

**Template that Advocates of Honest Judiciaries can use
to argue the equivalent law in their respective jurisdiction,
rather than their emotions or notions of “what’s not right”,
when appearing before appellate judges on an appeal
charging a judge below with disregard for the law and the facts
that has caused a party injury in fact**

http://Judicial-Discipline-Reform.org/OL/DrRCordero-Honest_Jud_Advocates.pdf >ol: 244; 240.

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Outline for Oral Argument

held by Dr. Richard Cordero, Esq.
before the Appellate Division, Second Judicial Department,
of the New York State Supreme Court [a trial court]
on April 16, 2015

http://Judicial-Discipline-Reform.org/OL/DrRCordero-Honest_Jud_Advocates.pdf >ol:244

A. [Civil Practice Law and Rules](#)[†](CPLR, similar to Federal Rules of Civil Procedure)
§105(d): “**A "civil judicial proceeding" is a prosecution...of an independent
application to a court for relief.**” Plaintiff-Appellant (P) is applying in this court
for relief from a grievance against conduct that the judge below adopted on his
own given that Defendants (Ds) neither answered nor appeared, thus defaulting

[†] CPLR stands for New York Civil Practice Law and Rules, similar to the Federal Rules of Civil Procedure,
which is the model for many state civil practice codes.

1. Summons and complaint(A:41,45; blue text references are to the record on
appeal) mailed under CPLR §312-a, received 4oct12
2. Letter(A:60-64) of 31oct12 of Ds’ attorney to P acknowledged receipt

- a. The key factor in service is whether the notice was "**reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections**", Court of Appeals (highest court in New York) in *Ruffin v. Lion Corp.*(A-9)
- b. CPLR §306(e): "**A writing admitting service by the person to be served is adequate proof of service**"; §312-a(b) attorney can acknowledge receipt
3. No answer to summons/complaint: *Morrissey v. Sostar*: "**The fact of service conferred jurisdiction. Once proper service was made, any deficiency in the affidavit did not take away jurisdiction which was obtained.**"(A:10)
4. P paid the filing fee and acquired a contractual right to court enforcing summons notice: "**Should you fail to answer, a judgment will be entered against you by default for the relief demanded in the complaint**"(A:41).
5. No answer to the motion for default and declaratory judgment(A:3), defaulting
6. No appearance at 11mar13 hearing on the default and declaratory judgment motion
7. P was entitled to default judgment under CPLR §3215(a) **Default and entry. When a defendant has failed to appear [or] plead, the plaintiff may seek a default judgment against him.**

B. Judge denied P due process and equal protection of the law when he:

1. refused to hear P at hearing: "*I don't want to hear about it!* You have to file an affidavit under 308"(A:269)
- a. Rules of the Chief Administrative Judge, Part 131, Audio-visual Coverage of Judicial Proceedings, §131.1(a) "**These rules are promulgated to comport with the legislative finding that an enhanced public understanding of the judicial system is important in maintaining a high level of public confidence in the Judiciary**".
 - 1) One cannot understand the irrationality of a judge holding a hearing who does not want to hear the parties or of a court allowing that to happen without holding the judge liable for showing *contempt of process*.
- b. Part 100 Judicial Conduct (JC) 100.3(B)(6): "**A judge shall** [not 'may', a duty, not a matter of discretion] **accord to every person who has a legal interest in a proceeding...the right to be heard according to law**"
 2. denied P the benefit of CPLR §312-a by prejudging 308 as the only applicable rule

- a. ignored CPLR §312-a: **“As an alternative to the methods of personal service authorized by section...308”**
- b. disregarded CPLR §102: to apply the rules so that they are **“not inconsistent with the constitution, [or] act of the legislature. No rule ...shall abridge or enlarge the substantive rights of any party”**
- c. disregarded his duty under CPLR §104 to **“apply the rules liberally”** by limiting service to only one of the 14 CPLR service provisions
- d. disregarded CPLR §103: to give substance priority over form by **‘not dismissing a proceeding not brought in the proper form, rather “the court shall make whatever order is required for its proper prosecution”**
- e. disregarded priority to be given under CPLR §2001 to parties’ rights rather than their deficiencies in procedural compliance or their papers: **“At any stage of an action, including the filing of a summons...the court may permit a mistake, omission, defect or irregularity...to be corrected, upon such terms as may be just, or, if a substantial right of a party is not prejudiced [it] shall be disregarded.”** E.g.:

(1) CPLR §5520(c) **Defects in form: Where a notice of appeal is premature or contains an inaccurate description of the judgment or order appealed from, the appellate court, in its discretion, when the interests of justice so demand, may treat such a notice as valid.**

- f. closed his mind to contrary views, revealing a temperament unfit for judicial office

3. denied(A:1a.iii) without reading the motion for default and declaratory judgment

- a. said “I will take a look at it”(A:269), either misleading P if he had no intention to take any look at it or failing to keep his word

- b. claimed without stating any reason that he was denying the motion due to P’s “failure to submit proof of service in accordance with CPLR”

1) failed to notice P’s Affidavit of Service(A:6) and its listing as the first item of the motion’s Table of Contents(A:3)

2) disregarded CPLR §2101(f): **“A defect in the form of a paper, if a substantial right of a party is not prejudiced[Ds were served, A¶2], shall be disregarded by the court, and leave to correct shall be freely given”**

3) disregarded CPLR §3026, which concerns the substance of: **“Pleadings[, which] shall be liberally construed. Defects shall be ignored if a substantial right of a party is not prejudiced”**

c. irresponsible and unprofessional for the judge to deny a motion without reading it in an unjustified rush to take it off his workload

1) did not give himself the material time necessary to read it(A:269) when scribbling his denial on a form while still on the bench and having it mailed to P the same day of the hearing

d. denial of P's constitutional due process right to opportunity to be heard in defense of his view on service under CPLR §312-a rather than 308

4. disregarded P's CPLR §105(d) "**application for relief**" in the declaratory judgment branch of the motion for default and declaratory judgment(A:3)

a. did not even mention it in his denial, though that branch was in the motion's title(A:1c) and the Relief Requested(A:32)

b. disregarded CPLR §3001: "**If the court declines to render such a declaratory judgment it shall state its grounds**"

c. breached the contract for judicial adjudicative services in exchange for which P had paid court fees as consideration for forming a contract for adjudicative services

1) the Administrative Judge for Civil Matters of the Supreme Court, Kings County, states in the opening statement of the Court's official website, <http://www.courts.state.ny.us/courts/2jd/kings/Civil/index.shtml>: "**It is our intention to provide quality service to attorneys and all litigants, whether or not you are represented by counsel**".

5. discriminated against P for being pro se

a. but had heard at length two couple of parties on hearing morning

b. disregarded JC 100.3(B)(4) to "**not, by words or conduct, manifest bias or prejudice**" when he asked P whether he was pro se(A:269)

c. disregarded the Standards of Civility, Judges' Duties To Parties: "**1. A judge should be patient, courteous and civil to lawyers, parties and witnesses**", putting an end to the hearing in less than two minutes

6. denied benefit of diligence duty, taking 5 months to deny reargue motion

a. disregarded duty under CPLR §104 "**to secure the just, speedy and inexpensive determination of every civil judicial proceeding**"

b. disregarded JC 100.3(A): "**judicial duties of a judge take precedence over all the judge's other activities**"; and 100.3(B)(7): "**A judge shall dispose of all judicial matters promptly, efficiently and fairly.**"

7. denied(A:1b.iii) reargue motion(A:121,124) without allowing P oral argument
 - a. in 5 months did not find 10 minutes to talk to P
 - b. pattern of not hearing party to evade challenge to his preconceptions
8. disposed of P's motion to reargue with:
 - a. reasonless, conclusory, lazy statement: It "is without merit"(A:1b.iv)
 - b. quoted Ds' attorney, "Nobody considers himself or herself served"
 - 1) being served is not D's subjective state of mind, but the legal consequence of objective act of delivering summons according to any service provision of CPLR, including §312-a, used by P
 - 2) disregarded his JC 100.3(B)(1) duty to "**be faithful to the law and maintain professional competence in it**"
 - 3) showed gross incompetence because he ignored the law
 - 4) was too arrogant to admit that he had made a mistake
9. knew he could treat P's motions perfunctorily because it means nothing in practical terms if this court merely reverses him, given that 'due to their relationship'(next) it will not hold him accountable and liable to anybody

C. Court's duty under JC 100.1 "to uphold the integrity of the judiciary and its independence...from undue influence of relationships" to their peers, and, 100.3(B)(1), "shall not be swayed by...fear of criticism" of them, but, 100.3, "shall perform the duties of judicial office impartially and diligently", not being partial to their views, but open to those of others

1. The law lacks the power to bend judges' minds to its rules or guide them to justice.
2. Judges are bent on going to Court of Appeals or Federal Judiciary and guided by the fearsome cry of mutually interdependent survival: 'If you bring me down, I'll take you with me!'
3. Newsday's investigation of judges in Suffolk richly rewarding supporters, by Editor D. Henley and Reporters S. Peddie and Will Van Sant; 4oct14; <http://data.newsday.com/projects/long-island/melius-receivership/>; audited thousands of judicial documents; Chief Administrative Judge opened an investigation
4. Court should hold judge liable to P for injury in fact, e.g., prolonged penury due to D' breach of contract, fees, caused him since 11mar13
 - a. apply to him: '**a person intends the reasonable consequences of his acts**'
 - b. just as Newsday did, Court should audit judge's decisions(A:309; 314¶122g3) to determine pattern of disregard of judicial and contractual duties by being irresponsible, incompetent, and unprofessional
 - c. hold public hearings to hear parties, lawyers, clerks, and judges on whether judge has failed "**to avoid even the appearance of impropriety**", JC 100.2
 - d. do audit/hearings and make history just as Supreme Court ordered bussing in *Brown v. Board of Education* in 1954 because '**separate education is an inherent violation of the Equal Protection clause**'
 - e. if it cannot grant this relief, certify this question to Court of Appeals:
 - 1) Is it a denial of due process and a violation of the equal protection of the law to maintain the separation between, on the one hand, Judges Above the Law, who are immune from liability to those whom they harm by violating the law and their contract for judicial services, and on the other hand, the people, who are held liable to compensate those whom they harm?

D. Relief should be granted: "no substantial right of Ds was prejudiced", CPLR §3026; P's right to default Ds under §and to "a speedy and inexpensive determination", §104, denied; and injury in fact

1. grant the relief requested(A:314§H), including, but not limited to this:
 - a. reverse the two orders(A:1a.iii; A:1b.iii) and remand to a different judge

- b. grant the declaratory judgment branch of the motion for default and declaratory judgment(A:314¶122f), including, among other things:
 - 1) P is a citizen of NY and is entitled to the protection of its courts and the benefit of its laws; so the case will not be removed to Ds' jurisdiction and their influence on it(A:14§§D,E)
 - 2) under CPLR 306-b "**the court, upon good cause shown or in the interest of justice**, [will] **extend the time for service**"(A:32¶g) if need be
2. refund all court fees below beginning with that of reargue motion(A:315¶h) and hold Ds and judge jointly and severally liable to pay P attorneys' fees –pro se is "**attorney**", CPLR §105(c)– and the expenses incurred during years of litigation since 11mar13
3. reverse the denial of P's motion for a waiver of the filing fee in this court and refund the fee because its payment was occasioned by the failure of a Judiciary's agent, i.e., the judge below, and the Judiciary itself to perform or supervise him properly, so that to charge that fee amounts to profiting from their own failure to deliver the contracted-for services.

On the out-of-court strategy for judicial wrongdoing exposure and reform

This above template is at:

http://Judicial-Discipline-Reform.org/OL/DrRCordero-Honest_Jud_Advocates.pdf >ol:244.

See also id. >ol:240.

As in the above case, a lawsuit involving two parties may generate an appeal that tries to hold the lower court judge liable to either or both parties for his or her wrongdoing. That appeal may need to be kept procedurally alive in court by taking all the steps and meeting all the deadlines for its proper and timely prosecution even if one is fully aware that there is no realistic expectation that judges will hold one of their own liable(ol:158).

Hence the proposed out-of-court strategy for exposing the riskless wrongdoing of unaccountable judges and advocating judicial reform(ol:236).

The strategy centers on causing media members, such as investigative journalists and talkshow hosts, to pursue in their own personal and professional interest the two unique national stories of President Obama-U.S. Supreme Court Justice Sotomayor and Federal Judiciary-NSA.

The information about judges' wrongdoing thus provided will so outrage that national public as to stir it up to force politicians campaigning in the primaries and the presidential election to take a stand on the issue of judicial

wrongdoing, open official investigations, and hold nationally televised hearings thereon.

Thanks to their subpoena, search & seizure, contempt, and penal powers, the official investigators, e.g., Congress, the U.S. Department of Justice, its FBI, and their state counterparts, will expose even more outrageous information. That will turn the issue of judges' wrongdoing into a decisive one of the nominating conventions and the presidential election campaign.

This will cause the national public to demand that politicians undertake judicial reform to prevent, detect, and punish similar outrageous conduct of judges in connivance with the politicians who recommend, nominate, and confirm them.

The out-of-court strategy for judicial wrongdoing exposure and reform is part of Dr. Cordero's study of the Federal Judiciary and its judges, the models for their state counterparts, titled:

Exposing Judges' Unaccountability and Consequent Riskless Wrongdoing:
Pioneering the news and publishing field of judicial unaccountability reporting

* http://Judicial-Discipline-Reform.org/OL/DrRCordero-Honest_Jud_Advocates.pdf

or

<http://1drv.ms/1kvhB8>

or

<https://onedrive.live.com/redir?resid=8E3D78595FC3EBB8!156&authkey=!AMV7fOyVzLPJU6g&ithint=file%2cpdf>

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If these links do not download the file in Internet Explorer, download either of the following browsers, install it, copy the first link above into the browser search box, and hit 'Enter'. If the file, which is close to 50MB, does not download, try using the other links:

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Dare trigger history!([jur:7§5](#))...and you may enter it.

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NOTE: Given the interference with Dr. Cordero's email and e-cloud storage accounts described at * >[gg!1 et seq.](#), when emailing him, copy the above bloc of his email accounts and paste it in the To: line of your email so as to enhance the chances of your email reaching him at least at one of those addresses.

* http://Judicial-Discipline-Reform.org/OL/DrRCordero-Honest_Jud_Advocates.pdf

Watch the interview with Dr. Richard Cordero, Esq., by Alfred Lambremont Webre, JD, MEd, on the issue of exposing judges' wrongdoing and bringing about judicial reform, at:

http://www.dailymotion.com/video/x2362oh_dr-cordero-u-s-judiciary-goes-rogue-99-82-complaints-vs-judges-are-dismissed-u-s-justice-sonia-sotom_news

or

[Dr. Cordero: U.S. Judiciary goes Rogue - 99.82% complaints vs. Judges are dismissed; U.S. Justice Sonia Sotomayor hides assets with impunity.](#)
