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11-3-14

Mr. Paul Lamanna
District Executive Nassau Supreme Court
100 Supreme Court Dr.
Mineola NY 11501

Dear Mr, Lamanna:

As I notified you by phone on 10/16/14, I am concerned that the Independent Assignment System (IAS) may have been compromised in the assignment of judges to the pending case Operation STOMP, etc. v. Nassau County et al., Nassau Index 14-009782.

I am not a party but an interested observer. I attended the three court proceedings to date, during which I became aware of the troubling issues I will outline.

This is an Article 78 special proceeding brought by some residents to halt a Nassau County tree-removal project in the Plainview area on South Oyster Bay Rd. based upon issues related to the State Environmental Quality Review Act ("SEQRA"). At the present time it is before Justice Cozzens for determination of a preliminary injunction while a temporary restraining order is in force.

On October 10, 2014, the original IAS judge, Justice Antonio I. Brandveen, issued a TRO after a detailed initial hearing by Order to Show Cause. Justice Brandveen was dismissive of the County's claims and spoke earnestly and sympathetically of "decades-old" Oak trees that the County proposed to cut down and replace with "little saplings".

On the return date October 16, 2014, Justice Brandveen told the attorneys that shortly earlier he received an email from his secretary who reported receiving a voicemail from a resident who stated that she was grateful for his decision to stop the removal of the trees which she felt was a "crime".

He gave the attorneys an opportunity to respond, and upon Nassau's request for recusal, he recused himself.

This was a shocking outcome since other judges historically have even

weathered death threats, as far as I am aware, and remained on cases. Indeed one wonders if the fact an attorney "thanks" the judge on behalf of their client for granting a TRO would be considered a ground for recusal under this logic.

In Justice Brandveen's place was assigned Justice Anthony L. Parga, a notoriously anti-plaintiff judge who was for example reversed and castigated by the Second Department in March for the court's handling of another SEQRA case (Patel v. Muttontown, 2014 NY Slip Op 01756).

As you know when that re-assignment became public I contacted your office to seek an inquiry into its propriety.

When the parties returned on October 17, 2014, they found that Justice Parga had recused himself and Justice R. Bruce Cozzens Jr. was assigned to the case.

It appears to me that the case never should have left Justice Brandveen on the facts as presented, and its original re-assignment to Justice Parga was even more curious for its negative implications to the petitioners.

Nassau is no typical defendant. It had three attorneys in court and it commands all the levers of power that befits a Republican machine. (Two private contractors joined Nassau as respondents.)

I think the circumstances warrant inquiry. The circumstantial evidence suggests the intent of IAS system to create unbiased assignments was undermined or defeated in a politically sensitive case.

I would note that I have no special knowledge or evidence beyond what I observed in open court.

Thank you for your assistance. Please let me know what is being done about this.

Sincerely,

signed

Richard A. Brummel
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cc NYS Office of Court Administration