest type of complaint,  
24                  it's the biggest type of complaint that

1 perhaps results in serious penalty.

2 MR. GOLD: I should say that in the  
3 First Department, because of the nature of  
4 what goes on in the Island of Manhattan, we  
5 get an awful lot of very major complaints  
6 involving complicated financial issues.

7 Sometimes -- we don't get too many of them,  
8 but we do get some of these cases which are  
9 very complex and involved. Sometimes they  
10 involve allegations of mishandling of funds  
11 in connection with estates or trusts or  
12 securities matters or things of that sort.

13 And we deal with all of those kinds of  
14 matters, and we have members of the Policy  
15 Committee who are skilled and experienced in  
16 mostly all of these areas.

17 Now, by the way, at the present time  
18 one of the issues that's facing us, which is  
19 very important to us, is immigration cases.  
20 We are very concerned that people who are  
21 coming into the United States and are here  
22 and are subject to the immigration  
23 litigation system, too many of them are  
24 being inadequately represented by counsel.

1           Now, we just handle one little aspect  
2           of that. We're concerned when lawyers take  
3           advantage of some of the vulnerable  
4           population.

5           CHAIRMAN SAMPSON:       No, I have seen  
6           that. And you're correct about that, I have  
7           seen that, especially with respect to my  
8           constituencies; these individuals have paid  
9           a considerable amount of money and it hasn't  
10          gone anywhere.

11          MR. FRIEDBERG:        Judge Katzman of the  
12          Second Circuit has established a panel of  
13          people from various fields who work in this,  
14          and we're working very closely with that  
15          panel. And we are very concerned about  
16          people who take advantage of perhaps the  
17          most vulnerable people around.

18          CHAIRMAN SAMPSON:       Thank you very  
19          much.

20          Senator DeFrancisco?

21          SENATOR DeFRANCISCO:    No, thank you.

22          CHAIRMAN SAMPSON:        Senator Perkins,  
23          you had a question?

24          SENATOR PERKINS:         Can you just give



1           us -- you just mentioned two major sources,  
2           I guess, of complaints. One has to do with  
3           the escrow accounts and the other one sort  
4           of neglect.

5           MR. GOLD:        Yes.

6           SENATOR PERKINS:    Now, what falls  
7           into sort of the neglect category?

8           MR. GOLD:        Well, a typical kind of  
9           neglect case, someone will write a letter  
10          and say, "I hired a lawyer, I paid him  
11          X thousand dollars as a retainer, and then I  
12          couldn't get him on the telephone and he  
13          didn't do anything for me." That's a  
14          serious matter. That X thousands of dollars  
15          is important to the client. Lawyers are not  
16          supposed to neglect matters for clients.

17          And generally what we do with those is,  
18          depending upon whether or not the client has  
19          been adversely affected already by what's  
20          happened -- I mean, if the statute of  
21          limitations has run or something like  
22          that -- we treat those as serious matters.

23          In the absence of something serious  
24          having already happened, and certainly if

1           this is a first offense against that lawyer,  
2           it would normally result in a letter of  
3           admonition. So even though neglect is the  
4           largest single category of matters that we  
5           have, it's not often the most serious in  
6           terms of the discipline.

7           The mishandling of client funds, a  
8           client escrow account or maybe estate funds  
9           or something like that, is probably the most  
10          serious and comes with the way the court  
11          deals with that --

12          SENATOR PERKINS:        Would you say most  
13          of your cases are in that area of the escrow  
14          accounts?

15          MR. GOLD:            No.

16          MR. FRIEDBERG:        Not most, but many.

17          SENATOR PERKINS:        But many.

18          MR. GOLD:            Yes.

19          SENATOR PERKINS:        Most would be in  
20          the neglect categories?

21          MR. GOLD:            Right.

22          SENATOR PERKINS:        Let me ask two  
23          quick other questions, just for the sake of  
24          discussion.

1                   Are these processes open, do they have  
2                   any transparencies? Or are these behind  
3                   closed doors, totally confidential?

4                   MR. GOLD:        They're absolutely closed.  
5                   Because of Section 90, Subdivision 10 of the  
6                   Judiciary Law, everything is confidential,  
7                   sealed, not subject to -- it's not available  
8                   to anybody in the public at all.

9                   SENATOR PERKINS:    The good news or  
10                  the bad news is it's sealed; right?

11                  MR. GOLD:        That's right. Unless and  
12                  until the Appellate Division orders public  
13                  discipline against the lawyer. That would  
14                  be either a censure, suspension or  
15                  disbarment. Until one of those happens, the  
16                  whole file is closed.

17                  So for example -- and by the way, I'm  
18                  glad you asked that, Senator, because that's  
19                  important in terms of what's before you. We  
20                  get these complaints from complainants who  
21                  think that they've been injured, and we deal  
22                  with them fairly.

23                  A complainant has a limited role in  
24                  terms of our proceedings. He's not like a

1           plaintiff in a civil litigation who's able  
2           to prosecute a case by himself. He's more  
3           like a complainant in a criminal matter who  
4           refers things to a district attorney and  
5           then watches to see what the district  
6           attorney is going to do.

7                   And if we decide to dismiss a matter,  
8           we'll advise the complainant, our procedure  
9           is to advise the complainant that we've done  
10          that. But we don't tell them why, or we  
11          don't tell them what we've discovered in our  
12          investigation. We don't disclose anything  
13          in our file to the complaint because we're  
14          not permitted to.

15                   CHAIRMAN SAMPSON:        I think that's  
16          understandable. A lot of people need to  
17          understand that you're not permitted to  
18          provide that information unless the  
19          Appellate Division, if they choose to  
20          suspend or admonish an individual, at that  
21          point in time.

22                   I think that this is a misunderstanding  
23          that some people have, and I'm glad we were  
24          able to clear it up to a certain extent at

1           this point in time.

2           MR. GOLD:       Now, by the way, the  
3           Appellate Division, I should add, with  
4           respect to that point, has the legal  
5           authority under Subdivision 10 to open the  
6           file at any point with respect to any  
7           particular matter.

8           CHAIRMAN SAMPSON:     I think Senator  
9           DeFrancisco has a question.

10          SENATOR DeFRANCISCO:     Just very  
11          quickly to follow up on that.  I think that  
12          was a great analogy, because I've heard some  
13          complaints about these things are not open  
14          to the public.  But you're not a plaintiff,  
15          you are someone referring to an agency, just  
16          like a DA doesn't have to prosecute every  
17          case if they don't think the evidence is  
18          there or that the testimony is not  
19          supportable by other facts that they learn.  
20          And I think that's a big confusion in the  
21          general public.

22          But one other question.  What happens  
23          if there's a complaint by somebody against  
24          an attorney that's found to be unfounded?

1 Will that attorney at least get notice that  
2 somebody's complaining about something under  
3 those circumstances? Because no doubt that  
4 person is unhappy. And wouldn't the  
5 attorney at some point, after it's  
6 dismissed, be entitled to know what the  
7 complaint was?

8 MR. GOLD: Well, it depends upon the  
9 time within the matter and the stage of the  
10 matter and also the nature of what's  
11 occurred.

12 As I indicated before, if a complaint  
13 is filed and on its very face it doesn't set  
14 forth any disciplinary matter, then the  
15 respondent may not even be notified of this.  
16 The complaint is simply dismissed on its  
17 face, administratively, internally at the  
18 commission, and the attorney, as far as  
19 we're concerned, doesn't need to know that  
20 anybody complained about them because as far  
21 as we're concerned, they didn't complain  
22 about them. You know? They didn't complain  
23 about them with anything even close to  
24 something.

1           It doesn't have to get to a very high  
2           level before we'll send it to the respondent  
3           and ask him for a response. That happens in  
4           a substantial majority of cases.

5           MR. FRIEDBERG:       Once the attorney  
6           learns about it, obviously at the end of the  
7           case we will notify them as to what  
8           happened.

9           CHAIRMAN SAMPSON:     Mr. Gold and  
10          Mr. Friedberg, I want to thank you very much  
11          for taking the time.

12          And the reason I let it extend over the  
13          five minutes is because I really wanted them  
14          to explain the procedures and the process  
15          with respect to dealing with these  
16          complaints.

17          Thank you very much.

18          MR. FRIEDBERG:       We stand ready to  
19          cooperate with you and answer any questions  
20          today or any other day.

21          MR. GOLD:           And we plan to stay here  
22          for the day and be available to you in case  
23          you have anything further you'd like to ask  
24          us about.

1                   CHAIRMAN SAMPSON:       Thank you very  
2                   much, gentlemen.

3                   MR. FRIEDBERG:       Thank you for your  
4                   time.

5                   CHAIRMAN SAMPSON:       The next witness  
6                   is Christine C. Anderson, who used to be a  
7                   former employee with the First Department  
8                   Disciplinary Committee.

9                   (Applause.)

10                  CHAIRMAN SAMPSON:       I think we should  
11                  try to keep our -- no need for applause,  
12                  ladies and gentlemen. We're just trying to  
13                  keep an orderly process and just keep it  
14                  moving.

15                  Ms. Anderson, thank you very much.  
16                  We're going to try to keep it under five  
17                  minutes. We allowed them to go over just to  
18                  explain the process, to lay the groundwork.  
19                  Okay?

20                  MS. ANDERSON:       So you can just do  
21                  five?

22                  CHAIRMAN SAMPSON:       No problem,  
23                  Ms. Anderson. Thank you very much. We just  
24                  want to get to the -- we have your



1 statement, we've read it, we just want to  
2 get to the heart. So we're going to be  
3 jumping in and asking you questions.

4 MS. ANDERSON: Okay. I should also  
5 start by saying that this statement is drawn  
6 solely from allegations set forth in my  
7 federal court complaint. It is therefore  
8 comprised solely of publicly available  
9 information, and it is fully in compliance  
10 with the stipulation and order of  
11 confidentiality entered on February 20,  
12 2008, in my case and based on Judiciary Law  
13 90.10.

14 CHAIRMAN SAMPSON: So basically we  
15 want to make sure, presently you have a  
16 case?

17 MS. ANDERSON: Yes, sir. Yes,  
18 Senator.

19 I would be happy to take questions when  
20 I have counsel present.

21 CHAIRMAN SAMPSON: No problem. But  
22 just go ahead.

23 MS. ANDERSON: Okay. It has been  
24 said that men can write perfect ethical

1 systems, but nevertheless they cannot stand  
2 being watched when they go out at night.

3 And I think that to a large extent  
4 that's the situation with the DDC. The DDC  
5 is the Departmental Disciplinary Committee,  
6 for which I used to work. I was a former  
7 principal attorney there for six and a half  
8 years.

9 I alleged that upon learning of the  
10 DDC's pattern and practice of whitewashing  
11 and routinely dismissing complaints leveled  
12 against certain select attorneys -- to the  
13 detriment of the public that the DDC is  
14 duty-bound to serve -- I reported this  
15 wrongdoing pursuant to my rights under the  
16 First Amendment to the United States  
17 Constitution and, importantly, my own  
18 ethical obligations under the New York State  
19 Code of Professional Responsibility.

20 In response, however, rather than  
21 attempting to address and rectify the  
22 problem, my supervisors embarked upon a  
23 campaign of abuse and harassment of myself,  
24 including a physical assault on myself by

1 the first deputy, Sherry Cohen.

2 CHAIRMAN SAMPSON: Ms. Anderson, we  
3 understand that; I can read from your  
4 factual statement. But I want to get down  
5 to the factual background and issues with  
6 respect to --

7 MS. ANDERSON: Well, I can give you  
8 one example, sir.

9 CHAIRMAN SAMPSON: That's what I want  
10 to get to, some examples.

11 MS. ANDERSON: Yes. I conducted an  
12 intensive investigation of a case. My  
13 caseload supervisor, Judith Stein, approved  
14 it, and so did Thomas Cahill, who was then  
15 the chief counsel. It was recommended for  
16 charges, and then suddenly it was dismissed.

17 The complainant called me -- he  
18 happened to be an attorney -- and asked me  
19 how could something like this happen. I  
20 requisitioned the file and found that it had  
21 been completely gutted. What had been a  
22 file which was almost 3 inches thick was  
23 suddenly an inch, perhaps. All of my work  
24 product was taken out, Verizon phone records

1           that I had subpoenaed were not there --

2           CHAIRMAN SAMPSON:       This was an actual  
3 case you worked on?

4           MS. ANDERSON:       Yes, sir. Yes,  
5 Senator.

6           CHAIRMAN SAMPSON:       And the documents  
7 were missing?

8           MS. ANDERSON:       Yes, the documents  
9 were missing.

10           Another such case which I refer to as  
11 whitewashing was a case which was  
12 intensively, again, investigated --

13           CHAIRMAN SAMPSON:       When you say  
14 "intensively investigated," what do you mean  
15 by that?

16           MS. ANDERSON:       Okay, I will bring in  
17 the complainant -- maybe once, twice -- I'll  
18 bring in witnesses, I will have a  
19 deposition, I will subpoena documents. I  
20 left no stone unturned. I had a reputation  
21 as being thorough and conscientious.

22           In that case, it was recommended for an  
23 admonition because we could not really prove  
24 conversion. In fact, this was a case that

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many of my colleagues, at least four of my colleagues and I agreed that there probably had been conversion but we couldn't prove it. And so we had to just settle for an admonition.

Instead, Sherry Cohen came into my office holding the admonition in my hand and saying, "This is too harsh. I can't let it go to the Policy Committee because they may send it back for charges, and I can't tie up an attorney on a trial for six months."

And I replied, "That happens all the time." And she said: "No, I am going to rewrite this." And I said, "You cannot ethically and legally rewrite something to achieve a desired outcome. You cannot skew something to achieve that outcome."

Nevertheless, she said six months --

CHAIRMAN SAMPSON: Was this just in this one incident, or you discovered a pattern?

MS. ANDERSON: I discovered a pattern, and this is the second example I'm giving you.

1                   CHAIRMAN SAMPSON:     Okay.

2                   MS. ANDERSON:        Okay?

3                   In any event, she took nine months to  
4                   rewrite it, and it went by under the radar.  
5                   And that is what I mean when I say cases are  
6                   whitewashed.

7                   For example, another case that I had,  
8                   it was agreed by my caseload supervisor and  
9                   by Cahill that there were three elements.  
10                  And one of the elements was  
11                  misrepresentation to us, which is very  
12                  serious. Sherry Cohen looked at me very  
13                  earnestly and said: "Christine, you know  
14                  what happens if they lie to us. They can go  
15                  for charges. I don't see misrepresentation  
16                  here, I only see failure to pay a lien."

17                  So she took the case from me and took  
18                  out the misrepresentation, and he got an  
19                  admonition purely for failing to pay a  
20                  medical lien. That is another example.

21                  In any event, I think that you have a  
22                  good idea of how they -- from the prior  
23                  gentlemen. However, I have a recommendation  
24                  and --

1                   SENATOR DeFRANCISCO:       Excuse me one  
2                   moment, before you give the recommendation.  
3                   You've given us several instances in your  
4                   written remarks; you mention two here.

5                   Over the six years that you were with  
6                   the organization, how many files did you  
7                   investigate?

8                   MS. ANDERSON:       That would be  
9                   difficult to tell you.

10                  SENATOR DeFRANCISCO:       Hundreds?  
11                  Tens?

12                  MS. ANDERSON:       Certainly hundreds,  
13                  yeah.

14                  SENATOR DeFRANCISCO:       And these  
15                  instances that you state in your written  
16                  remarks and here, are those the only  
17                  instances where you and your supervisor  
18                  differed?

19                  MS. ANDERSON:       No, there were others.  
20                  But those were some -- you wanted me to be  
21                  quick, so I just chose those. But there  
22                  were others, for example --

23                  SENATOR DeFRANCISCO:       What I'm trying  
24                  to determine here is obviously I think

1           anybody disagrees with their supervisor from  
2           time to time. There's a substantial  
3           difference between disagreement over a very  
4           small percentage of the cases and  
5           whitewashing and activities that are  
6           improper that would justify recovery on a  
7           lawsuit. And that's what I'm trying to  
8           determine.

9           MS. ANDERSON:       Well, I think you make  
10          a very good point that you're not always  
11          going to be in agreement on a case or how it  
12          should be handled. I think you're perfectly  
13          right about that.

14          And on certain occasions, rare  
15          occasions, I would say yes, you know, that  
16          part of it is not maybe strong enough. For  
17          example, there was one where lack of  
18          competence -- there is a disciplinary rule  
19          about that. And I said, okay, then, let's  
20          let that go. So that was -- in other words,  
21          I understand being a professional and I  
22          understand your question.

23          My one recommendation that I would like  
24          to make, however, is on the last page, which



1 is I think that the Policy Committee should  
2 be disbanded, for the simple reason that it  
3 is rife with conflict.

4 As the gentleman before said, he is  
5 with a large law firm and that they serve  
6 without pay. It is not coincidental that on  
7 one occasion at least, when one of their  
8 partners' brother got into trouble, that it  
9 was handled -- it was taken away from me and  
10 handled very quickly and expedited to their  
11 satisfaction.

12 I think that the Policy Committee is  
13 actually in violation of Judiciary Law 90.10  
14 because they are not --

15 (Scattered applause.)

16 CHAIRMAN SAMPSON: Ladies and  
17 gentlemen, we can't -- please. Please hold  
18 the applause.

19 SENATOR PERKINS: Can I ask a  
20 question? Just so I'm clear, because (a)  
21 you're saying that there's preferential  
22 treatment in this decision-making, in this  
23 process, that there are those who, because  
24 of their stature or their connections, are

1 not prosecuted or investigated or whatever  
2 the appropriate terminology is?

3 MS. ANDERSON: Or handled lightly.

4 SENATOR PERKINS: Or handled lightly.  
5 I just want to be clear that that's what  
6 you're saying.

7 MS. ANDERSON: Yes.

8 SENATOR PERKINS: Number two, if I  
9 may, you also say that you were employed at  
10 the DDC and you were subjected to various  
11 acts of discrimination and harassment as a  
12 result of your race.

13 So now are you saying that there's a  
14 racial view in some of these cases as well,  
15 or are you just saying that as it relates to  
16 just your own particular relationship at the  
17 agency?

18 MS. ANDERSON: My allegation is that  
19 there was a pattern and remains a pattern of  
20 discrimination against minorities at the  
21 DDC.

22 (Scattered applause.)

23 CHAIRMAN SAMPSON: Ladies and  
24 gentlemen, please. We don't need any

1 . applause.

2 MS. ANDERSON: For many years, for  
3 example, there was not one minority  
4 supervisor, although several of them were  
5 competent.

6 Let me just finish the point, however,  
7 if you don't mind.

8 If you are not an employee of the  
9 court, you have no right under 90.10 to know  
10 confidential information, which was just  
11 testified to. And these members of the  
12 Policy Committee are not employees of the  
13 court. They're not employed by the court,  
14 they're outsiders. And they have no part to  
15 play, because it's a direct violation of  
16 90.10.

17 SENATOR PERKINS: So again, you're  
18 just saying that they should be employees of  
19 the court in order to be a part of that  
20 Policy Committee? Or are you suggesting  
21 there should be no committee? I'm just  
22 trying to --

23 MS. ANDERSON: The latter. The  
24 latter. We don't need a Policy Committee.

1 The DA's office doesn't have a policy  
2 committee; it relies on its staff and the  
3 DA. You look at the U.S. Attorney's office,  
4 they don't have a policy committee.

5 We -- I am no longer "we" -- the DDC  
6 has its staff and the court. There is no  
7 need for Big Brother.

8 Thank you.

9 CHAIRMAN SAMPSON: Hold the applause.

10 Senator DeFrancisco has a question to  
11 ask you.

12 SENATOR DeFRANCISCO: Who appoints  
13 the members of the Policy Committee?

14 MS. ANDERSON: They're appointed by  
15 the court.

16 SENATOR DeFRANCISCO: Thank you.

17 CHAIRMAN SAMPSON: The majority of --  
18 when you say there's 12 members, I think  
19 there's 12 members on the Policy  
20 Committee --

21 MS. ANDERSON: Twelve, yes.

22 CHAIRMAN SAMPSON: And the majority  
23 of these 12 members come from big firms,  
24 small firms?

1 MS. ANDERSON: Mostly large law  
2 firms.

3 CHAIRMAN SAMPSON: Large law firms.  
4 What are they, partners in large law firms?  
5 When you say large --

6 MS. ANDERSON: Large law firms.

7 CHAIRMAN SAMPSON: Senator Perkins.

8 SENATOR PERKINS: So why were you  
9 terminated?

10 MS. ANDERSON: I was terminated for  
11 internal whistleblowing and harassed. I was  
12 physically assaulted. When I reported that  
13 to the court, I then asked to be removed  
14 from contact with Sherry Cohen, who was the  
15 assailant. I was refused to be removed from  
16 her. I asked for an ethical wall --

17 CHAIRMAN SAMPSON: But that is an  
18 issue that's being taken in a separate  
19 litigation; am I correct? You have your own  
20 litigation going against --

21 MS. ANDERSON: Oh, yes. Yes.

22 CHAIRMAN SAMPSON: Senator Perkins.

23 SENATOR PERKINS: Just one final --  
24 what is the racial makeup of the committee?

1 MS. ANDERSON: Of the committee?

2 SENATOR PERKINS: Yeah, of the Policy  
3 Committee.

4 MS. ANDERSON: I really don't know.  
5 And very frankly, I don't want to know.

6 CHAIRMAN SAMPSON: Okay. Thank you  
7 very much, Ms. Anderson.

8 MS. ANDERSON: Thank you, sir. Thank  
9 you, gentlemen.

10 CHAIRMAN SAMPSON: The next witness  
11 is Kevin McKeown, on behalf of the Fred  
12 Goetz Trust.

13 Mr. Goetz, five minutes, thank you very  
14 much. Go right ahead.

15 MR. McKEOWN: First of all, Senator,  
16 my name is --

17 CHAIRMAN SAMPSON: Mr. McKeown, I'm  
18 sorry. Mr. McKeown.

19 MR. McKEOWN: -- Kevin McKeown, and  
20 I'm not reading a statement on behalf of the  
21 Fred Goetz Trust. That is going to be  
22 submitted at the subsequent hearing when  
23 those 13 people will fly in from around the  
24 country to testify before your great

1 committee.

2 I am here to read a 30-second statement  
3 of my own and then --

4 CHAIRMAN SAMPSON: Perfect. I like  
5 30 seconds.

6 MR. McKEOWN: -- and then I will  
7 torture you, and then I will read a short  
8 letter from a former judge of this state.

9 CHAIRMAN SAMPSON: You didn't submit  
10 any testimony to us, did you?

11 MR. McKEOWN: Yes, I did.

12 CHAIRMAN SAMPSON: Okay. I guess we  
13 do have it somewhere here. Okay.

14 MR. McKEOWN: Again, my name is Kevin  
15 McKeown. I'm the proud member of various  
16 organizations focusing on the restoration of  
17 the trust the public should have in the  
18 judicial branch of our government. The  
19 organizations include Integrity in the  
20 Courts, Expose Corrupt Courts, and the Frank  
21 Brady Organization.

22 I believe the statewide attorney and  
23 judicial ethics oversight structure is  
24 corrupt, and I applaud this committee for

1 what can only be described as a heroic and  
2 beginning step in returning a lost faith by  
3 the public in this state court system.

4 I will say one thing today as I defer  
5 my own personal experience to the next  
6 hearing to be held in New York City. The  
7 idea of having attorneys regulating  
8 attorneys and attorney judges is laughable,  
9 and today marks --

10 (Applause.)

11 CHAIRMAN SAMPSON: This is the last  
12 time I'm going to ask. We're trying to  
13 conduct an orderly, an orderly hearing here,  
14 trying to get everybody's testimony in. If  
15 this continues, I will definitely cut it  
16 short and just end it. Okay? Thank you.

17 MR. McKEOWN: Senators, today marks  
18 the beginning of a process in which the  
19 public, attorneys, court employees and in  
20 fact judges can have faith that the respect  
21 that they should have in the integrity of  
22 their courts will once again return to this  
23 great state.

24 I'm going to now read a short letter



1           that was prepared -- Judge Philip Rogers  
2           could not be here today; he had broken ribs.  
3           However, Judge Rogers was one of three  
4           judges of New York State that accompanied me  
5           before a U.S. House Subcommittee on the  
6           Judiciary a few months ago as it pertains to  
7           the federal crimes we allege that are  
8           ongoing within the New York State court  
9           system.

10           CHAIRMAN SAMPSON:     Could you  
11           paraphrase it?  I mean not read it, but  
12           paraphrase it.

13           MR. McKEOWN:         It's very short.  And  
14           it's done to be read, Senator, if I may.

15           CHAIRMAN SAMPSON:     Okay.

16           MR. McKEOWN:         "Dear Senator Sampson,  
17           I am a 70-year-old former attorney and  
18           village justice who practiced law in the  
19           State of New York from October 16, 1968,  
20           until being unjustly disbarred on May 31,  
21           1999.

22                     "I was the victim of a secret and  
23           corrupt grievance process that lacks the  
24           most elementary due-process constraints and

1           safeguards and was used as part of a  
2           conspiracy by former business partners to  
3           ruin me after our venture went bankrupt.

4           "I respectfully ask that this committee  
5           propose legislation that will protect  
6           victims such as myself from suffering the  
7           loss of their law license and, as in my  
8           case, all of their life choices as a result  
9           of the totally corrupt attorney disciplinary  
10          process managed and controlled by money,  
11          favoritism, and cronyism.

12          "By way of background, I practiced law  
13          in my home village of Patchogue, in Suffolk  
14          County, for 30 years of my professional  
15          life. From 1970 to 1994, I also served as  
16          the Patchogue village justice. I was  
17          elected to six consecutive four-year terms  
18          by substantial majorities in each election,  
19          by the people who knew me best from my days  
20          as a Patchogue student. I served as the  
21          chairman of the Patchogue-Medford School  
22          Board Ethics Committee, president of the  
23          Suffolk County Magistrates Association, and  
24          as a director of the Suffolk County

1           Magistrates Association.

2            "In the end, however, my professional  
3 standing was left in ruins and my status as  
4 a member of the bar was taken from me by a  
5 corrupt, secret, nontransparent disciplinary  
6 system that places power in attorneys to  
7 supervise their fellow lawyers. Are we to  
8 believe that attorney supervision is too  
9 complex, complicated or problematical to be  
10 left to nonattorneys? Only lawyers drafting  
11 the laws and regulations could foster such a  
12 ridiculous concept.

13            "What we have had for years now is a  
14 fatally flawed system where no one truly  
15 watches the watchers who, according to  
16 testimony of former and current staff,  
17 regularly abuse the process they are paid to  
18 administer. Clearly the lawyer-controlled  
19 disciplinary committees must be replaced by  
20 a new system, where nonattorneys who are  
21 fully familiar with ethical problem-solving  
22 review and adjudicate complaints concerning  
23 lawyer conduct.

24            "No lawyer can or should be permitted

1 to sit in judgment of a fellow attorney. In  
2 my case, people seeking to bring pressure on  
3 me as a result of a failed business venture  
4 sought to use the grievance process to  
5 coerce a settlement payment from me and in  
6 the end, as they themselves said on more  
7 than one occasion, ruin me.

8 "My former partners and their allies  
9 achieved their goal by using political and  
10 other connections to move my disarmament  
11 proceedings from Patchogue to Brooklyn.  
12 Once removed to this location, exculpatory  
13 evidence was ignored, perjured testimony was  
14 accepted as true, basic due-process  
15 protections were denied me, and false and  
16 fraudulent accusations became the foundation  
17 of the ruling against me.

18 "When my investigation was moved to  
19 Brooklyn, I was warned that the fix was in,  
20 and later events proved this to be true. I  
21 believe I would still be serving the legal  
22 community as an attorney had the ethics  
23 process that was used against me simply been  
24 more transparent. Instead, a secretive and

1 corrupted process intent on only ruining me  
2 ended my life of public service.

3 "Transparency would have provided me  
4 the opportunity to reveal the perjurious  
5 testimony allowed against me. It was also  
6 improper that my most basic right of due  
7 process was denied, thus preventing the  
8 vital testimony of various witnesses.

9 "Senator Sampson, I commend you and  
10 your committee for holding these important  
11 hearings on the attorney grievance process.  
12 Based on my personal knowledge of other  
13 cases similar to mine, I know that the most  
14 elementary inquiry by this committee will  
15 find that many others, both attorneys and  
16 clients, have been wronged like me.

17 "I trust that these injustices will see  
18 the light of day and permit the immediate  
19 reinstatement of attorneys wrongly  
20 disbarred. I am also hopeful that needed  
21 changes will include systemwide transparency  
22 and the providing of due process to those  
23 accused."

24 CHAIRMAN SAMPSON: Mr. McKeown, we

1           have the letter here, and definitely there's  
2           only one paragraph left. But as you heard  
3           earlier from Mr. Gold and also  
4           Mr. Friedberg, these processes under law  
5           have to be done in those certain  
6           circumstances, you know. So, I mean --

7           MR. McKEOWN:       If I may address that,  
8           Senator Sampson, I have the pleasure of  
9           actually having personal interaction, so I'm  
10          waiving confidentiality. I have personal  
11          interaction with Mr. Friedberg and with  
12          Mr. Gold. I presented evidence that I was  
13          threatened by Mr. Friedberg.

14          And although I was called in by the  
15          U.S. Attorney's Office and the FBI and the  
16          referral in Washington, D.C., to the United  
17          States Justice Department, although they all  
18          found it very interesting and are currently  
19          looking at it, Mr. Friedberg and Mr. Reardon  
20          and Mr. Gold have done what they have  
21          summarily done, and that is get rid of it.

22          Senator Sampson, the documentation, I  
23          assert, is there. And I will tell you that  
24          at your next hearing, as a member of the

1 various organizations, we will present to  
2 you at your New York City hearing over 100  
3 documented cases of the most ludicrous and  
4 slipshod investigations resulting in what we  
5 believe is a gross pattern of misconduct by  
6 the ethics committees themselves.

7 CHAIRMAN SAMPSON: I mean, that's  
8 something we're interested in.

9 Senator DeFrancisco has a couple of  
10 questions for you.

11 SENATOR DeFRANCISCO: Who do you  
12 represent?

13 MR. McKEOWN: Myself. And the three  
14 organizations that I mentioned.

15 SENATOR DeFRANCISCO: When you're  
16 talking about the FBI and the U.S. Attorney  
17 and all that, was that about a personal file  
18 pertaining to you or is it for this judge  
19 that you read the letter for? I'm trying to  
20 figure out --

21 MR. McKEOWN: Well, actually, that  
22 judge had nothing to do with the FBI.

23 However, I will tell you when I was  
24 called into the FBI at 26 Federal Plaza,

1           that we had become a lightning rod for  
2           literally the worldwide collection of people  
3           that have been harmed by these so-called  
4           ethics committees. And they asked me to  
5           bring in my four outrageous cases, and I  
6           went in there.

7           Now, before, a group of us, which  
8           includes former federal prosecutors,  
9           attorneys, et cetera, we would go through  
10          the evidence before we presented it to the  
11          FBI. We went out, pulled case studies --  
12          whether it was a judge, a lawyer, a  
13          disbarred lawyer, or a litigant, we would  
14          pull the case files and see for ourselves  
15          what the documentation said.

16          Based on that, the FBI asked for four  
17          specific -- the four worst cases. And then  
18          in other circumstances where the U.S.  
19          Attorney's office, where certain information  
20          has come to light where they have then said  
21          we want to interview those people.

22          SENATOR DeFRANCISCO:        I am totally  
23          confused. I just asked you the cases that  
24          you went to the FBI about, were those



1 personal cases that you were called in on or  
2 were they people that you were representing  
3 that somehow got in the federal criminal  
4 system.

5 MR. McKEOWN: They were -- the  
6 organizations that I'm a member of, to  
7 answer your question, as a member of that  
8 organization, we brought those cases when  
9 asked to these federal entities.

10 SENATOR DeFRANCISCO: All right, so  
11 you weren't brought into the FBI, you were  
12 seeking the FBI to look into these. Is that  
13 what you're saying?

14 MR. McKEOWN: Well, the U.S.  
15 Attorney's office told us. The FBI, in one  
16 instance we called them; in another instance  
17 they called us. And actually there's a new  
18 inquiry in another --

19 SENATOR DeFRANCISCO: So this wasn't  
20 something that -- this is something you  
21 wanted to have done to explain all this to  
22 the federal investigators, the U.S. Attorney  
23 and the like; correct?

24 MR. McKEOWN: Absolutely.

1                   SENATOR DeFRANCISCO:       Okay.  In  
2                   addition, last point -- I think -- you had  
3                   indicated that it should not be attorneys  
4                   who are reviewing these particular cases, it  
5                   should be laypeople.  And the laypeople  
6                   would then make determinations concerning  
7                   fraud, concerning due process, concerning  
8                   whatever it may be.

9                   How would they gain the expertise in  
10                  those areas as to what the disciplinary  
11                  rules are and the like?  Would they have to  
12                  have any qualifications that you would  
13                  presume that attorneys would have?

14                 MR. McKEOWN:            Senator, that's a very  
15                 good question.  And --

16                 SENATOR DeFRANCISCO:       That's why I  
17                 asked it.

18                 MR. McKEOWN:            -- of course they would  
19                 have to be guided by what the laws are, what  
20                 the procedures are.

21                 I ask you, do we want bankers  
22                 self-regulating?  That doesn't work.  Do we  
23                 want Wall Street self-regulating?  We know  
24                 that doesn't work.

1                   CHAIRMAN SAMPSON:     What you're saying  
2                   is basically, you know, lawyers can't  
3                   regulate attorneys.

4                   I mean, you have very reputable and  
5                   ethical attorneys who we put in these  
6                   positions to make that decision. You know,  
7                   there might be an aberration here or there,  
8                   but I don't see it as a problem having a  
9                   panel of -- having a panel of attorneys,  
10                  based upon their background and everything  
11                  else, making decisions such as that.

12                  But if there is, as you're saying, when  
13                  you present cases to me where I see  
14                  discrepancies and issues, that's why we're  
15                  having this hearing, so we can get to the  
16                  bottom line of these things, all these  
17                  allegations and these conspiracy issues. We  
18                  want to get to the bottom line, and that's  
19                  why we're asking for specific instances, so  
20                  we can look for ourselves and, based upon  
21                  those recommendations, make a determination.

22                  MR. McKEOWN:        Absolutely, Senator.  
23                  And again, that is a very good point. And  
24                  obviously you need attorney input because

1 attorneys are versed on the law. But it  
2 brings up the bigger issue of people  
3 self-regulating.

4 CHAIRMAN SAMPSON: Understood.

5 MR. McKEOWN: If an attorney is named  
6 John Doe and he has been convicted of a  
7 federal crime and goes to federal prison and  
8 does time, will he get his law license back?  
9 That's a question.

10 Of course we all know that there was a  
11 chief judge of this state who was convicted  
12 of a federal crime who went to federal  
13 prison and got his law license back.

14 What this comes down to, Senator, is  
15 equality.

16 CHAIRMAN SAMPSON: Understood.

17 MR. McKEOWN: And I would much rather  
18 handle a complaint that said the person's  
19 name was John Doe rather than a certain  
20 person who that name triggers favoritism and  
21 unequal treatment. That's what it all comes  
22 down to.

23 CHAIRMAN SAMPSON: Senator Perkins.

24 SENATOR PERKINS: So do you believe

1           that there is favoritism in the process, as  
2           was pointed out by the speaker before you?  
3           Do you think that those who are big shots or  
4           who have connections or some other such  
5           credentials are getting treated with kid  
6           gloves and favoritism?

7           MR. McKEOWN:       Yes, Senator.  In fact,  
8           I'll go so far as to say that it is embedded  
9           in the four statewide grievance committees,  
10          and I say under the four departments.

11          We have heard from state attorneys,  
12          judges, attorneys, retired judges from all  
13          over the state.  If you're a prisoner and  
14          you file a complaint with an ethics  
15          committee, don't you dare think that it's  
16          going to be handled properly.  Just because  
17          you're a prisoner automatically puts you to  
18          the bottom of the list at every one of the  
19          four ethics departments in this state.  
20          There's the presumption that if you're in  
21          jail, you could not have been wronged by an  
22          attorney.

23          And, Senators, that's wrong.  That is  
24          totally wrong.  And that's -- we can't wait

1 to get a stack of the 100 complaints that we  
2 have from the beautiful people of Brooklyn,  
3 Queens, Staten Island and Harlem alone who  
4 couldn't make it up here today.

5 CHAIRMAN SAMPSON: So, Mr. McKeown,  
6 we're looking forward to that. Thank you  
7 very much for your testimony. And we look  
8 forward to getting those documentations in  
9 at our next hearing.

10 MR. MCKEOWN: Thank you, Senators.

11 CHAIRMAN SAMPSON: Thank you very  
12 much.

13 The next witness is Robert Tembeckjian,  
14 counsel for the New York State Commission on  
15 Judicial Conduct, and the Honorable Judge  
16 Thomas Klonick, chair of the Commission on  
17 Judicial Conduct.

18 Just to make a note of it, we also have  
19 representatives -- who are not going to  
20 speak -- from the Second, Third and Fourth  
21 Department Disciplinary Committees.

22 Thank you very much. Your Honor, good  
23 morning.

24 JUDGE KLONICK: Good morning,

1 Mr. Chairman, members of the Judiciary  
2 Committee. Thank you for this opportunity.

3 I am Thomas Klonick. I'm an attorney  
4 and a part-time town justice from Monroe  
5 County. I'm chair of the Commission on  
6 Judicial Conduct. I was appointed to the  
7 Commission on Judicial Conduct to a  
8 four-year term by Judge Judith Kaye in 2005,  
9 reappointed by Judge Jonathan Lippman just  
10 earlier this year.

11 I am here today with the commission's  
12 administrator, Robert Tembeckjian, whom I  
13 believe you already know.

14 The commission is pleased to  
15 participate in this hearing, which should  
16 shed further light on our constitutional  
17 mission and how we operate.

18 As you stated earlier, Senator, but I  
19 will just briefly review, the commission is  
20 comprised of four judges, five lawyers, two  
21 law people appointed by the Governor, the  
22 Chief Judge, and the four leaders of the  
23 Legislature.

24 The commission operates under a very

1 rigorous system of internal checks and  
2 balances that has been emulated by other  
3 states to assure that all complaints are  
4 treated seriously and fairly. For example,  
5 the commission members, the 11 commission  
6 members view and act upon every complaint  
7 that comes into the agency. Last year that  
8 was a record number, 1,923, or more than 275  
9 complaints every seven weeks.

10 While the administrative staff conducts  
11 the investigation, the administrator reports  
12 to us regularly on the progress of each  
13 investigation. At the conclusion of the  
14 investigation, it requires a quorum of eight  
15 members of the 11 and the concurrence of six  
16 commission members to serve a judge with  
17 formal disciplinary charges.

18 The administrative staff prosecutes a  
19 case; an impartial referee presides over the  
20 hearing and files a report with the  
21 commission. The commission then, aided by  
22 its own law clerk, adjudicates the matter,  
23 subject to review ultimately by the Court of  
24 Appeals if requested by the disciplined



1 judge.

2 I believe you have the statement  
3 submitted by the commission today outlining  
4 the processes and procedures. And after a  
5 few remarks by Mr. Tembeckjian, we will be  
6 happy to answer any questions. Thank you.

7 CHAIRMAN SAMPSON: Thank you very  
8 much, Your Honor.

9 Mr. Tembeckjian, I'm sorry I butchered  
10 your name earlier. I apologize.

11 MR. TEMBECKJIAN: Thank you. Thank  
12 you, Senator.

13 You have a rather extensive description  
14 of our process and procedures. I'd like to  
15 just highlight three points in these brief  
16 remarks before we take your questions, three  
17 very important features of the commission  
18 system.

19 The first is the independence of the  
20 commission itself. It's created by the  
21 State Constitution, various appointing  
22 authorities, no one of whom controls a  
23 majority of appointments. And the  
24 commission elects its own chair and it hires

1           its own administrator to manage, as the  
2           chief executive officer, the day-to-day  
3           operations of the agency.

4           The balance of judges, lawyers, and  
5           laypeople is something that assures that all  
6           relevant representatives or features of our  
7           pluralistic society are represented in the  
8           commission process. We are, after all,  
9           talking about disciplining members of an  
10          independent branch of government.

11          I happen to be only the second chief  
12          executive officer that the commission has  
13          had in over 30 years, which has provided an  
14          extraordinary stability. And the commission  
15          model is one that has not only been emulated  
16          by other states but I think is one that is  
17          worthy of emulation by other state ethics  
18          entities throughout New York.

19          Secondly, the commission really plays  
20          two roles apart from its own structural  
21          independence. It's responsible, obviously,  
22          for disciplining those judges who commit  
23          ethical misconduct, but it's also  
24          responsible for protecting the independence

1 of the judiciary so that judges can decide  
2 cases fairly, impartially, as they see and  
3 hear them, without undue outside influences.  
4 And that's a very important dual role.

5 CHAIRMAN SAMPSON: Let me ask you a  
6 question, Mr. Tembeckjian. These  
7 proceedings are private or open to the  
8 public?

9 MR. TEMBECKJIAN: All commission  
10 proceedings, under law, are confidential.  
11 It wasn't always that way. In 1978 the law  
12 changed. Prior to that, once the -- all  
13 investigations, as with a grand jury, were  
14 always confidential. But prior to 1978,  
15 once the commission authorized formal  
16 disciplinary charges against a judge, the  
17 process then became open. The charges, the  
18 answer, the hearings and so forth were  
19 open --

20 CHAIRMAN SAMPSON: Once they were  
21 formally charges, you said?

22 MR. TEMBECKJIAN: Yes. Once  
23 reasonable cause has been found to go  
24 forward with a formal disciplinary process,

1 so after the investigation is over, the  
2 commission concludes a reasonable basis that  
3 discipline may be justified here, a quorum  
4 of eight members, the concurrence of six is  
5 required, they vote formal charges. Up  
6 until 1978, that process then became public.

7 And the commission's position  
8 consistently since then has been that it  
9 should be made public at that stage. We  
10 were opposed in '78 to the change in the  
11 law. And since then, on occasion, the  
12 Legislature has taken up the issue, but it  
13 has never adopted, in both houses in the  
14 same session, the open hearings provision.

15 CHAIRMAN SAMPSON: What would be your  
16 position today?

17 MR. TEMBECKJIAN: Oh, the  
18 commission's position has consistently been  
19 that the law up till 1978 was appropriate  
20 and that these hearings should be public  
21 once probable or reasonable cause has been  
22 found.

23 And opening up that disciplinary  
24 process to the public I think would go a

1 long way to dispelling a lot of the  
2 misconceptions about how the commission  
3 operates and how it makes its decisions.

4 CHAIRMAN SAMPSON: That's a good  
5 idea.

6 MR. TEMBECKJIAN: Senator Perkins  
7 looks like he's about to ask me a question.

8 SENATOR PERKINS: So you think the  
9 law should be changed?

10 MR. TEMBECKJIAN: Yes. The  
11 commission has advocated that any number of  
12 times, and consistently over the last 30  
13 years.

14 SENATOR PERKINS: So you've heard  
15 some of the concerns of prior witnesses. I  
16 believe that I saw you here. And though I  
17 know you're really dealing with judges for  
18 the most part, I just also want to get a  
19 sense of how you might, if at all, relate to  
20 some of the criticisms that have been shared  
21 already.

22 MR. TEMBECKJIAN: Well, I haven't  
23 yet, although I believe I will later this  
24 afternoon, hear some criticisms of the

1           commission's operation. That's really the  
2           only agency that I'm comfortable speaking  
3           for and about at these proceedings, and  
4           really the only one that I'm authorized to.

5           SENATOR PERKINS:       Okay. Thank you.  
6           Just wanted to check.

7           MR. TEMBECKJIAN:       So that dual role  
8           of disciplining those judges where it's  
9           appropriate and protecting the independence  
10          of the judiciary by absorbing a lot of the  
11          unfounded criticism that may be reflected in  
12          some of what you hear today and that I know  
13          has been submitted to you on other  
14          occasions -- and at other hearings that this  
15          committee has held over the years -- is  
16          really part of what we do.

17          But the suggestion that may, I think,  
18          mistakenly be left that the commission is  
19          inactive by some of its critics is really  
20          not borne out by the facts. We've handled  
21          approximately 40,000 complaints in the last  
22          30 years, which is by far more than any  
23          other state, even those that have equivalent  
24          numbers of judges as New York. The

1           commission has publicly disciplined  
2           approximately 700 judges and confidentially  
3           cautioned about 1200.

4           The vast majority of our complaints are  
5           dismissed. But every single one of them  
6           gets treated individually and gets seen by  
7           the full commission. We conduct preliminary  
8           reviews and inquiries, about 350 or more a  
9           year. Full-fledged investigations, last  
10          year a near record number, 262.

11          CHAIRMAN SAMPSON:     Mr. Tembeckjian,  
12          when you talk about these investigations,  
13          these are mostly complaint-driven? Or at  
14          times does the commission themselves, which  
15          I know they have the authority to, look into  
16          certain situations?

17          MR. TEMBECKJIAN:     The commission  
18          itself has the authority, and it does quite  
19          actively initiate inquiries on its own.

20          CHAIRMAN SAMPSON:     How would you do  
21          that -- you know, like on your own, make a  
22          determination, well, you know, I don't like  
23          what this judge is doing? Or how do you  
24          come about getting to that point?

1 MR. TEMBECKJIAN: It's never "I don't  
2 like what this judge is doing," certainly  
3 not on the bench.

4 But, for example, if we read in the  
5 newspaper about a judge who has been  
6 intemperate or whose conflict of interest  
7 has been reported, the staff will bring that  
8 article to the commission's attention and it  
9 will ask the commission for an authorization  
10 to investigate. The full commission has to  
11 do that.

12 That was literally what happened on a  
13 case involving a judge in Niagara County  
14 that you might recall who had incarcerated  
15 over 40 people because a cellphone went off  
16 in the courtroom and the judge couldn't  
17 identify whose cellphone it was. So 46  
18 defendants were called up one by one, and as  
19 each one denied that it was his phone, they  
20 were remanded. That was something we read  
21 about in the newspaper. It was not the  
22 result of an individual complaint.

23 We brought it to the commission's  
24 attention, they authorized investigation, we



1 reviewed the matter, charges were  
2 authorized, the judge was removed by the  
3 commission, took it up to the Court of  
4 Appeals, which unanimously upheld that  
5 decision.

6 So the process is quite sophisticated,  
7 but where we get that information, we move  
8 forward.

9 CHAIRMAN SAMPSON: So once you get  
10 that information, it then goes to the  
11 commission?

12 MR. TEMBECKJIAN: Yes. Under the  
13 law, it's the commission that has the  
14 authority to investigate or to discipline.  
15 The staff can recommend, but the commission  
16 actually makes the disposition.

17 And so we are not screening out  
18 material or information that complainants  
19 send to us because we might have a  
20 predisposition or we might dislike or we  
21 might not credit the complainant. We will  
22 analyze, review, conduct some preliminary  
23 inquiries, forward it to the entire  
24 commission, which will then decide whether

1 or not we should go forward.

2 CHAIRMAN SAMPSON: And I know Senator  
3 DeFrancisco just noted that you were able to  
4 get additional monies to help you clear up  
5 some of the backlog that existed maybe a few  
6 years ago.

7 MR. TEMBECKJIAN: Yes, thanks in huge  
8 part to this committee and to Senator  
9 DeFrancisco's leadership.

10 For about 20 years we were grossly  
11 underfunded. As our complaints and workload  
12 were expanding, our staff was reduced to as  
13 few as 20 statewide, and in real dollars, we  
14 had lost substantial resources. But this  
15 committee two years ago held hearings on the  
16 subject, of the commission, of the town and  
17 village court system, and one of the  
18 beneficial results was that the Legislature  
19 made a substantial increase that this  
20 committee championed for the commission's  
21 resources to meet the growing needs.

22 CHAIRMAN SAMPSON: When you say  
23 investigators, who does the investigating?  
24 Do you have attorneys or do you have private

1 people, investigators?

2 MR. TEMBECKJIAN: We have attorneys  
3 and investigators on staff. And every  
4 complaint that is going to be investigated  
5 is actually assigned to an attorney, and  
6 that attorney works with an investigator to  
7 interview witnesses, to make field visits,  
8 to analyze court records, to try to get to  
9 the bottom of whether the allegation of  
10 misconduct is actually established.

11 And then we will present progress  
12 reports along the way, and then a final  
13 report to the full commission, as Judge  
14 Klonick indicated, and then that full  
15 commission will decide whether to  
16 confidentially caution the judge or  
17 authorize formal charges or, if the  
18 complaint is unfounded, to dismiss.

19 And that's really where our role in  
20 protecting the independence of the judiciary  
21 comes in. Because we absorb a lot of the  
22 complaints and criticisms that judges might  
23 otherwise get from complainants who are  
24 essentially unhappy with the results of a

1 case. And rather than inhibit the judiciary  
2 with having to answer to all of those, we  
3 preliminarily inquire, we deal directly with  
4 the complainant, and if it's determined not  
5 to be founded, we don't go forward.

6 And we take a lot of the heat, but that  
7 goes with the territory of what it is that  
8 we do.

9 CHAIRMAN SAMPSON: And if in fact if  
10 a judge is being elevated to, say, the  
11 Appellate Division, Court of Appeals,  
12 whatever it is, does the commission -- do  
13 those committees request from the commission  
14 if there are any complaints, anything lodged  
15 against these judges? Or do you come forth  
16 with it? How does that work?

17 MR. TEMBECKJIAN: Yes. If any judge  
18 who is subject to Senate confirmation or  
19 appointment by the Governor without Senate  
20 confirmation or is running for election and  
21 is going before a screening committee, they  
22 are required to submit a waiver of  
23 confidentiality so that the commission, when  
24 presented with that waiver, will give to the

1 screening entity not only the record of  
2 public action that's been taken but any  
3 confidential cautions, any adverse  
4 confidential dispositions against that  
5 judge.

6 So those committees have it, without  
7 mentioning names, when the Commission on  
8 Judicial Nomination provides us with those  
9 waivers, when the Governor's screening  
10 committee for Court of Claims or Appellate  
11 Divisions provides us with those waivers, we  
12 provide not only the public record but also  
13 any confidential adverse dispositions that  
14 were made against the judge to that body.

15 CHAIRMAN SAMPSON: And does the  
16 commission keep records in instances where,  
17 you know, against judges where it has been  
18 dismissed but, you know, you see a pattern  
19 of increased complaints with respect to  
20 judges? Do you have an opportunity to refer  
21 back? Or do you just -- once it's  
22 dismissed, are they sealed or do you have an  
23 opportunity to go back to look to see if  
24 there's a pattern being created?

1 MR. TEMBECKJIAN: We have an  
2 opportunity to go back and look at a  
3 pattern, subject to the State Administrative  
4 Procedures Act regarding the disposition of  
5 records.

6 But for example, if a subsequent  
7 complaint comes in alleging new information  
8 or a new perspective on a previously  
9 dismissed complaint that was not disposed of  
10 on the merits after a hearing but was deemed  
11 not to have shown sufficient merit on its  
12 face to be investigated, we can go back and  
13 reexamine whether or not the appropriate  
14 disposition was made in the first instance.

15 But I must say that that's very rare.  
16 Because if a type of misconduct is part of a  
17 pattern or practice, it's usually alleged  
18 up-front, and we have the opportunity then  
19 to go in, for example, sit in on the court  
20 to observe whether the judge is intemperate  
21 on a frequent or an infrequent basis, if  
22 that's the complaint that's been made.

23 It's very rare for someone to say the  
24 judge is intemperate and not allege, if it

1 is in fact part of the pattern, that any  
2 number of attorneys or litigants might be  
3 able to verify that. And we will reach out  
4 to litigants and lawyers to determine  
5 whether or not these complaints are part of  
6 a pattern or practice.

7 CHAIRMAN SAMPSON: Questions?

8 Mr. Tembeckjian, thank you very much  
9 and, Your Honor, thank you very much for  
10 giving us that outlay. We truly appreciate  
11 it.

12 MR. TEMBECKJIAN: Thank you.

13 JUDGE KLONICK: Thank you very much.

14 CHAIRMAN SAMPSON: At this point in  
15 time we're going to have Judge Hart present  
16 testimony.

17 Good morning, Your Honor.

18 JUSTICE HART: Good morning. It's  
19 good that Mr. Tembeckjian is staying here.

20 My name is Duane Hart. I'm a sitting  
21 Supreme Court justice in Queens, New York.  
22 While I gave the members of the committee a  
23 long package, I'm just going to give you a  
24 few anecdotes of the type of attorney we're

1 dealing with with Mr. Tembeckjian.

2 Four or five years ago I was undergoing  
3 treatment for cancer; in fact, I was in  
4 Sloan Kettering being operated on for  
5 cancer. Instead of giving me an adjournment  
6 for it, Bob Tembeckjian wanted to see my  
7 chart to make sure that I was being treated  
8 for cancer and not just ducking his  
9 committee.

10 I've been charged probably more than  
11 most. I've been censured twice by the  
12 Commission on Judicial Conduct. Of the  
13 three attorneys who offered testimony  
14 against me or filed complaints against me,  
15 all three -- well, the first one was a Max  
16 Goldweber, who was found to be a liar and a  
17 thief by a federal judge.

18 The second was one was a Ms. Naidoo,  
19 who one of my colleagues, Justice Cullen,  
20 found she lied to him and to the Appellate  
21 Division.

22 And the third one was being sued at the  
23 time for running what appears to be a Ponzi  
24 scheme to finance his cases. And one of the



1 reasons why he wouldn't try the case before  
2 me was that had the case been disposed of,  
3 he would have been responsible for paying  
4 the people who financed this case anywhere  
5 from \$1 million to \$3 million.

6 Those complaints are in the package  
7 before you. I'm not making them up; they're  
8 recorded cases.

9 Of the first case against me, which was  
10 I think litigated in 2004, I am still  
11 waiting for the first bit of discovery.

12 Of the second one, Mr. Tembeckjian got  
13 a little cuter. What he did, or what he and  
14 Mr. Friedberg did, they got my witnesses,  
15 some of them -- because as you found out, I  
16 believe, if they offered testimony to help  
17 me, the tape recorder was turned off, which  
18 is a habit they also like to do, turn off  
19 the tape recorder when there is positive  
20 evidence against the judge that doesn't help  
21 their case. And --

22 CHAIRMAN SAMPSON: I know when you're  
23 saying a tape recording, these proceedings,  
24 there's not a stenographer or it's just a

1 tape recorder?

2 JUSTICE HART: Well, in the second  
3 trial against me there was a stenographer.  
4 In the discovery and the trial before that,  
5 there were tape recorders that Mr. Friedberg  
6 or one of his employees controlled.

7 In fact, during the first proceeding,  
8 which was an EBT, my brother, who was  
9 representing me, put a statement on the  
10 record. The statement and the things he  
11 said are nowhere in the transcript. My  
12 brother refused to sign the transcript.

13 At the first trial, wherein it was a  
14 tape recorder and the tape recording was  
15 being controlled by an employee of the  
16 commission, I saw Mr. Friedberg making hand  
17 gestures and I heard click-click,  
18 click-click. Again. And I believe there  
19 are other witnesses who the committee might  
20 have gotten in touch with who will verify  
21 that that's their conduct.

22 I also went down during the first  
23 proceeding, since the Senate and the  
24 Assembly give them money to investigate

1           these cases, I went down with my clerk, my  
2           law secretary, and my court officer, who  
3           verified my story that the attorney who was  
4           testifying against me wasn't telling the  
5           truth. They were not allowed -- or they  
6           were not asked any questions. So their  
7           investigation only stops at, gee, what's  
8           harmful to the judge. And if you want, I  
9           will produce those people if you have  
10          hearings in New York City.

11                 Also, one of my other court officers  
12          was asked by an attorney for the Commission  
13          on Judicial Conduct to change his story  
14          because, after all, judges are scum and why  
15          would you testify to help a judge. Again,  
16          don't take my word; I could produce  
17          witnesses.

18                 Let me see. What's interesting about  
19          some of the commission rulings -- well, the  
20          first one, on the full record, even though  
21          the commission found that I was wrong, I was  
22          actually affirmed by the Second Department  
23          both on the substantive law and the contempt  
24          that I held the person who accosted me in

1 parking lot was -- I mean did. I was  
2 censured on the doctored records submitted  
3 to the Court of Appeals by Mr. Tembeckjian.

4 I think the best way to describe the  
5 way Mr. Tembeckjian and Mr. Friedberg, who's  
6 now at the First Department, ran their  
7 little shop was they marked the deck, they  
8 shaved the cards, then they started to  
9 cheat.

10 (Laughter.)

11 CHAIRMAN SAMPSON: You know, I mean,  
12 these allegations -- I'm just trying to get  
13 an understanding. What do you mean by  
14 marking the deck?

15 JUSTICE HART: You try cases before  
16 them, they pick the judge -- and I have  
17 nothing against the retired judges who they  
18 pick. They pick the judge. I've been a  
19 lawyer pushing 30 years --

20 CHAIRMAN SAMPSON: You mean the  
21 commission picks the judge.

22 JUSTICE HART: The commission picks  
23 the judge. You go in against them, they  
24 don't give you discovery or they give you

1 doctored discovery. You -- credibility --  
2 the first dealing I had with the commission,  
3 my brother Leon Paul was screaming with  
4 Vicky Ma, who was one of their attorneys,  
5 and he was questioning the credibility of  
6 this Max Goldweber. And Ms. Ma was  
7 screaming back to him that credibility is  
8 not an issue. And, I mean, that's the type  
9 of people they have.

10 You don't have to take my word for it.  
11 I gave you recorded documents or case law  
12 that shows Max Goldweber, the first person  
13 who accused me, was called a liar and a  
14 thief for running a scam to bilk his clients  
15 by Judge Wexler.

16 I gave you a document that showed that  
17 in a case that was originally started in  
18 Eastern District of Pennsylvania, Michael  
19 Flomenhaft, who was the second person to  
20 accuse me, was being sued for running what  
21 appears to be a Ponzi scheme to finance the  
22 case before me. And when he refused to try  
23 the case -- oh, and he also tried to export  
24 me by saying he would complain to the

1 commission if I made him try the case.

2 And I produced a document wherein the  
3 attorneys who employed the third attorney  
4 who complained about me, Ms. Naidoo, they  
5 fired her for lying and stealing in that  
6 case.

7 These are the people who offered  
8 complaints against me and that were found to  
9 be legitimate by Robert Tembeckjian.

10 CHAIRMAN SAMPSON: Senator Perkins.

11 SENATOR PERKINS: Yeah, thank you so  
12 much. I have to run, but I just want to ask  
13 one quick question. So what's the solution?

14 JUSTICE HART: Well, firstly, you  
15 have to fire Tembeckjian and Friedberg.

16 I mean, I've got to tell you, I've been  
17 a trial attorney or a judge, again, pushing  
18 30 years. The only reason that Robert  
19 Tembeckjian, in my opinion -- so I don't get  
20 sued -- isn't the sleaziest attorney I've  
21 ever met is because I've met Alan Friedberg.

22 (Laughter.)

23 SENATOR PERKINS: So now you've taken  
24 care of the personalities. What about the

1 system --

2 JUSTICE HART: No, no, it's not just  
3 the personalities.

4 SENATOR PERKINS: I want to get a  
5 systemic opinion as well.

6 JUSTICE HART: It's -- it's --

7 SENATOR PERKINS: I heard that the  
8 individuals --

9 JUSTICE HART: They don't do it  
10 right.

11 SENATOR PERKINS: Well, let me ask a  
12 question. I hear you talking about the  
13 individuals. Are there any systemic process  
14 issues or concerns that you might want to  
15 add to that?

16 JUSTICE HART: Well, firstly, you've  
17 got to have some situation where they don't  
18 pick the judges, where judges aren't  
19 beholden to them to be named again.

20 There has to be a limit on how long  
21 people like Mr. Tembeckjian can serve in  
22 office so that he doesn't have some sort  
23 of --

24 SENATOR PERKINS: Term limits. Term

1 limits.

2 JUSTICE HART: Yeah, term limits.

3 You have to have some -- and, I mean, I  
4 complained to everybody; no one has  
5 jurisdiction over these people. When I was  
6 an ADA in Queens, I actually worked for Joe  
7 Fisch. Judge Fisch said he didn't have  
8 jurisdiction. I complained to the clerk of  
9 the Court of Appeals. They said they didn't  
10 have jurisdiction. Only when I complained  
11 to Senator Sampson, Senator Smith, and  
12 Governor Paterson did anything actually get  
13 done.

14 I complained to the Attorney General.  
15 I complained, I had a long conversation with  
16 one of the senior attorney generals.  
17 Nothing was investigated.

18 SENATOR PERKINS: Let me ask you  
19 this, then. Term limits, how long a term?

20 JUSTICE HART: Three years, four  
21 years.

22 SENATOR PERKINS: And when you made  
23 complaints to other governments or other  
24 officials, you said that nothing happened.



1 JUSTICE HART: Nothing happened. In  
2 fact --

3 SENATOR PERKINS: What would be a  
4 better process?

5 JUSTICE HART: There's got to be  
6 some -- well, firstly, you should appoint a  
7 special prosecutor to do some sort of  
8 accounting of what they've done. These  
9 people had no -- you know, who was it that  
10 said absolute power corrupts absolutely?  
11 Well, in the situation you have right now,  
12 Mr. Tembeckjian has absolute power. He can  
13 do anything he wants.

14 And, I mean, he's investigated me -- he  
15 has come before you saying that he only  
16 investigates matters that are serious.  
17 There has got to be something more serious  
18 in the State of New York than me going  
19 through a court scanner with my 81-year-old  
20 mother to take care of my dying father's  
21 business.

22 I was actually investigated for that.  
23 He got the rule wrong. I produced Jewel  
24 Williams to say they got the rule wrong.

1 They still argued the wrong rule.

2 They have no control. They argue  
3 whatever they want when they want to argue  
4 it. There is absolutely no control over  
5 this -- again, you don't have to take my  
6 word for it. This is all documented.

7 CHAIRMAN SAMPSON: Senator  
8 DeFrancisco has a question.

9 SENATOR DeFRANCISCO: How many  
10 complaints were investigated against you?

11 JUSTICE HART: I'll give you -- I  
12 think -- well, there are two that they don't  
13 know that I know about. They investigated  
14 me --

15 SENATOR DeFRANCISCO: How many?

16 JUSTICE HART: I think five or six.

17 SENATOR DeFRANCISCO: Okay. And can  
18 you give me just the general flavor of what  
19 these investigations were about?

20 JUSTICE HART: Okay, going through a  
21 court scanner with my mother, showing my  
22 judge's ID with a blue strip -- the  
23 judges -- there are three IDs in the court  
24 system, red, yellow and blue. A judge has a

1 blue ID. The lieutenant, the newly minted  
2 lieutenant, didn't know my ID said that I  
3 could pass without being stopped and anybody  
4 can pass with me. I was there with my  
5 80-plus-year-old mother. She's going to be  
6 85 in about three weeks.

7 SENATOR DeFRANCISCO: What is that,  
8 going through a security area or what?

9 JUSTICE HART: Yeah, going through a  
10 security area.

11 SENATOR DeFRANCISCO: Okay. That's  
12 one.

13 JUSTICE HART: That's one.

14 Keeping a child in her home -- the  
15 child reported to me that she had the flu.  
16 Actually, it was a 12-year-old child who  
17 evidently was going through her first period  
18 and didn't want to tell. When the sheriff  
19 came to throw her out of the house, I  
20 stopped it. Chase complained I stopped it.  
21 The rule is that people give basically six  
22 months to be evicted from a home. I gave  
23 two months. They got me on that.

24 They censured me on -- when I was

1           accosted in the parking lot in the gated,  
2           secured parking lot of the court in Jamaica,  
3           somebody came up to me, he didn't like the  
4           fact that I was going to go visit my sick  
5           father. My father eventually died of  
6           Alzheimer's and cancer. I told the jury --  
7           not the jury, I told the attorneys that I  
8           was going to get a tire fixed, but actually  
9           my father had the flu and I was going to  
10          go --

11           SENATOR DeFRANCISCO:        Wait, wait.  
12          This is bizarre --

13           JUSTICE HART:            This is bizarre.  
14          That's the point.

15           SENATOR DeFRANCISCO:        No, no, wait a  
16          minute. But your explanation is bizarre.  
17          You were stopped in a parking lot and  
18          accosted?

19           JUSTICE HART:            Yes.

20           SENATOR DeFRANCISCO:        What you were  
21          asked to do?

22           JUSTICE HART:            I was -- he wanted me  
23          to --

24           SENATOR DeFRANCISCO:        Who is "he"?

1 JUSTICE HART: The person who  
2 accosted me.

3 SENATOR DeFRANCISCO: So somebody in  
4 the general public accosted you --

5 JUSTICE HART: Mm-hmm. So what --  
6 no, no, excuse me, the litigant accosted me.  
7 The next day --

8 SENATOR DeFRANCISCO: And what was he  
9 accosting you for?

10 JUSTICE HART: He wanted a longer  
11 adjournment.

12 SENATOR DeFRANCISCO: Okay.

13 JUSTICE HART: The next day I said  
14 forget about it. His attorney, Max  
15 Goldweber, said no, no, no, I don't want to  
16 forget about it.

17 In the record that Mr. Tembeckjian  
18 didn't know was a brief that was filed with  
19 the Second Department that talked about the  
20 meeting that we had. It said I didn't want  
21 to hold the guy in contempt, all he'd have  
22 to do is apologize. Mr. Tembeckjian said  
23 that meeting never took place even though  
24 the complaining lawyer said it took place.

1           SENATOR DeFRANCISCO:       But what court  
2 proceeding was there that was being  
3 complained of --

4           JUSTICE HART:           It was a contempt  
5 proceeding. I was doing the trial, and I  
6 held him in contempt for accosting me.

7           SENATOR DeFRANCISCO:       So you held  
8 somebody in contempt.

9           JUSTICE HART:           For accosting me.

10          SENATOR DeFRANCISCO:       For accosting  
11 you outside of the courtroom.

12          JUSTICE HART:           That's right.

13          SENATOR DeFRANCISCO:       I didn't -- I  
14 wasn't familiar with that rule. I thought  
15 contempt proceedings dealt with what happens  
16 in the courtroom.

17          JUSTICE HART:           No, no. Well, they  
18 changed the law for me, thank you.

19          SENATOR DeFRANCISCO:       Oh, okay --

20          JUSTICE HART:           He came up to me --

21          SENATOR DeFRANCISCO:       So that's  
22 three. What are the other ones?

23          JUSTICE HART:           Let me see. Going  
24 with my mom through the scanner.

1                   SENATOR DeFRANCISCO:       Well, we  
2                   already heard that.

3                   JUSTICE HART:       Making somebody try a  
4                   case after two and a half years.

5                   They also investigated me. An attorney  
6                   named Darren Kerns was found by two federal  
7                   courts to have brought a poorly thought out  
8                   cause of action. They mentioned that to  
9                   him. I did the same thing. Mr. Tembeckjian  
10                  called the other attorneys to see what I did  
11                  wrong on that. But he was told that I  
12                  agreed with -- two federal courts agreed  
13                  with me. He stopped that.

14                  And most recently they investigated me  
15                  for -- the attorney who represented me in  
16                  the last cause of action, they had an action  
17                  before me that I recused myself from about a  
18                  year and a half or two years earlier, but  
19                  they still wanted proof that I had recused  
20                  myself.

21                  SENATOR DeFRANCISCO:       Okay. And just  
22                  along those same lines, how many of those  
23                  are still pending?

24                  JUSTICE HART:       None.

1           SENATOR DeFRANCISCO:     Okay, so  
2 they're all over at this point.

3           JUSTICE HART:        But I was censured  
4 twice.

5           SENATOR DeFRANCISCO:     Okay. Thank  
6 you.

7           JUSTICE HART:        Like I said, I don't  
8 know -- I know Tembeckjian and --  
9 Mr. Tembeckjian and Mr. Friedberg have to be  
10 removed.

11          CHAIRMAN SAMPSON:       We don't -- as  
12 Senator Perkins said, I think, we're not  
13 interested in character assassination, we're  
14 just interested in recommendations, if any,  
15 that we can make the system, as we've seen,  
16 seem more equitable and fair not only in the  
17 eyes of the public but also those who are  
18 coming before that commission.

19          JUSTICE HART:        Well, the system -- if  
20 the system works properly, it's fair. But  
21 anyone, any system that doesn't have the  
22 goodwill of the people who are running it  
23 behind it is going to fail no matter what  
24 you do.



1                   So while I agree with my friend Senator  
2 Perkins that this isn't about character  
3 assassination, it's about getting a fair,  
4 equitable system -- and frankly, in the  
5 hands of people like Mr. Tembeckjian and  
6 Mr. Friedberg, you'll never have it. You  
7 could put whatever -- you could change the  
8 system however you want, you've got to have  
9 people in there who are fair, who are  
10 ethical.

11                   I mean, again, my -- Mr. Tembeckjian --  
12 and again, I believe I submitted it to you  
13 on an earlier day, when my brother told  
14 Mr. Tembeckjian that he had to follow  
15 certain a rule of ethics, Mr. Tembeckjian  
16 actually wrote back to my brother saying  
17 that there are no ethics that he has to  
18 follow. And -- am I correct?

19                   CHAIRMAN SAMPSON:        I hear your point,  
20 Your Honor.

21                   Your Honor, thank you very much for --

22                   JUSTICE HART:        Always a pleasure.

23                   CHAIRMAN SAMPSON:        -- taking your  
24 time out and speaking with us today.

1 JUSTICE HART: Thank you.

2 CHAIRMAN SAMPSON: Thank you very  
3 much.

4 I'm going to try to move it a little  
5 faster. The next person is Pamela Carvel.  
6 Ms. Carvel.

7 You can do all this in five minutes,  
8 Ms. Carvel?

9 MS. CARVEL: I will rush, I certainly  
10 will.

11 CHAIRMAN SAMPSON: Thank you very  
12 much.

13 MS. CARVEL: You have the written  
14 thing?

15 CHAIRMAN SAMPSON: Yes, I do.

16 MS. CARVEL: And the flow chart that  
17 I've given you is the same as the one I  
18 enlarged for you to see.

19 I flew in from London because I wanted  
20 to be part of this hearing that I think is a  
21 very significant effort --

22 CHAIRMAN SAMPSON: I can give you a  
23 little bit longer than five minutes, since  
24 you flew in from London.

1 MS. CARVEL: But I think it's a  
2 significant effort at preserving our  
3 aspiring democracy, because what's going on  
4 Surrogate's Court, which is where my  
5 connection to the Office of Court  
6 Administration and the DDC and the other  
7 disciplinary committees comes from, is  
8 nothing less than a criminal enterprise.

9 You don't have to take my word for it,  
10 because one of the lawyers that I hired  
11 actually wrote an article in the New York  
12 Law Journal, and I've attached that for you.  
13 Eve Markewich, who I hired to help me  
14 recover money stolen by the controlling  
15 shareholders of Hudson Valley Bank, wrote an  
16 article in the *New York Law Journal*  
17 detailing all of the gross violations of  
18 ethics that went into railroading my aunt so  
19 that in her whole lifetime she received  
20 nothing of benefit after my uncle died.

21 In 1990 my uncle, the week before he  
22 died, said there was \$250 million in the  
23 family. He called me and asked me to come  
24 back from China, where I was acting as a

1 fraud investigator, to be able to help him  
2 discover where \$100 million had gone  
3 missing.

4 On the Saturday before his death, he  
5 had told people that he was going fire the  
6 two employees, a lawyer and his secretary,  
7 that he felt were responsible. He was found  
8 dead on Sunday. And on Monday morning the  
9 culprits, who were agents of Hudson Valley  
10 Bank that held the money and that has been  
11 the recipient of all of the money since  
12 1990, they were in control of everything.

13 Just recently I've discovered that my  
14 uncle's death certificate was forged, that  
15 the information on it was falsified to avoid  
16 an autopsy. And I will be trying to exhume  
17 his body to see if he was murdered in order  
18 to set in motion this criminal enterprise  
19 that is a pattern in Surrogate's Court.

20 No efforts to bring these things before  
21 the Office of Court Administration have  
22 worked in any of the cases that I've  
23 investigated other than our own.

24 Hudson Valley Bank paid Surrogate

1           Scarpino \$100,000 during his election. Just  
2           prior to the trials in my uncle's estate,  
3           they paid Surrogate Scarpino \$200,000 as an  
4           alleged loan. And just prior to the trials  
5           in my aunt's estate, they paid Surrogate  
6           Scarpino another \$100,000.

7           CHAIRMAN SAMPSON:        These issues, did  
8           you raise them with the --

9           MS. CARVEL:        Raised them with the  
10          Office of Court Administration --

11          CHAIRMAN SAMPSON:        When you say the  
12          Office of Court Administration, you mean the  
13          Commission --

14          MS. CARVEL:        I'm sorry, the  
15          Commission on Judicial Conduct.

16          CHAIRMAN SAMPSON:        When did you do  
17          this? When was this?

18          MS. CARVEL:        It was probably -- I  
19          discovered it in 2007, so it was probably  
20          2007, 2008.

21          CHAIRMAN SAMPSON:        So what has  
22          happened since then?

23          MS. CARVEL:        They said they didn't  
24          find a problem with Scarpino not only

1 receiving money from Hudson Valley Bank but  
2 allowing Hudson Valley Bank's controlling  
3 shareholder to receive all of the assets  
4 from my uncle's estate, and to allow him to  
5 appear before Scarpino as a witness without  
6 ever disclosing that there were financial  
7 arrangements between Hudson Valley Bank and  
8 Judge Scarpino.

9 CHAIRMAN SAMPSON: And you raised  
10 this to the Commission on Judicial Conduct?

11 MS. CARVEL: Raised it to the  
12 Commission on Judicial Conduct. They asked  
13 for documentation. I gave them full  
14 documentation. They found absolutely  
15 nothing wrong with that.

16 CHAIRMAN SAMPSON: Since  
17 Mr. Tembeckjian is here, before this is  
18 over, we'll -- I will raise that issue.

19 MS. CARVEL: All right. I also, in  
20 the course of investigating, found out that  
21 the controlling shareholder of Hudson Valley  
22 Bank, William Griffin, was given control of  
23 all of my aunt's real estate, which  
24 consisted -- part of it was 19 acres in

1           Ardsley, New York, which is a very expensive  
2           area.

3           Griffin was allowed to flip that  
4           property to himself through Hudson Valley  
5           Bank, through one of his former law  
6           partners' brothers. In other words, Griffin  
7           signed the property over and then the  
8           property came back to Griffin as Hudson  
9           Valley Bank. And the whole proceeding took  
10          place for \$2 million on paper that never  
11          changed hands, and the property is worth  
12          \$10 million or more.

13          I brought that to the attention of  
14          Surrogate Scarpino, and Surrogate Scarpino  
15          again found there was no problem because of  
16          the dealing being done by William Griffin,  
17          who was responsible for paying Surrogate  
18          Scarpino at least \$400,000.

19          Part of the problem with the whole  
20          system of -- by the way, I also filed a  
21          complaint against Eve Markewich for knowing  
22          about all of these violations. Eve  
23          Markewich, who I hired on behalf of my  
24          aunt's estate, betrayed any representation

1           for us on the promise that William Griffin  
2           would pay her \$4 million, allow her to be  
3           paid \$4 million in legal fees -- which she  
4           has been paid, I understand. And when I  
5           filed the complaint with the Commission on  
6           Judicial Conduct on her lack of  
7           representation, her betrayal of the purposes  
8           for which she was hired, and also her  
9           complete knowledge of ethical violations by  
10          other attorneys, that she refused -- not  
11          only did she refuse to tell me about them,  
12          but she refused to take any action herself,  
13          which was her duty as a lawyer.

14                 It came back, the decision came back  
15          that her problems would be sorted out in the  
16          legal lawsuit. Well, there was no legal  
17          lawsuit pending between me and Eve  
18          Markewich, and there was no venue for that  
19          to be handled at all. So whether they  
20          investigated or not, I don't know. She put  
21          in a response, and her response was this is  
22          going to be handled in litigation. But  
23          there was no litigation.

24                 There is --



1                   CHAIRMAN SAMPSON:       That complaint  
2                   that you put, was that in the First  
3                   Department?

4                   MS. CARVEL:        That was the -- for  
5                   Manhattan. It was the First Department.

6                   I put in a similar complaint with one  
7                   of Eve Markewich's fellow attorneys, Frank  
8                   Streng, who didn't tell me that he was  
9                   employed by the judge. He was also an  
10                  attorney of mine, was supposed to represent  
11                  me. He converted approximately a million  
12                  dollars that I paid him and then took  
13                  another million from the estate.

14                  Complaints were filed against him, and  
15                  I was informed that he has a law partner --  
16                  one of his law partners is on the commission  
17                  in Westchester, and that nothing would be  
18                  done. And the same answer came back on that  
19                  thing, that it would be handled in  
20                  litigation. But again, there was no  
21                  litigation in which Frank Streng's ethics  
22                  were part of the litigation. There was  
23                  no -- actually, at that time there was no  
24                  litigation involving Frank Streng at all.

1           The whole system -- and I call it a  
2           criminal enterprise, because the exact  
3           tactics being used are in the New York State  
4           Penal Code: coercion, larceny, conspiracy.  
5           These are all being operated out of the  
6           court, out of the Surrogate's Court, and in  
7           particular Westchester. But I know it's  
8           happening in Manhattan, it's happening in  
9           Dutchess. And they're using a one-sided  
10          system of favoritism.

11          My aunt and I, as fiduciaries, should  
12          have had equal access to indemnification as  
13          all the other fiduciaries. We were the only  
14          two fiduciaries denied indemnification  
15          because we were the only two working with  
16          law enforcement. All the others were paid  
17          completely.

18          As long as my aunt lived, she never  
19          received a penny from my uncle's estate.  
20          But Hudson Valley Bank controls \$150 million  
21          of Carvel money that my aunt was the sole  
22          beneficiary of.

23                 CHAIRMAN SAMPSON:        They still control  
24                 it?

1 MS. CARVEL: It's all been given to  
2 them. Over the last 10 years, by Surrogate  
3 Scarpino, all of the money in my uncle's  
4 estate and in my aunt's estate has been  
5 passed over to Hudson Valley Bank. Without  
6 notice to the named beneficiaries, without  
7 notice to the creditors. Without court  
8 approval, assets have been disposed of that  
9 were supposed to be in constructive trust.  
10 None of these things have fazed the judicial  
11 commission.

12 CHAIRMAN SAMPSON: I think, since we  
13 still have Mr. Tembeckjian here, this is  
14 something, I'll ask staff, maybe I may want  
15 to look a little further into something like  
16 this.

17 So if you have time maybe before the  
18 end of today, maybe we can just -- my staff  
19 just have a meeting with the members of the  
20 commission to see what some of these issues  
21 are.

22 MS. CARVEL: I'd be glad to.

23 I just wanted to point out one other  
24 problem with the system. Most times when

1           you complain about a decision or a judge's  
2           actions, they'll tell you: Well, you have  
3           the avenue of appeal. In Surrogate's Court,  
4           the judges either don't render decisions --  
5           even though there's a 60-day rule, they may  
6           not render decisions for two years or more.  
7           They do not hold trials. If they do hold  
8           trials -- Surrogate Emanuelli didn't hold a  
9           trial for 10 years. My aunt's issues were  
10          not litigated at trial until five years  
11          after she was dead.

12                 You're denied trial by jury or  
13          decisions are rendered by transcript, which  
14          cannot be appealed, or they're rendered in  
15          such a way that it's too late -- the issue,  
16          the money, everything has already been gone  
17          by the time the decision has been rendered.

18                 This is a pattern, and it's more than  
19          one estate. And I congratulate you for  
20          recognizing there's a problem. I think part  
21          of the solution, if not the whole solution,  
22          is complete transparency and complete  
23          anonymity. No judge should be given one  
24          case for 20 years. No one court should have

1 one case for 20 years.

2 If you have -- in our case, I'm dealing  
3 with Surrogate's Court. If you have  
4 numerous proceedings, let everything go into  
5 Supreme Court; dispose of the Surrogate's  
6 Court.

7 Let everything be assigned by a blind  
8 rotating calendar of judges. Let the  
9 proceedings be separated so that each  
10 proceeding is going to get a different judge  
11 and a different hearing.

12 And there has to be something to ensure  
13 that money is not passed from one side to  
14 the other or that one side alone is funded.  
15 There has to be an enforcement of the  
16 Constitution that all people have equal  
17 rights before the law.

18 Thank you.

19 CHAIRMAN SAMPSON: Ms. Carvel, thank  
20 you very much.

21 The next witness -- and I'm going to  
22 adhere to the five-minute rule -- is Paul  
23 Altman. Mr. Altman, are you here?

24 MR. ALTMAN: Yes, Senator.

1                   CHAIRMAN SAMPSON:       How are you doing,  
2                   Mr. Altman?   That's a very extensive -- I'm  
3                   quite sure you can adhere to the five-minute  
4                   rule.

5                   MR. ALTMAN:       Well, what I'm going to  
6                   do is totally let you off the hook with all  
7                   those exhibits, now that I see how this  
8                   works.

9                   CHAIRMAN SAMPSON:     Thank you.

10                  MR. ALTMAN:       I didn't come in to  
11                  trash any personalities.   I've never met  
12                  anybody in the room before.   I'm not part of  
13                  any group.   I am a 54-year-old guy who lives  
14                  in Florida.   I was a jazz musician in New  
15                  York.   And I have run afoul of the system.

16                  And my life has been turned into a  
17                  nightmare, which I'm going to tell you in  
18                  the hundred-second version.   And the DDC has  
19                  stood down and allowed an unethical attorney  
20                  to torment me.   And I will leave it to you  
21                  to decide whether I'm just a disgruntled  
22                  litigant or whether I have something valid  
23                  to say.   Okay?

24                  Here's my story in a nutshell.   This

1 has been going on for eight years. I'm  
2 going to try to give you the 120-second  
3 version, Senator. What happened to me is  
4 that I have a child who's now 15. In 2001,  
5 there was Family Court issues; I hired an  
6 attorney, Richard L. Gold, of Morelli &  
7 Gold. You can imagine that I'm not in love  
8 with him, or I wouldn't be here talking  
9 about this. But I'll spare you a character  
10 assassination and try to stick to the facts.

11 In 2006, after four years of Family  
12 Court, my relationship with him soured, and  
13 I owed him \$20,000. A fee dispute ensued,  
14 and I took advantage of the Part 137 law --  
15 in New York State, 22 NYCRR 137 -- which  
16 allows for mandatory arbitration if the  
17 client demands it. And I demanded it. I  
18 did not want to go to trial. I live in  
19 Florida, I'm not an attorney.

20 The arbitrators hated Mr. Gold, and  
21 they told him not only to waive the \$20,000  
22 that I allegedly owed him, but they told him  
23 to refund an additional \$5,000. And Mr.  
24 Gold did not do so. I called the

1           Disciplinary Committee, and I said, "This  
2           man has my money." And the Disciplinary  
3           Committee said, "This is a concern for us,  
4           please make a complaint." And I did.

5           And at that time what happened is  
6           that -- well, I don't want to get into all  
7           the details because it will be an hour, so  
8           I'm going to try to keep it to five minutes.  
9           What happened in a nutshell is that  
10          Mr. Gold's retainer said that should there  
11          ever be a fee dispute and should Altman  
12          choose arbitration as is his right pursuant  
13          to New York law, that arbitration will be  
14          binding upon Altman and the firm.

15          Well, Gold sued me in Supreme Court of  
16          New York. And I will quickly get to the  
17          DDC's role in this, but give me a little  
18          leeway to tell the story, okay? Gold sued  
19          me and asked the Supreme Court to award him  
20          \$35,000. I, who am not a lawyer, made a  
21          motion to dismiss pre-answer and said, "Your  
22          Honor, this is an illegal and unethical  
23          misuse of the Supreme Court. There's  
24          already been an arbitration, and here is



1 Gold's retainer agreement, and it clearly  
2 says the arbitration is binding."

3 Well, Gold made opposition to this, and  
4 he said, yeah, the word "binding" was in the  
5 retainer agreement, but it was a special use  
6 of the word that meant "nonbinding."

7 (Laughter.)

8 MR. ALTMAN: now, the judge did not  
9 buy this, but on June 30, 2008, in a  
10 landmark decision which is featured on the  
11 front of the *New York Law Journal*, with the  
12 judge's photograph, Justice Carol Robinson  
13 Edmead ruled that although the word  
14 "binding" is suggestive of binding, that  
15 Gold was free to vacate the \$25,000 award  
16 and start an entirely new trial and drag me  
17 to New York.

18 I would never have hired him if I had  
19 known that the retainer was a trick.

20 And she ruled that the reason for this  
21 is because Gold himself had not used a  
22 super-secret Boy Scout-password-encoded form  
23 from the Office of Court Administration that  
24 I, as an unrepresented consumer, could have

1 known nothing about.

2 Well, the DDC stood down on this. I  
3 laid it all out to the DDC. I've given you  
4 the exhibits, which I cannot drag you  
5 through in five minutes, and I will  
6 mercifully not --

7 CHAIRMAN SAMPSON: But this was a --  
8 I guess was a judge's determination with  
9 respect to --

10 MR. ALTMAN: It was a judge's  
11 determination after the DDC -- I'm telling  
12 the five-minute version, so I'm a little out  
13 of sequence -- after the DDC stood down and  
14 said there appears to be pending litigation  
15 on this matter.

16 Well, I wrote back to the DDC and said:  
17 Look, I know there's pending litigation.  
18 That's part of my complaint. This is an  
19 unethical litigation. And you guys have all  
20 the jurisdiction in the world to deal with  
21 this here and now, before the litigation  
22 goes on.

23 I cannot quote you chapter and verse,  
24 Senator, but the DDC's rules say that they

1 can pursue issues even if there's pending  
2 litigation, that they are not hamstrung by  
3 the fact that there's pending litigation.

4 CHAIRMAN SAMPSON: So the DDC did not  
5 investigate because there was a pending  
6 litigation?

7 MR. ALTMAN: Correct. They closed  
8 down. They closed the investigation. And I  
9 wrote to them and I said, With all due  
10 respect, if you close every ethics  
11 investigation that has pending litigation  
12 corresponding -- at the same time, what  
13 you're doing is creating a rule so that  
14 attorneys who are accused of an ethics  
15 violation must bring lawsuit against the  
16 client who accused them. Because that's the  
17 automatic the DDC will stand down.

18 And if the attorney is unethical enough  
19 to keep playing this game in a law of  
20 attrition and finally wear the client down,  
21 as Richard Gold is trying to do to me, well,  
22 then he wins. The DDC does not find this to  
23 be unethical.

24 Now, the DDC's own rules forbid what

1 Gold did. Gold, as a matrimonial attorney,  
2 is not allowed to have trick wording in a  
3 retainer agreement regarding fee  
4 arrangements. Now, I'm not going to quote  
5 chapter and verse that attorneys cannot lie  
6 to clients and they have a fiduciary  
7 relationship. Let's put all that aside.  
8 The specific rules of the DDC say -- or the  
9 ethics rules say that a matrimonial attorney  
10 must set forth the fee arrangements in the  
11 retainer agreement in plain language.

12 Now, how on earth is "binding" meaning  
13 "nonbinding" in plain language?

14 CHAIRMAN SAMPSON: So the DDC never  
15 took any action?

16 MR. ALTMAN: The DDC never took any  
17 action.

18 So now I will try to give you the punch  
19 line. Only did it later turn out that the  
20 form was never even available, the website  
21 that the form was supposedly on wasn't  
22 available, but I made a reply to Gold's DDC  
23 opposition which was substantially the same  
24 as what he made in court. He said, Yeah,

1 binding, but it meant nonbinding.

2 So what I did is I said okay, let him  
3 have that. What about the fact that he lied  
4 in court? He took me into the wrong court,  
5 he perjured himself. Here are the  
6 transcripts. What about the fact that he  
7 puffed up the bill and then knocked it down  
8 with courtesy discounts and then went after  
9 those courtesy discounts when he found out I  
10 wasn't happy with his services? I could go  
11 on with two or three more examples. The DDC  
12 never submitted these allegations to Gold.

13 So here's -- here are the four ways  
14 that the DDC specifically stonewalled me and  
15 whitewashed the case, which is supposedly  
16 still pending. My litigation in New York is  
17 still pending in front of Justice Edmead.  
18 It has turned my life upside down.

19 But to be precise, the DDC, the first  
20 thing they did is they wrote me a letter  
21 saying there's pending litigation so we're  
22 closing the case. And as I said earlier,  
23 that does not follow their rules.

24 Second, they did not tell me the case

1           could be reconsidered. Their rules require  
2           that they notify me of this.

3           Third, they said that there was pending  
4           litigation in related matters. That was not  
5           true. Okay?

6           And fourth, to this day I have been in  
7           touch with Sherry Cohen, who has told me  
8           that the reconsideration is still pending,  
9           and to this day they have never submitted  
10          the additional allegations to Attorney Gold.

11          AUDIENCE MEMBER:       Where are the other  
12          two senators?

13          CHAIRMAN SAMPSON:       Basically, the  
14          other two senators had commitments. This  
15          is -- my colleagues come in and out because,  
16          you know, this is during the day we have  
17          other committee meetings and everything else  
18          going on.

19          So you have the chairperson here  
20          who's -- I'm in charge of the committee. So  
21          as long as I don't leave, you're all right.

22          MR. ALTMAN:       Well, I want to take  
23          second to apologize to the audience. I am a  
24          little heated, and I am trying as best as

1 possible to knock an eight-year story down  
2 to a few seconds.

3 CHAIRMAN SAMPSON: Mr. Altman, no,  
4 no, no, I understand it. And this is  
5 something, since your litigation is still  
6 pending and something like this can be  
7 reconsidered, so I will make sure that we  
8 follow up with you in the near future with  
9 respect to the complaint that you have filed  
10 with the DDC.

11 MR. ALTMAN: Senator, again, I won't  
12 drag you through the exhibits, but in the  
13 exhibits you will see that the DDC has  
14 written to me and said that there was  
15 nothing legitimate -- nothing worthwhile to  
16 send to Gold.

17 CHAIRMAN SAMPSON: Well, that's  
18 something that maybe since we have the  
19 members of the DDC here, the First  
20 Department, that's something that maybe we  
21 can -- you know, maybe I can ask them in a  
22 subsequent environment.

23 Just for complete disclosure, I used to  
24 work for Justice Edmead about 20 years ago.

1                   MR. ALTMAN:       Well, I don't agree with  
2                   her decision.    She knows that.    I'm quoted  
3                   as saying so in the *New York Law Journal*.    I  
4                   think this was a mistake, and I am dealing  
5                   with her, respectfully, in the court, with  
6                   motions and what have you.    And I hope that  
7                   she ends up agreeing with me, and I hope my  
8                   ex-wife ends up agreeing with me about a few  
9                   things too.

10                   But I would like to just make one more  
11                   comment, if I may, and then I will take any  
12                   comments you have or stand down.    I did not  
13                   come here with an ax to grind.    I don't know  
14                   anybody here.    But I was deeply offended,  
15                   personally offended by Mr. Gold and  
16                   Mr. Friedberg.    I walked in listening to  
17                   them.

18                   And I find it outrageous that these  
19                   people, who know the system better than  
20                   anybody else, and deserve every benefit of  
21                   the doubt and should not be the victims of  
22                   character assassination, that these people  
23                   do not come forward and say to you:  
24                   Senator, obviously, with the amount of power



1 we have and the amount of opaqueness that  
2 our agency has, this is a perception  
3 problem, even though we personally behave in  
4 a saintlike way.

5 These should be the people who are  
6 advising you on how to fix the problem. And  
7 the fact that they are not I find deeply  
8 offensive, and I personally feel very  
9 suspicious of them.

10 CHAIRMAN SAMPSON: Well, I don't  
11 think, Mr. Altman -- this is why we are  
12 having these proceedings. They did come  
13 forward. They expressed -- now you  
14 expressed your belief. And this is why we  
15 have these hearings, so we can get do the  
16 bottom of this.

17 MR. ALTMAN: Thank you.

18 CHAIRMAN SAMPSON: Thank you very  
19 much, Mr. Altman.

20 The next witness is Luisa Esposito, of  
21 West Hempstead, New York.

22 MS. ESPOSITO: Good afternoon.

23 CHAIRMAN SAMPSON: Good afternoon.

24 MS. ESPOSITO: My name is Luisa

1           Esposito, and I believe these serious  
2           matters that are being brought forth by the  
3           public are of urgent importance and it begs  
4           for your immediate attention and involvement  
5           in your honorable pursuit to defend and  
6           promote justice.

7           On or about July 8, 2005, and  
8           September 16, 2005, Attorney Allen H. Isaac,  
9           while representing me on an auto accident  
10          case, sexually assaulted me by putting his  
11          hand inside my bra and grabbing my nipple  
12          and all. On September 16th, Isaac locked me  
13          in his office and wanted me to try clothing  
14          on in front of him. He used extortion and  
15          coercion to try to get me to fellate him.  
16          And after hanging up on a phone call, Isaac  
17          came from behind and grabbed both of my  
18          breasts. While leaving his office, he  
19          grabbed my buttocks. This was witnessed by  
20          two people.

21          On October 7, 2005, I was wired by a  
22          private investigator, and hence an  
23          approximate 1 hour, 49 minute audio-video  
24          DVD tape was produced with Isaac admitting

1 to his crimes.

2 I reported these crimes, along with  
3 irrefutable evidence and witnesses, to the  
4 New York County District Attorney's Office  
5 Sex Crimes Unit, Manhattan Special Victims  
6 Unit, the New York State Attorney General's  
7 Office, and other various investigatory  
8 agencies, including the First Departmental  
9 Disciplinary Committee, in hopes of a  
10 resolution towards justice. But instead, I  
11 was further victimized and treated as if I  
12 were the criminal. All of my pleas were  
13 either dismissed or ignored.

14 As a result of these flagrant abuses, I  
15 presently have a case pending in front of  
16 the Second Circuit Court of Appeals, *Luisa*  
17 *C. Esposito v. The State of New York, et*  
18 *al.*, 08-4879-CV, as well as several others  
19 which had been marked related to *Christine*  
20 *Anderson v. The State of New York, et al.*,  
21 07 Civ. 9599 (SAS). These cases involve  
22 shocking allegations regarding systemic  
23 corruption within the New York State Ethics  
24 Committee.

1 I believe my complaints to the ethics  
2 panel against my former attorney, Allen  
3 Isaac, Docket No. 2005-3074, are being  
4 whitewashed, ignored, and mishandled, the  
5 very same practices that are very similar to  
6 several others.

7 The First Department Departmental  
8 Disciplinary committee, DDC. The level of  
9 malice and corruption at the First  
10 Department Departmental Disciplinary  
11 Committee cannot be overstated.

12 On or about October 2005, I filed a  
13 grievance complaint at the DDC pertaining to  
14 serious allegations against my former  
15 attorney, Allen Isaac. The complaint  
16 regarded sexual abuse, extortion, coercion,  
17 and corrupt influence on judges. When my  
18 complaint was forwarded for prosecution  
19 approximately two years later, Ms. Naomi  
20 Goldstein was the attorney selected by the  
21 DDC to prosecute this, Docket No. 2005-3074.

22 On or about April 2007, the hearings  
23 began against Mr. Isaac, who was represented  
24 by Michael Ross and Richard Godosky. I

1           asked the court and Ms. Goldstein if I could  
2           have my attorney present during the  
3           proceedings, and Ms. Goldstein and the court  
4           told me I wasn't allowed to have my attorney  
5           present during the hearings. This was  
6           clearly an abuse and violation of my rights.

7           It soon became obvious that  
8           Ms. Goldstein was not representing my  
9           interests but rather protecting my  
10          assailant, Mr. Isaac, by the most fraudulent  
11          and despicable means. For example,  
12          Ms. Goldstein presented altered and redacted  
13          evidence to the court instead of the  
14          original transcript of the A/V DVD tape and  
15          evidence that I had given her. This  
16          evidence is an approximate 1 hour, 49 minute  
17          videotape that records Mr. Isaac explicitly  
18          demanding oral sex from me in return for his  
19          legal services, admitting to his sexually  
20          assaulting me, and boasting that he could  
21          command favors from various judges.

22          The committee and Ms. Goldstein used a  
23          transcription of a copy of the videotape  
24          that Herbert Waichman of Parker & Waichman

1 submitted to the committee. The court would  
2 not allow my original certified copy, tape  
3 and transcript, into evidence. The version  
4 of the DVD transcript Ms. Goldstein  
5 presented was heavily altered and redacted,  
6 and omitted the critical sections most  
7 damning to Mr. Isaac. Ms. Goldstein  
8 cherry-picked what she wanted to submit into  
9 evidence.

10 Another example. When Ms. Goldstein  
11 asked me to testify under oath to my  
12 certified copy of the A/V tape's accuracy,  
13 she then handed it back to me and did not  
14 submit it into evidence. Instead, Ms.  
15 Goldstein submitted the copy of the tape  
16 that Mr. Waichman submitted to the committee  
17 back in 2006. Ms. Goldstein did not allow  
18 me to listen to Mr. Waichman's copy of the  
19 tape with the court, as promised, but  
20 instead the court listened to it in front of  
21 the attorneys without my presence.

22 When I tried to address these serious  
23 and unethical and flawed matters to various  
24 individuals within the committee and outside

1 of the committee, my pleas were immediately  
2 dismissed and ignored. Therefore, as a  
3 result of their unethical practices, I  
4 became very ill and could no longer continue  
5 to attend the hearings as a witness and  
6 complainant.

7 I will quote a part of the audio-video  
8 DVD tape where Isaac is heard boasting about  
9 a case that was in front of the First  
10 Department Appellate Division and how he had  
11 influence on that appeal regarding the  
12 \$200 million fen-phen case: "Yesterday I  
13 was in the Appellate Court First  
14 Department -- not the Second Department.  
15 The Second Department is tougher than the  
16 First Department. I was in the First  
17 Department. There were 16 cases, and my  
18 case was the last. I wasn't arguing it, but  
19 the client wanted me there because some of  
20 the judges on the panel are very close to  
21 me. So I wanted them, the appellate judges,  
22 to know that I'm really interested in that  
23 case. This is all bullshit politics. And  
24 they saw me, so I wanted them to know that

1 I'm really interested in that case. That  
2 case, you know, is worth \$200 million. Not  
3 this."

4 To whom and where do you report this  
5 kind of outrage on the citizens of New York?

6 Wherefore, I bring this before the  
7 Senate Judiciary Committee and pray that you  
8 have the courage to bring these people to  
9 justice before they do irreparable harm to  
10 our society's perception of the courts.

11 CHAIRMAN SAMPSON: Ms. Esposito, the  
12 question I have is do you still have a  
13 pending case before the --

14 MS. ESPOSITO: My case is still open  
15 and pending four years later.

16 I'd also like to mention that when I  
17 reported the New York County District  
18 Attorney, Lisa Friel, to the First  
19 Department Disciplinary Committee, within 10  
20 days that complaint was dismissed.

21 CHAIRMAN SAMPSON: What complaint was  
22 dismissed?

23 MS. ESPOSITO: The ADA Lisa Friel. I  
24 had filed a complaint --



1                   CHAIRMAN SAMPSON:       A criminal  
2                   complaint?

3                   MS. ESPOSITO:       No, a complaint  
4                   against her regarding -- well, I mean, if  
5                   it's criminal I really don't know.

6                   CHAIRMAN SAMPSON:       I'm just trying to  
7                   understand. You filed a complaint against  
8                   who?

9                   MS. ESPOSITO:       I filed a complaint  
10                  against the ADA at the New York County  
11                  District Attorney's Office.

12                  CHAIRMAN SAMPSON:       Oh, the ADA in  
13                  the --

14                  MS. ESPOSITO:       The New York County  
15                  District Attorney's Office. I filed a  
16                  complaint against ADA Lisa Friel. And that  
17                  complaint, when I filed it at the First  
18                  Department Disciplinary Committee, was  
19                  immediately dismissed within 10 days. And  
20                  then I refiled again; I haven't heard back  
21                  from anybody.

22                  I've written letters to Alan Friedberg,  
23                  I've written letters to Thomas Cahill, I've  
24                  written letters and --

1 CHAIRMAN SAMPSON: Since the parties  
2 are still here, we'll follow up with that,  
3 Ms. Esposito.

4 MS. ESPOSITO: All right. Thank you  
5 so much.

6 CHAIRMAN SAMPSON: Thank you very  
7 much for your testimony.

8 Ladies and gentlemen, I have to take  
9 about a five-minute break and resume in --  
10 we'll resume in about 10 minutes, because I  
11 just have to run somewhere. Ten minutes,  
12 and we'll resume the session again. So just  
13 take a 10-minute break, walk around, get rid  
14 of all your anxieties. We're going to try  
15 to get through this today.

16 Thank you very much.

17 (Brief recess taken.).

18 CHAIRMAN SAMPSON: The next witness  
19 is Mr. Galison, William Galison.

20 Mr. Galison, where are you?

21 MR. GALISON: Here.

22 CHAIRMAN SAMPSON: Mr. Galison, you  
23 know the routine, you've been with me a  
24 couple of hearings. Let's get to the point,

1 let's move on. Go ahead, Mr. Galison.

2 MR. GALISON: Okay. I'd like to  
3 start by just touching on a point that  
4 Senator DeFrancisco made, and I'm sorry he's  
5 not here to respond or to hear this. It's  
6 not a criticism, just a clarification.

7 He asked Ms. Anderson what the  
8 percentage of cases were in which she felt  
9 there was some impropriety or favoritism,  
10 and he suggested that possibly the small  
11 number, the small percentage, was indicative  
12 that maybe something was -- if I understood  
13 correctly, was that things were not so bad  
14 and there might be an acceptable sort of  
15 random level of impropriety or malfeasance.

16 The fact is that the vast majority of  
17 cases provide no motivation for corruption.  
18 By definition, corruption occurs when there  
19 is a vested interest in the outcome. If a  
20 policeman arrests 100 drug dealers and then  
21 fails to arrest his younger brother, his  
22 corruption rate is not 1 percent, it's a  
23 hundred percent, because that's where he had  
24 a motivation to be corrupt.

1                   And nobody is accusing Mr. Tembeckjian  
2                   or Mr. Friedberg of doing this for sport;  
3                   they do it because they have a vested  
4                   interest. What exactly those vested  
5                   interests are is not known to us, but we can  
6                   only assume that they don't do it for sport.

7                   Having said that --

8                   CHAIRMAN SAMPSON:       Now you have four  
9                   minutes. Go ahead.

10                  MR. GALISON:        Sir, thank you --  
11                  Senator. Give me a break.

12                  Mr. Gold sets the rules of the  
13                  grievance committees -- I'm sorry, Mr. Gold  
14                  claims that the grievance committees are  
15                  governed by rules. The problem is not that  
16                  there are no rules, the problem is that the  
17                  rules are ignored, twisted and perverted.

18                  The New York State judiciary is so  
19                  dysfunctional and corrupt that their  
20                  so-called ethics committees routinely break  
21                  existing laws and capriciously create false  
22                  laws, without due process and with utter  
23                  impunity. By doing so, they undermine the  
24                  credibility of the courts, which is clear to

1 everyone here.

2 Their corruption is so absolute and  
3 flagrant that they don't even make an effort  
4 at the appearance of propriety. Instead,  
5 they spit in the face of citizens, the  
6 Constitution, and the universal tenets of  
7 justice. These committees use corruption  
8 both as a sword against their enemies and a  
9 shield to protect their friends. Complaints  
10 against lawyers with connections are  
11 brazenly whitewashed or ignored. I didn't  
12 learn this from anybody else; this is from  
13 my experience.

14 Decent lawyers are sanctioned or  
15 disbarred with no legitimate reason, simply  
16 because they dared to oppose the corrupt  
17 power structure. Likewise, the Commission  
18 on Judicial Conduct routinely whitewashes  
19 and dismisses complaints against judges  
20 without any investigation or explanation,  
21 and judges who dare to challenge the system  
22 are punished.

23 To compound the problem, no attorney  
24 will touch cases of corruption against

1 crooked attorneys or judges because they  
2 know this means professional suicide.

3 The corruption is not only deep and  
4 wide, it extends to the highest office of  
5 the judiciary. The Chief Judge of New York  
6 State, Jonathan Lippman, who I respectfully  
7 submit was shoehorned into office by a  
8 faulty confirmation process, is personally  
9 implicated in at least a dozen lawsuits and  
10 dozens more complaints regarding corruption,  
11 and those are only the ones that I know  
12 about. This is the head of the snake. We  
13 can talk about the tail or the middle, but  
14 this is the head of the snake. And before  
15 him, it was Judith Kaye.

16 In his prior role as presiding justice  
17 of the First Appellate Division, Lippman  
18 appointed Alan Friedberg to head the  
19 Disciplinary Committee. Alan Friedberg, who  
20 already earned his reputation as corrupt in  
21 his former position as chief counsel to the  
22 CJC.

23 When Friedberg continued to run the DDC  
24 as corruptly as his disgraced predecessor,

1 Thomas Cahill, Lippman received scores of  
2 complaints about Friedberg's corruption and  
3 incompetence. Lippman did nothing.

4 And that is no surprise. In his  
5 previous position as administrative judge of  
6 the OCA, Jonathan Lippman had personally  
7 fired DDC Investigating Attorney Christine  
8 Anderson for reporting systemic felonious  
9 corruption at the DDC. He fired her for  
10 insubordination, but that's obviously a  
11 mischaracterization.

12 No one can deny that DDC protects  
13 guilty lawyers and attacks innocent ones.  
14 But what I'd like to address is how they do  
15 that, what are the methods that they use.  
16 And I think people will relate to many of  
17 these. I will be as brief as possible.

18 All problems with the DDC arise from  
19 underlying conflicts. Mine had to do with  
20 a -- I'm a musician, it had to do with a  
21 record that I made and a lawyer tried to  
22 steal the rights from the record by writing  
23 and claiming that I was not the copyright  
24 owner. Six months later, he changed his

1 mind and said that I was the copyright  
2 owner, admitted that in a sworn document.  
3 Now, in the interceding six months, I could  
4 not get a record deal, and I was basically  
5 being threatened with the federal crime of  
6 copyright infringement. Turned my life  
7 upside down.

8 Two streams of systemic and coordinated  
9 official misconduct arose from my underlying  
10 dispute. One, my efforts to file  
11 disciplinary complaints against certain  
12 lawyers have been illegally obstructed by  
13 multiple government agencies, including the  
14 DDC, the DA's office, the Attorney General,  
15 and others --

16 CHAIRMAN SAMPSON: Stop. We have had  
17 this dialog, and you talked about these  
18 instances.

19 MR. GALISON: What would you like to  
20 know?

21 CHAIRMAN SAMPSON: Exactly. I want  
22 to get to -- you talk about whitewashing.  
23 What specifically was done that you consider  
24 to be whitewashing, those specific



1 incidents? And what recommendations would  
2 you have to improve the system?

3 MR. GALISON: I appreciate your  
4 editing, as always, Senator.

5 Well, I'll make it very clear, two  
6 cases which are -- which I see as absolutely  
7 crystal-clear. I mean, I'm not going to  
8 talk about stuff that's debatable with  
9 debatable facts.

10 For example, this lawyer, who wrote in  
11 a letter to my record company that I was not  
12 the owner of the record and that he was  
13 going to sue me for copyright infringement,  
14 six months later admitted in a sworn  
15 affidavit that I was the copyright owner.  
16 By any definition of the word, the man was  
17 lying.

18 And lying is against the rules. It's  
19 not against the law; I cannot sue him in  
20 court for lying. Maybe for fraud, possibly,  
21 but not for lying. Lying is an ethical  
22 infraction that is in the LCPR. It has a  
23 particular number, it's DR 1.102. A lawyer  
24 or law firm shall not engage in conduct

1 involving dishonesty, fraud, deceit, or  
2 misrepresentation.

3 Now, if you tell a record company that  
4 I'm not the owner of the record and you know  
5 perfectly well and six months later you say,  
6 yes, I knew that he was the owner --

7 CHAIRMAN SAMPSON: We got that point.

8 MR. GALISON: Okay, I want to make  
9 sure everybody understands there was no  
10 question.

11 What did the DDC, what did Mr. Fried --

12 CHAIRMAN SAMPSON: What did the DDC  
13 do that was so --

14 MR. GALISON: Okay, what Mr. Cahill  
15 did was he asked for a response from the  
16 lawyer. The response came from the lawyer's  
17 employer and counsel at the time, Myron  
18 Beldock. It should be noted that the --

19 CHAIRMAN SAMPSON: What did he do  
20 that was questionable to you?

21 MR. GALISON: Okay, I'm sorry, yeah.  
22 I was just going to note that Hal Lieberman,  
23 who preceded Mr. Cahill, was working at  
24 Beldock's office at that time. He went

1 directly from the DDC, which I think gives  
2 some insight as to how the revolving door  
3 works here.

4 CHAIRMAN SAMPSON: Your issue is that  
5 that's a conflict issue that's --

6 MR. GALISON: That's a conflict  
7 issue. But that's an aside, just to shed  
8 some light on what's going on behind the  
9 scene.

10 What happened, what Cahill did is he  
11 got the response from the lawyer, but the  
12 lawyer said: "Here's my response, it's 27  
13 pages long, but Mr. Galison can't see it  
14 because he's considering suing me, and it  
15 may contain some information." By the way,  
16 this is after months of delay --

17 CHAIRMAN SAMPSON: But don't they  
18 send you a copy of his response --

19 MR. GALISON: Yeah, they were  
20 supposed to. But instead, they sent me the  
21 letter, which said the response is redacted  
22 and sealed.

23 He said, We are attaching two versions  
24 of the answer from Mr. Greenberg. One is

1 entirely deleted -- redacted. That is, page  
2 3 to page 28 is redacted. The other is in a  
3 sealed envelope which neither you, the DDC,  
4 or Mr. Galison is allowed to view.

5 Now, the DDC booklet and the rules say  
6 that when and after a case is opened -- and  
7 by sending the thing, they've opened the  
8 investigation -- the complainant is required  
9 or encouraged to respond to the answer. And  
10 I wrote to Mr. Cahill, and I said, Well, how  
11 can I respond to something that's in a  
12 sealed envelope that I can't even see?

13 CHAIRMAN SAMPSON: I mean, that's a  
14 very valid point which you make. Let's go  
15 to the second incident.

16 MR. GALISON: Let me just say that he  
17 said "Do the best you can."

18 So in response, I wrote a 40-page  
19 report, fully documented -- 40 pages of  
20 text, hundreds of pages of exhibits --

21 CHAIRMAN SAMPSON: What actually  
22 happened to the case? Was it dismissed?

23 MR. GALISON: It was dismissed. And  
24 I wrote and I said when you dismissed this,

1 did you take into account the information  
2 that was in the sealed envelope, or did you  
3 just decide that I was lying?

4 And they said, Oh, well, maybe we made  
5 a mistake, we'll have it reconsidered. It's  
6 one of the things they do. They spend six  
7 months reviewing a case, then they say, oh,  
8 maybe we goofed, we'll reconsider it. Then  
9 there's another six months or a year.

10 CHAIRMAN SAMPSON: I want you to kind  
11 of get -- because I've got another minute  
12 left, I want you to --

13 MR. GALISON: Please, just ask me the  
14 questions, I will tell you. This is one  
15 case.

16 The other case, there are five lawyers  
17 and two judges. I haven't gone to the CJC  
18 yet. The other case involved a judge -- I  
19 mean a lawyer, a guy named -- which you've  
20 heard this story before, a guy named  
21 Friedman, Leon Friedman, who I complained to  
22 Cahill, and Cahill said -- the very words he  
23 wrote were "This attorney does not practice  
24 in Manhattan or the Bronx and is therefore

1 not under our jurisdiction."

2 I wrote him, I said he does, he just  
3 does. I'm not making that up. Here's his  
4 letterhead, here's the picture of the plaque  
5 over his door, here's a recording of his  
6 secretary saying that's his sole law office.  
7 But he was fraudulently registered in the  
8 10th District. I said the fact that he's  
9 fraudulently registered in the 10th District  
10 doesn't have any bearing.

11 Three years -- actually, 3 1/2 years  
12 now I have been contesting with Mr.  
13 Friedberg and his committee that 148 East  
14 78th Street is in Manhattan and not in  
15 Suffolk County somewhere. They maintain  
16 that it's in Suffolk County. And they --  
17 because by no account does Mr. Friedman have  
18 a law office in Suffolk County. He just  
19 doesn't.

20 So that is just nonsense. I mean, you  
21 know, that's the stuff that I'm -- but what  
22 happened was they sent my complaint to the  
23 10th District, where it was dismissed one  
24 week after it was sent in April of 2006. It

1 was never sent to Mr. Friedman.

2 And what was the rationale behind not  
3 investigating? They said this is not a  
4 complaint about ethics, this is a civil  
5 complaint. Well, hold on a second. The  
6 entire complaint was enumerated in the  
7 precise language of the LCPR, the Lawyer's  
8 Code of Professional Responsibility. Every  
9 complaint was followed by a numerically -- a  
10 numbered description of the exact law and  
11 why my cases corresponded to those  
12 particular ethical rules. To say that it's  
13 not an ethical complaint is just ludicrous.

14 But worse than that, they did not send  
15 me any confirmation. I did not know for  
16 three years. During the time of that three  
17 years, I was communicating with Mr.  
18 Friedberg, and he denied, he would refuse to  
19 answer the simple question of whether Mr.  
20 Friedman was practicing in the First  
21 Department or the 10th District, the Second  
22 Department. He -- I sent him 15 letters,  
23 and I have a tape recording which I put on  
24 YouTube of him saying that he will not tell

1 me, he refuses to tell me whether the lawyer  
2 is in his jurisdiction. That is the level  
3 of utter disregard for fairness and rules.

4 CHAIRMAN SAMPSON: And I need you to  
5 -- we need to end it. And I think I  
6 understand your point with the whole issue  
7 of the transparency issue and just basically  
8 the common decency and courtesy of just  
9 following up --

10 MR. GALISON: No, no, no, not --  
11 decency and courtesy is way more than I  
12 would demand. I'm talking about legal  
13 behavior. I don't care if he's decent or  
14 courteous to me. He has to respond to my --  
15 finally --

16 CHAIRMAN SAMPSON: The transparency  
17 issue is what you --

18 MR. GALISON: Yes. Well, not just  
19 transparency, following the laws. I've got  
20 a list of the laws that Mr. Friedberg broke.

21 And I just want to say -- end with one  
22 thing. I was recently speaking to the chief  
23 clerk of the Second Appellate Division,  
24 Mr. Pelzer. And I have him on a tape



1 recording saying the courts may dispense  
2 with the rules, with their own rules.

3 That is not true. The senators can't  
4 dispense with their own rules, the citizens  
5 cannot dispense with their own rules, the  
6 president cannot dispense with his own  
7 rules.

8 Thank you, sir.

9 CHAIRMAN SAMPSON: Thank you very  
10 much.

11 The next witness is Eleanor Capogrosso.  
12 How are you doing? Please don't follow  
13 Mr. Galison and take longer than five  
14 minutes.

15 MS. CAPOGROSSO: I gave you a great  
16 deal of material, Senator, so I'll try to  
17 just hit right to the points.

18 CHAIRMAN SAMPSON: When you say hit  
19 the points, that's what I want the witnesses  
20 to do. Let's hit the points, the issues  
21 that you have, and maybe any recommendations  
22 that you may want to see.

23 MS. CAPOGROSSO: Certainly.

24 Perhaps I could answer a question that

1           you raised earlier that what can we do with  
2           the SCJC. And it's a very --

3                   CHAIRMAN SAMPSON:       Does everybody  
4           know what the SCJC is?

5                   MS. CAPOGROSSO:       State Commission on  
6           Judicial Conduct.

7                   The answer is very simple. You just  
8           have to make it public. And you're mandated  
9           to do so, and I'll explain why. Article 6,  
10          Section 22 of the Constitution of the State  
11          of New York states: "The State Commission  
12          on Judicial Conduct is the disciplinary  
13          agency constitutionally designated to review  
14          complaints of judicial misconduct in New  
15          York State."

16                   The Legislature presently has abrogated  
17          its constitutional responsibility by giving  
18          the constitutional obligation to an  
19          organization that is not subject to review  
20          or oversight. As a result, Section 44 of  
21          the Judiciary Law violates the equal  
22          protection and due process clauses of the  
23          United States Constitution.

24                   That was the basis of my federal case

1 that I filed in the Southern District. Both  
2 attempts of trying to file that case were  
3 dismissed, first by the Honorable Griesa,  
4 where I couldn't even file a complaint  
5 because he coached the Attorney General what  
6 to do in order to get that case dismissed.  
7 The second was Honorable Scheindlin, when my  
8 case was consolidated with hers. That also  
9 was because it was sua sponte dismissed,  
10 where I couldn't file the complaint.

11 This is the issue, this is the answer.  
12 And the federal court does not want to  
13 address it. Based upon those dismissals  
14 where I couldn't file a federal complaint --  
15 and if you look at the transcript, which is  
16 next to the materials I sent to you, of  
17 which these are in Judge Griesa's words  
18 where he coaches the Attorney General on  
19 what to do to get this thing dismissed, and  
20 the unusual ruling by federal Judge  
21 Scheindlin to sua sponte dismiss a  
22 complaint, which is against prevailing  
23 Second Circuit case law because it doesn't  
24 even give an adversary the capability of



1 here is hidden under a veil of  
2 confidentiality by the OCA. The Board of  
3 Elections controls the election process with  
4 any of the politicians in this state, but  
5 not with the judges. They keep it secret,  
6 they keep it under a veil of secrecy. And  
7 by doing so, you're not giving the  
8 capability of the public to look carefully  
9 at these responses, to look at the resumes  
10 of these judges, to see whether or not  
11 they're making false statements.

12 Now, the reason why I bring this up and  
13 it's a big issue is because Judge Sotomayor  
14 right now is being judged. And if you look  
15 on the judicial webpage of the Senate  
16 Judiciary Committee in Washington, you'll  
17 see her answers to judicial questionnaires.  
18 You will also see her transcripts that when  
19 she was nominated in the past, of what her  
20 responses were. So that the public can go  
21 ahead and view it. Why should this state  
22 deserve anything less?

23 Now, the reason I mention all of this  
24 is it's also very important to do it because

1 Section 17-128 of the Election Law says that  
2 a public officer who willfully omits,  
3 refuses or neglects to perform any of its  
4 duties by hindering or delaying or  
5 attempting to hinder or delay the  
6 performance is guilty of a felony.

7 So when you have administrative judges  
8 who are not being truthful to the screening  
9 committees when they're asked are any  
10 complaints being filed against these judges  
11 who are seeking an elected post, they run  
12 afoul of this. Because that questioning is  
13 done by an informal process where a screener  
14 calls the judge up over the phone, on which  
15 they can say anything or conceal anything.  
16 It's not under oath, under the penalty of  
17 perjury, with a court reporter in the room.

18 Because I have boxes of letters that I  
19 had sent to the administrative judges  
20 concerning missing court files, clear  
21 violations and contempts of executive orders  
22 by the Governor after September 11th that  
23 were summarily dismissed by the State  
24 Commission on Judicial Conduct.

1                   Now, dealing with the First Department  
2                   Disciplinary Committee, I have to tell you a  
3                   little story, if you wouldn't mind just a  
4                   minute, and the perhaps you can understand  
5                   what the gist of this is.

6                   Many years ago I hired an attorney to  
7                   represent me in a dispute, and I believe he  
8                   charged me an excessive fee. He files a  
9                   lawsuit to recover his fee, and I hire  
10                  another attorney to represent me. His name  
11                  was Howard Benjamin. Mr. Benjamin doesn't  
12                  go to court, and Mr. Calabro obtains a  
13                  default judgment against me. When I  
14                  requested Benjamin to vacate the default, he  
15                  claimed he could not because he made a false  
16                  statement to the court about having been on  
17                  jury duty at the time of the court  
18                  appearance but he instead was in his office.  
19                  Benjamin informed me he was going to pay the  
20                  judgement to avoid the ramifications of  
21                  explaining it to the court.

22                  Years later, my credit was seriously  
23                  affected, since Calabro's judgment had not  
24                  been paid, unknowingly to me. Neither

1 Calabro nor Benjamin was helpful in giving  
2 me copies of the alleged checks that  
3 Benjamin had paid Calabro which was damaging  
4 my credit score. Without recourse, I filed  
5 a complaint with the First Department DDC,  
6 since by law if Benjamin had paid Calabro,  
7 then Calabro and Benjamin were required to  
8 hold onto these checks for a period of seven  
9 years.

10 The First Department DDC transferred  
11 the case to the Fourth Department DDC, since  
12 Howard Benjamin was an attorney who formerly  
13 worked there at the First Department DDC,  
14 and his partner, Mike Gentile, was the  
15 former chief counsel at the First Department  
16 DDC.

17 At the Fourth Department DDC, my case  
18 was closed without an investigation as to  
19 the whereabouts of those checks and the  
20 investigation of Benjamin's false statements  
21 to the court. I brought the complaint to  
22 the former presiding justice of the Fourth  
23 Department DDC, the Honorable Piggott, who  
24 now sits on the Court of Appeals. He did



1 nothing. He concealed it, he covered it up,  
2 he let it go.

3 I filed again in the First Department  
4 DDC, to have Sherry Cohen and Sarah Jo  
5 Hamilton tell me for years that they were  
6 retrieving these checks from the bank, of  
7 which I've given you correspondence,  
8 documents and all of that.

9 Then I received a letter dated  
10 November 8, 2004, three years after I  
11 requested those copies of checks, in which  
12 Thomas Cahill, chief counsel to the DDC,  
13 states: "In fact, after you filed your  
14 complaint, Mr. Benjamin provided the  
15 committee with copies of the fronts of two  
16 checks and a copy of the front and back of  
17 another, as well as the corresponding  
18 transmittal letter to Mr. Calabro." You  
19 have those letters.

20 During this period of time where I  
21 could not obtain copies of these checks, I  
22 wrote boxes of letters, I mean boxes, to the  
23 Honorable John Buckley, who was the  
24 presiding justice at the time, to the

1 Honorable Judith Kaye, who was the Chief  
2 Judge. They were the administrators. They  
3 were supposed to deal with something; they  
4 did nothing. They concealed it, they  
5 covered up, they did absolutely nothing.  
6 There is no administration of this court  
7 system. That is what the problem is.

8 And I can tell you, I called up Chief  
9 Judge Kaye's office many a time and spoke to  
10 Mary Mone, her counsel, and her response  
11 was: "The judge is a sitting judge, she's  
12 not an administrative judge." I said,  
13 "Well, what do you want me to do? She's the  
14 one that has this duty." But she refuses to  
15 live up to her responsibilities. That is  
16 the problem.

17 But to go back to the court, during the  
18 time when I could not get these checks, I  
19 filed a complaint against Mr. Calabro under  
20 the Fair Credit Reporting Act, in an attempt  
21 to obtain copies from him.

22 Honorable Joan Kenney publishes a  
23 decision on the front page of the Law  
24 Journal in which she says I have 35 lawsuits

1 as a pro se litigant. Then she says, in  
2 another transcript, "When I rendered the  
3 decision in the other case a year ago, I did  
4 my own research, and she at that point  
5 commenced in excess of 75 actions."

6 First of all, a judge cannot do their  
7 own research. They cannot go outside the  
8 record. Number two, she makes things up and  
9 was lying.

10 Now, how did this judge get on this  
11 bench? It's very interesting that how could  
12 she freely do it and be allowed to do it,  
13 because I filed a complaint with the State  
14 Commission on Judicial Conduct, and they  
15 summarily dismissed it.

16 My federal complaint was seen by  
17 someone who is in this room who happened to  
18 be a certified court examiner and was also  
19 at the brunt end of the misconduct and  
20 allegations by Joan Kenney. And she went  
21 ahead and obtained the curriculum vitae of  
22 Joan Kenney when she ran for election.

23 She found material misrepresentation in  
24 her campaign website. The official site

1 provided inaccurate and false information  
2 about the candidate's participation in law  
3 school activities such as Law Review, the  
4 candidate's licensure date, legal employment  
5 and professional experience.

6 I have no personal knowledge of the  
7 investigation, but I brought her here so  
8 that if you want to question her concerning  
9 this, she's sitting in this audience right  
10 now.

11 But this would not have been allowed to  
12 happen if that unified judicial  
13 questionnaire would be able to be made  
14 public. That judge would not be sitting on  
15 the bench freely going ahead and saying I  
16 have 35 lawsuits, 75 lawsuits, and whatever  
17 she can come up with, and going outside the  
18 record.

19 But this leads to an important point,  
20 because based upon that decision, the  
21 Honorable Debra James, in a case I brought  
22 because of some legal malpractice where I  
23 hired an attorney to represent me, says that  
24 I have -- has put protective order

1 preventing me from initiating any further  
2 litigation as a party plaintiff without  
3 prior approval of the administrative judge  
4 of the court. This also gets published on  
5 the front page of the *Law Journal*, claiming  
6 that my frivolous or repetitive actions or  
7 vexatious conduct -- which is based on Judge  
8 Kenney's decision, which she makes up.

9 CHAIRMAN SAMPSON: Ms. Capogrosso,  
10 could you sum it up?

11 MS. CAPOGROSSO: Yes. We've got  
12 more, though. If you want crimes, I'll give  
13 you crimes right now, what's in that paper,  
14 to get a special prosecutor not only at the  
15 DDC but at the State Commission on Judicial  
16 Conduct.

17 CHAIRMAN SAMPSON: And I will -- it's  
18 in here, I will definitely follow it up.  
19 But if you can wrap it up.

20 MS. CAPOGROSSO: Okay, I'll wrap it  
21 up in two -- about five more sentences.

22 I appealed the decision in the *Kansas*  
23 case into the Appellate Division. Who sits  
24 on the panel? Judge Buckley. What does

1 Judge Buckley do? He doesn't recuse  
2 himself. I make a motion for his recusal.  
3 It's -- he refuses. Then I make a motion to  
4 reargue, get a whole other five judges that  
5 are sitting on the panel there. Judge David  
6 Friedman, Tom, Acosta, and Helen Freedman,  
7 and they agree that he doesn't have to  
8 recuse himself.

9 So there is certainly a basis for his  
10 recusal, because he has a vested interest in  
11 the dismissal of that case because it has to  
12 deal with the federal complaint which I put  
13 in.

14 Further, I have a judgment against me  
15 for over a quarter of a million dollars that  
16 was put on a landlord-tenant dispute. In  
17 terms of me trying to perfect the appeal, of  
18 which the case law was in my favor and the  
19 judgment should not have occurred, the file  
20 in the county clerk was completely  
21 destroyed. I sent a secretary down there to  
22 copy it for the purpose of getting the  
23 record. She was given initially five files,  
24 six files closed. The next two days, she

1 was given five files. Then it turned out to  
2 be four files. To the point where I  
3 couldn't even perfect the appeal concerning  
4 that. I asked the Appellate Division to  
5 help me reconstruct the file; they refused.

6 You want retaliation? This is what  
7 happens when an attorney opens their mouth  
8 and complains about violations of executive  
9 orders, missing court files in a courthouse.  
10 If you want every attorney sitting in this  
11 room and out the door, I can have you  
12 thousands if you give them protection. What  
13 you need to do is give them a registration  
14 with an anonymous number, and any time they  
15 see misconduct, corruption by a judge, to  
16 anonymously report it and to be taken  
17 seriously.

18 Believe me, the attorneys in this --  
19 I'm probably one of the few attorneys here.  
20 There would be many more if you would give  
21 them that level of protection, and this  
22 would stop. And the people of this state  
23 would be well-served by finally get some  
24 justice into this state.

1 (Scattered applause.)

2 CHAIRMAN SAMPSON: Ms. Capogrosso --

3 MS. CAPOGROSSO: Oh, can I make one  
4 more point?

5 CHAIRMAN SAMPSON: Ms. Capogrosso, we  
6 have to --

7 MS. CAPOGROSSO: One more point.

8 CHAIRMAN SAMPSON: We have to --

9 MS. CAPOGROSSO: No. I'll be  
10 30 seconds, I promise you. Because this one  
11 you can't let go of.

12 On November 22, 2008, I write a letter  
13 to the DDC. Alan Friedberg charges me  
14 because -- he chose to start an action  
15 against me because a locksmith who repaired  
16 some locks in my office, I disputed the bill  
17 and he filed a complaint against me. A  
18 bill. Not even attorney services. While on  
19 other cases I know of, where lawyers are  
20 practicing law, unauthorized to practice law  
21 in New Jersey, he doesn't even the  
22 complaints.

23 I also have in there --

24 CHAIRMAN SAMPSON: Your 30 seconds



1 are up.

2 MS. CAPOGROSSO: All right. There's  
3 more --

4 CHAIRMAN SAMPSON: Ms. Capogrosso,  
5 thank you. Thank you very much, but we'll  
6 follow up. Thank you very much.

7 (Scattered applause.)

8 CHAIRMAN SAMPSON: The next witness  
9 is Mr. Ostertag, former president of the New  
10 York State Bar Association.

11 Mr. Ostertag, how are you, sir?

12 MR. OSTERTAG: Good afternoon,  
13 Mr. Chairman.

14 CHAIRMAN SAMPSON: How are you doing?

15 MR. OSTERTAG: I have a question, if  
16 I may, before you run the clock. Is there a  
17 rule, does this committee have a rule about  
18 the surreptitious videotaping of witnesses  
19 who come voluntarily before this committee  
20 to testify?

21 CHAIRMAN SAMPSON: We don't have a  
22 rule because, if you notice, the proceeding  
23 is being videotaped.

24 MR. OSTERTAG: I don't mean that one.

1                   CHAIRMAN SAMPSON:     Right.  The  
2                   proceeding is being videotaped, and this is  
3                   open to the public.  So, you know . . .

4                   MR. OSTERTAG:       Well, I've been  
5                   videotaped by Mr. Galison, I think it is.  I  
6                   don't know where he is now.

7                   CHAIRMAN SAMPSON:     Well, you and me  
8                   both.

9                   MR. OSTERTAG:       He was sitting over  
10                  there, then he was over there, and then he  
11                  was up against the wall, and he was sitting  
12                  over here, and then he was up front, and now  
13                  he's up against the wall again.

14                  CHAIRMAN SAMPSON:     At least you were  
15                  videotaped.  He tape-records it too, you  
16                  know.  Watch what you say around him.

17                                 (Laughter.)

18                  MR. OSTERTAG:       I don't know  
19                  Mr. Galison.  He was videotaping the faces  
20                  of Mr. Friedberg and Mr. Gold, who I also  
21                  don't know.

22                  CHAIRMAN SAMPSON:     No, I would  
23                  understand that, Mr. Ostertag.  But the  
24                  proceedings are open to the --

1           Mr. Galison, could you cease the  
2 videotaping to allow -- I want our witnesses  
3 to feel comfortable to testify. Thank you  
4 very much.

5           MR. OSTERTAG:       Well, I was going to  
6 give him the finger, but I didn't think  
7 quickly enough.

8           CHAIRMAN SAMPSON:    I'm glad.

9           MR. OSTERTAG:       My name is Robert  
10 Ostertag, and I am here on behalf of the  
11 76,000-member New York State Bar  
12 Association. We are a voluntary association  
13 devoted to the concept of lawyers serving  
14 their clients consistent with the highest  
15 standards of professional integrity.

16           I would like to get back to what I am  
17 here for. I have no complaints about  
18 anybody, I have no inquested accusations to  
19 make against anybody. What I want to  
20 address is the question of when disciplinary  
21 proceedings should be made known to the  
22 public. And in considering this question,  
23 we need to take note of the legitimate  
24 competing interests that are involved.

1           For lawyers, their competence and  
2           reputation is what they offer to the public.  
3           It affects how they are viewed by individual  
4           clients, judges, and the community at large.  
5           The arguments and viewpoints of a lawyer  
6           with a good reputation will be heard and  
7           carefully considered, whether by his or her  
8           clients, the court in which the lawyer  
9           appears, or in the general community.

10           Lawyers spend years, a career, trying  
11           to earn a stellar reputation. A good  
12           reputation cannot be bought or easily  
13           gained. It can be achieved only by a  
14           lawyer's demonstrated actions and efforts on  
15           behalf of clients over a period of time.  
16           Gaining the type of reputation for which all  
17           of us strive requires demonstrated skill and  
18           expertise on a continuing basis.  
19           Unfortunately, however, an earned reputation  
20           can be lost, and it can be lost in a mere  
21           moment.

22           I've practiced law for 50 years. My  
23           reputation I think is beyond repute. I  
24           recognize that it can be lost in a mere

1 moment.

2 For clients, they are entitled to know  
3 that any lawyer they retain has integrity  
4 and meets the standards of our profession.  
5 When serious questions are raised about the  
6 ethics, competence, trustworthiness of a  
7 lawyer, the client is entitled to know. The  
8 Bar Association understands that we should  
9 not have a disciplinary mechanism whereby  
10 clients are unknowingly represented by  
11 lawyers who may not meet those professional  
12 standards.

13 The problem, of course, is that when a  
14 complaint is filed against a lawyer with a  
15 disciplinary committee, the complaint may or  
16 may not have merit. If the fact of the  
17 complaint is disclosed and it is later found  
18 to have lacked merit, the lawyer's  
19 reputation will have been affected,  
20 obviously so.

21 Anyone who is in any way in public  
22 life, including lawyers -- and including  
23 also legislators, as you know -- knows that  
24 any initial story in the media about a

1 complaint that has been filed overwhelms any  
2 follow-up story reporting that the initial  
3 complaint was of no merit and that the  
4 individual did not engage in any wrongdoing.

5 In such a situation, disclosure of the  
6 complaint will have caused reputational  
7 damage that cannot be erased. Thus, early  
8 disclosure of complaints against lawyers is  
9 unfair to those who, in the end, are found  
10 to have done absolutely nothing that  
11 supports discipline.

12 We recognize, however, that there are  
13 situations where the public should be made  
14 aware of the questionable conduct of a  
15 lawyer without waiting for a final  
16 determination of the disciplinary body.  
17 Clients who retain a lawyer during the  
18 pendency of a disciplinary proceeding or  
19 continue to be represented by a lawyer  
20 during this proceeding may be harmed in some  
21 situations if they are unaware of serious  
22 charges that have been brought but have not  
23 yet been finally determined.

24 The State Bar Association has

1           considered these issues on several  
2           occasions, with at least different  
3           committees having examined the matter within  
4           the last 15 years. While, as an association  
5           of attorneys, we want to protect our  
6           members, we recognize that we also have an  
7           obligation to make certain that those  
8           represented by attorneys are not harmed.

9           In light of all these considerations,  
10          and the recognized competing interests, the  
11          State Bar Association has concluded that  
12          where there is a need to safeguard the  
13          public, the Appellate Divisions, which are  
14          in charge of lawyer disciplinary matters,  
15          should exercise the authority they already  
16          have in any appropriate disciplinary case  
17          and consider interim suspension of the  
18          subject lawyer pending the outcome of the  
19          disciplinary process. With suspension comes  
20          public disclosure.

21          This proposal achieves several  
22          objectives. First, in those cases where  
23          allegations have been made against an  
24          attorney which are not serious or for which

1           there is not significant supportive  
2           evidence, the attorney is protected. His or  
3           her name will not be revealed unless and  
4           until there is public discipline, meaning  
5           that disciplinary action beyond a private  
6           letter has been addressed to the attorney.

7           Where public discipline is not  
8           warranted, the fact of allegations having  
9           been made and the results of the  
10          disciplinary proceeding would not be  
11          revealed. The attorney's reputation would  
12          remain intact.

13          However, to protect clients and the  
14          public in those cases where serious charges  
15          are brought and the initial evidence is  
16          supportive of those charges, the courts  
17          would step in and make a judgment as to  
18          whether suspension and public disclosure is  
19          warranted. This would be a determination  
20          made by the judges of the Appellate  
21          Divisions on a case-by-case basis. This  
22          would place the decision as to whether to  
23          suspend and disclose exactly where it should  
24          be, with judges, whose fundamental role in



1           our society is to examine individual cases  
2           and make decisions based upon the facts  
3           placed before them.

4           I am aware that there have been general  
5           calls for increased disclosure of  
6           disciplinary proceedings. However, I do not  
7           believe that those who have called for such  
8           disclosures have done the careful analysis  
9           that has been done by three Bar Association  
10          committees, nor have they acknowledged the  
11          competing interests that need to be  
12          reconciled as I have outlined them.

13          The law recognizes that certain  
14          proceedings need to be confidential to  
15          protect innocent parties from being tainted.  
16          Grand jury proceedings are the best example.  
17          They have been secret for centuries, in  
18          recognition of the need to protect innocent  
19          parties.

20          Similarly, while the courts are open to  
21          the public, certain cases, such as many  
22          Family Court cases, are not public. The  
23          Legislature has recognized that there are  
24          situations in which the need for

1            confidentiality is superior to the desire to  
2            have public disclosure in a democratic  
3            society.

4            In conclusion, the State Bar  
5            Association recognizes that disclosure is  
6            necessary in certain circumstances. Where  
7            clients and the public need to be protected,  
8            we want the courts to use their power to  
9            step in, suspend an offending lawyer, and  
10           disclose to the public.

11           However, absent a finding by an  
12           Appellate Division that there is a need for  
13           immediate suspension and disclosure, your  
14           association urges that disciplinary  
15           proceedings not be open and that disclosure  
16           be made only where there is a finding that  
17           public discipline is warranted and that an  
18           attorney has in fact done something wrong.  
19           Innocent lawyers need protection as much as  
20           other innocent parties, and our proposal  
21           offers both lawyers and the clients they  
22           serve the protections to which they are  
23           entitled.

24           Thank you, sir.

1                   CHAIRMAN SAMPSON:       Mr. Ostertag,  
2                   thank you very much.   And I'm very  
3                   interested that you at least and the  
4                   association recognizes there is some need I  
5                   guess to deal with the perception but most  
6                   of all having the public have faith in a  
7                   system like this.

8                   MR. OSTERTAG:        I understand public  
9                   concern about the issue.

10                  CHAIRMAN SAMPSON:       But at the same  
11                  time, we have to -- those counsels who have  
12                  done good jobs, just to be labeled for  
13                  complaints that should be dismissed or are  
14                  frivolous in its nature, at the same time  
15                  we're trying to do two competing concerns.

16                  MR. OSTERTAG:        I do understand that.  
17                  And I also recognize the fact that there are  
18                  complaints that are filed with -- I've been  
19                  involved in the grievance process for a  
20                  number of years.   I've been involved in the  
21                  disciplinary process for about 19, 20 years,  
22                  off and on.

23                  And I recognize that complaints are  
24                  filed and it's easy to make a complaint

1           about a political person or an attorney or a  
2           political person who is an attorney,  
3           particularly at election time or during the  
4           proceedings that predate Election Day -- in  
5           other words, a campaign time. And that's a  
6           very difficult time for an attorney who is  
7           running for political office.

8           You need only look at the television  
9           channels in the last few days, last few  
10          weeks, about this man in New Jersey who was  
11          a former United States Attorney who has  
12          become the subject of a complaint of  
13          pay-to-play. And I don't know whether he's  
14          done that or he hasn't done that. But if he  
15          hasn't done it, his reputation has been  
16          badly besmirched. And it happens over and  
17          over and over and over again. .

18          I recognize the need to protect the  
19          public. I certainly would want to protect  
20          the public. I must tell you that neither my  
21          association nor I suffer wrongdoers lightly.  
22          But I think there is a two-way street here.

23                   CHAIRMAN SAMPSON:        So thank you very  
24                   much for your comments.

1 MR. OSTERTAG: Thank you.

2 CHAIRMAN SAMPSON: The next person is  
3 John Aretakis.

4 MR. ARETAKIS: Good afternoon,  
5 Senator. My name is John Aretakis. I'd  
6 like to thank you, and I'd like to thank you  
7 for your overwhelming patience in this  
8 hearing. And I thank you also, Mr. Spotts.

9 My focus is on the treatment and the  
10 failure to follow procedure, the failure to  
11 follow the law, and acting in excess of the  
12 jurisdiction by the Third Department  
13 Committee on Professional Standards,  
14 otherwise known as COPS. In the First  
15 Department we've heard it's called the  
16 Departmental Disciplinary Committee, the  
17 DDC. In the Third Department, in Albany,  
18 it's called COPS.

19 I was born and raised in Brooklyn, and  
20 for well over the last decade my only  
21 practice for the practice of law has been in  
22 Manhattan, in New York City. And for the  
23 past 20 years, 80 to 90 percent of my cases  
24 have been in New York City. But starting in

1 the year 2002, when I became one of only a  
2 handful of lawyers handling a very, very  
3 controversial area of law involving  
4 representation of children who were abused  
5 by pedophiles -- that started in 2002. The  
6 Third Department Committee on Professional  
7 Standards has come down to New York City and  
8 investigated me over 50 times, 5-0. And on  
9 a multiple of occasions, the cases that they  
10 investigate in New York City involve New  
11 York City litigants, New York City judges,  
12 New York City decisions, and of course me, a  
13 New York City attorney.

14 Why is the Committee on Professional  
15 Standards up here in Albany going down the  
16 Thruway 150 miles and investigating me?  
17 Their only answer: I graduated from Albany  
18 Law School in 1985. That supposedly gives  
19 them jurisdiction over me.

20 After law school, Senator Sampson, I  
21 went on to get a master's in law at  
22 Georgetown University Law Center. And  
23 because I graduated from Albany Law 23 years  
24 ago, Mr. Ochs, who's been sitting in the

1 back of this room all day, who I will not  
2 attack, says that they have jurisdiction to  
3 investigate me. Using vague and arbitrary  
4 ethical statutes like conduct unbecoming of  
5 an attorney and actions that are prejudicial  
6 to the administration of justice.

7 I am hopeful that a review of my case  
8 in a nutshell will help this honorable  
9 committee more appropriately see that this  
10 system is rife with abuse and it needs to be  
11 remedied.

12 I heard the first speaker, Mr. Gold.  
13 And as I sat over there quietly, I almost  
14 fell out of my chair. He said "Using the  
15 address listed on the Department of OCA,  
16 that determines which disciplinary committee  
17 will investigate." I agree with that  
18 wholeheartedly.

19 CHAIRMAN SAMPSON: So where are you  
20 listed?

21 MR. ARETAKIS: I'm listed in New York  
22 City, where I've been for 15 or 20 years. I  
23 am only listed there.

24 CHAIRMAN SAMPSON: Have you ever been

1 listed in the Third Department?

2 MR. ARETAKIS: Excuse me?

3 CHAIRMAN SAMPSON: Have you ever been  
4 listed in the Third Department?

5 MR. ARETAKIS: I graduated from  
6 Albany Law in '85, and I briefly worked in  
7 Albany in 1987 for less than one year. And  
8 then in 1988, I moved my entire practice to  
9 Manhattan, where I've been.

10 CHAIRMAN SAMPSON: On your  
11 registration, do you register your Manhattan  
12 address?

13 MR. ARETAKIS: Only my Manhattan  
14 address. I pay taxes in Manhattan, I vote  
15 in Manhattan, I've done a month of grand  
16 jury service a few years ago in Manhattan.  
17 I did civil jury service in Manhattan.

18 CHAIRMAN SAMPSON: I'd like to cut to  
19 the chase. Then what is your basis for  
20 them -- what is your basis for the Third  
21 Department having jurisdiction --

22 MR. ARETAKIS: They don't have any  
23 basis. They've broken the law. They've  
24 violated their own brochure that they hand



1 out at the Court of Appeals. They say, We  
2 will investigate lawyers who have an office  
3 for the practice of law in the jurisdiction  
4 of the Third Department in Albany.

5 And I think Mr. Gold and Mr. Friedberg  
6 might be excellent witnesses on my behalf,  
7 because they were talking about lawyers who  
8 are outside of their jurisdiction who they  
9 will not investigate.

10 I will also tell you this, Your Honor.  
11 Of those 50 complaints -- and I need to say  
12 this very, very carefully, because we  
13 lawyers know that the ones we owe our  
14 ethical duties to are our clients. None of  
15 those 50 complaints are from clients. None.  
16 It's overwhelming.

17 Mr. Ochs wakes up and reads the  
18 newspaper at various parts of the state, and  
19 he likes to track my career and he likes to  
20 follow me because I've been engaged in a  
21 very controversial area, and he'll start an  
22 investigation against me. He's started over  
23 20 sua sponte investigations and then,  
24 sometimes because I am involved in removing

1 pedophiles from their job, these pedophiles  
2 file complaints against me, and Mr. Ochs  
3 takes it upon himself to investigate them.

4 One time I was on a nationally  
5 syndicated radio show criticizing an  
6 employer for employing a pedophile, and a  
7 woman who I'd never even heard of filed a  
8 complaint against me, and I was forced to  
9 defend myself from the Third Department for  
10 about a year.

11 CHAIRMAN SAMPSON: So out of those 50  
12 complaints, what happened to those  
13 complaints?

14 MR. ARETAKIS: Well, 49 of them, the  
15 first 49 were dismissed, as they should have  
16 been.

17 On December 11 of '08, six months ago,  
18 Mr. Ochs merged some decisions on New York  
19 City cases from 2005, 2006, and 2007 and  
20 asked the Appellate Division up here in  
21 Albany to suspend me. And I was suspended  
22 for one year. And as God is my witness --

23 CHAIRMAN SAMPSON: Wait, wait. Hold  
24 on. You were suspended for one year.

1                   MR. ARETAKIS:       Yes.  By the Third  
2                   Department up here in Albany.

3                   CHAIRMAN SAMPSON:       And why were you  
4                   suspended?

5                   MR. ARETAKIS:       They suspended me for  
6                   conduct that is prejudicial to the  
7                   administration of justice -- I don't know  
8                   what that means -- they suspended me for  
9                   conduct unbecoming of an attorney -- I don't  
10                  know what that means -- and they suspended  
11                  me primarily for making what they termed  
12                  rather aggressive motions for recusals of  
13                  various judges.

14                  I have been forced to be very critical  
15                  of some judges because the work I've been  
16                  employed to do on behalf of 250 victims is  
17                  -- I sue the Catholic Church because they  
18                  employ some bad priests.  I've been very  
19                  critical, I've been very public with my  
20                  work.  It's been a very controversial area  
21                  of law.  And some judges have sanctioned me  
22                  for filing a frivolous lawsuit because a  
23                  client might have been molested 30 years  
24                  ago.

1                   CHAIRMAN SAMPSON:       How many times  
2                   have, I guess, judges admonished you for  
3                   filing a frivolous lawsuit?

4                   MR. ARETAKIS:       Four times.  They  
5                   merged the four decisions; two cases were  
6                   exclusively New York City cases, and two  
7                   cases were from elsewhere.

8                   However, Ethical Consideration 7.4 says  
9                   a lawyer may file a frivolous lawsuit if you  
10                  believe the law should be modified, changed  
11                  or extended, or the law is wrong.  I happen  
12                  to believe that if in 1975 a priest abused a  
13                  10-year-old altar boy that they should be  
14                  able to sue right now.  I believe there are  
15                  laws that are pending right now before  
16                  various committees that may modify the law.

17                  And I'm not here to speak on that issue  
18                  at this time, I'm just saying that because I  
19                  have taken some controversial stances and my  
20                  matters have been extraordinarily made  
21                  public all over the entire country, I've  
22                  been the subject of front-page articles in  
23                  the *New York Times*, the *New York Post*, in  
24                  *Vanity Fair*, in the *Village Voice*, all kinds

1 of publications. Mr. Ochs wakes up and he  
2 sees a complaint made by the church about my  
3 aggressive tactics, and he files a sua  
4 sponte complaint.

5 And he sits back there, and I cherish  
6 the thought that he can come up here and  
7 answer some of your questions or privately  
8 find some answers to these questions.

9 They have a rule that says you need  
10 seven members of the committee to vote for a  
11 punishment, that's a quorum. And they acted  
12 and suspended me and punished me and  
13 admonished me with four members. And one of  
14 the four members was an attorney that I had  
15 a pending aggressively hostile, adversarial  
16 case with. It's a clear conflict of  
17 interest.

18 But what you have is you have the  
19 Appellate Division that employs the  
20 Committee on Professional Standards, and  
21 they rubber-stamp all their decisions. And  
22 I've looked at hundreds -- I don't want to  
23 say thousands. All the decisions regarding  
24 disciplinary matters are five-nothing. So

1 the attorney who's been disciplined has no  
2 right to automatically to the Court of  
3 Appeals. You have nothing to hang your hat  
4 on.

5 I also would like to say this. As far  
6 as procedural due process, they violated  
7 their rules in a plethora of ways. However,  
8 not once on any of these 50 complaints have  
9 I been allowed to give testimony. Matter of  
10 fact, they have started six new --

11 CHAIRMAN SAMPSON: But you won -- out  
12 of the 50, you won 49.

13 MR. ARETAKIS: Well, that's right.  
14 But I've asked to be allowed my opportunity  
15 to give testimony, especially when they were  
16 disbarring me, when they were suspending me.

17 Because I filed a lawsuit against them  
18 two months before they suspended me because  
19 I was so positive that I knew the lay of the  
20 land, they were going to suspend me. It was  
21 only a matter of course. I've been  
22 complaining to them and to the chief judges  
23 for a number of years that they pursue me  
24 willy-nilly, aggressively for no other

1 reason other than they do not like the  
2 political position I've taken adverse to the  
3 Catholic Church.

4 And I may say this publicly, I love the  
5 Catholic Church. However, there are some  
6 bad people that have gotten into the  
7 Catholic Church --

8 CHAIRMAN SAMPSON: No, no, no --

9 MR. ARETAKIS: -- and it's not a  
10 problem or a vendetta I have.

11 However, being Greek Orthodox and being  
12 from Brooklyn and Manhattan, I think they've  
13 taken upon themselves to say you don't come  
14 to Albany like that, Mr. Aretakis, and act  
15 like that: The law is determined in our  
16 courtroom, with our standards.

17 And because a judge sanctions me or  
18 admonishes me, then Mr. Ochs thinks he has  
19 unfettered authority to punish me. And I've  
20 spend hundreds of thousands of dollars of my  
21 own time and my own attorneys in helping  
22 defend myself from all of these frivolous  
23 ethical complaints that have come against  
24 me. These committees are prosecutors --

1                   CHAIRMAN SAMPSON:       So, Mr. Aretakis,  
2                   so to sum it up, what's your  
3                   recommendations?

4                   MR. ARETAKIS:       Well, I would love  
5                   nothing more than either this committee take  
6                   it upon themselves or hand it off to the  
7                   State Commission on Investigations or to the  
8                   Inspector General's Office to take this  
9                   matter, my matter and investigate it.  If  
10                  they do investigate it, you'll find it's  
11                  rotten from the core.

12                  However, I would also ask in the  
13                  meantime, since they have taken away my  
14                  ability to earn any type of living for my  
15                  family, that everything that Mr. Ochs up  
16                  here in the Third Department has pending be  
17                  transferred to the First Department.  If I  
18                  committed such egregious actions so as to be  
19                  an unethical lawyer who's not trustworthy,  
20                  what's wrong with these fine attorneys from  
21                  the First Department investigating me?

22                  The reason is they've gotten a few  
23                  dozen complaints against me as well, and  
24                  what they've done is they wrinkle them up



1 and they throw them in the wastebasket,  
2 because these are not clients of mine. So  
3 they've sent me one letter in 20 years -- in  
4 seven years that I've been engaged in clergy  
5 abuse saying "Please respond to this  
6 complaint." And that was dismissed as well.

7 So there's no problems that I have --  
8 and I also would like to just finish with  
9 this. It's my understanding that 99.9  
10 percent of all attorneys are suspended or  
11 disbarred for stealing money, commingling  
12 funds, neglecting a case, getting arrested,  
13 or being charged in another jurisdiction  
14 with a crime of moral turpitude and  
15 therefore being given comity and being  
16 suspended in this jurisdiction.

17 My crime is without precedent, making  
18 accusations and allegations in court papers  
19 against various judges and having frivolous  
20 lawsuits -- if you look at this, there's an  
21 awful record, and I've again only touched  
22 the tip of the iceberg.

23 I appreciate the time you've given me.  
24 Thank you very much.

1                   CHAIRMAN SAMPSON:     Mr. Aretakis,  
2                   thank you very much, and we will definitely  
3                   look into it.

4                   MR. ARETAKIS:     Thank you.

5                             (Recording ends and resumes during  
6                   testimony of Michael Kelly.)

7                   MR. KELLY:     -- judge assigned to my  
8                   case. And for the last three years, because  
9                   I am trying to uncover forgeries outside of  
10                  Rockland County that I believe are coming  
11                  out of the Surrogate Court using deceased  
12                  people's names, I am being targeted by the  
13                  judges and district attorney's office in  
14                  Rockland County.

15                  The gentleman, Gary Casella, says that  
16                  my complaint of my former defense attorney  
17                  being promoted to the district attorney's  
18                  office in the middle of my case now being a  
19                  district attorney, a senior district  
20                  attorney in the Rockland County District  
21                  Attorney's Office -- for four months after  
22                  he swore the oath of office, he acted as my  
23                  defense attorney on my criminal matter in  
24                  the same court he is sworn to be a

1           prosecutor with.

2           I have a sworn oath of office in that  
3           package, I have forgeries with naming a  
4           person, named forgeries out of Rockland  
5           County with a handwriting analysis expert's  
6           opinion on there on who forged those  
7           documents. There's more in that.

8           My daughter, they kept me away from my  
9           daughter with illegal court orders saying I  
10          can't see my 17-year-old daughter where she  
11          wrote letters to the court asking the judge  
12          for unrestricted visitation with her father.  
13          The judge ignored those.

14          I am being retaliated against in  
15          Rockland County. They recently incarcerated  
16          me, as a first-time offender, for  
17          harassment, as a retired New York City  
18          policeman, for 14 days in jail with a \$250  
19          fine. No docket of that decision and order.  
20          The only thing on the docket is that I paid  
21          a fine and I paid restitution.

22          Everything in Rockland County, when it  
23          comes my case in that package, sir, is  
24          fraudulent in nature, to cover up for the

1 crimes that the lawyers and judges in that  
2 county have committed. And I'm being  
3 retaliated against. And if somebody would  
4 look at that package and hear what I'm  
5 saying, you will find that it's undisputable  
6 evidence. Like I told you, a three-year  
7 litigation in Rockland County Court with no  
8 docket.

9 I'm in a court right now for criminal  
10 charges going back three years ago. No  
11 grand jury, no indictment, no anything. And  
12 for three years later they reduced the  
13 charge to harassment and want to send me to  
14 jail -- right on the brink of me coming to  
15 this hearing because they want to stop me  
16 from coming here.

17 CHAIRMAN SAMPSON: Well, I mean, I'm  
18 glad you made it here, and I will make sure  
19 that we go through this and get a response  
20 back to you very quickly.

21 MR. KELLY: I appreciate it. And all  
22 the committee letters where I'm -- they're  
23 all rubber-stamps: We see nothing, we see  
24 no problems. They always have like a catch

1 phrase: Your complaint doesn't fall in our  
2 jurisdiction, et cetera, et cetera.

3 But based on -- following those  
4 complaints is fact, sir, that you can  
5 verify. And there is corruption, and it's  
6 happening now. And you can catch these  
7 people.

8 CHAIRMAN SAMPSON: Thank you very  
9 much, Mr. Kelly. I'll make sure we  
10 definitely follow it up. Thank you.

11 The next witness is Kathryn Grace  
12 Jordan, of New York.

13 MS. JORDAN: Good afternoon, Your  
14 Honor. I'm here to talk about the  
15 Commission on Judicial Conduct.

16 By way of background, though, I do want  
17 to identify myself as the president of END,  
18 End Discrimination Now, an organization that  
19 I started in 2008 after it became apparent  
20 to me that our nation's and state's  
21 antidiscrimination laws are not being  
22 enforced by the judiciary and that many  
23 activist judges are actually rewriting the  
24 laws on a regular basis.

1 I myself endured a 13-year litigation  
2 on a disability discrimination case. Ten  
3 years of that litigation resulted in a jury  
4 verdict in my favor which was reversed by  
5 the First Department under Jonathan Lippman.

6 I believe I have stepped back --  
7 because my training is as a management  
8 consultant and Fortune 100 executive, and I  
9 have done a thorough analysis of all the  
10 information that's available, including Mr.  
11 Tembeckjian's 2009 annual report and all the  
12 data that's in it.

13 CHAIRMAN SAMPSON: What's your  
14 analysis?

15 MS. JORDAN: Well, I will tell you  
16 this. I don't think there's anything to be  
17 proud of.

18 First of all, judicial misconduct is  
19 up. And he talks about managing -- just one  
20 second here, one second. I've got to flip  
21 the page. He talks about you know that  
22 things are very bad when you have to refer  
23 to 30 years worth of work and 69,000  
24 complaints over 30 years. What he didn't

1 focus on was the 1,923 new complaints that  
2 are up 12 percent from last year, which is  
3 part of the evidence that shows that the  
4 rules of judicial conduct are not being  
5 enforced, either in district court or at the  
6 appellate level, despite the increase in  
7 complaints, because judges, as I just said,  
8 are not enforcing the laws. And the  
9 judicial misconduct commission is not doing  
10 their job in terms of reviewing the conduct  
11 of these judges.

12 And they talked about the fact that  
13 they have 22 commission attorneys and 12  
14 commission members and the fact that you  
15 gave them extra money -- I don't know what  
16 they've been doing with it, but obviously  
17 they haven't been doing it to thoroughly  
18 review complaints and to make sure that  
19 these judges are held accountable.

20 One of the most astounding statistics  
21 is that there were 40 complaints against  
22 appellate judges, and zero were  
23 investigated.

24 If you take Mr. Tembeckjian at his

1 word, at its face value, they're doing a  
2 bang-up job and we have a bunch of  
3 delusional litigants who are just populating  
4 the system with meritless complaints. I  
5 don't believe that's the case. I think  
6 what's going on is that we have a crisis of  
7 leadership in the judiciary and a culture of  
8 corruption and cover-ups. And I believe  
9 that the Commission on Judicial Conduct is  
10 part of that.

11 Mr. Tembeckjian, I wanted to ask a  
12 couple of questions to him when he was in  
13 the room before, one of which is does he  
14 still have his cable television show where  
15 he interviews judges and lawyers -- because  
16 that's kind of a conflict of interest with  
17 your current position -- and how he goes  
18 about conducting investigations. Because I  
19 myself have filed several complaints with  
20 the judicial conduct commission, very, very  
21 meritorious complaints where judges  
22 expressly violated, either through *ex parte*  
23 conduct, acting -- making -- attacking --

24 CHAIRMAN SAMPSON: Those complaints



1           were dismissed and never followed up with?

2           MS. JORDAN:       They were dismissed  
3           almost like within a month, a couple of  
4           months, no explanation.

5           The process is not transparent.  It's  
6           all secretive.  And as far as appeals, the  
7           appeals, as he's just admitted, are for the  
8           benefit of the judges.  It is -- in my  
9           opinion, the judicial commission on  
10          misconduct has numerous problems.  I'm going  
11          to list them very quickly.  Lack of  
12          transparency, conflicts of interest, the  
13          composition of the actual commission itself.

14          The investigators, who actually, on  
15          paper, many of which have -- seem to have  
16          good qualifications, which kind of creates  
17          an interesting question, which is why can't  
18          they resolve these investigations positively  
19          and in a timely manner.

20          There's actually no interaction with  
21          the complainant, so you have no idea what's  
22          going on.

23          The priorities seem to be on routing  
24          the town and village errant judges while

1           letting the big fish swim away.

2                   I don't know how they handle evidence;  
3           I know there's a huge issue about evidence  
4           handling that has been spoken about by a  
5           number of people in this room, and it's very  
6           serious. If you go to 60 Centre Street, you  
7           will know the lack of integrity that exists  
8           in terms of files. Anybody could walk in,  
9           take a file out, and there's nothing that  
10          can be done about it. I mean, there's no  
11          proof, nothing. What has to happen is the  
12          files need to be digitized.

13                   CHAIRMAN SAMPSON:        So basically  
14          summing it up, Ms. Jordan, I just want to --

15                   MS. JORDAN:        Yes. I've talked faster  
16          than anybody up here.

17                   CHAIRMAN SAMPSON:        That's correct.  
18          And that's why -- because you seem to be  
19          very specific in what you want.

20                   MS. JORDAN:        Right.

21                   CHAIRMAN SAMPSON:        That's what I'm  
22          looking for, the recommendations, the  
23          changes that you --

24                   MS. JORDAN:        Yes. I think that a

1 task force should be formed to review  
2 whether or not the Commission on Judicial  
3 Conduct is an effective body and --

4 CHAIRMAN SAMPSON: When you say task  
5 force, who do you think should be comprised  
6 of this task force?

7 MS. JORDAN: I am not going to make  
8 specific recommendations here, Your Honor,  
9 because I don't have enough time to do that.  
10 But I will get back to you with that.

11 I do believe, though, that we need a  
12 multi-stakeholder task force to investigate  
13 whether or not the Commission on Judicial  
14 Conduct is doing its job. And, if it's not,  
15 what kind of entity might replace it.  
16 Because we definitely need to monitor the  
17 judges and make sure that they are enforcing  
18 the laws, because it appears that they're  
19 not doing it at the moment.

20 CHAIRMAN SAMPSON: Ms. Jordan, thank  
21 you very much.

22 MS. JORDAN: Thank you.

23 CHAIRMAN SAMPSON: The next witness  
24 is James -- how do you pronounce your last

1 name, James?

2 MR. MONTAGNINO: Montag-neeno,  
3 Senator.

4 CHAIRMAN SAMPSON: Montagnino.

5 AUDIENCE MEMBER: I object -- I  
6 object, because I have personal knowledge of  
7 his personal activities.

8 CHAIRMAN SAMPSON: There's no  
9 objection right here. We're going to let  
10 Mr. Montagnino make his comments.

11 And if you have comments to make, if  
12 you're on the list, then we can listen to  
13 your comments. Or you can talk to me after  
14 this is over and then we can follow up.  
15 Okay?

16 AUDIENCE MEMBER: Thank you. Thank  
17 you very much.

18 CHAIRMAN SAMPSON: Thank you very  
19 much. Go ahead.

20 MR. MONTAGNINO: Thank you, Senator.

21 I just want to begin by saying that I  
22 don't have an ax to grind, I'm not here with  
23 a specific gripe about anything in  
24 particular with regard to myself.

1           On a personal level, I've been an  
2           employee of the Unified Court System since  
3           1995. I've been a court attorney/referee  
4           for the last 10 years. I started out in my  
5           legal career in the Bronx District  
6           Attorney's Office. I was a prosecutor in  
7           the Westchester DA's office. I was a Legal  
8           Aid lawyer in Westchester. I was principal  
9           law clerk to a county judge for five years  
10          in Westchester.

11          The last three years, I've been a court  
12          attorney/referee here in the Capital  
13          District. And I love my job.

14          And one thing I've learned in years in  
15          the judiciary is that with every decision a  
16          judge makes, that judge makes one temporary  
17          friend and one permanent enemy. And this is  
18          something that really has to be considered  
19          when weighing the probative value of  
20          complaints that are made against judges over  
21          the course of the years.

22          I can say with pride that my experience  
23          in the Capital District, the Third Judicial  
24          District, has been wonderful over the last

1 three years. As a court attorney/referee  
2 I'm assigned to the chambers of various  
3 judges on a rotating basis. I've worked  
4 with Supreme Court justices, Court of Claims  
5 judges, county judges, a Family Court judge,  
6 some City Court judges. I've been all  
7 around the Third District.

8 And I can say categorically that the  
9 judges of this district do their jobs to the  
10 best of their ability, they are hardworking,  
11 they are ethical people. And one of the  
12 reasons, one of the big reasons for that is  
13 that the administrative judge for this  
14 district, George Ceresia, is a man of the  
15 highest moral and ethical caliber. And he  
16 sets the tone for the way business is  
17 conducted in this district.

18 Having said that, I'm here because in  
19 the seven years that I worked as a court  
20 attorney/referee assigned to the matrimonial  
21 part in Westchester County, that same  
22 condition did not apply to Westchester.  
23 That for years in Westchester I, having been  
24 assigned to matrimonial cases, saw on a

1 regular basis that the district  
2 administrative judge entertained *ex parte*  
3 communications from well-connected attorneys  
4 and well-connected litigants, and those *ex*  
5 *parte* communications often resulted in  
6 transfers of cases from one judge to  
7 another -- in one case, the change of a  
8 decision that a judge had already signed and  
9 sent out to the parties, based upon *ex parte*  
10 communications.

11 I saw this for years and finally  
12 decided that I had to take action, and I  
13 brought an internal complaint to the various  
14 chief administrative judges of the Office of  
15 Court Administration, and the result of that  
16 was retaliation against me. Not by OCA, but  
17 by the target -- by the administrative  
18 judge.

19 I'm going to cut through some of the  
20 details and get to the point, what brings me  
21 here today, Senator. I can certainly  
22 understand the Commission on Judicial  
23 Conduct taking a jaundiced eye looking at a  
24 complaint brought by a litigant who lost a

1 case in court. In Westchester County, I  
2 filed a complaint ultimately with the  
3 Commission on Judicial Conduct that was  
4 detailed. It named names, it gave cases, it  
5 gave dates. Attached to it were photographs  
6 of dumpsters, dumpsters of court records  
7 that were ordered destroyed. Matrimonial  
8 files by law must be retained permanently.  
9 They were destroyed.

10 It would have been one thing if I had  
11 been the only complainant, Senator. But a  
12 retired acting justice of the Supreme Court,  
13 Fred L. Shapiro, sent his own complaint to  
14 the Commission on Judicial Conduct against  
15 the same administrative judge, Judge Francis  
16 Nicolai, alleging the same kinds of abuses  
17 -- naming names, giving dates, giving  
18 information that he had personally obtained.

19 And it wasn't just the two of us,  
20 Senator. There was a third individual, the  
21 principal law clerk to a Supreme Court  
22 justice in the Ninth Judicial District,  
23 Barry Skwiersky, sent his own complaint to  
24 the Commission on Judicial Conduct, with his



1 information on routine, regular, consistent  
2 patterns of misconduct whereby Judge Nicolai  
3 would steer cases.

4 When a lawyer who had the right  
5 connections didn't like the way his  
6 matrimonial case was being handled, he could  
7 go to Judge Nicolai -- without, of course,  
8 opposing counsel having any idea of it --  
9 explain the fact that he had a problem with  
10 the judge who was assigned to the case, and  
11 lo and behold, the case would be reassigned  
12 to a more sympathetic judge.

13 There were written complaints. A law  
14 guardian who was involved in a child custody  
15 proceeding where the judicial hearing  
16 officer who was presiding over that case  
17 ordered that the father have the right to  
18 see his children, and made it so under  
19 supervised conditions to protect everybody's  
20 safety. That litigant went *ex parte* to  
21 Judge Nicolai, and Judge Nicolai told that  
22 judicial hearing officer to change his  
23 decision. He did that, and then complained  
24 about it.

1           The law guardian, the attorney for the  
2 children in that case, wrote a letter  
3 herself to Judge Nicolai and said to him:  
4 You can't do this, this is improper, this is  
5 the worst of ex parte communications. And  
6 what did that law guardian get for her  
7 troubles? That letter that was sent to  
8 Judge Nicolai he forwarded on to the woman  
9 who was in charge of the law guardian panel  
10 with a cover letter saying "For whatever  
11 action you deem appropriate."

12           The bottom line, Senator, is that  
13 without a hearing, without an investigation,  
14 without any contact with any of the three  
15 members of the court system and retired  
16 member of the court system who brought the  
17 complaints -- no contact with us, no  
18 documents subpoenaed, no documents  
19 requested, no information requested, no  
20 testimony taken, no witnesses put under oath  
21 -- the Commission on Judicial Conduct in one  
22 sentence dismissed all three complaints  
23 against Judge Nicolai, and that was the end  
24 of the matter. With no accountability, no

1 explanation, no transparency.

2 And so I think, Senator, that at the  
3 very least Mr. Tembeckjian himself mentioned  
4 it this morning, and the commission has year  
5 after year in their annual report themselves  
6 asked for it, open up the proceedings to the  
7 public. Why should this be secret? Judges  
8 are public officials. They have a public  
9 trust. Many of our judges are elected  
10 officials. The public has a right to know  
11 how complaints against judges are handled.

12 I'm sensitive to the concerns that many  
13 judges have, because of the fact that they  
14 are either appointed or elected officials,  
15 that abuses can occur, that frivolous  
16 complaints can be lodged for purposes of  
17 political gain or, as happens very, very  
18 often, most of the complaints -- I'm sure  
19 Mr. Tembeckjian will confirm -- most of the  
20 complaints come from litigants who simply  
21 lost.

22 I know from personal experience, having  
23 presided over contested matrimonial cases  
24 for seven years, every day of the week,

1 Monday to Friday, you know, you can imagine,  
2 Senator, it's human nature. If I make a  
3 ruling that says this parent will have  
4 custody of the child and the other parent  
5 will not, how often do you think the parent  
6 who loses goes home and says, well, I'm just  
7 an unfit parent and that's why I lost?  
8 That's not the way it works; we know that.

9 So it's so common, particularly in  
10 family cases, custody cases and matrimonial  
11 cases, the litigant who loses frequently  
12 will try to blame someone: It's my lawyer's  
13 fault, my lawyer did something wrong; it's  
14 the judge's fault, the judge did something  
15 wrong. Most of the time we know that's not  
16 so.

17 The problem is, though, when you have  
18 in with those thousands of complaints that  
19 get dismissed without investigation where  
20 you have a complaint that wasn't brought by  
21 a disgruntled litigant or a disgruntled  
22 former employee, but brought by three people  
23 on the inside of the court system who give  
24 information with dates and names and places

1 and photographs and copies of documents and  
2 it's just tossed aside.

3 CHAIRMAN SAMPSON: But my question to  
4 you is I'm assuming there was some sort of  
5 retaliation because of these allegations  
6 that you made; correct?

7 MR. MONTAGNINO: Yes.

8 CHAIRMAN SAMPSON: And that resulted  
9 into negative evaluations; is that correct?

10 MR. MONTAGNINO: No, Senator. I've  
11 never had a negative evaluation. In fact,  
12 what happened, since you asked the  
13 question -- I didn't want to get into  
14 personal things, but I'm glad to do that --  
15 Judge Nicolai essentially opened his file of  
16 every complaint that any litigant who wasn't  
17 happy with the result of their matrimonial  
18 cases had with me. And he gave that over  
19 the Inspector General for the Unified Court  
20 System.

21 I went through about a month and a half  
22 of hell having to answer for every decision  
23 that anybody had a question about it: Why  
24 did you rule this way? Why did you say

1           this? Did you say this? Did you talk to  
2           this litigant? Did you not talk to this  
3           litigant? I had to answer --

4           CHAIRMAN SAMPSON:       That's a form of  
5           retaliation.

6           MR. MONTAGNINO:        Yeah. And at the  
7           end of all that, at the end of all that --

8           CHAIRMAN SAMPSON:       At the end, what  
9           happened?

10          MR. MONTAGNINO:        At the end, the head  
11          of human relations said to me orally -- I  
12          got nothing in writing -- she said, "I want  
13          you to know there have been no negative  
14          findings against you. And your personnel  
15          file" -- she gave me a full copy of the  
16          personnel file, she said, "it will not even  
17          reflect the fact that an investigation had  
18          ever been taken against you."

19          CHAIRMAN SAMPSON:       And I think being  
20          that no -- if you have complaints of  
21          individuals on the inside, you would  
22          probably want to look at that a little bit  
23          closer because of the positions that you  
24          have.

1 MR. MONTAGNINO: But there was a  
2 little bad news attached. I got  
3 transferred.

4 CHAIRMAN SAMPSON: You got  
5 transferred up to what?

6 MR. MONTAGNINO: Well, I was ordered  
7 transferred to Bronx County. And I made an  
8 arrangement. I said, "Look, I'd rather be  
9 transferred where we have our second home,  
10 up in Saratoga Springs, we love upstate New  
11 York. If you can do that, it will be  
12 voluntary. If I'm forced to go elsewhere,  
13 then I'd consider that a retaliatory  
14 employment act under the Whistleblower Law."  
15 And, you know, where it would go from there  
16 would be something else.

17 And they were kind enough, they  
18 accommodated the request. And so I  
19 voluntarily transferred up here.

20 CHAIRMAN SAMPSON: Okay.

21 Yeah, I got five minutes, I know, I  
22 know.

23 AUDIENCE MEMBER: I'd like to know  
24 what happened to my transcript where you --

1 CHAIRMAN SAMPSON: Gentlemen, you  
2 don't have -- this -- excuse me. You don't  
3 have the floor. Hello. Hello, hello.  
4 We're trying to be courteous here.

5 AUDIENCE MEMBER: I'm sorry. I'm  
6 sorry.

7 CHAIRMAN SAMPSON: You don't have the  
8 floor.

9 AUDIENCE MEMBER: -- my wife and my  
10 children --

11 CHAIRMAN SAMPSON: Mr. Montagnino,  
12 thank you very much for your testimony here  
13 today.

14 MR. MONTAGNINO: Thank you, Senator.

15 CHAIRMAN SAMPSON: And if I could  
16 just have a two-minute break, I have to make  
17 a quick phone call. Two-minute break.  
18 We're going to have the next witness -- I  
19 guess the next witness could come up, Ruth  
20 Pollack.

21 If I could just have a two-minute  
22 break, make a phone call, and I'll be right  
23 back.

24 (Brief recess taken.)



1                   CHAIRMAN SAMPSON:       All right, we're  
2                   getting ready to start.

3                   Ruth Pollack, Ms. Pollack, go right  
4                   ahead.

5                   MS. POLLACK:        Good afternoon,  
6                   Senator, and thank you very much. My name  
7                   is Ruth Pollack. I'm an attorney in the  
8                   east end of Long Island -- Riverhead, New  
9                   York. Practiced 26, going on 27 years.

10                  I love my career, and I have had a  
11                  wonderful career. I've practiced in just  
12                  about every court that you can practice in.  
13                  I've tried cases in Surrogate's Court and  
14                  took a verdict at 2 o'clock in the morning  
15                  and won. I have been in the state and  
16                  federal courts and agencies, and I'm a  
17                  former prosecutor for the Nassau DA about  
18                  26, 27 years ago. There's not much I  
19                  haven't seen and done. And for the most  
20                  part I love what I do, and I look forward to  
21                  any new attorney or judge that I meet.

22                  I'm here today, however, because of the  
23                  breakdown of the system and my brief  
24                  suggestions for what I think, as a member of

1 the brothers and sisters in law in the  
2 trenches, we can do to fix it.

3 I got ovarian cancer in June of 2003.  
4 I went through the full monty, and I  
5 survived that. I'm now considered cured,  
6 even though I still suffer from lymphodema  
7 in both my legs. That means I carry 60  
8 pounds of extra fluid in my legs every day,  
9 so I'm partially physically disabled. And  
10 of course, as a survivor, we don't seek  
11 sympathy, we just want understanding and  
12 some accommodation. I'm just happy to be  
13 here and happy to be alive.

14 But I tried a case in Eastern District  
15 federal court against the US government, and  
16 many of my cases, despite my stature, I go  
17 up against some big-league people. I go up  
18 against the federal government, I've gone up  
19 against banking institutions, many school  
20 districts and so forth. I have an asbestos  
21 case involving a school district on Long  
22 Island right now. My cases are  
23 controversial, and I'm not afraid to go  
24 after anyone, including an attorney, if the

1 attorney is doing something that is  
2 improper.

3 When I returned back into active duty,  
4 so to speak, as an attorney, the case that I  
5 had against the federal government was,  
6 partly on account of my disability,  
7 dismissed in the middle of my direct  
8 examination of -- I must have been through  
9 about eight to 10 witnesses at that point.  
10 And that was on June 5, 2007.

11 That led to a contempt hearing, and I  
12 was held in contempt of court, and I'll move  
13 on from there.

14 The very next day I walked into an  
15 ongoing Family Court case in Manhattan  
16 Family Court, the Jubb case, J-U-B-B,  
17 representing a father and his infant son --  
18 or actually I represented the father on  
19 behalf of him and his son. And I'd been  
20 there many times before. I'd objected to  
21 what I saw was tampering of witnesses by  
22 Child Protective Services, tampering with  
23 records, the general poorly run courtroom  
24 and poorly run proceedings.

1           And at 9:30 in the morning, in Family  
2           Court at 60 Lafayette, and at the beginning  
3           of a hearing before Judge Susan Knipps, a  
4           male court officer proceeded to come toward  
5           me without provocation. He placed me in a  
6           forward -- in a front headlock before I was  
7           able to sit down. And the ten or so court  
8           officers that were already in the courtroom  
9           when I walked in, of that group, about five  
10          of them came around me from behind and put  
11          me in a full bodylock, lifted me from the  
12          floor, dragged me out, crashed me against  
13          the wall, and then threw me out into the  
14          court lobby, physically, bodily.

15          Everyone -- I have lay witnesses and I  
16          have my client and other witnesses to this  
17          occurrence. Everyone in the courtroom, the  
18          judge and everyone, denied that it happened.  
19          I had done nothing. The judge said, "Clear  
20          the courtroom now," when I had simply said  
21          to the court officer: "I have two  
22          witnesses, they're not testifying." And  
23          that's all I said.

24          As a result, I suffered tremendous

1 posttraumatic stress syndrome. I never  
2 walked into a courtroom again feeling the  
3 same safety and security that I had for 26  
4 years.

5 I filed a case against the State of  
6 New York which is pending with the Attorney  
7 General's office. I had hoped and I am  
8 hoping that the Attorney General will  
9 investigate this.

10 But then it continued. Because  
11 thereafter, on September 28th of 2007, when  
12 I went back to that court to the financial  
13 judicial hearing officer for the monetary  
14 portion of the case, the record was shut off  
15 by the JHO and the court officers slammed my  
16 desk against the wall and told me to get up,  
17 and my client, and get out. And they  
18 surrounded us, but they didn't touch us. I  
19 took the badge numbers as well. So it was  
20 more internal terrorism, so to speak.

21 I have never before been attacked by  
22 anyone in my lifetime. So this was, again,  
23 more of a message of some sort; I'm not sure  
24 what.

1           Since that time, I've been menaced by  
2           court officers on behalf of two judges in  
3           district court in Hempstead in a criminal  
4           case, because I do a lot of criminal defense  
5           work, and that has caused me great  
6           consternation. I've had witnesses to that  
7           occurrence as well -- I have witnesses.

8           I'm here because while I could go on  
9           and on about my long career -- and my  
10          curriculum vitae is up there for you and for  
11          the panel -- the system is breaking down.  
12          We need to fix it. It's worthy of that.  
13          You know, my father was a top gun in the  
14          Second World War, and I still have him  
15          today. And it's because of him and our  
16          foremothers and forefathers that we're here  
17          today able to speak out about how we feel  
18          about this country and our state.

19          And I'm here to be part of the  
20          solution, not part of the problem. And I  
21          will do everything that I can to be part of  
22          the solution, which is a huge, huge -- in  
23          need of huge help.

24          I personally am now -- I've been

1           suspended for two years. It started out  
2           with a 45-day suspension with a threat of  
3           six months' incarceration. And I served my  
4           45 days of suspension in the Eastern  
5           District of New York because I disagreed  
6           with a judge and because I missed a day of  
7           court due to my legs. I went to two federal  
8           courthouses in the Eastern District, neither  
9           of which are ADA-compliant. I have  
10          complained about it; nothing's been done.  
11          So that my disabled clients -- who are also  
12          whistleblowers -- and I have difficulty  
13          parking to get to those courthouses.

14                 I'm moving rather rapidly because I  
15          just want to hit on certain points that I  
16          think people should know.

17                 Since that time, I have had -- since  
18          the federal suspension which I served, I was  
19          advised rather cryptically that they thought  
20          that I had violated my 45-day suspension by  
21          using my former law partner to cover my  
22          cases for me, one case for me. And so they  
23          just sent me a letter saying, You haven't  
24          responded in 20 days, so we're going to

1 suspend you for two years now.

2 CHAIRMAN SAMPSON: Who is this?

3 MS. POLLACK: Only in Eastern  
4 District. That was Judge Cogan. They claim  
5 that there is an Eastern District of New  
6 York grievance committee, but I have never  
7 seen any such thing.

8 CHAIRMAN SAMPSON: So you were  
9 suspended from practicing in the Eastern  
10 District?

11 MS. POLLACK: Only. For two more  
12 years. That's where almost all of my cases  
13 are. One of my clients is here in the  
14 audience today, Mr. Kevin Chesney.

15 Again, that was to put me out of  
16 business. That was to get rid of me. My  
17 own appointed attorney told me to give up  
18 all my cases in the Eastern District, submit  
19 to urine tests or else I would go to jail.  
20 And that would be the best thing, you know,  
21 she could do. She accused me of being  
22 mentally ill, something I am clearly not.

23 So I was essentially put in a position  
24 where they were going to have me suspended



1 to get me out of the Eastern District come  
2 hell or high water. And that's where I am  
3 today, fighting all the way to come back.  
4 And that is a fight for another day.

5 But the point is that now the Eastern  
6 District has sent paperwork behind the  
7 scenes, without my knowing what it is, to  
8 the 10th Judicial District where I reside,  
9 and Rita Adler, who is the chief counsel  
10 there, has bombarded me with letter after  
11 letter after letter, after letter, day after  
12 day after day, relating to that case in  
13 which I was held in contempt in 2007, saying  
14 that she thinks I'm a criminal and I should  
15 be treated as a criminal and I shouldn't be  
16 allowed to practice and we should do  
17 something about this woman --

18 CHAIRMAN SAMPSON: I mean, when you  
19 say -- she didn't write you a letter to that  
20 extent.

21 MS. POLLACK: She wrote a letter to  
22 Mr. Pelzer to that effect.

23 CHAIRMAN SAMPSON: Not calling you a  
24 criminal.

1 MS. POLLACK: "What she did was  
2 criminal" essentially is what she says in  
3 her letter. And that's part of my packet.  
4 Basically saying, yeah, her actions are  
5 criminal, they're -- you know, quite strong,  
6 actually citing to sections of the Penal  
7 Law. And as a criminal defense attorney and  
8 former prosecutor, I'm very well acquainted  
9 with the Penal Law.

10 So part of her approach, if we may look  
11 at how rules are to be followed, is she  
12 pretended, as did a member of the 10th, that  
13 she couldn't reach me or serve me.

14 So an investigator came to my home,  
15 left a business card in my door -- which  
16 could have floated off into the atmosphere.  
17 My 86-year-old father saw that, saw orders  
18 slipped under the door.

19 And one day when I walked into my  
20 office in 2008, I was met with an order that  
21 was taped to my door with red masking tape  
22 -- I'm holding it up now -- which I took a  
23 picture of and blew up so that you could see  
24 the door of my office. Everybody in my

1 office building saw this, my suite with this  
2 red masking tape -- I don't know where you  
3 get it -- taped to my door.

4 So again, these terror tactics or  
5 whatever you want to call them have been  
6 used to intimidate me and to make me go  
7 away. I may just be a country girl from the  
8 east end, but I do not go away. I have  
9 always fought for the underdog my whole  
10 life. I've seen injustices since I was a  
11 kid. And I do discriminate; I represent  
12 everybody. I don't care who or what the  
13 person is about, I represent them all.

14 Mr. Kelly, in Rockland, is my newest  
15 client.

16 I'm an outsider. I'm a new kid on the  
17 block. I've seen what he has described. It  
18 is a fact. I have never had any problems in  
19 my life of any kind, criminal or otherwise,  
20 other than one incident with the grievance  
21 committee back in the late '90s involving a  
22 matrimonial which was clearly a political  
23 way of getting a case, a very interesting  
24 case involving the Manuses, Morton Manus, a

1           matrimonial, away from me when it was going  
2           rather well and given to another attorney.  
3           And because I stood up for my retaining lien  
4           and I was in the middle of a retaining lien  
5           hearing, I had charges brought up against  
6           me. But my case was transferred to the  
7           9th District that didn't know me at all. So  
8           that was my first foray into the 9th.

9           CHAIRMAN SAMPSON:        So if you want to  
10          sum it up, Ms. Pollack.

11          MS. POLLACK:        Yeah. My summary is  
12          that the solution to these many things that  
13          you've heard today, without my repeating the  
14          many things that we've heard as a group  
15          here, is that we need transparency, and the  
16          transparency must look like this.

17          We need transparency in terms of judges  
18          and all public officials that serve in our  
19          system and on these committees should  
20          disclose what insurance companies insure  
21          them, what financial institutions they have  
22          their pensions or finances in through the  
23          system, what banks are involved, what  
24          disability insurance companies are involved

1 -- because when I've sued these various  
2 types of companies, I've never known if  
3 there was a conflict of interest between  
4 those people that I was working in front of  
5 as judges or against as litigants, if there  
6 was a conflict of interest.

7 So I highly, highly support full  
8 disclosure of any and all of those types of  
9 things on the docket, including all  
10 committee members on all of the committees  
11 we've discussed today. Who they are, where  
12 they're from, all of their affiliations,  
13 what their trainings are. I can't find any  
14 of it, and I've looked all over the place.  
15 Who are the people on the committee, where  
16 did they come from, et cetera.

17 And I don't think I need to go on, I  
18 think it's a point that's been taken.

19 CHAIRMAN SAMPSON: Thank you very  
20 much.

21 MS. POLLACK: And I just wanted to  
22 thank you sincerely for your time.

23 CHAIRMAN SAMPSON: Thank you very  
24 much, Ms. Pollack. Thank you very much.

1           The next witness is Lawrence Grey.

2           Mr. Grey, are you here? Mr. Grey is not  
3           here.

4           UNIDENTIFIED SPEAKER:       He submitted  
5           his testimony.

6           CHAIRMAN SAMPSON:       Okay, great.

7           Ken Jewell, Esquire. Mr. Jewell, you  
8           here? Mr. Jewell is not here.

9           Kevin Patrick Brady?

10          MR. BRADY:       Yes.

11          Senator, I want you to remember me as  
12          being the one guy who used the least time as  
13          possible to tell you my story and will move  
14          on.

15          I haven't heard yet today my kind of a  
16          case. I am a nonlawyer, I have been  
17          prosecuted criminally three times,  
18          incarcerated, prosecuted in quasi-criminal  
19          prosecutions twice, and not one of these  
20          courts had jurisdiction.

21          Now, the assistant attorney general  
22          managed to shove through a money judgment  
23          against me that's not valid. And I have  
24          been petitioning courts for the last six

1 years to recognize that these judgments are  
2 void, they must be taken off my record. I  
3 showed proof every time that the judgments  
4 were void. And no court, to date, has done  
5 one thing about it.

6 Now, I'm talking about the Fourth  
7 Department, I'm talking about the First  
8 Department and the Third Department. The  
9 petitions and appellate briefs that I filed  
10 enunciated these issues perfectly. It could  
11 not be mistaken. I believe they all just  
12 dumped them. They didn't read the petition  
13 or they read it just far enough to hear me  
14 complaining about corruption in the courts,  
15 and that's all they needed to know.

16 I have been, like I told you,  
17 petitioning courts -- I've got in excess of  
18 30 trying to get those two or three issues  
19 across. One, the courts never had  
20 jurisdiction. Two, the judgments are void.  
21 And three, the assistant attorney general  
22 has absolutely no authority to be  
23 prosecuting me under judiciary law for his  
24 own fraud. In all of those actions, not one

1 single issue has been adjudicated.

2 So I have given proof, I've put them on  
3 CDs, it's all there, that the system is  
4 corrupted far beyond what anyone can really  
5 imagine. I really encourage you to take a  
6 look at my proof because it's prima facie.  
7 Okay?

8 CHAIRMAN SAMPSON: We will definitely  
9 do that, Mr. Brady. I give you my word.

10 MR. BRADY: Thank you.

11 CHAIRMAN SAMPSON: Thank you very  
12 much, Mr. Brady.

13 The next witness is Carl Lanzisera,  
14 Mr. Lanzisera.

15 MR. LANZISERA: How you doing. When  
16 you go in the subway, you see a sign that  
17 says --

18 CHAIRMAN SAMPSON: I just want to let  
19 everybody know, about 2:45 we're going to  
20 take a break for another 15 minutes and then  
21 I'll be back. I just want to check into  
22 session. Okay?

23 Mr. Lanzisera?

24 MR. LANZISERA: Yes. Carl.



1                   CHAIRMAN SAMPSON:       All right, we've  
2                   got another eight minutes. Let's go ahead.

3                   MR. LANZISERA:       If you go in the  
4                   subway, you see a sign: "If you see  
5                   something, say something." If you go in the  
6                   airports, "If you see something, say  
7                   something." If you go to a marina, they say  
8                   "If you see something, say something."

9                   If you go in the courts and you see  
10                  something and you say something, that's the  
11                  worst day of your life. And everybody is  
12                  here with that same complaint.

13                  The first two speakers, Martin and  
14                  Alan -- or Alan and Martin -- they really  
15                  should have a Broadway skit, because they're  
16                  two jokers. Either they don't have --

17                  CHAIRMAN SAMPSON:       Mr. Lanzisera, you  
18                  know, Mr. Lanzisera -- no, no, I understand  
19                  it, but everybody's -- listen to me, please.  
20                  Everybody here is afforded the courtesy and  
21                  respect. No character assassinations. This  
22                  is a public hearing to get to the issues  
23                  because we want solutions.

24                  MR. LANZISERA:       Well, I was arrested

1 for telling jokes, so --

2 CHAIRMAN SAMPSON: We don't want to  
3 arrest you, all right.

4 MR. LANZISERA: They had a grand jury  
5 hearing and I told lawyer jokes.

6 But I'm in the investment business  
7 45 years. In the investment business, if  
8 you have a complaint, you go to now FINRA or  
9 the NASD, it's called, or the SEC. Can you  
10 imagine if the SEC or FINRA was run by  
11 stockbrokers, what would happen after  
12 40 years, 50 years? Bernie Madoff would  
13 probably get six months in jail.

14 The legal profession is run by lawyers  
15 for a hundred years. The first thing the  
16 grievance committee did when they were  
17 assigned to uphold the Constitution of the  
18 United States, was to give themselves  
19 judicial immunity. Even you have -- don't  
20 have judicial immunity. You have to answer  
21 to us. But they don't have to answer to  
22 anyone.

23 In the securities business, if you have  
24 a complaint against a stockbroker, you go to

1 the NASD for a few dollars and you have a  
2 public hearing before three panelists. The  
3 panel, their complete history is listed --  
4 where they eat, where they sleep, what cases  
5 they have. And you a right to eliminate any  
6 of the three panelists if there's the  
7 slightest inkling.

8 With the grievance committee, you have  
9 no idea who the commission is and what  
10 they're doing.

11 The hearings are all public. The  
12 findings are more than 60 percent of the  
13 cases the public gets an award.

14 CHAIRMAN SAMPSON: Which proceeding  
15 is this?

16 MR. LANZISERA: In NASD or FINRA, in  
17 mandatory arbitration.

18 And if there's a finding against you,  
19 it's made public, not only in the state that  
20 you operate in but throughout the world.  
21 Thirty-five years ago, there was a finding  
22 that I didn't buy a stock at the best price  
23 and I had to give someone \$250. Thirty-five  
24 years later, if you look up my Social

1 Security number, you will see it on my  
2 record. If there's a finding against me and  
3 they ever took my license away, it would be  
4 throughout the United States.

5 In the legal profession, if there's a  
6 finding in New York State, the lawyer can go  
7 to New Jersey, get his license over there  
8 and practice law in New York. They claim  
9 they can't follow the lawyer and his past  
10 history. That's a bunch of malarkey.  
11 That's why I made the original comments that  
12 I made. There's no reason in today's day  
13 and age you can't follow someone with a  
14 Social Security number throughout the world.

15 The findings are public, the hearings  
16 are public, you face your accuser, you  
17 defend yourself, you know exactly what they  
18 say.

19 As a result of my personal history, I  
20 started a group, Americans for Legal Reform.  
21 If you look at it, that's our newsletter.  
22 I've been doing this for more than 20 years.  
23 In there you see a list of lawyers and  
24 judges that we have found that do things

1           that we feel are questionable.

2           We can't say what they do, because your  
3           Senator friend to your left from Syracuse,  
4           one of his lawyer friends in Syracuse sued  
5           me for libel by innuendo. There's only  
6           maybe three cases in the world of libel by  
7           innuendo, and I had to spend \$100,000  
8           defending myself because I put his name on  
9           that list and he felt he was damaged.

10           They're so afraid of their reputation.  
11           Why are they any different than a  
12           stockbroker or a plumber? If I go to  
13           Consumer Affairs and there are 500  
14           complaints against a plumber, I can look at  
15           them all and evaluate whether they're  
16           frivolous or real. If you want to open an  
17           account with a stockbroker, you should check  
18           with FINRA and find out his history.

19           But if you're a lawyer, as Jack  
20           Solowitz, my divorce attorney, one of my  
21           divorce attorneys, stole millions from 49  
22           people. The 49th didn't know about the  
23           48th; the 48th didn't know about the 47th,  
24           and so on. Eventually he did go to jail.

1           And when he comes out of jail, he could have  
2           been a lawyer again.

3                     It's all secret, it's the only  
4           profession it's a secret. It's a bunch of  
5           malarkey about their reputation. The  
6           lawyers as a group are considered the most  
7           criminal group in America. Their position  
8           in life is less than a New York City taxicab  
9           driver. And they're trying to, by secrecy,  
10          protect themselves. It's a good-ole-boy  
11          brotherhood that somebody has to stop. And  
12          if it's not stopped by people like you, the  
13          public is not going to take it forever.

14                    CHAIRMAN SAMPSON:        Mr. Lanzisera, I  
15          thank you very much for that comment.

16                    Ladies and gentlemen, I have to take  
17          about a 15-minute break; I have to register  
18          in session. And I'll be back to conclude  
19          these hearings. Thank you very much.

20                               (Proceedings adjourned at 2:45  
21                    p.m.)

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NEW YORK STATE SENATE  
STANDING COMMITTEE ON JUDICIARY

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PUBLIC HEARING IN THE MATTER OF  
AN EXAMINATION OF THE JUDICIAL DISCIPLINARY PROCESS  
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Senate Hearing Room  
250 Broadway  
19th Floor  
New York, N.Y.

September 24, 2009  
Thursday  
10 a.m.

- BEFORE:
- Senator John Sampson  
Chair  
Judiciary Committee
  - Senator Bill Perkins  
Chair  
Corporations, Authorities & Commissions
  - Senator George D. Maziarz
  - Senator Eric Adams
  - Senator Ruben Diaz

- OTHER STAFF MEMBERS:
- Shelly Mayer  
Majority Counsel
  - Lisa Lashley  
Counsel

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1 P R O C E E D I N G S

2 SENATOR SAMPSON: I want to say good  
3 morning to everyone, and I apologize for  
4 being late. There is traffic in New York  
5 City, blame it on the President and all the  
6 other heads of State coming in.

7 THE AUDIENCE: You can be late any  
8 time.

9 SENATOR SAMPSON: No, I can't be. My  
10 colleague would always say the Senate  
11 Democrats we are instilling discipline and  
12 in order to be an effective legislature we  
13 need to be disciplined, and that not only  
14 requires us to be on time, but most of all  
15 to pass legislation that is reflective of  
16 the issues and the core values of the People  
17 of the State of New York.

18 I want to thank you all for coming here  
19 this morning. I see my counsel, Shelly Mayer  
20 back there, Shelly, Shelly Mayer, that's  
21 majority counsel, I see Lisa Lashley she was  
22 somewhere out there, Lisa is my counsel and  
23 all my other staff people are here.

24 But first of all I want to thank you,

1 and this meeting is the second in a series  
2 of oversight hearings for New York's system  
3 of investigating and adjudicating complaints  
4 against lawyers and judges.

5 The Judiciary Committee's first hearing  
6 on this subject was held in June and we  
7 heard from a number of witnesses, but  
8 unfortunately we were not able to get to all  
9 of those witnesses who wished to be heard.

10 That was the day we had the coup, but  
11 rest assured we are all coupd out, so don't  
12 worry about a coup today. We are not in  
13 session so you don't have to worry about a  
14 coup.

15 At the previous hearing we heard from  
16 the commission on judicial conduct, the  
17 Fourth Appellate Division lawyer grievance  
18 committees and various judges, attorneys and  
19 citizens touched by this important issue.

20 Representatives from the commission and  
21 the grievance committee are here with us  
22 today in case questions arise, they will not  
23 be testifying directly since they already  
24 participated in the June 8th hearing.

1           We are here today to continue this  
2 inquiry in New York City, recognizing that  
3 this issue is one of statewide importance to  
4 the practice of law and the integrity of our  
5 judicial system, particularly here in this  
6 global capitol of law, commerce and finance.

7           It is vital to New York City's economy  
8 and continual leadership in these fields  
9 that the organized Bars, clients ranging in  
10 size from leading corporations to small  
11 businesses and individual families and the  
12 public have the utmost confidence that we  
13 hold lawyers, we hold judges to the highest  
14 standard of competency and integrity.

15           Because at the end of the day -- thank  
16 you very much.

17           Because this commission on judicial  
18 conduct and attorney grievances are our  
19 quality control system it is fitting that we  
20 continue these oversight hearings to ensure  
21 that the system works as it should.

22           And to give the public, to give the  
23 public a meaningful voice in guaranteeing  
24 the fairness, equality and diligence of the

1 disciplinary process.

2 At this point in time I would like my  
3 colleague, Senator Adams, to say a few words  
4 before we kick this hearing off.

5 Senator Adams.

6 SENATOR ADAMS: Thank you, Chair  
7 Sampson.

8 I think this is important because  
9 countless number of men and women who come  
10 before our criminal justice process, as a  
11 retired Captain in the New York City Police  
12 Department, I am clear on how intimidating  
13 the system can be to the every day public,  
14 and these hearings will allow us to come up  
15 with an effective legislation to make sure  
16 that when an individual enters the courtroom  
17 he receives the necessary justice and  
18 jurisprudence to make sure their cases are  
19 heard.

20 I think now it's time to hear from the  
21 public on what we need to do, and I would  
22 like to turn it back over to the Chairman  
23 Sampson to start the hearings.

24 SENATOR SAMPSON: Thank you very much

1 and good morning, and I think the first  
2 person Richard Kuse of New City, New City,  
3 are you here?

4 The process is you have ten minutes.

5 MR. KUSE: Ten minutes like the last  
6 time, or a California ten minutes?

7 SENATOR SAMPSON: No, it's going to  
8 be a New York City 10 minutes, not an Albany  
9 ten minutes, New York City ten minutes.

10 So the clock is running.

11 MR. KUSE: Thank you very much,  
12 Senator Sampson, I appreciate your integrity  
13 and Mr. Adams' integrity.

14 I would like to start off by quoting  
15 Mrs. Carvel who at the June 8th hearings who  
16 said that the Surrogates Court System of the  
17 State of New York was a criminal enterprise,  
18 or she said it was a criminal empire, either  
19 one would be correct.

20 I believe that she had obviously lost  
21 \$100 million dollars or \$150 million when  
22 somebody looted her estate.

23 I believe additionally hundreds of  
24 millions of dollars, if not more, are being

1           drained from the economy of the State of New  
2           York and from the People of the State of New  
3           York and I detect an emphasis on taking the  
4           homes and property of black families in the  
5           State of New York on top of it.

6                        I would like to also invoke Catherine  
7           Wilson, the investigative reporter, super  
8           accountant par excellence from the  
9           Westchester Guardian, and I would like to  
10          invoke the New York State Whistle Blower's  
11          Law on what we can reveal would save the  
12          State of New York probably hundreds of  
13          millions of dollars in stolen assets, or  
14          routed assets from the honest and legitimate  
15          families of the State of New York.

16                       Presently at this time, at this moment,  
17          part of a group of forgers are living in a  
18          home paid for from money looted from my  
19          agent uncle's bank accounts before his  
20          death.

21                       In addition, my aunt Genevive Corrigan,  
22          who is still alive at 99 years old, bless  
23          her little heart, had her trust fund looted  
24          which was contained within my uncle's Will,

1 a Will that was proven to be a forgery.

2 And an uncontested forgery at that.

3 And she would like her trust fund returned  
4 before she dies, she's 99 years old at this  
5 moment.

6 SENATOR SAMPSON: Who looted the  
7 trust fund?

8 MR. KUSE: I don't want to say at  
9 this point. It's apparent in my paperwork  
10 that I have given to you.

11 SENATOR SAMPSON: Okay.

12 MR. KUSE: My uncle died in December  
13 of 1999. When we finally got a copy of my  
14 uncle's Will it was noted that my -- it was  
15 not the Will that my mother remembered.

16 My mother is the sister of Charles  
17 Maxwell. When we looked at the Will, we saw  
18 that my uncle had made a glaring error to  
19 the Will, he made his dead mother an  
20 Executor to his will.

21 She died 30 years before, he paid for  
22 the funeral, he was at the funeral, okay?  
23 He did not make a mistake in the Will.

24 Our family knew my uncle was a very

1 exacting man who would have never made such  
2 a glaring error, we could not understand why  
3 the Surrogates Court Judge insisted over our  
4 protest that he knew our uncle better than  
5 we did, and insisted that the glaring error  
6 was a common error of my uncle.

7 Really? I don't think so. We could  
8 not understand why the judge and the lawyers  
9 were in such a rush to fast track my uncle's  
10 Will through his court.

11 We could also not understand why the  
12 judge kept allowing the opposing law firm to  
13 resist and break years of the judge's own  
14 court orders to provide an estate  
15 accounting. To this day we don't have an  
16 estate accounting.

17 Mrs. Catherine Wilson, a forensic  
18 accountant of superior grade, who worked for  
19 the Rockefeller family, said you couldn't  
20 make heads or tails of what they gave us.

21 During this time, during the time of a  
22 deposition the opposing lawyers gleefully  
23 pronounced that they had created my uncle's  
24 Will, with the glaring error in the Will and



1 the rush to push it through the court, the  
2 refusal to comply with court orders by the  
3 attorneys to account for the estate assets,  
4 a national forgery expert was hired by  
5 myself.

6 To our shock the will turned out to be  
7 a stone cold forgery.

8 Now it becomes apparent the reason  
9 behind the glaring name mix up in the Will;  
10 Will listing a long dead relative as an  
11 executive.

12 I don't know, do you think a dead  
13 relative in your family could manage your  
14 estate?

15 I don't think anybody could believe  
16 that.

17 But they managed to believe that in  
18 Nassau County.

19 The forgery also revealed the motive or  
20 the breaking of court orders to account for  
21 the estate assets including my uncle's  
22 expensive two story home in Woodside Queens.  
23 Sold via a forged will.

24 An uncontested forged will. Because my

1           uncle's home was located in Queens, we took  
2           the forgery report to the Queens D.A. in  
3           charge of professional conduct.

4                    That D.A. did a Grand Jury  
5           investigation, the investigation included  
6           the law firm that created the Will and  
7           others court officers.

8                    The D.A. told us she believed the  
9           origin of the forgery and the crime started  
10          in Nassau County.

11                   The Queens -- that D.A. told us whoever  
12          did an investigation of the Charles Maxwell  
13          forgery estate death would open up a  
14          Pandora's box of forged Wills, forged deeds,  
15          forged accountings and mostly forged  
16          accountings in New York State.

17                   My lawyer and I thought the D.A. From  
18          Queens was telling us about the Nassau  
19          County. She was not. I have to reiterate  
20          what Mrs. Carvel said.

21                   The Surrogates Courts in the City of  
22          New York are a criminal enterprise.

23                   She was right. The Queens  
24          investigation file was passed to Nassau,

1 where it disappeared. Three years after my  
2 uncle's death and in clear violation of New  
3 York estate law we could not get an  
4 accounting of the missing assets which were  
5 looted from my uncle's bank accounts before  
6 he died.

7 An August morning in 2003 the opposing  
8 lawyers are required to finally produce the  
9 estate accounting at 10:00 in the morning.

10 For two hours the opposing lawyers  
11 failed to show with the accounting.

12 In those two hours waiting for the  
13 lawyers and the accounting, the Nassau court  
14 called me four times telling me to take  
15 \$40,000 and a gag order to sweep this  
16 growing mess out of this court.

17 I believe that \$40,000 was an admission  
18 of guilt, and they wanted me to take a gag  
19 order.

20 We came to this court not to be bribed  
21 into silence but to find those who forged  
22 the Will and where all my uncle's bank  
23 accounts went and vanished.

24 And a particular item which Mrs.

1 Catherine Wilson and I will be indicating to  
2 you might produce hundreds of millions of  
3 dollars in missing funds from the State of  
4 New York, and that is vanishing returnable  
5 security deposits due back to estates but  
6 through mishandled accountings, and I am  
7 being generous here with that word, those  
8 returnable security deposits appear to be  
9 vanishing, amongst other things.

10 At 12:00 noon court was cancelled  
11 because the opposing lawyers don't show and  
12 now we are out in the hall.

13 And the outside of the hall is a court  
14 of no record, suddenly and miraculously the  
15 opposing attorneys show up with an  
16 accounting that Mrs. Catherine Wilson says  
17 you couldn't make heads or tails of.

18 We are forced to accept it, the court  
19 tells us that we have to take the accounting  
20 because the court officer just got a call  
21 that the judge insisted we take the  
22 accounting.

23 Well, I just walked out with him, how  
24 in the world was that possible, the guy was

1           30 feet, 30 seconds move out of the court  
2           into the hallway, he made no phone calls and  
3           received no phone calls. How did he know?  
4           It was a set up. The accounting was  
5           non-accounting. And at this point I would  
6           like to read a little statement about the  
7           law. When one conveys a false impression by  
8           disclosure of some facts and concealment of  
9           others, such as the concealment in effect is  
10          false representation that what is disclosed  
11          is the whole truth.

12                    We had an accounting that didn't  
13                    account for anything, okay, false  
14                    representation.

15                    I would also like to read that this is  
16                    from Black's Law, an intentional perversion  
17                    of the truth for the purpose of inducing  
18                    another into reliance upon it with some  
19                    valuable thing belonging to him or to  
20                    surrender some legal right, that's fraud.

21                    We were presented a fraudulent,  
22                    uncontested fraudulent Will and a fake  
23                    accounting deliberately concealing material  
24                    evidence.

1 Out in the hall in Nassau County --

2 SENATOR SAMPSON: Try to wrap it in  
3 two minutes.

4 MR. KUSE: We had to do an appeal, we  
5 submitted an appeal of the judge's decision  
6 against us, after telling us that promised  
7 us we would have a trial and an accounting.

8 And we were not allowed that promise, I  
9 had to do an appeal.

10 We submitted the appeal in 2004 and we  
11 were told my phone calls, my paperwork from  
12 my attorney, all through 2004, that the  
13 Appellate Court had not made a decision.

14 We called all through 2005 and we were  
15 told by the Appellate Court that no decision  
16 had been reached.

17 We called into 2005, mind you this is  
18 over and over and I have letters to prove  
19 it, that there was no decision reached on my  
20 uncle's case.

21 In the spring of 2006 I called the  
22 Appellate Court again and I am told that a  
23 decision was reached in 2004.

24 Basically, gentlemen, somebody is

1           lying, and I have the paperwork to prove  
2           that we are not.

3                   After that point I had to go to OCA.

4                   I don't even want to tell you what  
5           happened there, but I was followed by an  
6           Asian person on several occasions, because  
7           of a critical piece of information that Mrs.  
8           Catherine Wilson and I believe will reveal  
9           hundreds of millions of dollars being looted  
10          from the accounts of the State of New York  
11          and the decent families of the State of New  
12          York, and that is returnable security  
13          deposits.

14                   I was followed on several occasions and  
15          only the office of court --

16                   SENATOR SAMPSON:       What do you mean by  
17          returnable security deposits?

18                   MR. KUSE:        When you send a person  
19          into a nursing home -- thank you for that  
20          question -- when you send a person, an  
21          elderly person into a nursing home in the  
22          State of New York you have to come up with  
23          about \$30,000 returnable security deposit.

24                   If that person dies or if they move to

1 another state, the average death rate in a  
2 nursing home is about 100 people a year, now  
3 if that \$30,000 does not come back, that's  
4 about \$3 million if there is fake  
5 accountings that are brought into court.

6 So now you have 30 times 100, that's  
7 about \$3 million, now in Rockland County we  
8 have a number of nursing homes, let's just  
9 say it's 10, now you are looking at \$30  
10 million, now multiply that by the number of  
11 nursing homes in the State of New York, and  
12 if fraudulent accountings are being brought  
13 in the courts of the State of New York, they  
14 are being turned into laundries for  
15 criminals.

16 Understand? I think you do. This is a  
17 serious crime.

18 SENATOR SAMPSON: The returnable  
19 security deposit is what?

20 MR. KUSE: Should be coming back to  
21 the estate.

22 SENATOR SAMPSON: It is given to the  
23 nursing home?

24 MR. KUSE: Well, that is supposed to



1 be provided in an accounting when the case  
2 goes to a Surrogates Court.

3 SENATOR SAMPSON: Who pays the  
4 \$30,000, the individual?

5 MR. KUSE: The person that put the  
6 elderly person in, a lot of times it private  
7 pays, and these are sometimes the victims  
8 here, but somebody is looking for people  
9 that don't have any relatives around that  
10 may own -- well, look at Mr. Garfield  
11 Gillens, a black artist from Brooklyn, he's  
12 still trying to get his place back and all  
13 his paintings were robbed, I could list you  
14 a number of black families, Mrs. Acosta,  
15 Mrs. Murdock I think her name was, the three  
16 women from Queens whose family -- who were  
17 living in their homes, black widows and  
18 their homes were sold out from underneath  
19 them by the Clerk of the Court, who was a  
20 CPA.

21 This is Jonathan Demick's brother, it  
22 was in the Post.

23 I'm not making it up. I think I have  
24 extended my time, but I think you got my

1 point.

2 SENATOR SAMPSON: Definitely, Mr.  
3 Kuse, you have extended your time, but do  
4 any of my colleagues have any questions?

5 We have been joined by my good  
6 colleague Reverend Diaz from the Bronx.

7 MR. KUSE: Pleasure to meet you.

8 SENATOR DIAZ: Thank you. Let me ask  
9 you a question, those \$30 million you said,  
10 why do you think that the Attorney General  
11 doesn't look into that yet?

12 MR. KUSE: We have brought it to his  
13 attention. Why the only person who appears  
14 to be doing anything is Mr. Sampson here  
15 and Mr. Price, I guess from Harlem, or  
16 Perkins from Harlem and Mr. Paterson.

17 SENATOR DIAZ: You are saying the  
18 Attorney General knows all this?

19 MR. KUSE: He told me to stop writing  
20 him letters. That ain't going to happen on  
21 my watch.

22 SENATOR SAMPSON: Mr. Kuse, if you  
23 can provide me with some more information,  
24 I'm very interested in this returnable

1 security deposit.

2 SENATOR DIAZ: Me, too.

3 MR. KUSE: We would like to invoke  
4 the Whistle Blower's Law because we know  
5 there is a good chance that hundreds of  
6 millions of dollars, if not billions of  
7 dollars --

8 SENATOR SAMPSON: Who is that you are  
9 pointing to?

10 MR. KUSE: That's Ms. Catherine  
11 Wilson.

12 SENATOR SAMPSON: Why don't you have  
13 that seat. I just want to ask you some  
14 questions about this returnable security  
15 deposit.

16 MR. KUSE: This woman is brilliant.

17 SENATOR SAMPSON: We are very  
18 interested in that.

19 MS. WILSON: Senators, thank you for  
20 your time. My background is several things,  
21 I used to be an auditor, I did not work for  
22 the Rockefeller's, I actually was a global  
23 auditor for Reader's Digest conducting  
24 operational audits and reported directly to

1 their Board of Directors, which included  
2 Lynn Chaney and David Rockefeller.

3 I was also, as I refer to it now,  
4 married to the mob for 20 something years,  
5 my ex-husband is a law secretary with the  
6 New York State Supreme Court, and when he  
7 divorced me I then became a victim of the  
8 power plays within the system and  
9 essentially got, well, shagged, for want of  
10 a much better word.

11 But in terms of the returnable security  
12 deposits there is actually much more at  
13 stake here, and if I may, I would like to  
14 take a moment to explain it.

15 I actually had an entire presentation  
16 and was hoping I could be allotted ten  
17 minutes, but I will give you the Reader's  
18 Digest condensed version here.

19 SENATOR SAMPSON: You have five  
20 minutes.

21 MS. WILSON: Both in divorce  
22 situations and particularly in Surrogates  
23 Court we have essentially a license to  
24 steal, and it happens for two reasons.

1           One, because Surrogates Court is the  
2           most political of all the political  
3           appointments in the system, I know this from  
4           being behind the scenes for 20 years.

5           And as you know from Lopez Torres  
6           versus the State of New York, where the  
7           United States District Court referred to the  
8           New York State judicial appointment system  
9           as the most corrupt in the nation, the most  
10          corrupt of the corrupt are the Surrogates  
11          Courts because they get to make the  
12          appointments to the attorneys, the  
13          accountants and the guardians who will be  
14          overseeing the trusts and the estates.

15          Now this is critical for two reasons,  
16          the trusts are for vulnerable people, we are  
17          talking about the disabled, the mentally  
18          ill, people who have no one else to advocate  
19          for them, and for the estates to make  
20          perfect victims; they are dead.

21          What happens in Surrogates Court, so  
22          many times the money disappears long before  
23          the estate action takes place.

24          So in the new law that the Senate

1 passed, and I thank you for this, the Power  
2 of Attorney Law takes some steps to address  
3 the issue, but the real issue is on the  
4 people who have control over the money while  
5 the individual is still alive.

6 And that includes the agents with the  
7 Power of Attorney and the Trustees.

8 There is supposed to be an accounting  
9 that goes on to the courts for the Trustees,  
10 but no one enforces that law.

11 The Surrogates Court in Westchester  
12 County in particular is a joke. They do not  
13 have full accountings.

14 Also the accountings that were proposed  
15 by the Administrative Judge, Jonathan  
16 Lipman, are not what any decent accountant  
17 would ever refer to as an accounting, they  
18 are essentially laundry lists of numbers.

19 You start with the numbers of where you  
20 begin with the finances at hand and you  
21 account for what you have spent in and out  
22 and then you give the ending total.

23 There is no documentation, no backs and  
24 fronts of checks, nothing that would support

1           why this money was spent.

2                   Plus there is nothing to say that the  
3 numbers you are starting with in the  
4 individual's estate or trusts are the  
5 numbers that should have been there.

6                   It is improper accounting to start at  
7 the point in time the money is handed over  
8 and comes to court and say this is what we  
9 are starting with.

10                   I'm involved in a trust at the moment  
11 in an estate where the numbers we are  
12 looking at are less than \$100,000, but the  
13 numbers that were there three years prior  
14 when the thief got his hands on the Power of  
15 Attorney was \$1.7 million.

16                   Now, how the state is suffering in all  
17 of this is in the question of the returnable  
18 security deposits, these are monies that  
19 should be going back to the individuals.

20                   If the security deposit was not fully  
21 spent in expenses in the nursing home, then  
22 the balance is due back to the family and to  
23 the estate, I'm sure you would agree.

24                   So those are personal victims, but how

1 the state is being affected is in the issues  
2 of the transfers of assets.

3 For example, say, Senator Adams, I  
4 appoint you Power of Attorney for my funds  
5 because I am now suffering from dementia,  
6 which as you can understand is a growing  
7 concern in the state, as the population  
8 ages.

9 I have \$1 million that I have  
10 accumulated through hard work over the  
11 years.

12 Senator Adams, you get your hands on my  
13 Power of Attorney, you now go to my accounts  
14 and you see I have \$1 million.

15 You suddenly realize that I have only  
16 one or two family members equally elderly,  
17 who will never -- don't know what's  
18 happening, my family have no idea I have  
19 accumulated this money so you, with Power of  
20 Attorney, start writing checks to yourself.

21 By the time I die and go and my estate  
22 is now probated and my elderly siblings  
23 stand to inherit, there is only \$10,000 left  
24 in the estate.



1           How we can catch these individuals is  
2           they all make one mistake, accountants like  
3           to say that all criminals have one thing in  
4           common, they cheat in their taxes.

5           If you look in the estate tax returns  
6           and the individual annual returns filed by  
7           the Powers of Attorney for the individual  
8           whose finances they are in care of, whatever  
9           withdrawals they made from those funds in  
10          excess of \$10,000 a year should be declared  
11          as taxable gifts.

12          They are not. And that's how I can  
13          nail them every time. Those are taxes that  
14          are due to New York State and the Internal  
15          Revenue Service.

16          So we are talking about State tax fraud  
17          and federal fraud.

18                 SENATOR SAMPSON:       Run that by me  
19          again.

20                 MS. WILSON:        I figured you would be  
21          interested in this.

22                 This is a nice way to get tax revenues  
23          where nobody will mind because we are  
24          catching the criminals.

1           You have Power of Attorney over my  
2           estate, \$1 million, I've got dementia, it  
3           takes me a few years to die, but that's  
4           okay.

5           You start writing yourself \$25,000  
6           checks out of my bank account during those  
7           three years, so by the time I die there is  
8           nothing left in my estate for Senator Adams  
9           and Senator Diaz to inherit.

10          But when you file the estate, my  
11          relatives show up, Rick, there is only  
12          \$10,000, he tries to do a discovery, he goes  
13          there is no full accounting, so there is  
14          even no way at present within the court  
15          system to find out how much has been stolen,  
16          because if you go to the court and try to do  
17          a discovery the court will only allow you to  
18          discover the documents that are on hand at  
19          the time of the estate.

20          So that if you were smart enough with  
21          the Power of Attorney to transfer it to new  
22          accounts, I will never know.

23          And if you ask in the discovery process  
24          for any and all documents that may have been

1 out there, it is referred to in the court  
2 system as a fishing expedition and it is  
3 denied.

4 Accountants refer to that as due  
5 diligence and would never be denied.

6 What we need to do is change some of  
7 the legislation. We need to put in place in  
8 the discovery process that we can pull  
9 credit reports of the individual, either the  
10 person for whom the trust is being  
11 established and the Trustee, the person, the  
12 deceased, et cetera, at the time either the  
13 trust was established or the Power of  
14 Attorney was issued.

15 So therefore we can tell at that point  
16 in time any and all bank accounts owned by  
17 that individual, all assets owned by that  
18 individual at that time.

19 That then becomes the basis for the  
20 discovery.

21 If we then find that during the period  
22 of time between the exercise of the Power of  
23 Attorney and the death of the deceased that  
24 millions of dollars, or even \$10,000, has

1           disappeared from the -- well, actually it  
2           would have to be greater than \$10,000, I  
3           stand corrected, but say even as minimum as  
4           \$20,000 has been depleted and the returns,  
5           tax returns in the discovery process do not  
6           show that the person who was the Trustee or  
7           the Power of Attorney agent declared those  
8           withdrawals as taxable gift income, and they  
9           cannot prove the withdrawals were for the  
10          use of the Trustee or the individual, now we  
11          have tax fraud.

12                 I have a case where \$1.7 million was  
13                 withdrawn over the course of two years for  
14                 an individual who was covered under a  
15                 veterans V.A. Hospital insurance, plus his  
16                 own private medical insurance and he was  
17                 withdrawing an average of \$33,000 a month  
18                 for a father who was being housed in a VA  
19                 facility.

20                 Somehow I don't think that \$33,000 a  
21                 month was going to the dad's care, so that's  
22                 \$300,000 average annually per year that was  
23                 being depleted from these funds that far  
24                 exceeds the \$12,000 allowed annually by the

1 IRS for gift tax for untaxable gifts.

2 Therefore that should have been  
3 declared as a taxable gift on the tax  
4 filings; that's how we can catch these  
5 criminals. Thank you. I do have other  
6 issues and I would appreciate some time  
7 later, if possible.

8 SENATOR DIAZ: I am interested to get  
9 your phone number, my lawyer will be  
10 contacting you.

11 I think -- let me ask you another  
12 question. Roughly how much money do you  
13 think that the State will save if we solve  
14 this problem?

15 MS. WILSON: Right now if you did the  
16 backlog I would off the top of my head, and  
17 the top of my head with my financial  
18 experience is usually pretty good, I would  
19 imagine it runs in the hundreds of millions  
20 of dollars.

21 SENATOR DIAZ: In a year?

22 MS. WILSON: Easily, because the  
23 estate I looked at was \$1.7 million that was  
24 depleted and only \$10,000 a year is allowed,

1 so if we are looking at almost \$1.7 million  
2 in state taxable rates, 5 percent, that's a  
3 lot of money; just one estate.

4 SENATOR DIAZ: The gentleman just  
5 said before that he had written to the  
6 Attorney General and the Attorney General  
7 asked him not to bother him no more.

8 That's what you said, right?

9 MR. KUSE: That's true, yes.

10 SENATOR DIAZ: No, no, no, was that  
11 what you said?

12 MR. KUSE: Yes, I got a letter from  
13 one of his people who told me to stop  
14 writing him.

15 SENATOR DIAZ: Stop writing him.

16 MR. KUSE: This is an explosive  
17 issue.

18 SENATOR DIAZ: This is a public  
19 hearing, and you are practically accusing  
20 the Attorney General of the State of New  
21 York of --

22 MR. KUSE: I was told to stop writing  
23 them letters about this topic.

24 SENATOR DIAZ: So you are saying the

1 Attorney General knows about this?

2 MR. KUSE: I don't know him  
3 specifically, but his underlings told me to  
4 stop writing the letters.

5 SENATOR DIAZ: Can I get a copy of  
6 that letter?

7 MR. KUSE: At this time I don't know  
8 if I can produce it, we are talking about a  
9 history of 10 years.

10 SENATOR DIAZ: You are in a public  
11 hearing now.

12 MR. KUSE: I understand that.

13 SENATOR DIAZ: You are testifying  
14 that someone at the Attorney General's  
15 Office wrote to you.

16 MR. KUSE: Look at it. I would love  
17 if he stepped in immediately.

18 SENATOR SAMPSON: I think reverend --  
19 I'm sorry, reverend.

20 SENATOR DIAZ: My concern, this is a  
21 public hearing, you just said -- you  
22 testified that someone in the Attorney  
23 General's Office wrote to you.

24 MR. KUSE: No, they told me.





1 and I said what, now I'm clear there is no  
2 proof of that.

3 MR. KUSE: I would also like to  
4 indicate that a lot of this is abuse against  
5 elders.

6 SENATOR DIAZ: I assure you that my  
7 lawyer will contact the lady here and that  
8 the Attorney General will know.

9 MR. KUSE: Thank you very much.

10 MS. WILSON: That's wonderful.

11 SENATOR SAMPSON: Let's make sure we  
12 get your information.

13 MR. KUSE: I would like to make one  
14 more.

15 SENATOR SAMPSON: Hold on, Senator  
16 Adams, we are being joined by Senator Bill  
17 Perkins from Harlem.

18 Senator Perkins.

19 SENATOR ADAMS: Your name again,  
20 please?

21 MS. WILSON: Catherine Wilson.

22 SENATOR ADAMS: Can you give me your  
23 background?

24 MS. WILSON: Certainly, I could give

1           you what I was going to present.

2                    SENATOR ADAMS:     A brief background on  
3           your accounting background.

4                    MS. WILSON:     I used to be an  
5           international auditor for Fortune 100  
6           companies, then went into private consulting  
7           and worked for various small companies and  
8           even a couple of local government agencies.

9                    And I now work for small companies I  
10          also do some writing for a local newspaper,  
11          and I actually left you ten copies of my  
12          articles that are pertinent to these issues  
13          at hand.

14                   I also for 20 years was married to a  
15          member of the New York State Supreme Court,  
16          so was privy to all the back room hearings  
17          and goings on and at the time was appalled  
18          by it, but only knew a little of it, and  
19          then when that individual decided he no  
20          longer wanted to be married to somebody as  
21          wonderful as me, I became a victim to the  
22          power and the corruption in the court.

23                   And ever since then I have been  
24          reporting, this is only one of the issues I

1           have come across, I have reported these  
2           issues to Jonathan Lipman, I have reported  
3           them to Judge Hay, I have reported them  
4           auditor to auditor, to the New York State  
5           auditors, Dennis Donahue, I believe, for the  
6           OCA auditors, who unfortunately seem to  
7           think that they take the direction from OCA.

8                     They do not seem to understand that  
9                     they are independent.

10                    I have reported it to Cheryl Spats, and  
11                    I have reported it to New York State  
12                    Attorney General, I reported it to Frank  
13                    Nicoli, I know all the players, I know them  
14                    on a first name, they have done nothing.

15                    SENATOR ADAMS:       And your educational  
16                    background?

17                    MS. WILSON:       My educational  
18                    background, I am a certified accountant, I  
19                    have a Bachelor's of Science in accounting  
20                    and I have a double masters in marketing and  
21                    finance.

22                    SENATOR ADAMS:       I am going to make a  
23                    recommendation to the chair to put in place,  
24                    because this is extensive, and some of the

1 information that you are sharing with us in  
2 one hearing we are not going to be able to  
3 bring it out, and I'm pretty sure there is  
4 going to be some duplications in the  
5 testimony.

6 MS. WILSON: I agree.

7 SENATOR ADAMS: What we will need  
8 because I think that the best way to resolve  
9 inefficiencies and corruption in government  
10 is through -- is to allow the people who are  
11 personally touched by the matter to empower  
12 us with information, so I'm going to ask the  
13 chair if he will put in place a task force  
14 that will be comprised of individuals like  
15 yourself and those who are victims to assist  
16 us in navigating how this problem is being  
17 hidden from public view.

18 But what's important, what's important,  
19 and the reason I asked for your background,  
20 both professional and education, is not that  
21 that is important to me, but when we attempt  
22 to go up against exposing corruption in the  
23 judicial system, there are those who are  
24 going to question who's bringing the

1 complaints and information, that's why it's  
2 imperative what Senator Diaz was saying to  
3 you, sir.

4 Any accusations we make must be well  
5 documented.

6 If you made calls and inquiries to the  
7 state auditors, to the Attorney General,  
8 anyone else, if you wrote letters that goes  
9 for you or anyone else in the audience, if  
10 you have those documents to show the paper  
11 trail that there has been a refusal to look  
12 at this very important issue and I think a  
13 task force with someone like yourself and  
14 your extensive background, and particularly  
15 some of the intimate relations you may have  
16 had that know firsthand of some of the  
17 problems, I think it would help us push this  
18 issue years forward, because we are  
19 committed to finding a resolution on this  
20 issue.

21 We are committed to doing that, but we  
22 need your help in doing so, and I just want  
23 to ask you two things, Mr. Chair, if I am  
24 permitted.

1           If you could just give me some brief  
2           answers, you know, I know and I think that  
3           some of the statements, we are going to let  
4           everyone know, I know this is an emotional  
5           issue, but we want to give the respect for  
6           the entire list of people who want to  
7           testify, and we want to try to be not as  
8           wordy as need be.

9           So that we can be, so we can put the  
10          information together.

11          How widespread do you see this problem  
12          as being?

13          MS. WILSON:     Well, from the  
14          Surrogates Court perspective I see it as  
15          extremely widespread.

16          Based on my knowledge of the  
17          politicalness of the appointments of the  
18          Surrogates Court and how it's actually  
19          viewed as a candy jar kind of appointment,  
20          where whoever gets that position gets to  
21          dole out lucrative appointments to the  
22          attorneys, the players, the party players.

23          In divorce court it's somewhat  
24          prevalent the issues, some of it is actually

1 due to the lack of training and I am sad to  
2 say in certain cases ignorance on the part  
3 of the judges.

4 That was part of my presentation. I'm  
5 trying to and I hear what you're saying,  
6 Senator, address this not just as the  
7 insider and the victim but also my auditing  
8 brain as to what we can do in terms of  
9 resolving it.

10 So there are, indeed, many individuals  
11 within the system, in fact there are some  
12 present here today.

13 One of my many accreditations is CPR  
14 training.

15 One of the problems is we do have  
16 individuals within the court system who know  
17 the problems and are trying to fight it from  
18 within, but whenever they speak up a little  
19 too loudly they either find themselves  
20 ostracized, find their credentials and their  
21 career on the line, or they are demoted to  
22 the hinter lands.

23 SENATOR ADAMS: So what we need, what  
24 we need is that from you and whoever else is

1 present, and I'm sure the chair is going to  
2 give you a website, but there are three  
3 things we need, number one, as I stated we  
4 need some form of a task force, number two,  
5 we need some very clear specific  
6 recommendations in a bullet format because  
7 we get a ton of information, if you send us  
8 a dissertation it's not going to be read as  
9 often as need be, if you give us some -- if  
10 you give us the category, problem, solution.

11 That's where we are at right now,  
12 problem, solution. That would be extremely  
13 helpful.

14 How much of this do you feel is based  
15 on incompetence or corruption?

16 MS. WILSON: In the Surrogates Court  
17 sad to say I would say it's mainly based on  
18 corruption, political corruption.

19 In the other courts, a lot of it is  
20 based on incompetence. One of the  
21 particular issues is people with  
22 disabilities or cognitive, emotional issues,  
23 or whatever, which are a lot of people in  
24 the court system, the courts are just



1 ill-equipped to deal with this, and the  
2 amount of abuse from the attorneys, from  
3 opposing counsel, from the judges  
4 themselves, there was an issue just this  
5 week where a woman with traumatic brain  
6 injury was before the Appellate Court, got  
7 through explaining to the Appellate Court  
8 what her problems were, and right in front  
9 of her the lawyer kept badgering her that  
10 she kept repeating herself.

11 Well, first of all that is a symptom of  
12 traumatic brain injury, but no one on the  
13 appellate bench stepped in to stop the  
14 attorney from badgering her in such a  
15 fashion.

16 She should have been protected, and as  
17 you know, our returning vets are suffering  
18 from TBI, so this should be understood by  
19 the court system, so there is a lack of  
20 knowledge.

21 SENATOR ADAMS: Lastly, how effective  
22 do you believe the systems are in place to  
23 respond and report to those allegations of  
24 corruption?

1 MS. WILSON: Actually very  
2 ineffective. The systems that are in place  
3 now, as I said the internal auditors within  
4 OCA seem to feel that they report to OCA,  
5 they are not independent.

6 The investigators such as Cheryl Spats,  
7 and even the Attorney General are limited by  
8 law as to what they can respond to.

9 I think what the system really needs,  
10 in fact state-wide, are independent  
11 auditors, an audit committee that does not  
12 report to anyone in the court system and  
13 that can step in at any time and do an  
14 audit.

15 The problem with investigations by the  
16 lawyers is you're now governed by legal  
17 statutes.

18 Attorneys have to obey whatever the  
19 Senate says. Auditors report to federal  
20 standards, so we have more discretion.

21 If I was an attorney investigating I  
22 would have to get a subpoena, I would have  
23 to go through a discovery process.

24 If I'm an auditor and I suspect you of

1 fraud, I show up.

2 I don't tell you I'm coming. I walk  
3 right in.

4 So the problem right now is with the  
5 way things are run by the time you go to  
6 catch the fox, they have already hid all the  
7 chickens.

8 SENATOR ADAMS: Thank you.

9 SENATOR SAMPSON: We have been joined  
10 by Senator Bill Perkins.

11 MS. WILSON: Thank you.

12 SENATOR PERKINS: I just want to ask  
13 one quick question, particularly with  
14 respect to the Surrogates Court.

15 I didn't get the benefit of her opening  
16 remarks, I'm not sure if we are on the right  
17 path, but you mentioned that the Surrogates  
18 Court and the corruption and the political  
19 corruption, did you mention that?

20 MS. WILSON: The way Surrogates Court  
21 is set up largely handles trusts and  
22 estates, so you have people who cannot speak  
23 for themselves, they are either disabled or  
24 they are dead.

1                   So what happens is a lot of times  
2                   guardians are appointed, Trustees are  
3                   appointed, accountants are appointed, sadly  
4                   members of my own profession who get these  
5                   appointments by nature of the amount of  
6                   political campaigns that they give to the  
7                   judges who hold these positions.

8                   Now, technically everybody is supposed  
9                   to report their contributions to a judge,  
10                  but for every rule there is a loophole.

11                  My ex-husband used to go into his  
12                  Judge's Chambers and pull the contribution  
13                  lists off his desk when he wasn't looking  
14                  and bring them home and show me everybody's  
15                  mother-in-law, brother, ex-wife or whatever,  
16                  they made the contributions through third  
17                  parties.

18                  And then what happens at the meet and  
19                  greet is whoever the person who really made  
20                  the contribution, they show up with the  
21                  ticket so they can shake the judge's hand,  
22                  nudge, nudge, wink, wink, you know I'm the  
23                  one whose really paying for your black  
24                  bathrobe.

1           So in turn when the judges get their  
2           appointments, they are now seen in  
3           Surrogates Court, they return the favor by  
4           appointing these individuals to Trustee's of  
5           these multimillion dollar trusts for the  
6           disabled and/or to guardians or whatever of  
7           the deceased.

8           And I say what the problem is, though,  
9           the way, between the corruption of the  
10          appointments which guarantees that no full  
11          accountings are rarely done, despite the law  
12          saying they have to be, between that and the  
13          ability of the individuals in the system to  
14          understand what to look for, and the  
15          limitations of what is allowed in the  
16          discovery process, it's a perfect storm for  
17          anyone who wants to go in and deplete the  
18          assets of a disabled victim.

19          SENATOR PERKINS:        So the Surrogates,  
20          you seem to be somewhat familiar with the  
21          process of this corruption.

22          MS. WILSON:        20 years married to the  
23          mob.

24          SENATOR PERKINS:        20 years married to

1           who?

2                   MS. WILSON:       My ex is a New York  
3           State Law secretary for the New York State  
4           Supreme Court, and his judge is one of the  
5           most powerful political judges in  
6           Westchester County.

7                   His golfing buddies are George Pataki  
8           and Donald Trump.

9                   SENATOR PERKINS:     I'm just wondering  
10          with that depth of knowledge and  
11          appreciation of how the process of  
12          corruption takes place.

13                   Have you had an opportunity to share  
14          that with the appropriate authorities?

15                   MS. WILSON:       I sadly just gave them  
16          the laundry list, yes, for the last six  
17          years I have reached out to everybody I  
18          could think of.

19                   SENATOR PERKINS:     Sorry, you don't  
20          have to continue.

21                   MS. WILSON:       That's fine.

22                   SENATOR PERKINS:     So then having done  
23          that, now you are talking about the  
24          Surrogates throughout the state, or at any

1 particular area, Westchester only?

2 MS. WILSON: Well, I initially  
3 started with my claims and accusations and  
4 findings with the divorce courts and then  
5 expanded that, became known and was asked to  
6 start doing some writings for a local  
7 newspaper and now got into Surrogates.

8 SENATOR PERKINS: I don't want to  
9 take too much time.

10 Now, again, your surrogate research is  
11 state-wide, Westchester, New York City, give  
12 me some sense of this.

13 MS. WILSON: It started out as  
14 Westchester, it's now becoming state-wide,  
15 but this is beyond your jurisdiction, it  
16 seems to be national.

17 But it is definitely state-wide.

18 SENATOR PERKINS: Have you focused at  
19 all on New York City?

20 MS. WILSON: I have gotten some New  
21 York City cases, yes, I have had three so  
22 far just in the last couple of months from  
23 Queens, and Nassau County.

24 SENATOR PERKINS: And you have had an

1 opportunity to share your information with  
2 the D.A.'s office, or anybody of that  
3 caliber.

4 MS. WILSON: I only just recently  
5 filed with the New York City Attorney  
6 General's to inform them that I want to  
7 pursue this with them.

8 MR. KUSE: The Whistle Blower's Law.

9 MS. WILSON: I filed under the IRS  
10 Whistle Blower's Law for protection, I just  
11 sent that into the IRS.

12 SENATOR PERKINS: Okay, thank you.

13 MS. WILSON: You are most welcome.

14 SENATOR SAMPSON: Thank you very  
15 much, Senator Perkins, Ms. Wilson, thank you  
16 very much.

17 I guess we wanted to have a further  
18 conversation with you with respect to the  
19 cases that you are working on, and maybe get  
20 more in-depth involved, especially when we  
21 create this task force, okay?

22 MS. WILSON: I am most willing to be  
23 as most helpful as I can, and, Senator  
24 Adams, if you manage to get that task force



1 together, I will gladly be a member of it.

2 SENATOR SAMPSON: Thank you very  
3 much.

4 MR. KUSE: Senator Sampson, I would  
5 just like to take another 30 seconds.

6 Senator Sampson, our elders, these are  
7 beloved elders, they are not farm animals to  
8 be harvested. There is a line in the Bible  
9 that says as you do it unto the least of  
10 these, you do it unto me.

11 Reverend Diaz you know it as well I as  
12 I do, my background is the same as yours.

13 SENATOR SAMPSON: Next speaker is  
14 Victor Kovner, we will wait.

15 Douglas Higbee of Mamaroneck, New York.  
16 Douglas, are you here?

17 MR. HIGBEE: I asked to be put on the  
18 back of the list, push me back.

19 SENATOR SAMPSON: Okay. Judith  
20 Herskowitz of Miami Beach, Florida. I know  
21 we went over the last one, but I think we  
22 are going to stick to the ten minutes,  
23 because we want to get the questions in. So  
24 try to be as brief as possible.

1 MS. HERSKOWITZ: It's hard to be  
2 brief, you know, when you go through 20  
3 years of torture.

4 It's hard to be brief when you go  
5 through 20 years of torture in the court  
6 system.

7 SENATOR SAMPSON: I'm quite sure you  
8 can be brief, just get to the salient points  
9 that we need to know.

10 MS. HERSKOWITZ: The point is that my  
11 major thing here is I'm submitting 13  
12 complaints that I made to the New York City  
13 commission on judicial conduct with regard  
14 to judges of the Supreme Court, New York  
15 County.

16 I am attaching copies of each of these  
17 complaints but without the supporting  
18 documents.

19 The complaints are followed by the  
20 letters acknowledging receipt of the  
21 complaint and by letters of dismissal.

22 The dismissal letters simply stated is  
23 my complaint was dismissed upon careful  
24 consideration, the commission concluded that

1           there was insufficient indication of  
2           judicial misconduct to justify additional  
3           discipline.

4                   When I requested more specific  
5           information I then received a response that  
6           pursuant to Section 45 of the judiciary law,  
7           the commission records and proceedings are  
8           confidential except as to matters in which  
9           public discipline is rendered.

10                   Since there never was any public  
11           discipline it has never been revealed as the  
12           right consideration my complaints were  
13           accorded, if any, I was refused any  
14           information as to anywhere the commission  
15           met, and which members of the commission  
16           attended the meeting.

17                   The letters of the commission were  
18           marked confidential and that the commission  
19           could find no wrong and no proceedings have  
20           been instituted by me as complainant, so I  
21           don't believe that, you know, the  
22           confidential notations really have any legal  
23           significance.

24                   The reason I filed so many complaints

1 is because the grievous acts that are  
2 compounded by further apparent misconduct.

3 It was unbelievable that the commission  
4 could ignore the court's disregard for the  
5 fact, for the law and the violations of the  
6 judicial canons.

7 I have extensively cited the judicial  
8 canons in my complaints, supported with the  
9 facts to no avail, that is why there is a  
10 dire need for this hearing and for  
11 affirmative action to be taken.

12 My most recent complaints attached as  
13 Exhibit 1 to 21 were based upon the  
14 activities of Justice Sherry Klein Heitler  
15 of the Supreme Court of New York County.

16 Upon allegations that she persistently  
17 has failed to perform her judicial duties  
18 and by such the relation has placed her  
19 court in complicity with a scheme to  
20 misappropriate approximately \$700,000 of  
21 corporate funds, of which I'm a majority  
22 shareholder.

23 Upon insistence of Plaintiff's counsel  
24 the funds were free and clear of all claims

1 of Pettigers when transfers transferred from  
2 the jurisdiction of the New Jersey  
3 Bankruptcy Court in August 2000 to the New  
4 York court in a case that was terminated  
5 long ago.

6 In other words, this whole -- there was  
7 a bankruptcy court proceeding, all the  
8 claims of creditors were adjudicated and  
9 there really was no reason to transfer that  
10 money to the New York court except for these  
11 lawyers who were already appeared in the  
12 bankruptcy court to take whatever money was  
13 left, which really belonged to the  
14 shareholders, I'm just trying to explain  
15 that.

16 Then they put in somebody, we come back  
17 to this fiduciary business, and they put in  
18 this Paul Windels, he was just supposed to  
19 be a neutral custodian to hold this money,  
20 for determination how much money the  
21 shareholders would get.

22 But I didn't know that it was all  
23 prearranged, that all the Plaintiffs'  
24 lawyers, who were numerous, they would be

1 getting the money, and they would clean out  
2 this money to the last penny not leaving one  
3 dime in the corporation, and nothing for me.

4 And they also made it up that they gave  
5 the appearance that the surplus funds were  
6 the results of liquidation by this Mr.  
7 Windels in a New York court which wasn't  
8 because of liquidation of the property, it  
9 was in the bankruptcy court.

10 And she allowed, this judge simply just  
11 allowed her judicial office to be misused to  
12 give the distribution a color of legitimacy  
13 through this phony receiver, Mr. Windels,  
14 who acted upon fraudulent claims that he's  
15 the receiver of the assets of north Jersey,  
16 and it couldn't be because the assets were  
17 in the bankruptcy court.

18 Just legally it could not be. And then  
19 he filed papers retroactively to make  
20 believe that he's the receiver.

21 He never filed any papers, receivership  
22 papers in the office of the court  
23 administration which is a requirement, and  
24 it was all artificially created proceeding

1 under Article 12, this whole receivership,  
2 to give it a color of legitimacy for them to  
3 take the money.

4 I mean they played this game for years  
5 and there never was any such proceeding, it  
6 just came out of nowhere.

7 They retroactively named these  
8 attorneys as creditors and then they had  
9 retroactive publications going back six  
10 years, I just can't -- it was absolutely  
11 phony publication because the receiver has  
12 to do publications.

13 And then the judge refused to recognize  
14 that they did this with a \$4 million  
15 judgment which was fully satisfied, the  
16 judge refused to recognize the law of joint  
17 and several liability that was the law.

18 And I was denied standing to object and  
19 to be heard on my objections, and my papers,  
20 whatever papers I filed in opposition, they  
21 were stricken, I was denied a hearing on  
22 evidence and testimony, so by the stroke of  
23 the pen they just took this \$700,000, which  
24 is all described, I submitted all these

1 complaints that I made to the judicial  
2 commission that was never, ever,  
3 entertained.

4 Now, the Exhibits 22 to 29, the prior  
5 are from a prior judge, a Justice Comptons  
6 and what they have done here is, you know,  
7 we live in Florida, my father was in Florida  
8 and they created a phony derivative,  
9 stockholders derivative suit.

10 Now, they did the stockholders  
11 derivative suit so a lawyer can get fees and  
12 he just kept on litigating and litigating  
13 and what was involved here was a 54 unit  
14 apartment building on Riverside Drive that  
15 my father and my parents purchased in 1958,  
16 and they used this derivative suit of  
17 something that should have been a Florida  
18 probate case to reach the property and  
19 appoint receivers and to take it over and to  
20 appropriate it.

21 My father managed the building, I never  
22 had anything to do with this building, but  
23 they wanted to get all the shareholders to  
24 strip everybody of their corporate -- of



1           their shares.

2           All I had was a remainder interest, I  
3           never managed the building, I never did a  
4           thing in New York and they couldn't really  
5           reach me in Florida, and what the judge did  
6           then, he said, and we filed motions, and  
7           it's unfortunate, if it was today I would  
8           have never appeared in a New York court, I  
9           would have stayed away, and that was a  
10          mistake, you know, you read the books and  
11          they file a motion to dismiss, no  
12          jurisdiction, you know I'm a Florida  
13          resident, and it doesn't matter.

14          So when the judge couldn't find  
15          jurisdiction over me, then he said that we  
16          withdrew the objection, and even Plaintiff's  
17          lawyer in sworn testimony admitted that that  
18          wasn't the case, but I couldn't bring it up,  
19          the judge sanctioned me and imposed all  
20          kinds of fines on me and literally banished  
21          me so I couldn't even appear in the New York  
22          court because I was like a criminal.

23          It's turned into somebody that I was a  
24          wrongdoer.

1                   And my father died, you know, in 1992,  
2                   then they entered this judgment by default  
3                   because I couldn't appear in the court, so  
4                   they enter a \$4 million judgment.

5                   SENATOR SAMPSON:       Can you wrap it up  
6                   in two minutes?

7                   MS. HERSKOWITZ:       On all kind of phony  
8                   claims, now the building was sold in the  
9                   bankruptcy court and that's where the money,  
10                  that \$700,000 came from.

11                  Now, the other thing is that when I  
12                  went to the Appellate Court, then on both of  
13                  these cases I'm going to summarize what I  
14                  have here, that what happened is that they  
15                  said it's a re-argument.

16                  Something that was never heard and I  
17                  never had -- I couldn't make an appeal, I  
18                  never had an appeal, I was never heard.

19                  SENATOR SAMPSON:       You had an attorney  
20                  representing you all the time on this?

21                  MS. HERSKOWITZ:       At times we had an  
22                  attorney. I have a law degree, my son is a  
23                  lawyer in Florida, my daughter-in-law is a  
24                  lawyer.

1           It doesn't matter, it doesn't matter if  
2           you are a lawyer or not a lawyer, the  
3           judges, the judge absolutely was not  
4           interested in any of the facts, any of the  
5           law.

6           SENATOR SAMPSON:       So your complaint  
7           with respect to negative complaint to the of  
8           judicial misconduct was what?

9           What was the judge or the judge's doing  
10          that warranted the complaint?

11          MS. HERSKOWITZ:       All these misdeeds  
12          the judge did, never gave us a hearing, I  
13          come all the way from Florida for a hearing  
14          and the judge tells me I'm sorry to say you  
15          have ten minutes.

16          I said I came from Florida for this, I  
17          said I have an evidentiary -- present the  
18          evidence and testimony and whatnot, and all  
19          they give you in these courts is -- that's  
20          another thing, all they give you is an oral  
21          argument, they don't give -- there is no,  
22          it's a lawyer and the lawyers can say  
23          whatever they want, they can make up  
24          whatever they want and you can't disprove

1           it, it's oral arguments, there is no such  
2           thing as a trial or to present evidence.

3           I said judge, I have the evidence here,  
4           I want to present it, I want you to mark it  
5           in.

6           I have the satisfaction of the  
7           judgment, there is no more \$4 million  
8           judgment.

9           No, she wouldn't allow me.

10          SENATOR SAMPSON:    I'm going to tell  
11          you what I'm going to do, since we have Mr.  
12          Tabeckian back there, who is the counsel for  
13          commission on judicial misconduct, I will  
14          make sure -- Mr. Tabeckian, why don't you  
15          say hello to everybody.

16          MR. TABECKIAN:       Hello.

17          SENATOR SAMPSON:    What I will do is I  
18          am going to speak to him specifically about  
19          your matter and see --

20          MS. HERSKOWITZ:     I have gone to the  
21          trouble of gathering up all these  
22          complaints.

23          SENATOR SAMPSON:    I see, extensively.

24          MS. HERSKOWITZ:     You have to see

1 everything, dismissed, can't find anything  
2 wrong and I just find this very, very  
3 frustrating.

4 I would like to close it with one  
5 thing.

6 SENATOR SAMPSON: Go ahead.

7 MS. HERSKOWITZ: We are Holocaust  
8 survivors, everything that we had in Europe,  
9 you know, you're in a Holocaust, taken, you  
10 can't hold property, you are Jewish, you  
11 can't hold properties, ghetto and all that.

12 Then comes the communist, what happened  
13 is what the interesting part of where the  
14 money came from really to buy that building,  
15 my father during the war time took -- you  
16 can see how valuable gold is now that money  
17 is losing value.

18 He took some Krugerrands or Napoleans,  
19 they had Napoleans in that day, which were  
20 gold coins, dug it under the ground.

21 After the liberation he found it, it  
22 was incredible, you know he didn't put the  
23 money in the Swiss bank, he found it, he  
24 started a factory, he was very innovative my

1           dad, very good businessman, started -- he  
2           had a big weaving mill, factory, sold  
3           fabrics all over, but he didn't trust the  
4           communists so he was sending money to  
5           America.

6                    Then came the communists, they took  
7           away the factory, but luckily we could come  
8           into America.

9                    Then he also bought a weaving mill in  
10          Patterson, New Jersey, made money, bought  
11          the building, now what happens is now  
12          whatever we had here the American judges  
13          took from us, and I find that very, very  
14          hurtful.

15                   That you can't keep money in America.  
16          In Europe you knew that you were in danger,  
17          so you kept on putting the money aside.

18                   And I think that's what's going to  
19          happen in America, too, you know people are  
20          shuffling their money out of it, I do have  
21          the story on [judicialaccountability.org](http://judicialaccountability.org),  
22          people are reading it.

23                   You don't see people flocking here to  
24          invest money, we have condominiums galore,

1           you know, being for sale, and I think it's  
2           got to be taken into consideration that this  
3           judiciary is ruining our business in  
4           America.

5                     It's not just the collapse of the  
6           financial system, it's collapse of the  
7           judicial system that's causing that, too.

8                     SENATOR SAMPSON:       Thank you very  
9           much.   Any questions.

10                    Thank you very much, and I will speak  
11           to Mr. Tabeckian with respect to your --

12                    MS. HERSKOWITZ:       Wait a second, I  
13           have something else, if I may, excuse me, I  
14           already wrote to your office with regard to  
15           this reargument, I can give you this letter  
16           again, that this thing that an appeal that  
17           you don't have an appeal because or a  
18           reargument and you never were heard, I mean  
19           that's an excuse, that whole law has to come  
20           out because you don't have that in the  
21           Federal Rules.

22                    In the Federal Rules if you make -- I  
23           have a couple of copies of this, in the  
24           Federal Rules if you make -- in the Federal

1 Rules if you make a motion after a final  
2 judgment that stays, that stays the  
3 judgment, please take that, please, that law  
4 has to be changed, because that's how twice  
5 they denied me an appeal.

6 That stays the appeal until the motion  
7 is decided, whether you win or lose you have  
8 an appeal.

9 In this archaic judicial New York  
10 system they take away the right to appeal  
11 with this nonsense that it's a reargument.

12 SENATOR SAMPSON: I will definitely  
13 follow-up.

14 Thank you very much.

15 MS. HERSKOWITZ: I spoke to Mr.  
16 Spotts and he said he would follow it up.

17 SENATOR SAMPSON: Thank you very  
18 much, and I will follow this up.

19 MS. HERSKOWITZ: Who is going to  
20 contact me?

21 SENATOR SAMPSON: I will make sure  
22 Mr. Spotts contacts you.

23 MS. HERSKOWITZ: You also said  
24 somebody from the commission.



1                   SENATOR SAMPSON:     Mr. Tabeckian.   Mr.  
2                   Tabeckian, we have a young lady from  
3                   Florida, maybe you can spend two minutes  
4                   with her.   I would appreciate it.

5                   Thank you very much.   Mr. Tabeckian is  
6                   right back there.

7                   The next witness is Peter Gonzales of  
8                   Troy, New York.   Peter.

9                   Peter didn't check in, we are going to  
10                  -- Peter is not here, we are going with  
11                  Andrea Wilkinson of Rensselaer, New York.

12                  Andrea, are you around?   Andrea are you  
13                  here?

14                  Andrea, come on up.   Good morning,  
15                  Andrea.

16                  MS. WILKINSON:        Good morning, Senator  
17                  Sampson and your staff and everyone.   We met  
18                  again, I was in Albany before you left last  
19                  time.

20                  SENATOR SAMPSON:        I apologize.

21                  MS. WILKINSON:        You promised me you  
22                  would come back, but I know what happened in  
23                  the legislature.

24                  So, all right, I am going to be quick

1 and I am reading, so bear with me, I'm a  
2 little nervous.

3 My name is Andrea Wilkinson, I'm a  
4 small minority female developer in the  
5 capitol district region area.

6 SENATOR SAMPSON: What do you  
7 develop?

8 MS. WILKINSON: We develop low  
9 housing, we go into the community and what  
10 we do is revitalize abandoned boarded up  
11 houses to make them become quality housing  
12 for low to moderate income people.

13 And, as you know, in Albany there is a  
14 tremendous amount of dilapidated buildings  
15 within the capitol district region area.

16 I come forth to you today because I'm a  
17 Plaintiff of a civil suit that was pending  
18 in front of Judge Lehner, I don't know if he  
19 is still presiding, my understanding was he  
20 was at the point where he was going to  
21 retire spring of 2009.

22 I had a civil suit pending for four and  
23 a half years in front of Judge Lehner and  
24 after four and a half years of seeking

1 judgment or seeking, you know, due process  
2 within the judiciary system, Judge Lerner on  
3 the eve of my trial date was March 11th, on  
4 March 10th at 4:30 p.m. elected to dismiss,  
5 not one or two or three charges, but all  
6 nine charges of my lawsuit that was pending  
7 in front of him.

8 The charges ranged from discrimination,  
9 breach of contract, violation of federal  
10 lending laws, housing laws, administrative  
11 codes, et cetera, I gave you my documents.

12 The lawsuit was pending against  
13 Community Preservation Corp, which is a not  
14 for profit quasi for profit organization.

15 SENATOR SAMPSON: CPC?

16 MS. WILKINSON: CPC, yes. For Judge  
17 Lerner to have blindfolds on so he could  
18 not see any validity to any of my charges  
19 really baffled me.

20 Now my co-partner in this lawsuit is  
21 the contractor who helped me develop nine  
22 individual townhouses in downtown Albany.

23 As the Plaintiff I can't express my  
24 concern, I feel like the unethical bias and

1           tainted decision rendered by Judge Lerner  
2           coupled with his inappropriate and unethical  
3           behavior leaves me baffled.

4                     I want to let you know that Judge  
5           Lerner during the process of the trial when  
6           we would have hearings, he seemed to always  
7           have been favored towards CPC, and I didn't  
8           quite understand why he would make comments  
9           like oh, CPC has done a lot for the State of  
10          New York, Community Preservation has done a  
11          lot in the City of New York, and that he had  
12          also indicated he was once a legislator that  
13          he had done some work in the legislation in  
14          the State of New York.

15                    Well, despite his appreciative attitude  
16          towards Community Preservation Corp.,  
17          coupled with his prior political agenda that  
18          he had in the Albany legislation, I still  
19          felt like, you know, I prayed that he would  
20          be fair, that he would be unbiased and that  
21          he would do what he is supposed to do, which  
22          is to look at the color of the law in the  
23          United States Constitution.

24                    Well on March 10th, you know, the eve

1 of the trial he goes and dismisses the case.

2 I started doing research on Judge  
3 Lerner and I find that, you know, I was en  
4 route to New York too that eve on the  
5 Thruway, pouring down rain, I ended up like  
6 I had to pull over once I got the call from  
7 my attorney.

8 I had already been so mistreated by CPC  
9 as being an African American female  
10 developer, which is rare, I had to deal with  
11 a comment my -- when I went to place my loan  
12 application into the Community Preservation  
13 Corp. to the loan officer, he looked at my  
14 financial statement and he looked at my  
15 resume and you know what he said to me? I  
16 was an exception to my race.

17 Like he had never met a black woman  
18 before who has a certificate of advanced  
19 study in education administration from SUNY  
20 Albany with a 3.86 GPA or that he had never  
21 met a black woman who had like maybe at that  
22 time I had -- I had about maybe \$350,000 net  
23 income, like just in the stock market, so he  
24 said to me I was an exception to my race and

1 then other comments went on like oh, you  
2 should be like Charles Tewey or Fagenbaum.

3 I was constantly compared to white male  
4 developers within the capitol district  
5 region area.

6 Charles Tewey is a millionaire, so is  
7 Fagenbaum and all the others that he  
8 compared me to, there aren't very many women  
9 in development and there aren't many people  
10 developing minority dilapidated communities,  
11 and as a minority female developer, we have  
12 to empower the people who live within their  
13 communities to be able to go out and get  
14 money to revitalize their community.

15 We can't just wait for the white great  
16 hope to come along and want to invest in our  
17 communities.

18 So in that aspect I feel like Community  
19 Preservation Corp. should be lending more  
20 monies to women and minorities.

21 Under oath and Andy Thompson, whose dad  
22 is Lou Thompson who was Governor's right  
23 hand man for housing and Governor Pataki's  
24 best friend, I just feel like all those

1 elements played into Judge Lerner's  
2 decision.

3 But the other factor that played into  
4 Judge Lehner's decision is I did research at  
5 the Congressional library in Albany and I  
6 found out the following facts about Judge  
7 Lerner, which he never revealed, had he I  
8 would have asked him to recuse himself.

9 Judge Lehner was an Assemblyman for the  
10 Fort Washington District in Manhattan during  
11 1973 through about 1980. The entire time  
12 that he was active in the Assembly, he was  
13 assigned to the Housing Committee.

14 Judge Lerner was the Chairman of the  
15 Housing Committee for over 8 years and he  
16 introduced the first Neighborhood  
17 Preservation Bill in the assembly that  
18 became a law.

19 As he gets ready to retire from being a  
20 judge this spring, he is still very much  
21 entrenched in the housing community and the  
22 politics that lead with housing, community  
23 development and so after I did the research  
24 on him I realized that, you know what, for

1 his decisions that he rendered four and a  
2 half years, eve of a trial date, to dismiss  
3 not one, two or three, something happened.

4 Either Faber was called in or his palm  
5 was greased or he just didn't want to deal  
6 with the issues of discrimination.

7 All along he said he never saw the  
8 discrimination, but he did see breach of  
9 contract possibly --

10 SENATOR SAMPSON: Let me ask you a  
11 question.

12 So you have -- you're basing your  
13 question of maybe judicial misconduct based  
14 upon a decision that he did not render in  
15 your favor; or --

16 MS. WILKINSON: The fact he dismissed  
17 not one, two or three but all nine charges?

18 SENATOR SAMPSON: I understand that,  
19 I'm just telling you from my own personal  
20 experiences I have seen judges on cases  
21 dismiss cases on the eve of trial, motions  
22 for summary judgment has been granted, I  
23 mean if the law is not in your favor, the  
24 law is not in your favor.



1 MS. WILKINSON: That's just it, the  
2 law, according to my law firm that I used,  
3 which is Leeds, Morelli & Brown, they have a  
4 company called DOW, which is Discrimination  
5 on Wall Street, they specialize in  
6 discrimination.

7 Not one or two or three, but nine  
8 charges, breach of fiduciary responsibility,  
9 I mean the charges go on and on and on.

10 SENATOR SAMPSON: I can understand  
11 that.

12 The next question is after he rendered  
13 that decision have you since appealed that  
14 decision?

15 MS. WILKINSON: We have appealed the  
16 decision and in addition to that we have  
17 written Judge Carey, Joan Carey, who has  
18 responded like oh, I have no control over  
19 the decisions that are rendered by, you  
20 know, Judge Lerner, you need to seek due  
21 process on the judiciary on the appellant  
22 level.

23 But I want to say as an African  
24 American female, and they wonder why

1 minorities or women don't have faith in the  
2 judiciary system, and you wonder why we  
3 sometimes when you look at black justice,  
4 white justice and black robes, he didn't see  
5 the discrimination part, yet still he didn't  
6 see the breach of contract, he did not see  
7 anything on my behalf as a minority female  
8 developer, okay?

9 SENATOR SAMPSON: No, no, no, I want  
10 to correct something, a judge is not  
11 supposed to look at you as a minority  
12 developer, a judge is supposed to look at  
13 you as a litigant, he is not supposed to  
14 decipher whether you are white, black, green  
15 or yellow.

16 MS. WILKINSON: Guess what, he did.

17 SENATOR SAMPSON: Let me continue,  
18 he's supposed to look at the facts of the  
19 situation, look at the law and come up with  
20 a decision.

21 If you have a problem with his  
22 decision, that's why we then go appeal it,  
23 because there have been plenty of cases  
24 where I thought I was correct on the law,

1 but the judge ruled against me but such then  
2 I appealed.

3 A perfect example is Governor Patterson  
4 on the issue of the appointment of  
5 Lieutenant Governor, he lost at the trial  
6 level, he lost at the Supreme Court level,  
7 he lost at the Appellate Division level, but  
8 he won at the Court of Appeals level.

9 So I just want you to understand that,  
10 when you are saying that, you don't want the  
11 judge to give anyone preference, you don't  
12 want the judge to give anyone preference,  
13 you want the judge to look at the facts and  
14 look at the law and make a determination.

15 MS. WILKINSON: And if Judge Lehner  
16 had done that he would not have been  
17 dismissing all nine charges.

18 SENATOR SAMPSON: And you will be --  
19 your opinion will be rectified if you won at  
20 the Appellate Division level.

21 MS. WILKINSON: Well, you know, how  
22 do you have faith in the judiciary system  
23 when you look and see there is favoritism,  
24 how do you have faith in the judiciary

1 system?

2 SENATOR SAMPSON: That's why --

3 MS. WILKINSON: When you have judges  
4 who are like just blindfolders on, just  
5 really want to see what they want to see, or  
6 as a matter for me, I'm a small minority  
7 female developer, I'm up against CPC, Lou  
8 Thompson, Governor Pataki's right hand man,  
9 his best friend, how am I to, you know,  
10 where do I get funds to go to the appellant  
11 level to the Supreme Court?

12 It should be that we as citizen  
13 taxpayer people we should be able to come to  
14 our judiciary system and get a due process  
15 right on the first circuit, not that we have  
16 to go all the way up to the Supreme Court to  
17 win.

18 And I called the NAACP legal defense  
19 fund and you know what they told me?

20 All major civil suits, discrimination,  
21 sex, gender usually have to go to the level  
22 of appellant; why?

23 We have already been devastated as  
24 women or minorities and then while we have

1 to dig up funds to get on the first circuit,  
2 then find money to get to the second and  
3 third and fourth circuit.

4 SENATOR SAMPSON: You know what, we  
5 agree with you, but that's why mistakes are  
6 made that's why you go to the Appellate  
7 Division and you have the Supreme Court in  
8 some states and you have the Court of  
9 Appeals and best case scenario you have the  
10 United States Supreme Court.

11 It happens, we are not perfect, people  
12 interpret the laws differently, at that  
13 point in time, but you just don't give up on  
14 the system.

15 That's why we have hearings like this,  
16 because what we are trying to do is make  
17 sure the faith, the trust and the  
18 confidence.

19 MS. WILKINSON: The system is broken.

20 SENATOR SAMPSON: We are doing our  
21 best to try to fix it.

22 MS. WILKINSON: It is broken.

23 SENATOR PERKINS: Two quick  
24 questions, I appreciate what the Chairman is

1           trying to say, but now this judge, how do  
2           you spell his name?

3           MS. WILKINSON:       Lehner is  
4           L-e-h-n-e-r.

5           SENATOR PERKINS:       That's Lehner.

6           MS. WILKINSON:       Lehner. They say  
7           Lehner.

8           SENATOR PERKINS:       I may be wrong, I  
9           think I know the judge, that's why I asked.

10          MS. WILKINSON:       He's old, he  
11          exhibited -- not that I'm age discrimination  
12          -- but he exhibited no patience, no  
13          tolerance, he had no tolerance for me as a  
14          Plaintiff, he just really.

15          SENATOR PERKINS:       I just asked you  
16          the question about his name.

17          MS. WILKINSON:       Let me tell you what  
18          else he did --

19          SENATOR SAMPSON:       But you have to  
20          listen.

21          SENATOR PERKINS:       Listen to me, I'm  
22          asking the questions. Now you have to focus  
23          on me and my questions.

24          If you go beyond that, I might ask you

1 to hold up because it might not -- because I  
2 want to get clear what you're trying to  
3 accomplish, which I think is important,  
4 which is to make sure that when you present  
5 yourself before a judge you get fair  
6 treatment.

7 MS. WILKINSON: Right.

8 SENATOR PERKINS: It's clear from  
9 your experience, at least, that that's not  
10 happening, you don't think that's happening.

11 MS. WILKINSON: And I wonder what's  
12 going to happen on the appellate level.

13 SENATOR PERKINS: Let me finish. So  
14 let me just be clear that you understand why  
15 we are here, because we suspect that some of  
16 the concerns that you raise, not necessarily  
17 in this instance, but we hear these problems  
18 and we therefore recognize that there is  
19 some repairing that needs to be done in the  
20 process.

21 Such that someone who feels and may be  
22 justifiable, have been mistreated has a way  
23 to be treated properly.

24 So that's what we are really trying to

1           be clear about, that there is -- that we  
2           obviously are having hearings to sort of  
3           understand where the system is falling short  
4           and where we can fix it, so I'm going to ask  
5           you a question from that point of view.

6           MS. WILKINSON:        Okay.

7           SENATOR PERKINS:       Because now the  
8           fact that you are a minority contractor is a  
9           little bit irrelevant right now.

10          MS. WILKINSON:        Okay.

11          SENATOR PERKINS:       Let's just say  
12          racism is the reason why the judge did that  
13          and then we have to -- that's one thing.

14                 If you say it's about racism and  
15                 sexism, there is a fix for that.

16                 If you are saying it's about something  
17                 else, then we have to figure out what that  
18                 something else is and figure out what the  
19                 fix is for that.

20                 One of the things that you said that  
21                 I'm going to just probe a little bit is  
22                 this.

23                 You are so disheartened, discouraged  
24                 that you feel that the system if you go, if



1           you appeal, you won't even find any help in  
2           the appeal.

3                   Now is that because you can't afford to  
4           do the appeal, or you don't have on the  
5           time?

6                   MS. WILKINSON:       No, I'm doing the  
7           appeal, it's also been amended to include  
8           the New York State Comptroller's office,  
9           DiNapoli's office because my mortgage was  
10          originally funded through the State Common  
11          Retirement Fund and even though I reached  
12          out to Mr. DiNapoli's office saying please  
13          don't get in bed with CPC, they have  
14          discriminated against me, DiNapoli's office  
15          elected to do anything, SNMA stepped in,  
16          paid off DiNapoli's office and it's like you  
17          deal with CPC on your own.

18                   My concern was he was a former  
19          Assemblyman for years and they become  
20          judges, and as they go out into the arena,  
21          the law, the judiciary system and they were  
22          Chairperson on these housing committees, it  
23          should not be that they are even to preside  
24          over any cases that they once were the

1 Chairman of the committee for so many years.

2 SENATOR PERKINS: Let me just  
3 interrupt again, forgive me, I don't mean  
4 to, but I just want to get the meat, the  
5 juice, the nuggets that you are offering, so  
6 the problem you see is a conflict of  
7 interest.

8 MS. WILKINSON: Absolutely.

9 SENATOR PERKINS: That we need to  
10 look at, there is a conflict of interest  
11 between when somebody presides as a judge  
12 and what their formal career may have been,  
13 particularly as a legislator that they might  
14 be prejudiced towards the industry.

15 So what's the second thought?

16 MS. WILKINSON: The second thought is  
17 I reached out to Senator Vigo Lipos,  
18 Barnasat, these Senators and Assemblymen,  
19 they won't even when you mention Judge  
20 Lehner, CPC, Community Preservation, they  
21 don't even want to touch it, they don't want  
22 to provide the information that's needed and  
23 so it's to me like --

24 SENATOR PERKINS: Lerner or Lehner,

1           that's a big deal? Are you sure because you  
2           mentioned the upper Manhattan area,  
3           Washington Heights.

4           MS. WILKINSON:       He was the  
5           Assemblyman for Fort Washington for about 8  
6           to 9 years.

7           SENATOR PERKINS:     That sounds like  
8           Lehner to me, that's why I'm the pooper  
9           scooper.

10          SENATOR SAMPSON:     Is there a Lehner  
11          on the Supreme Court?

12          SENATOR PERKINS:     Ed Lehner.

13          MS. WILKINSON:       It's Edward.

14          SENATOR PERKINS:     I know Edward he's  
15          a State Supreme Court Judge, who was also --

16          MS. WILKINSON:       It's Lehner.

17          SENATOR PERKINS:     There is a Judge  
18          Lerner, I don't think he would want to know  
19          that there is a person sitting at that table  
20          with so much concern about his integrity,  
21          that's why, so you're talking about Lehner,  
22          Judge Lehner --

23          MS. WILKINSON:       L-e-h-n-e-r.

24          SENATOR PERKINS:     For the record,

1 L-e-h-n-e-r.

2 MS. WILKINSON: For the Washington  
3 Assemblyman, my concern is as I speak to  
4 you, Senator Sampson or Senator Perkins, you  
5 guys may become judges in the future.

6 SENATOR PERKINS: Not me.

7 MS. WILKINSON: I'm just saying that,  
8 part of the reason the system is broken also  
9 is that you have legislators who were --  
10 they are lawyers, a lot of you have a law  
11 background, you become judges and then there  
12 is that conflict there and I just feel like  
13 something needs to be ethically -- there  
14 needs to be a Bill or there need to be when  
15 you all are sworn in that you promise when  
16 you -- if you ever go out and become a judge  
17 after sitting on a committee for 8, 9, 10  
18 years because you know as the Chairman of  
19 the Committee, Housing Committee that's a  
20 lot of money and bills that you are in  
21 control of, you know people are going to  
22 come and try to take you out to lunch and  
23 woo you and take you over, favors will be  
24 asked and called in later on if you become a

1 judge.

2 And it is just so unethical and in my  
3 case this is what has happened to me and  
4 something needs to be done, you guys, I  
5 almost want to say don't let them become  
6 judges if they were that they were or they  
7 should not hear cases that they were  
8 Chairman of those committees.

9 SENATOR SAMPSON: Senator Diaz?

10 SENATOR DIAZ: No.

11 SENATOR SAMPSON: Ms. Wilkinson,  
12 thank you very much for your comments.

13 MS. WILKINSON: I have one request, I  
14 don't know what the power to be for you  
15 guys, I have not filed a Complaint, I'm in  
16 the process of filing one, I was told to  
17 send my paperwork up to Judge Fern Fisher,  
18 Fern Fisher and I'm concerned, I mean I  
19 don't know if you guys can help govern the  
20 process or watch over me as an angel, who do  
21 I speak to to see that my appeal is given a  
22 true due process?

23 SENATOR DIAZ: Let me ask you a  
24 question, watch over -- you said somebody

1 will watch over me to you.

2 MS. WILKINSON: Watch over the case.

3 SENATOR DIAZ: You are a minority  
4 enterprise woman, what is your -- how many  
5 buildings, how is your enterprise doing now?  
6 Good or bad?

7 MS. WILKINSON: I'm in the -- I'm  
8 currently presently in the Court of  
9 Bankruptcy reorganizing and restructuring  
10 because I had to -- CPC accelerated my  
11 mortgage, placing total payment, SNMA  
12 stepped in and paid off the Comptroller's  
13 office, forcing me to go into bankruptcy.

14 So I mean I still have my asset, but I  
15 have no faith in the judiciary system, and  
16 this is why it's like how do we restore that  
17 within taxpayer U.S. Citizens who have  
18 Constitutional rights?

19 It's like how do you begin to fix the  
20 broken wheel?

21 And it's not -- something has to be  
22 done, it can't be that you file a complaint  
23 and it takes 50 years for that to be  
24 processed.

1                   SENATOR SAMPSON:     Ms. Wilkinson, we  
2                   will definitely do that and follow it up.

3                   MS. WILKINSON:     You will follow it  
4                   out?

5                   SENATOR SAMPSON:     We will follow it  
6                   up. You live in the capitol region, you  
7                   need to reach out to your State Senator.

8                   MS. WILKINSON:     It's Malcolm Smith at  
9                   this moment.

10                  SENATOR SAMPSON:     You live in Queens  
11                  or --

12                  MS. WILKINSON:     Both, I live upstate  
13                  and Queens.

14                  SENATOR SAMPSON:     Where do you vote?

15                  MS. WILKINSON:     Last voting I voted  
16                  upstate, I have just recently changed my  
17                  voting registration to New York City.

18                  SENATOR SAMPSON:     What you need to do  
19                  is contact Senator Smith's office.

20                  MS. WILKINSON:     I have done that  
21                  already.

22                  SENATOR SAMPSON:     We will follow up  
23                  with you, Lisa, could you make sure you  
24                  follow up with Ms. Wilkinson.

1 MS. WILKINSON: Thank you.

2 SENATOR SAMPSON: Thank you. At this  
3 point in time Mr. Victor Kovner who was  
4 second to speak, he is here now and I will  
5 take him.

6 MR. KOVNER: Mr. Chairman,  
7 distinguished members of the Senate, thank  
8 you for giving me the opportunity to present  
9 testimony.

10 Before I do that, let me say I want to  
11 thank the Senate for its leadership and its  
12 progress on so many issues, the passing of  
13 the Bill for the new family courts, bravo.

14 But I am here today to say on behalf of  
15 the Committee for Modern Courts I want to  
16 thank you for providing us with the  
17 opportunity to give this testimony.

18 As you know Modern Courts is an  
19 independent nonpartisan state-wide court  
20 reform organization, committed to improving  
21 the court system for all New Yorkers.

22 Modern Courts supports a judiciary that  
23 is -- that provides for the fair  
24 administration of justice, equal access to



1 the courts that is independent, highly  
2 qualified and divorced.

3 By research, public outreach, public  
4 education and lobbying efforts we seek to  
5 advance these goals.

6 And I also -- my comments are going to  
7 be focused on the committee on the judicial  
8 conduct which, for the record, you should  
9 know I served as a member of that commission  
10 from 1975 through 1989, a long, long time  
11 ago and towards the end of my service I was  
12 Chair of that commission and so I'm quite  
13 familiar with the work of the commission.

14 Now, over 30 years ago modern courts  
15 supported the legislative initiative  
16 establishing a temporary commission on  
17 judicial conduct, it was critical, there was  
18 no independent review of judicial conduct on  
19 the Bench.

20 There were no attorneys looking at  
21 allegations of misconduct, there was no  
22 commission, the judicial disciplinary system  
23 was simply some judges with the authority to  
24 discipline other judges.

1           We proposed a permanent commission on  
2           judicial conduct, and together with the  
3           League of Women Voters we worked hard to get  
4           a constitutional amendment on the ballot to  
5           establish it, and in 1976 the voters of the  
6           State of New York in a referendum approved  
7           that amendment and the commission came into  
8           existence in 1978.

9           It was one of the first such  
10          commissions in the country, there are now 49  
11          commissions like the New York commission  
12          around the country, and the New York  
13          commission is extremely vigorous, it is, as  
14          I will indicate, it set a lot of the law of  
15          judicial conduct around the committee and  
16          its work is followed by other commissions  
17          and it's really the only forum responsible  
18          for enforcing violations of ethical  
19          standards of judges of the State of New  
20          York, and I want to emphasize that, that's  
21          violations of ethical standards.

22          Errors of law do not come before the  
23          commission, are not appropriate before the  
24          commission, those issues as we have heard

1 from some of the witnesses this morning, are  
2 really matters that as the Chairman has  
3 pointed out should be and are regularly  
4 reviewed by our Appellate Courts.

5 Now, we have a lot of judges in this  
6 state and it's a very large judicial system,  
7 so the workload is quite large.

8 There were 4.5 million cases filed in  
9 our courts throughout the state and our  
10 courts include Town and Village Courts, City  
11 Courts, District Courts, Surrogate Court's,  
12 the Court of Claims and the Supreme Court.

13 There are more than 3,000 judges in New  
14 York. The Commission on Judicial Conduct  
15 receives over 1,600 complaints each year  
16 based on over the past -- that's the average  
17 over the past five years, and in '08 it  
18 received 1,923 and the commission's ability  
19 to assure complete investigation and  
20 appropriate action is one of the most  
21 important parts of the judicial system of  
22 New York.

23 Modern Courts strongly supports the  
24 work on judicial misconduct according to the

1 American Jurisprudence Society, New York  
2 State has consistently publicly disciplined  
3 more judges than any other state.

4 This reflects a willingness of the  
5 commission to effectively and efficiently  
6 meet its constitutional mandate.

7 The commission works with truly under  
8 difficult resource constraints, a few years  
9 ago we believed they didn't have sufficient  
10 staff and we made pleas to the legislature  
11 and you and your colleagues and others  
12 happily addressed that issue, and the staff  
13 and resources have been expanded so that  
14 they can effectively address this huge  
15 volume of complaints.

16 Now, one question that is asked is the  
17 confidentiality of proceedings.

18 The judiciary law requires that the  
19 commission investigation and formal hearings  
20 remain confidential.

21 Commission activity is only made public  
22 at the end of the disciplinary process with  
23 a determination of public admonition, public  
24 censure or removal is made and filed with

1 the Chief Judge of the State.

2 Or when the accused judge requests that  
3 the disciplinary hearing be public.

4 But we think that there should be  
5 confidentiality during the investigatory  
6 phase of the commission work and I think  
7 that to open up the process may address some  
8 of the concerns that you have heard this  
9 morning, which are legitimate concerns that  
10 ought to be heard and aired because  
11 unfounded claims can damage the reputation  
12 of individual judges, but at the same time  
13 the public is entitled to see the process  
14 work during the investigatory phase.

15 So we agree with and the commission has  
16 testified on that before this committee, and  
17 we think confidentiality should cease after  
18 a commission finds a reasonable cause to  
19 bring formal disciplinary proceedings  
20 against the judge and decides to hold a  
21 formal hearing.

22 I think at that point the public should  
23 be able to watch and find out what's going  
24 on.

1           The need for openness and transparency  
2           at the hearing stage will provide the public  
3           with greater opportunity to understand and  
4           witness the process of disciplinary  
5           hearings.

6           Public confidence in the process is  
7           essential to the success of the system, it  
8           will provide a judge with an opportunity to  
9           be heard in public, thus removing any rumor  
10          or innuendo that might remain after a  
11          private hearing and might linger after the  
12          commission exonerates a judge.

13          35 states now provide for public  
14          hearings once the investigation is complete  
15          and the charge is made, there is no reason  
16          to keep this part of the process behind  
17          closed doors, that change would require an  
18          amendment to the judiciary law.

19          In short, we support the work of the  
20          commission on judicial conduct and we thank  
21          you for the opportunity to provide this  
22          testimony.

23                 SENATOR SAMPSON:        Thank you very much  
24                 Mr. Kovner.

1           Before we pose any questions to you, we  
2           have been joined by my co-chair, George  
3           Maziarz.

4           Senator Maziarz. So basically, Mr.  
5           Kovner, you are taking about you feel that  
6           if this process was open, people would  
7           understand more about, one, about not only  
8           the construction, but the process that takes  
9           place, instead of making all these  
10          speculative allegations, of chicanery that  
11          occurs behind closed doors?

12          MR. KOVNER:       Precisely. Once the  
13          commission has reached the point where they  
14          are going to file a formal charge against a  
15          judge, there is no reason why that should  
16          not be held publicly and that people, the  
17          public can hear the arguments for the  
18          commission prosecuting the judge and the  
19          judge in defense, and take into  
20          consideration the outcome, rather than  
21          simply see the ultimate result, and we make  
22          that recommendation and I think it would  
23          address some, but by no means all, but some  
24          of the concerns you have heard this morning.





1 First of all, thank you.

2 SENATOR SAMPSON: Can you do all this  
3 in ten minutes?

4 MS. GKANIOS: I'm going to try.  
5 Senator Sampson, thank you, Senator Maziarz,  
6 thank you for holding the hearings.

7 And I also have to include I know  
8 Governor Patterson, if it was not for  
9 Governor Patterson in 1992 I do not know  
10 what would have happened to my children.  
11 Probably foster care.

12 What started out as a simple divorce --

13 SENATOR SAMPSON: The Governor needs  
14 stories like that.

15 MS. GKANIOS: You know what, I intend  
16 to go meet with Governor Patterson. He fell  
17 in love with my daughter and he will be  
18 proud of what she's become today.

19 And he has to know.

20 SENATOR MAZIARZ: Be careful about  
21 saying that.

22 MS. GKANIOS: You know, as an 8 year  
23 old child, I mean I can't tell you.

24 Any way, what started out as a simple

1 divorce turned into a 21 year nightmare with  
2 over 30 judges on one simple case.

3 Throughout my unwanted 21 years  
4 experience in the courts I was constantly  
5 being terrorized under the threat of losing  
6 our home, my children, being denied child  
7 support and our basic every day needs were  
8 denied.

9 I was constantly being denied by the  
10 Department of Social Services and other  
11 agencies.

12 The grievance committee letters  
13 attached to this complaint is some of the  
14 grievance committee letters, I got no help.

15 Unbeknownst to me that everything was  
16 being divested through legal maneuvering of  
17 lawyers and assisted benignly or  
18 intentionally by the judges.

19 At one point after going into Family  
20 Court to collect child support arrears, my  
21 petition was denied.

22 I was told I was in the wrong court,  
23 see the court orders and the transcripts  
24 attached to this testimony, and that I was

1           wasting the court's time.

2           My husband's attorney as well as the  
3           court's decision tried to sanction me  
4           \$10,000 for trying to collect child support  
5           in the Family Court. To date over \$300,000  
6           is owed.

7           My children have suffered and  
8           sacrificed because of a divorce that their  
9           father had planned for years.

10          With the help of lawyers and all the  
11          judges involved, to divest our funds and  
12          assets of everything totaling over \$5  
13          million.

14          They plotted the perfect crime, the  
15          divorce right out of the movie Gaslight, at  
16          one point my divorce was in the newspapers  
17          as the War of the Roses by my husband's  
18          attorney Terrence Dwyer.

19          Our assets were worth more than our  
20          debt, all bills totalling \$465,000,  
21          including our home.

22          Throughout his plot he attempted to  
23          frame me as though I was the one stealing  
24          from him, attempted to drive me crazy and

1 put me in an institution.

2 His plot then went to burn one of the  
3 restaurants down in Eastchester so that it  
4 would look like I was so crazed over money  
5 that I would burn it down and collect the  
6 insurance.

7 That's when I knew I better start  
8 protecting myself, I walked around with a  
9 tape recorder for two years.

10 On August 17th of 1990 I recorded, I  
11 tape recorded an argument where I was  
12 fighting with him that he was so crazed that  
13 there was no reason to do so.

14 This tape was turned over to the D.A.'s  
15 office years ago as evidence and to Judge  
16 Andrew O'Rourke in June of 2008.

17 On another night his chef attempted to  
18 set the restaurant kitchen on fire, the  
19 flames were shooting up from the stove, he  
20 turned the burners on and walked out.

21 He was setting up my daughter,  
22 Rosemary, and my son, had they not walked  
23 out the back door instead of the front door  
24 as they always did the place would have

1 burned down, and the baker was in the  
2 basement would have been killed because  
3 there was no way out.

4 I went to seek help from my attorney,  
5 he did nothing and when I returned to the  
6 restaurant I found the fire department and  
7 the police department.

8 They were looking at me as if I was  
9 crazy.

10 So who and what did my lawyer say? By  
11 this time everyone thought I was going to  
12 burn the store down.

13 The more I sought help from the police  
14 department and the courts no one helped.

15 My husband had numerous affairs that  
16 were just out of a future story that  
17 happened with Chief Judge Sol Wachtler,  
18 sordid affair, they were just as wild.

19 What I did not know for a couple of  
20 months was the crime that my husband had  
21 been committing, he was molesting my  
22 daughter for years and when he came out no  
23 one would believe because of all the insane  
24 things for months prior to that would make

1 something -- would make something like that  
2 such.

3 I am proud of my daughter, Senators,  
4 she tape recorded a conversation with him  
5 and he talked his way right into the State  
6 pen.

7 Everything did not stop there, though.

8 What we had to endure every single day  
9 there was always something from breaking and  
10 entering the house or my mom's home when she  
11 was not there, to my children being  
12 followed, the day before a pretrial on  
13 September 4, 1991 my daughter's car blew up  
14 on the Taconic State Parkway with her in it.  
15 Again, no help.

16 Throughout this whole nightmare my  
17 husband and his thugs made sure they always  
18 gave him the perfect alibi.

19 I received numerous phone calls that I  
20 better drop the charges. Terror tactics and  
21 no one would help.

22 On November 8th at 6:00 I got a phone  
23 call at the restaurant telling me that the  
24 boiler in my home backfired, that my home is

1 filled with carbon monoxide, I knew he had  
2 his friends who was in the boiler business  
3 tamper with it, but that's the only thing I  
4 could never prove.

5 On the 14th the first restaurant was  
6 lost through the Eastchester Town Court  
7 before Judge Rob Hill Gray, he allowed my  
8 personal property to be turned over to  
9 landlords, valued at over \$1 million,  
10 without any due process in law and when I  
11 came to understand the law, he exceeded his  
12 jurisdiction to do so, town court was  
13 \$25,000.

14 On January 8th of '91 my daughter  
15 reported to the CPS the child sexual abuse,  
16 when no one would believe her or me, as I  
17 said before, she recorded, she had that  
18 recorder in her pocket and had a 45 minute  
19 conversation with him as to why he did it.

20 By the way, that tape was authenticated  
21 by the feds at a later trial in Westchester  
22 County.

23 We were told to bring in the original  
24 tape to the Sheriff's Department and we

1           agreed.

2                   On the 31st right after they had the  
3 original I thought CPS and the Sheriff's  
4 Department called and stated don't worry if  
5 we do not pick him up and arrest him, this  
6 was questionable, what we were not being  
7 informed of if the original tape disappeared  
8 they could not prosecute.

9                   On 2/4/91 my daughter and I went to the  
10 Putnam County D.A.'s office that morning,  
11 that night my husband was picked up at the  
12 restaurant in Mount Vernon and finally  
13 arrested.

14                   March 31st, the day before the second  
15 restaurant was lost in Mount Vernon, my  
16 husband's thugs had his loan shark and the  
17 boys come in and threaten me that unless I  
18 turned the business over to my husband, the  
19 boys would be up to take care of me.

20                   This tape also was turned over to the  
21 D.A.'s office years ago as evidence and  
22 Judge O'Rourke in June of '08.

23                   My daughter and I went to the D.A., we  
24 were told that it might not be worth



1           pursuing further.

2           And that Putnam might want to make a  
3 deal for lesser charges, combined with  
4 Westchester, so no further charges are  
5 brought. Our decision was no deal.

6           I sent a letter to Judge Ingrassia  
7 questioning how does Westchester County not  
8 pursue what happened to my daughter?

9           The very next day we received a call  
10 from Putnam that Westchester was going to  
11 proceed.

12           On the 17th of May, Rosemary, my  
13 daughter's car alarm goes off, dead rat  
14 under the windshield, this was about three  
15 hours after she received a call that  
16 Westchester was going to the Grand Jury on  
17 May 23rd.

18           We were then informed that the Putnam  
19 D.A. that the motion before Bretts was to  
20 drop the charges, it's up to the judge to  
21 throw out a Grand Jury indictment, D.A. said  
22 it's up to them to pursue further, how do  
23 you throw out a Grand Jury indictment?

24           Throughout all of this I kept sending a

1 letter to Judge Dickenson asking him not to  
2 postpone conferences for child support, on  
3 4/15 informing him of the child abuse, the  
4 delays, cancellation would be detrimental to  
5 my family.

6 Judge Dickenson's law secretary,  
7 Stephen Roberts, claimed I would be held in  
8 contempt if I were to write any more letters  
9 to the judge.

10 SENATOR SAMPSON: Ms. Gkanios, you've  
11 got two minutes left, so if you can cut it  
12 down.

13 MS. GKANIOS: I'm trying, this is 21  
14 years.

15 SENATOR SAMPSON: What I want you to  
16 do is you are here, I don't need you to read  
17 from it, I want you to just be succinct.

18 What issues arose out of this with  
19 respect to the judiciary system, or was it  
20 the attorneys?

21 MS. GKANIOS: No, this was the judges  
22 and that's why --

23 SENATOR SAMPSON: When you say it was  
24 the judges, what do you mean by that?

1 MS. GKANIOS: The asset, one of the  
2 assets that were lost, in February of '91  
3 Mount Vernon City Judge John DiBlasi held an  
4 illegal eviction by ousting me from my  
5 second restaurant.

6 On March 12th, by the Mount Vernon City  
7 Marshal Henry Flagg, when Niki's was taken  
8 on March 12th I sued the -- I sued and the  
9 judge was Westchester Supreme Court Judge  
10 Nastasi, Judge Nastasi dismissed the case in  
11 August of '91 and told me I was in the wrong  
12 court.

13 Two years later at the Mount Vernon --  
14 the Mount Vernon City Marshal Henry Flagg  
15 signed an Affidavit that he never served me  
16 with the eviction papers.

17 After appealing the Town Court's  
18 decision and won and overturned on appeal,  
19 June 24th of '94, I resued, went through  
20 discovery and thousands of dollars worth  
21 only for Judge Nastassi to say I should have  
22 sued in 1991.

23 This is the same judge, did Your Honor  
24 not know what he was doing when he was

1 sitting on the bench?

2 SENATOR SAMPSON: So --

3 MS. GKANIOS: I sued --

4 SENATOR SAMPSON: So basically your  
5 issue is -- did you file complaints with  
6 respect to the Commission of Judicial  
7 Conduct?

8 MS. GKANIOS: Absolutely, that's what  
9 I submitted on June 8th in Albany, the  
10 complaints to the Judiciary Committee.

11 SENATOR SAMPSON: And what --

12 MS. GKANIOS: That they committed no  
13 wrongdoing. I never heard of such a thing.

14 SENATOR SAMPSON: You submitted them  
15 and they indicated there was no wrongdoing?

16 MS. GKANIOS: Right.

17 SENATOR SAMPSON: How long ago was  
18 this?

19 MS. GKANIOS: It had to be in '94,  
20 '95, I submitted multiple complaints because  
21 it just didn't stop there.

22 And that's why what -- right now,  
23 presently it's before Judge O'Rourke and,  
24 Senator Sampson, I have to tell you this has

1 to be the craziest thing, and one of the  
2 things is with O'Rourke, my husband has a  
3 second Social Security Number, why didn't  
4 O'Rourke question it?

5 My husband took -- I need to read this  
6 last part, we probably could go into a  
7 little time over into the Dominic Lieto case  
8 because Catherine Wilson and I are going to  
9 explain it and this is just as important.

10 SENATOR SAMPSON: What I'm trying to  
11 get to --

12 MS. GKANIOS: This is 21 years and  
13 over 30 judges.

14 SENATOR SAMPSON: I understand that,  
15 but we are getting -- we need specifics to  
16 get to the point where you allege that there  
17 may have been judicial misconduct, that's  
18 what we are trying to do and that's why we  
19 are asking you questions and trying to  
20 extract it from you, instead of you reading  
21 the statement.

22 MS. GKANIOS: You know, because I was  
23 hit -- the statement is longer than what it  
24 is and I just scratched out and I was making

1 it shorter.

2 You actually have the rules and  
3 everything that are there.

4 There were so many complaints that went  
5 into the Grievance Committee, again my  
6 matrimonial, 30 judges, Judge Hickman stood  
7 there --

8 SENATOR SAMPSON: Are you divorced  
9 yet?

10 MS. GKANIOS: No, I am not. I am  
11 really not, and I've got to tell you the  
12 newest thing, I just got it four days ago,  
13 and again I want no more courts, I want no  
14 more appeals, I want to say my last  
15 statement in the end and save it, but I have  
16 to tell you, this man operated under a  
17 second Social Security Number, why didn't  
18 the judges do anything? This is when it was  
19 brought to their attention recently.

20 All the complaints to the D.A.'s  
21 office, judges, everything, nobody did  
22 nothing.

23 A wonderful officer from Manhattan  
24 called me last April 11th asking me if I

1           knew where my husband was, I said no.

2                   I said but I heard he was in Florida,  
3           but I have his second Social Security  
4           Number, would that help?

5                   Well, I'll tell you, within two hours  
6           they had him in custody. He fled New York  
7           State illegally, failed to report under  
8           Meagan's Law, was hiding in the State of  
9           Florida living in Pompano Beach in a  
10          multimillion dollar home, they got him on  
11          the Adam Walsh law.

12                   I flew down there, got him back up here  
13          to hold him in willful contempt, which is  
14          the motion pending and has been pending for  
15          over a year.

16                   Now the thing with this case is I have  
17          had assets taken, I have had a co-op, I have  
18          had my home was foreclosed on, I still live  
19          in the marital home but that my children own  
20          the marital home, they bought it at  
21          foreclosure by money that a cousin loaned me  
22          in California which can all be documented.

23                   Well, this crazy judge, mind you my  
24          husband, I can't say anything other than him

1           being crazy, because he said on the bench a  
2           year ago and was trying to figure out who  
3           was at fault, I looked at him and I said  
4           excuse me? He's a convicted pedophile. You  
5           have to decide who's at fault?

6           I mean completely shocked. I gave him  
7           these two tapes, the thugs and the arson, I  
8           have over 200 tapes that were turned over to  
9           the District Attorney's office.

10          Senator Sampson, this is not just a  
11          regular case.

12          Again, in answer I had -- his former  
13          attorney, it was like let's play catch.

14          You have to understand, again, I know  
15          again --

16          SENATOR SAMPSON:        What we are saying  
17          is right now the case is before Judge  
18          O'Rourke.

19          MS. GKANIOS:        Listen, all I know, I'm  
20          going to do whatever it takes that's going  
21          to expose it, I know one thing, this man  
22          should not be sitting on a bench.

23          He has --

24          SENATOR SAMPSON:        Judge O'Rourke.



1 MS. GKANIOS: Judge Andrew O'Rourke.

2 SENATOR SAMPSON: Where is he sitting  
3 at?

4 MS. GKANIOS: Putnam County Supreme  
5 Court, he is the worst, and if you give me a  
6 minute, I will tell you his new things and  
7 please because this is --

8 SENATOR SAMPSON: I will give you one  
9 minute to tell me your news things, then I  
10 need you to go to the Dominic Lieto case.

11 MS. GKANIOS: You know why on the  
12 procedure thing on the Dominic thing because  
13 of the foreclosure.

14 SENATOR SAMPSON: I understand that,  
15 but I've got so many witnesses I have to end  
16 this thing at 2:00, I want to get everybody.

17 So I'll give you one minute to explain  
18 everything.

19 Ms. Wilson, you can't take too much  
20 time, three minutes, let's go.

21 MS. GKANIOS: That's all it's going  
22 to take us on it.

23 SENATOR SAMPSON: One minute.

24 MS. GKANIOS: Why was charges not

1 filed against him, Judge O'Rourke at one  
2 point knowing he's a convicted pedophile  
3 having to decide fault, he wants to give --  
4 this is the craziest thing -- he wants me to  
5 be responsible for the foreclosure of my  
6 house, deduct the profits and give him half  
7 of my house.

8 A house that I don't even own, that's  
9 the first, same thing with the co-op.

10 Wait a minute, the man owes me \$300,000  
11 over \$300,000, I got \$20,000 in child  
12 support from bail money that the D.A., the  
13 judges hid from me.

14 And now Friday --

15 SENATOR SAMPSON: Have you filed  
16 complaints?

17 MS. GKANIOS: Yeah I did, Judge  
18 Nicolai.

19 SENATOR SAMPSON: I'm talking about  
20 file complaints against Judge O'Rourke.

21 MS. GKANIOS: Not yet, that was in  
22 the newspaper, Catherine Wilson and them in  
23 Westchester Guardian put the whole article  
24 in the newspaper.

1 I mean so that is the only one that I  
2 didn't file complaints on.

3 I can tell you that before, I'm going  
4 to allow him and I say allow him to give,  
5 that I'm going to be responsible for a co-op  
6 that was sold, or give him, say, half of the  
7 profit when before I give him half the  
8 profit he's going to pay my mom back \$46,000  
9 her estate that paid for my home.

10 And the \$50,000 that we paid over the  
11 course of 20 years just to maintain it.

12 SENATOR SAMPSON: What we will do --

13 MS. GKANIOS: This man needs to be --  
14 it's the most frightening thing, it really  
15 is.

16 SENATOR SAMPSON: What we are going  
17 to do is follow-up with your case, my  
18 counsel, Lisa Lashley, she says we will  
19 definitely follow-up with that, especially  
20 now that it's before Judge O'Rourke and see  
21 what's going on, see what's happening.

22 MS. GKANIOS: Senator Sampson, I can  
23 just tell you that --

24 SENATOR SAMPSON: Ms. Wilson, why

1 don't you come on up.

2 MS. GKANIOS: It's not just a  
3 matrimonial, it's about rules that were  
4 broken.

5 If I have to follow the rules, if I  
6 have to comply with the rules, and again  
7 when you read this, you will see, I hit them  
8 with the rules, I want you to follow the  
9 rules.

10 You can -- and I just want to -- and 30  
11 seconds will take me to read my conclusion,  
12 to you Senator Sampson and this whole  
13 committee.

14 And to our Governor, David Paterson,  
15 help and help now, 21 years is long enough  
16 my family had to endure, the letters you  
17 wrote for me years ago and helped protect my  
18 children and me, I can tell you the D.A.  
19 both offices, both Putnam and Westchester  
20 County along with the Administrative Judge  
21 Angela Ingrassia, Hickman and all the  
22 cronies were afraid of you have.

23 Well, help is needed now again, to the  
24 Governor, the Governor you know my children

1 and I, you have no idea as to what's been  
2 going on since I last saw you on the Capitol  
3 steps. I know you were very busy I would  
4 like a meeting with you, not your aids,  
5 these were and are criminal acts, criminal,  
6 criminal acts, not civil, no more courts, no  
7 more appeals, only handcuffs on these  
8 criminals.

9 There will be only one way to deal with  
10 them, as well as it is in your power,  
11 Senators, to have these criminal judges  
12 impeached immediately and immediate  
13 investigation causing no more damage.

14 SENATOR SAMPSON: We will definitely  
15 do that.

16 Thank you very much. Ms. Wilson, three  
17 minutes.

18 MS. WILSON: Absolutely, Senators.  
19 Thank you for your time, Senator Maziarz,  
20 I'm Irish, I can only pronounce it if it has  
21 an O' or a Mac in front of it.

22 Thank you for joining us, this issue  
23 has to deal with foreclosures which  
24 unfortunately in the current economy are

1 occurring at an ever greater rate.

2 In Westchester County alone this year  
3 we have now reached over the 8,000 mark of  
4 homes that are in jeopardy at this.

5 The issue also has to do with what I  
6 believe to be deliberate venue shopping on  
7 the case of the mortgage companies and  
8 changing jurisdiction and also the lack of  
9 help for Pro Se litigants.

10 The individual in question was an  
11 elderly gentleman called Dominic Lieto who  
12 came home recently a few months ago to his  
13 home to find his entire life savings in  
14 dumpsters in his front yard, and Senator  
15 Perkins and Senator George and Senator  
16 Sampson, Mr. Lieto came home to find  
17 photographs of his dead son in a dumpster on  
18 the front lawn, on his front lawn.

19 What had happened, how he got himself  
20 to this point was his son committed suicide  
21 in his home and had a subsequent divorce.  
22 Mr. Lieto lost his job then became disabled,  
23 he is now 62 years of age, he's elderly.

24 So with all of these complications and

1 no income coming in, it is not inconceivable  
2 that this gentleman lost his job.

3 He had other children, fell behind in  
4 his child support, he needed cash.

5 He then went to the mortgage company at  
6 Emigrant Savings Bank to get a loan.

7 Unfortunately this is an issue for the  
8 finance committee, there is nothing in the  
9 law at present to advocate for financial  
10 advice when you are getting a loan, because  
11 if somebody who knew anything about finances  
12 at the time had listened to him they would  
13 have said to him you are in a better  
14 position to sell the home, which is 100  
15 percent equity, cash it out, sell down and  
16 then use the proceeds to pay off your debts.

17 Instead, the greedy individuals at  
18 Emigrant Bank seeing only their commission  
19 dollars, sold the man with no income at 62  
20 years of age a mortgage.

21 Needless to say he defaulted on the  
22 mortgage.

23 What happened next is what I believe to  
24 be deliberate venue shopping.

1                   When Emigrant Bank showed up at the  
2                   auction they had a division of the bank buy  
3                   the mortgage back and then rent the property  
4                   to Mr. Lieto.

5                   So they now removed the action out of  
6                   Supreme Court so that when Mr. Lieto  
7                   subsequently defaulted on his rent payments,  
8                   it now became an eviction issue for Town  
9                   Courts.

10                  If we think the Supreme Courts, the  
11                  Family Courts and the City Courts are bad,  
12                  you ain't seen nothing until you've been to  
13                  the Town Courts, they are sadly a dog and  
14                  pony show.

15                  I went to the Town Court, it happened  
16                  to be the Town Court of Somers.

17                  SENATOR SAMPSON:        You have one  
18                  minute.

19                  MS. WILSON:        And the information is  
20                  not kept properly, there is no records  
21                  retention, there is no training of the  
22                  individuals, they do not know how to take  
23                  care of the disabled and people in these  
24                  situations.



1           What is most tragic, however, is there  
2           is no help for someone like Mr. Lieto who  
3           has to go it alone.

4           Nowhere in our court system, Senators,  
5           is there help for the Pro Se.

6           You call the Pro Se numbers they don't  
7           work, if you look on the State of  
8           California's website you can find every form  
9           with details and examples, just like the  
10          IRS.

11          There is no reason other than the  
12          lobbying efforts of the Bar Association in  
13          New York to stop us from obtaining the same  
14          information.

15          There are, however, fortunately some  
16          groups that do help Pro Se litigants, and  
17          one of them a representative is here with  
18          us, Dr. Kim Lurie who heads up a 4,000  
19          strong member Coalition for Family Justice  
20          that is right here in Long Island and New  
21          York City.

22          But we have to provide our own funds to  
23          do what the court system in the State of New  
24          York should be doing.

1           People like Mr. Lieto need help every  
2           step of the way, it is unconscionable for an  
3           elderly disabled gentleman to come home,  
4           find his belongings in the front lawn and  
5           pictures of his dead son torn to shreds.

6           SENATOR SAMPSON:       We can do something  
7           about that.

8           MS. GKANIOS:       Yeah, because I need to  
9           add to that my mom's furnishings were in  
10          this house.

11          This stuff was supposed to be put in  
12          storage, instead the Sheriff's Office he  
13          told me sue me.

14          Catherine Wilson was threatened,  
15          attorney Ruth Pollack was threatened. This  
16          is their attitude, sue me.

17          Tomorrow this case goes back before  
18          Judge DeBello, there is a motion before him  
19          to vacate the judgment of foreclosure and  
20          sale.

21          There was no notices, no affidavits,  
22          Catherine Wilson will tell you and I will  
23          tell you in an average foreclosure there has  
24          got to be a dozen Affidavits of Service.

1           In Dominic's case it was only one, I  
2           kept my -- my house was in foreclosure for  
3           10 years, over 225 motions I personally  
4           filed.

5           So I ripped this case apart along with  
6           Catherine Wilson, she did the financial end  
7           of it, I did the other part of it, because  
8           nobody is going to tell me a foreclosure  
9           inside out.

10          So this --

11          SENATOR SAMPSON:        So you have  
12          foreclosures -- that woman kept a  
13          foreclosure open for 10 years.

14          MS. GKANIOS:        You didn't let me  
15          finish, 10 years, do you know a lawyer came  
16          up to me and said to me how do I know that  
17          this was done right?

18          He says could you pay me \$25,000 to  
19          read it?

20          Listen, if you want to know how I did  
21          it, you go to the courthouse and dig up the  
22          thing and you read my papers.

23          SENATOR SAMPSON:        Thank you very  
24          much.

1 Thank you very much.

2 MS. GKANIOS: Senators, thank you.

3 SENATOR SAMPSON: Regina Felton. Is  
4 she around?

5 MS. FELTON: Yes, I am here, right.

6 SENATOR SAMPSON: Ms. Felton, you  
7 have ten minutes. The clock is running.

8 Mr. Higbee, are you ready?

9 MR. HIGBEE: Yes.

10 SENATOR SAMPSON: Okay.

11 MS. FELTON: Thank you, Senator  
12 Sampson.

13 My name is Regina Felton, I have been  
14 practicing in Brooklyn, New York in the  
15 Bedford-Stuyvesant area since 1990.

16 Prior to that I was -- I worked in the  
17 Manhattan D.A.'s office, I was senior  
18 counsel to the American Stock Exchange,  
19 Senior Special Counsel to the New York Stock  
20 Exchange, Assistant General Counsel to a  
21 securities firm on Wall Street and also head  
22 of market surveillance for that particular  
23 firm.

24 When I left and went to

1 Bedford-Stuyvesant I did so with the express  
2 desire to bring a kind of service to  
3 indigent people who lived in the area and  
4 who were underrepresented, since I had honed  
5 my skills.

6 So you can imagine when I encountered a  
7 judge whose name is Arthur M. Schack who  
8 sits in Kings County and who I had three  
9 cases before and wound up as a solo  
10 practitioner in Bedford-Stuyvesant on the  
11 front page of the Law Journal on three  
12 successive occasions.

13 And I point out to you that in the July  
14 8th, 2008 Law Journal, lawyer ordered to pay  
15 fees after pursuing frivolous suit.

16 In the August 12, 2008 New York Law  
17 Journal, jail fines given to solo who  
18 withheld downpayment.

19 In the August 14th section of The New  
20 York Times, court sanctions attorney \$10,000  
21 over \$40,000 in costs for failing to return  
22 downpayment.

23 SENATOR SAMPSON: So the million  
24 dollar question is did that occur?

1           What the judge is indicating that you  
2           did, did you withhold the downpayments, or  
3           what did you do to warrant, I guess, the  
4           actions that the judge took?

5           MS. FELTON:     To give you the short  
6           answer, and I wrote a letter to the Law  
7           Journal, Judge Schack actually was under a  
8           restraining notice not to adjudicate the  
9           particular case.

10           I have had three cases before him and  
11           my first encounter with him was in 2003 and  
12           while I thought it was somewhat strange  
13           having practiced, I guess, at that time more  
14           than 20 years, I just believed that -- well,  
15           if this was a foreclosure, my three clients  
16           were over the age of 80, two of them were  
17           closer to 90.

18           The houses all were located in  
19           Bedford-Stuyvesant, with one exception in  
20           Clinton hill, and the seniors were under  
21           educated and also indigent, that's two.

22           One of them I represented pro bono and  
23           incurred the ire of the judge when I  
24           resisted a foreclosure, that's how I got on

1 his radar.

2 I went to the Appellate Division when  
3 for this foreclosure he had issued something  
4 called a Writ of Assistance which is  
5 inappropriate for a person who is still in  
6 title, if there had been a foreclosure and a  
7 Writ of Assistance had been issued to remove  
8 that person so that the new owner could take  
9 possession, the Writ of Assistance would  
10 have been appropriate.

11 But there were some other anomalies as  
12 well and those anomalies were that the same  
13 person was appointed by this judge as both  
14 the referee and the receiver.

15 I objected --

16 SENATOR SAMPSON: When you say the  
17 same person appointed.

18 MS. FELTON: The judge appointed an  
19 individual, both as the receiver and as the  
20 referee.

21 SENATOR SAMPSON: Is that odd?

22 MS. FELTON: That's a conflict of  
23 interest.

24 And so when I asked him -- well, when I

1 pointed this out --

2 SENATOR SAMPSON: As the referee and  
3 the --

4 MS. FELTON: Receiver, the receiver  
5 is the person who collects the rent.

6 SENATOR SAMPSON: And the referee is  
7 the one who sells the property.

8 MS. FELTON: Exactly. In effect what  
9 he had done is he had given title to this  
10 property to this one individual and had  
11 given him the right to collect the rents and  
12 then had directed that my client, who was  
13 still in title and the foreclosure, a  
14 judgment of foreclosure had not been issued,  
15 and he had directed that she pay rent.

16 Now, she's in title, she's the owner of  
17 the property and so I was doing this pro  
18 bono and had an obligation to run back and  
19 forth to the Appellate Division.

20 SENATOR SAMPSON: This is the  
21 O'Therry case.

22 MS. FELTON: This is the 2003 and  
23 this is how I first became acquainted with  
24 Judge Arthur M. Schack.



1           He wrote some pretty bizarre opinions  
2           in that particular case, but in any event I  
3           was going back and forth with the Appellate  
4           Division and I was successful.

5           At some point when I couldn't handle it  
6           any more because I was doing it -- pro bono  
7           legal services took over.

8           My next case with Judge Schack had to  
9           do with a senior citizen who was close to 90  
10          years old and whose deed had twice been  
11          forged.

12          The first time the deed was forged  
13          another attorney handled the case and got a  
14          -- and had gotten a judgment cancelling  
15          title in the company who had forged the  
16          deed.

17          The company was directed to -- all  
18          equitable interests that that company had,  
19          the company was United Equities, was  
20          cancelled.

21          The company nevertheless transferred  
22          title again under a second forged deed.

23          They removed -- the person, the person  
24          who then had title, forged title, removed

1 all of my client's personal possessions from  
2 the house, changed the locks and brought  
3 eviction actions against him.

4 Now, this company was served by the  
5 Secretary of State.

6 The judge wrote the decision saying  
7 that I had served the wrong company,  
8 notwithstanding the fact that the company  
9 had been served by the Secretary of State  
10 and my client, the senior citizen who again  
11 was elderly, the only asset he owned was  
12 this house, and he was mortified by the fact  
13 that he had been removed from the property  
14 and the police had been called to remove him  
15 as a trespasser.

16 And I, because I'm in the  
17 Bedford-Stuyvesant community, attempted to  
18 represent him.

19 Now the issue here is, as far as I am  
20 concerned, is an obligation that I feel that  
21 we have, if we can, to represent the elderly  
22 and the indigent, and it was based on the  
23 decisions written by Judge Schack, he was  
24 removing my right to represent the senior

1 citizen.

2 Now, the issues that I brought to the  
3 Commission on Judicial Conduct were as  
4 follows; first I indicated that this judge  
5 had an underground of writing decisions that  
6 were never filed and therefore not  
7 appealable.

8 Now what I do I mean by that? Where a  
9 judge issues an order, the order obviously  
10 must be followed. However if the judge does  
11 not file the order, then you cannot appeal.  
12 You cannot file a Notice of Appeal, you  
13 cannot go to the Appellate Division. If  
14 he's retaining that file in his chambers,  
15 then you are either forced to do exactly  
16 what the judge says, or you can write to the  
17 Commission on Judicial Conduct, which I did.

18 Now I listened very carefully to when  
19 Robert Tabeckian spoke on June 8th, 2009,  
20 and he articulated the fact that the  
21 commission's objective was not only to  
22 investigate complaints, but also to make  
23 sure that the commission maintains an  
24 independent judiciary.

1 I don't see how it is that the  
2 commission can take on two competing tasks,  
3 because it is a conflict of interest.

4 The commission then becomes or aligns  
5 itself with the judges and gives up it's  
6 duty to the public to investigate and keep  
7 the courts unbiased.

8 SENATOR SAMPSON: Some judges would  
9 disagree with that.

10 MS. FELTON: So A, in writing to the  
11 Commission on Judicial Conduct where I  
12 explained my history with this judge, B,  
13 with respect to this one senior, that the  
14 judge completely misstated the facts, now  
15 you're an attorney, Senator Sampson, and we  
16 do know that the judge has a prerogative to  
17 interpret the facts, but he has no judicial  
18 prerogative to create new facts in order to  
19 get a certain result.

20 In the cases that I had before --

21 SENATOR SAMPSON: That's called  
22 judicial activism.

23 MS. FELTON: Well, all right. In the  
24 cases that I had before Justice Schack, he

1           actually created new facts, he created a  
2           fact pattern that I was able to disprove,  
3           and notwithstanding, I wind up on the front  
4           page of the paper without the opportunity to  
5           respond and without the opportunity to  
6           continue representing clients in that  
7           community without having them look askance  
8           at me because my pristine reputation had  
9           been sullied.

10                        Secondly, I had a second case with --  
11           the third case with Judge Schack, again he  
12           exercised his judicial prerogative to create  
13           and misstate the facts, and at the time he  
14           adjudicated a case where my client suffered  
15           -- his family had brought a petition  
16           questioning his mental health and the judge  
17           sitting in the mental health part issued a  
18           restraining notice.

19                        That restraining notice forbade any  
20           adjudication of that case.

21                        Notwithstanding the fact that this was  
22           called to his attention, Justice Schack  
23           adjudicated the case.

24                        This was a case again involving

1           lucrative property of a person who was  
2           almost 90 years old, and now a person who's  
3           mental capacity was being challenged by the  
4           family and where there was a restraining  
5           notice in effect directing that nothing  
6           happen until the mental status of my client  
7           was determined.

8           I again found myself on the front page  
9           of the paper with more than \$40,000 in costs  
10          and fees ascribed to me, notwithstanding the  
11          fact that there was a restraining notice.

12          The court issued orders in this case as  
13          well, and in this particular case a motion  
14          was made where the Plaintiff's attorney and  
15          my client and I were both named as  
16          Defendants, I was named because I was the  
17          escrow agent holding the downpayment in my  
18          escrow account, and my client, obviously,  
19          also was named.

20          The attorney who represented Plaintiff  
21          wanted to amend the complaint.

22          Somehow I was not served,  
23          notwithstanding even though I did not  
24          appear, a default judgment could have been

1 entered, though Justice Schack issued an  
2 order which never was filed in which he  
3 directed that the Sheriff pick me up and  
4 take whatever action was necessary in order  
5 to bring me to the court.

6 Now, in addition when I learned of the  
7 order I attempted to file a Notice of  
8 Appeal, the order had never been filed.

9 SENATOR SAMPSON: That's right, you  
10 can't file a Notice of Appeal if the order  
11 hasn't been filed.

12 MS. FELTON: That's right, I  
13 attempted to bring a Writ of Mandamus  
14 directing the judge to file the order so  
15 that I could appeal and get a stay.

16 Well, what happened is I went to the  
17 court, I notified the State Attorney  
18 General's office, the assistant State  
19 Attorney General appeared, the Appellate  
20 Division on the spot filed the Notice of  
21 Appeal, which is highly unusual, you do not  
22 file in the Appellate Division, you don't  
23 file the Notice of Appeal in the Appellate  
24 Division, but rather you file it in the

1 State Supreme Court, the Appellate Division  
2 filed the Notice of Appeal to two orders on  
3 the spot, revised my order by hand, which is  
4 also something highly unusual, where the  
5 Court Clerk is revising an attorney's  
6 papers, and I was told that I didn't get the  
7 stay but I should appear in the Judge's part  
8 for a hearing.

9 Now, the judge had his law secretary  
10 call me on approximately -- well, actually  
11 four occasions, and I was so concerned about  
12 the nature of the conversation that I was  
13 having with the Judge's principal law  
14 secretary, I placed the phone on the  
15 speaker, turned on my dictaphone and tape  
16 recorded each of the four conversations  
17 which I then settled on notice with the  
18 Court Clerk so that he could revise the  
19 transcript and I sent a copy to my  
20 adversary, no one objected to the content or  
21 the accuracy of the conversations.

22 The law clerk scheduled a conference in  
23 each of those four conversations.

24 When I appeared and without notice I



1 was subjected to a contempt hearing.

2 Now mind you there was a restraining  
3 notice in this case, so the judge is  
4 continuing to adjudicate the case  
5 notwithstanding the restraining notice.

6 I show up unprepared for a contempt  
7 hearing without notice under the New York  
8 State judiciary law that is supposed to say  
9 warning, you could go to jail and all of  
10 that.

11 SENATOR SAMPSON: Correct.

12 MS. FELTON: And he finds me in  
13 contempt, directs me to pay the money from  
14 my escrow account and a certain sum of money  
15 as a penalty for not having turned the money  
16 over earlier, notwithstanding the  
17 restraining notice.

18 When I appeared in court, I had a  
19 certified check from my escrow account, but  
20 I did not have the check that he had  
21 ascribed as a penalty.

22 SENATOR SAMPSON: How much was that?

23 MS. FELTON: \$6,678. I indicated to  
24 the judge that I had filed an appeal, the

1 Appellate Division had taken in the Notices  
2 of Appeal.

3 I perfected the appeal, I advised the  
4 judge that I had perfected the appeal and he  
5 said that I had an hour within which to turn  
6 over this \$6,700 and would I do that?

7 When I said no, that I would not, he  
8 placed me in handcuffs, I have the  
9 transcript, and I was taken to the court  
10 officer's lounge, I guess that's what it  
11 was, where I was handcuffed to a chair, a  
12 Sheriff came and picked me up, I spent 11  
13 days on Riker's Island.

14 THE AUDIENCE: Remove that judge,  
15 please.

16 MS. FELTON: I spent 11 days on  
17 Riker's Island, a friend of mine learned of  
18 my incarceration and went to the judge to  
19 negotiate my release.

20 The judge indicated that my friend, a  
21 retired police officer, had to go to Riker's  
22 Island and get the \$30,000 check that I had  
23 in court on the day of my arrest and take  
24 that check with his check to the home of my

1           adversary's lawyer before he would issue an  
2           order to release me.

3                       So some 300 miles driving to Riker's,  
4           driving out to Long Island to this  
5           attorney's house, going back out to Riker's,  
6           from 9:00 that morning I was released at  
7           10:00 that evening.

8                       I didn't know that the judge had, after  
9           I had been removed from the courtroom, had  
10          found that I was in contempt and had also  
11          given me another fine of \$500 -- sorry \$500.

12                      In addition to that about three months  
13          after I had been released the judge issued  
14          an Order to Show Cause sua sponte where he  
15          determined that I should pay a sanction of  
16          \$10,000 for having violated his order in the  
17          first place, notwithstanding the fact that  
18          when he issued the order there was a  
19          restraining notice.

20                      The Order to Show Cause is supposed to  
21          be served in a certain kind of way with the  
22          warnings and personal service, it was not.

23                      The order also indicated and the order  
24          happened to have been published in the New

1 York Law Journal, something I have never  
2 seen in all of my years of practice.

3 And so again I wind up in the New York  
4 Law Journal.

5 I was told -- or the order, the Order  
6 to Show Cause indicated that I either appear  
7 under threat of arrest or make the \$10,000  
8 payment under the threat of arrest.

9 SENATOR SAMPSON: So what happened?

10 MS. FELTON: I went to court, I  
11 submitted papers, I tendered a cashiers  
12 check for \$10,000 to the Lawyers Fund for  
13 Client Protection.

14 Now, the Grievance Committee examined  
15 my escrow account, there was nothing wrong  
16 with it.

17 The only entries, the only entries in  
18 the account were those of that accrued  
19 interest.

20 I haven't been found to have engaged in  
21 any kind of wrongdoing whatsoever.

22 This judge, for whatever reason, has  
23 targeted me.

24 Now, I understand that judges are

1           supposed to be given some kind of leeway in  
2 terms of the way that they run their court.

3           But there is no question A, that this  
4 judge lied in his decisions, and B, that I  
5 have been singled out for whatever reason,  
6 and C, that the Commission on Judicial  
7 Conduct has done absolutely nothing.

8           Now I have not written to the  
9 Commission on Judicial Conduct one time, but  
10 I believe more than half a dozen times.

11           What bothers me is not only the fact  
12 that the order of arrest and the payment of  
13 the fines and the issuance of the Orders to  
14 Show Cause do not appear as entries in the  
15 unified court system and it's supposed to,  
16 but this judge seems to have deliberately  
17 tried to prevent me from representing  
18 indigent seniors in my community when I have  
19 chosen to do so to protect the only asset  
20 that they had, which was the house in which  
21 they lived.

22           Now the --

23           SENATOR SAMPSON:       The question is,  
24 because we have to end in a minute because

1 time has extended, you wrote to the judicial  
2 conduct committee?

3 MS. FELTON: Many times.

4 SENATOR SAMPSON: Specifically about  
5 the incident that occurred, correct?

6 MS. FELTON: Yes.

7 SENATOR SAMPSON: Have you gotten any  
8 response?

9 MS. FELTON: Oh, yes, I did.

10 SENATOR SAMPSON: What has the  
11 response been?

12 MS. FELTON: There was no indication  
13 of wrongdoing.

14 SENATOR SAMPSON: Senator Perkins.

15 SENATOR PERKINS: You said you sent  
16 letters to the commission, can we get copies  
17 of those?

18 MS. FELTON: I gave you a package  
19 with reference to one of those letters, and  
20 I understand from Mr. Spotts that he scanned  
21 it into your -- I guess your computer, I  
22 have additional hard copies here, if you  
23 would like to have one.

24 This is only one of the cases and this

1 was the most egregious, because I wound up  
2 in Riker's Island.

3 But I have all of the -- I have all of  
4 the complaints which I have written, I have  
5 all of their responses in which they said  
6 that there was no wrongdoing.

7 SENATOR PERKINS: Did they indicate  
8 the basis upon which they came to their  
9 conclusion?

10 MS. FELTON: Well, I wrote, in fact I  
11 was so dumbfounded by the fact that there  
12 was no investigation that I knew of, because  
13 no one called me back, I actually called the  
14 author of the letter and asked her what was  
15 the basis for closing the case, and I was  
16 told they had -- that I had to do it in  
17 writing, I then wrote and then I was told  
18 that it was confidential and I wasn't  
19 entitled to know.

20 SENATOR SAMPSON: So, Ms. Felton, one  
21 thing you can rest assured I will talk --  
22 Senator Maziarz, do you have any questions?

23 SENATOR MAZIARZ: No.

24 SENATOR SAMPSON: One thing, you can

1 rest assured that I will follow-up with  
2 respect to this and I guess have a  
3 conversation with the Commission on Judicial  
4 Conduct, especially when something of this  
5 magnitude seems to be very important that  
6 you can't just receive a letter, and I can  
7 understand it being confidential, because  
8 it's true, certain issues and procedures are  
9 confidential.

10 But I will -- this is why we are having  
11 hearings like this.

12 MS. FELTON: Well, thank you very  
13 much, I appreciate that, but I also would  
14 like you to weigh the fact that my  
15 reputation has been tarnished to a degree  
16 that I don't ever think that I can recover  
17 it.

18 I have never heard of a solo  
19 practitioner, my office is on the corner of  
20 Fulton and Marcy in the heart of  
21 Bedford-Stuyvesant.

22 When is it that a solo practitioner  
23 winds up repeatedly on the front page of the  
24 New York Law Journal in such disparaging



1 terms?

2 I have never heard of it. And the  
3 attorney Mark Dwyer, the one who went to  
4 Canada and forged all those papers, he got  
5 less press than I did.

6 SENATOR SAMPSON: Thank you very  
7 much, Ms. Felton, thank you. Mr. Higbee.

8 MR. HIGBEE: Yes.

9 SENATOR SAMPSON: Mr. Higbee, ten  
10 minutes.

11 MR. HIGBEE: Senator Sampson, thank  
12 you for holding these hearings. My name is  
13 Douglas Higbee, I have been embroiled in a  
14 matrimonial and then some since 1944.

15 I am going to fast forward up to where  
16 my wife's sister, an attorney here  
17 practicing in New York and Connecticut using  
18 her power beyond that was employed by the  
19 Office of Attorney General right up the  
20 street.

21 And at which time thought that she  
22 didn't -- and being part of a fraud sexual  
23 abuse allegation of me in January 1997,  
24 subsequently leading to my arrest, March 20

1 of 1997, because I was broke yet again,  
2 having had 8 matrimonial attorneys  
3 throughout the entire matter, and I just --  
4 nothing of this took place, nothing ever  
5 happened, I was told you have to have  
6 counsel, I said assign me counsel.

7 Court assigns Joe Abananto, Joe comes  
8 to court meets my sister-in-law in the City,  
9 this is in Mamaroneck in the Village Court  
10 and confronts him, he drops me.

11 There is nothing in the record from the  
12 Village Court of ever being on there,  
13 subsequently Legal Aid gets assigned, and we  
14 just sit on it until it's dismissed in May  
15 of 1998.

16 In the meantime, I also learn that  
17 trying to find out my sister-in-law was also  
18 -- she was dismissed from the Attorney's  
19 General Office for having sex with an inmate  
20 in jail; it's documented.

21 SENATOR SAMPSON: Sister-in-law?

22 MR. HIGBEE: Joan Marshal Cressup  
23 practicing law in the State of New York of  
24 here and in Connecticut was dismissed from

1 the Attorney General's Office in July 18, I  
2 believe, 1997 for having "sex with an inmate  
3 in jail."

4 This I know only because after this was  
5 dismissed my life got a little bit of a  
6 break, I don't know if she was suspended or  
7 not, but is still practicing law, and when I  
8 finally came back to New York and started  
9 this matter again, I got a copy of my file  
10 from the attorney, Lynette Spalding, Legal  
11 Aid Society in Westchester to find out what  
12 went on there, to me it was dismissed.

13 I've got 16 boxes of files, that make  
14 up the majority of the five by five storage  
15 facility I own that houses everything I own  
16 left in the world.

17 Nevertheless her notes indicated, and  
18 it was her notes, that said I know a little  
19 bit about JC and having sex with an inmate  
20 in jail. When I found this out and yet this  
21 in the notes the Attorney General's Office  
22 was up in Westchester November of '97 --  
23 2007, and I only got the file in '06 or '07,  
24 I met with an investigator with the Attorney

1 General's Office, came to New York and he  
2 gave me the head up that was the fact, that  
3 was the case I FOIA'd her file, denied, I  
4 appealed the denial, denied, I'm supposed to  
5 be able to sue and get this.

6 So she's gone for a few years  
7 practicing I don't know doing what, and then  
8 comes back into law and gets me between the  
9 eyes by making a one and a half million suit  
10 against my employer, Morgan Stanley.

11 I used to be a broker with Morgan  
12 Stanley in Greenwich, Connecticut, I didn't  
13 come from any money, I'm a guy, I wasn't  
14 expected to go to college, I went to a state  
15 school, came out, got a job at IBM fixing  
16 typewriters, got kicked over to marketing,  
17 did 7 years, they dropped the training  
18 program on me at age 30, I went into  
19 finance, the money was there, I got picked  
20 up by what's known by Morgan Stanley in  
21 Greenwich.

22 They destroyed my life, I haven't seen  
23 my children in two years because this  
24 fraudulent sexual abuse allegation which I

1 never saw even the allegation by Detective  
2 Bart DeNardo until I got the file from the  
3 attorney alleging that I let my -- I'm not  
4 even going to say it, it never took place,  
5 not only that, it's dismissed, so I still  
6 can't say, I still do not understand what's  
7 going on.

8 To draw this back to not get off track,  
9 I have written the DDC repeatedly for them  
10 to investigate Ms. Joan Cressup's behavior  
11 practicing law and they proceeded to get in  
12 this because I put a complaint in '97 that  
13 it took them damn near a year to pull the  
14 files from storage, and the paper trail  
15 exists, I gave you a handout that I talked  
16 to Tim Spotts today, it's 53 pages it's on  
17 the CD that I originally copied, if you read  
18 it, great, if you haven't, please do.

19 I still think that my life is cloaked  
20 in this, I'm a sex abuse offender of my  
21 daughter --

22 SENATOR SAMPSON: But it's been  
23 dismissed against you.

24 MR. HIGBEE: Yes, supposedly it's

1           been dismissed, however with that -- it's  
2           only because I brought this back, I moved  
3           back to New York in '06, because I found  
4           out, it gets really deep, I'm in small  
5           claims trying to get a security deposit back  
6           from a landlord in Connecticut who -- and my  
7           sister-in-law was you walking down the hall  
8           in Danbury, Connecticut and has me served  
9           with my divorce that I find out took place  
10          in July '03 and I'm learning about it in  
11          '06, took nine years to get to that point,  
12          surprise.

13                 Also this judgment of divorce has a  
14                 warrant for my arrest. Why? Because I  
15                 didn't show up, nor was I served notice to  
16                 be at my judgment of divorce, so I  
17                 voluntarily show up for this bench warrant  
18                 before Fred Shapiro, he's no longer the  
19                 judge, Donovan is, I'm incarcerated, thrown  
20                 in jail for two months before they even get  
21                 around to the hearing to find out I'm here,  
22                 I spend another two months there, I get out,  
23                 June 29, 2006 and within three weeks Joan  
24                 Marshal Cressup, who now because of the

1 divorce, don't think she wasn't writing the  
2 papers before, Marilyn Faust wasn't, it was  
3 my money, in the past despite my complaints  
4 has never been able to provide a retainer  
5 agreement.

6 So she, Joan Cressup gets on July I  
7 think it's dated on the docket July 21 of  
8 '06 a judgment that Donovan signs off on of  
9 \$378,000 that I owe, so they just stole  
10 \$60,000 out of my pension last month and  
11 that I have a real quandary because Marilyn  
12 Faust knows Joan has been writing all the  
13 papers and doing everything, once Marilyn  
14 Faust found out she's got a judgment against  
15 me for \$378,000 it's going to be a payday,  
16 Faust wants to get paid, Faust takes my wife  
17 to court for \$135,000 in which case my wife  
18 beats her and her counsel in federal court  
19 on jurisdictional grounds and it's  
20 dismissed.

21 What's the latest of it? I don't know,  
22 but it's a comedy of freaking errors and if  
23 you don't think this attorney has done it --  
24 but back to the CDC, the Commission for

1           Judicial Conduct, if I wasn't homeless I  
2           could probably heat my home on the paperwork  
3           alone going to the CDC and Gary Casello,  
4           what a joke, I've been through it, it  
5           doesn't work.

6                     Why is Gary Casello the Westchester Bar  
7           Association drinking alcohol with all his  
8           cronies and playing golf, and I'm a witness  
9           to it firsthand if you want to subpoena me.

10                    The paperwork, I can keep you inundated  
11           with paperwork, we need a different channel,  
12           a different forum.

13                    I'm not here to complain about my  
14           personal situation, we wouldn't be here if  
15           there isn't something there.

16                    Take the new law students coming out of  
17           law school that don't have jobs to go to,  
18           give them \$50,000 and form some new  
19           commission where you plant these people in  
20           the committees and the CDC and the DDC on a  
21           six month internship to oversee what's going  
22           on and report back at a minimal expense to  
23           the State, have them report back to you  
24           people who have the authority based on them,



1 if they don't get it straight, it's their  
2 ass or career up front.

3 That idea was put on your website on  
4 the issues and legislators that everybody  
5 can go to if you've got an idea.

6 I'm going to close and concede what  
7 remaining time I have to Dr. Kim Laurie.

8 Questions?

9 SENATOR SAMPSON: Are you done?

10 MR. HIGBEE: I am done, yes, sir.

11 Thank you.

12 SENATOR SAMPSON: The next witness is  
13 Kathryn Malarkey. Ms. Malarkey.

14 MS. MALARKEY: Yes, I wasn't advised  
15 I was going to be testifying so I'm not  
16 really prepared, but I have a short  
17 statement I want to read to the committee,  
18 and thank you very much for hearing us.

19 I was involved in the employment case  
20 in which an injunction against further  
21 retaliation had been issued.

22 My attorneys lied to me and lied to a  
23 federal Magistrate. Their lies are recorded  
24 in an official court audio tape of the

1 hearing that I was not allowed to attend  
2 because my attorneys told me this was a  
3 private hearing with the judge and I should  
4 not be there.

5 I didn't know that they didn't want me  
6 to be there because they intended to lie.

7 I did not know about these lies until  
8 years after I was forced into a settlement.

9 My lawyers' lies caused the Magistrate  
10 to fine me \$500 and he threatened to dismiss  
11 my case.

12 I presented irrefutable documentation  
13 to the Departmental Disciplinary Committee.

14 The attorneys did not bother to refute  
15 the evidence that I gave, because I believe  
16 they could not refute it.

17 I was repeatedly told it was a waste of  
18 time to complain to the DDC. I believe  
19 there would be many more complaints if  
20 people had faith in the DDC.

21 The pain and suffering of long drawn  
22 out process inflicts pain and suffering and  
23 ruins lives. I think you have heard this  
24 morning just how much pain this group has.

1           It would have cost hundreds of  
2 thousands of dollars for me to present my  
3 case to the DDC.

4           Except for a wonderful attorney who has  
5 given all this time to represent me pro  
6 bono, the DDC has dismissed my case without  
7 any explanation.

8           I have never been able to respond to  
9 any questions that they might have, I surely  
10 can respond to all their questions.

11           It should not take years to get  
12 justice.

13           The DDC should be open, fair minded,  
14 helpful to those who have suffered at the  
15 hands of incompetent attorneys.

16           The DDC should change its name to the  
17 Attorneys Protection Association.

18           There is so much suffering in the  
19 search for justice, there must be a better  
20 way, and Senator Sampson, we are so grateful  
21 to you and to the others who have listened  
22 to us, you have been wonderful.

23           I just hoped that you hear how much  
24 need there is for real serious reform and I

1 will back this all up with some papers to  
2 you later.

3 Thank you, thank you.

4 SENATOR SAMPSON: Thank you very  
5 much, Mrs. Malarkey.

6 The next witness is Nora Renzuli. Ms.  
7 Renzuli.

8 MS. RENZULI: Thank you. Senator  
9 Sampson and Senator Maziarz, my name is Nora  
10 Renzuli, I'm an attorney, I was admitted to  
11 the practice of law in New York State and in  
12 New Jersey in 1987.

13 I have been practicing law in the State  
14 of New York and have been employed by the  
15 Office of Court Administration since 1990.

16 SENATOR SAMPSON: Are you still  
17 employed with them?

18 MS. RENZULI: Yes, I am. I have  
19 presented my material to the committee, and  
20 it does lay out my case and my position that  
21 a judge in Family Court without legitimate  
22 authority or jurisdiction took my children  
23 and handed them over to my former husband  
24 who is living out of state in Pennsylvania

1 who was represented by a Brooklyn and Queens  
2 clubhouse attorney who managed to wrap the  
3 judge around his little finger.

4 My children were sent out of state  
5 before I was allowed to put on a word of my  
6 case.

7 That was in 1999. The children had  
8 been with me since their father left in  
9 1990, I had been the custodial parent for  
10 nine years, I had finally gotten a child  
11 support order and it was affirmed on appeal  
12 in 1998.

13 My former husband then went to the  
14 Family Court and subverted the whole due  
15 process and dual tier system for Family  
16 Court decision making by pulling the rug out  
17 from under a fully litigated divorce and  
18 custody, visitation, child support decision  
19 making by Supreme Court orders.

20 The focus I would like the committee to  
21 look at most is something that hasn't really  
22 been touched on here, and that is parent  
23 child relationships, that's why I'm here,  
24 that's front and center of everything I have

1 done ever since my children were born.

2 And to have lost them nine years ago to  
3 a deadbeat dad who was able to hoodwink the  
4 whole system and get a judge to act without  
5 subject matter jurisdiction and take them  
6 away before I was heard, one word, despite  
7 being represented by a former Family Court  
8 judge, retired, who obviously had lost his  
9 clout, Family Court Judge's name is Terrence  
10 Miguel Rath in Staten Island Family Court.

11 I brought a Writ of Prohibition, the  
12 Family Court judge was represented by  
13 Attorney General Elliott Spitzer.

14 Elion Gonzales was protected by  
15 Attorney General Janet Reno.

16 David Goldman's son who is in Brazil  
17 now is being protected by the efforts of  
18 Senator -- by Secretary of State Hillary  
19 Clinton.

20 Does anyone in this room think that  
21 former Attorney General Elliott Spitzer  
22 lifted a finger to help protect my children?

23 He did not. Even though his own  
24 investigator in the public integrity unit

1 told me there was, "obvious misconduct and  
2 malfeasance."

3 There was a publicly paid law guardian  
4 who consorted with the attorney for my  
5 former husband who created the scam that I  
6 had never been given actual custody and  
7 therefore I did not need to be heard before  
8 the children were moved.

9 In these kinds of cases often  
10 possession does end up being 9/10 of the  
11 law, especially when kids are sent to  
12 another jurisdiction in another state, or  
13 they are abducted and sent to another  
14 country.

15 I have been trying since that happened  
16 to get some kind of remedy, and I have done  
17 everything conceivable, possible, legal, to  
18 make that happen.

19 On September 11, 2007 the Court of  
20 Appeals of New York State dismissed my Writ  
21 of Prohibition by saying it had mooted out  
22 because the children were now over 18.

23 That is no solution to these kinds of  
24 problems.

1           The state of New York is suffering from  
2 avoidance disorder and if it were a person  
3 it would be diagnosed with access to  
4 avoidance personality disorder.

5           We need to deal with these problems, we  
6 need to name them, claim them and nip them  
7 in the bud before children are irreparably  
8 damaged.

9           The Attorney General of the State of  
10 New York has a role to play, when there is  
11 no jurisdiction and a judge doesn't have the  
12 power, he loses immunity.

13           The Attorney General's Office needs to  
14 assess these cases, vet them and when they  
15 are asked to represent some kind of  
16 dishonesty, dirty dealings, they should say  
17 to OCA no way, I'm not going to represent  
18 this dirty judge, this dishonest judge, this  
19 dishonest process, but no, they go right in  
20 and do it and it goes all the way to the  
21 Court of Appeals, wasting our taxpayer's  
22 dollars and the credibility and the  
23 legitimacy of the office of Attorney  
24 General, the chief law enforcement officer



1 of the state.

2 What is that AG doing representing  
3 these kind of judges?

4 Unbelievable, and I finally get to the  
5 Court of Appeals and then they wash their  
6 hands, as if it only had to do with the ages  
7 of the children.

8 It had to do with a complete perversion  
9 of justice.

10 Two senators on your committee from  
11 Staten Island have tried to help me, they  
12 have reached out to the District Attorney of  
13 Richmond County, they asked that an  
14 investigation each be conducted into the law  
15 guardian's behavior.

16 The D.A. of Richmond County wouldn't  
17 even investigate, and that was after a call  
18 from the Democratic leader of Richmond  
19 County, after letters from Senator Lanza,  
20 Senator Savino and Assemblyman Titone,  
21 didn't make a hill of beans difference with  
22 this D.A.

23 I think that OCA needs to get a handle  
24 on these kinds of problems early on and deal

1 with them before all the damage is done.

2 It's not just damage to me as a  
3 litigant, as a citizen, as an attorney, as  
4 an officer of the court, but it's damage to  
5 our whole process.

6 SENATOR SAMPSON: Okay.

7 MS. RENZULI: I really appreciate  
8 what you're doing, Senator, and I hope that  
9 the orders, taking custody from me,  
10 illegitimately giving it to my ex, taking  
11 child support out of my pay for the last  
12 nine years, over \$100,000, out of my court  
13 salary, they will devour their own, this  
14 court system is out of control.

15 I want those orders voided. Thank you.

16 SENATOR SAMPSON: Thank you very  
17 much.

18 Next witness is Stephanie Klein,  
19 Stephanie.

20 If we can just take a five minute  
21 break, is that all right?

22 (Discussion off the record.)

23 SENATOR SAMPSON: We will start right  
24 now, I had to make sure no more coups were

1 going on.

2 I've got five witnesses left after Ms.  
3 Klein. No more additions, Lisa, no more  
4 additions.

5 Ms. Klein, go ahead. Okay, Ms. Klein.

6 MS. KLEIN: Well, hi, good afternoon.

7 Thank you for allowing me to speak at  
8 this very important hearing today.

9 I would like to preface my statement by  
10 stating that I have been in matrimonial  
11 Supreme Nassau County with justice Anthony  
12 Falanga for six years now and counting and I  
13 also would like to also mention take noticed  
14 there are many others who are also in front  
15 of Justice Falanga, same courtroom as I have  
16 been in for the past six years.

17 We settled our divorce three years ago  
18 and I still am trying to obtain the money  
19 settlement in our settlement agreement.

20 Having said that, bear with me, this is  
21 my first time I'm doing this and I'm really  
22 nervous.

23 SENATOR SAMPSON: Take your time.

24 You've still only got nine minutes now.

1 MS. KLEIN: That's what I wanted to  
2 say, too, I chopped my pages down, I only  
3 have two and a quarter, so I won't take up  
4 too much. I'll do my best.

5 I would also just like to say that as  
6 soon as Judge Falanga heard my statement to  
7 contest the divorce I was immediately  
8 labeled in his mind as a trouble maker, even  
9 though I was just exercising my legal right  
10 to contest the divorce that I felt was  
11 unwarranted and unnecessary.

12 But after that he made it his business  
13 to make my life absolutely miserable each  
14 and every time I had to appear in front of  
15 him in his courtroom.

16 I was made to stand and be humiliated  
17 in front of the entire courtroom, degraded,  
18 he called me names, I was told I lived in  
19 sin because I married someone out of my  
20 faith so he told me I lived in sin for 10  
21 years before we remarried in another  
22 ceremony in the church, just to give you an  
23 idea of some things that Judge Falanga is  
24 capable of.

1           But in any case, if I could leave you  
2 here today with two very important words,  
3 and I'm glad to have -- to being followed by  
4 the person, the woman who spoke before me,  
5 two important words, children and mothers.

6           But I would be remiss to leave you here  
7 today without finishing the rest of those  
8 very important words, children, mothers,  
9 domestic abuse, domestic violence and our  
10 broken down excuse for a fair and just  
11 judicial system.

12           It's broken and no one is fixing it and  
13 that is a direct quote told to me within the  
14 system itself when Judge Falanga changed my  
15 Order of Protection for myself and my  
16 children and altered it from the Criminal  
17 Court taking my children off of the Order of  
18 Protection that was issued after he had  
19 assaulted me and was arrested and spent the  
20 night in jail, and Judge Falanga crossed out  
21 my children's names and allowed my  
22 ex-husband to reinstate his visitation  
23 rights.

24           Also and most crucially important, the

1           drastic and horrifically damaging effects  
2           and fall out, if you will, from the great  
3           collapse, corruption and breakdown and  
4           failure of our judicial system as it stands  
5           today, is especially important.

6                     But my most important and privileged  
7           purpose and even mission for being here  
8           today is to urge all of you to specifically  
9           examine the numerous departments of what are  
10          supposed to be our just and fair judicial  
11          system in Nassau County, New York.

12                    All of the following departments of our  
13          government here in New York are drastically  
14          broken down and need urgent examination and  
15          swift cleanup, to say the least.

16                    We must put back into place our fair  
17          and just legal system as was intended by our  
18          forefathers to be.

19                    Some of the courts are Supreme Court  
20          matrimonial, Criminal Court, supervising  
21          judges, arbitration committees, the  
22          Grievance Committees, the Appellate Courts,  
23          judicial commissions, committees on judges  
24          and judicial conduct, commissions handling

1 all complaints against judges, attorneys and  
2 law guardians.

3 We know today that according to the  
4 2009 report of the Commission on Judicial  
5 Conduct, that out of almost 2,000 complaints  
6 filed in 2008, only 262 were investigated  
7 and of those, 173 were deemed dismissed.

8 Now if my math is correct that means  
9 and leaves only 89.

10 89 out of almost 2000 complaints for  
11 the entire year for 2008, only 89 people  
12 were even examined and possibly taken  
13 seriously, we don't even know that.

14 We do not know whether these 89 results  
15 were favorable to the complainant or not,  
16 and these figures do not even include all  
17 the other complaints not entered by the  
18 public for fear of retaliation by the  
19 judges, attorneys and the courts.

20 I am even worried that I am sitting  
21 here today naming names and saying what I'm  
22 saying.

23 People are afraid to step up and  
24 exercise what is their legal right to defend

1 themselves because they see others who have  
2 done so and been sanctioned or punished in  
3 some way or another by the judges and the  
4 courts for doing so.

5 It is criminal what is going on in our  
6 courts today and the innocent are being  
7 unfairly judged and punished while the true  
8 guilty parties walk away.

9 Imagine what that total figure would  
10 have been if more people had the courage to  
11 step forward but cannot and do not out of  
12 fear for the retaliation by the judges and  
13 who label these people instead as trouble  
14 makers and punish them as such, as was done  
15 to me by Judge Falanga.

16 We all know there is a major corruption  
17 going on in our entire government, we all  
18 see it on TV every day, we see it from  
19 officers of the court, attorneys, judges,  
20 supervising judges, even Governor's and  
21 right up to the President of the United  
22 States.

23 Perjury and adultery have become  
24 commonplace.



1                   These are both against the law, yet  
2                   last time I looked nobody is being  
3                   prosecuted for these terribly hurtful and  
4                   damaging crimes, especially to the children  
5                   of our world; the true victims in all of  
6                   these goings on.

7                   Families are being broken up every day  
8                   and unnecessarily so and the children are  
9                   being hurt in so many ways.

10                  The court should be sending families,  
11                  and this is really important, the courts  
12                  should be sending families to counseling  
13                  before handing out divorces like candy, and  
14                  for no good reasons.

15                  What has happened to the family as we  
16                  know it in America today?

17                  Divorce is now in epidemic proportions.

18                  Almost everyone we meet are now either  
19                  divorced or know someone who is divorced.

20                  Women, children, families are torn  
21                  apart, homes are lost, people are struggling  
22                  just to make ends meet.

23                  In some cases children are brain washed  
24                  against a parent, thus creating a

1           horribly painful and most depressing and  
2           most cruel estrangement both on the part of  
3           the children putting them in the middle and  
4           also on the other parent.

5                     And custody is sought to get out of  
6           paying child support, as well as taking the  
7           home along with them.

8                     The other parent moves out and life as  
9           the family knew it will never be the same  
10          again.

11                    And the courts let it all go by. It is  
12          an outrage what is going on in matrimonial  
13          Supreme Court in Nassau County New York, so  
14          the innocent parties in this epidemic of  
15          divorces --

16                    SENATOR SAMPSON:        Thank you.

17                    MS. KLEIN:         How do I know? Because  
18          it has personally happened to me and my two  
19          children, and as I sit here today, I risk  
20          myself being sanctioned by Judge Falanga  
21          somehow, he will find a way, but what I am  
22          saying here is only the truth and it must be  
23          told.

24                    I have been living this terrible

1           experience in matrimonial court in Nassau  
2           County for six years now and counting, I am  
3           still unable to collect the money which was  
4           agreed upon several years ago.

5                    SENATOR SAMPSON:        When you say that,  
6           Mrs. Klein, are you saying that the judge is  
7           stifling you from collecting your money?  
8           What is preventing you from that?

9                    MS. KLEIN:         Well, my attorney has  
10          informed me that she has released herself  
11          from my case and she's decided that she's  
12          done.

13                   SENATOR SAMPSON:        So basically you  
14          have no attorney at this point in time?

15                   MS. KLEIN:         Then when I try to  
16          contact they tell me to try to reach out to  
17          Judge Falanga, which I did, and they sent it  
18          back saying no, you still have an attorney  
19          and I was getting to that part, I was going  
20          to mention that.

21                   SENATOR SAMPSON:        Because your time  
22          is up, okay?

23                   MS. KLEIN:         I'm almost done. Let me  
24          just get back to my spot, yes, it happened

1 personally to me and my children.

2 And as I sit here today, I am saying  
3 that I fear being sanctioned by Judge  
4 Falanga, I really don't know what to do, I  
5 am in the middle.

6 I've been living this experience as I  
7 sit for six years now and counting.

8 I am still unable to collect the money  
9 which we agreed upon, I am told I may not --  
10 I may not reach out to the judge for  
11 assistance, as I still have an attorney on  
12 record, although this attorney has released  
13 herself from the case, as I have just said.

14 I am still in the middle and do not  
15 know when it will end or what to do.

16 I am ill, I want to get my affairs in  
17 order, and I cannot find anyone to help me  
18 get this money settlement, the QRDO  
19 transferred over to me as was court ordered  
20 and get my children back.

21 I speak from fact, but of course from  
22 many other emotions as one can well imagine  
23 in a situation such as I am now living and  
24 did not do one thing to deserve any of it.

1 I was and always would be a very caring  
2 wife and mother, I loved being a stay at  
3 home mother and did it for 18 years and  
4 treasured each moment.

5 The worst thing that can happen to a  
6 mother is to lose her child.

7 I have two holes in my heart where my  
8 daughters used to be.

9 I have been alienated from my own  
10 children, and the pain is so very difficult  
11 to endure and the court did nothing it help.  
12 The side with the money always wins.

13 What I need is an attorney who will  
14 help me to obtain my money settlement as  
15 ordered in the QRDO and have been waiting  
16 now for years and also assistance with  
17 getting my children back and unbrainwashed,  
18 if you will.

19 What has happened to our morals and  
20 vows and promises we make in marriage and  
21 families?

22 There should be mandatory counseling  
23 before any type of permanent and emotionally  
24 damaging and scarring decisions and

1 judgments of divorce are handed out.

2 We have law guardians who may know the  
3 legal rights of children, but they are in no  
4 way trained in psychology or psychiatry or  
5 even social work and yet they are allowed to  
6 make very crucial and potentially damaging  
7 decisions for these children, both mentally,  
8 emotionally and financially.

9 SENATOR SAMPSON: Ms. Klein.

10 MS. KLEIN: I am almost done. The  
11 lives of children are put in the hands of  
12 law guardians who know nothing of what  
13 children need and in most cases these law  
14 guardians don't even have children of their  
15 own on which to base their potentially  
16 emotionally damaging decisions upon.

17 I leave you here today, in closing,  
18 with all of these words and hope that you  
19 will help me and others who are lost and  
20 abused in this terribly painful and damaging  
21 and corruptive courts, in the matrimonial  
22 court of the Supreme Court of Nassau County,  
23 I even risk, as I said, being sanctioned or  
24 further punished, but it is a chance I must

1 take to try to get back to justice in the  
2 supposed halls of justice.

3 I have tried the grievance committees,  
4 I have tried the arbitration committees, I  
5 have tried writing to everybody all over the  
6 place, and none of it helps.

7 It just does not make sense that the  
8 guilty party here lie, cheated, committed  
9 adultery and perjury and yet continues in  
10 these behaviors and myself and my now two  
11 estranged daughters are the ones being  
12 punished.

13 It seems the old saying still holds  
14 true, it's not what you know, it's who you  
15 know, I hope someone will step up today for  
16 me and my two daughters and help me get this  
17 case straightened out as it should be.

18 I thank you for your time and in  
19 advance of any future assistance, all of my  
20 information is listed below on the papers  
21 that I handed in.

22 I am Stephanie Klein, and I thank you  
23 for all for listening.

24 SENATOR SAMPSON: Thank you, Ms.

1 Klein.

2 Ms. Klein, what we will do I'll have  
3 one of my staff people, Lisa Lashley make  
4 sure, because I just want everybody to get  
5 clear, you know, we are not looking to  
6 basically have an input in the outcome of  
7 these individual cases, because that's not  
8 our job here, our job is to look at the  
9 Commission on Judicial Conduct and also the  
10 disciplinary committees to make sure that  
11 any discrepancies or issues or any reforms  
12 that need to be made or recommendations to  
13 reform the present system as such, to give a  
14 little bit more faith, trust and confidence  
15 of the people who are using this judicial  
16 system.

17 So that's what we are looking for,  
18 that's exactly what we are looking for.

19 The outcome in individual cases, we  
20 cannot have any input with respect to that.

21 But I will have somebody look at your  
22 case closely, Ms. Klein, all right?

23 MS. KLEIN: Thank you, I really  
24 appreciate that.



1                   SENATOR SAMPSON:     Thank you.

2                   MS. KLEIN:        Just to say, I didn't  
3 complain yet to the judicial commission to  
4 Judge Falanga because he's not done with me  
5 yet, and I'm afraid of what he could do to  
6 me before we are done.

7                   SENATOR SAMPSON:     But I think it's  
8 good you come because sometimes judges, you  
9 know, that's why you have the Commission of  
10 Judicial Conduct, you make these complaints  
11 if you feel the judges is just stepping out  
12 of his bounds of the parameters he is  
13 supposed to be operating in.

14                   MS. KLEIN:        I feel almost a little  
15 safer because now I'm on record of saying  
16 how I've been treated by him, and whatever  
17 his future things are to do to me, will be  
18 now noted because I have said, sat here and  
19 given my statement of what has been done by  
20 this man to me until today.

21                   So I thank you for your help after.

22                   SENATOR SAMPSON:     Thank you, Ms.  
23 Klein.

24                   The next witness is Ike Aruti of

1           Rosedale. Mr. Ike Aruti.

2                   MR. ARUTI: I have prepared the  
3           copies that were requested so you might read  
4           a little.

5                   Thank you very much, Senator Sampson,  
6           for the opportunity to give my testimony  
7           today.

8                   My name is Ike Aruti, and I am a patent  
9           attorney.

10                   I was an engineer for many years before  
11           going to law school and I was very  
12           successful as an engineer because I always  
13           had a special talent for diagnosing  
14           malfunctions.

15                   I did not leave this talent behind when  
16           I became an attorney.

17                   Beginning in May of 2007 I was the  
18           victim of false charges of domestic  
19           violence, and in June of 2007 my son was  
20           taken away from me by the NYPD in the middle  
21           of the night.

22                   Since then I have lost my job, I have  
23           lost my reputation, and I have lost my  
24           family.

1                   And to depart from the text of my  
2 transcript here, I respectfully disagree,  
3 Senator, with your concern for the  
4 reputations of judges.

5                   Why is a judge's reputation any more  
6 important than mine?

7                   SENATOR SAMPSON:       I said that? I  
8 don't think I said that. I said -- what  
9 what did I say?

10                  MR. ARUTI:       When you were saying that  
11 the CJC procedures cannot be made public and  
12 must be kept confidential unless something  
13 is being done.

14                  I think that transparency is the only  
15 way, and to steal a phrase from you,  
16 Senator, it needs the benefit of  
17 disinfecting daylight.

18                  It should all be public, and it should  
19 be a citizen's committee of people who are  
20 not affiliated with the court.

21                  However, I became aware of the Queens  
22 County Family Court and a perverse symbiosis  
23 of malfunctioning government agencies that  
24 had been spiraling out of control, and I

1           have learned that this is commonly referred  
2           to as the domestic violence industry, and  
3           the court plays the leading role in this.

4                     The Commission for Judicial Conduct is  
5           the only control over the court.

6                     The abuse and misconduct that I  
7           suffered at the hands of the New York City  
8           Administration for Children's Services and  
9           New York State Office of Children and Family  
10          offices were truly horrifying.

11                    But I feel that what I observed and  
12          experienced in court was truly a disgrace to  
13          the Bench and the Bar.

14                    The system is desperately in need of  
15          what Senator Sampson refers to as  
16          disinfecting daylight.

17                    In the Queens County Family Court the  
18          public is routinely excluded from what are  
19          public proceedings where they would see  
20          assigned counsel, counsel being assigned by  
21          the judges that they will be appearing  
22          before.

23                    This is a glaring appearance of  
24          impropriety which is prohibited by the model

1 rules, and it's a conflict of interest in  
2 that counsel may not wish to bite the hand  
3 that feeds them and compromise -- and this  
4 compromises their client's representation.

5 To depart again from the text of my  
6 transcript, I was on an 18B panel in the  
7 Nassau County District Court and when I was  
8 appointed by the arraignment judge, he was  
9 not the judge that I was appearing before,  
10 and if it occurred at a later stage in the  
11 proceeding, a call was made to the assigned  
12 counsel office and the judge did not  
13 participate in the selection of counsel.

14 On December 17th I attempted to enter a  
15 courtroom for a public proceeding where  
16 opposing counsel were present.

17 I was arrested, physically and verbally  
18 abused by the court officers, humiliated in  
19 front of all of the people in the waiting  
20 room, and the court officers where no name  
21 tags and refuse to identify themselves.

22 In the Queens County Family Court it  
23 took almost two years before I had my first  
24 opportunity to be heard, as is required by

1 due process.

2 My wife was given assigned counsel  
3 under the same conditions for which I was  
4 refused and that was homeownership.

5 When Judge Friedman eventually assigned  
6 counsel to me, a Mr. Anthony Johnson, she  
7 told him not to do anything.

8 My orders to show cause were routinely  
9 ignored. They are still pending from 2007.

10 Despite the fact that all of the  
11 charges against me were now dismissed, my  
12 parental rights remain in a state of de  
13 facto termination.

14 I have no contact with my children  
15 whatsoever, and there is nothing in any  
16 record negative about me.

17 SENATOR SAMPSON: So, why do you have  
18 no contact, your rights were terminated?

19 MR. ARUTI: Yes, de facto my rights  
20 were terminated. I do not know where my  
21 children go to school, I do not know where  
22 they live.

23 SENATOR SAMPSON: Are you still in  
24 Family Court proceedings?

1 MR. ARUTI: I am still in Family  
2 Court proceedings.

3 SENATOR SAMPSON: I am just saying  
4 you are still in Family Court proceedings  
5 and you have no idea where your children go  
6 to school at?

7 MR. ARUTI: No.

8 SENATOR SAMPSON: You don't have any  
9 contact with them?

10 MR. ARUTI: No.

11 SENATOR SAMPSON: And you have raised  
12 this to the Queens Family Court?

13 MR. ARUTI: Yes, I have, I raised it  
14 in fact just this week, it was about three  
15 weeks ago.

16 In fact tomorrow will make three weeks  
17 that all of the family offense charges and  
18 all of the violence charges and all of those  
19 things were thrown out completely.

20 The Order of Protection should never  
21 have been issued.

22 No good cause was ever shown, it wasn't  
23 recited in the order as it was required, and  
24 again, to depart from the text of my

1 transcript, the only thing easier than  
2 getting an Order of Protection from the  
3 court these days is the abuse of one.

4 SENATOR SAMPSON: No, I understand  
5 that, but let's get back to really the gist  
6 of everything.

7 So how has the court or the judiciary  
8 or the courts or the attorneys impeded your  
9 progress in allowing you to see your  
10 children or what obstacles or what  
11 misconduct has been exhibited?

12 MR. ARUTI: The other counsel has  
13 engaged in a lot of dilatory practice, and  
14 they have outright lied in court.

15 I had to beg the judge to pull a  
16 transcript, I've been through about 9 judges  
17 already there, I understand it's only two  
18 judges left in the building that I haven't  
19 been before, I hesitate to make further  
20 complaints against Judge Pam Jackman Brown  
21 because, quite frankly, she's the best judge  
22 I've had there.

23 Maybe it's because she's new.

24 SENATOR SAMPSON: Just for



1 disclaimer, she's my cousin, just to --

2 MR. ARUTI: I have not received  
3 better treatment in the court than I have by  
4 her.

5 It still doesn't mean that I think it  
6 was fundamentally fair, or it resulted in  
7 substantial justice.

8 Apart from the procedural due process  
9 requirements, which are notice and an  
10 opportunity to be heard.

11 SENATOR SAMPSON: Have you filed any  
12 complaints, if any?

13 MR. ARUTI: I have filed numerous  
14 complaints.

15 SENATOR SAMPSON: I don't want you to  
16 be -- as a lawyer, we don't want to be  
17 subject to the document, the written  
18 document, I want to hear from you, you know.

19 MR. ARUTI: They were oh, well, in my  
20 particular case.

21 SENATOR SAMPSON: I can read the  
22 document.

23 MR. ARUTI: It was a sneak attack  
24 from Mexico. I guess I may have gotten

1           married for the wrong reasons, the woman  
2           treated me like a king for 12 years, when my  
3           parents died I didn't want to be alone, I  
4           married her, we had children, she came to  
5           New York and could not function.

6                     She destroyed my practice because she  
7           had no domestic skills, she had no  
8           linguistic skills, she became a recluse in  
9           the home.

10                    She couldn't answer the phone, answer  
11           the door, I had to hire an intern and teach  
12           him how to draft patent applications to get  
13           my work done, and it very soon became really  
14           the point of diminishing returns.

15                    SENATOR SAMPSON:        So --

16                    MR. ARUTI:         So I got an opportunity  
17           to purchase an automobile race facility in  
18           Mexico, I have had a very long history of  
19           amateur road racing championships.

20                    SENATOR SAMPSON:        But --

21                    MR. ARUTI:         In any event, we have  
22           been living in Mexico since September of  
23           2000 and with regard to the purchase of the  
24           sale there were some stumbling blocks that

1           delayed it, and I was unhappy with the  
2           education my children were getting, so I  
3           grabbed my son, who was the older of the  
4           two, and I brought him to New York for the  
5           third grade and for the fifth grade, solely  
6           for the purpose of coming to school.

7                     SENATOR SAMPSON:     Okay.

8                     MR. ARUTI:         He was in the gifted and  
9           talented class.

10                    SENATOR SAMPSON:     What we are trying  
11           to pinpoint is --

12                    MR. ARUTI:         I asked -- I have begged  
13           for visitation with my children at every  
14           single appearance.

15                    The judge has agreed with me that there  
16           is nothing in the record, there was nothing  
17           at the family offense violation trial to  
18           substantiate any loss, and this is another  
19           thing, I think that part of the problem is  
20           also the statutory framework of the Family  
21           Court act where Judge Friedman sarcastically  
22           answered me that she remembered due process  
23           from law school, and I said that I cited  
24           Matthews versus Eldridge that due process is

1 a flexible concept that has to be tailored  
2 to every situation.

3 In any event she told me that Article 6  
4 of the Family Court Act doesn't provide for  
5 hearings.

6 I argued that Amendment 5 of the  
7 Constitution does.

8 SENATOR SAMPSON: I'll give you one  
9 more minute.

10 MR. ARUTI: I would like to go  
11 through this because I know you were asking  
12 for suggestions and constructive criticisms,  
13 and I have many of those.

14 SENATOR SAMPSON: In one minute  
15 articulate them. You don't have to read  
16 them, just articulate them.

17 MR. ARUTI: Well, in any event this  
18 was taken as a case of emergency  
19 jurisdiction and now that we have disproved  
20 the existence of the emergency, somehow this  
21 jurisdiction continues.

22 Despite the fact that the ACS workers  
23 have committed wire fraud by communicating  
24 with my wife in Mexico using my long

1 distance account.

2 They have induced her to violate the  
3 Immigration and Naturalization Act Section  
4 274 which are both RICO predicate offenses.

5 SENATOR SAMPSON: I've got you, but  
6 give me the recommendations because we have  
7 got to close it down, I've got to go to the  
8 next one.

9 MR. ARUTI: My recommendations,  
10 transparency, there is no reason that a  
11 judge should make any statement to any party  
12 that is not on the record.

13 There is limited immunity for judges,  
14 however when the real world factors are  
15 considered, they are totally immune.

16 They are a stronger body than the blue  
17 wall of silence.

18 Furthermore, part of access to justice,  
19 and you said yourself, well that's why we  
20 have so many levels of Appellate Courts,  
21 look at how onerous the appellate procedure  
22 is and I think that we are remiss in our  
23 obligations to embrace very mature  
24 technology.

1           If I want a transcript of the record, I  
2           have to pay somebody who knows how much a  
3           page and wait how many months and it's  
4           hundreds of dollars, and I don't know what  
5           it says, you can't review the facts that  
6           were established in the lower court, why?  
7           Because all you have is the transcript.

8           SENATOR SAMPSON:     Got you.

9           MR. ARUTI:     Audio visual recordings  
10          are very mature, Senator.

11          There is no reason that you shouldn't  
12          be able to walk out of the courthouse and on  
13          your way out pay \$1 for a DVD that contains  
14          the entire proceeding.

15          SENATOR SAMPSON:     Mr. Aruti, since  
16          time is up, I will --

17          MR. ARUTI:     One more point, Mr.  
18          Senator, I respectfully submit to you that  
19          parental rights are among the most  
20          fundamental rights that we have and, in  
21          fact, equally as fundamental as our right to  
22          freedom. If not more so.

23          I personally would have rather spent  
24          this two years in jail and come out to a

1 loving family than to have lost my children  
2 and had them alienated in the process.

3 SENATOR SAMPSON: Thank you.

4 MR. ARUTI: And accordingly, and in  
5 an opinion by Clarence Thomas, where he was  
6 dissenting, I believe it was Troxel versus  
7 Granville, where he went so far as to say  
8 well, I concur, however the court has not  
9 reached the issue as to what level of  
10 scrutiny should be applied to these.

11 And he volunteered that he was of the  
12 position that this is something that  
13 requires strict scrutiny.

14 SENATOR SAMPSON: Got you. Thank you  
15 very much, Mr. Aruti.

16 MR. ARUTI: The protections are not  
17 there in the Family Court Act.

18 SENATOR SAMPSON: We will work on it.

19 MR. ARUTI: Our children are our  
20 future.

21 SENATOR SAMPSON: Terrence Finnan.

22 MR. FINNAN: Here is a copy you might  
23 look at it. I have a large number of issues  
24 with the court system and the complaints

1           against lawyers, I'm not going to do it, I'm  
2           going to stick it, I have made five  
3           complaints to the Commission on Judicial  
4           Conduct.

5                     Right now -- I made five complaints to  
6           the Commission on Judicial Conduct.

7                     Right now I have a number of health  
8           problems, my life -- I've been defibrillated  
9           five times, I've had three heart operations,  
10          a stroke, and a huge number of other  
11          operations.

12                    SENATOR SAMPSON:        You look pretty  
13          good to me, man.

14                    MR. FINNAN:         Now I'm going to go into  
15          my letter to Mr. Tabeckian and he left the  
16          room.

17                    SENATOR SAMPSON:        He's right behind  
18          you.

19                    MR. FINNAN:         It says Dear Mr.  
20          Tabeckian and CJ members, please use this  
21          opportunity for you based on information  
22          provided to preserve your honor and faith.

23                    I make you aware of my disability and  
24          demand that Mr. Tabeckian not allow this



1 corrupt Judge Ryan to abuse me because of  
2 limitations of my disability.

3 I'm going to skip this part about my  
4 disability and on the next says Judge Ryan  
5 moved up a two week later scheduled court  
6 hearing until later in the same morning  
7 while I was in intensive cardiac care and  
8 notice to me was a call made by his staff to  
9 the hospital which did not send calls into  
10 cardiac intensive care.

11 Now my question is do you, Mr.  
12 Tabeckian, or any of the commission members,  
13 think calling up the hospital to move a  
14 trial up to later that same morning excuses  
15 the resulting ex parte trial?

16 And Mr. Tabeckian, you and each member  
17 of the CJI are compelled by law and human  
18 decency to stop this unethical judge.

19 I brought this up by motion, the judge  
20 says gee, you know, I got notice. He sent I  
21 found out that the judge sent a fax to my  
22 home then and -- because I don't even have a  
23 fax machine, and I am in cardiac intensive  
24 care.

1                   This isn't funny, because I don't want  
2 my life destroyed.

3                   I have a lot -- there is \$1 million in  
4 assets in this thing, and I don't want to be  
5 cheated by a Judge Ryan, and I have multiple  
6 other things.

7                   Judge --

8                   SENATOR SAMPSON:       When you say --  
9 where does Judge Ryan is sit?

10                  MR. FINNAN:        Judge Ryan is an acting  
11 Supreme Court Judge, he's a Surrogate Judge  
12 and the court is in Essex County, but he  
13 sits in Clinton County.

14                  SENATOR SAMPSON:       He's acting  
15 Surrogates Court?

16                  MR. FINNAN:        Supreme Court Judge.

17                  SENATOR SAMPSON:       Exact acting  
18 Supreme Court Judge.

19                  MR. FINNAN:        In Essex County, but  
20 Surrogate Judge in Clinton County.

21                  SENATOR SAMPSON:       He's an acting  
22 Supreme Court in the Surrogates Court?

23                  MR. FINNAN:        The court appoints  
24 acting Supreme Court Judges to act as

1 Supreme Court Judges because we don't have  
2 enough.

3 SENATOR SAMPSON: And this is Judge  
4 Ryan and Ryan is located in Clinton County?

5 MR. FINNAN: Clinton County, it's the  
6 Clinton County court, the Surrogate Judge.

7 SENATOR SAMPSON: Your matter before  
8 him is a surrogate matter?

9 MR. FINNAN: No it's a matrimonial  
10 matter. It's a settlement of the thing,  
11 it's been going on for six years.

12 Basically my wife went to the thing,  
13 she explained that all the marital property  
14 was really her separate property, so he gave  
15 it all to her, even though I sent him copies  
16 of all the joint bank accounts.

17 SENATOR SAMPSON: This case is still  
18 pending, correct?

19 MR. FINNAN: Well, technically I will  
20 file a motion to reconsider based on the  
21 fact my complaint here did that and --

22 SENATOR SAMPSON: Are you represented  
23 by an attorney?

24 MR. FINNAN: I was represented by an

1 attorney, the reasons I'm not represented by  
2 an attorney, I didn't want to get into at  
3 this point, but basically it is related to  
4 the judge, several attorneys were informed  
5 by the judge that I had to lose the case.

6 So what happens is would you like an  
7 attorney who says I can't bring this to  
8 court because I don't want to offend the  
9 judge?

10 I made the -- those are others  
11 complaints which I told you I don't want to  
12 get into at this point.

13 Because I want -- everybody I know  
14 wants to go home, but I'm asking your help  
15 to do this.

16 Are there any other questions, Senator  
17 Sampson? I promised to be very brief.

18 SENATOR SAMPSON: No more questions,  
19 thank you very much. Next individual Ms.  
20 Weisshaus. Ms. Weisshaus, good seeing you  
21 again, Ms. Weisshaus.

22 MS. WEISSHAUS: Thank you, Senator  
23 Sampson.

24 I didn't prepare a speech for myself

1           because they told me yesterday I'm not  
2           scheduled to speak, so I'll speak from my  
3           heart a little bit.

4                       I am a Holocaust survivor and a victim  
5           of the Holocaust, I was 14 years old when  
6           everything changed and my whole family, I am  
7           the only survivor from my family, but I  
8           didn't think that I am going to be a victim  
9           in the United States, too.

10                      It's unbelievable what I'm going  
11           through for the last 20 years.

12                      They drag me into a rabbinical court  
13           decision because my fault was I didn't want  
14           to get welfare when I was short the money,  
15           and I had a house and I helped out, I always  
16           worked even I had six children, and I am a  
17           -- I was short, I couldn't pay my mortgages,  
18           so they told me I should go to the welfare.

19                      I told them I didn't come to the United  
20           States to come for welfare.

21                      They told me well, all the black people  
22           are doing it, everybody is doing it, I says  
23           I'm not listening to the other people what  
24           they are doing it.

1                   And I sold the top half of my house,  
2                   legally, everything without any dividends,  
3                   but I got the wrong people there who are a  
4                   bunch of crooks and they are all connected  
5                   with the rabbis.

6                   How can this be in the United States  
7                   where there is a Constitution, how to make a  
8                   loan the that they update they have come out  
9                   with wrong decisions, they wanted even to  
10                  arrest me.

11                  I went to the judge and I produced my  
12                  tax return and I told them I don't have the  
13                  money that they want I should pay them up  
14                  and including \$65,000 cash. And that's  
15                  happening in the United States.

16                  All of a sudden I became very famous, I  
17                  became the one who filed a lawsuit against  
18                  the Swiss banks.

19                  They are stealing money there in the  
20                  millions and that's why they made me a  
21                  victim, they took everything that I worked  
22                  in the United States.

23                  I'm here -- 59 years ago I came here  
24                  and they took everything illegally, there is

1 no due process, they make a mockery of the  
2 whole system of the court system and I'm  
3 sorry, I just had an accident I had -- my  
4 neck is hurting me, but I want to bring out  
5 they claim I signed an arbitration contract,  
6 they put in a false arbitration contract,  
7 the rabbis are doing all these things, they  
8 supposedly have nonprofit organization, they  
9 don't exist.

10 And I went to -- in the court and I  
11 have everything documented to prove it, I'm  
12 not making up the story.

13 Then I saw I can do nothing in the  
14 state courts, I went to the federal courts  
15 and it's the same thing, I would like one  
16 thing, Senator Sampson, he was involved with  
17 my Defendants 14 years ago, he should ask  
18 them they should bring the arbitration  
19 contract.

20 A complete false and so many false  
21 documents, I just don't believe it happened,  
22 I can't do it.

23 SENATOR SAMPSON: I just want to keep  
24 you concentrated on where do you think the

1 misconduct or if any existed with respect to  
2 you, Ms. Weisshaus?

3 MS. WEISSHAUS: I am telling you why,  
4 because they don't like I speak up against  
5 them.

6 And I mean not only that they did to me  
7 personally and with my properties, each of  
8 my children has different problems with the  
9 rabbis.

10 They just want -- I lost two sons, one  
11 of them was killed by them and I mean there  
12 is a bunch of orthodox hoodlums, young  
13 people, they don't work, they make all kind  
14 of claims, and they live out of my work.

15 And they think -- they just think they  
16 can do this in this country because nobody  
17 wants to stop them.

18 They have their connections, the rabbis  
19 have some judges who are ruling in their  
20 favor, even it's against the Constitution,  
21 but why should they care about the  
22 Constitution if they don't care for the Ten  
23 Commandments.

24 Some of the rabbis have large deposits



1 in Switzerland, and I was the one who filed  
2 the lawsuit and they made me the victim and  
3 now they still, I know what happened in  
4 Switzerland, I was there three times, and I  
5 had all the documentation there and I worked  
6 for the whole case.

7 And I still became a victim because  
8 they don't want to have the truth out here.

9 So that's why I came here, I would like  
10 just to try to get an arbitration contract,  
11 it was translated by my partner, her  
12 son-in-law's uncle, a false translation,  
13 everything and I'm suffering and they took  
14 away everything I had. Due process that  
15 doesn't exist here.

16 I was a peasant when I came here, a  
17 factory, when I had a business, 25 years,  
18 making braiding there, and they remodeled  
19 and they took away -- the factory wasn't  
20 even in the question, only the building,  
21 they took the building, now somebody instead  
22 is modeling it, they put in \$8 million, the  
23 other one my partners took out a fraudulent  
24 mortgage for close to \$5 million, without

1 title insurance so I couldn't claim from the  
2 title insurance company, they told me we  
3 didn't do it, there is a lawyer by the name  
4 of Roy Cohen, whatever his name, he is doing  
5 it, I find him in many cases, they have  
6 their corrupt lawyers and they have their  
7 corrupt judges and the one of the lawyers  
8 who is falsifying the signatures of the  
9 lawyers, of the judges, he has stamps from  
10 the courts, even from the Second Circuit, he  
11 rules with the false stamps and I have to  
12 abide by them, what can I do?

13 If you go there, they just shut you up.

14 So that's why I want a little bit, if  
15 you are going to open up a little bit, the  
16 whole system is going to change.

17 SENATOR SAMPSON: Ms. Weisshaus,  
18 thank you very much.

19 I think your issue has always been the  
20 transparency and the accountability with  
21 respect to the judges and the attorneys.

22 MS. WEISSHAUS: Why did it take 12  
23 years? They didn't do anything, I have many  
24 complaints with the DDC, they just don't

1 care, not only not care, they always told me  
2 oh, they investigated and I have no claim.

3 SENATOR SAMPSON: I've got you, Ms.  
4 Weissshaus.

5 So I see your suggestions and that's  
6 something we are going to look very closely  
7 into what you're talking about, the  
8 disclosure and form and everything else.

9 MS. WEISSHAUS: The truth, the whole  
10 thing the scam will come out, they cannot do  
11 nonprofit organizations, collect money and  
12 when the money goes into their pockets, and  
13 one of the rabbis, I just went to the  
14 Supreme Court and they checked me and there  
15 is no such an organization.

16 SENATOR SAMPSON: Right, correct.  
17 All right, Ms. Weissshaus.

18 MS. WEISSHAUS: Thank you.

19 SENATOR SAMPSON: Thank you very  
20 much.

21 MS. WEISSHAUS: Thank you, and I hope  
22 you will help me and a lot of people.

23 SENATOR SAMPSON: Thank you, Ms.  
24 Weissshaus.

1 Eliot Bernstein. At this point in  
2 time, Mr. Bernstein. Hello Mr. Bernstein.

3 MR. BERNSTEIN: Yes, sir.

4 SENATOR SAMPSON: The last witness  
5 after that is Susan McCormack.

6 Mr. Bernstein.

7 MR. BERNSTEIN: Good afternoon, and  
8 thank you for allowing me time to tell my  
9 story today.

10 Before we start I did notice that Allen  
11 Friedberg was here from the disciplinary  
12 committee, I filed some complaints against  
13 him several months ago.

14 SENATOR SAMPSON: Mr. Friedberg, you  
15 are still here or you left?

16 MR. FRIEDBERG: Yes, I am here. Glad  
17 to meet you Senator.

18 MR. BERNSTEIN: I would like to see  
19 where the missing complaints against him and  
20 Mr. Reardon are, they were filled several  
21 months ago, there were procedures to this  
22 and they are not following those, so if you  
23 could maybe find out where the complaints  
24 are at this time that would be great.

1                   SENATOR SAMPSON:     You will take care  
2                   of that for me?

3                   MR. FRIEDBERG:     I didn't catch his  
4                   first name.

5                   MR. BERNSTEIN:     Elliot Bernstein. My  
6                   story involves widespread corruption in the  
7                   New York courts and New York investigatory  
8                   bodies that have utterly failed in their  
9                   civic duties to protect my rights and, in  
10                  fact, have become the actual nemesis that  
11                  blocks my rights.

12                  My name is Elliott Bernstein, I reside  
13                  in Boca Raton, Florida and I flew here to  
14                  New York for the first hearings on June 8th  
15                  and was prepared to testify when the coup  
16                  occurred.

17                  I have traveled here under medical  
18                  treatment programs to tell you about the  
19                  saga of my company as I view it and what has  
20                  earned the moniker patent-gate and its  
21                  relation to the Whistle Blower case of  
22                  Christine Anderson involving the New York  
23                  courts and the disciplinary.

24                  I remind all of you of the conflict of

1 interest disclosure forms I sent to this  
2 body and request that any and all conflicts  
3 be appropriately disclosed during the  
4 hearings or immediately hereafter.

5 I am a husband and a father of three  
6 beautiful children, boys, and I'm also an  
7 inventor of the iView technologies which  
8 involve video and image compression commonly  
9 referred to as mathematical scaling  
10 formulas, which are used on virtually all  
11 digital imaging and video devices.

12 For example the Hubbel space telescope,  
13 my personal favorite, providing views into  
14 the universe and time like never seen before  
15 using a technology that allows you to zoom  
16 on images without pixilation as it was  
17 commonly referred to prior to my solving for  
18 that.

19 The technologies are used by every  
20 internet service provider in the world that  
21 hosts a video, every computer that's playing  
22 a video, all digital television service  
23 providers use it.

24 A mass of defense applications such as

1 space and flight simulators use the  
2 technologies, medical imaging devices use  
3 the technologies, mapping programs, such as  
4 Google Earth, Google Maps, Google Street  
5 View all use my technologies; of course I'm  
6 not getting paid for any of this, by the  
7 way, and the reason for that is because I  
8 hired patent lawyers, and we will get into  
9 that.

10 My technologies are now the subject of  
11 a trillion dollar, yes, trillion dollar  
12 lawsuit in federal court here in New York  
13 State as a result of theft, fraud and other  
14 wrongful actions against my companies and  
15 myself including death threats and an  
16 attempted murder.

17 Yes, an attempted murder against my  
18 family by way of a car bombing of our family  
19 minivan in Boynton Beach, Florida, as my --  
20 not Iraq, mind you -- as my wife Candace and  
21 I were preparing to file papers against  
22 these same folks.

23 Thus please note the seriousness of my  
24 claims here, as attempted murder is a very

1           serious charge.

2                   Full pictorial evidence of the car  
3           bombing which was so strong it took out  
4           three cars next to it can be found at  
5           www.iviewtv.com.

6                   It should be noted that the crimes to  
7           steal my intellectual properties were  
8           committed by my trusted lawyers and  
9           accountants, whom were retained to protect  
10          my inventions and instead fraudulently filed  
11          my inventions in other's names, including  
12          the patent attorney's own name.

13                   One patent attorney putting 90 plus  
14          patents into his own name here in Yonkers,  
15          while retained by my company. During the  
16          time he was retained by my company.

17                   Yes, a patent attorney patenting his  
18          client's inventions in his own name would  
19          appear became more inventive than Edison  
20          after meeting me.

21                   You may think after hearing about a car  
22          bombing that safety is my number one  
23          concern, but it's not, bringing down the  
24          corruption that is infested --



1                   SENATOR SAMPSON:     Mr. Galishaw, we  
2                   are here, we don't need the cameras.

3                   I know you are videotaping everything,  
4                   but I don't think you need to have that  
5                   camera on those two gentleman, so.

6                   MR. GALLISON:       I am making a  
7                   documentary.

8                   SENATOR SAMPSON:     I know you are  
9                   making a documentary, but this is a hearing,  
10                  although it's open to the public, but we  
11                  want to continue with these hearings, all  
12                  right, Mr. Galishaw?

13                  MR. GALLISON:       Gallison. I do think  
14                  it's my right.

15                  SENATOR SAMPSON:     I know that, but I  
16                  have allowed you to do that for many, many  
17                  times.

18                  MR. GALLISON:       It's my right and you  
19                  have to allow me to do that.

20                  SENATOR SAMPSON:     I can understand  
21                  that.

22                  MR. GALLISON:       Exercising my rights.

23                  SENATOR SAMPSON:     I understand. I  
24                  don't want it to become a nuisance to the

1 people.

2 MR. GALLISON: They don't feel it,  
3 it's not a camera that shoots beams or  
4 anything, it just takes a picture and I am  
5 not capturing their souls.

6 THE AUDIENCE: If you would allow the  
7 man to continue documenting this hearing,  
8 he's not distracting anything he's quite --

9 SENATOR SAMPSON: Let me make it  
10 clear, there is no problem documenting  
11 because we are having it documented, but if  
12 you are documenting this hearing, yes, but  
13 if you are singling out individuals, I have  
14 a problem with you.

15 Okay? So that's my problem. So if you  
16 want me to.

17 MR. GALLISON: I am filming lots of  
18 people, Senator.

19 SENATOR SAMPSON: If you want me to  
20 continue having hearings and keep this  
21 matter open to the public, I will, but I  
22 won't settle for --

23 MR. GALLISON: Sir, with all respect,  
24 if I film these two gentlemen you will stop

1           having hearings, if I don't film the  
2           gentlemen you will continue having hearings?

3           SENATOR SAMPSON:       Yes.

4           MR. GALLISON:       Does anybody else find  
5           that strange and perhaps illegal?

6           I am allowing this, he should allow me  
7           my right.

8           MR. BERNSTEIN:       I have a limited time  
9           here.

10          MR. GALLISON:       I have enough of them,  
11          anyway.

12          SENATOR SAMPSON:     Thank you. Go  
13          ahead Mr. Bernstein.

14          MR. BERNSTEIN:       Again, I was saying  
15          you think a car bombing is the important  
16          thing to me in protecting my children, but  
17          it's not, what's really important is  
18          bringing down this disgusting corruption in  
19          the courts by lawyers, by judges and it's  
20          out of control at this point.

21          So my first priority is to pave the way  
22          for my children so that they don't have to  
23          pick up the battle and fight these, and I  
24          had a few words that just came to my head,

1 I'm glad I didn't say, but if we don't stop  
2 them it's going to be our kids stopping  
3 them.

4 THE AUDIENCE: It's going to get  
5 worse.

6 MR. BERNSTEIN: That's right, so let  
7 me continue on.

8 It should be noted here that  
9 information has surfaced from another  
10 Florida businessman, one of Florida's  
11 wealthiest individuals, a 70 year old, 70  
12 plus year old Monty Friedkin that these very  
13 same criminals disguised as lawyers from  
14 Proskauer and Foley Lardner had, in fact,  
15 pulled a similar attempted heist of his  
16 intellectual properties immediately prior to  
17 preying upon me and my companies, exhibiting  
18 an alleged criminal enterprise cloaked as  
19 law firms and lawyers stealing inventions  
20 from inventors.

21 This was the basis for my filing a RICO  
22 action against the entities comprising the  
23 criminal enterprise, as it was learned that  
24 several law firms and lawyers involved in

1 the Friedkin attempted theft and my own were  
2 working together.

3 Later it was learned that these  
4 powerfully connected law firms and lawyers  
5 had penetrated deep within the United States  
6 Patent Office and other government agencies  
7 and that part of the criminal enterprise  
8 operates to block due process of any victims  
9 that may challenge them infiltrating courts  
10 or investigatory agencies to block  
11 complaints against them, similar to what the  
12 Whistle Blower Christine Anderson has  
13 previously testified about regarding  
14 obstruction of justice for favored lawyers  
15 within the department, destruction of  
16 documents, threats, coercion, et cetera.

17 In fact, Anderson, my hero, in her  
18 original complaints mentions the Iviewit  
19 companies in her original lawsuit filing as  
20 one of the reasons leading to physical abuse  
21 and other crimes against her.

22 In fact, my federal trillion dollar  
23 lawsuit was marked legally related by  
24 federal -- federal whistle blower case

1 Anderson who worked as the principal  
2 attorney at the Departmental Disciplinary  
3 Committee, as you should be aware the  
4 Anderson whistle blower case has been slated  
5 for a public trial currently slated for  
6 October 13th.

7 Multiple attorneys regulated by the  
8 courts of New York and specifically the New  
9 York First Department have been involved in  
10 the Iviewit matters for nearly 10 years.

11 Going back to 1998 when my technologies  
12 were first being tested, used and in the  
13 process of securing patents and related  
14 intellectual property rights to protect  
15 them, the technologies were tested and used  
16 at Real 3D labs located on Lockheed Martin  
17 property in Orlando, Florida, Real 3D at the  
18 time was owned by Lockheed, the Intel  
19 Corporation and Silicon Graphics, it should  
20 be noted here that Lockheed is the largest  
21 purveyor of digital imaging and video  
22 technologies on the planet earth.

23 Leading engineers in Real 3D who tested  
24 and used my technologies deemed them

1 priceless, while other experts in the  
2 industry called them the Holy Grail of the  
3 internet, including favorable comments from  
4 Hassan Mia, an industry recognized expert at  
5 the CAA Intel Multimedia Labs, which took  
6 the internet from a text based medium to one  
7 with rich multimedia where previously --  
8 which previously was only banner adds and  
9 very small grainy images.

10 Video really didn't exist in any usable  
11 form for internet applications, due to the  
12 bandwidth limitations.

13 The inventions were backbone in nature  
14 by providing the mathematical formula that  
15 permitted scaling and compression of video  
16 and solving for pixel distortion, and also  
17 simultaneously reduced bandwidth usages by  
18 75 percent.

19 Now, please just think for a moment  
20 that 10 years ago the technologies created a  
21 75 percent increase in available bandwidth  
22 for transmission across the internet and  
23 television, which allowed the video to be  
24 streamed or downloaded at full stream full

1 frame rate capabilities commonly found today  
2 on every website and due to the ability to  
3 transmit using the technologies at much  
4 lower bandwidths, the technologies opened the  
5 door for markets entirely new such as  
6 internet video, cell phone videos and video  
7 conferences systems through the internet  
8 prior thought impossible.

9 As for the effect the technology has  
10 had on television, for example, the  
11 bandwidth savings from scaling video from  
12 the prior interlacing methods used since the  
13 invention of television, essentially  
14 permitted 75 percent more channels for  
15 content distribution on television, and I'm  
16 sure all of you can remember about 10 years  
17 ago your channel bandwidth went up and your  
18 cable channels increased dramatically.

19 That was due to the inventions.  
20 Therefore you have more Yankee games, more  
21 DVD channels.

22 SENATOR SAMPSON: So you are the man  
23 responsible for all of that?

24 MR. BERNSTEIN: I am. I am the man



1 responsible, but not getting paid yet, but  
2 that -- we are working on that here.

3 Let me skip, I know you guys are in a  
4 time frame, the technology is used on  
5 everything, we already went through all of  
6 that. Enter Proskauer Rose, the law firm.

7 SENATOR SAMPSON: Used to work for  
8 them, disclaimer. I used to work for them.

9 MR. BERNSTEIN: Yes, I understand,  
10 and I appreciate your up front honesty and  
11 disclosure with that by the way, that's a  
12 sign that's missing in the legal profession  
13 today.

14 The conflicts of interest that are  
15 rampant in my case will blow you away here.

16 This is some stuff, we find the head of  
17 the New York State Bar at one point, former,  
18 Stephen Crane, handling complaints against  
19 himself at the first department DDC while  
20 he's an officer in the DDC.

21 With Tom Cahill covering it up and  
22 thank God for another hero in this world,  
23 well Catherine O'Hagan Wolfe, she exposed  
24 it.

1           She told me when she caught them lying  
2           and playing these games to go file a  
3           complaint with the First Department. I'll  
4           get that out in a moment.

5           Let me get back to Proskauer, quickly  
6           on the scene in Boca at the invention time  
7           was Proskauer Rose to patent the  
8           technologies.

9           Now, they didn't have a patent division  
10          at the time, but they didn't tell me that.

11          They told me they were going back to  
12          New York to check with their, you know, New  
13          York offices if they could secure patents  
14          for me.

15          What they did, for example, it was  
16          represented to the Iviewit company initially  
17          that attorney Kenneth Rubinstein was a  
18          Proskauer partner.

19          To the contrary, reports showed  
20          Rubinstein was at the law firm Meltzer Lippe  
21          on Long Island at the time, one of the many  
22          named Defendants in my trillion dollar RICO  
23          antitrust suit.

24                 SENATOR SAMPSON:         What's the status

1 of that RICO case?

2 MR. BERNSTEIN: It's at the Second  
3 Circuit.

4 SENATOR SAMPSON: So just -- Mr.  
5 Nieves, this is light we don't want to be in  
6 darkness.

7 So what I want to find out, just  
8 getting what you said is the misconduct that  
9 was initiated by your attorneys, and since  
10 that period of time you have made complaints  
11 to the disciplinary committee with respect  
12 to these attorneys?

13 MR. BERNSTEIN: Oh, absolutely.

14 SENATOR SAMPSON: What has happened?

15 MR. BERNSTEIN: Depends on what  
16 you're talking about, at the Federal Patent  
17 Bar they are under investigation.

18 In the New York courts they got letters  
19 of recommendation.

20 I don't know if that explains the  
21 difference of what's going on here, but  
22 under the same information that was  
23 presented to Harian Moats, who is the  
24 director of the Office of Enrollment and

1           Discipline, which oversights Patent Bar  
2           attorneys, when he looked at the damning  
3           information such as patents in wrong  
4           people's names and the lawyers hang out  
5           intellectual property docket to Wachovia  
6           Bank and a host of other investors, that  
7           were patently false and didn't match up with  
8           the documents on file at the patent office,  
9           in fact on some patents that they had listed  
10          as my patents I can't even get access to the  
11          information right now on those patents  
12          because they weren't filed in my name, I'm  
13          not the owner, I'm not the inventor and I'm  
14          not the assignee.

15                 So Mr. Moats has directed me to take up  
16          action with Diane Feinstein, which I have,  
17          and to get those patents released to me so  
18          we can change the inventors, but because of  
19          privacy laws I'm blocked right now, so we  
20          need an Act of Congress to change that, and  
21          hopefully you can help me get that, Diane  
22          Feinstein has been working on it and has  
23          contacted several of the federal  
24          authorities.

1           Federal authorities, the FBI, well the  
2 case investigator appears missing at this  
3 time with my files, according to the FBI,  
4 I'm only allowed to talk to the OPR of the  
5 NBI, Glenn Fein has referred me, are you  
6 familiar with Mr. Fein? The Inspector  
7 General of the Department of Justice.

8           SENATOR SAMPSON:       Yes.

9           MR. BERNSTEIN:       So other agencies are  
10 -- other than he's missing, which seems a  
11 little hokey to me, I don't think he  
12 actually is missing with car bombing  
13 filings, and it was my understanding that he  
14 was going to Washington to work with Mr.  
15 Moats, who confirmed that the FBI was  
16 joining him on an investigation of lawyers  
17 who are committing fraud upon the United  
18 States patent office.

19           That's a heavy crime, it's not just  
20 fraud against Eliot Bernstein and his family  
21 and shareholders, it's a crime against the  
22 United States by these lawyers.

23           And penetrating the Patent Office is  
24 the end of free commerce in America if they

1 are successful at it.

2 In fact, the attorney that we were  
3 talking about from Proskauer, Kenneth  
4 Rubinstein, has created a patent pool, an  
5 anti-competitive monopolistic patent pool  
6 which has stolen my technologies commonly  
7 referred to as MPEG.

8 Mr. Rubinstein, while acting as my  
9 counsel, first he was mis- -- let me get  
10 back to my statement, because it will help  
11 right here.

12 It turns out Kenneth Rubinstein was an  
13 attorney admitted and regulated by the New  
14 York First Department, he was simultaneously  
15 involved with MPEG's patent pool that he was  
16 acting as in-house counsel for and was one  
17 of the founders of, while advising Iviewit  
18 companies on their intellectual properties  
19 as retained patent counsel which posed a  
20 competitive threat to his pools.

21 My technologies, in fact, it might have  
22 extincted the MPEGLA technologies, and so  
23 Rubenstein, Proskauer and Meltzer failed to  
24 put up any Chinese wall to protect me and

1           instead did the exact opposite and allowed  
2           MPEG to use my IP for their benefit while  
3           using anti-competitive monopolistic  
4           practices to eliminate the inventors, like  
5           myself.

6                        No wonder the Justice Department has  
7           historically broken up patent pooling  
8           schemes using antitrust regulations, as this  
9           form of pooling works to deny ma and pa  
10          inventors of their rights and in the past  
11          there have even been allegations that  
12          pooling schemes actually are in the business  
13          of murdering inventors, to steal their  
14          inventions or other such heinous crimes.

15                       Rubinstein, though, was initially  
16          misrepresented as a Proskauer partner, once  
17          we discovered through investors I believe  
18          from Goldman Sachs that he was with Meltzer  
19          instead, Proskauer quickly purchased or  
20          acquired Rubinstein and the entire Meltzer  
21          department except Rayjoa, the guy who put  
22          the 90 patents in his name and when they  
23          acquired Rubinstein, they acquired control  
24          of the MPEG patent pool.

1                   So now my lawyers are controlling a  
2                   patent pool that is stealing my technology  
3                   and they are profiting from it.

4                   SENATOR SAMPSON:       Just to wrap it up,  
5                   Mr. Bernstein --

6                   MR. BERNSTEIN:       This year?

7                   SENATOR SAMPSON:       No, right now. The  
8                   impending litigation, you have made  
9                   complaints, rest assured you don't think the  
10                  complaints have been thoroughly followed  
11                  through.

12                  MR. BERNSTEIN:       No, I think Christine  
13                  Anderson is right, threw them in the  
14                  garbage, threatened her, then beat her up to  
15                  shut up about it.

16                  That's what I really think, but if you  
17                  want to get into how this relates to the  
18                  Bernard Madoff scandal, the Mark Dreier  
19                  scandal and all of these massive financial  
20                  scandals you should let me continue, because  
21                  it also -- what these guys at the First  
22                  Department are doing by -- I'm now suing the  
23                  First Department, you know, 4,700 lawyers, a  
24                  few judges a few Supreme Courts, a whole lot



1 of people involved in it, but what these  
2 clowns back here are doing to you is they  
3 are putting this state at a \$1 trillion plus  
4 liability, and I don't think any of them are  
5 properly reporting the liabilities to state  
6 auditors and regulators and you are going to  
7 have a Madoff times 10,000 occur as  
8 liability to the State of New York, all  
9 because these guys are failing their duties.

10 I mean the bar should be a drinking  
11 establishment, that's fine. You wanted a  
12 suggestion, I'm going to make a suggestion.

13 I don't know what in God's name these  
14 lawyers and you are a lawyer so I think you  
15 will understand what I'm about to say,  
16 blowup the Bar Association in the literal  
17 sense.

18 Destroy it and then make every single  
19 violation of an attorney ethic or a judicial  
20 canon, or whatever you want to call these,  
21 violations of law, then send in some  
22 investigator who hates lawyers to  
23 investigate the lawyers.

24 And then prosecute them to the fullest

1 extent of the law, because I don't know who  
2 these people think they are, but they are --  
3 I pay their salaries and in situations like  
4 this I would fire them.

5 They all should be fired and imprisoned  
6 for the nonsense they have been pulling.

7 I will let you go, I'll submit the  
8 rest.

9 SENATOR SAMPSON: Thank you very  
10 much, Mr. Bernstein. All right. Ladies and  
11 gentlemen, ladies and gentlemen, let's have  
12 some sense of decorum in here, please,  
13 please, please.

14 Please. Last person, Susan McCormick,  
15 Ms. McCormick, you are the last person for  
16 the day.

17 Thank you very much. Squeezed you in,  
18 you have five minutes thank you very much  
19 Ms. McCormick.

20 MS. McCORMICK: Thank you Senator.

21 I have my assistant with me, Patrick  
22 Handley, he's done a lot of research on this  
23 case, I will try to make it very brief.

24 This is a tragedy that has involved my

1 late husband's estate who died 21 years ago.

2 It was a sizable estate. My husband's  
3 wishes in his will were simply not carried  
4 out for many reasons, but briefly I will try  
5 to give you my grievances and a couple of  
6 major points in a short time.

7 I trusted Bankers Trust Company and the  
8 law firm of White & Case since they wined  
9 and dined my husband and myself many times  
10 and filed into our home to discuss the will.

11 You can imagine how I trusted them. I  
12 am a widow, main beneficiary, Executrix and  
13 I might add a concert pianist, Steinway  
14 artist, trying to build a career.

15 I emphasize pianist because it was a  
16 large part of my life.

17 After performing in Atlanta, Georgia  
18 one year after my husband's death, I was  
19 invited by -- by Eberhardt Shabnaski to  
20 perform on a tour in Georgia, Russia  
21 representing the United States, and a film  
22 was made of this tour.

23 I accepted and that's when Bankers  
24 Trust Company and White & Case schemed

1 behind closed doors since I wasn't present.

2 A year later I was invited again to  
3 make a world tour performing for heads of  
4 countries in Europe and North Africa with  
5 former President Jimmy Carter and his wife,  
6 Roslyn, as a representative for the United  
7 States.

8 I then had to regretfully turn it down  
9 because I saw what schemes were going on in  
10 the estate.

11 In 1996 we went to a friend of my  
12 husband's, Ralph Martinelli, who publishes  
13 newspapers in Westchester County, he spoke  
14 to Surrogate Judge Albert Emanuelli about the  
15 my McCormick estate who reviewed the file  
16 and told the publisher two major points were  
17 wrong, at that time the file was one inch  
18 thick, now it's hundreds of boxes.

19 The first point that I want to make was  
20 that White & Case the purported estate  
21 attorney after the permanent Letters  
22 Testamentary were issued filed a petition  
23 for repayment of a loan owed to Bankers  
24 Trust Company by my husband.

1           Judge Emanuelli said once White & Case  
2           said that they represented Bankers Trust,  
3           not the estate, could not represent the  
4           estate.

5           White & Case never revealed this fact  
6           to me as a legal Executrix.

7           In May 1995 the illegal Executor,  
8           Bankers Trust Company, engineered the  
9           payment of \$250,000 to their law firm, White  
10          & Case, as legal fees, to which I objected.

11          Now the second point the judge would  
12          not reveal to Mr. Martinelli who said if you  
13          would not reveal the second point he would  
14          oppose him when he ran for re-election in  
15          his papers.

16          Judge Emanuelli offered Mr. Martinelli  
17          legal adds which Mr. Martinelli flatly  
18          refused. Emanuelli lost the election.

19          Now the second point, if you remember  
20          in all our courts, it's in God we Trust.

21          Where do we see that? Yes, in the  
22          courtrooms. I believe God was with me and  
23          is with me, when we accidentally in early  
24          2004, came across the original of the

1 permanent Letters Testamentary dated January  
2 25, 1989.

3 For my husband's estate, they listed  
4 Bankers Trust Company of New York as the  
5 corporate fiduciary.

6 New York State bankings records reveal  
7 that there was no Bankers Trust Company of  
8 New York in existence until more than 10  
9 years later on September 7, 1999.

10 This is the second point that Judge  
11 Emanuelli would not review.

12 The court records have been changed,  
13 but they cannot change the permanent Letters  
14 Testamentary.

15 Bankers Trust Company, Deutsche Bank  
16 has no legal standing but with the help of  
17 their attorneys they continue like a rogue  
18 drunken elephant to violate me.

19 When judge Anthony Scarpino of  
20 Westchester Surrogates Court became  
21 surrogate in 2001, we discovered he had  
22 worked for Bankers Trust Company in the  
23 past.

24 But even though we had requested that

1 he disqualify or recuse himself, he would  
2 not until more than two years later.

3 Due to the fact that I had a front page  
4 news article regarding this matter in one of  
5 our major newspapers in New York.

6 After Judge Scarpino's recusal, my case  
7 was transferred to Dutchess County, papers  
8 were filed to deal with Bankers Trust  
9 Company, Deutsche Bank and they have been  
10 sitting for five years with no action by the  
11 court.

12 The bank is currently represented by  
13 the law firm of Pillsbury Winthrop.

14 I have openly picketed and I have  
15 protested about what was going on to educate  
16 people about our whole corrupt judicial  
17 system and the dirty players.

18 The third point, on June 4, 1999,  
19 Deutsche Bank purchased Bankers Trust  
20 Company.

21 On July 26, 1999 it was sentenced,  
22 convicted of three felonies in the Southern  
23 District of New York.

24 As you know, a felon cannot serve as a

1           fiduciary.

2                   SENATOR SAMPSON:       That's right.

3                   MS. MCCORMICK:   We now know the bank  
4                   and their attorneys repeatedly desperately  
5                   petitioned to obtain a certificate of relief  
6                   from disabilities simultaneously with the  
7                   conviction, however the Parole Board issued  
8                   one more than four months later in December  
9                   1999.

10                   So, you see they had no certificate of  
11                   relief for over four months.

12                   I sent a representative to Germany  
13                   twice to attend the Deutsche Bank  
14                   shareholding meeting and offered a  
15                   shareholders proposal, he was closely  
16                   monitored and in spite of my good faith no  
17                   results were forthcoming.

18                   Recent media reports revealed that  
19                   Deutsche Bank spied on activist stockholders  
20                   and others.

21                   Remember through all these years to the  
22                   present day I received no money from the  
23                   residual estate part B, and did not get my  
24                   full legacy which my husband stated I was to



1 receive immediately after his death.

2 SENATOR SAMPSON: So, Ms. McCormick,  
3 basically have you been able to obtain  
4 anything from the estate, or nothing at all?

5 MS. McCORMICK: No, it was in two  
6 parts, one was an outright gift from my  
7 husband, my house, and our paintings. That  
8 was given to me.

9 After three years I finally asked them,  
10 I said I didn't get the deeds to my house.

11 And then there was a part B.

12 SENATOR SAMPSON: This is in  
13 Westchester County?

14 MS. McCORMICK: Yes, Emanuelli and  
15 Scarpino.

16 Then the other parts of it, the  
17 residual estate consisted of stocks and  
18 bonds, buildings my husband owned, it was a  
19 sizable estate, I got nothing from that.

20 SENATOR SAMPSON: Is the estate still  
21 active, or what you are saying is all these  
22 assets in the estate have been pilfered?

23 MS. McCORMICK: It's still active.

24 SENATOR SAMPSON: So those assets are

1 still within the estate?

2 MS. McCORMICK: They have been  
3 depleted, yes.

4 SENATOR SAMPSON: When you say  
5 depleted, depleted by whom?

6 MS. McCORMICK: I guess the bank, I can  
7 go on here, I have had four sets of  
8 attorneys who never discovered the Letters  
9 Testamentary, possibly because they did not  
10 want to embarrass any judge, the bank or  
11 fellow attorneys.

12 SENATOR SAMPSON: No, I understand  
13 that, but I don't -- I just want you to  
14 explain to me, I can read your statement,  
15 but I want you to --

16 MS. McCORMICK: If we get into that  
17 then you can speak two weeks about this  
18 thing, all the dirty things they did, how  
19 they get rid of buildings.

20 SENATOR SAMPSON: What I want to know  
21 is when you found all this out, where did  
22 you go to complain or make complaints so the  
23 investigations can be done?

24 MS. McCORMICK: I filed two complaints

1 with the first department disciplinary  
2 committee that went nowhere, and I will be  
3 filing a third one shortly and we will see.

4 SENATOR SAMPSON: When you say didn't  
5 go anywhere, you got back a notice saying?

6 MS. McCORMICK: Never heard.

7 SENATOR SAMPSON: Never heard or did  
8 you get anything back in writing saying that  
9 they investigated and they discovered  
10 nothing?

11 MS. McCORMICK: You answer that.

12 MR. HANDLEY: Senator, the first  
13 complaint was filed in 1998 or 1999 and  
14 basically they said we got a post card then  
15 we got a letter approximately six months  
16 later indicating that there was nothing they  
17 were investigating.

18 The second complaint, well documented,  
19 was filed in 2005 and we received nothing  
20 and it fell into a black hole.

21 SENATOR SAMPSON: Was there any  
22 accounting of the assets and how they were  
23 depleted and who were they depleted by?

24 MS. McCORMICK: There was an accounting

1 finally in 1996, seven years later when I  
2 started picketing, protesting.

3 SENATOR SAMPSON: When you started  
4 out what was the --

5 MS. McCORMICK: I didn't sign the  
6 accounting, it was bogus.

7 SENATOR SAMPSON: Initially what did  
8 you think the estate was worth and when you  
9 got that bogus accounting where was it at  
10 that time?

11 MS. McCORMICK: Initially one of the  
12 attorneys told the children that it was \$43  
13 million.

14 SENATOR SAMPSON: Right.

15 MS. McCORMICK: Then it went down  
16 gradually and they wrote it in at the IRS  
17 for \$17 million.

18 SENATOR SAMPSON: Oh.

19 MS. McCORMICK: And currently it's  
20 about \$1 million or half a million, I don't  
21 know.

22 SENATOR SAMPSON: Currently?

23 MS. McCORMICK: They have some money  
24 there, but they don't ever -- they haven't

1 done anything for five years.

2 SENATOR SAMPSON: When you say  
3 haven't done who do you mean?

4 MS. McCORMICK: Since it was  
5 transferred to Dutchess County, my lawyer  
6 had put in a motion, I guess, and it was  
7 never answered.

8 SENATOR SAMPSON: So the complaints  
9 you have filed with the First Department the  
10 disciplinary in the first department, I know  
11 the first one you indicated there was no  
12 action, were there subsequent complaints  
13 filed?

14 MR. HANDLEY: Yes, Senator, there was  
15 a second complaint filed, as I said in 2005.

16 SENATOR SAMPSON: What happened to  
17 that complaint?

18 MR. HANDLEY: We never got any  
19 indication.

20 SENATOR SAMPSON: When you say no  
21 indication, did you get any correspondence  
22 back from them?

23 MR. HANDLEY: Negative, sir.

24 SENATOR SAMPSON: You got no

1                   correspondence?

2                   MR. HANDLEY:       Negative.

3                   SENATOR SAMPSON:    None whatsoever?

4                   MR. HANDLEY:        When we tried to find  
5                   out by telephone they declined any  
6                   acknowledgment at all.

7                   SENATOR SAMPSON:    Do you know who you  
8                   spoke to or in communication with?

9                   MR. HANDLEY:        We have to go back and  
10                  look at the records.

11                  SENATOR SAMPSON:    I need you to go  
12                  back, I need you to get me that information  
13                  so I can go directly to the First  
14                  Department.

15                  THE AUDIENCE:     Its the 9th Judicial  
16                  District.

17                  MR. HANDLEY:        First Department we  
18                  filed with the First Department.

19                  SENATOR SAMPSON:    They filed with the  
20                  First Department.

21                  MR. HANDLEY:        Because the First  
22                  Department was where the attorneys were and  
23                  then in addition to that that's part of  
24                  what--



1 have so then this is what I do the hearings  
2 for, so I can follow-up with those agencies  
3 or those departments to find out.

4 MR. HANDLEY: Mrs. McCormick is  
5 currently suing them in federal court,  
6 that's part of the related case to Christine  
7 --

8 SENATOR SAMPSON: Whatever  
9 information you can provide me, Ms.  
10 McCormick, I would like it so I can  
11 follow-up.

12 MS. McCORMICK: Do you want me just to  
13 finish my lines here?

14 SENATOR SAMPSON: There is no need  
15 for you to finish your lines, but I want you  
16 to get into the gist of it and what would  
17 you like this committee to do or what would  
18 you like to come out of this?

19 MS. McCORMICK: Well, I think that I  
20 should be made whole, I have gone through  
21 hell, they have ruined my music world, my  
22 art world, they have ruined my whole life,  
23 they can't give me 20 years of my life back,  
24 can they? And they can't give me my career



1 back.

2 So I have gone through hell and I have  
3 picketed and protested because I want people  
4 to know -- I hope another widow doesn't go  
5 through the hell that I'm going through and  
6 what I've gone through and how they try to  
7 sanction you and do everything they can  
8 against you, take your houses, they  
9 threatened me, they would take all my  
10 possessions, whatever house, my house, I  
11 have a co-op in Florida that my husband left  
12 me, that was flooded, they did things to me,  
13 when you say they have spies, I don't know  
14 what they are doing to me, but it's a  
15 question.

16 SENATOR SAMPSON: So, Ms. McCormick,  
17 if you can get me that information as  
18 quickly as possible.

19 MS. MCCORMICK: I will be either  
20 writing a book or I'll perhaps it could be a  
21 movie, I'm going to do something about  
22 making this public.

23 SENATOR SAMPSON: No, no, and I think  
24 that's what the hearings have been to try to

1           make these issues public, but I need the  
2           information that you have, it will be great  
3           so I can follow-up in my own regard, because  
4           you are not the only one, I heard a lot,  
5           quite a few things about accounting and  
6           other things in the Surrogates Court, so I  
7           would love to follow-up with that, okay Ms.  
8           McCormick?

9           MS. MCCORMICK:   Thank you very much.

10          SENATOR SAMPSON:   I just want to I  
11          see hands raised, I know why are we raising  
12          hands?

13          THE AUDIENCE:       Because we had a list  
14          for everybody and I am at the end of the  
15          list.

16          Last time you said you would talk to me  
17          afterward, then when I spoke to Tim he told  
18          me I was on the list and then for some  
19          reason I wasn't on the list.

20          MS. LASHLEY:       That's not true.  I  
21          have spoken to Tim at length and the list of  
22          the name of individuals we had X amount of  
23          slots that were available, we gave priority  
24          to the individuals that were -- I don't know

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where you were on the list.

SENATOR SAMPSON: Hold on, hold on.

I have -- it's 3:20, I've got to end this hearing okay.

THE AUDIENCE: Is there another hearing, Senator?

SENATOR SAMPSON: This is not the last hearing, there will be other hearings.

This is just a hearing for today, there will be an additional hearing.

THE AUDIENCE: Can we have further notice when the hearings --

SENATOR SAMPSON: You will have further notice. Mr. Spotts will notify everybody.

We are looking to have a hearing hopefully somebody next month to finish up everything, this is not the last hearing, the next one will be the last one here in New York since we got a tremendous crowd.

THE AUDIENCE: Senator, this morning you mentioned formation of a task force.

SENATOR SAMPSON: By the time you come back the next time we will have that

1 task force.

2 THE AUDIENCE: How do we get the  
3 information?

4 SENATOR SAMPSON: It's on the  
5 websites, we send out public notices, so  
6 those who want to testify at the next  
7 hearing just, Sakeeya, if you can get a list  
8 of those individuals, she'll put the list  
9 down and we will make sure the next hearing  
10 will hopefully be here at the end of next  
11 month.

12 THE AUDIENCE: Senator Sampson, did  
13 you say you saying the task force will be up  
14 and running by the time --

15 SENATOR SAMPSON: By the time we get  
16 here next month we will have the parameters  
17 of the task force.

18 Sakeeya will take the information for  
19 the next hearing, we are going -- listen to  
20 me, we are going to get the information if  
21 you have any testimony written testimony,  
22 whatever it is, if you just set is it right  
23 here, Lisa will make sure she gets it.

24 THE AUDIENCE: Could I just put it on

1 record of tomorrow's news of a decision  
2 that's already been made weeks ago?

3 SENATOR SAMPSON: We understand.

4 THE AUDIENCE: That hasn't even been  
5 heard yet.

6 SENATOR SAMPSON: Everybody, this is  
7 a very tough crowd just leave the  
8 documentation, I will follow in the next  
9 hearing; thank you.

10 (Time noted 3:22)

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NEW YORK STATE SENATE  
STANDING COMMITTEE ON JUDICIARY

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PUBLIC HEARING IN THE MATTER OF  
AN EXAMINATION OF THE JUDICIAL DISCIPLINARY PROCESS  
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Senate Hearing Room  
250 Broadway  
19th Floor  
New York, N.Y.

September 24, 2009  
Thursday  
10 a.m.

BEFORE:           Senator John Sampson  
                    Chair  
                    Judiciary Committee

                    Senator Bill Perkins  
                    Chair  
                    Corporations, Authorities & Commissions

                    Senator George D. Maziarz

                    Senator Eric Adams

                    Senator Ruben Diaz

OTHER STAFF MEMBERS:

                    Shelly Mayer  
                    Majority Counsel

                    Lisa Lashley  
                    Counsel

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1 P R O C E E D I N G S

2 SENATOR SAMPSON: I want to say good  
3 morning to everyone, and I apologize for  
4 being late. There is traffic in New York  
5 City, blame it on the President and all the  
6 other heads of State coming in.

7 THE AUDIENCE: You can be late any  
8 time.

9 SENATOR SAMPSON: No, I can't be. My  
10 colleague would always say the Senate  
11 Democrats we are instilling discipline and  
12 in order to be an effective legislature we  
13 need to be disciplined, and that not only  
14 requires us to be on time, but most of all  
15 to pass legislation that is reflective of  
16 the issues and the core values of the People  
17 of the State of New York.

18 I want to thank you all for coming here  
19 this morning. I see my counsel, Shelly Mayer  
20 back there, Shelly, Shelly Mayer, that's  
21 majority counsel, I see Lisa Lashley she was  
22 somewhere out there, Lisa is my counsel and  
23 all my other staff people are here.

24 But first of all I want to thank you,



1 and this meeting is the second in a series  
2 of oversight hearings for New York's system  
3 of investigating and adjudicating complaints  
4 against lawyers and judges.

5 The Judiciary Committee's first hearing  
6 on this subject was held in June and we  
7 heard from a number of witnesses, but  
8 unfortunately we were not able to get to all  
9 of those witnesses who wished to be heard.

10 That was the day we had the coup, but  
11 rest assured we are all coupd out, so don't  
12 worry about a coup today. We are not in  
13 session so you don't have to worry about a  
14 coup.

15 At the previous hearing we heard from  
16 the commission on judicial conduct, the  
17 Fourth Appellate Division lawyer grievance  
18 committees and various judges, attorneys and  
19 citizens touched by this important issue.

20 Representatives from the commission and  
21 the grievance committee are here with us  
22 today in case questions arise, they will not  
23 be testifying directly since they already  
24 participated in the June 8th hearing.

1                   We are here today to continue this  
2                   inquiry in New York City, recognizing that  
3                   this issue is one of statewide importance to  
4                   the practice of law and the integrity of our  
5                   judicial system, particularly here in this  
6                   global capitol of law, commerce and finance.

7                   It is vital to New York City's economy  
8                   and continual leadership in these fields  
9                   that the organized Bars, clients ranging in  
10                  size from leading corporations to small  
11                  businesses and individual families and the  
12                  public have the utmost confidence that we  
13                  hold lawyers, we hold judges to the highest  
14                  standard of competency and integrity.

15                  Because at the end of the day -- thank  
16                  you very much.

17                  Because this commission on judicial  
18                  conduct and attorney grievances are our  
19                  quality control system it is fitting that we  
20                  continue these oversight hearings to ensure  
21                  that the system works as it should.

22                  And to give the public, to give the  
23                  public a meaningful voice in guaranteeing  
24                  the fairness, equality and diligence of the

1 disciplinary process.

2 At this point in time I would like my  
3 colleague, Senator Adams, to say a few words  
4 before we kick this hearing off.

5 Senator Adams.

6 SENATOR ADAMS: Thank you, Chair  
7 Sampson.

8 I think this is important because  
9 countless number of men and women who come  
10 before our criminal justice process, as a  
11 retired Captain in the New York City Police  
12 Department, I am clear on how intimidating  
13 the system can be to the every day public,  
14 and these hearings will allow us to come up  
15 with an effective legislation to make sure  
16 that when an individual enters the courtroom  
17 he receives the necessary justice and  
18 jurisprudence to make sure their cases are  
19 heard.

20 I think now it's time to hear from the  
21 public on what we need to do, and I would  
22 like to turn it back over to the Chairman  
23 Sampson to start the hearings.

24 SENATOR SAMPSON: Thank you very much

1 and good morning, and I think the first  
2 person Richard Kuse of New City, New City,  
3 are you here?

4 The process is you have ten minutes.

5 MR. KUSE: Ten minutes like the last  
6 time, or a California ten minutes?

7 SENATOR SAMPSON: No, it's going to  
8 be a New York City 10 minutes, not an Albany  
9 ten minutes, New York City ten minutes.

10 So the clock is running.

11 MR. KUSE: Thank you very much,  
12 Senator Sampson, I appreciate your integrity  
13 and Mr. Adams' integrity.

14 I would like to start off by quoting  
15 Mrs. Carvel who at the June 8th hearings who  
16 said that the Surrogates Court System of the  
17 State of New York was a criminal enterprise,  
18 or she said it was a criminal empire, either  
19 one would be correct.

20 I believe that she had obviously lost  
21 \$100 million dollars or \$150 million when  
22 somebody looted her estate.

23 I believe additionally hundreds of  
24 millions of dollars, if not more, are being

1 drained from the economy of the State of New  
2 York and from the People of the State of New  
3 York and I detect an emphasis on taking the  
4 homes and property of black families in the  
5 State of New York on top of it.

6 I would like to also invoke Catherine  
7 Wilson, the investigative reporter, super  
8 accountant par excellence from the  
9 Westchester Guardian, and I would like to  
10 invoke the New York State Whistle Blower's  
11 Law on what we can reveal would save the  
12 State of New York probably hundreds of  
13 millions of dollars in stolen assets, or  
14 routed assets from the honest and legitimate  
15 families of the State of New York.

16 Presently at this time, at this moment,  
17 part of a group of forgers are living in a  
18 home paid for from money looted from my  
19 agent uncle's bank accounts before his  
20 death.

21 In addition, my aunt Genevive Corrigan,  
22 who is still alive at 99 years old, bless  
23 her little heart, had her trust fund looted  
24 which was contained within my uncle's Will,

1 a Will that was proven to be a forgery.

2 And an uncontested forgery at that.

3 And she would like her trust fund returned  
4 before she dies, she's 99 years old at this  
5 moment.

6 SENATOR SAMPSON: Who looted the  
7 trust fund?

8 MR. KUSE: I don't want to say at  
9 this point. It's apparent in my paperwork  
10 that I have given to you.

11 SENATOR SAMPSON: Okay.

12 MR. KUSE: My uncle died in December  
13 of 1999. When we finally got a copy of my  
14 uncle's Will it was noted that my -- it was  
15 not the Will that my mother remembered.

16 My mother is the sister of Charles  
17 Maxwell. When we looked at the Will, we saw  
18 that my uncle had made a glaring error to  
19 the Will, he made his dead mother an  
20 Executor to his will.

21 She died 30 years before, he paid for  
22 the funeral, he was at the funeral, okay?  
23 He did not make a mistake in the Will.

24 Our family knew my uncle was a very

1 exacting man who would have never made such  
2 a glaring error, we could not understand why  
3 the Surrogates Court Judge insisted over our  
4 protest that he knew our uncle better than  
5 we did, and insisted that the glaring error  
6 was a common error of my uncle.

7 Really? I don't think so. We could  
8 not understand why the judge and the lawyers  
9 were in such a rush to fast track my uncle's  
10 Will through his court.

11 We could also not understand why the  
12 judge kept allowing the opposing law firm to  
13 resist and break years of the judge's own  
14 court orders to provide an estate  
15 accounting. To this day we don't have an  
16 estate accounting.

17 Mrs. Catherine Wilson, a forensic  
18 accountant of superior grade, who worked for  
19 the Rockefeller family, said you couldn't  
20 make heads or tails of what they gave us.

21 During this time, during the time of a  
22 deposition the opposing lawyers gleefully  
23 pronounced that they had created my uncle's  
24 Will, with the glaring error in the Will and

1 the rush to push it through the court, the  
2 refusal to comply with court orders by the  
3 attorneys to account for the estate assets,  
4 a national forgery expert was hired by  
5 myself.

6 To our shock the will turned out to be  
7 a stone cold forgery.

8 Now it becomes apparent the reason  
9 behind the glaring name mix up in the Will;  
10 Will listing a long dead relative as an  
11 executive.

12 I don't know, do you think a dead  
13 relative in your family could manage your  
14 estate?

15 I don't think anybody could believe  
16 that.

17 But they managed to believe that in  
18 Nassau County.

19 The forgery also revealed the motive or  
20 the breaking of court orders to account for  
21 the estate assets including my uncle's  
22 expensive two story home in Woodside Queens.  
23 Sold via a forged will.

24 An uncontested forged will. Because my



1           uncle's home was located in Queens, we took  
2           the forgery report to the Queens D.A. in  
3           charge of professional conduct.

4                    That D.A. did a Grand Jury  
5           investigation, the investigation included  
6           the law firm that created the Will and  
7           others court officers.

8                    The D.A. told us she believed the  
9           origin of the forgery and the crime started  
10          in Nassau County.

11                   The Queens -- that D.A. told us whoever  
12          did an investigation of the Charles Maxwell  
13          forgery estate death would open up a  
14          Pandora's box of forged Wills, forged deeds,  
15          forged accountings and mostly forged  
16          accountings in New York State.

17                   My lawyer and I thought the D.A. From  
18          Queens was telling us about the Nassau  
19          County. She was not. I have to reiterate  
20          what Mrs. Carvel said.

21                   The Surrogates Courts in the City of  
22          New York are a criminal enterprise.

23                   She was right. The Queens  
24          investigation file was passed to Nassau,

1 where it disappeared. Three years after my  
2 uncle's death and in clear violation of New  
3 York estate law we could not get an  
4 accounting of the missing assets which were  
5 looted from my uncle's bank accounts before  
6 he died.

7 An August morning in 2003 the opposing  
8 lawyers are required to finally produce the  
9 estate accounting at 10:00 in the morning.

10 For two hours the opposing lawyers  
11 failed to show with the accounting.

12 In those two hours waiting for the  
13 lawyers and the accounting, the Nassau court  
14 called me four times telling me to take  
15 \$40,000 and a gag order to sweep this  
16 growing mess out of this court.

17 I believe that \$40,000 was an admission  
18 of guilt, and they wanted me to take a gag  
19 order.

20 We came to this court not to be bribed  
21 into silence but to find those who forged  
22 the Will and where all my uncle's bank  
23 accounts went and vanished.

24 And a particular item which Mrs.

1 Catherine Wilson and I will be indicating to  
2 you might produce hundreds of millions of  
3 dollars in missing funds from the State of  
4 New York, and that is vanishing returnable  
5 security deposits due back to estates but  
6 through mishandled accountings, and I am  
7 being generous here with that word, those  
8 returnable security deposits appear to be  
9 vanishing, amongst other things.

10 At 12:00 noon court was cancelled  
11 because the opposing lawyers don't show and  
12 now we are out in the hall.

13 And the outside of the hall is a court  
14 of no record, suddenly and miraculously the  
15 opposing attorneys show up with an  
16 accounting that Mrs. Catherine Wilson says  
17 you couldn't make heads or tails of.

18 We are forced to accept it, the court  
19 tells us that we have to take the accounting  
20 because the court officer just got a call  
21 that the judge insisted we take the  
22 accounting.

23 Well, I just walked out with him, how  
24 in the world was that possible, the guy was

1           30 feet, 30 seconds move out of the court  
2           into the hallway, he made no phone calls and  
3           received no phone calls. How did he know?  
4           It was a set up. The accounting was  
5           non-accounting. And at this point I would  
6           like to read a little statement about the  
7           law. When one conveys a false impression by  
8           disclosure of some facts and concealment of  
9           others, such as the concealment in effect is  
10          false representation that what is disclosed  
11          is the whole truth.

12                    We had an accounting that didn't  
13                    account for anything, okay, false  
14                    representation.

15                    I would also like to read that this is  
16                    from Black's Law, an intentional perversion  
17                    of the truth for the purpose of inducing  
18                    another into reliance upon it with some  
19                    valuable thing belonging to him or to  
20                    surrender some legal right, that's fraud.

21                    We were presented a fraudulent,  
22                    uncontested fraudulent Will and a fake  
23                    accounting deliberately concealing material  
24                    evidence.

1 Out in the hall in Nassau County --

2 SENATOR SAMPSON: Try to wrap it in  
3 two minutes.

4 MR. KUSE: We had to do an appeal, we  
5 submitted an appeal of the judge's decision  
6 against us, after telling us that promised  
7 us we would have a trial and an accounting.

8 And we were not allowed that promise, I  
9 had to do an appeal.

10 We submitted the appeal in 2004 and we  
11 were told my phone calls, my paperwork from  
12 my attorney, all through 2004, that the  
13 Appellate Court had not made a decision.

14 We called all through 2005 and we were  
15 told by the Appellate Court that no decision  
16 had been reached.

17 We called into 2005, mind you this is  
18 over and over and I have letters to prove  
19 it, that there was no decision reached on my  
20 uncle's case.

21 In the spring of 2006 I called the  
22 Appellate Court again and I am told that a  
23 decision was reached in 2004.

24 Basically, gentlemen, somebody is



1 another state, the average death rate in a  
2 nursing home is about 100 people a year, now  
3 if that \$30,000 does not come back, that's  
4 about \$3 million if there is fake  
5 accountings that are brought into court.

6 So now you have 30 times 100, that's  
7 about \$3 million, now in Rockland County we  
8 have a number of nursing homes, let's just  
9 say it's 10, now you are looking at \$30  
10 million, now multiply that by the number of  
11 nursing homes in the State of New York, and  
12 if fraudulent accountings are being brought  
13 in the courts of the State of New York, they  
14 are being turned into laundries for  
15 criminals.

16 Understand? I think you do. This is a  
17 serious crime.

18 SENATOR SAMPSON: The returnable  
19 security deposit is what?

20 MR. KUSE: Should be coming back to  
21 the estate.

22 SENATOR SAMPSON: It is given to the  
23 nursing home?

24 MR. KUSE: Well, that is supposed to

1 be provided in an accounting when the case  
2 goes to a Surrogates Court.

3 SENATOR SAMPSON: Who pays the  
4 \$30,000, the individual?

5 MR. KUSE: The person that put the  
6 elderly person in, a lot of times it private  
7 pays, and these are sometimes the victims  
8 here, but somebody is looking for people  
9 that don't have any relatives around that  
10 may own -- well, look at Mr. Garfield  
11 Gillens, a black artist from Brooklyn, he's  
12 still trying to get his place back and all  
13 his paintings were robbed, I could list you  
14 a number of black families, Mrs. Acosta,  
15 Mrs. Murdock I think her name was, the three  
16 women from Queens whose family -- who were  
17 living in their homes, black widows and  
18 their homes were sold out from underneath  
19 them by the Clerk of the Court, who was a  
20 CPA.

21 This is Jonathan Demick's brother, it  
22 was in the Post.

23 I'm not making it up. I think I have  
24 extended my time, but I think you got my



1 point.

2 SENATOR SAMPSON: Definitely, Mr.  
3 Kuse, you have extended your time, but do  
4 any of my colleagues have any questions?

5 We have been joined by my good  
6 colleague Reverend Diaz from the Bronx.

7 MR. KUSE: Pleasure to meet you.

8 SENATOR DIAZ: Thank you. Let me ask  
9 you a question, those \$30 million you said,  
10 why do you think that the Attorney General  
11 doesn't look into that yet?

12 MR. KUSE: We have brought it to his  
13 attention. Why the only person who appears  
14 to be doing anything is Mr. Sampson here  
15 and Mr. Price, I guess from Harlem, or  
16 Perkins from Harlem and Mr. Paterson.

17 SENATOR DIAZ: You are saying the  
18 Attorney General knows all this?

19 MR. KUSE: He told me to stop writing  
20 him letters. That ain't going to happen on  
21 my watch.

22 SENATOR SAMPSON: Mr. Kuse, if you  
23 can provide me with some more information,  
24 I'm very interested in this returnable

1 security deposit.

2 SENATOR DIAZ: Me, too.

3 MR. KUSE: We would like to invoke  
4 the Whistle Blower's Law because we know  
5 there is a good chance that hundreds of  
6 millions of dollars, if not billions of  
7 dollars --

8 SENATOR SAMPSON: Who is that you are  
9 pointing to?

10 MR. KUSE: That's Ms. Catherine  
11 Wilson.

12 SENATOR SAMPSON: Why don't you have  
13 that seat. I just want to ask you some  
14 questions about this returnable security  
15 deposit.

16 MR. KUSE: This woman is brilliant.

17 SENATOR SAMPSON: We are very  
18 interested in that.

19 MS. WILSON: Senators, thank you for  
20 your time. My background is several things,  
21 I used to be an auditor, I did not work for  
22 the Rockefeller's, I actually was a global  
23 auditor for Reader's Digest conducting  
24 operational audits and reported directly to

1           their Board of Directors, which included  
2           Lynn Chaney and David Rockefeller.

3           I was also, as I refer to it now,  
4           married to the mob for 20 something years,  
5           my ex-husband is a law secretary with the  
6           New York State Supreme Court, and when he  
7           divorced me I then became a victim of the  
8           power plays within the system and  
9           essentially got, well, shagged, for want of  
10          a much better word.

11          But in terms of the returnable security  
12          deposits there is actually much more at  
13          stake here, and if I may, I would like to  
14          take a moment to explain it.

15          I actually had an entire presentation  
16          and was hoping I could be allotted ten  
17          minutes, but I will give you the Reader's  
18          Digest condensed version here.

19          SENATOR SAMPSON:     You have five  
20          minutes.

21          MS. WILSON:        Both in divorce  
22          situations and particularly in Surrogates  
23          Court we have essentially a license to  
24          steal, and it happens for two reasons.

1           One, because Surrogates Court is the  
2           most political of all the political  
3           appointments in the system, I know this from  
4           being behind the scenes for 20 years.

5           And as you know from Lopez Torres  
6           versus the State of New York, where the  
7           United States District Court referred to the  
8           New York State judicial appointment system  
9           as the most corrupt in the nation, the most  
10          corrupt of the corrupt are the Surrogates  
11          Courts because they get to make the  
12          appointments to the attorneys, the  
13          accountants and the guardians who will be  
14          overseeing the trusts and the estates.

15          Now this is critical for two reasons,  
16          the trusts are for vulnerable people, we are  
17          talking about the disabled, the mentally  
18          ill, people who have no one else to advocate  
19          for them, and for the estates to make  
20          perfect victims; they are dead.

21          What happens in Surrogates Court, so  
22          many times the money disappears long before  
23          the estate action takes place.

24          So in the new law that the Senate

1 passed, and I thank you for this, the Power  
2 of Attorney Law takes some steps to address  
3 the issue, but the real issue is on the  
4 people who have control over the money while  
5 the individual is still alive.

6 And that includes the agents with the  
7 Power of Attorney and the Trustees.

8 There is supposed to be an accounting  
9 that goes on to the courts for the Trustees,  
10 but no one enforces that law.

11 The Surrogates Court in Westchester  
12 County in particular is a joke. They do not  
13 have full accountings.

14 Also the accountings that were proposed  
15 by the Administrative Judge, Jonathan  
16 Lipman, are not what any decent accountant  
17 would ever refer to as an accounting, they  
18 are essentially laundry lists of numbers.

19 You start with the numbers of where you  
20 begin with the finances at hand and you  
21 account for what you have spent in and out  
22 and then you give the ending total.

23 There is no documentation, no backs and  
24 fronts of checks, nothing that would support

1           why this money was spent.

2                   Plus there is nothing to say that the  
3 numbers you are starting with in the  
4 individual's estate or trusts are the  
5 numbers that should have been there.

6                   It is improper accounting to start at  
7 the point in time the money is handed over  
8 and comes to court and say this is what we  
9 are starting with.

10                   I'm involved in a trust at the moment  
11 in an estate where the numbers we are  
12 looking at are less than \$100,000, but the  
13 numbers that were there three years prior  
14 when the thief got his hands on the Power of  
15 Attorney was \$1.7 million.

16                   Now, how the state is suffering in all  
17 of this is in the question of the returnable  
18 security deposits, these are monies that  
19 should be going back to the individuals.

20                   If the security deposit was not fully  
21 spent in expenses in the nursing home, then  
22 the balance is due back to the family and to  
23 the estate, I'm sure you would agree.

24                   So those are personal victims, but how

1 the state is being affected is in the issues  
2 of the transfers of assets.

3 For example, say, Senator Adams, I  
4 appoint you Power of Attorney for my funds  
5 because I am now suffering from dementia,  
6 which as you can understand is a growing  
7 concern in the state, as the population  
8 ages.

9 I have \$1 million that I have  
10 accumulated through hard work over the  
11 years.

12 Senator Adams, you get your hands on my  
13 Power of Attorney, you now go to my accounts  
14 and you see I have \$1 million.

15 You suddenly realize that I have only  
16 one or two family members equally elderly,  
17 who will never -- don't know what's  
18 happening, my family have no idea I have  
19 accumulated this money so you, with Power of  
20 Attorney, start writing checks to yourself.

21 By the time I die and go and my estate  
22 is now probated and my elderly siblings  
23 stand to inherit, there is only \$10,000 left  
24 in the estate.

1           How we can catch these individuals is  
2           they all make one mistake, accountants like  
3           to say that all criminals have one thing in  
4           common, they cheat in their taxes.

5           If you look in the estate tax returns  
6           and the individual annual returns filed by  
7           the Powers of Attorney for the individual  
8           whose finances they are in care of, whatever  
9           withdrawals they made from those funds in  
10          excess of \$10,000 a year should be declared  
11          as taxable gifts.

12          They are not. And that's how I can  
13          nail them every time. Those are taxes that  
14          are due to New York State and the Internal  
15          Revenue Service.

16          So we are talking about State tax fraud  
17          and federal fraud.

18                 SENATOR SAMPSON:        Run that by me  
19          again.

20                 MS. WILSON:        I figured you would be  
21          interested in this.

22          This is a nice way to get tax revenues  
23          where nobody will mind because we are  
24          catching the criminals.



1           You have Power of Attorney over my  
2           estate, \$1 million, I've got dementia, it  
3           takes me a few years to die, but that's  
4           okay.

5           You start writing yourself \$25,000  
6           checks out of my bank account during those  
7           three years, so by the time I die there is  
8           nothing left in my estate for Senator Adams  
9           and Senator Diaz to inherit.

10          But when you file the estate, my  
11          relatives show up, Rick, there is only  
12          \$10,000, he tries to do a discovery, he goes  
13          there is no full accounting, so there is  
14          even no way at present within the court  
15          system to find out how much has been stolen,  
16          because if you go to the court and try to do  
17          a discovery the court will only allow you to  
18          discover the documents that are on hand at  
19          the time of the estate.

20          So that if you were smart enough with  
21          the Power of Attorney to transfer it to new  
22          accounts, I will never know.

23          And if you ask in the discovery process  
24          for any and all documents that may have been

1 out there, it is referred to in the court  
2 system as a fishing expedition and it is  
3 denied.

4 Accountants refer to that as due  
5 diligence and would never be denied.

6 What we need to do is change some of  
7 the legislation. We need to put in place in  
8 the discovery process that we can pull  
9 credit reports of the individual, either the  
10 person for whom the trust is being  
11 established and the Trustee, the person, the  
12 deceased, et cetera, at the time either the  
13 trust was established or the Power of  
14 Attorney was issued.

15 So therefore we can tell at that point  
16 in time any and all bank accounts owned by  
17 that individual, all assets owned by that  
18 individual at that time.

19 That then becomes the basis for the  
20 discovery.

21 If we then find that during the period  
22 of time between the exercise of the Power of  
23 Attorney and the death of the deceased that  
24 millions of dollars, or even \$10,000, has

1 disappeared from the -- well, actually it  
2 would have to be greater than \$10,000, I  
3 stand corrected, but say even as minimum as  
4 \$20,000 has been depleted and the returns,  
5 tax returns in the discovery process do not  
6 show that the person who was the Trustee or  
7 the Power of Attorney agent declared those  
8 withdrawals as taxable gift income, and they  
9 cannot prove the withdrawals were for the  
10 use of the Trustee or the individual, now we  
11 have tax fraud.

12 I have a case where \$1.7 million was  
13 withdrawn over the course of two years for  
14 an individual who was covered under a  
15 veterans V.A. Hospital insurance, plus his  
16 own private medical insurance and he was  
17 withdrawing an average of \$33,000 a month  
18 for a father who was being housed in a VA  
19 facility.

20 Somehow I don't think that \$33,000 a  
21 month was going to the dad's care, so that's  
22 \$300,000 average annually per year that was  
23 being depleted from these funds that far  
24 exceeds the \$12,000 allowed annually by the

1 IRS for gift tax for untaxable gifts.

2 Therefore that should have been  
3 declared as a taxable gift on the tax  
4 filings; that's how we can catch these  
5 criminals. Thank you. I do have other  
6 issues and I would appreciate some time  
7 later, if possible.

8 SENATOR DIAZ: I am interested to get  
9 your phone number, my lawyer will be  
10 contacting you.

11 I think -- let me ask you another  
12 question. Roughly how much money do you  
13 think that the State will save if we solve  
14 this problem?

15 MS. WILSON: Right now if you did the  
16 backlog I would off the top of my head, and  
17 the top of my head with my financial  
18 experience is usually pretty good, I would  
19 imagine it runs in the hundreds of millions  
20 of dollars.

21 SENATOR DIAZ: In a year?

22 MS. WILSON: Easily, because the  
23 estate I looked at was \$1.7 million that was  
24 depleted and only \$10,000 a year is allowed,

1           so if we are looking at almost \$1.7 million  
2           in state taxable rates, 5 percent, that's a  
3           lot of money; just one estate.

4           SENATOR DIAZ:       The gentleman just  
5           said before that he had written to the  
6           Attorney General and the Attorney General  
7           asked him not to bother him no more.

8           That's what you said, right?

9           MR. KUSE:       That's true, yes.

10          SENATOR DIAZ:       No, no, no, was that  
11          what you said?

12          MR. KUSE:       Yes, I got a letter from  
13          one of his people who told me to stop  
14          writing him.

15          SENATOR DIAZ:       Stop writing him.

16          MR. KUSE:       This is an explosive  
17          issue.

18          SENATOR DIAZ:       This is a public  
19          hearing, and you are practically accusing  
20          the Attorney General of the State of New  
21          York of --

22          MR. KUSE:       I was told to stop writing  
23          them letters about this topic.

24          SENATOR DIAZ:       So you are saying the

1 Attorney General knows about this?

2 MR. KUSE: I don't know him  
3 specifically, but his underlings told me to  
4 stop writing the letters.

5 SENATOR DIAZ: Can I get a copy of  
6 that letter?

7 MR. KUSE: At this time I don't know  
8 if I can produce it, we are talking about a  
9 history of 10 years.

10 SENATOR DIAZ: You are in a public  
11 hearing now.

12 MR. KUSE: I understand that.

13 SENATOR DIAZ: You are testifying  
14 that someone at the Attorney General's  
15 Office wrote to you.

16 MR. KUSE: Look at it. I would love  
17 if he stepped in immediately.

18 SENATOR SAMPSON: I think reverend --  
19 I'm sorry, reverend.

20 SENATOR DIAZ: My concern, this is a  
21 public hearing, you just said -- you  
22 testified that someone in the Attorney  
23 General's Office wrote to you.

24 MR. KUSE: No, they told me.



1 and I said what, now I'm clear there is no  
2 proof of that.

3 MR. KUSE: I would also like to  
4 indicate that a lot of this is abuse against  
5 elders.

6 SENATOR DIAZ: I assure you that my  
7 lawyer will contact the lady here and that  
8 the Attorney General will know.

9 MR. KUSE: Thank you very much.

10 MS. WILSON: That's wonderful.

11 SENATOR SAMPSON: Let's make sure we  
12 get your information.

13 MR. KUSE: I would like to make one  
14 more.

15 SENATOR SAMPSON: Hold on, Senator  
16 Adams, we are being joined by Senator Bill  
17 Perkins from Harlem.

18 Senator Perkins.

19 SENATOR ADAMS: Your name again,  
20 please?

21 MS. WILSON: Catherine Wilson.

22 SENATOR ADAMS: Can you give me your  
23 background?

24 MS. WILSON: Certainly, I could give



1           you what I was going to present.

2                    SENATOR ADAMS:     A brief background on  
3           your accounting background.

4                    MS. WILSON:     I used to be an  
5           international auditor for Fortune 100  
6           companies, then went into private consulting  
7           and worked for various small companies and  
8           even a couple of local government agencies.

9                    And I now work for small companies I  
10          also do some writing for a local newspaper,  
11          and I actually left you ten copies of my  
12          articles that are pertinent to these issues  
13          at hand.

14                   I also for 20 years was married to a  
15          member of the New York State Supreme Court,  
16          so was privy to all the back room hearings  
17          and goings on and at the time was appalled  
18          by it, but only knew a little of it, and  
19          then when that individual decided he no  
20          longer wanted to be married to somebody as  
21          wonderful as me, I became a victim to the  
22          power and the corruption in the court.

23                   And ever since then I have been  
24          reporting, this is only one of the issues I

1           have come across, I have reported these  
2           issues to Jonathan Lipman, I have reported  
3           them to Judge Hay, I have reported them  
4           auditor to auditor, to the New York State  
5           auditors, Dennis Donahue, I believe, for the  
6           OCA auditors, who unfortunately seem to  
7           think that they take the direction from OCA.

8                     They do not seem to understand that  
9           they are independent.

10                    I have reported it to Cheryl Spats, and  
11           I have reported it to New York State  
12           Attorney General, I reported it to Frank  
13           Nicoli, I know all the players, I know them  
14           on a first name, they have done nothing.

15                    SENATOR ADAMS:       And your educational  
16           background?

17                    MS. WILSON:       My educational  
18           background, I am a certified accountant, I  
19           have a Bachelor's of Science in accounting  
20           and I have a double masters in marketing and  
21           finance.

22                    SENATOR ADAMS:       I am going to make a  
23           recommendation to the chair to put in place,  
24           because this is extensive, and some of the

1 information that you are sharing with us in  
2 one hearing we are not going to be able to  
3 bring it out, and I'm pretty sure there is  
4 going to be some duplications in the  
5 testimony.

6 MS. WILSON: I agree.

7 SENATOR ADAMS: What we will need  
8 because I think that the best way to resolve  
9 inefficiencies and corruption in government  
10 is through -- is to allow the people who are  
11 personally touched by the matter to empower  
12 us with information, so I'm going to ask the  
13 chair if he will put in place a task force  
14 that will be comprised of individuals like  
15 yourself and those who are victims to assist  
16 us in navigating how this problem is being  
17 hidden from public view.

18 But what's important, what's important,  
19 and the reason I asked for your background,  
20 both professional and education, is not that  
21 that is important to me, but when we attempt  
22 to go up against exposing corruption in the  
23 judicial system, there are those who are  
24 going to question who's bringing the

1 complaints and information, that's why it's  
2 imperative what Senator Diaz was saying to  
3 you, sir.

4 Any accusations we make must be well  
5 documented.

6 If you made calls and inquiries to the  
7 state auditors, to the Attorney General,  
8 anyone else, if you wrote letters that goes  
9 for you or anyone else in the audience, if  
10 you have those documents to show the paper  
11 trail that there has been a refusal to look  
12 at this very important issue and I think a  
13 task force with someone like yourself and  
14 your extensive background, and particularly  
15 some of the intimate relations you may have  
16 had that know firsthand of some of the  
17 problems, I think it would help us push this  
18 issue years forward, because we are  
19 committed to finding a resolution on this  
20 issue.

21 We are committed to doing that, but we  
22 need your help in doing so, and I just want  
23 to ask you two things, Mr. Chair, if I am  
24 permitted.

1           If you could just give me some brief  
2           answers, you know, I know and I think that  
3           some of the statements, we are going to let  
4           everyone know, I know this is an emotional  
5           issue, but we want to give the respect for  
6           the entire list of people who want to  
7           testify, and we want to try to be not as  
8           wordy as need be.

9           So that we can be, so we can put the  
10          information together.

11          How widespread do you see this problem  
12          as being?

13          MS. WILSON:     Well, from the  
14          Surrogates Court perspective I see it as  
15          extremely widespread.

16          Based on my knowledge of the  
17          politicalness of the appointments of the  
18          Surrogates Court and how it's actually  
19          viewed as a candy jar kind of appointment,  
20          where whoever gets that position gets to  
21          dole out lucrative appointments to the  
22          attorneys, the players, the party players.

23          In divorce court it's somewhat  
24          prevalent the issues, some of it is actually

1 due to the lack of training and I am sad to  
2 say in certain cases ignorance on the part  
3 of the judges.

4 That was part of my presentation. I'm  
5 trying to and I hear what you're saying,  
6 Senator, address this not just as the  
7 insider and the victim but also my auditing  
8 brain as to what we can do in terms of  
9 resolving it.

10 So there are, indeed, many individuals  
11 within the system, in fact there are some  
12 present here today.

13 One of my many accreditations is CPR  
14 training.

15 One of the problems is we do have  
16 individuals within the court system who know  
17 the problems and are trying to fight it from  
18 within, but whenever they speak up a little  
19 too loudly they either find themselves  
20 ostracized, find their credentials and their  
21 career on the line, or they are demoted to  
22 the hinter lands.

23 SENATOR ADAMS: So what we need, what  
24 we need is that from you and whoever else is

1 present, and I'm sure the chair is going to  
2 give you a website, but there are three  
3 things we need, number one, as I stated we  
4 need some form of a task force, number two,  
5 we need some very clear specific  
6 recommendations in a bullet format because  
7 we get a ton of information, if you send us  
8 a dissertation it's not going to be read as  
9 often as need be, if you give us some -- if  
10 you give us the category, problem, solution.

11 That's where we are at right now,  
12 problem, solution. That would be extremely  
13 helpful.

14 How much of this do you feel is based  
15 on incompetence or corruption?

16 MS. WILSON: In the Surrogates Court  
17 sad to say I would say it's mainly based on  
18 corruption, political corruption.

19 In the other courts, a lot of it is  
20 based on incompetence. One of the  
21 particular issues is people with  
22 disabilities or cognitive, emotional issues,  
23 or whatever, which are a lot of people in  
24 the court system, the courts are just

1 ill-equipped to deal with this, and the  
2 amount of abuse from the attorneys, from  
3 opposing counsel, from the judges  
4 themselves, there was an issue just this  
5 week where a woman with traumatic brain  
6 injury was before the Appellate Court, got  
7 through explaining to the Appellate Court  
8 what her problems were, and right in front  
9 of her the lawyer kept badgering her that  
10 she kept repeating herself.

11 Well, first of all that is a symptom of  
12 traumatic brain injury, but no one on the  
13 appellate bench stepped in to stop the  
14 attorney from badgering her in such a  
15 fashion.

16 She should have been protected, and as  
17 you know, our returning vets are suffering  
18 from TBI, so this should be understood by  
19 the court system, so there is a lack of  
20 knowledge.

21 SENATOR ADAMS: Lastly, how effective  
22 do you believe the systems are in place to  
23 respond and report to those allegations of  
24 corruption?



1 MS. WILSON: Actually very  
2 ineffective. The systems that are in place  
3 now, as I said the internal auditors within  
4 OCA seem to feel that they report to OCA,  
5 they are not independent.

6 The investigators such as Cheryl Spats,  
7 and even the Attorney General are limited by  
8 law as to what they can respond to.

9 I think what the system really needs,  
10 in fact state-wide, are independent  
11 auditors, an audit committee that does not  
12 report to anyone in the court system and  
13 that can step in at any time and do an  
14 audit.

15 The problem with investigations by the  
16 lawyers is you're now governed by legal  
17 statutes.

18 Attorneys have to obey whatever the  
19 Senate says. Auditors report to federal  
20 standards, so we have more discretion.

21 If I was an attorney investigating I  
22 would have to get a subpoena, I would have  
23 to go through a discovery process.

24 If I'm an auditor and I suspect you of

1 fraud, I show up.

2 I don't tell you I'm coming. I walk  
3 right in.

4 So the problem right now is with the  
5 way things are run by the time you go to  
6 catch the fox, they have already hid all the  
7 chickens.

8 SENATOR ADAMS: Thank you.

9 SENATOR SAMPSON: We have been joined  
10 by Senator Bill Perkins.

11 MS. WILSON: Thank you.

12 SENATOR PERKINS: I just want to ask  
13 one quick question, particularly with  
14 respect to the Surrogates Court.

15 I didn't get the benefit of her opening  
16 remarks, I'm not sure if we are on the right  
17 path, but you mentioned that the Surrogates  
18 Court and the corruption and the political  
19 corruption, did you mention that?

20 MS. WILSON: The way Surrogates Court  
21 is set up largely handles trusts and  
22 estates, so you have people who cannot speak  
23 for themselves, they are either disabled or  
24 they are dead.

1                   So what happens is a lot of times  
2                   guardians are appointed, Trustees are  
3                   appointed, accountants are appointed, sadly  
4                   members of my own profession who get these  
5                   appointments by nature of the amount of  
6                   political campaigns that they give to the  
7                   judges who hold these positions.

8                   Now, technically everybody is supposed  
9                   to report their contributions to a judge,  
10                  but for every rule there is a loophole.

11                  My ex-husband used to go into his  
12                  Judge's Chambers and pull the contribution  
13                  lists off his desk when he wasn't looking  
14                  and bring them home and show me everybody's  
15                  mother-in-law, brother, ex-wife or whatever,  
16                  they made the contributions through third  
17                  parties.

18                  And then what happens at the meet and  
19                  greet is whoever the person who really made  
20                  the contribution, they show up with the  
21                  ticket so they can shake the judge's hand,  
22                  nudge, nudge, wink, wink, you know I'm the  
23                  one whose really paying for your black  
24                  bathrobe.

1           So in turn when the judges get their  
2           appointments, they are now seen in  
3           Surrogates Court, they return the favor by  
4           appointing these individuals to Trustee's of  
5           these multimillion dollar trusts for the  
6           disabled and/or to guardians or whatever of  
7           the deceased.

8           And I say what the problem is, though,  
9           the way, between the corruption of the  
10          appointments which guarantees that no full  
11          accountings are rarely done, despite the law  
12          saying they have to be, between that and the  
13          ability of the individuals in the system to  
14          understand what to look for, and the  
15          limitations of what is allowed in the  
16          discovery process, it's a perfect storm for  
17          anyone who wants to go in and deplete the  
18          assets of a disabled victim.

19          SENATOR PERKINS:        So the Surrogates,  
20          you seem to be somewhat familiar with the  
21          process of this corruption.

22          MS. WILSON:        20 years married to the  
23          mob.

24          SENATOR PERKINS:        20 years married to

1           who?

2                   MS. WILSON:       My ex is a New York  
3           State Law secretary for the New York State  
4           Supreme Court, and his judge is one of the  
5           most powerful political judges in  
6           Westchester County.

7                   His golfing buddies are George Pataki  
8           and Donald Trump.

9                   SENATOR PERKINS:       I'm just wondering  
10          with that depth of knowledge and  
11          appreciation of how the process of  
12          corruption takes place.

13                   Have you had an opportunity to share  
14          that with the appropriate authorities?

15                   MS. WILSON:        I sadly just gave them  
16          the laundry list, yes, for the last six  
17          years I have reached out to everybody I  
18          could think of.

19                   SENATOR PERKINS:       Sorry, you don't  
20          have to continue.

21                   MS. WILSON:        That's fine.

22                   SENATOR PERKINS:       So then having done  
23          that, now you are talking about the  
24          Surrogates throughout the state, or at any

1 particular area, Westchester only?

2 MS. WILSON: Well, I initially  
3 started with my claims and accusations and  
4 findings with the divorce courts and then  
5 expanded that, became known and was asked to  
6 start doing some writings for a local  
7 newspaper and now got into Surrogates.

8 SENATOR PERKINS: I don't want to  
9 take too much time.

10 Now, again, your surrogate research is  
11 state-wide, Westchester, New York City, give  
12 me some sense of this.

13 MS. WILSON: It started out as  
14 Westchester, it's now becoming state-wide,  
15 but this is beyond your jurisdiction, it  
16 seems to be national.

17 But it is definitely state-wide.

18 SENATOR PERKINS: Have you focused at  
19 all on New York City?

20 MS. WILSON: I have gotten some New  
21 York City cases, yes, I have had three so  
22 far just in the last couple of months from  
23 Queens, and Nassau County.

24 SENATOR PERKINS: And you have had an

1 opportunity to share your information with  
2 the D.A.'s office, or anybody of that  
3 caliber.

4 MS. WILSON: I only just recently  
5 filed with the New York City Attorney  
6 General's to inform them that I want to  
7 pursue this with them.

8 MR. KUSE: The Whistle Blower's Law.

9 MS. WILSON: I filed under the IRS  
10 Whistle Blower's Law for protection, I just  
11 sent that into the IRS.

12 SENATOR PERKINS: Okay, thank you.

13 MS. WILSON: You are most welcome.

14 SENATOR SAMPSON: Thank you very  
15 much, Senator Perkins, Ms. Wilson, thank you  
16 very much.

17 I guess we wanted to have a further  
18 conversation with you with respect to the  
19 cases that you are working on, and maybe get  
20 more in-depth involved, especially when we  
21 create this task force, okay?

22 MS. WILSON: I am most willing to be  
23 as most helpful as I can, and, Senator  
24 Adams, if you manage to get that task force

1 together, I will gladly be a member of it.

2 SENATOR SAMPSON: Thank you very  
3 much.

4 MR. KUSE: Senator Sampson, I would  
5 just like to take another 30 seconds.

6 Senator Sampson, our elders, these are  
7 beloved elders, they are not farm animals to  
8 be harvested. There is a line in the Bible  
9 that says as you do it unto the least of  
10 these, you do it unto me.

11 Reverend Diaz you know it as well I as  
12 I do, my background is the same as yours.

13 SENATOR SAMPSON: Next speaker is  
14 Victor Kovner, we will wait.

15 Douglas Higbee of Mamaroneck, New York.  
16 Douglas, are you here?

17 MR. HIGBEE: I asked to be put on the  
18 back of the list, push me back.

19 SENATOR SAMPSON: Okay. Judith  
20 Herskowitz of Miami Beach, Florida. I know  
21 we went over the last one, but I think we  
22 are going to stick to the ten minutes,  
23 because we want to get the questions in. So  
24 try to be as brief as possible.



1 MS. HERSKOWITZ: It's hard to be  
2 brief, you know, when you go through 20  
3 years of torture.

4 It's hard to be brief when you go  
5 through 20 years of torture in the court  
6 system.

7 SENATOR SAMPSON: I'm quite sure you  
8 can be brief, just get to the salient points  
9 that we need to know.

10 MS. HERSKOWITZ: The point is that my  
11 major thing here is I'm submitting 13  
12 complaints that I made to the New York City  
13 commission on judicial conduct with regard  
14 to judges of the Supreme Court, New York  
15 County.

16 I am attaching copies of each of these  
17 complaints but without the supporting  
18 documents.

19 The complaints are followed by the  
20 letters acknowledging receipt of the  
21 complaint and by letters of dismissal.

22 The dismissal letters simply stated is  
23 my complaint was dismissed upon careful  
24 consideration, the commission concluded that



1 is because the grievous acts that are  
2 compounded by further apparent misconduct.

3 It was unbelievable that the commission  
4 could ignore the court's disregard for the  
5 fact, for the law and the violations of the  
6 judicial canons.

7 I have extensively cited the judicial  
8 canons in my complaints, supported with the  
9 facts to no avail, that is why there is a  
10 dire need for this hearing and for  
11 affirmative action to be taken.

12 My most recent complaints attached as  
13 Exhibit 1 to 21 were based upon the  
14 activities of Justice Sherry Klein Heitler  
15 of the Supreme Court of New York County.

16 Upon allegations that she persistently  
17 has failed to perform her judicial duties  
18 and by such the relation has placed her  
19 court in complicity with a scheme to  
20 misappropriate approximately \$700,000 of  
21 corporate funds, of which I'm a majority  
22 shareholder.

23 Upon insistence of Plaintiff's counsel  
24 the funds were free and clear of all claims

1 of Pettigers when transfers transferred from  
2 the jurisdiction of the New Jersey  
3 Bankruptcy Court in August 2000 to the New  
4 York court in a case that was terminated  
5 long ago.

6 In other words, this whole -- there was  
7 a bankruptcy court proceeding, all the  
8 claims of creditors were adjudicated and  
9 there really was no reason to transfer that  
10 money to the New York court except for these  
11 lawyers who were already appeared in the  
12 bankruptcy court to take whatever money was  
13 left, which really belonged to the  
14 shareholders, I'm just trying to explain  
15 that.

16 Then they put in somebody, we come back  
17 to this fiduciary business, and they put in  
18 this Paul Windels, he was just supposed to  
19 be a neutral custodian to hold this money,  
20 for determination how much money the  
21 shareholders would get.

22 But I didn't know that it was all  
23 prearranged, that all the Plaintiffs'  
24 lawyers, who were numerous, they would be

1 getting the money, and they would clean out  
2 this money to the last penny not leaving one  
3 dime in the corporation, and nothing for me.

4 And they also made it up that they gave  
5 the appearance that the surplus funds were  
6 the results of liquidation by this Mr.  
7 Windels in a New York court which wasn't  
8 because of liquidation of the property, it  
9 was in the bankruptcy court.

10 And she allowed, this judge simply just  
11 allowed her judicial office to be misused to  
12 give the distribution a color of legitimacy  
13 through this phony receiver, Mr. Windels,  
14 who acted upon fraudulent claims that he's  
15 the receiver of the assets of north Jersey,  
16 and it couldn't be because the assets were  
17 in the bankruptcy court.

18 Just legally it could not be. And then  
19 he filed papers retroactively to make  
20 believe that he's the receiver.

21 He never filed any papers, receivership  
22 papers in the office of the court  
23 administration which is a requirement, and  
24 it was all artificially created proceeding

1 under Article 12, this whole receivership,  
2 to give it a color of legitimacy for them to  
3 take the money.

4 I mean they played this game for years  
5 and there never was any such proceeding, it  
6 just came out of nowhere.

7 They retroactively named these  
8 attorneys as creditors and then they had  
9 retroactive publications going back six  
10 years, I just can't -- it was absolutely  
11 phony publication because the receiver has  
12 to do publications.

13 And then the judge refused to recognize  
14 that they did this with a \$4 million  
15 judgment which was fully satisfied, the  
16 judge refused to recognize the law of joint  
17 and several liability that was the law.

18 And I was denied standing to object and  
19 to be heard on my objections, and my papers,  
20 whatever papers I filed in opposition, they  
21 were stricken, I was denied a hearing on  
22 evidence and testimony, so by the stroke of  
23 the pen they just took this \$700,000, which  
24 is all described, I submitted all these

1 complaints that I made to the judicial  
2 commission that was never, ever,  
3 entertained.

4 Now, the Exhibits 22 to 29, the prior  
5 are from a prior judge, a Justice Comptons  
6 and what they have done here is, you know,  
7 we live in Florida, my father was in Florida  
8 and they created a phony derivative,  
9 stockholders derivative suit.

10 Now, they did the stockholders  
11 derivative suit so a lawyer can get fees and  
12 he just kept on litigating and litigating  
13 and what was involved here was a 54 unit  
14 apartment building on Riverside Drive that  
15 my father and my parents purchased in 1958,  
16 and they used this derivative suit of  
17 something that should have been a Florida  
18 probate case to reach the property and  
19 appoint receivers and to take it over and to  
20 appropriate it.

21 My father managed the building, I never  
22 had anything to do with this building, but  
23 they wanted to get all the shareholders to  
24 strip everybody of their corporate -- of

1           their shares.

2           All I had was a remainder interest, I  
3           never managed the building, I never did a  
4           thing in New York and they couldn't really  
5           reach me in Florida, and what the judge did  
6           then, he said, and we filed motions, and  
7           it's unfortunate, if it was today I would  
8           have never appeared in a New York court, I  
9           would have stayed away, and that was a  
10          mistake, you know, you read the books and  
11          they file a motion to dismiss, no  
12          jurisdiction, you know I'm a Florida  
13          resident, and it doesn't matter.

14          So when the judge couldn't find  
15          jurisdiction over me, then he said that we  
16          withdrew the objection, and even Plaintiff's  
17          lawyer in sworn testimony admitted that that  
18          wasn't the case, but I couldn't bring it up,  
19          the judge sanctioned me and imposed all  
20          kinds of fines on me and literally banished  
21          me so I couldn't even appear in the New York  
22          court because I was like a criminal.

23          It's turned into somebody that I was a  
24          wrongdoer.



1                   And my father died, you know, in 1992,  
2                   then they entered this judgment by default  
3                   because I couldn't appear in the court, so  
4                   they enter a \$4 million judgment.

5                   SENATOR SAMPSON:       Can you wrap it up  
6                   in two minutes?

7                   MS. HERSKOWITZ:       On all kind of phony  
8                   claims, now the building was sold in the  
9                   bankruptcy court and that's where the money,  
10                  that \$700,000 came from.

11                  Now, the other thing is that when I  
12                  went to the Appellate Court, then on both of  
13                  these cases I'm going to summarize what I  
14                  have here, that what happened is that they  
15                  said it's a re-argument.

16                  Something that was never heard and I  
17                  never had -- I couldn't make an appeal, I  
18                  never had an appeal, I was never heard.

19                  SENATOR SAMPSON:       You had an attorney  
20                  representing you all the time on this?

21                  MS. HERSKOWITZ:       At times we had an  
22                  attorney. I have a law degree, my son is a  
23                  lawyer in Florida, my daughter-in-law is a  
24                  lawyer.

1           It doesn't matter, it doesn't matter if  
2           you are a lawyer or not a lawyer, the  
3           judges, the judge absolutely was not  
4           interested in any of the facts, any of the  
5           law.

6           SENATOR SAMPSON:       So your complaint  
7           with respect to negative complaint to the of  
8           judicial misconduct was what?

9           What was the judge or the judge's doing  
10          that warranted the complaint?

11          MS. HERSKOWITZ:       All these misdeeds  
12          the judge did, never gave us a hearing, I  
13          come all the way from Florida for a hearing  
14          and the judge tells me I'm sorry to say you  
15          have ten minutes.

16          I said I came from Florida for this, I  
17          said I have an evidentiary -- present the  
18          evidence and testimony and whatnot, and all  
19          they give you in these courts is -- that's  
20          another thing, all they give you is an oral  
21          argument, they don't give -- there is no,  
22          it's a lawyer and the lawyers can say  
23          whatever they want, they can make up  
24          whatever they want and you can't disprove

1           it, it's oral arguments, there is no such  
2           thing as a trial or to present evidence.

3           I said judge, I have the evidence here,  
4           I want to present it, I want you to mark it  
5           in.

6           I have the satisfaction of the  
7           judgment, there is no more \$4 million  
8           judgment.

9           No, she wouldn't allow me.

10          SENATOR SAMPSON:     I'm going to tell  
11          you what I'm going to do, since we have Mr.  
12          Tabeckian back there, who is the counsel for  
13          commission on judicial misconduct, I will  
14          make sure -- Mr. Tabeckian, why don't you  
15          say hello to everybody.

16          MR. TABECKIAN:       Hello.

17          SENATOR SAMPSON:     What I will do is I  
18          am going to speak to him specifically about  
19          your matter and see --

20          MS. HERSKOWITZ:     I have gone to the  
21          trouble of gathering up all these  
22          complaints.

23          SENATOR SAMPSON:     I see, extensively.

24          MS. HERSKOWITZ:     You have to see

1 everything, dismissed, can't find anything  
2 wrong and I just find this very, very  
3 frustrating.

4 I would like to close it with one  
5 thing.

6 SENATOR SAMPSON: Go ahead.

7 MS. HERSKOWITZ: We are Holocaust  
8 survivors, everything that we had in Europe,  
9 you know, you're in a Holocaust, taken, you  
10 can't hold property, you are Jewish, you  
11 can't hold properties, ghetto and all that.

12 Then comes the communist, what happened  
13 is what the interesting part of where the  
14 money came from really to buy that building,  
15 my father during the war time took -- you  
16 can see how valuable gold is now that money  
17 is losing value.

18 He took some Krugerrands or Napoleans,  
19 they had Napoleans in that day, which were  
20 gold coins, dug it under the ground.

21 After the liberation he found it, it  
22 was incredible, you know he didn't put the  
23 money in the Swiss bank, he found it, he  
24 started a factory, he was very innovative my

1           dad, very good businessman, started -- he  
2           had a big weaving mill, factory, sold  
3           fabrics all over, but he didn't trust the  
4           communists so he was sending money to  
5           America.

6                    Then came the communists, they took  
7           away the factory, but luckily we could come  
8           into America.

9                    Then he also bought a weaving mill in  
10          Patterson, New Jersey, made money, bought  
11          the building, now what happens is now  
12          whatever we had here the American judges  
13          took from us, and I find that very, very  
14          hurtful.

15                   That you can't keep money in America.  
16          In Europe you knew that you were in danger,  
17          so you kept on putting the money aside.

18                   And I think that's what's going to  
19          happen in America, too, you know people are  
20          shuffling their money out of it, I do have  
21          the story on [judicialaccountability.org](http://judicialaccountability.org),  
22          people are reading it.

23                   You don't see people flocking here to  
24          invest money, we have condominiums galore,

1           you know, being for sale, and I think it's  
2           got to be taken into consideration that this  
3           judiciary is ruining our business in  
4           America.

5                     It's not just the collapse of the  
6           financial system, it's collapse of the  
7           judicial system that's causing that, too.

8                     SENATOR SAMPSON:       Thank you very  
9           much.   Any questions.

10                    Thank you very much, and I will speak  
11           to Mr. Tabeckian with respect to your --

12                    MS. HERSKOWITZ:       Wait a second, I  
13           have something else, if I may, excuse me, I  
14           already wrote to your office with regard to  
15           this reargument, I can give you this letter  
16           again, that this thing that an appeal that  
17           you don't have an appeal because or a  
18           reargument and you never were heard, I mean  
19           that's an excuse, that whole law has to come  
20           out because you don't have that in the  
21           Federal Rules.

22                    In the Federal Rules if you make -- I  
23           have a couple of copies of this, in the  
24           Federal Rules if you make -- in the Federal

1 Rules if you make a motion after a final  
2 judgment that stays, that stays the  
3 judgment, please take that, please, that law  
4 has to be changed, because that's how twice  
5 they denied me an appeal.

6 That stays the appeal until the motion  
7 is decided, whether you win or lose you have  
8 an appeal.

9 In this archaic judicial New York  
10 system they take away the right to appeal  
11 with this nonsense that it's a reargument.

12 SENATOR SAMPSON: I will definitely  
13 follow-up.

14 Thank you very much.

15 MS. HERSKOWITZ: I spoke to Mr.  
16 Spotts and he said he would follow it up.

17 SENATOR SAMPSON: Thank you very  
18 much, and I will follow this up.

19 MS. HERSKOWITZ: Who is going to  
20 contact me?

21 SENATOR SAMPSON: I will make sure  
22 Mr. Spotts contacts you.

23 MS. HERSKOWITZ: You also said  
24 somebody from the commission.

1                   SENATOR SAMPSON:     Mr. Tabeckian.   Mr.  
2                   Tabeckian, we have a young lady from  
3                   Florida, maybe you can spend two minutes  
4                   with her.   I would appreciate it.

5                   Thank you very much.   Mr. Tabeckian is  
6                   right back there.

7                   The next witness is Peter Gonzales of  
8                   Troy, New York.   Peter.

9                   Peter didn't check in, we are going to  
10                  -- Peter is not here, we are going with  
11                  Andrea Wilkinson of Rensselaer, New York.

12                  Andrea, are you around?   Andrea are you  
13                  here?

14                  Andrea, come on up.   Good morning,  
15                  Andrea.

16                  MS. WILKINSON:        Good morning, Senator  
17                  Sampson and your staff and everyone.   We met  
18                  again, I was in Albany before you left last  
19                  time.

20                  SENATOR SAMPSON:        I apologize.

21                  MS. WILKINSON:        You promised me you  
22                  would come back, but I know what happened in  
23                  the legislature.

24                  So, all right, I am going to be quick



1 and I am reading, so bear with me, I'm a  
2 little nervous.

3 My name is Andrea Wilkinson, I'm a  
4 small minority female developer in the  
5 capitol district region area.

6 SENATOR SAMPSON: What do you  
7 develop?

8 MS. WILKINSON: We develop low  
9 housing, we go into the community and what  
10 we do is revitalize abandoned boarded up  
11 houses to make them become quality housing  
12 for low to moderate income people.

13 And, as you know, in Albany there is a  
14 tremendous amount of dilapidated buildings  
15 within the capitol district region area.

16 I come forth to you today because I'm a  
17 Plaintiff of a civil suit that was pending  
18 in front of Judge Lehner, I don't know if he  
19 is still presiding, my understanding was he  
20 was at the point where he was going to  
21 retire spring of 2009.

22 I had a civil suit pending for four and  
23 a half years in front of Judge Lehner and  
24 after four and a half years of seeking

1 judgment or seeking, you know, due process  
2 within the judiciary system, Judge Lerner on  
3 the eve of my trial date was March 11th, on  
4 March 10th at 4:30 p.m. elected to dismiss,  
5 not one or two or three charges, but all  
6 nine charges of my lawsuit that was pending  
7 in front of him.

8 The charges ranged from discrimination,  
9 breach of contract, violation of federal  
10 lending laws, housing laws, administrative  
11 codes, et cetera, I gave you my documents.

12 The lawsuit was pending against  
13 Community Preservation Corp, which is a not  
14 for profit quasi for profit organization.

15 SENATOR SAMPSON: CPC?

16 MS. WILKINSON: CPC, yes. For Judge  
17 Lerner to have blindfolds on so he could  
18 not see any validity to any of my charges  
19 really baffled me.

20 Now my co-partner in this lawsuit is  
21 the contractor who helped me develop nine  
22 individual townhouses in downtown Albany.

23 As the Plaintiff I can't express my  
24 concern, I feel like the unethical bias and



1 of the trial he goes and dismisses the case.

2 I started doing research on Judge  
3 Lerner and I find that, you know, I was en  
4 route to New York too that eve on the  
5 Thruway, pouring down rain, I ended up like  
6 I had to pull over once I got the call from  
7 my attorney.

8 I had already been so mistreated by CPC  
9 as being an African American female  
10 developer, which is rare, I had to deal with  
11 a comment my -- when I went to place my loan  
12 application into the Community Preservation  
13 Corp. to the loan officer, he looked at my  
14 financial statement and he looked at my  
15 resume and you know what he said to me? I  
16 was an exception to my race.

17 Like he had never met a black woman  
18 before who has a certificate of advanced  
19 study in education administration from SUNY  
20 Albany with a 3.86 GPA or that he had never  
21 met a black woman who had like maybe at that  
22 time I had -- I had about maybe \$350,000 net  
23 income, like just in the stock market, so he  
24 said to me I was an exception to my race and

1 then other comments went on like oh, you  
2 should be like Charles Tewey or Fagenbaum.

3 I was constantly compared to white male  
4 developers within the capitol district  
5 region area.

6 Charles Tewey is a millionaire, so is  
7 Fagenbaum and all the others that he  
8 compared me to, there aren't very many women  
9 in development and there aren't many people  
10 developing minority dilapidated communities,  
11 and as a minority female developer, we have  
12 to empower the people who live within their  
13 communities to be able to go out and get  
14 money to revitalize their community.

15 We can't just wait for the white great  
16 hope to come along and want to invest in our  
17 communities.

18 So in that aspect I feel like Community  
19 Preservation Corp. should be lending more  
20 monies to women and minorities.

21 Under oath and Andy Thompson, whose dad  
22 is Lou Thompson who was Governor's right  
23 hand man for housing and Governor Pataki's  
24 best friend, I just feel like all those

1 elements played into Judge Lerner's  
2 decision.

3 But the other factor that played into  
4 Judge Lehner's decision is I did research at  
5 the Congressional library in Albany and I  
6 found out the following facts about Judge  
7 Lerner, which he never revealed, had he I  
8 would have asked him to recuse himself.

9 Judge Lehner was an Assemblyman for the  
10 Fort Washington District in Manhattan during  
11 1973 through about 1980. The entire time  
12 that he was active in the Assembly, he was  
13 assigned to the Housing Committee.

14 Judge Lerner was the Chairman of the  
15 Housing Committee for over 8 years and he  
16 introduced the first Neighborhood  
17 Preservation Bill in the assembly that  
18 became a law.

19 As he gets ready to retire from being a  
20 judge this spring, he is still very much  
21 entrenched in the housing community and the  
22 politics that lead with housing, community  
23 development and so after I did the research  
24 on him I realized that, you know what, for

1 his decisions that he rendered four and a  
2 half years, eve of a trial date, to dismiss  
3 not one, two or three, something happened.

4 Either Faber was called in or his palm  
5 was greased or he just didn't want to deal  
6 with the issues of discrimination.

7 All along he said he never saw the  
8 discrimination, but he did see breach of  
9 contract possibly --

10 SENATOR SAMPSON: Let me ask you a  
11 question.

12 So you have -- you're basing your  
13 question of maybe judicial misconduct based  
14 upon a decision that he did not render in  
15 your favor; or --

16 MS. WILKINSON: The fact he dismissed  
17 not one, two or three but all nine charges?

18 SENATOR SAMPSON: I understand that,  
19 I'm just telling you from my own personal  
20 experiences I have seen judges on cases  
21 dismiss cases on the eve of trial, motions  
22 for summary judgment has been granted, I  
23 mean if the law is not in your favor, the  
24 law is not in your favor.

1 MS. WILKINSON: That's just it, the  
2 law, according to my law firm that I used,  
3 which is Leeds, Morelli & Brown, they have a  
4 company called DOW, which is Discrimination  
5 on Wall Street, they specialize in  
6 discrimination.

7 Not one or two or three, but nine  
8 charges, breach of fiduciary responsibility,  
9 I mean the charges go on and on and on.

10 SENATOR SAMPSON: I can understand  
11 that.

12 The next question is after he rendered  
13 that decision have you since appealed that  
14 decision?

15 MS. WILKINSON: We have appealed the  
16 decision and in addition to that we have  
17 written Judge Carey, Joan Carey, who has  
18 responded like oh, I have no control over  
19 the decisions that are rendered by, you  
20 know, Judge Lerner, you need to seek due  
21 process on the judiciary on the appellant  
22 level.

23 But I want to say as an African  
24 American female, and they wonder why



1 minorities or women don't have faith in the  
2 judiciary system, and you wonder why we  
3 sometimes when you look at black justice,  
4 white justice and black robes, he didn't see  
5 the discrimination part, yet still he didn't  
6 see the breach of contract, he did not see  
7 anything on my behalf as a minority female  
8 developer, okay?

9 SENATOR SAMPSON: No, no, no, I want  
10 to correct something, a judge is not  
11 supposed to look at you as a minority  
12 developer, a judge is supposed to look at  
13 you as a litigant, he is not supposed to  
14 decipher whether you are white, black, green  
15 or yellow.

16 MS. WILKINSON: Guess what, he did.

17 SENATOR SAMPSON: Let me continue,  
18 he's supposed to look at the facts of the  
19 situation, look at the law and come up with  
20 a decision.

21 If you have a problem with his  
22 decision, that's why we then go appeal it,  
23 because there have been plenty of cases  
24 where I thought I was correct on the law,

1 but the judge ruled against me but such then  
2 I appealed.

3 A perfect example is Governor Patterson  
4 on the issue of the appointment of  
5 Lieutenant Governor, he lost at the trial  
6 level, he lost at the Supreme Court level,  
7 he lost at the Appellate Division level, but  
8 he won at the Court of Appeals level.

9 So I just want you to understand that,  
10 when you are saying that, you don't want the  
11 judge to give anyone preference, you don't  
12 want the judge to give anyone preference,  
13 you want the judge to look at the facts and  
14 look at the law and make a determination.

15 MS. WILKINSON: And if Judge Lehner  
16 had done that he would not have been  
17 dismissing all nine charges.

18 SENATOR SAMPSON: And you will be --  
19 your opinion will be rectified if you won at  
20 the Appellate Division level.

21 MS. WILKINSON: Well, you know, how  
22 do you have faith in the judiciary system  
23 when you look and see there is favoritism,  
24 how do you have faith in the judiciary

1 system?

2 SENATOR SAMPSON: That's why --

3 MS. WILKINSON: When you have judges  
4 who are like just blindfolders on, just  
5 really want to see what they want to see, or  
6 as a matter for me, I'm a small minority  
7 female developer, I'm up against CPC, Lou  
8 Thompson, Governor Pataki's right hand man,  
9 his best friend, how am I to, you know,  
10 where do I get funds to go to the appellant  
11 level to the Supreme Court?

12 It should be that we as citizen  
13 taxpayer people we should be able to come to  
14 our judiciary system and get a due process  
15 right on the first circuit, not that we have  
16 to go all the way up to the Supreme Court to  
17 win.

18 And I called the NAACP legal defense  
19 fund and you know what they told me?

20 All major civil suits, discrimination,  
21 sex, gender usually have to go to the level  
22 of appellant; why?

23 We have already been devastated as  
24 women or minorities and then while we have

1 to dig up funds to get on the first circuit,  
2 then find money to get to the second and  
3 third and fourth circuit.

4 SENATOR SAMPSON: You know what, we  
5 agree with you, but that's why mistakes are  
6 made that's why you go to the Appellate  
7 Division and you have the Supreme Court in  
8 some states and you have the Court of  
9 Appeals and best case scenario you have the  
10 United States Supreme Court.

11 It happens, we are not perfect, people  
12 interpret the laws differently, at that  
13 point in time, but you just don't give up on  
14 the system.

15 That's why we have hearings like this,  
16 because what we are trying to do is make  
17 sure the faith, the trust and the  
18 confidence.

19 MS. WILKINSON: The system is broken.

20 SENATOR SAMPSON: We are doing our  
21 best to try to fix it.

22 MS. WILKINSON: It is broken.

23 SENATOR PERKINS: Two quick  
24 questions, I appreciate what the Chairman is

1           trying to say, but now this judge, how do  
2           you spell his name?

3           MS. WILKINSON:       Lehner is  
4           L-e-h-n-e-r.

5           SENATOR PERKINS:       That's Lehner.

6           MS. WILKINSON:       Lehner. They say  
7           Lehner.

8           SENATOR PERKINS:       I may be wrong, I  
9           think I know the judge, that's why I asked.

10          MS. WILKINSON:       He's old, he  
11          exhibited -- not that I'm age discrimination  
12          -- but he exhibited no patience, no  
13          tolerance, he had no tolerance for me as a  
14          Plaintiff, he just really.

15          SENATOR PERKINS:       I just asked you  
16          the question about his name.

17          MS. WILKINSON:       Let me tell you what  
18          else he did --

19          SENATOR SAMPSON:       But you have to  
20          listen.

21          SENATOR PERKINS:       Listen to me, I'm  
22          asking the questions. Now you have to focus  
23          on me and my questions.

24          If you go beyond that, I might ask you

1 to hold up because it might not -- because I  
2 want to get clear what you're trying to  
3 accomplish, which I think is important,  
4 which is to make sure that when you present  
5 yourself before a judge you get fair  
6 treatment.

7 MS. WILKINSON: Right.

8 SENATOR PERKINS: It's clear from  
9 your experience, at least, that that's not  
10 happening, you don't think that's happening.

11 MS. WILKINSON: And I wonder what's  
12 going to happen on the appellate level.

13 SENATOR PERKINS: Let me finish. So  
14 let me just be clear that you understand why  
15 we are here, because we suspect that some of  
16 the concerns that you raise, not necessarily  
17 in this instance, but we hear these problems  
18 and we therefore recognize that there is  
19 some repairing that needs to be done in the  
20 process.

21 Such that someone who feels and may be  
22 justifiable, have been mistreated has a way  
23 to be treated properly.

24 So that's what we are really trying to

1           be clear about, that there is -- that we  
2           obviously are having hearings to sort of  
3           understand where the system is falling short  
4           and where we can fix it, so I'm going to ask  
5           you a question from that point of view.

6           MS. WILKINSON:        Okay.

7           SENATOR PERKINS:       Because now the  
8           fact that you are a minority contractor is a  
9           little bit irrelevant right now.

10          MS. WILKINSON:        Okay.

11          SENATOR PERKINS:       Let's just say  
12          racism is the reason why the judge did that  
13          and then we have to -- that's one thing.

14                 If you say it's about racism and  
15                 sexism, there is a fix for that.

16                 If you are saying it's about something  
17                 else, then we have to figure out what that  
18                 something else is and figure out what the  
19                 fix is for that.

20                 One of the things that you said that  
21                 I'm going to just probe a little bit is  
22                 this.

23                 You are so disheartened, discouraged  
24                 that you feel that the system if you go, if

1           you appeal, you won't even find any help in  
2           the appeal.

3                   Now is that because you can't afford to  
4           do the appeal, or you don't have on the  
5           time?

6                   MS. WILKINSON:       No, I'm doing the  
7           appeal, it's also been amended to include  
8           the New York State Comptroller's office,  
9           DiNapoli's office because my mortgage was  
10          originally funded through the State Common  
11          Retirement Fund and even though I reached  
12          out to Mr. DiNapoli's office saying please  
13          don't get in bed with CPC, they have  
14          discriminated against me, DiNapoli's office  
15          elected to do anything, SNMA stepped in,  
16          paid off DiNapoli's office and it's like you  
17          deal with CPC on your own.

18                   My concern was he was a former  
19          Assemblyman for years and they become  
20          judges, and as they go out into the arena,  
21          the law, the judiciary system and they were  
22          Chairperson on these housing committees, it  
23          should not be that they are even to preside  
24          over any cases that they once were the



1 Chairman of the committee for so many years.

2 SENATOR PERKINS: Let me just  
3 interrupt again, forgive me, I don't mean  
4 to, but I just want to get the meat, the  
5 juice, the nuggets that you are offering, so  
6 the problem you see is a conflict of  
7 interest.

8 MS. WILKINSON: Absolutely.

9 SENATOR PERKINS: That we need to  
10 look at, there is a conflict of interest  
11 between when somebody presides as a judge  
12 and what their formal career may have been,  
13 particularly as a legislator that they might  
14 be prejudiced towards the industry.

15 So what's the second thought?

16 MS. WILKINSON: The second thought is  
17 I reached out to Senator Vigo Lipos,  
18 Barnasat, these Senators and Assemblymen,  
19 they won't even when you mention Judge  
20 Lehner, CPC, Community Preservation, they  
21 don't even want to touch it, they don't want  
22 to provide the information that's needed and  
23 so it's to me like --

24 SENATOR PERKINS: Lerner or Lehner,

1           that's a big deal? Are you sure because you  
2           mentioned the upper Manhattan area,  
3           Washington Heights.

4           MS. WILKINSON:       He was the  
5           Assemblyman for Fort Washington for about 8  
6           to 9 years.

7           SENATOR PERKINS:     That sounds like  
8           Lehner to me, that's why I'm the pooper  
9           scooper.

10          SENATOR SAMPSON:    Is there a Lehner  
11          on the Supreme Court?

12          SENATOR PERKINS:    Ed Lehner.

13          MS. WILKINSON:     It's Edward.

14          SENATOR PERKINS:    I know Edward he's  
15          a State Supreme Court Judge, who was also --

16          MS. WILKINSON:     It's Lehner.

17          SENATOR PERKINS:    There is a Judge  
18          Lerner, I don't think he would want to know  
19          that there is a person sitting at that table  
20          with so much concern about his integrity,  
21          that's why, so you're talking about Lehner,  
22          Judge Lehner --

23          MS. WILKINSON:     L-e-h-n-e-r.

24          SENATOR PERKINS:    For the record,

1 L-e-h-n-e-r.

2 MS. WILKINSON: For the Washington  
3 Assemblyman, my concern is as I speak to  
4 you, Senator Sampson or Senator Perkins, you  
5 guys may become judges in the future.

6 SENATOR PERKINS: Not me.

7 MS. WILKINSON: I'm just saying that,  
8 part of the reason the system is broken also  
9 is that you have legislators who were --  
10 they are lawyers, a lot of you have a law  
11 background, you become judges and then there  
12 is that conflict there and I just feel like  
13 something needs to be ethically -- there  
14 needs to be a Bill or there need to be when  
15 you all are sworn in that you promise when  
16 you -- if you ever go out and become a judge  
17 after sitting on a committee for 8, 9, 10  
18 years because you know as the Chairman of  
19 the Committee, Housing Committee that's a  
20 lot of money and bills that you are in  
21 control of, you know people are going to  
22 come and try to take you out to lunch and  
23 woo you and take you over, favors will be  
24 asked and called in later on if you become a

1 judge.

2 And it is just so unethical and in my  
3 case this is what has happened to me and  
4 something needs to be done, you guys, I  
5 almost want to say don't let them become  
6 judges if they were that they were or they  
7 should not hear cases that they were  
8 Chairman of those committees.

9 SENATOR SAMPSON: Senator Diaz?

10 SENATOR DIAZ: No.

11 SENATOR SAMPSON: Ms. Wilkinson,  
12 thank you very much for your comments.

13 MS. WILKINSON: I have one request, I  
14 don't know what the power to be for you  
15 guys, I have not filed a Complaint, I'm in  
16 the process of filing one, I was told to  
17 send my paperwork up to Judge Fern Fisher,  
18 Fern Fisher and I'm concerned, I mean I  
19 don't know if you guys can help govern the  
20 process or watch over me as an angel, who do  
21 I speak to to see that my appeal is given a  
22 true due process?

23 SENATOR DIAZ: Let me ask you a  
24 question, watch over -- you said somebody

1 will watch over me to you.

2 MS. WILKINSON: Watch over the case.

3 SENATOR DIAZ: You are a minority  
4 enterprise woman, what is your -- how many  
5 buildings, how is your enterprise doing now?  
6 Good or bad?

7 MS. WILKINSON: I'm in the -- I'm  
8 currently presently in the Court of  
9 Bankruptcy reorganizing and restructuring  
10 because I had to -- CPC accelerated my  
11 mortgage, placing total payment, SNMA  
12 stepped in and paid off the Comptroller's  
13 office, forcing me to go into bankruptcy.

14 So I mean I still have my asset, but I  
15 have no faith in the judiciary system, and  
16 this is why it's like how do we restore that  
17 within taxpayer U.S. Citizens who have  
18 Constitutional rights?

19 It's like how do you begin to fix the  
20 broken wheel?

21 And it's not -- something has to be  
22 done, it can't be that you file a complaint  
23 and it takes 50 years for that to be  
24 processed.

1                   SENATOR SAMPSON:     Ms. Wilkinson, we  
2                   will definitely do that and follow it up.

3                   MS. WILKINSON:     You will follow it  
4                   out?

5                   SENATOR SAMPSON:     We will follow it  
6                   up. You live in the capitol region, you  
7                   need to reach out to your State Senator.

8                   MS. WILKINSON:     It's Malcolm Smith at  
9                   this moment.

10                  SENATOR SAMPSON:     You live in Queens  
11                  or --

12                  MS. WILKINSON:     Both, I live upstate  
13                  and Queens.

14                  SENATOR SAMPSON:     Where do you vote?

15                  MS. WILKINSON:     Last voting I voted  
16                  upstate, I have just recently changed my  
17                  voting registration to New York City.

18                  SENATOR SAMPSON:     What you need to do  
19                  is contact Senator Smith's office.

20                  MS. WILKINSON:     I have done that  
21                  already.

22                  SENATOR SAMPSON:     We will follow up  
23                  with you, Lisa, could you make sure you  
24                  follow up with Ms. Wilkinson.

1 MS. WILKINSON: Thank you.

2 SENATOR SAMPSON: Thank you. At this  
3 point in time Mr. Victor Kovner who was  
4 second to speak, he is here now and I will  
5 take him.

6 MR. KOVNER: Mr. Chairman,  
7 distinguished members of the Senate, thank  
8 you for giving me the opportunity to present  
9 testimony.

10 Before I do that, let me say I want to  
11 thank the Senate for its leadership and its  
12 progress on so many issues, the passing of  
13 the Bill for the new family courts, bravo.

14 But I am here today to say on behalf of  
15 the Committee for Modern Courts I want to  
16 thank you for providing us with the  
17 opportunity to give this testimony.

18 As you know Modern Courts is an  
19 independent nonpartisan state-wide court  
20 reform organization, committed to improving  
21 the court system for all New Yorkers.

22 Modern Courts supports a judiciary that  
23 is -- that provides for the fair  
24 administration of justice, equal access to

1 the courts that is independent, highly  
2 qualified and divorced.

3 By research, public outreach, public  
4 education and lobbying efforts we seek to  
5 advance these goals.

6 And I also -- my comments are going to  
7 be focused on the committee on the judicial  
8 conduct which, for the record, you should  
9 know I served as a member of that commission  
10 from 1975 through 1989, a long, long time  
11 ago and towards the end of my service I was  
12 Chair of that commission and so I'm quite  
13 familiar with the work of the commission.

14 Now, over 30 years ago modern courts  
15 supported the legislative initiative  
16 establishing a temporary commission on  
17 judicial conduct, it was critical, there was  
18 no independent review of judicial conduct on  
19 the Bench.

20 There were no attorneys looking at  
21 allegations of misconduct, there was no  
22 commission, the judicial disciplinary system  
23 was simply some judges with the authority to  
24 discipline other judges.



1           We proposed a permanent commission on  
2           judicial conduct, and together with the  
3           League of Women Voters we worked hard to get  
4           a constitutional amendment on the ballot to  
5           establish it, and in 1976 the voters of the  
6           State of New York in a referendum approved  
7           that amendment and the commission came into  
8           existence in 1978.

9           It was one of the first such  
10          commissions in the country, there are now 49  
11          commissions like the New York commission  
12          around the country, and the New York  
13          commission is extremely vigorous, it is, as  
14          I will indicate, it set a lot of the law of  
15          judicial conduct around the committee and  
16          its work is followed by other commissions  
17          and it's really the only forum responsible  
18          for enforcing violations of ethical  
19          standards of judges of the State of New  
20          York, and I want to emphasize that, that's  
21          violations of ethical standards.

22          Errors of law do not come before the  
23          commission, are not appropriate before the  
24          commission, those issues as we have heard

1 from some of the witnesses this morning, are  
2 really matters that as the Chairman has  
3 pointed out should be and are regularly  
4 reviewed by our Appellate Courts.

5 Now, we have a lot of judges in this  
6 state and it's a very large judicial system,  
7 so the workload is quite large.

8 There were 4.5 million cases filed in  
9 our courts throughout the state and our  
10 courts include Town and Village Courts, City  
11 Courts, District Courts, Surrogate Court's,  
12 the Court of Claims and the Supreme Court.

13 There are more than 3,000 judges in New  
14 York. The Commission on Judicial Conduct  
15 receives over 1,600 complaints each year  
16 based on over the past -- that's the average  
17 over the past five years, and in '08 it  
18 received 1,923 and the commission's ability  
19 to assure complete investigation and  
20 appropriate action is one of the most  
21 important parts of the judicial system of  
22 New York.

23 Modern Courts strongly supports the  
24 work on judicial misconduct according to the

1 American Jurisprudence Society, New York  
2 State has consistently publicly disciplined  
3 more judges than any other state.

4 This reflects a willingness of the  
5 commission to effectively and efficiently  
6 meet its constitutional mandate.

7 The commission works with truly under  
8 difficult resource constraints, a few years  
9 ago we believed they didn't have sufficient  
10 staff and we made pleas to the legislature  
11 and you and your colleagues and others  
12 happily addressed that issue, and the staff  
13 and resources have been expanded so that  
14 they can effectively address this huge  
15 volume of complaints.

16 Now, one question that is asked is the  
17 confidentiality of proceedings.

18 The judiciary law requires that the  
19 commission investigation and formal hearings  
20 remain confidential.

21 Commission activity is only made public  
22 at the end of the disciplinary process with  
23 a determination of public admonition, public  
24 censure or removal is made and filed with

1 the Chief Judge of the State.

2 Or when the accused judge requests that  
3 the disciplinary hearing be public.

4 But we think that there should be  
5 confidentiality during the investigatory  
6 phase of the commission work and I think  
7 that to open up the process may address some  
8 of the concerns that you have heard this  
9 morning, which are legitimate concerns that  
10 ought to be heard and aired because  
11 unfounded claims can damage the reputation  
12 of individual judges, but at the same time  
13 the public is entitled to see the process  
14 work during the investigatory phase.

15 So we agree with and the commission has  
16 testified on that before this committee, and  
17 we think confidentiality should cease after  
18 a commission finds a reasonable cause to  
19 bring formal disciplinary proceedings  
20 against the judge and decides to hold a  
21 formal hearing.

22 I think at that point the public should  
23 be able to watch and find out what's going  
24 on.

1           The need for openness and transparency  
2           at the hearing stage will provide the public  
3           with greater opportunity to understand and  
4           witness the process of disciplinary  
5           hearings.

6           Public confidence in the process is  
7           essential to the success of the system, it  
8           will provide a judge with an opportunity to  
9           be heard in public, thus removing any rumor  
10          or innuendo that might remain after a  
11          private hearing and might linger after the  
12          commission exonerates a judge.

13          35 states now provide for public  
14          hearings once the investigation is complete  
15          and the charge is made, there is no reason  
16          to keep this part of the process behind  
17          closed doors, that change would require an  
18          amendment to the judiciary law.

19          In short, we support the work of the  
20          commission on judicial conduct and we thank  
21          you for the opportunity to provide this  
22          testimony.

23                 SENATOR SAMPSON:        Thank you very much  
24                 Mr. Kovner.

1                   Before we pose any questions to you, we  
2                   have been joined by my co-chair, George  
3                   Maziarz.

4                   Senator Maziarz. So basically, Mr.  
5                   Kovner, you are taking about you feel that  
6                   if this process was open, people would  
7                   understand more about, one, about not only  
8                   the construction, but the process that takes  
9                   place, instead of making all these  
10                  speculative allegations, of chicanery that  
11                  occurs behind closed doors?

12                  MR. KOVNER:       Precisely. Once the  
13                  commission has reached the point where they  
14                  are going to file a formal charge against a  
15                  judge, there is no reason why that should  
16                  not be held publicly and that people, the  
17                  public can hear the arguments for the  
18                  commission prosecuting the judge and the  
19                  judge in defense, and take into  
20                  consideration the outcome, rather than  
21                  simply see the ultimate result, and we make  
22                  that recommendation and I think it would  
23                  address some, but by no means all, but some  
24                  of the concerns you have heard this morning.



1 First of all, thank you.

2 SENATOR SAMPSON: Can you do all this  
3 in ten minutes?

4 MS. GKANIOS: I'm going to try.  
5 Senator Sampson, thank you, Senator Maziarz,  
6 thank you for holding the hearings.

7 And I also have to include I know  
8 Governor Patterson, if it was not for  
9 Governor Patterson in 1992 I do not know  
10 what would have happened to my children.  
11 Probably foster care.

12 What started out as a simple divorce --

13 SENATOR SAMPSON: The Governor needs  
14 stories like that.

15 MS. GKANIOS: You know what, I intend  
16 to go meet with Governor Patterson. He fell  
17 in love with my daughter and he will be  
18 proud of what she's become today.

19 And he has to know.

20 SENATOR MAZIARZ: Be careful about  
21 saying that.

22 MS. GKANIOS: You know, as an 8 year  
23 old child, I mean I can't tell you.

24 Any way, what started out as a simple



1 divorce turned into a 21 year nightmare with  
2 over 30 judges on one simple case.

3 Throughout my unwanted 21 years  
4 experience in the courts I was constantly  
5 being terrorized under the threat of losing  
6 our home, my children, being denied child  
7 support and our basic every day needs were  
8 denied.

9 I was constantly being denied by the  
10 Department of Social Services and other  
11 agencies.

12 The grievance committee letters  
13 attached to this complaint is some of the  
14 grievance committee letters, I got no help.

15 Unbeknownst to me that everything was  
16 being divested through legal maneuvering of  
17 lawyers and assisted benignly or  
18 intentionally by the judges.

19 At one point after going into Family  
20 Court to collect child support arrears, my  
21 petition was denied.

22 I was told I was in the wrong court,  
23 see the court orders and the transcripts  
24 attached to this testimony, and that I was

1           wasting the court's time.

2           My husband's attorney as well as the  
3           court's decision tried to sanction me  
4           \$10,000 for trying to collect child support  
5           in the Family Court. To date over \$300,000  
6           is owed.

7           My children have suffered and  
8           sacrificed because of a divorce that their  
9           father had planned for years.

10          With the help of lawyers and all the  
11          judges involved, to divest our funds and  
12          assets of everything totaling over \$5  
13          million.

14          They plotted the perfect crime, the  
15          divorce right out of the movie Gaslight, at  
16          one point my divorce was in the newspapers  
17          as the War of the Roses by my husband's  
18          attorney Terrence Dwyer.

19          Our assets were worth more than our  
20          debt, all bills totalling \$465,000,  
21          including our home.

22          Throughout his plot he attempted to  
23          frame me as though I was the one stealing  
24          from him, attempted to drive me crazy and

1 put me in an institution.

2 His plot then went to burn one of the  
3 restaurants down in Eastchester so that it  
4 would look like I was so crazed over money  
5 that I would burn it down and collect the  
6 insurance.

7 That's when I knew I better start  
8 protecting myself, I walked around with a  
9 tape recorder for two years.

10 On August 17th of 1990 I recorded, I  
11 tape recorded an argument where I was  
12 fighting with him that he was so crazed that  
13 there was no reason to do so.

14 This tape was turned over to the D.A.'s  
15 office years ago as evidence and to Judge  
16 Andrew O'Rourke in June of 2008.

17 On another night his chef attempted to  
18 set the restaurant kitchen on fire, the  
19 flames were shooting up from the stove, he  
20 turned the burners on and walked out.

21 He was setting up my daughter,  
22 Rosemary, and my son, had they not walked  
23 out the back door instead of the front door  
24 as they always did the place would have

1 burned down, and the baker was in the  
2 basement would have been killed because  
3 there was no way out.

4 I went to seek help from my attorney,  
5 he did nothing and when I returned to the  
6 restaurant I found the fire department and  
7 the police department.

8 They were looking at me as if I was  
9 crazy.

10 So who and what did my lawyer say? By  
11 this time everyone thought I was going to  
12 burn the store down.

13 The more I sought help from the police  
14 department and the courts no one helped.

15 My husband had numerous affairs that  
16 were just out of a future story that  
17 happened with Chief Judge Sol Wachtler,  
18 sordid affair, they were just as wild.

19 What I did not know for a couple of  
20 months was the crime that my husband had  
21 been committing, he was molesting my  
22 daughter for years and when he came out no  
23 one would believe because of all the insane  
24 things for months prior to that would make

1 something -- would make something like that  
2 such.

3 I am proud of my daughter, Senators,  
4 she tape recorded a conversation with him  
5 and he talked his way right into the State  
6 pen.

7 Everything did not stop there, though.

8 What we had to endure every single day  
9 there was always something from breaking and  
10 entering the house or my mom's home when she  
11 was not there, to my children being  
12 followed, the day before a pretrial on  
13 September 4, 1991 my daughter's car blew up  
14 on the Taconic State Parkway with her in it.  
15 Again, no help.

16 Throughout this whole nightmare my  
17 husband and his thugs made sure they always  
18 gave him the perfect alibi.

19 I received numerous phone calls that I  
20 better drop the charges. Terror tactics and  
21 no one would help.

22 On November 8th at 6:00 I got a phone  
23 call at the restaurant telling me that the  
24 boiler in my home backfired, that my home is

1 filled with carbon monoxide, I knew he had  
2 his friends who was in the boiler business  
3 tamper with it, but that's the only thing I  
4 could never prove.

5 On the 14th the first restaurant was  
6 lost through the Eastchester Town Court  
7 before Judge Rob Hill Gray, he allowed my  
8 personal property to be turned over to  
9 landlords, valued at over \$1 million,  
10 without any due process in law and when I  
11 came to understand the law, he exceeded his  
12 jurisdiction to do so, town court was  
13 \$25,000.

14 On January 8th of '91 my daughter  
15 reported to the CPS the child sexual abuse,  
16 when no one would believe her or me, as I  
17 said before, she recorded, she had that  
18 recorder in her pocket and had a 45 minute  
19 conversation with him as to why he did it.

20 By the way, that tape was authenticated  
21 by the feds at a later trial in Westchester  
22 County.

23 We were told to bring in the original  
24 tape to the Sheriff's Department and we

1           agreed.

2                   On the 31st right after they had the  
3 original I thought CPS and the Sheriff's  
4 Department called and stated don't worry if  
5 we do not pick him up and arrest him, this  
6 was questionable, what we were not being  
7 informed of if the original tape disappeared  
8 they could not prosecute.

9                   On 2/4/91 my daughter and I went to the  
10 Putnam County D.A.'s office that morning,  
11 that night my husband was picked up at the  
12 restaurant in Mount Vernon and finally  
13 arrested.

14                   March 31st, the day before the second  
15 restaurant was lost in Mount Vernon, my  
16 husband's thugs had his loan shark and the  
17 boys come in and threaten me that unless I  
18 turned the business over to my husband, the  
19 boys would be up to take care of me.

20                   This tape also was turned over to the  
21 D.A.'s office years ago as evidence and  
22 Judge O'Rourke in June of '08.

23                   My daughter and I went to the D.A., we  
24 were told that it might not be worth

1           pursuing further.

2           And that Putnam might want to make a  
3 deal for lesser charges, combined with  
4 Westchester, so no further charges are  
5 brought. Our decision was no deal.

6           I sent a letter to Judge Ingrassia  
7 questioning how does Westchester County not  
8 pursue what happened to my daughter?

9           The very next day we received a call  
10 from Putnam that Westchester was going to  
11 proceed.

12           On the 17th of May, Rosemary, my  
13 daughter's car alarm goes off, dead rat  
14 under the windshield, this was about three  
15 hours after she received a call that  
16 Westchester was going to the Grand Jury on  
17 May 23rd.

18           We were then informed that the Putnam  
19 D.A. that the motion before Bretts was to  
20 drop the charges, it's up to the judge to  
21 throw out a Grand Jury indictment, D.A. said  
22 it's up to them to pursue further, how do  
23 you throw out a Grand Jury indictment?

24           Throughout all of this I kept sending a



1 letter to Judge Dickenson asking him not to  
2 postpone conferences for child support, on  
3 4/15 informing him of the child abuse, the  
4 delays, cancellation would be detrimental to  
5 my family.

6 Judge Dickenson's law secretary,  
7 Stephen Roberts, claimed I would be held in  
8 contempt if I were to write any more letters  
9 to the judge.

10 SENATOR SAMPSON: Ms. Gkanios, you've  
11 got two minutes left, so if you can cut it  
12 down.

13 MS. GKANIOS: I'm trying, this is 21  
14 years.

15 SENATOR SAMPSON: What I want you to  
16 do is you are here, I don't need you to read  
17 from it, I want you to just be succinct.

18 What issues arose out of this with  
19 respect to the judiciary system, or was it  
20 the attorneys?

21 MS. GKANIOS: No, this was the judges  
22 and that's why --

23 SENATOR SAMPSON: When you say it was  
24 the judges, what do you mean by that?

1 MS. GKANIOS: The asset, one of the  
2 assets that were lost, in February of '91  
3 Mount Vernon City Judge John DiBlasi held an  
4 illegal eviction by ousting me from my  
5 second restaurant.

6 On March 12th, by the Mount Vernon City  
7 Marshal Henry Flagg, when Niki's was taken  
8 on March 12th I sued the -- I sued and the  
9 judge was Westchester Supreme Court Judge  
10 Nastasi, Judge Nastasi dismissed the case in  
11 August of '91 and told me I was in the wrong  
12 court.

13 Two years later at the Mount Vernon --  
14 the Mount Vernon City Marshal Henry Flagg  
15 signed an Affidavit that he never served me  
16 with the eviction papers.

17 After appealing the Town Court's  
18 decision and won and overturned on appeal,  
19 June 24th of '94, I resued, went through  
20 discovery and thousands of dollars worth  
21 only for Judge Nastassi to say I should have  
22 sued in 1991.

23 This is the same judge, did Your Honor  
24 not know what he was doing when he was

1 sitting on the bench?

2 SENATOR SAMPSON: So --

3 MS. GKANIOS: I sued --

4 SENATOR SAMPSON: So basically your  
5 issue is -- did you file complaints with  
6 respect to the Commission of Judicial  
7 Conduct?

8 MS. GKANIOS: Absolutely, that's what  
9 I submitted on June 8th in Albany, the  
10 complaints to the Judiciary Committee.

11 SENATOR SAMPSON: And what --

12 MS. GKANIOS: That they committed no  
13 wrongdoing. I never heard of such a thing.

14 SENATOR SAMPSON: You submitted them  
15 and they indicated there was no wrongdoing?

16 MS. GKANIOS: Right.

17 SENATOR SAMPSON: How long ago was  
18 this?

19 MS. GKANIOS: It had to be in '94,  
20 '95, I submitted multiple complaints because  
21 it just didn't stop there.

22 And that's why what -- right now,  
23 presently it's before Judge O'Rourke and,  
24 Senator Sampson, I have to tell you this has

1 to be the craziest thing, and one of the  
2 things is with O'Rourke, my husband has a  
3 second Social Security Number, why didn't  
4 O'Rourke question it?

5 My husband took -- I need to read this  
6 last part, we probably could go into a  
7 little time over into the Dominic Lieto case  
8 because Catherine Wilson and I are going to  
9 explain it and this is just as important.

10 SENATOR SAMPSON: What I'm trying to  
11 get to --

12 MS. GKANIOS: This is 21 years and  
13 over 30 judges.

14 SENATOR SAMPSON: I understand that,  
15 but we are getting -- we need specifics to  
16 get to the point where you allege that there  
17 may have been judicial misconduct, that's  
18 what we are trying to do and that's why we  
19 are asking you questions and trying to  
20 extract it from you, instead of you reading  
21 the statement.

22 MS. GKANIOS: You know, because I was  
23 hit -- the statement is longer than what it  
24 is and I just scratched out and I was making

1 it shorter.

2 You actually have the rules and  
3 everything that are there.

4 There were so many complaints that went  
5 into the Grievance Committee, again my  
6 matrimonial, 30 judges, Judge Hickman stood  
7 there --

8 SENATOR SAMPSON: Are you divorced  
9 yet?

10 MS. GKANIOS: No, I am not. I am  
11 really not, and I've got to tell you the  
12 newest thing, I just got it four days ago,  
13 and again I want no more courts, I want no  
14 more appeals, I want to say my last  
15 statement in the end and save it, but I have  
16 to tell you, this man operated under a  
17 second Social Security Number, why didn't  
18 the judges do anything? This is when it was  
19 brought to their attention recently.

20 All the complaints to the D.A.'s  
21 office, judges, everything, nobody did  
22 nothing.

23 A wonderful officer from Manhattan  
24 called me last April 11th asking me if I

1 knew where my husband was, I said no.

2 I said but I heard he was in Florida,  
3 but I have his second Social Security  
4 Number, would that help?

5 Well, I'll tell you, within two hours  
6 they had him in custody. He fled New York  
7 State illegally, failed to report under  
8 Meagan's Law, was hiding in the State of  
9 Florida living in Pompano Beach in a  
10 multimillion dollar home, they got him on  
11 the Adam Walsh law.

12 I flew down there, got him back up here  
13 to hold him in willful contempt, which is  
14 the motion pending and has been pending for  
15 over a year.

16 Now the thing with this case is I have  
17 had assets taken, I have had a co-op, I have  
18 had my home was foreclosed on, I still live  
19 in the marital home but that my children own  
20 the marital home, they bought it at  
21 foreclosure by money that a cousin loaned me  
22 in California which can all be documented.

23 Well, this crazy judge, mind you my  
24 husband, I can't say anything other than him

1           being crazy, because he said on the bench a  
2           year ago and was trying to figure out who  
3           was at fault, I looked at him and I said  
4           excuse me? He's a convicted pedophile. You  
5           have to decide who's at fault?

6           I mean completely shocked. I gave him  
7           these two tapes, the thugs and the arson, I  
8           have over 200 tapes that were turned over to  
9           the District Attorney's office.

10          Senator Sampson, this is not just a  
11          regular case.

12          Again, in answer I had -- his former  
13          attorney, it was like let's play catch.

14          You have to understand, again, I know  
15          again --

16          SENATOR SAMPSON:        What we are saying  
17          is right now the case is before Judge  
18          O'Rourke.

19          MS. GKANIOS:        Listen, all I know, I'm  
20          going to do whatever it takes that's going  
21          to expose it, I know one thing, this man  
22          should not be sitting on a bench.

23          He has --

24          SENATOR SAMPSON:        Judge O'Rourke.

1 MS. GKANIOS: Judge Andrew O'Rourke.

2 SENATOR SAMPSON: Where is he sitting  
3 at?

4 MS. GKANIOS: Putnam County Supreme  
5 Court, he is the worst, and if you give me a  
6 minute, I will tell you his new things and  
7 please because this is --

8 SENATOR SAMPSON: I will give you one  
9 minute to tell me your news things, then I  
10 need you to go to the Dominic Lieto case.

11 MS. GKANIOS: You know why on the  
12 procedure thing on the Dominic thing because  
13 of the foreclosure.

14 SENATOR SAMPSON: I understand that,  
15 but I've got so many witnesses I have to end  
16 this thing at 2:00, I want to get everybody.

17 So I'll give you one minute to explain  
18 everything.

19 Ms. Wilson, you can't take too much  
20 time, three minutes, let's go.

21 MS. GKANIOS: That's all it's going  
22 to take us on it.

23 SENATOR SAMPSON: One minute.

24 MS. GKANIOS: Why was charges not



1 filed against him, Judge O'Rourke at one  
2 point knowing he's a convicted pedophile  
3 having to decide fault, he wants to give --  
4 this is the craziest thing -- he wants me to  
5 be responsible for the foreclosure of my  
6 house, deduct the profits and give him half  
7 of my house.

8 A house that I don't even own, that's  
9 the first, same thing with the co-op.

10 Wait a minute, the man owes me \$300,000  
11 over \$300,000, I got \$20,000 in child  
12 support from bail money that the D.A., the  
13 judges hid from me.

14 And now Friday --

15 SENATOR SAMPSON: Have you filed  
16 complaints?

17 MS. GKANIOS: Yeah I did, Judge  
18 Nicolai.

19 SENATOR SAMPSON: I'm talking about  
20 file complaints against Judge O'Rourke.

21 MS. GKANIOS: Not yet, that was in  
22 the newspaper, Catherine Wilson and them in  
23 Westchester Guardian put the whole article  
24 in the newspaper.

1 I mean so that is the only one that I  
2 didn't file complaints on.

3 I can tell you that before, I'm going  
4 to allow him and I say allow him to give,  
5 that I'm going to be responsible for a co-op  
6 that was sold, or give him, say, half of the  
7 profit when before I give him half the  
8 profit he's going to pay my mom back \$46,000  
9 her estate that paid for my home.

10 And the \$50,000 that we paid over the  
11 course of 20 years just to maintain it.

12 SENATOR SAMPSON: What we will do --

13 MS. GKANIOS: This man needs to be --  
14 it's the most frightening thing, it really  
15 is.

16 SENATOR SAMPSON: What we are going  
17 to do is follow-up with your case, my  
18 counsel, Lisa Lashley, she says we will  
19 definitely follow-up with that, especially  
20 now that it's before Judge O'Rourke and see  
21 what's going on, see what's happening.

22 MS. GKANIOS: Senator Sampson, I can  
23 just tell you that --

24 SENATOR SAMPSON: Ms. Wilson, why

1 don't you come on up.

2 MS. GKANIOS: It's not just a  
3 matrimonial, it's about rules that were  
4 broken.

5 If I have to follow the rules, if I  
6 have to comply with the rules, and again  
7 when you read this, you will see, I hit them  
8 with the rules, I want you to follow the  
9 rules.

10 You can -- and I just want to -- and 30  
11 seconds will take me to read my conclusion,  
12 to you Senator Sampson and this whole  
13 committee.

14 And to our Governor, David Paterson,  
15 help and help now, 21 years is long enough  
16 my family had to endure, the letters you  
17 wrote for me years ago and helped protect my  
18 children and me, I can tell you the D.A.  
19 both offices, both Putnam and Westchester  
20 County along with the Administrative Judge  
21 Angela Ingrassia, Hickman and all the  
22 cronies were afraid of you have.

23 Well, help is needed now again, to the  
24 Governor, the Governor you know my children

1 and I, you have no idea as to what's been  
2 going on since I last saw you on the Capitol  
3 steps. I know you were very busy I would  
4 like a meeting with you, not your aids,  
5 these were and are criminal acts, criminal,  
6 criminal acts, not civil, no more courts, no  
7 more appeals, only handcuffs on these  
8 criminals.

9 There will be only one way to deal with  
10 them, as well as it is in your power,  
11 Senators, to have these criminal judges  
12 impeached immediately and immediate  
13 investigation causing no more damage.

14 SENATOR SAMPSON: We will definitely  
15 do that.

16 Thank you very much. Ms. Wilson, three  
17 minutes.

18 MS. WILSON: Absolutely, Senators.  
19 Thank you for your time, Senator Maziarz,  
20 I'm Irish, I can only pronounce it if it has  
21 an O' or a Mac in front of it.

22 Thank you for joining us, this issue  
23 has to deal with foreclosures which  
24 unfortunately in the current economy are

1 occurring at an ever greater rate.

2 In Westchester County alone this year  
3 we have now reached over the 8,000 mark of  
4 homes that are in jeopardy at this.

5 The issue also has to do with what I  
6 believe to be deliberate venue shopping on  
7 the case of the mortgage companies and  
8 changing jurisdiction and also the lack of  
9 help for Pro Se litigants.

10 The individual in question was an  
11 elderly gentleman called Dominic Lieto who  
12 came home recently a few months ago to his  
13 home to find his entire life savings in  
14 dumpsters in his front yard, and Senator  
15 Perkins and Senator George and Senator  
16 Sampson, Mr. Lieto came home to find  
17 photographs of his dead son in a dumpster on  
18 the front lawn, on his front lawn.

19 What had happened, how he got himself  
20 to this point was his son committed suicide  
21 in his home and had a subsequent divorce.  
22 Mr. Lieto lost his job then became disabled,  
23 he is now 62 years of age, he's elderly.

24 So with all of these complications and

1 no income coming in, it is not inconceivable  
2 that this gentleman lost his job.

3 He had other children, fell behind in  
4 his child support, he needed cash.

5 He then went to the mortgage company at  
6 Emigrant Savings Bank to get a loan.

7 Unfortunately this is an issue for the  
8 finance committee, there is nothing in the  
9 law at present to advocate for financial  
10 advice when you are getting a loan, because  
11 if somebody who knew anything about finances  
12 at the time had listened to him they would  
13 have said to him you are in a better  
14 position to sell the home, which is 100  
15 percent equity, cash it out, sell down and  
16 then use the proceeds to pay off your debts.

17 Instead, the greedy individuals at  
18 Emigrant Bank seeing only their commission  
19 dollars, sold the man with no income at 62  
20 years of age a mortgage.

21 Needless to say he defaulted on the  
22 mortgage.

23 What happened next is what I believe to  
24 be deliberate venue shopping.

1                   When Emigrant Bank showed up at the  
2                   auction they had a division of the bank buy  
3                   the mortgage back and then rent the property  
4                   to Mr. Lieto.

5                   So they now removed the action out of  
6                   Supreme Court so that when Mr. Lieto  
7                   subsequently defaulted on his rent payments,  
8                   it now became an eviction issue for Town  
9                   Courts.

10                  If we think the Supreme Courts, the  
11                  Family Courts and the City Courts are bad,  
12                  you ain't seen nothing until you've been to  
13                  the Town Courts, they are sadly a dog and  
14                  pony show.

15                  I went to the Town Court, it happened  
16                  to be the Town Court of Somers.

17                  SENATOR SAMPSON:        You have one  
18                  minute.

19                  MS. WILSON:        And the information is  
20                  not kept properly, there is no records  
21                  retention, there is no training of the  
22                  individuals, they do not know how to take  
23                  care of the disabled and people in these  
24                  situations.

1           What is most tragic, however, is there  
2           is no help for someone like Mr. Lieto who  
3           has to go it alone.

4           Nowhere in our court system, Senators,  
5           is there help for the Pro Se.

6           You call the Pro Se numbers they don't  
7           work, if you look on the State of  
8           California's website you can find every form  
9           with details and examples, just like the  
10          IRS.

11          There is no reason other than the  
12          lobbying efforts of the Bar Association in  
13          New York to stop us from obtaining the same  
14          information.

15          There are, however, fortunately some  
16          groups that do help Pro Se litigants, and  
17          one of them a representative is here with  
18          us, Dr. Kim Lurie who heads up a 4,000  
19          strong member Coalition for Family Justice  
20          that is right here in Long Island and New  
21          York City.

22          But we have to provide our own funds to  
23          do what the court system in the State of New  
24          York should be doing.



1           People like Mr. Lieto need help every  
2           step of the way, it is unconscionable for an  
3           elderly disabled gentleman to come home,  
4           find his belongings in the front lawn and  
5           pictures of his dead son torn to shreds.

6           SENATOR SAMPSON:       We can do something  
7           about that.

8           MS. GKANIOS:       Yeah, because I need to  
9           add to that my mom's furnishings were in  
10          this house.

11          This stuff was supposed to be put in  
12          storage, instead the Sheriff's Office he  
13          told me sue me.

14          Catherine Wilson was threatened,  
15          attorney Ruth Pollack was threatened. This  
16          is their attitude, sue me.

17          Tomorrow this case goes back before  
18          Judge DeBello, there is a motion before him  
19          to vacate the judgment of foreclosure and  
20          sale.

21          There was no notices, no affidavits,  
22          Catherine Wilson will tell you and I will  
23          tell you in an average foreclosure there has  
24          got to be a dozen Affidavits of Service.

1           In Dominic's case it was only one, I  
2           kept my -- my house was in foreclosure for  
3           10 years, over 225 motions I personally  
4           filed.

5           So I ripped this case apart along with  
6           Catherine Wilson, she did the financial end  
7           of it, I did the other part of it, because  
8           nobody is going to tell me a foreclosure  
9           inside out.

10          So this --

11          SENATOR SAMPSON:        So you have  
12          foreclosures -- that woman kept a  
13          foreclosure open for 10 years.

14          MS. GKANIOS:        You didn't let me  
15          finish, 10 years, do you know a lawyer came  
16          up to me and said to me how do I know that  
17          this was done right?

18          He says could you pay me \$25,000 to  
19          read it?

20          Listen, if you want to know how I did  
21          it, you go to the courthouse and dig up the  
22          thing and you read my papers.

23          SENATOR SAMPSON:        Thank you very  
24          much.

1 Thank you very much.

2 MS. GKANIOS: Senators, thank you.

3 SENATOR SAMPSON: Regina Felton. Is  
4 she around?

5 MS. FELTON: Yes, I am here, right.

6 SENATOR SAMPSON: Ms. Felton, you  
7 have ten minutes. The clock is running.

8 Mr. Higbee, are you ready?

9 MR. HIGBEE: Yes.

10 SENATOR SAMPSON: Okay.

11 MS. FELTON: Thank you, Senator  
12 Sampson.

13 My name is Regina Felton, I have been  
14 practicing in Brooklyn, New York in the  
15 Bedford-Stuyvesant area since 1990.

16 Prior to that I was -- I worked in the  
17 Manhattan D.A.'s office, I was senior  
18 counsel to the American Stock Exchange,  
19 Senior Special Counsel to the New York Stock  
20 Exchange, Assistant General Counsel to a  
21 securities firm on Wall Street and also head  
22 of market surveillance for that particular  
23 firm.

24 When I left and went to

1 Bedford-Stuyvesant I did so with the express  
2 desire to bring a kind of service to  
3 indigent people who lived in the area and  
4 who were underrepresented, since I had honed  
5 my skills.

6 So you can imagine when I encountered a  
7 judge whose name is Arthur M. Schack who  
8 sits in Kings County and who I had three  
9 cases before and wound up as a solo  
10 practitioner in Bedford-Stuyvesant on the  
11 front page of the Law Journal on three  
12 successive occasions.

13 And I point out to you that in the July  
14 8th, 2008 Law Journal, lawyer ordered to pay  
15 fees after pursuing frivolous suit.

16 In the August 12, 2008 New York Law  
17 Journal, jail fines given to solo who  
18 withheld downpayment.

19 In the August 14th section of The New  
20 York Times, court sanctions attorney \$10,000  
21 over \$40,000 in costs for failing to return  
22 downpayment.

23 SENATOR SAMPSON: So the million  
24 dollar question is did that occur?

1                   What the judge is indicating that you  
2                   did, did you withhold the downpayments, or  
3                   what did you do to warrant, I guess, the  
4                   actions that the judge took?

5                   MS. FELTON:       To give you the short  
6                   answer, and I wrote a letter to the Law  
7                   Journal, Judge Schack actually was under a  
8                   restraining notice not to adjudicate the  
9                   particular case.

10                   I have had three cases before him and  
11                   my first encounter with him was in 2003 and  
12                   while I thought it was somewhat strange  
13                   having practiced, I guess, at that time more  
14                   than 20 years, I just believed that -- well,  
15                   if this was a foreclosure, my three clients  
16                   were over the age of 80, two of them were  
17                   closer to 90.

18                   The houses all were located in  
19                   Bedford-Stuyvesant, with one exception in  
20                   Clinton hill, and the seniors were under  
21                   educated and also indigent, that's two.

22                   One of them I represented pro bono and  
23                   incurred the ire of the judge when I  
24                   resisted a foreclosure, that's how I got on

1 his radar.

2 I went to the Appellate Division when  
3 for this foreclosure he had issued something  
4 called a Writ of Assistance which is  
5 inappropriate for a person who is still in  
6 title, if there had been a foreclosure and a  
7 Writ of Assistance had been issued to remove  
8 that person so that the new owner could take  
9 possession, the Writ of Assistance would  
10 have been appropriate.

11 But there were some other anomalies as  
12 well and those anomalies were that the same  
13 person was appointed by this judge as both  
14 the referee and the receiver.

15 I objected --

16 SENATOR SAMPSON: When you say the  
17 same person appointed.

18 MS. FELTON: The judge appointed an  
19 individual, both as the receiver and as the  
20 referee.

21 SENATOR SAMPSON: Is that odd?

22 MS. FELTON: That's a conflict of  
23 interest.

24 And so when I asked him -- well, when I

1 pointed this out --

2 SENATOR SAMPSON: As the referee and  
3 the --

4 MS. FELTON: Receiver, the receiver  
5 is the person who collects the rent.

6 SENATOR SAMPSON: And the referee is  
7 the one who sells the property.

8 MS. FELTON: Exactly. In effect what  
9 he had done is he had given title to this  
10 property to this one individual and had  
11 given him the right to collect the rents and  
12 then had directed that my client, who was  
13 still in title and the foreclosure, a  
14 judgment of foreclosure had not been issued,  
15 and he had directed that she pay rent.

16 Now, she's in title, she's the owner of  
17 the property and so I was doing this pro  
18 bono and had an obligation to run back and  
19 forth to the Appellate Division.

20 SENATOR SAMPSON: This is the  
21 O'Therry case.

22 MS. FELTON: This is the 2003 and  
23 this is how I first became acquainted with  
24 Judge Arthur M. Schack.

1           He wrote some pretty bizarre opinions  
2           in that particular case, but in any event I  
3           was going back and forth with the Appellate  
4           Division and I was successful.

5           At some point when I couldn't handle it  
6           any more because I was doing it -- pro bono  
7           legal services took over.

8           My next case with Judge Schack had to  
9           do with a senior citizen who was close to 90  
10          years old and whose deed had twice been  
11          forged.

12          The first time the deed was forged  
13          another attorney handled the case and got a  
14          -- and had gotten a judgment cancelling  
15          title in the company who had forged the  
16          deed.

17          The company was directed to -- all  
18          equitable interests that that company had,  
19          the company was United Equities, was  
20          cancelled.

21          The company nevertheless transferred  
22          title again under a second forged deed.

23          They removed -- the person, the person  
24          who then had title, forged title, removed



1 all of my client's personal possessions from  
2 the house, changed the locks and brought  
3 eviction actions against him.

4 Now, this company was served by the  
5 Secretary of State.

6 The judge wrote the decision saying  
7 that I had served the wrong company,  
8 notwithstanding the fact that the company  
9 had been served by the Secretary of State  
10 and my client, the senior citizen who again  
11 was elderly, the only asset he owned was  
12 this house, and he was mortified by the fact  
13 that he had been removed from the property  
14 and the police had been called to remove him  
15 as a trespasser.

16 And I, because I'm in the  
17 Bedford-Stuyvesant community, attempted to  
18 represent him.

19 Now the issue here is, as far as I am  
20 concerned, is an obligation that I feel that  
21 we have, if we can, to represent the elderly  
22 and the indigent, and it was based on the  
23 decisions written by Judge Schack, he was  
24 removing my right to represent the senior

1 citizen.

2 Now, the issues that I brought to the  
3 Commission on Judicial Conduct were as  
4 follows; first I indicated that this judge  
5 had an underground of writing decisions that  
6 were never filed and therefore not  
7 appealable.

8 Now what I do I mean by that? Where a  
9 judge issues an order, the order obviously  
10 must be followed. However if the judge does  
11 not file the order, then you cannot appeal.  
12 You cannot file a Notice of Appeal, you  
13 cannot go to the Appellate Division. If  
14 he's retaining that file in his chambers,  
15 then you are either forced to do exactly  
16 what the judge says, or you can write to the  
17 Commission on Judicial Conduct, which I did.

18 Now I listened very carefully to when  
19 Robert Tabeckian spoke on June 8th, 2009,  
20 and he articulated the fact that the  
21 commission's objective was not only to  
22 investigate complaints, but also to make  
23 sure that the commission maintains an  
24 independent judiciary.

1           I don't see how it is that the  
2           commission can take on two competing tasks,  
3           because it is a conflict of interest.

4           The commission then becomes or aligns  
5           itself with the judges and gives up it's  
6           duty to the public to investigate and keep  
7           the courts unbiased.

8           SENATOR SAMPSON:       Some judges would  
9           disagree with that.

10          MS. FELTON:        So A, in writing to the  
11          Commission on Judicial Conduct where I  
12          explained my history with this judge, B,  
13          with respect to this one senior, that the  
14          judge completely misstated the facts, now  
15          you're an attorney, Senator Sampson, and we  
16          do know that the judge has a prerogative to  
17          interpret the facts, but he has no judicial  
18          prerogative to create new facts in order to  
19          get a certain result.

20          In the cases that I had before --

21          SENATOR SAMPSON:       That's called  
22          judicial activism.

23          MS. FELTON:        Well, all right. In the  
24          cases that I had before Justice Schack, he

1           actually created new facts, he created a  
2           fact pattern that I was able to disprove,  
3           and notwithstanding, I wind up on the front  
4           page of the paper without the opportunity to  
5           respond and without the opportunity to  
6           continue representing clients in that  
7           community without having them look askance  
8           at me because my pristine reputation had  
9           been sullied.

10                        Secondly, I had a second case with --  
11           the third case with Judge Schack, again he  
12           exercised his judicial prerogative to create  
13           and misstate the facts, and at the time he  
14           adjudicated a case where my client suffered  
15           -- his family had brought a petition  
16           questioning his mental health and the judge  
17           sitting in the mental health part issued a  
18           restraining notice.

19                        That restraining notice forbade any  
20           adjudication of that case.

21                        Notwithstanding the fact that this was  
22           called to his attention, Justice Schack  
23           adjudicated the case.

24                        This was a case again involving

1           lucrative property of a person who was  
2           almost 90 years old, and now a person who's  
3           mental capacity was being challenged by the  
4           family and where there was a restraining  
5           notice in effect directing that nothing  
6           happen until the mental status of my client  
7           was determined.

8           I again found myself on the front page  
9           of the paper with more than \$40,000 in costs  
10          and fees ascribed to me, notwithstanding the  
11          fact that there was a restraining notice.

12          The court issued orders in this case as  
13          well, and in this particular case a motion  
14          was made where the Plaintiff's attorney and  
15          my client and I were both named as  
16          Defendants, I was named because I was the  
17          escrow agent holding the downpayment in my  
18          escrow account, and my client, obviously,  
19          also was named.

20          The attorney who represented Plaintiff  
21          wanted to amend the complaint.

22          Somehow I was not served,  
23          notwithstanding even though I did not  
24          appear, a default judgment could have been

1 entered, though Justice Schack issued an  
2 order which never was filed in which he  
3 directed that the Sheriff pick me up and  
4 take whatever action was necessary in order  
5 to bring me to the court.

6 Now, in addition when I learned of the  
7 order I attempted to file a Notice of  
8 Appeal, the order had never been filed.

9 SENATOR SAMPSON: That's right, you  
10 can't file a Notice of Appeal if the order  
11 hasn't been filed.

12 MS. FELTON: That's right, I  
13 attempted to bring a Writ of Mandamus  
14 directing the judge to file the order so  
15 that I could appeal and get a stay.

16 Well, what happened is I went to the  
17 court, I notified the State Attorney  
18 General's office, the assistant State  
19 Attorney General appeared, the Appellate  
20 Division on the spot filed the Notice of  
21 Appeal, which is highly unusual, you do not  
22 file in the Appellate Division, you don't  
23 file the Notice of Appeal in the Appellate  
24 Division, but rather you file it in the

1 State Supreme Court, the Appellate Division  
2 filed the Notice of Appeal to two orders on  
3 the spot, revised my order by hand, which is  
4 also something highly unusual, where the  
5 Court Clerk is revising an attorney's  
6 papers, and I was told that I didn't get the  
7 stay but I should appear in the Judge's part  
8 for a hearing.

9 Now, the judge had his law secretary  
10 call me on approximately -- well, actually  
11 four occasions, and I was so concerned about  
12 the nature of the conversation that I was  
13 having with the Judge's principal law  
14 secretary, I placed the phone on the  
15 speaker, turned on my dictaphone and tape  
16 recorded each of the four conversations  
17 which I then settled on notice with the  
18 Court Clerk so that he could revise the  
19 transcript and I sent a copy to my  
20 adversary, no one objected to the content or  
21 the accuracy of the conversations.

22 The law clerk scheduled a conference in  
23 each of those four conversations.

24 When I appeared and without notice I

1 was subjected to a contempt hearing.

2 Now mind you there was a restraining  
3 notice in this case, so the judge is  
4 continuing to adjudicate the case  
5 notwithstanding the restraining notice.

6 I show up unprepared for a contempt  
7 hearing without notice under the New York  
8 State judiciary law that is supposed to say  
9 warning, you could go to jail and all of  
10 that.

11 SENATOR SAMPSON: Correct.

12 MS. FELTON: And he finds me in  
13 contempt, directs me to pay the money from  
14 my escrow account and a certain sum of money  
15 as a penalty for not having turned the money  
16 over earlier, notwithstanding the  
17 restraining notice.

18 When I appeared in court, I had a  
19 certified check from my escrow account, but  
20 I did not have the check that he had  
21 ascribed as a penalty.

22 SENATOR SAMPSON: How much was that?

23 MS. FELTON: \$6,678. I indicated to  
24 the judge that I had filed an appeal, the



1 Appellate Division had taken in the Notices  
2 of Appeal.

3 I perfected the appeal, I advised the  
4 judge that I had perfected the appeal and he  
5 said that I had an hour within which to turn  
6 over this \$6,700 and would I do that?

7 When I said no, that I would not, he  
8 placed me in handcuffs, I have the  
9 transcript, and I was taken to the court  
10 officer's lounge, I guess that's what it  
11 was, where I was handcuffed to a chair, a  
12 Sheriff came and picked me up, I spent 11  
13 days on Riker's Island.

14 THE AUDIENCE: Remove that judge,  
15 please.

16 MS. FELTON: I spent 11 days on  
17 Riker's Island, a friend of mine learned of  
18 my incarceration and went to the judge to  
19 negotiate my release.

20 The judge indicated that my friend, a  
21 retired police officer, had to go to Riker's  
22 Island and get the \$30,000 check that I had  
23 in court on the day of my arrest and take  
24 that check with his check to the home of my

1           adversary's lawyer before he would issue an  
2           order to release me.

3                       So some 300 miles driving to Riker's,  
4           driving out to Long Island to this  
5           attorney's house, going back out to Riker's,  
6           from 9:00 that morning I was released at  
7           10:00 that evening.

8                       I didn't know that the judge had, after  
9           I had been removed from the courtroom, had  
10          found that I was in contempt and had also  
11          given me another fine of \$500 -- sorry \$500.

12                      In addition to that about three months  
13          after I had been released the judge issued  
14          an Order to Show Cause sua sponte where he  
15          determined that I should pay a sanction of  
16          \$10,000 for having violated his order in the  
17          first place, notwithstanding the fact that  
18          when he issued the order there was a  
19          restraining notice.

20                      The Order to Show Cause is supposed to  
21          be served in a certain kind of way with the  
22          warnings and personal service, it was not.

23                      The order also indicated and the order  
24          happened to have been published in the New

1 York Law Journal, something I have never  
2 seen in all of my years of practice.

3 And so again I wind up in the New York  
4 Law Journal.

5 I was told -- or the order, the Order  
6 to Show Cause indicated that I either appear  
7 under threat of arrest or make the \$10,000  
8 payment under the threat of arrest.

9 SENATOR SAMPSON: So what happened?

10 MS. FELTON: I went to court, I  
11 submitted papers, I tendered a cashiers  
12 check for \$10,000 to the Lawyers Fund for  
13 Client Protection.

14 Now, the Grievance Committee examined  
15 my escrow account, there was nothing wrong  
16 with it.

17 The only entries, the only entries in  
18 the account were those of that accrued  
19 interest.

20 I haven't been found to have engaged in  
21 any kind of wrongdoing whatsoever.

22 This judge, for whatever reason, has  
23 targeted me.

24 Now, I understand that judges are

1           supposed to be given some kind of leeway in  
2           terms of the way that they run their court.

3           But there is no question A, that this  
4           judge lied in his decisions, and B, that I  
5           have been singled out for whatever reason,  
6           and C, that the Commission on Judicial  
7           Conduct has done absolutely nothing.

8           Now I have not written to the  
9           Commission on Judicial Conduct one time, but  
10          I believe more than half a dozen times.

11          What bothers me is not only the fact  
12          that the order of arrest and the payment of  
13          the fines and the issuance of the Orders to  
14          Show Cause do not appear as entries in the  
15          unified court system and it's supposed to,  
16          but this judge seems to have deliberately  
17          tried to prevent me from representing  
18          indigent seniors in my community when I have  
19          chosen to do so to protect the only asset  
20          that they had, which was the house in which  
21          they lived.

22          Now the --

23          SENATOR SAMPSON:        The question is,  
24          because we have to end in a minute because

1 time has extended, you wrote to the judicial  
2 conduct committee?

3 MS. FELTON: Many times.

4 SENATOR SAMPSON: Specifically about  
5 the incident that occurred, correct?

6 MS. FELTON: Yes.

7 SENATOR SAMPSON: Have you gotten any  
8 response?

9 MS. FELTON: Oh, yes, I did.

10 SENATOR SAMPSON: What has the  
11 response been?

12 MS. FELTON: There was no indication  
13 of wrongdoing.

14 SENATOR SAMPSON: Senator Perkins.

15 SENATOR PERKINS: You said you sent  
16 letters to the commission, can we get copies  
17 of those?

18 MS. FELTON: I gave you a package  
19 with reference to one of those letters, and  
20 I understand from Mr. Spotts that he scanned  
21 it into your -- I guess your computer, I  
22 have additional hard copies here, if you  
23 would like to have one.

24 This is only one of the cases and this

1 was the most egregious, because I wound up  
2 in Riker's Island.

3 But I have all of the -- I have all of  
4 the complaints which I have written, I have  
5 all of their responses in which they said  
6 that there was no wrongdoing.

7 SENATOR PERKINS: Did they indicate  
8 the basis upon which they came to their  
9 conclusion?

10 MS. FELTON: Well, I wrote, in fact I  
11 was so dumbfounded by the fact that there  
12 was no investigation that I knew of, because  
13 no one called me back, I actually called the  
14 author of the letter and asked her what was  
15 the basis for closing the case, and I was  
16 told they had -- that I had to do it in  
17 writing, I then wrote and then I was told  
18 that it was confidential and I wasn't  
19 entitled to know.

20 SENATOR SAMPSON: So, Ms. Felton, one  
21 thing you can rest assured I will talk --  
22 Senator Maziarz, do you have any questions?

23 SENATOR MAZIARZ: No.

24 SENATOR SAMPSON: One thing, you can

1 rest assured that I will follow-up with  
2 respect to this and I guess have a  
3 conversation with the Commission on Judicial  
4 Conduct, especially when something of this  
5 magnitude seems to be very important that  
6 you can't just receive a letter, and I can  
7 understand it being confidential, because  
8 it's true, certain issues and procedures are  
9 confidential.

10 But I will -- this is why we are having  
11 hearings like this.

12 MS. FELTON: Well, thank you very  
13 much, I appreciate that, but I also would  
14 like you to weigh the fact that my  
15 reputation has been tarnished to a degree  
16 that I don't ever think that I can recover  
17 it.

18 I have never heard of a solo  
19 practitioner, my office is on the corner of  
20 Fulton and Marcy in the heart of  
21 Bedford-Stuyvesant.

22 When is it that a solo practitioner  
23 winds up repeatedly on the front page of the  
24 New York Law Journal in such disparaging

1 terms?

2 I have never heard of it. And the  
3 attorney Mark Dwyer, the one who went to  
4 Canada and forged all those papers, he got  
5 less press than I did.

6 SENATOR SAMPSON: Thank you very  
7 much, Ms. Felton, thank you. Mr. Higbee.

8 MR. HIGBEE: Yes.

9 SENATOR SAMPSON: Mr. Higbee, ten  
10 minutes.

11 MR. HIGBEE: Senator Sampson, thank  
12 you for holding these hearings. My name is  
13 Douglas Higbee, I have been embroiled in a  
14 matrimonial and then some since 1944.

15 I am going to fast forward up to where  
16 my wife's sister, an attorney here  
17 practicing in New York and Connecticut using  
18 her power beyond that was employed by the  
19 Office of Attorney General right up the  
20 street.

21 And at which time thought that she  
22 didn't -- and being part of a fraud sexual  
23 abuse allegation of me in January 1997,  
24 subsequently leading to my arrest, March 20



1 of 1997, because I was broke yet again,  
2 having had 8 matrimonial attorneys  
3 throughout the entire matter, and I just --  
4 nothing of this took place, nothing ever  
5 happened, I was told you have to have  
6 counsel, I said assign me counsel.

7 Court assigns Joe Abananto, Joe comes  
8 to court meets my sister-in-law in the City,  
9 this is in Mamaroneck in the Village Court  
10 and confronts him, he drops me.

11 There is nothing in the record from the  
12 Village Court of ever being on there,  
13 subsequently Legal Aid gets assigned, and we  
14 just sit on it until it's dismissed in May  
15 of 1998.

16 In the meantime, I also learn that  
17 trying to find out my sister-in-law was also  
18 -- she was dismissed from the Attorney's  
19 General Office for having sex with an inmate  
20 in jail; it's documented.

21 SENATOR SAMPSON: Sister-in-law?

22 MR. HIGBEE: Joan Marshal Cressup  
23 practicing law in the State of New York of  
24 here and in Connecticut was dismissed from

1 the Attorney General's Office in July 18, I  
2 believe, 1997 for having "sex with an inmate  
3 in jail."

4 This I know only because after this was  
5 dismissed my life got a little bit of a  
6 break, I don't know if she was suspended or  
7 not, but is still practicing law, and when I  
8 finally came back to New York and started  
9 this matter again, I got a copy of my file  
10 from the attorney, Lynette Spalding, Legal  
11 Aid Society in Westchester to find out what  
12 went on there, to me it was dismissed.

13 I've got 16 boxes of files, that make  
14 up the majority of the five by five storage  
15 facility I own that houses everything I own  
16 left in the world.

17 Nevertheless her notes indicated, and  
18 it was her notes, that said I know a little  
19 bit about JC and having sex with an inmate  
20 in jail. When I found this out and yet this  
21 in the notes the Attorney General's Office  
22 was up in Westchester November of '97 --  
23 2007, and I only got the file in '06 or '07,  
24 I met with an investigator with the Attorney

1 General's Office, came to New York and he  
2 gave me the head up that was the fact, that  
3 was the case I FOIA'd her file, denied, I  
4 appealed the denial, denied, I'm supposed to  
5 be able to sue and get this.

6 So she's gone for a few years  
7 practicing I don't know doing what, and then  
8 comes back into law and gets me between the  
9 eyes by making a one and a half million suit  
10 against my employer, Morgan Stanley.

11 I used to be a broker with Morgan  
12 Stanley in Greenwich, Connecticut, I didn't  
13 come from any money, I'm a guy, I wasn't  
14 expected to go to college, I went to a state  
15 school, came out, got a job at IBM fixing  
16 typewriters, got kicked over to marketing,  
17 did 7 years, they dropped the training  
18 program on me at age 30, I went into  
19 finance, the money was there, I got picked  
20 up by what's known by Morgan Stanley in  
21 Greenwich.

22 They destroyed my life, I haven't seen  
23 my children in two years because this  
24 fraudulent sexual abuse allegation which I

1 never saw even the allegation by Detective  
2 Bart DeNardo until I got the file from the  
3 attorney alleging that I let my -- I'm not  
4 even going to say it, it never took place,  
5 not only that, it's dismissed, so I still  
6 can't say, I still do not understand what's  
7 going on.

8 To draw this back to not get off track,  
9 I have written the DDC repeatedly for them  
10 to investigate Ms. Joan Cressup's behavior  
11 practicing law and they proceeded to get in  
12 this because I put a complaint in '97 that  
13 it took them damn near a year to pull the  
14 files from storage, and the paper trail  
15 exists, I gave you a handout that I talked  
16 to Tim Spotts today, it's 53 pages it's on  
17 the CD that I originally copied, if you read  
18 it, great, if you haven't, please do.

19 I still think that my life is cloaked  
20 in this, I'm a sex abuse offender of my  
21 daughter --

22 SENATOR SAMPSON: But it's been  
23 dismissed against you.

24 MR. HIGBEE: Yes, supposedly it's

1           been dismissed, however with that -- it's  
2           only because I brought this back, I moved  
3           back to New York in '06, because I found  
4           out, it gets really deep, I'm in small  
5           claims trying to get a security deposit back  
6           from a landlord in Connecticut who -- and my  
7           sister-in-law was you walking down the hall  
8           in Danbury, Connecticut and has me served  
9           with my divorce that I find out took place  
10          in July '03 and I'm learning about it in  
11          '06, took nine years to get to that point,  
12          surprise.

13                 Also this judgment of divorce has a  
14                 warrant for my arrest. Why? Because I  
15                 didn't show up, nor was I served notice to  
16                 be at my judgment of divorce, so I  
17                 voluntarily show up for this bench warrant  
18                 before Fred Shapiro, he's no longer the  
19                 judge, Donovan is, I'm incarcerated, thrown  
20                 in jail for two months before they even get  
21                 around to the hearing to find out I'm here,  
22                 I spend another two months there, I get out,  
23                 June 29, 2006 and within three weeks Joan  
24                 Marshal Cressup, who now because of the

1 divorce, don't think she wasn't writing the  
2 papers before, Marilyn Faust wasn't, it was  
3 my money, in the past despite my complaints  
4 has never been able to provide a retainer  
5 agreement.

6 So she, Joan Cressup gets on July I  
7 think it's dated on the docket July 21 of  
8 '06 a judgment that Donovan signs off on of  
9 \$378,000 that I owe, so they just stole  
10 \$60,000 out of my pension last month and  
11 that I have a real quandary because Marilyn  
12 Faust knows Joan has been writing all the  
13 papers and doing everything, once Marilyn  
14 Faust found out she's got a judgment against  
15 me for \$378,000 it's going to be a payday,  
16 Faust wants to get paid, Faust takes my wife  
17 to court for \$135,000 in which case my wife  
18 beats her and her counsel in federal court  
19 on jurisdictional grounds and it's  
20 dismissed.

21 What's the latest of it? I don't know,  
22 but it's a comedy of freaking errors and if  
23 you don't think this attorney has done it --  
24 but back to the CDC, the Commission for

1           Judicial Conduct, if I wasn't homeless I  
2           could probably heat my home on the paperwork  
3           alone going to the CDC and Gary Casello,  
4           what a joke, I've been through it, it  
5           doesn't work.

6                        Why is Gary Casello the Westchester Bar  
7           Association drinking alcohol with all his  
8           cronies and playing golf, and I'm a witness  
9           to it firsthand if you want to subpoena me.

10                      The paperwork, I can keep you inundated  
11           with paperwork, we need a different channel,  
12           a different forum.

13                      I'm not here to complain about my  
14           personal situation, we wouldn't be here if  
15           there isn't something there.

16                      Take the new law students coming out of  
17           law school that don't have jobs to go to,  
18           give them \$50,000 and form some new  
19           commission where you plant these people in  
20           the committees and the CDC and the DDC on a  
21           six month internship to oversee what's going  
22           on and report back at a minimal expense to  
23           the State, have them report back to you  
24           people who have the authority based on them,

1 if they don't get it straight, it's their  
2 ass or career up front.

3 That idea was put on your website on  
4 the issues and legislators that everybody  
5 can go to if you've got an idea.

6 I'm going to close and concede what  
7 remaining time I have to Dr. Kim Laurie.

8 Questions?

9 SENATOR SAMPSON: Are you done?

10 MR. HIGBEE: I am done, yes, sir.

11 Thank you.

12 SENATOR SAMPSON: The next witness is  
13 Kathryn Malarkey. Ms. Malarkey.

14 MS. MALARKEY: Yes, I wasn't advised  
15 I was going to be testifying so I'm not  
16 really prepared, but I have a short  
17 statement I want to read to the committee,  
18 and thank you very much for hearing us.

19 I was involved in the employment case  
20 in which an injunction against further  
21 retaliation had been issued.

22 My attorneys lied to me and lied to a  
23 federal Magistrate. Their lies are recorded  
24 in an official court audio tape of the



1 hearing that I was not allowed to attend  
2 because my attorneys told me this was a  
3 private hearing with the judge and I should  
4 not be there.

5 I didn't know that they didn't want me  
6 to be there because they intended to lie.

7 I did not know about these lies until  
8 years after I was forced into a settlement.

9 My lawyers' lies caused the Magistrate  
10 to fine me \$500 and he threatened to dismiss  
11 my case.

12 I presented irrefutable documentation  
13 to the Departmental Disciplinary Committee.

14 The attorneys did not bother to refute  
15 the evidence that I gave, because I believe  
16 they could not refute it.

17 I was repeatedly told it was a waste of  
18 time to complain to the DDC. I believe  
19 there would be many more complaints if  
20 people had faith in the DDC.

21 The pain and suffering of long drawn  
22 out process inflicts pain and suffering and  
23 ruins lives. I think you have heard this  
24 morning just how much pain this group has.

1           It would have cost hundreds of  
2 thousands of dollars for me to present my  
3 case to the DDC.

4           Except for a wonderful attorney who has  
5 given all this time to represent me pro  
6 bono, the DDC has dismissed my case without  
7 any explanation.

8           I have never been able to respond to  
9 any questions that they might have, I surely  
10 can respond to all their questions.

11           It should not take years to get  
12 justice.

13           The DDC should be open, fair minded,  
14 helpful to those who have suffered at the  
15 hands of incompetent attorneys.

16           The DDC should change its name to the  
17 Attorneys Protection Association.

18           There is so much suffering in the  
19 search for justice, there must be a better  
20 way, and Senator Sampson, we are so grateful  
21 to you and to the others who have listened  
22 to us, you have been wonderful.

23           I just hoped that you hear how much  
24 need there is for real serious reform and I

1 will back this all up with some papers to  
2 you later.

3 Thank you, thank you.

4 SENATOR SAMPSON: Thank you very  
5 much, Mrs. Malarkey.

6 The next witness is Nora Renzuli. Ms.  
7 Renzuli.

8 MS. RENZULI: Thank you. Senator  
9 Sampson and Senator Maziarz, my name is Nora  
10 Renzuli, I'm an attorney, I was admitted to  
11 the practice of law in New York State and in  
12 New Jersey in 1987.

13 I have been practicing law in the State  
14 of New York and have been employed by the  
15 Office of Court Administration since 1990.

16 SENATOR SAMPSON: Are you still  
17 employed with them?

18 MS. RENZULI: Yes, I am. I have  
19 presented my material to the committee, and  
20 it does lay out my case and my position that  
21 a judge in Family Court without legitimate  
22 authority or jurisdiction took my children  
23 and handed them over to my former husband  
24 who is living out of state in Pennsylvania

1           who was represented by a Brooklyn and Queens  
2           clubhouse attorney who managed to wrap the  
3           judge around his little finger.

4           My children were sent out of state  
5           before I was allowed to put on a word of my  
6           case.

7           That was in 1999. The children had  
8           been with me since their father left in  
9           1990, I had been the custodial parent for  
10          nine years, I had finally gotten a child  
11          support order and it was affirmed on appeal  
12          in 1998.

13          My former husband then went to the  
14          Family Court and subverted the whole due  
15          process and dual tier system for Family  
16          Court decision making by pulling the rug out  
17          from under a fully litigated divorce and  
18          custody, visitation, child support decision  
19          making by Supreme Court orders.

20          The focus I would like the committee to  
21          look at most is something that hasn't really  
22          been touched on here, and that is parent  
23          child relationships, that's why I'm here,  
24          that's front and center of everything I have

1 done ever since my children were born.

2 And to have lost them nine years ago to  
3 a deadbeat dad who was able to hoodwink the  
4 whole system and get a judge to act without  
5 subject matter jurisdiction and take them  
6 away before I was heard, one word, despite  
7 being represented by a former Family Court  
8 judge, retired, who obviously had lost his  
9 clout, Family Court Judge's name is Terrence  
10 Miguel Rath in Staten Island Family Court.

11 I brought a Writ of Prohibition, the  
12 Family Court judge was represented by  
13 Attorney General Elliott Spitzer.

14 Elion Gonzales was protected by  
15 Attorney General Janet Reno.

16 David Goldman's son who is in Brazil  
17 now is being protected by the efforts of  
18 Senator -- by Secretary of State Hillary  
19 Clinton.

20 Does anyone in this room think that  
21 former Attorney General Elliott Spitzer  
22 lifted a finger to help protect my children?

23 He did not. Even though his own  
24 investigator in the public integrity unit

1 told me there was, "obvious misconduct and  
2 malfeasance."

3 There was a publicly paid law guardian  
4 who consorted with the attorney for my  
5 former husband who created the scam that I  
6 had never been given actual custody and  
7 therefore I did not need to be heard before  
8 the children were moved.

9 In these kinds of cases often  
10 possession does end up being 9/10 of the  
11 law, especially when kids are sent to  
12 another jurisdiction in another state, or  
13 they are abducted and sent to another  
14 country.

15 I have been trying since that happened  
16 to get some kind of remedy, and I have done  
17 everything conceivable, possible, legal, to  
18 make that happen.

19 On September 11, 2007 the Court of  
20 Appeals of New York State dismissed my Writ  
21 of Prohibition by saying it had mooted out  
22 because the children were now over 18.

23 That is no solution to these kinds of  
24 problems.

1           The state of New York is suffering from  
2 avoidance disorder and if it were a person  
3 it would be diagnosed with access to  
4 avoidance personality disorder.

5           We need to deal with these problems, we  
6 need to name them, claim them and nip them  
7 in the bud before children are irreparably  
8 damaged.

9           The Attorney General of the State of  
10 New York has a role to play, when there is  
11 no jurisdiction and a judge doesn't have the  
12 power, he loses immunity.

13           The Attorney General's Office needs to  
14 assess these cases, vet them and when they  
15 are asked to represent some kind of  
16 dishonesty, dirty dealings, they should say  
17 to OCA no way, I'm not going to represent  
18 this dirty judge, this dishonest judge, this  
19 dishonest process, but no, they go right in  
20 and do it and it goes all the way to the  
21 Court of Appeals, wasting our taxpayer's  
22 dollars and the credibility and the  
23 legitimacy of the office of Attorney  
24 General, the chief law enforcement officer

1 of the state.

2 What is that AG doing representing  
3 these kind of judges?

4 Unbelievable, and I finally get to the  
5 Court of Appeals and then they wash their  
6 hands, as if it only had to do with the ages  
7 of the children.

8 It had to do with a complete perversion  
9 of justice.

10 Two senators on your committee from  
11 Staten Island have tried to help me, they  
12 have reached out to the District Attorney of  
13 Richmond County, they asked that an  
14 investigation each be conducted into the law  
15 guardian's behavior.

16 The D.A. of Richmond County wouldn't  
17 even investigate, and that was after a call  
18 from the Democratic leader of Richmond  
19 County, after letters from Senator Lanza,  
20 Senator Savino and Assemblyman Titone,  
21 didn't make a hill of beans difference with  
22 this D.A.

23 I think that OCA needs to get a handle  
24 on these kinds of problems early on and deal



1 with them before all the damage is done.

2 It's not just damage to me as a  
3 litigant, as a citizen, as an attorney, as  
4 an officer of the court, but it's damage to  
5 our whole process.

6 SENATOR SAMPSON: Okay.

7 MS. RENZULI: I really appreciate  
8 what you're doing, Senator, and I hope that  
9 the orders, taking custody from me,  
10 illegitimately giving it to my ex, taking  
11 child support out of my pay for the last  
12 nine years, over \$100,000, out of my court  
13 salary, they will devour their own, this  
14 court system is out of control.

15 I want those orders voided. Thank you.

16 SENATOR SAMPSON: Thank you very  
17 much.

18 Next witness is Stephanie Klein,  
19 Stephanie.

20 If we can just take a five minute  
21 break, is that all right?

22 (Discussion off the record.)

23 SENATOR SAMPSON: We will start right  
24 now, I had to make sure no more coups were

1 going on.

2 I've got five witnesses left after Ms.  
3 Klein. No more additions, Lisa, no more  
4 additions.

5 Ms. Klein, go ahead. Okay, Ms. Klein.

6 MS. KLEIN: Well, hi, good afternoon.

7 Thank you for allowing me to speak at  
8 this very important hearing today.

9 I would like to preface my statement by  
10 stating that I have been in matrimonial  
11 Supreme Nassau County with justice Anthony  
12 Falanga for six years now and counting and I  
13 also would like to also mention take noticed  
14 there are many others who are also in front  
15 of Justice Falanga, same courtroom as I have  
16 been in for the past six years.

17 We settled our divorce three years ago  
18 and I still am trying to obtain the money  
19 settlement in our settlement agreement.

20 Having said that, bear with me, this is  
21 my first time I'm doing this and I'm really  
22 nervous.

23 SENATOR SAMPSON: Take your time.

24 You've still only got nine minutes now.

1 MS. KLEIN: That's what I wanted to  
2 say, too, I chopped my pages down, I only  
3 have two and a quarter, so I won't take up  
4 too much. I'll do my best.

5 I would also just like to say that as  
6 soon as Judge Falanga heard my statement to  
7 contest the divorce I was immediately  
8 labeled in his mind as a trouble maker, even  
9 though I was just exercising my legal right  
10 to contest the divorce that I felt was  
11 unwarranted and unnecessary.

12 But after that he made it his business  
13 to make my life absolutely miserable each  
14 and every time I had to appear in front of  
15 him in his courtroom.

16 I was made to stand and be humiliated  
17 in front of the entire courtroom, degraded,  
18 he called me names, I was told I lived in  
19 sin because I married someone out of my  
20 faith so he told me I lived in sin for 10  
21 years before we remarried in another  
22 ceremony in the church, just to give you an  
23 idea of some things that Judge Falanga is  
24 capable of.

1           But in any case, if I could leave you  
2 here today with two very important words,  
3 and I'm glad to have -- to being followed by  
4 the person, the woman who spoke before me,  
5 two important words, children and mothers.

6           But I would be remiss to leave you here  
7 today without finishing the rest of those  
8 very important words, children, mothers,  
9 domestic abuse, domestic violence and our  
10 broken down excuse for a fair and just  
11 judicial system.

12           It's broken and no one is fixing it and  
13 that is a direct quote told to me within the  
14 system itself when Judge Falanga changed my  
15 Order of Protection for myself and my  
16 children and altered it from the Criminal  
17 Court taking my children off of the Order of  
18 Protection that was issued after he had  
19 assaulted me and was arrested and spent the  
20 night in jail, and Judge Falanga crossed out  
21 my children's names and allowed my  
22 ex-husband to reinstate his visitation  
23 rights.

24           Also and most crucially important, the

1           drastic and horrifically damaging effects  
2           and fall out, if you will, from the great  
3           collapse, corruption and breakdown and  
4           failure of our judicial system as it stands  
5           today, is especially important.

6                     But my most important and privileged  
7           purpose and even mission for being here  
8           today is to urge all of you to specifically  
9           examine the numerous departments of what are  
10          supposed to be our just and fair judicial  
11          system in Nassau County, New York.

12                    All of the following departments of our  
13          government here in New York are drastically  
14          broken down and need urgent examination and  
15          swift cleanup, to say the least.

16                    We must put back into place our fair  
17          and just legal system as was intended by our  
18          forefathers to be.

19                    Some of the courts are Supreme Court  
20          matrimonial, Criminal Court, supervising  
21          judges, arbitration committees, the  
22          Grievance Committees, the Appellate Courts,  
23          judicial commissions, committees on judges  
24          and judicial conduct, commissions handling

1 all complaints against judges, attorneys and  
2 law guardians.

3 We know today that according to the  
4 2009 report of the Commission on Judicial  
5 Conduct, that out of almost 2,000 complaints  
6 filed in 2008, only 262 were investigated  
7 and of those, 173 were deemed dismissed.

8 Now if my math is correct that means  
9 and leaves only 89.

10 89 out of almost 2000 complaints for  
11 the entire year for 2008, only 89 people  
12 were even examined and possibly taken  
13 seriously, we don't even know that.

14 We do not know whether these 89 results  
15 were favorable to the complainant or not,  
16 and these figures do not even include all  
17 the other complaints not entered by the  
18 public for fear of retaliation by the  
19 judges, attorneys and the courts.

20 I am even worried that I am sitting  
21 here today naming names and saying what I'm  
22 saying.

23 People are afraid to step up and  
24 exercise what is their legal right to defend

1 themselves because they see others who have  
2 done so and been sanctioned or punished in  
3 some way or another by the judges and the  
4 courts for doing so.

5 It is criminal what is going on in our  
6 courts today and the innocent are being  
7 unfairly judged and punished while the true  
8 guilty parties walk away.

9 Imagine what that total figure would  
10 have been if more people had the courage to  
11 step forward but cannot and do not out of  
12 fear for the retaliation by the judges and  
13 who label these people instead as trouble  
14 makers and punish them as such, as was done  
15 to me by Judge Falanga.

16 We all know there is a major corruption  
17 going on in our entire government, we all  
18 see it on TV every day, we see it from  
19 officers of the court, attorneys, judges,  
20 supervising judges, even Governor's and  
21 right up to the President of the United  
22 States.

23 Perjury and adultery have become  
24 commonplace.

1           These are both against the law, yet  
2           last time I looked nobody is being  
3           prosecuted for these terribly hurtful and  
4           damaging crimes, especially to the children  
5           of our world; the true victims in all of  
6           these goings on.

7           Families are being broken up every day  
8           and unnecessarily so and the children are  
9           being hurt in so many ways.

10          The court should be sending families,  
11          and this is really important, the courts  
12          should be sending families to counseling  
13          before handing out divorces like candy, and  
14          for no good reasons.

15          What has happened to the family as we  
16          know it in America today?

17          Divorce is now in epidemic proportions.

18          Almost everyone we meet are now either  
19          divorced or know someone who is divorced.

20          Women, children, families are torn  
21          apart, homes are lost, people are struggling  
22          just to make ends meet.

23          In some cases children are brain washed  
24          against a parent, thus creating a



1           horribly painful and most depressing and  
2           most cruel estrangement both on the part of  
3           the children putting them in the middle and  
4           also on the other parent.

5                   And custody is sought to get out of  
6           paying child support, as well as taking the  
7           home along with them.

8                   The other parent moves out and life as  
9           the family knew it will never be the same  
10          again.

11                   And the courts let it all go by. It is  
12          an outrage what is going on in matrimonial  
13          Supreme Court in Nassau County New York, so  
14          the innocent parties in this epidemic of  
15          divorces --

16                   SENATOR SAMPSON:       Thank you.

17                   MS. KLEIN:       How do I know? Because  
18          it has personally happened to me and my two  
19          children, and as I sit here today, I risk  
20          myself being sanctioned by Judge Falanga  
21          somehow, he will find a way, but what I am  
22          saying here is only the truth and it must be  
23          told.

24                   I have been living this terrible

1           experience in matrimonial court in Nassau  
2           County for six years now and counting, I am  
3           still unable to collect the money which was  
4           agreed upon several years ago.

5                    SENATOR SAMPSON:       When you say that,  
6           Mrs. Klein, are you saying that the judge is  
7           stifling you from collecting your money?  
8           What is preventing you from that?

9                    MS. KLEIN:       Well, my attorney has  
10          informed me that she has released herself  
11          from my case and she's decided that she's  
12          done.

13                   SENATOR SAMPSON:       So basically you  
14          have no attorney at this point in time?

15                   MS. KLEIN:       Then when I try to  
16          contact they tell me to try to reach out to  
17          Judge Falanga, which I did, and they sent it  
18          back saying no, you still have an attorney  
19          and I was getting to that part, I was going  
20          to mention that.

21                   SENATOR SAMPSON:       Because your time  
22          is up, okay?

23                   MS. KLEIN:       I'm almost done. Let me  
24          just get back to my spot, yes, it happened

1 personally to me and my children.

2 And as I sit here today, I am saying  
3 that I fear being sanctioned by Judge  
4 Falanga, I really don't know what to do, I  
5 am in the middle.

6 I've been living this experience as I  
7 sit for six years now and counting.

8 I am still unable to collect the money  
9 which we agreed upon, I am told I may not --  
10 I may not reach out to the judge for  
11 assistance, as I still have an attorney on  
12 record, although this attorney has released  
13 herself from the case, as I have just said.

14 I am still in the middle and do not  
15 know when it will end or what to do.

16 I am ill, I want to get my affairs in  
17 order, and I cannot find anyone to help me  
18 get this money settlement, the QRDO  
19 transferred over to me as was court ordered  
20 and get my children back.

21 I speak from fact, but of course from  
22 many other emotions as one can well imagine  
23 in a situation such as I am now living and  
24 did not do one thing to deserve any of it.

1 I was and always would be a very caring  
2 wife and mother, I loved being a stay at  
3 home mother and did it for 18 years and  
4 treasured each moment.

5 The worst thing that can happen to a  
6 mother is to lose her child.

7 I have two holes in my heart where my  
8 daughters used to be.

9 I have been alienated from my own  
10 children, and the pain is so very difficult  
11 to endure and the court did nothing it help.  
12 The side with the money always wins.

13 What I need is an attorney who will  
14 help me to obtain my money settlement as  
15 ordered in the QRDO and have been waiting  
16 now for years and also assistance with  
17 getting my children back and unbrainwashed,  
18 if you will.

19 What has happened to our morals and  
20 vows and promises we make in marriage and  
21 families?

22 There should be mandatory counseling  
23 before any type of permanent and emotionally  
24 damaging and scarring decisions and

1 judgments of divorce are handed out.

2 We have law guardians who may know the  
3 legal rights of children, but they are in no  
4 way trained in psychology or psychiatry or  
5 even social work and yet they are allowed to  
6 make very crucial and potentially damaging  
7 decisions for these children, both mentally,  
8 emotionally and financially.

9 SENATOR SAMPSON: Ms. Klein.

10 MS. KLEIN: I am almost done. The  
11 lives of children are put in the hands of  
12 law guardians who know nothing of what  
13 children need and in most cases these law  
14 guardians don't even have children of their  
15 own on which to base their potentially  
16 emotionally damaging decisions upon.

17 I leave you here today, in closing,  
18 with all of these words and hope that you  
19 will help me and others who are lost and  
20 abused in this terribly painful and damaging  
21 and corruptive courts, in the matrimonial  
22 court of the Supreme Court of Nassau County,  
23 I even risk, as I said, being sanctioned or  
24 further punished, but it is a chance I must

1 take to try to get back to justice in the  
2 supposed halls of justice.

3 I have tried the grievance committees,  
4 I have tried the arbitration committees, I  
5 have tried writing to everybody all over the  
6 place, and none of it helps.

7 It just does not make sense that the  
8 guilty party here lie, cheated, committed  
9 adultery and perjury and yet continues in  
10 these behaviors and myself and my now two  
11 estranged daughters are the ones being  
12 punished.

13 It seems the old saying still holds  
14 true, it's not what you know, it's who you  
15 know, I hope someone will step up today for  
16 me and my two daughters and help me get this  
17 case straightened out as it should be.

18 I thank you for your time and in  
19 advance of any future assistance, all of my  
20 information is listed below on the papers  
21 that I handed in.

22 I am Stephanie Klein, and I thank you  
23 for all for listening.

24 SENATOR SAMPSON: Thank you, Ms.

1 Klein.

2 Ms. Klein, what we will do I'll have  
3 one of my staff people, Lisa Lashley make  
4 sure, because I just want everybody to get  
5 clear, you know, we are not looking to  
6 basically have an input in the outcome of  
7 these individual cases, because that's not  
8 our job here, our job is to look at the  
9 Commission on Judicial Conduct and also the  
10 disciplinary committees to make sure that  
11 any discrepancies or issues or any reforms  
12 that need to be made or recommendations to  
13 reform the present system as such, to give a  
14 little bit more faith, trust and confidence  
15 of the people who are using this judicial  
16 system.

17 So that's what we are looking for,  
18 that's exactly what we are looking for.

19 The outcome in individual cases, we  
20 cannot have any input with respect to that.

21 But I will have somebody look at your  
22 case closely, Ms. Klein, all right?

23 MS. KLEIN: Thank you, I really  
24 appreciate that.

1                   SENATOR SAMPSON:     Thank you.

2                   MS. KLEIN:        Just to say, I didn't  
3 complain yet to the judicial commission to  
4 Judge Falanga because he's not done with me  
5 yet, and I'm afraid of what he could do to  
6 me before we are done.

7                   SENATOR SAMPSON:     But I think it's  
8 good you come because sometimes judges, you  
9 know, that's why you have the Commission of  
10 Judicial Conduct, you make these complaints  
11 if you feel the judges is just stepping out  
12 of his bounds of the parameters he is  
13 supposed to be operating in.

14                  MS. KLEIN:        I feel almost a little  
15 safer because now I'm on record of saying  
16 how I've been treated by him, and whatever  
17 his future things are to do to me, will be  
18 now noted because I have said, sat here and  
19 given my statement of what has been done by  
20 this man to me until today.

21                   So I thank you for your help after.

22                  SENATOR SAMPSON:     Thank you, Ms.  
23 Klein.

24                   The next witness is Ike Aruti of



1           Rosedale. Mr. Ike Aruti.

2                   MR. ARUTI: I have prepared the  
3           copies that were requested so you might read  
4           a little.

5                   Thank you very much, Senator Sampson,  
6           for the opportunity to give my testimony  
7           today.

8                   My name is Ike Aruti, and I am a patent  
9           attorney.

10                   I was an engineer for many years before  
11           going to law school and I was very  
12           successful as an engineer because I always  
13           had a special talent for diagnosing  
14           malfunctions.

15                   I did not leave this talent behind when  
16           I became an attorney.

17                   Beginning in May of 2007 I was the  
18           victim of false charges of domestic  
19           violence, and in June of 2007 my son was  
20           taken away from me by the NYPD in the middle  
21           of the night.

22                   Since then I have lost my job, I have  
23           lost my reputation, and I have lost my  
24           family.

1                   And to depart from the text of my  
2 transcript here, I respectfully disagree,  
3 Senator, with your concern for the  
4 reputations of judges.

5                   Why is a judge's reputation any more  
6 important than mine?

7                   SENATOR SAMPSON:       I said that? I  
8 don't think I said that. I said -- what  
9 what did I say?

10                  MR. ARUTI:       When you were saying that  
11 the CJC procedures cannot be made public and  
12 must be kept confidential unless something  
13 is being done.

14                  I think that transparency is the only  
15 way, and to steal a phrase from you,  
16 Senator, it needs the benefit of  
17 disinfecting daylight.

18                  It should all be public, and it should  
19 be a citizen's committee of people who are  
20 not affiliated with the court.

21                  However, I became aware of the Queens  
22 County Family Court and a perverse symbiosis  
23 of malfunctioning government agencies that  
24 had been spiraling out of control, and I

1           have learned that this is commonly referred  
2           to as the domestic violence industry, and  
3           the court plays the leading role in this.

4                     The Commission for Judicial Conduct is  
5           the only control over the court.

6                     The abuse and misconduct that I  
7           suffered at the hands of the New York City  
8           Administration for Children's Services and  
9           New York State Office of Children and Family  
10          offices were truly horrifying.

11                    But I feel that what I observed and  
12          experienced in court was truly a disgrace to  
13          the Bench and the Bar.

14                    The system is desperately in need of  
15          what Senator Sampson refers to as  
16          disinfecting daylight.

17                    In the Queens County Family Court the  
18          public is routinely excluded from what are  
19          public proceedings where they would see  
20          assigned counsel, counsel being assigned by  
21          the judges that they will be appearing  
22          before.

23                    This is a glaring appearance of  
24          impropriety which is prohibited by the model

1 rules, and it's a conflict of interest in  
2 that counsel may not wish to bite the hand  
3 that feeds them and compromise -- and this  
4 compromises their client's representation.

5 To depart again from the text of my  
6 transcript, I was on an 18B panel in the  
7 Nassau County District Court and when I was  
8 appointed by the arraignment judge, he was  
9 not the judge that I was appearing before,  
10 and if it occurred at a later stage in the  
11 proceeding, a call was made to the assigned  
12 counsel office and the judge did not  
13 participate in the selection of counsel.

14 On December 17th I attempted to enter a  
15 courtroom for a public proceeding where  
16 opposing counsel were present.

17 I was arrested, physically and verbally  
18 abused by the court officers, humiliated in  
19 front of all of the people in the waiting  
20 room, and the court officers where no name  
21 tags and refuse to identify themselves.

22 In the Queens County Family Court it  
23 took almost two years before I had my first  
24 opportunity to be heard, as is required by

1 due process.

2 My wife was given assigned counsel  
3 under the same conditions for which I was  
4 refused and that was homeownership.

5 When Judge Friedman eventually assigned  
6 counsel to me, a Mr. Anthony Johnson, she  
7 told him not to do anything.

8 My orders to show cause were routinely  
9 ignored. They are still pending from 2007.

10 Despite the fact that all of the  
11 charges against me were now dismissed, my  
12 parental rights remain in a state of de  
13 facto termination.

14 I have no contact with my children  
15 whatsoever, and there is nothing in any  
16 record negative about me.

17 SENATOR SAMPSON: So, why do you have  
18 no contact, your rights were terminated?

19 MR. ARUTI: Yes, de facto my rights  
20 were terminated. I do not know where my  
21 children go to school, I do not know where  
22 they live.

23 SENATOR SAMPSON: Are you still in  
24 Family Court proceedings?

1 MR. ARUTI: I am still in Family  
2 Court proceedings.

3 SENATOR SAMPSON: I am just saying  
4 you are still in Family Court proceedings  
5 and you have no idea where your children go  
6 to school at?

7 MR. ARUTI: No.

8 SENATOR SAMPSON: You don't have any  
9 contact with them?

10 MR. ARUTI: No.

11 SENATOR SAMPSON: And you have raised  
12 this to the Queens Family Court?

13 MR. ARUTI: Yes, I have, I raised it  
14 in fact just this week, it was about three  
15 weeks ago.

16 In fact tomorrow will make three weeks  
17 that all of the family offense charges and  
18 all of the violence charges and all of those  
19 things were thrown out completely.

20 The Order of Protection should never  
21 have been issued.

22 No good cause was ever shown, it wasn't  
23 recited in the order as it was required, and  
24 again, to depart from the text of my

1 transcript, the only thing easier than  
2 getting an Order of Protection from the  
3 court these days is the abuse of one.

4 SENATOR SAMPSON: No, I understand  
5 that, but let's get back to really the gist  
6 of everything.

7 So how has the court or the judiciary  
8 or the courts or the attorneys impeded your  
9 progress in allowing you to see your  
10 children or what obstacles or what  
11 misconduct has been exhibited?

12 MR. ARUTI: The other counsel has  
13 engaged in a lot of dilatory practice, and  
14 they have outright lied in court.

15 I had to beg the judge to pull a  
16 transcript, I've been through about 9 judges  
17 already there, I understand it's only two  
18 judges left in the building that I haven't  
19 been before, I hesitate to make further  
20 complaints against Judge Pam Jackman Brown  
21 because, quite frankly, she's the best judge  
22 I've had there.

23 Maybe it's because she's new.

24 SENATOR SAMPSON: Just for

1 disclaimer, she's my cousin, just to --

2 MR. ARUTI: I have not received  
3 better treatment in the court than I have by  
4 her.

5 It still doesn't mean that I think it  
6 was fundamentally fair, or it resulted in  
7 substantial justice.

8 Apart from the procedural due process  
9 requirements, which are notice and an  
10 opportunity to be heard.

11 SENATOR SAMPSON: Have you filed any  
12 complaints, if any?

13 MR. ARUTI: I have filed numerous  
14 complaints.

15 SENATOR SAMPSON: I don't want you to  
16 be -- as a lawyer, we don't want to be  
17 subject to the document, the written  
18 document, I want to hear from you, you know.

19 MR. ARUTI: They were oh, well, in my  
20 particular case.

21 SENATOR SAMPSON: I can read the  
22 document.

23 MR. ARUTI: It was a sneak attack  
24 from Mexico. I guess I may have gotten



1           married for the wrong reasons, the woman  
2           treated me like a king for 12 years, when my  
3           parents died I didn't want to be alone, I  
4           married her, we had children, she came to  
5           New York and could not function.

6                     She destroyed my practice because she  
7           had no domestic skills, she had no  
8           linguistic skills, she became a recluse in  
9           the home.

10                    She couldn't answer the phone, answer  
11           the door, I had to hire an intern and teach  
12           him how to draft patent applications to get  
13           my work done, and it very soon became really  
14           the point of diminishing returns.

15                    SENATOR SAMPSON:        So --

16                    MR. ARUTI:         So I got an opportunity  
17           to purchase an automobile race facility in  
18           Mexico, I have had a very long history of  
19           amateur road racing championships.

20                    SENATOR SAMPSON:        But --

21                    MR. ARUTI:         In any event, we have  
22           been living in Mexico since September of  
23           2000 and with regard to the purchase of the  
24           sale there were some stumbling blocks that

1           delayed it, and I was unhappy with the  
2           education my children were getting, so I  
3           grabbed my son, who was the older of the  
4           two, and I brought him to New York for the  
5           third grade and for the fifth grade, solely  
6           for the purpose of coming to school.

7                     SENATOR SAMPSON:     Okay.

8                     MR. ARUTI:         He was in the gifted and  
9           talented class.

10                    SENATOR SAMPSON:     What we are trying  
11           to pinpoint is --

12                    MR. ARUTI:         I asked -- I have begged  
13           for visitation with my children at every  
14           single appearance.

15                    The judge has agreed with me that there  
16           is nothing in the record, there was nothing  
17           at the family offense violation trial to  
18           substantiate any loss, and this is another  
19           thing, I think that part of the problem is  
20           also the statutory framework of the Family  
21           Court act where Judge Friedman sarcastically  
22           answered me that she remembered due process  
23           from law school, and I said that I cited  
24           Matthews versus Eldridge that due process is

1 a flexible concept that has to be tailored  
2 to every situation.

3 In any event she told me that Article 6  
4 of the Family Court Act doesn't provide for  
5 hearings.

6 I argued that Amendment 5 of the  
7 Constitution does.

8 SENATOR SAMPSON: I'll give you one  
9 more minute.

10 MR. ARUTI: I would like to go  
11 through this because I know you were asking  
12 for suggestions and constructive criticisms,  
13 and I have many of those.

14 SENATOR SAMPSON: In one minute  
15 articulate them. You don't have to read  
16 them, just articulate them.

17 MR. ARUTI: Well, in any event this  
18 was taken as a case of emergency  
19 jurisdiction and now that we have disproved  
20 the existence of the emergency, somehow this  
21 jurisdiction continues.

22 Despite the fact that the ACS workers  
23 have committed wire fraud by communicating  
24 with my wife in Mexico using my long

1 distance account.

2 They have induced her to violate the  
3 Immigration and Naturalization Act Section  
4 274 which are both RICO predicate offenses.

5 SENATOR SAMPSON: I've got you, but  
6 give me the recommendations because we have  
7 got to close it down, I've got to go to the  
8 next one.

9 MR. ARUTI: My recommendations,  
10 transparency, there is no reason that a  
11 judge should make any statement to any party  
12 that is not on the record.

13 There is limited immunity for judges,  
14 however when the real world factors are  
15 considered, they are totally immune.

16 They are a stronger body than the blue  
17 wall of silence.

18 Furthermore, part of access to justice,  
19 and you said yourself, well that's why we  
20 have so many levels of Appellate Courts,  
21 look at how onerous the appellate procedure  
22 is and I think that we are remiss in our  
23 obligations to embrace very mature  
24 technology.

1           If I want a transcript of the record, I  
2           have to pay somebody who knows how much a  
3           page and wait how many months and it's  
4           hundreds of dollars, and I don't know what  
5           it says, you can't review the facts that  
6           were established in the lower court, why?  
7           Because all you have is the transcript.

8           SENATOR SAMPSON:     Got you.

9           MR. ARUTI:     Audio visual recordings  
10          are very mature, Senator.

11          There is no reason that you shouldn't  
12          be able to walk out of the courthouse and on  
13          your way out pay \$1 for a DVD that contains  
14          the entire proceeding.

15          SENATOR SAMPSON:     Mr. Aruti, since  
16          time is up, I will --

17          MR. ARUTI:     One more point, Mr.  
18          Senator, I respectfully submit to you that  
19          parental rights are among the most  
20          fundamental rights that we have and, in  
21          fact, equally as fundamental as our right to  
22          freedom. If not more so.

23          I personally would have rather spent  
24          this two years in jail and come out to a

1 loving family than to have lost my children  
2 and had them alienated in the process.

3 SENATOR SAMPSON: Thank you.

4 MR. ARUTI: And accordingly, and in  
5 an opinion by Clarence Thomas, where he was  
6 dissenting, I believe it was Troxel versus  
7 Granville, where he went so far as to say  
8 well, I concur, however the court has not  
9 reached the issue as to what level of  
10 scrutiny should be applied to these.

11 And he volunteered that he was of the  
12 position that this is something that  
13 requires strict scrutiny.

14 SENATOR SAMPSON: Got you. Thank you  
15 very much, Mr. Aruti.

16 MR. ARUTI: The protections are not  
17 there in the Family Court Act.

18 SENATOR SAMPSON: We will work on it.

19 MR. ARUTI: Our children are our  
20 future.

21 SENATOR SAMPSON: Terrence Finnan.

22 MR. FINNAN: Here is a copy you might  
23 look at it. I have a large number of issues  
24 with the court system and the complaints

1           against lawyers, I'm not going to do it, I'm  
2           going to stick it, I have made five  
3           complaints to the Commission on Judicial  
4           Conduct.

5                     Right now -- I made five complaints to  
6           the Commission on Judicial Conduct.

7                     Right now I have a number of health  
8           problems, my life -- I've been defibrillated  
9           five times, I've had three heart operations,  
10          a stroke, and a huge number of other  
11          operations.

12                    SENATOR SAMPSON:        You look pretty  
13          good to me, man.

14                    MR. FINNAN:         Now I'm going to go into  
15          my letter to Mr. Tabeckian and he left the  
16          room.

17                    SENATOR SAMPSON:        He's right behind  
18          you.

19                    MR. FINNAN:         It says Dear Mr.  
20          Tabeckian and CJ members, please use this  
21          opportunity for you based on information  
22          provided to preserve your honor and faith.

23                    I make you aware of my disability and  
24          demand that Mr. Tabeckian not allow this

1 corrupt Judge Ryan to abuse me because of  
2 limitations of my disability.

3 I'm going to skip this part about my  
4 disability and on the next says Judge Ryan  
5 moved up a two week later scheduled court  
6 hearing until later in the same morning  
7 while I was in intensive cardiac care and  
8 notice to me was a call made by his staff to  
9 the hospital which did not send calls into  
10 cardiac intensive care.

11 Now my question is do you, Mr.  
12 Tabeckian, or any of the commission members,  
13 think calling up the hospital to move a  
14 trial up to later that same morning excuses  
15 the resulting ex parte trial?

16 And Mr. Tabeckian, you and each member  
17 of the CJI are compelled by law and human  
18 decency to stop this unethical judge.

19 I brought this up by motion, the judge  
20 says gee, you know, I got notice. He sent I  
21 found out that the judge sent a fax to my  
22 home then and -- because I don't even have a  
23 fax machine, and I am in cardiac intensive  
24 care.



1                   This isn't funny, because I don't want  
2 my life destroyed.

3                   I have a lot -- there is \$1 million in  
4 assets in this thing, and I don't want to be  
5 cheated by a Judge Ryan, and I have multiple  
6 other things.

7                   Judge --

8                   SENATOR SAMPSON:       When you say --  
9 where does Judge Ryan is sit?

10                  MR. FINNAN:        Judge Ryan is an acting  
11 Supreme Court Judge, he's a Surrogate Judge  
12 and the court is in Essex County, but he  
13 sits in Clinton County.

14                  SENATOR SAMPSON:       He's acting  
15 Surrogates Court?

16                  MR. FINNAN:        Supreme Court Judge.

17                  SENATOR SAMPSON:       Exact acting  
18 Supreme Court Judge.

19                  MR. FINNAN:        In Essex County, but  
20 Surrogate Judge in Clinton County.

21                  SENATOR SAMPSON:       He's an acting  
22 Supreme Court in the Surrogates Court?

23                  MR. FINNAN:        The court appoints  
24 acting Supreme Court Judges to act as

1 Supreme Court Judges because we don't have  
2 enough.

3 SENATOR SAMPSON: And this is Judge  
4 Ryan and Ryan is located in Clinton County?

5 MR. FINNAN: Clinton County, it's the  
6 Clinton County court, the Surrogate Judge.

7 SENATOR SAMPSON: Your matter before  
8 him is a surrogate matter?

9 MR. FINNAN: No it's a matrimonial  
10 matter. It's a settlement of the thing,  
11 it's been going on for six years.

12 Basically my wife went to the thing,  
13 she explained that all the marital property  
14 was really her separate property, so he gave  
15 it all to her, even though I sent him copies  
16 of all the joint bank accounts.

17 SENATOR SAMPSON: This case is still  
18 pending, correct?

19 MR. FINNAN: Well, technically I will  
20 file a motion to reconsider based on the  
21 fact my complaint here did that and --

22 SENATOR SAMPSON: Are you represented  
23 by an attorney?

24 MR. FINNAN: I was represented by an

1 attorney, the reasons I'm not represented by  
2 an attorney, I didn't want to get into at  
3 this point, but basically it is related to  
4 the judge, several attorneys were informed  
5 by the judge that I had to lose the case.

6 So what happens is would you like an  
7 attorney who says I can't bring this to  
8 court because I don't want to offend the  
9 judge?

10 I made the -- those are others  
11 complaints which I told you I don't want to  
12 get into at this point.

13 Because I want -- everybody I know  
14 wants to go home, but I'm asking your help  
15 to do this.

16 Are there any other questions, Senator  
17 Sampson? I promised to be very brief.

18 SENATOR SAMPSON: No more questions,  
19 thank you very much. Next individual Ms.  
20 Weisshaus. Ms. Weisshaus, good seeing you  
21 again, Ms. Weisshaus.

22 MS. WEISSHAUS: Thank you, Senator  
23 Sampson.

24 I didn't prepare a speech for myself

1           because they told me yesterday I'm not  
2           scheduled to speak, so I'll speak from my  
3           heart a little bit.

4                       I am a Holocaust survivor and a victim  
5           of the Holocaust, I was 14 years old when  
6           everything changed and my whole family, I am  
7           the only survivor from my family, but I  
8           didn't think that I am going to be a victim  
9           in the United States, too.

10                      It's unbelievable what I'm going  
11           through for the last 20 years.

12                      They drag me into a rabbinical court  
13           decision because my fault was I didn't want  
14           to get welfare when I was short the money,  
15           and I had a house and I helped out, I always  
16           worked even I had six children, and I am a  
17           -- I was short, I couldn't pay my mortgages,  
18           so they told me I should go to the welfare.

19                      I told them I didn't come to the United  
20           States to come for welfare.

21                      They told me well, all the black people  
22           are doing it, everybody is doing it, I says  
23           I'm not listening to the other people what  
24           they are doing it.

1           And I sold the top half of my house,  
2           legally, everything without any dividends,  
3           but I got the wrong people there who are a  
4           bunch of crooks and they are all connected  
5           with the rabbis.

6           How can this be in the United States  
7           where there is a Constitution, how to make a  
8           loan the that they update they have come out  
9           with wrong decisions, they wanted even to  
10          arrest me.

11          I went to the judge and I produced my  
12          tax return and I told them I don't have the  
13          money that they want I should pay them up  
14          and including \$65,000 cash. And that's  
15          happening in the United States.

16          All of a sudden I became very famous, I  
17          became the one who filed a lawsuit against  
18          the Swiss banks.

19          They are stealing money there in the  
20          millions and that's why they made me a  
21          victim, they took everything that I worked  
22          in the United States.

23          I'm here -- 59 years ago I came here  
24          and they took everything illegally, there is

1 no due process, they make a mockery of the  
2 whole system of the court system and I'm  
3 sorry, I just had an accident I had -- my  
4 neck is hurting me, but I want to bring out  
5 they claim I signed an arbitration contract,  
6 they put in a false arbitration contract,  
7 the rabbis are doing all these things, they  
8 supposedly have nonprofit organization, they  
9 don't exist.

10 And I went to -- in the court and I  
11 have everything documented to prove it, I'm  
12 not making up the story.

13 Then I saw I can do nothing in the  
14 state courts, I went to the federal courts  
15 and it's the same thing, I would like one  
16 thing, Senator Sampson, he was involved with  
17 my Defendants 14 years ago, he should ask  
18 them they should bring the arbitration  
19 contract.

20 A complete false and so many false  
21 documents, I just don't believe it happened,  
22 I can't do it.

23 SENATOR SAMPSON: I just want to keep  
24 you concentrated on where do you think the

1 misconduct or if any existed with respect to  
2 you, Ms. Weisshaus?

3 MS. WEISSHAUS: I am telling you why,  
4 because they don't like I speak up against  
5 them.

6 And I mean not only that they did to me  
7 personally and with my properties, each of  
8 my children has different problems with the  
9 rabbis.

10 They just want -- I lost two sons, one  
11 of them was killed by them and I mean there  
12 is a bunch of orthodox hoodlums, young  
13 people, they don't work, they make all kind  
14 of claims, and they live out of my work.

15 And they think -- they just think they  
16 can do this in this country because nobody  
17 wants to stop them.

18 They have their connections, the rabbis  
19 have some judges who are ruling in their  
20 favor, even it's against the Constitution,  
21 but why should they care about the  
22 Constitution if they don't care for the Ten  
23 Commandments.

24 Some of the rabbis have large deposits

1 in Switzerland, and I was the one who filed  
2 the lawsuit and they made me the victim and  
3 now they still, I know what happened in  
4 Switzerland, I was there three times, and I  
5 had all the documentation there and I worked  
6 for the whole case.

7 And I still became a victim because  
8 they don't want to have the truth out here.

9 So that's why I came here, I would like  
10 just to try to get an arbitration contract,  
11 it was translated by my partner, her  
12 son-in-law's uncle, a false translation,  
13 everything and I'm suffering and they took  
14 away everything I had. Due process that  
15 doesn't exist here.

16 I was a peasant when I came here, a  
17 factory, when I had a business, 25 years,  
18 making braiding there, and they remodeled  
19 and they took away -- the factory wasn't  
20 even in the question, only the building,  
21 they took the building, now somebody instead  
22 is modeling it, they put in \$8 million, the  
23 other one my partners took out a fraudulent  
24 mortgage for close to \$5 million, without



1 title insurance so I couldn't claim from the  
2 title insurance company, they told me we  
3 didn't do it, there is a lawyer by the name  
4 of Roy Cohen, whatever his name, he is doing  
5 it, I find him in many cases, they have  
6 their corrupt lawyers and they have their  
7 corrupt judges and the one of the lawyers  
8 who is falsifying the signatures of the  
9 lawyers, of the judges, he has stamps from  
10 the courts, even from the Second Circuit, he  
11 rules with the false stamps and I have to  
12 abide by them, what can I do?

13 If you go there, they just shut you up.

14 So that's why I want a little bit, if  
15 you are going to open up a little bit, the  
16 whole system is going to change.

17 SENATOR SAMPSON: Ms. Weisshaus,  
18 thank you very much.

19 I think your issue has always been the  
20 transparency and the accountability with  
21 respect to the judges and the attorneys.

22 MS. WEISSHAUS: Why did it take 12  
23 years? They didn't do anything, I have many  
24 complaints with the DDC, they just don't

1 care, not only not care, they always told me  
2 oh, they investigated and I have no claim.

3 SENATOR SAMPSON: I've got you, Ms.  
4 Weissshaus.

5 So I see your suggestions and that's  
6 something we are going to look very closely  
7 into what you're talking about, the  
8 disclosure and form and everything else.

9 MS. WEISSHAUS: The truth, the whole  
10 thing the scam will come out, they cannot do  
11 nonprofit organizations, collect money and  
12 when the money goes into their pockets, and  
13 one of the rabbis, I just went to the  
14 Supreme Court and they checked me and there  
15 is no such an organization.

16 SENATOR SAMPSON: Right, correct.  
17 All right, Ms. Weissshaus.

18 MS. WEISSHAUS: Thank you.

19 SENATOR SAMPSON: Thank you very  
20 much.

21 MS. WEISSHAUS: Thank you, and I hope  
22 you will help me and a lot of people.

23 SENATOR SAMPSON: Thank you, Ms.  
24 Weissshaus.

1 Eliot Bernstein. At this point in  
2 time, Mr. Bernstein. Hello Mr. Bernstein.

3 MR. BERNSTEIN: Yes, sir.

4 SENATOR SAMPSON: The last witness  
5 after that is Susan McCormack.

6 Mr. Bernstein.

7 MR. BERNSTEIN: Good afternoon, and  
8 thank you for allowing me time to tell my  
9 story today.

10 Before we start I did notice that Allen  
11 Friedberg was here from the disciplinary  
12 committee, I filed some complaints against  
13 him several months ago.

14 SENATOR SAMPSON: Mr. Friedberg, you  
15 are still here or you left?

16 MR. FRIEDBERG: Yes, I am here. Glad  
17 to meet you Senator.

18 MR. BERNSTEIN: I would like to see  
19 where the missing complaints against him and  
20 Mr. Reardon are, they were filled several  
21 months ago, there were procedures to this  
22 and they are not following those, so if you  
23 could maybe find out where the complaints  
24 are at this time that would be great.

1                   SENATOR SAMPSON:     You will take care  
2                   of that for me?

3                   MR. FRIEDBERG:     I didn't catch his  
4                   first name.

5                   MR. BERNSTEIN:     Elliot Bernstein. My  
6                   story involves widespread corruption in the  
7                   New York courts and New York investigatory  
8                   bodies that have utterly failed in their  
9                   civic duties to protect my rights and, in  
10                  fact, have become the actual nemesis that  
11                  blocks my rights.

12                  My name is Elliott Bernstein, I reside  
13                  in Boca Raton, Florida and I flew here to  
14                  New York for the first hearings on June 8th  
15                  and was prepared to testify when the coup  
16                  occurred.

17                  I have traveled here under medical  
18                  treatment programs to tell you about the  
19                  saga of my company as I view it and what has  
20                  earned the moniker patent-gate and its  
21                  relation to the Whistle Blower case of  
22                  Christine Anderson involving the New York  
23                  courts and the disciplinary.

24                  I remind all of you of the conflict of

1 interest disclosure forms I sent to this  
2 body and request that any and all conflicts  
3 be appropriately disclosed during the  
4 hearings or immediately hereafter.

5 I am a husband and a father of three  
6 beautiful children, boys, and I'm also an  
7 inventor of the iView technologies which  
8 involve video and image compression commonly  
9 referred to as mathematical scaling  
10 formulas, which are used on virtually all  
11 digital imaging and video devices.

12 For example the Hubbel space telescope,  
13 my personal favorite, providing views into  
14 the universe and time like never seen before  
15 using a technology that allows you to zoom  
16 on images without pixilation as it was  
17 commonly referred to prior to my solving for  
18 that.

19 The technologies are used by every  
20 internet service provider in the world that  
21 hosts a video, every computer that's playing  
22 a video, all digital television service  
23 providers use it.

24 A mass of defense applications such as

1 space and flight simulators use the  
2 technologies, medical imaging devices use  
3 the technologies, mapping programs, such as  
4 Google Earth, Google Maps, Google Street  
5 View all use my technologies; of course I'm  
6 not getting paid for any of this, by the  
7 way, and the reason for that is because I  
8 hired patent lawyers, and we will get into  
9 that.

10 My technologies are now the subject of  
11 a trillion dollar, yes, trillion dollar  
12 lawsuit in federal court here in New York  
13 State as a result of theft, fraud and other  
14 wrongful actions against my companies and  
15 myself including death threats and an  
16 attempted murder.

17 Yes, an attempted murder against my  
18 family by way of a car bombing of our family  
19 minivan in Boynton Beach, Florida, as my --  
20 not Iraq, mind you -- as my wife Candace and  
21 I were preparing to file papers against  
22 these same folks.

23 Thus please note the seriousness of my  
24 claims here, as attempted murder is a very

1           serious charge.

2                   Full pictorial evidence of the car  
3           bombing which was so strong it took out  
4           three cars next to it can be found at  
5           www.iviewtv.com.

6                   It should be noted that the crimes to  
7           steal my intellectual properties were  
8           committed by my trusted lawyers and  
9           accountants, whom were retained to protect  
10          my inventions and instead fraudulently filed  
11          my inventions in other's names, including  
12          the patent attorney's own name.

13                   One patent attorney putting 90 plus  
14          patents into his own name here in Yonkers,  
15          while retained by my company. During the  
16          time he was retained by my company.

17                   Yes, a patent attorney patenting his  
18          client's inventions in his own name would  
19          appear became more inventive than Edison  
20          after meeting me.

21                   You may think after hearing about a car  
22          bombing that safety is my number one  
23          concern, but it's not, bringing down the  
24          corruption that is infested --

1                   SENATOR SAMPSON:     Mr. Galishaw, we  
2                   are here, we don't need the cameras.

3                   I know you are videotaping everything,  
4                   but I don't think you need to have that  
5                   camera on those two gentleman, so.

6                   MR. GALLISON:       I am making a  
7                   documentary.

8                   SENATOR SAMPSON:     I know you are  
9                   making a documentary, but this is a hearing,  
10                  although it's open to the public, but we  
11                  want to continue with these hearings, all  
12                  right, Mr. Galishaw?

13                  MR. GALLISON:       Gallison. I do think  
14                  it's my right.

15                  SENATOR SAMPSON:     I know that, but I  
16                  have allowed you to do that for many, many  
17                  times.

18                  MR. GALLISON:       It's my right and you  
19                  have to allow me to do that.

20                  SENATOR SAMPSON:     I can understand  
21                  that.

22                  MR. GALLISON:       Exercising my rights.

23                  SENATOR SAMPSON:     I understand. I  
24                  don't want it to become a nuisance to the



1 people.

2 MR. GALLISON: They don't feel it,  
3 it's not a camera that shoots beams or  
4 anything, it just takes a picture and I am  
5 not capturing their souls.

6 THE AUDIENCE: If you would allow the  
7 man to continue documenting this hearing,  
8 he's not distracting anything he's quite --

9 SENATOR SAMPSON: Let me make it  
10 clear, there is no problem documenting  
11 because we are having it documented, but if  
12 you are documenting this hearing, yes, but  
13 if you are singling out individuals, I have  
14 a problem with you.

15 Okay? So that's my problem. So if you  
16 want me to.

17 MR. GALLISON: I am filming lots of  
18 people, Senator.

19 SENATOR SAMPSON: If you want me to  
20 continue having hearings and keep this  
21 matter open to the public, I will, but I  
22 won't settle for --

23 MR. GALLISON: Sir, with all respect,  
24 if I film these two gentlemen you will stop

1           having hearings, if I don't film the  
2           gentlemen you will continue having hearings?

3           SENATOR SAMPSON:       Yes.

4           MR. GALLISON:       Does anybody else find  
5           that strange and perhaps illegal?

6           I am allowing this, he should allow me  
7           my right.

8           MR. BERNSTEIN:       I have a limited time  
9           here.

10          MR. GALLISON:       I have enough of them,  
11          anyway.

12          SENATOR SAMPSON:     Thank you. Go  
13          ahead Mr. Bernstein.

14          MR. BERNSTEIN:       Again, I was saying  
15          you think a car bombing is the important  
16          thing to me in protecting my children, but  
17          it's not, what's really important is  
18          bringing down this disgusting corruption in  
19          the courts by lawyers, by judges and it's  
20          out of control at this point.

21          So my first priority is to pave the way  
22          for my children so that they don't have to  
23          pick up the battle and fight these, and I  
24          had a few words that just came to my head,

1 I'm glad I didn't say, but if we don't stop  
2 them it's going to be our kids stopping  
3 them.

4 THE AUDIENCE: It's going to get  
5 worse.

6 MR. BERNSTEIN: That's right, so let  
7 me continue on.

8 It should be noted here that  
9 information has surfaced from another  
10 Florida businessman, one of Florida's  
11 wealthiest individuals, a 70 year old, 70  
12 plus year old Monty Friedkin that these very  
13 same criminals disguised as lawyers from  
14 Proskauer and Foley Lardner had, in fact,  
15 pulled a similar attempted heist of his  
16 intellectual properties immediately prior to  
17 preying upon me and my companies, exhibiting  
18 an alleged criminal enterprise cloaked as  
19 law firms and lawyers stealing inventions  
20 from inventors.

21 This was the basis for my filing a RICO  
22 action against the entities comprising the  
23 criminal enterprise, as it was learned that  
24 several law firms and lawyers involved in

1 the Friedkin attempted theft and my own were  
2 working together.

3 Later it was learned that these  
4 powerfully connected law firms and lawyers  
5 had penetrated deep within the United States  
6 Patent Office and other government agencies  
7 and that part of the criminal enterprise  
8 operates to block due process of any victims  
9 that may challenge them infiltrating courts  
10 or investigatory agencies to block  
11 complaints against them, similar to what the  
12 Whistle Blower Christine Anderson has  
13 previously testified about regarding  
14 obstruction of justice for favored lawyers  
15 within the department, destruction of  
16 documents, threats, coercion, et cetera.

17 In fact, Anderson, my hero, in her  
18 original complaints mentions the Iviewit  
19 companies in her original lawsuit filing as  
20 one of the reasons leading to physical abuse  
21 and other crimes against her.

22 In fact, my federal trillion dollar  
23 lawsuit was marked legally related by  
24 federal -- federal whistle blower case

1           Anderson who worked as the principal  
2           attorney at the Departmental Disciplinary  
3           Committee, as you should be aware the  
4           Anderson whistle blower case has been slated  
5           for a public trial currently slated for  
6           October 13th.

7                   Multiple attorneys regulated by the  
8           courts of New York and specifically the New  
9           York First Department have been involved in  
10          the Iviewit matters for nearly 10 years.

11                   Going back to 1998 when my technologies  
12          were first being tested, used and in the  
13          process of securing patents and related  
14          intellectual property rights to protect  
15          them, the technologies were tested and used  
16          at Real 3D labs located on Lockheed Martin  
17          property in Orlando, Florida, Real 3D at the  
18          time was owned by Lockheed, the Intel  
19          Corporation and Silicon Graphics, it should  
20          be noted here that Lockheed is the largest  
21          purveyor of digital imaging and video  
22          technologies on the planet earth.

23                   Leading engineers in Real 3D who tested  
24          and used my technologies deemed them

1 priceless, while other experts in the  
2 industry called them the Holy Grail of the  
3 internet, including favorable comments from  
4 Hassan Mia, an industry recognized expert at  
5 the CAA Intel Multimedia Labs, which took  
6 the internet from a text based medium to one  
7 with rich multimedia where previously --  
8 which previously was only banner adds and  
9 very small grainy images.

10 Video really didn't exist in any usable  
11 form for internet applications, due to the  
12 bandwidth limitations.

13 The inventions were backbone in nature  
14 by providing the mathematical formula that  
15 permitted scaling and compression of video  
16 and solving for pixel distortion, and also  
17 simultaneously reduced bandwidth usages by  
18 75 percent.

19 Now, please just think for a moment  
20 that 10 years ago the technologies created a  
21 75 percent increase in available bandwidth  
22 for transmission across the internet and  
23 television, which allowed the video to be  
24 streamed or downloaded at full stream full

1 frame rate capabilities commonly found today  
2 on every website and due to the ability to  
3 transmit using the technologies at much  
4 lower bandwidths, the technologies opened the  
5 door for markets entirely new such as  
6 internet video, cell phone videos and video  
7 conferences systems through the internet  
8 prior thought impossible.

9 As for the effect the technology has  
10 had on television, for example, the  
11 bandwidth savings from scaling video from  
12 the prior interlacing methods used since the  
13 invention of television, essentially  
14 permitted 75 percent more channels for  
15 content distribution on television, and I'm  
16 sure all of you can remember about 10 years  
17 ago your channel bandwidth went up and your  
18 cable channels increased dramatically.

19 That was due to the inventions.  
20 Therefore you have more Yankee games, more  
21 DVD channels.

22 SENATOR SAMPSON: So you are the man  
23 responsible for all of that?

24 MR. BERNSTEIN: I am. I am the man

1 responsible, but not getting paid yet, but  
2 that -- we are working on that here.

3 Let me skip, I know you guys are in a  
4 time frame, the technology is used on  
5 everything, we already went through all of  
6 that. Enter Proskauer Rose, the law firm.

7 SENATOR SAMPSON: Used to work for  
8 them, disclaimer. I used to work for them.

9 MR. BERNSTEIN: Yes, I understand,  
10 and I appreciate your up front honesty and  
11 disclosure with that by the way, that's a  
12 sign that's missing in the legal profession  
13 today.

14 The conflicts of interest that are  
15 rampant in my case will blow you away here.

16 This is some stuff, we find the head of  
17 the New York State Bar at one point, former,  
18 Stephen Crane, handling complaints against  
19 himself at the first department DDC while  
20 he's an officer in the DDC.

21 With Tom Cahill covering it up and  
22 thank God for another hero in this world,  
23 well Catherine O'Hagan Wolfe, she exposed  
24 it.



1           She told me when she caught them lying  
2           and playing these games to go file a  
3           complaint with the First Department. I'll  
4           get that out in a moment.

5           Let me get back to Proskauer, quickly  
6           on the scene in Boca at the invention time  
7           was Proskauer Rose to patent the  
8           technologies.

9           Now, they didn't have a patent division  
10          at the time, but they didn't tell me that.

11          They told me they were going back to  
12          New York to check with their, you know, New  
13          York offices if they could secure patents  
14          for me.

15          What they did, for example, it was  
16          represented to the Iviewit company initially  
17          that attorney Kenneth Rubinstein was a  
18          Proskauer partner.

19          To the contrary, reports showed  
20          Rubinstein was at the law firm Meltzer Lippe  
21          on Long Island at the time, one of the many  
22          named Defendants in my trillion dollar RICO  
23          antitrust suit.

24                 SENATOR SAMPSON:         What's the status

1 of that RICO case?

2 MR. BERNSTEIN: It's at the Second  
3 Circuit.

4 SENATOR SAMPSON: So just -- Mr.  
5 Nieves, this is light we don't want to be in  
6 darkness.

7 So what I want to find out, just  
8 getting what you said is the misconduct that  
9 was initiated by your attorneys, and since  
10 that period of time you have made complaints  
11 to the disciplinary committee with respect  
12 to these attorneys?

13 MR. BERNSTEIN: Oh, absolutely.

14 SENATOR SAMPSON: What has happened?

15 MR. BERNSTEIN: Depends on what  
16 you're talking about, at the Federal Patent  
17 Bar they are under investigation.

18 In the New York courts they got letters  
19 of recommendation.

20 I don't know if that explains the  
21 difference of what's going on here, but  
22 under the same information that was  
23 presented to Harian Moats, who is the  
24 director of the Office of Enrollment and

1           Discipline, which oversights Patent Bar  
2           attorneys, when he looked at the damning  
3           information such as patents in wrong  
4           people's names and the lawyers hang out  
5           intellectual property docket to Wachovia  
6           Bank and a host of other investors, that  
7           were patently false and didn't match up with  
8           the documents on file at the patent office,  
9           in fact on some patents that they had listed  
10          as my patents I can't even get access to the  
11          information right now on those patents  
12          because they weren't filed in my name, I'm  
13          not the owner, I'm not the inventor and I'm  
14          not the assignee.

15                 So Mr. Moats has directed me to take up  
16                 action with Diane Feinstein, which I have,  
17                 and to get those patents released to me so  
18                 we can change the inventors, but because of  
19                 privacy laws I'm blocked right now, so we  
20                 need an Act of Congress to change that, and  
21                 hopefully you can help me get that, Diane  
22                 Feinstein has been working on it and has  
23                 contacted several of the federal  
24                 authorities.

1           Federal authorities, the FBI, well the  
2 case investigator appears missing at this  
3 time with my files, according to the FBI,  
4 I'm only allowed to talk to the OPR of the  
5 NBI, Glenn Fein has referred me, are you  
6 familiar with Mr. Fein? The Inspector  
7 General of the Department of Justice.

8           SENATOR SAMPSON:       Yes.

9           MR. BERNSTEIN:       So other agencies are  
10 -- other than he's missing, which seems a  
11 little hokey to me, I don't think he  
12 actually is missing with car bombing  
13 filings, and it was my understanding that he  
14 was going to Washington to work with Mr.  
15 Moats, who confirmed that the FBI was  
16 joining him on an investigation of lawyers  
17 who are committing fraud upon the United  
18 States patent office.

19           That's a heavy crime, it's not just  
20 fraud against Eliot Bernstein and his family  
21 and shareholders, it's a crime against the  
22 United States by these lawyers.

23           And penetrating the Patent Office is  
24 the end of free commerce in America if they

1 are successful at it.

2 In fact, the attorney that we were  
3 talking about from Proskauer, Kenneth  
4 Rubinstein, has created a patent pool, an  
5 anti-competitive monopolistic patent pool  
6 which has stolen my technologies commonly  
7 referred to as MPEG.

8 Mr. Rubinstein, while acting as my  
9 counsel, first he was mis- -- let me get  
10 back to my statement, because it will help  
11 right here.

12 It turns out Kenneth Rubinstein was an  
13 attorney admitted and regulated by the New  
14 York First Department, he was simultaneously  
15 involved with MPEG's patent pool that he was  
16 acting as in-house counsel for and was one  
17 of the founders of, while advising Iviewit  
18 companies on their intellectual properties  
19 as retained patent counsel which posed a  
20 competitive threat to his pools.

21 My technologies, in fact, it might have  
22 extincted the MPEGLA technologies, and so  
23 Rubenstein, Proskauer and Meltzer failed to  
24 put up any Chinese wall to protect me and

1           instead did the exact opposite and allowed  
2           MPEG to use my IP for their benefit while  
3           using anti-competitive monopolistic  
4           practices to eliminate the inventors, like  
5           myself.

6                        No wonder the Justice Department has  
7           historically broken up patent pooling  
8           schemes using antitrust regulations, as this  
9           form of pooling works to deny ma and pa  
10          inventors of their rights and in the past  
11          there have even been allegations that  
12          pooling schemes actually are in the business  
13          of murdering inventors, to steal their  
14          inventions or other such heinous crimes.

15                       Rubinstein, though, was initially  
16          misrepresented as a Proskauer partner, once  
17          we discovered through investors I believe  
18          from Goldman Sachs that he was with Meltzer  
19          instead, Proskauer quickly purchased or  
20          acquired Rubinstein and the entire Meltzer  
21          department except Rayjoa, the guy who put  
22          the 90 patents in his name and when they  
23          acquired Rubinstein, they acquired control  
24          of the MPEG patent pool.

1                   So now my lawyers are controlling a  
2                   patent pool that is stealing my technology  
3                   and they are profiting from it.

4                   SENATOR SAMPSON:       Just to wrap it up,  
5                   Mr. Bernstein --

6                   MR. BERNSTEIN:       This year?

7                   SENATOR SAMPSON:       No, right now. The  
8                   impending litigation, you have made  
9                   complaints, rest assured you don't think the  
10                  complaints have been thoroughly followed  
11                  through.

12                  MR. BERNSTEIN:       No, I think Christine  
13                  Anderson is right, threw them in the  
14                  garbage, threatened her, then beat her up to  
15                  shut up about it.

16                  That's what I really think, but if you  
17                  want to get into how this relates to the  
18                  Bernard Madoff scandal, the Mark Dreier  
19                  scandal and all of these massive financial  
20                  scandals you should let me continue, because  
21                  it also -- what these guys at the First  
22                  Department are doing by -- I'm now suing the  
23                  First Department, you know, 4,700 lawyers, a  
24                  few judges a few Supreme Courts, a whole lot

1 of people involved in it, but what these  
2 clowns back here are doing to you is they  
3 are putting this state at a \$1 trillion plus  
4 liability, and I don't think any of them are  
5 properly reporting the liabilities to state  
6 auditors and regulators and you are going to  
7 have a Madoff times 10,000 occur as  
8 liability to the State of New York, all  
9 because these guys are failing their duties.

10 I mean the bar should be a drinking  
11 establishment, that's fine. You wanted a  
12 suggestion, I'm going to make a suggestion.

13 I don't know what in God's name these  
14 lawyers and you are a lawyer so I think you  
15 will understand what I'm about to say,  
16 blowup the Bar Association in the literal  
17 sense.

18 Destroy it and then make every single  
19 violation of an attorney ethic or a judicial  
20 canon, or whatever you want to call these,  
21 violations of law, then send in some  
22 investigator who hates lawyers to  
23 investigate the lawyers.

24 And then prosecute them to the fullest



1 extent of the law, because I don't know who  
2 these people think they are, but they are --  
3 I pay their salaries and in situations like  
4 this I would fire them.

5 They all should be fired and imprisoned  
6 for the nonsense they have been pulling.

7 I will let you go, I'll submit the  
8 rest.

9 SENATOR SAMPSON: Thank you very  
10 much, Mr. Bernstein. All right. Ladies and  
11 gentlemen, ladies and gentlemen, let's have  
12 some sense of decorum in here, please,  
13 please, please.

14 Please. Last person, Susan McCormick,  
15 Ms. McCormick, you are the last person for  
16 the day.

17 Thank you very much. Squeezed you in,  
18 you have five minutes thank you very much  
19 Ms. McCormick.

20 MS. McCORMICK: Thank you Senator.

21 I have my assistant with me, Patrick  
22 Handley, he's done a lot of research on this  
23 case, I will try to make it very brief.

24 This is a tragedy that has involved my

1 late husband's estate who died 21 years ago.

2 It was a sizable estate. My husband's  
3 wishes in his will were simply not carried  
4 out for many reasons, but briefly I will try  
5 to give you my grievances and a couple of  
6 major points in a short time.

7 I trusted Bankers Trust Company and the  
8 law firm of White & Case since they wined  
9 and dined my husband and myself many times  
10 and filed into our home to discuss the will.

11 You can imagine how I trusted them. I  
12 am a widow, main beneficiary, Executrix and  
13 I might add a concert pianist, Steinway  
14 artist, trying to build a career.

15 I emphasize pianist because it was a  
16 large part of my life.

17 After performing in Atlanta, Georgia  
18 one year after my husband's death, I was  
19 invited by -- by Eberhardt Shabnaski to  
20 perform on a tour in Georgia, Russia  
21 representing the United States, and a film  
22 was made of this tour.

23 I accepted and that's when Bankers  
24 Trust Company and White & Case schemed

1           behind closed doors since I wasn't present.

2           A year later I was invited again to  
3           make a world tour performing for heads of  
4           countries in Europe and North Africa with  
5           former President Jimmy Carter and his wife,  
6           Roslyn, as a representative for the United  
7           States.

8           I then had to regretfully turn it down  
9           because I saw what schemes were going on in  
10          the estate.

11          In 1996 we went to a friend of my  
12          husband's, Ralph Martinelli, who publishes  
13          newspapers in Westchester County, he spoke  
14          to Surrogate Judge Albert Emanuelli about the  
15          my McCormick estate who reviewed the file  
16          and told the publisher two major points were  
17          wrong, at that time the file was one inch  
18          thick, now it's hundreds of boxes.

19          The first point that I want to make was  
20          that White & Case the purported estate  
21          attorney after the permanent Letters  
22          Testamentary were issued filed a petition  
23          for repayment of a loan owed to Bankers  
24          Trust Company by my husband.

1           Judge Emanuelli said once White & Case  
2           said that they represented Bankers Trust,  
3           not the estate, could not represent the  
4           estate.

5           White & Case never revealed this fact  
6           to me as a legal Executrix.

7           In May 1995 the illegal Executor,  
8           Bankers Trust Company, engineered the  
9           payment of \$250,000 to their law firm, White  
10          & Case, as legal fees, to which I objected.

11          Now the second point the judge would  
12          not reveal to Mr. Martinelli who said if you  
13          would not reveal the second point he would  
14          oppose him when he ran for re-election in  
15          his papers.

16          Judge Emanuelli offered Mr. Martinelli  
17          legal adds which Mr. Martinelli flatly  
18          refused. Emanuelli lost the election.

19          Now the second point, if you remember  
20          in all our courts, it's in God we Trust.

21          Where do we see that? Yes, in the  
22          courtrooms. I believe God was with me and  
23          is with me, when we accidentally in early  
24          2004, came across the original of the

1 permanent Letters Testamentary dated January  
2 25, 1989.

3 For my husband's estate, they listed  
4 Bankers Trust Company of New York as the  
5 corporate fiduciary.

6 New York State bankings records reveal  
7 that there was no Bankers Trust Company of  
8 New York in existence until more than 10  
9 years later on September 7, 1999.

10 This is the second point that Judge  
11 Emanuelli would not review.

12 The court records have been changed,  
13 but they cannot change the permanent Letters  
14 Testamentary.

15 Bankers Trust Company, Deutsche Bank  
16 has no legal standing but with the help of  
17 their attorneys they continue like a rogue  
18 drunken elephant to violate me.

19 When judge Anthony Scarpino of  
20 Westchester Surrogates Court became  
21 surrogate in 2001, we discovered he had  
22 worked for Bankers Trust Company in the  
23 past.

24 But even though we had requested that

1 he disqualify or recuse himself, he would  
2 not until more than two years later.

3 Due to the fact that I had a front page  
4 news article regarding this matter in one of  
5 our major newspapers in New York.

6 After Judge Scarpino's recusal, my case  
7 was transferred to Dutchess County, papers  
8 were filed to deal with Bankers Trust  
9 Company, Deutsche Bank and they have been  
10 sitting for five years with no action by the  
11 court.

12 The bank is currently represented by  
13 the law firm of Pillsbury Winthrop.

14 I have openly picketed and I have  
15 protested about what was going on to educate  
16 people about our whole corrupt judicial  
17 system and the dirty players.

18 The third point, on June 4, 1999,  
19 Deutsche Bank purchased Bankers Trust  
20 Company.

21 On July 26, 1999 it was sentenced,  
22 convicted of three felonies in the Southern  
23 District of New York.

24 As you know, a felon cannot serve as a

1           fiduciary.

2                    SENATOR SAMPSON:       That's right.

3                    MS. MCCORMICK:   We now know the bank  
4                    and their attorneys repeatedly desperately  
5                    petitioned to obtain a certificate of relief  
6                    from disabilities simultaneously with the  
7                    conviction, however the Parole Board issued  
8                    one more than four months later in December  
9                    1999.

10                   So, you see they had no certificate of  
11                   relief for over four months.

12                   I sent a representative to Germany  
13                   twice to attend the Deutsche Bank  
14                   shareholding meeting and offered a  
15                   shareholders proposal, he was closely  
16                   monitored and in spite of my good faith no  
17                   results were forthcoming.

18                   Recent media reports revealed that  
19                   Deutsche Bank spied on activist stockholders  
20                   and others.

21                   Remember through all these years to the  
22                   present day I received no money from the  
23                   residual estate part B, and did not get my  
24                   full legacy which my husband stated I was to

1 receive immediately after his death.

2 SENATOR SAMPSON: So, Ms. McCormick,  
3 basically have you been able to obtain  
4 anything from the estate, or nothing at all?

5 MS. McCORMICK: No, it was in two  
6 parts, one was an outright gift from my  
7 husband, my house, and our paintings. That  
8 was given to me.

9 After three years I finally asked them,  
10 I said I didn't get the deeds to my house.

11 And then there was a part B.

12 SENATOR SAMPSON: This is in  
13 Westchester County?

14 MS. McCORMICK: Yes, Emanuelli and  
15 Scarpino.

16 Then the other parts of it, the  
17 residual estate consisted of stocks and  
18 bonds, buildings my husband owned, it was a  
19 sizable estate, I got nothing from that.

20 SENATOR SAMPSON: Is the estate still  
21 active, or what you are saying is all these  
22 assets in the estate have been pilfered?

23 MS. McCORMICK: It's still active.

24 SENATOR SAMPSON: So those assets are



1 still within the estate?

2 MS. McCORMICK: They have been  
3 depleted, yes.

4 SENATOR SAMPSON: When you say  
5 depleted, depleted by whom?

6 MS. McCORMICK: I guess the bank, I can  
7 go on here, I have had four sets of  
8 attorneys who never discovered the Letters  
9 Testamentary, possibly because they did not  
10 want to embarrass any judge, the bank or  
11 fellow attorneys.

12 SENATOR SAMPSON: No, I understand  
13 that, but I don't -- I just want you to  
14 explain to me, I can read your statement,  
15 but I want you to --

16 MS. McCORMICK: If we get into that  
17 then you can speak two weeks about this  
18 thing, all the dirty things they did, how  
19 they get rid of buildings.

20 SENATOR SAMPSON: What I want to know  
21 is when you found all this out, where did  
22 you go to complain or make complaints so the  
23 investigations can be done?

24 MS. McCORMICK: I filed two complaints

1 with the first department disciplinary  
2 committee that went nowhere, and I will be  
3 filing a third one shortly and we will see.

4 SENATOR SAMPSON: When you say didn't  
5 go anywhere, you got back a notice saying?

6 MS. McCORMICK: Never heard.

7 SENATOR SAMPSON: Never heard or did  
8 you get anything back in writing saying that  
9 they investigated and they discovered  
10 nothing?

11 MS. McCORMICK: You answer that.

12 MR. HANDLEY: Senator, the first  
13 complaint was filed in 1998 or 1999 and  
14 basically they said we got a post card then  
15 we got a letter approximately six months  
16 later indicating that there was nothing they  
17 were investigating.

18 The second complaint, well documented,  
19 was filed in 2005 and we received nothing  
20 and it fell into a black hole.

21 SENATOR SAMPSON: Was there any  
22 accounting of the assets and how they were  
23 depleted and who were they depleted by?

24 MS. McCORMICK: There was an accounting

1 finally in 1996, seven years later when I  
2 started picketing, protesting.

3 SENATOR SAMPSON: When you started  
4 out what was the --

5 MS. McCORMICK: I didn't sign the  
6 accounting, it was bogus.

7 SENATOR SAMPSON: Initially what did  
8 you think the estate was worth and when you  
9 got that bogus accounting where was it at  
10 that time?

11 MS. McCORMICK: Initially one of the  
12 attorneys told the children that it was \$43  
13 million.

14 SENATOR SAMPSON: Right.

15 MS. McCORMICK: Then it went down  
16 gradually and they wrote it in at the IRS  
17 for \$17 million.

18 SENATOR SAMPSON: Oh.

19 MS. McCORMICK: And currently it's  
20 about \$1 million or half a million, I don't  
21 know.

22 SENATOR SAMPSON: Currently?

23 MS. McCORMICK: They have some money  
24 there, but they don't ever -- they haven't

1 done anything for five years.

2 SENATOR SAMPSON: When you say  
3 haven't done who do you mean?

4 MS. McCORMICK: Since it was  
5 transferred to Dutchess County, my lawyer  
6 had put in a motion, I guess, and it was  
7 never answered.

8 SENATOR SAMPSON: So the complaints  
9 you have filed with the First Department the  
10 disciplinary in the first department, I know  
11 the first one you indicated there was no  
12 action, were there subsequent complaints  
13 filed?

14 MR. HANDLEY: Yes, Senator, there was  
15 a second complaint filed, as I said in 2005.

16 SENATOR SAMPSON: What happened to  
17 that complaint?

18 MR. HANDLEY: We never got any  
19 indication.

20 SENATOR SAMPSON: When you say no  
21 indication, did you get any correspondence  
22 back from them?

23 MR. HANDLEY: Negative, sir.

24 SENATOR SAMPSON: You got no

1           correspondence?

2           MR. HANDLEY:       Negative.

3           SENATOR SAMPSON:   None whatsoever?

4           MR. HANDLEY:       When we tried to find  
5           out by telephone they declined any  
6           acknowledgment at all.

7           SENATOR SAMPSON:   Do you know who you  
8           spoke to or in communication with?

9           MR. HANDLEY:       We have to go back and  
10          look at the records.

11          SENATOR SAMPSON:   I need you to go  
12          back, I need you to get me that information  
13          so I can go directly to the First  
14          Department.

15          THE AUDIENCE:      Its the 9th Judicial  
16          District.

17          MR. HANDLEY:       First Department we  
18          filed with the First Department.

19          SENATOR SAMPSON:   They filed with the  
20          First Department.

21          MR. HANDLEY:       Because the First  
22          Department was where the attorneys were and  
23          then in addition to that that's part of  
24          what--



1           have so then this is what I do the hearings  
2           for, so I can follow-up with those agencies  
3           or those departments to find out.

4           MR. HANDLEY:       Mrs. McCormick is  
5           currently suing them in federal court,  
6           that's part of the related case to Christine  
7           --

8           SENATOR SAMPSON:    Whatever  
9           information you can provide me, Ms.  
10          McCormick, I would like it so I can  
11          follow-up.

12          MS. MCCORMICK:    Do you want me just to  
13          finish my lines here?

14          SENATOR SAMPSON:    There is no need  
15          for you to finish your lines, but I want you  
16          to get into the gist of it and what would  
17          you like this committee to do or what would  
18          you like to come out of this?

19          MS. MCCORMICK:    Well, I think that I  
20          should be made whole, I have gone through  
21          hell, they have ruined my music world, my  
22          art world, they have ruined my whole life,  
23          they can't give me 20 years of my life back,  
24          can they?   And they can't give me my career

1 back.

2 So I have gone through hell and I have  
3 picketed and protested because I want people  
4 to know -- I hope another widow doesn't go  
5 through the hell that I'm going through and  
6 what I've gone through and how they try to  
7 sanction you and do everything they can  
8 against you, take your houses, they  
9 threatened me, they would take all my  
10 possessions, whatever house, my house, I  
11 have a co-op in Florida that my husband left  
12 me, that was flooded, they did things to me,  
13 when you say they have spies, I don't know  
14 what they are doing to me, but it's a  
15 question.

16 SENATOR SAMPSON: So, Ms. McCormick,  
17 if you can get me that information as  
18 quickly as possible.

19 MS. MCCORMICK: I will be either  
20 writing a book or I'll perhaps it could be a  
21 movie, I'm going to do something about  
22 making this public.

23 SENATOR SAMPSON: No, no, and I think  
24 that's what the hearings have been to try to



1           make these issues public, but I need the  
2           information that you have, it will be great  
3           so I can follow-up in my own regard, because  
4           you are not the only one, I heard a lot,  
5           quite a few things about accounting and  
6           other things in the Surrogates Court, so I  
7           would love to follow-up with that, okay Ms.  
8           McCormick?

9           MS. MCCORMICK:   Thank you very much.

10          SENATOR SAMPSON:   I just want to I  
11          see hands raised, I know why are we raising  
12          hands?

13          THE AUDIENCE:     Because we had a list  
14          for everybody and I am at the end of the  
15          list.

16          Last time you said you would talk to me  
17          afterward, then when I spoke to Tim he told  
18          me I was on the list and then for some  
19          reason I wasn't on the list.

20          MS. LASHLEY:     That's not true.  I  
21          have spoken to Tim at length and the list of  
22          the name of individuals we had X amount of  
23          slots that were available, we gave priority  
24          to the individuals that were -- I don't know

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where you were on the list.

SENATOR SAMPSON: Hold on, hold on.

I have -- it's 3:20, I've got to end this hearing okay.

THE AUDIENCE: Is there another hearing, Senator?

SENATOR SAMPSON: This is not the last hearing, there will be other hearings.

This is just a hearing for today, there will be an additional hearing.

THE AUDIENCE: Can we have further notice when the hearings --

SENATOR SAMPSON: You will have further notice. Mr. Spotts will notify everybody.

We are looking to have a hearing hopefully somebody next month to finish up everything, this is not the last hearing, the next one will be the last one here in New York since we got a tremendous crowd.

THE AUDIENCE: Senator, this morning you mentioned formation of a task force.

SENATOR SAMPSON: By the time you come back the next time we will have that

1 task force.

2 THE AUDIENCE: How do we get the  
3 information?

4 SENATOR SAMPSON: It's on the  
5 websites, we send out public notices, so  
6 those who want to testify at the next  
7 hearing just, Sakeeya, if you can get a list  
8 of those individuals, she'll put the list  
9 down and we will make sure the next hearing  
10 will hopefully be here at the end of next  
11 month.

12 THE AUDIENCE: Senator Sampson, did  
13 you say you saying the task force will be up  
14 and running by the time --

15 SENATOR SAMPSON: By the time we get  
16 here next month we will have the parameters  
17 of the task force.

18 Sakeeya will take the information for  
19 the next hearing, we are going -- listen to  
20 me, we are going to get the information if  
21 you have any testimony written testimony,  
22 whatever it is, if you just set is it right  
23 here, Lisa will make sure she gets it.

24 THE AUDIENCE: Could I just put it on

1 record of tomorrow's news of a decision  
2 that's already been made weeks ago?

3 SENATOR SAMPSON: We understand.

4 THE AUDIENCE: That hasn't even been  
5 heard yet.

6 SENATOR SAMPSON: Everybody, this is  
7 a very tough crowd just leave the  
8 documentation, I will follow in the next  
9 hearing; thank you.

10 (Time noted 3:22)

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