



BY USPS AND ELECTRONIC MAIL

June 26, 2017

New York State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York NY 10006

RE: Complaint against Judge Matthew Cooper (New York Supreme Court, Part 51)

To the Commission:

I write to file a formal complaint against New York Supreme Court Judge Matthew Cooper.

This complaint is not intended to affect the outcome of a pending case before this judge, but rather to reveal a pattern and practice of multiple violations of the canons of judicial ethics. *Inter alia*, this complaint reveals that Judge Cooper has engaged in the following reckless and wanton misconduct: violations of NY State judicial canons 100.2 (A) and 100.3 (B)(3); violations of the 1st, 4th, 5th and 6th Amendments to the US Constitution. Other criminal misconduct under the penal code and under federal criminal and civil USC statutes include, but are not limited to illegal, unlawful destructive actions and unfit behavior in bullying of journalists, litigants, pro se litigants, and attorneys; unlawful and punitive orders for arrest and seizure; falsification and tampering of the official record transcript; violation of the Shield Law; and fraud by and upon the court.

The aim of this complaint is to prevent the recurrence of actions described herein and to take any and all necessary enforcement actions under your office and to also direct and forward this complaint as required to civil and criminal regulatory oversight against Judge Matthew Cooper.

ORIENTATION

My Professional Background

I am the president of the New York Chapter of the Families Civil Rights Union (FCLU), a non-profit organization representing New York families and children.

I am also a journalist and filmmaker with over 30 years of professional, credentialed experience in my field. I have a Masters degree from Kings College, Cambridge University, England. My first significant positions as a journalist were as co-editor of *The Lima Times* and Economics & Finance Editor of the *Buenos Aires Herald*. Since then, I have been a regular contributor to publications including *The Huffington Post*, *The Guardian*, and *The Independent*. For two years, I was the US correspondent for *The Telegraph*. I now write for *Heat Street* and *HuffPost*.

I have written three books -- about Latin American theater, the Argentine economy and Federico Garcia Lorca -- and been a contributing writer to five other books.



As a documentary filmmaker and television producer, I have made films and television programs for Showtime, the BBC, Discovery, Bravo, Channel Four, MTV, among others. I produced and directed three award-winning feature documentaries, including *American Faust: From Condi to Neo-Condi*, an investigative film about Condoleezza Rice. With Oscar-winning filmmaker Morgan Spurlock, I produced the PGA-award-winning series *30 Days*, which won an award from the Producers Guild of America. The Academy of Television Arts and Sciences nominated me for a primetime Emmy for producing *Project Runway*. I have won 52 awards for documentary films I have produced and directed. Further biographical background and professional credentials can be viewed at https://en.wikipedia.org/wiki/Sebastian_Doggart.

American Princess, the production company of which I am President, is presently producing a documentary film about the family and matrimonial court system in New York and the USA, whose working title is *Best Interests of the Child? -- Inside our Family Courts*. I am also a producer on the documentary film *Erasing Family*.

To carry out our duties as journalists and filmmakers, our profession requires "**unfettered access**" to court rooms, records and proceedings. Access is allowed to the press under the First Amendment and relevant statutes and case-law. However, Judge Cooper has impeded and fettered access to vital records and to our right to document proceedings.

As hereinafter recited, Judge Cooper denied me and my production company access to document and record proceedings in the courtroom entrusted to him by the Unified Court System, as is our right as journalists. And on November 6, 2015, he engaged in intimidation and other conduct unbecoming of a judge.

I am now acting as a cooperating witness, and also as a spokesperson for the FCLU, the New York press corps, and many New York parents who have been a victim of unlawful civil and criminal misconduct, improper actions, denial of due process, frauds by and upon the court, denial of constitutional rights, deprivation of rights, violation of statutes and judicial canons by Judge Cooper.

My Interaction with Judge Cooper

On September 16, 2015, I spoke by phone with Judge Cooper's court attorney, Timothy Corboo Esq. I presented my journalistic credentials, and requested permission to document and film a trial in a matrimonial case, Zappin vs Comfort. After speaking with Judge Cooper, Mr Corboo called me back to say that the court was "permitting" me to attend "the Comfort trial" as a journalist, but was denying my application to film or audio-record it. I asked him what the basis for this decision was, and he said "those are Judge Cooper's rules". I pressed for a basis for abridging the press' right to record, document and report on the case, and he told me: "*That is Judge Cooper's discretion.*" I requested a written order confirming this decision, and he said he would send it to me. Ten days later, I received a letter denying my right to film the ongoing trial in a public courthouse, although that letter was back-dated to reflect a date of September 16, 2015.

On September 18, 2015, Judge Cooper issued a written decision to parties and to *The New York Law Journal*, *The New York Daily News*, *the New York Post*, and other media organizations. In



this document, Judge Cooper called Anthony Zappin, the petitioner-father in the case I was seeking to cover, "a fool", who was "dishonest and reckless" and "unfit to practice law". Judge Cooper also accused Mr Zappin of being "delinquent on child support", even though there had been no child support order in the case. Judge Cooper also made false statements about the record and procedural history of the case that, from information and belief, were untruthful. Finally, Judge Cooper sanctioned the plaintiff-father \$10,000 for what he called "a maelstrom of misconduct." No hearing on allegations of misconduct was ever held. Judge Cooper was seeking to punish Mr Zappin for filing formal complaints with city, state and federal agencies, and for exposing Judge Cooper's misconduct in his motion papers.

On September 19, 2015, as a result of Judge Cooper's publication of his order to the media, Mr Zappin was fired from his \$230,000-a-year job at Mintz Levin.

These events, and Judge Cooper's distortion of the truth, confirmed my belief that this was a case that needed to be covered, and openly documented.

On October 27, 2015, Mr Zappin filed an order to show cause for Judge Cooper's recusal, seeking inter alia: (i) the recusal of Judge Cooper; (ii) vacatur of the Court's September 18, 2015 decision; (iii) a stay of the Court's September 18, 2015 imposition of sanctions. His supporting affidavit stated as follows:

“On September 18, 2015, Justice Matthew Cooper issued a decision with the sole intent to inflict harm on my reputation and destroy my livelihood. This is evident by the fact that the September 18 Decision is rife with misstatements of fact, inaccuracies and material omissions. Justice Cooper even carried on to improperly cast aspersions directed personally at my character demonstrating clear animus. Justice Cooper drafted and disseminated the September 18 Decision with the sole intent to publicly destroy my reputation and get me fired from my job. This is evident based on the fact that Justice Cooper was so anxious to publicize his September 18 Decision and maximize media attention with news coverage of it that he went outside normal channels and sent it to a reporter, Benjamin Bedell from the New York Law Journal (“NYLJ”) – not the NYLJ’s publication department for judicial decisions. In fact, Justice Cooper sent an unsigned advance draft (in media-friendly form) of the September 18 Decision to Mr. Bedell prior to the entry of the decision in the New York County Clerk’s Office.³ (See Ex. 7, Unsigned Sept. 18, 2015. Decision; Physical Exs. 1-2, Videos of the NYLJ Website.) Counsel for the NYLJ has confirmed the same: ‘Just to clarify, what I said what that it was my understanding that the reporter [Mr. Bedell] had already told you that he received the decision from a clerk in Justice Cooper’s chambers.’ (Ex. 9, Oct. 21, 2015 E-mail from C. Calman.) Putting aside the fact that Justice Cooper was under no obligation to publish the September 18 Decision in any form, if there was any other purpose for publication of the decision other than to inflict harm he could have published the decision with the parties’ names redacted.”

On October 30, 2015, I spoke with Judge Cooper's court attorney, Leah Cobean, requesting a comment from Judge Cooper on the allegations being made by Mr. Zappin. Specifically, I asked



why Judge Cooper had chosen to release to the press a punitive order which sanctioned Mr Zappin for "misconduct", and why he thought it was in the interest of the subject-child to disseminate publicly such information when the court was aware that such action would lead to Mr Zappin losing his law-firm job and deprive the subject-child of an income-earning parent. I also asked her the basis for the judge taking on the Grievance Committee role's in investigating and ruling on issues of professional misconduct for attorneys. On Judge Cooper's behalf, Ms Cobean declined to provide a comment on any of these questions.

On November 6, 2015, I was present in Judge Cooper's public court-room to hear Judge Cooper issue his judgment on plaintiff-father's recusal motion, amongst other motions submitted by all parties.

As a courtesy, I informed Judge Cooper's court clerk at 9:20am that I was a journalist present to report on the day's proceedings.

From the moment Judge Cooper took the bench, I observed the contemptuous glares that he directed at me. At approximately 10am, he interrupted a ruling he was giving by barking at me: "*Stop gesticulating sir, you're distracting me.*" [Exhibit A: Nov 6, 2015 Tr. at 23: 9-10] I protested that I had not been "gesticulating" in any way, although my statement is not recorded on the court's transcript. I believe it was deliberately omitted, at the direction of Judge Cooper. This was the first of various omissions and inaccuracies made in the official record of this day's proceedings. This was purportedly prepared by 'senior court reporter' Reverend Jacqueline Glass, an individual well-known to our research team.

I found Judge Cooper's false allegation about my "gesticulating" to be a deliberate tactic on Judge Cooper's part. It was a pretext for obstructing my right to shed light on his unlawful and punitive conduct. This was concerning, since I had observed on a number of other occasions that Judge Cooper was trying to establish a 'false record' by knowingly mis-representing what Mr Zappin was doing in the courtroom.

Judge Cooper then whispered to his court attorney Ms Cobean, and one of the armed court officers, whose name was Donnelly, and who was later described to me by another reporter as "*a court heavy used by many judges to intimidate pro se litigants and ethical, disobedient attorneys*". Donnelly proceeded to stare at me incessantly. Ms Cobean also stared me down, taking notes of her observations.

At around 12:15pm, following a break in proceedings, Robert Wallack, esq., the attorney for the mother, Claire Comfort, rose to speak. I had introduced myself to Mr Wallack as a documentary filmmaker and journalist on October 5, 2015, and he gave me an interview. Now, Mr Wallack told the court that "*Mr Zappin has actually been recording these proceedings today surreptitiously.*" [Ibid at 67: 18-19] Pointing at me, Mr Wallack said: "*The gentleman in the front row is recording the proceedings and is making a quote-unquote documentary film.*" This was omitted from the court's transcript, which was purportedly produced by Judge Cooper's court reporter, Reverend Jacqueline Glass. However an independent, certified audio recording of proceedings will prove that this was stated. In an investigation, we will also show that Judge Cooper unlawfully arranged for Reverend Glass to doctor and alter the official record, to protect himself.



Without asking Mr Wallack for the basis of his allegation, and without giving me the opportunity to respond to such an allegation, Judge Cooper complied with Mr Wallack's request to make me a part of the record. Judge Cooper aggressively ordered his armed court staff: "*Bring him up to the stand.*" [Ibid at 67: 24-25] Shocked at his dictatorial manner, I told Judge Cooper that there was "*no need for that*", although, yet again, these on-the-record statements are nowhere to be found on Reverend Glass' official transcript. Judge Cooper then ordered me, in a bullying manner, on seven occasions, to "come up" and take the stand, his voice growing in volume and intensity with each new order: "*Come up please. Please come up. Please come forward. You're coming forward. Please come forward up to the witness stand. Please come to the witness stand.*" [Ibid at pp. 67-68]

I was terrified by both Mr Wallack's false allegation and the terrorizing nature of Judge Cooper's orders to me. I was scared for several reasons. First, although I knew Mr. Wallack's allegation that I had been filming proceedings was untrue, our past and current journalistic investigations into Judge Cooper has illustrated that the truth is the last thing that he cares about. Second, I was disturbed by the coercive way in which Judge Cooper was addressing me. And third, I was appalled that his orders were hurled at me in violation of due process, and of my rights under the US Constitution's First Amendment.

I asked to speak to my counsel, David Schorr Esq., who was also in the courtroom. [Ibid at 68:5-6] Improperly, Judge Cooper did not permit me to exercise my right to consult with legal counsel. That right, I had believed until that moment, was guaranteed to me under the Sixth Amendment.

Once I had taken the stand, Judge Cooper angrily demanded I go under oath and identify myself. I consented to do this, because at that point I was unaware that, as a journalist, the Shield Law gave me the absolute right to refuse Judge Cooper's demands. Out of respect for the court which employed him as a public servant, I took the stand, right next to Judge Cooper. I was so close in fact that I could see a yellow post-it note he had stuck right in front of him to remind himself to control his temper: "Don't talk!"

Judge Cooper then began to interrogate me in a menacing voice, and in an overbearing and oppressive manner. His hectoring tone was clearly designed to instill fear. Scared and offended by his unstable and improper jurist demeanor, I advised him that, "*I am not responding to that. I am a journalist. I'm documenting these proceedings.*" [Ibid at 69: 1-2.] He replied: "*You cannot take the 5th Amendment on that. Otherwise I will hold you in contempt of court.*" [Ibid, p. 69: 5-7] As a judge, he should know that the protections enshrined in the Fifth Amendment apply in all situations. The right to not self-incriminate is so important that it has been enshrined in our Constitution. It is worrisome that a judge – someone who is elected to the bench – completely disregarded what is one of our country's most important and recognizable laws and guiding statutory principles.

I again stated that "*I seek counsel on this*" [Ibid at 69:8]. Judge Cooper again denied me that Sixth Amendment right, and indicated that he was going to carry through with his threat to have me arrested for contempt and held in jail over the weekend: "*You're going to come back on Monday for a contempt proceeding.*" [Ibid at 69: 10-11]



I again stated that "*I want my counsel*" [Ibid at 69: 12]. Judge Cooper again denied me that right.

Judge Cooper then demanded: "*The witness will turn his telephone over. Otherwise I will have it seized from you.*" [Ibid at 69: 14-15]. That order was a clear violation of the freedom of the press, the Shield Law's establishment of "reporters' privilege" and the First and Fourth Amendments.

Judge Cooper then tried to bully me into submission by knowingly misrepresenting the Law with intent to mislead and deceive: "*You have been recording these proceedings. That is in violation of State Law.*" [Ibid, at 69:15-17] This deliberate, willful characterization of state law was untruthful. Restrictions on filming in our courts are a rule set by the Unified Court System. They are not a "State Law". As a judge, he was fully aware of that distinction. He knew that journalists are protected by the First Amendment and the Shield Law, which prohibits judges from interrogating journalists in any way. The US Supreme Court has reinforced this with notable case-law, such as Branzburg v. Hayes, which bars judges from interfering with the freedom of journalists to execute our duties.

Judge Cooper then deliberately and knowingly represented New York Law again, stating: "*You do not have a right to take the 5th Amendment in this case.*" [Ibid, 69:13-20] Again, this was untruthful. Since I was not a party to the case, and a journalist, and since Judge Cooper was accusing me of "a violation of State Law" so serious that it warranted incarceration", I had an absolute right to plead the Fifth Amendment.

I then advised Judge Cooper: "*I feel as a member of the press I am being bullied by you.*" [Ibid, at 70:8-9] Judge Cooper then began to insult me personally, sneering that "*you're not a member of the press.*" [Ibid 70:10-11, inaccurately recorded in court transcript, which excludes the words "you're not a..."]. Judge Cooper knew this to be untruthful since I had already introduced myself to his court as a journalist on two occasions. He had also written me a letter on September 16, 2015, denying the application made by me and my production company to film his courtroom's proceedings.

Judge Cooper then began to scream at me, in a manner so unhinged that Mr Schorr intervened: "*Please stop screaming at Mr Doggart. You are screaming at him.*" [Ibid at 70:22-23] Mr Zappin then stated, "*you're badgering Mr Doggart for no reason.*" [Ibid at 71:2-3] This screaming was improper, unfit conduct for a Supreme Court justice.

Again I stated my Sixth Amendment right: "*I need to speak with my counsel. I have a right to counsel.*" [Ibid at 71: 6-8]. Not only did Judge Cooper deny that request, he escalated his aggressive and threatening conduct, screaming "*you're going to turn over your phone.*" [Ibid at 72:4-5] When I declined to surrender my phone, he ordered Officer Donnelly to arrest me: "*Take him into custody!*" Judge Cooper's transcript, prepared for him by Reverend Glass states inaccurately and incoherently, "*I have take it into custody*" [id at 72: 6]. However the independent recording clearly shows he said "*Take HIM into custody.*"



At this point, a click is heard on the independent recording. This coincided with Officer Donnelly loosening his handcuffs, as he walked up right behind me, to hand-cuff me and take me to jail. I protested: "*This is going to be a wrongful arrest.*" [Ibid at 72:22-23] A protest is heard on the independent recording, as Mr Schorr and Mr Zappin together protest about the "cuffs" being put in me. Mr Schorr then sought to focus the proceedings where they should be in the first place: the Rule of Law. He asked Judge Cooper on what basis he was ordering my arrest, and entreated Judge Cooper to seek further information from my accuser, Mr Wallack, and to explain his basis for arresting me.

At that point, Judge Cooper seemed to panic. He grudgingly acceded to Mr Schorr's request to ask Mr Wallack to explain the basis for his accusations. Mr Wallack told the court that he had "overheard" a conversation between me and Officer Donnelly where I had allegedly claimed that I "*had a right to record the proceeding.*" [Ibid at 73: 15-16] Officer Donnelly then refuted Mr. Wallack's story by stating: "*That's not what [Mr Doggart] said*" [Ibid at 73:17-18]. He went on to state that he had seen me emailing on my phone in a break, and that "*[Mr Doggart] put it away when [the judge] came onto the bench. He was just checking his emails.*" [Ibid at 75: 18-19]

It was now clear to everyone in the courtroom that Mr Wallack, an officer of the court, had committed a fraud on the court. He had lied to the court when he alleged that I had been filming proceedings, and had done so with the express purpose of directing the judge to punish and incarcerate me.

It was also now clear that Judge Cooper had reacted to Mr Wallack's false allegations in a reckless, unhinged and improper manner, unbecoming of a Supreme Court Justice. His acceptance of Mr Wallack's false allegations on their face, without any fact-finding, and to order my arrest, was a violation of his oath and duty as a Presiding Justice to provide equal protections and equal justice under the Law.

Judge Cooper then engaged in bizarre commentary, uttering a series of ranting, nonsensical statements: "*Tell you the truth, I don't care what's on [the phone]. Fine. The world can know. I want the world to know... If Mr Doggart needs to make a surreptitious recording, you know what, it's not worth it. I'm getting upset because the rules aren't being followed. I'm getting upset, Mr Doggart... I'm sick of these side shows.*" [Ibid 76: 1-9, 14].

Judge Cooper continued his long and rambling diatribe about how "*these courts are [not] prejudiced against fathers*" and Mr Zappin's "reprehensible" behavior, and Mr Zappin's witness list, which was "a joke," During his monologue, Officer Donnelly was standing right behind me, holding the handcuffs, his gun at the ready. And I was terrified.

Judge Cooper finally seemed to remember I was still on the witness stand, with hand-cuff happy Officer Donnelly breathing down my neck. He stated dismissively: "*Take your phone. Step off!*" [Ibid, 79:7-8]

As I returned to the gallery, I was shaking with shock and fear. I experienced great distress as a result of Judge Cooper's threats and his order for my arrest. I have two young children and was



profoundly concerned about the impact that my incarceration over an entire weekend might have on them, both practically and emotionally.

VIOLATIONS OF FEDERAL AND STATE LAW AND JUDICIAL CANONS BY JUDGE COOPER

Judge Cooper's acts of judicial misconduct, and violations of both criminal and civil law, state and federal, include, but are not limited to, the following causes of action:

1. By bullying and threatening me, Judge Cooper violated Section 100.3 (B)(3) (*"A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers and of staff, court officials and others subject to the judge's discretion and control*).

In violation of this canon, Judge Cooper and his staff engaged in undignified, bullying and discourteous conduct, in the following ways.

* He forcibly made me a part of proceedings, even though I am not a party to the case, nor was I on any party's witness list. I was a journalist seeking to document proceedings objectively.

* He used bullying language, aimed at terrorizing me. On seven occasions, he ordered me to leave my seat in the gallery and take the witness stand, his voice growing in volume and intensity with each new order: *"Come up please. Please come up. Please come forward. You're coming forward. Please come forward up to the witness stand. Please come to the witness stand."* [Ibid at pp. 67-68]

* He used his armed court staff to haul me up to the witness stand, instructing them: *"Bring him up to the stand."* [Ibid at 67: 24-25]

* Once he had got me on the stand, he discredited and mocked my journalistic credentials, sneering as he said: *"[You're not a] member of the press."* [Ibid at 70: 10-11, with the "You're not a" audible on the independent recording]

* He bullied me and threatened to hold me in contempt without a hearing: *"You cannot take the 5th Amendment on that. Otherwise I will hold you in contempt of court."* [Ibid, p. 69: 5-7]

* He threatened to confiscate a vital tool of my trade, my cellphone, by threatening the use of force: *"The witness will turn his telephone over, otherwise I will have it seized from you."* [Ibid at 69: 14-15].

* He then sought to intimidate me into giving him my phone by staring me down and ordering *"I want your telephone turned over!"* [Ibid at 69: 24-25].



* He repeatedly interrupted me when I sought to respond to his interrogating. [Ibid at 69:12, 70:18, 72: 3]

* He threatened to have me arrested for contempt and held in jail over the weekend: "*You're going to come back on Monday for a contempt proceeding.*" [Ibid at 69: 10-11]

* His repeated screaming prompted David Schorr Esq to interject to protect me: "*Please stop screaming at Mr Doggart. You are screaming at him.*" [Ibid at 70:22-23]" At another point, Judge Cooper's yelling became so extreme that Mr Zappin also intervened, protesting that, "*you're badgering Mr Doggart for no reason.*" [Ibid at 71:2-3]

* When I stood up to Judge Cooper, stating that "*I do not recognize this court's authority to interrogate a member of the press in a bullying manner. I have made it clear*", he interrupted me and screamed: "*You're going to turn over your telephone. Take him into custody. I want your phone turned over. Your phone is being turned over*" [Ibid at 71:25-26, 72:1-7]

* He ordered his armed court officer to handcuff and incarcerate me: *Take him into custody!*

* When he backed down from his threats, he did so in a self-pitying way typical of bullies, narcissists and sociopaths: "*I'm getting upset because the rules aren't being followed. I'm getting upset, Mr Doggart... I am sick of these side shows.*" [Ibid at 76: 6-9, 14]

His intimidating conduct constituted intentional infliction of emotional distress.

2. Judge Cooper violated my First Amendment rights under the US Constitution

The First Amendment of the U.S. Constitution states that "*Congress shall make no law ... abridging the freedom of speech, or of the press.*"

The main purpose of this complaint is to defend and promote the Constitutional First Amendment prohibition on any "abridging of the freedom of the press."

It is black-letter Law that the press should have unfettered access to the courts. Without fear of intimidation or retaliation, we should be able to document the conduct of public officials, specifically judges. Both the U.S. Supreme Court and this state's First Department Appellate Division have upheld this principle in their rulings. In the matter of Branzburg v. Hayes, judges were barred from interfering with the freedom of journalists to execute our duties.

Unfettered, public access to court proceedings is strongly favored, both as a matter of constitutional law (*Richmond Newspapers v Virginia*, 448 US 555) and as statutory imperative (Judiciary Law § 4)." (*Anonymous v Anonymous*, 158 AD2d 296, 297; *see also, Matter of P. B. v C. C.*, 223 AD2d 294, 295, *lv denied* 89 NY2d 808.)

In the NY Appellate Court, the following ruling was made in *Anonymous v Anonymous*, 263



A.D.2d 341 (2000), 705 N.Y.S.2d 339:

“It is not, in the first instance, for the courts to identify the interest to be served by a public proceeding; the presumption is that courtrooms be open to public scrutiny. The burden is on the party seeking closure to show a compelling interest which justifies that relief. In any event, there is an important societal interest to be served by conducting this proceeding in an open forum. Open hearings are more conducive to the ascertainment of truth. The presence of the public ‘historically has been thought to enhance the integrity and quality of what takes place.’ (*Richmond Newspapers v Virginia*, 448 US, *supra*, at 578.) Indeed, ‘public access is an indispensable element of the trial process itself.’ (*Supra*, at 597 [Brennan J., concurring].) Litigants, and the public as well, must be secure in the knowledge that all who seek the court's protection will be treated evenhandedly. Open trials ‘promote confidence [by] avoid[ing] the suspicions which always attend secrecy.’ (*United States v Consolidated Laundries Corp.*, 266 F2d 941, 942.)”

Judge Cooper’s actions on November 6, 2015 interfered in a substantial Constitutional First Amendment right, by "abridging the freedom of the press" to which I am entitled.

3. Judge Cooper’s actions violated my rights under the Shield Law

On November 6, 2015, Judge Cooper forced me to take the witness stand and sought to intimidate me into testifying. This is a violation of this state's Shield Law, which protects "reporters' privilege", or the right of journalists to refuse to testify as to information and/or sources of information obtained during the news gathering and dissemination process.

Moreover, Judge Cooper lost judicial immunity and jurisdiction by his order and actions towards a journalist. He was not entitled to compel my testimony. He acted outside of his authority, and in violation of my Shield law and petitioner-appellant’s constitutional first-amendment rights.

4. Judge Cooper’s destructive and unlawful actions harmed the people of New York

As well as harming me personally, and violating my rights as a journalist, Judge Cooper caused harm to the citizens of New York.

Case law and recent Department of Justice guidelines stipulate that the public has a right to record public officials in performance of their official duties, which are protected by the first amendment to the U.S. Constitution.

Public transparency and accountability are essential parts of democracy and the rule of law.

It is in the public's interest to have access through the media to the acts of the judiciary. To serve the people of New York best, the media should have full authority to film and record court proceedings.



The CJC is duty-bound to uphold this sacred right.

5. Judge Cooper’s actions caused irreparable harm to an innocent child

In all custody cases, the “best interests of the child” are of paramount importance. That is also true for our approach to our coverage of the court. Indeed, "Best Interests of the Child" is the working title of our documentary film.

The main reason that I was in Judge Cooper’s court-room on November 6, 2015 was concern for the subject-child in the Zappin vs Comfort case.

Judge Cooper had showed contempt for the subject-child's best interests, as demonstrated, most glaringly, by his release to the press of his September 18, 2015 order.

As stated by the subject-child's father:

“By issuing the September 18 Decision, publishing it unredacted and disseminating it to the media, Justice Cooper irreparably and unequivocally harmed the child at issue in this matter. Not only did Justice Cooper destroy the earning power of one of the child’s parents, but he placed unnecessary public attention on the child and divulged sensitive information about the child’s formative years – from what Justice Cooper himself has termed a ‘presumptively sealed’ proceeding (*see* July 22, 2015 Tr. at 27:6-7) – on the omnipresent Internet indefinitely accessible at the fingertips of anyone with a computer. There was absolutely no requirement or reason for Justice Cooper to publish the September 18 Decision. *See* Domestic Relations Law §235. There is no question that Justice Cooper’s conduct was clearly contrary to the best interests of the child. It is inconceivable that Justice Cooper can now determine the best interests of a child that he has so permanently and extensively harmed.”

Given these allegations, and given Judge Cooper's own decision to involve the media in the case, it was vital that all the press -- not just those organizations friendly to Judge Cooper -- be given unfettered access to report on this case, and monitor any further judicial acts that might harm the subject-child.

In Judge Cooper's order, he stated that "*the filming, videotaping, or otherwise recording of the trial or any proceedings related to the trial would likely... be against the best interests of the subject-child and compromise his safety.*" [Exhibit B]

However, Judge Cooper did not elaborate exactly how filming and audio-taping the trial would "compromise the safety" of the subject child.

He could have argued that the presumption of his court's openness is subject to challenge because the interests of children are implicated. Thus, Domestic Relations Law §235 (2) permits the



court to close trials to all but the parties and their counsel in, *inter alia*, matrimonial proceedings and proceedings for custody and maintenance of a child. It may do so, however, only "[i]f the evidence be such that [the] public interest requires that the examination of the witnesses should not be public."^[1] (*Ibid.*). In addition, Uniform Rules for Trial Courts (22 NYCRR) § 205.4, which has been extended to child custody disputes in the Supreme Court (*see, Matter of P. B. v C. C.*, 223 AD2d, *supra*, at 296), permits the public to be excluded from the courtroom.

In making its determination, Judge Cooper had to strike "*the proper balance [between] the right of access of the public and the press to judicial proceedings [and] the interest in protecting children from the possible harmful effects of disclosing [harmful information] to the public.*" (*Matter of P. B. v C. C.*, *supra*, at 296, quoting *Matter of Katherine B.*, 189 AD2d 443, 450.) "Judicial discretion must be exercised against a strong presumption of openness." (*Matter of M. S.*, 173 Misc 2d 656, 659). Among the factors the court should have considered in exercising its discretion under section 205.4 is whether "*the orderly and sound administration of justice, including the nature of the proceeding, the privacy interests of individuals before the court, and the need for protection of the litigants, in particular, children, from harm,*" requires closure. (Uniform Rules for Trial Courts [22 NYCRR] §205.4 [b] [3]).

The protection of the five-year-old subject-child from harm was vital in this case. However, the subject-child was not on any of the parties' witness lists. In the subsequent trial, which took place without my coverage, the child never took the stand, or even entered the court-room. So the child would never have met any member of the press, let alone have been harmed by them.

Domestic Relations Law §235 (2) authorizes closure not because of the private interests of the litigants but only if the public interest requires it. (Scheinkman, Practice Commentaries, McKinney's Cons Laws of NY, Book 14, Domestic Relations Law C235:2, at 174.) Judge Cooper does not, however, argue that the public interest requires a ban on recording devices. Rather, he points to the "threat" that "*the filming, videotaping, or otherwise recording of the trial or any proceedings related to the trial would likely... compromise [the child's] safety.*" It is unclear how the child's safety was in danger here. In any event, less restrictive alternatives to a total ban on recording devices can be employed to assure that details which may compromise the child's safety are not mentioned in open court (*see, Uniform Rules for Trial Courts* § 205.4 [b] [4]).

I made it clear to Judge Cooper that I was fully supportive of implementing constructive security measures to protect the child's safety. To that common end, I proposed language stipulating that I and other journalists should be prohibited from reporting or disseminating identifying information of the subject-child, including his/her name, home or school address, or image.

Judge Cooper rejected this proposal. His interest was in concealing his own deranged actions from any member of the press he considered to be critical of his conduct. And in doing so he harmed a child by abridging his right to the protection of the press as an agent of oversight on the actions of Judge Cooper, and help ensure that due process is being carried out. The harm caused is substantial and irreparable: a result of Justice Cooper's ruling, the child now has no access whatsoever to his father. It is well-established that the absence of a father when growing up is a



cause to a plethora of psychological and emotional disorders.

6. Judge Cooper's action caused harm to the parties in Zappin v Comfort

If ever there was a matrimonial case that needed the oversight of the Fourth Estate, it is the case of *Zappin vs Comfort*

On their face, the allegations of harm being made against Judge Cooper, and his officers were profoundly disturbing. They included allegations that:

* Judge Cooper has generated a false record through means that include the production of inaccurate and incomplete transcripts and mis-stating facts;

* Judge Cooper mis-stated on the record things that plaintiff-father and his co-counsel have said and done, pursuant to an extreme prejudice against him.

* Judge Cooper uses his friends at the *New York Post* and the *Daily News* to pursue vendettas against litigants he or his friends dislike, and to do so in a way that is acting outside his jurisdiction. These allegations are currently being heard by US District court Judge Katharine Failla.

Judge Cooper has shown disgraceful double standards in his relations with the press. On the one hand, he restricted me as a film-maker from covering the trial. On the other hand, he was willing to issue a press release, masquerading as a court order, to *the New York Law Journal*.

Creating a media circus is not something that a judge should do, especially before a trial has even started. It is fundamental that “*the trial judge has an affirmative constitutional duty to minimize the effects of prejudicial pretrial publicity.*” *Westchester Rockland Newspapers, Inc. v. Legget*, 48 N.Y.2d 430, 438 (1979) (emphasis added); see also *Anonymous v. Anonymous*, 191 Misc.2d 707 (Sup. Ct. N.Y. Cnty. 2002) (“[D]issemination of news or comments may tend to influence the judge ... from being impartial at trial.”); *In re Halkin*, 598 F.2d 176, 193 (D.C. Cir. 1979).

Exposing hypocrisy and extreme prejudice amongst judges is a duty for a journalist, and one which is clearly in the public interest.

Exposing the double standards of a judge who, on one hand, is willing to use the media to carry out his own punitive objectives and, on the other hand, will try and restrict the media from investigating him, is exactly what the First Amendment is there for.

7. Judge Cooper's actions have caused harm to other legal consumers and have had a “chilling effect” on other journalists



Should Judge Cooper's go unsanctioned for his prohibition on unfettered access to the press, his ruling will have a chilling effect on other litigants – and members of the press such as myself.

I am living proof of the chilling effect which Judge Cooper's actions have had. After November 6, 2015, I have not dared to step in his courtroom for fear of him inventing some new charge to accuse me of, and possibly incarcerate me for. I have good reason for this. Judge Cooper has a long record of taking brutal, retaliatory action against those who file complaints against him. He recently had Mr Zappin arrested for an allegation of "Filing a false complaint." Without any hearing whatsoever on the allegation, Mr Zappin had to spend three nights in jail on Rikers Island.

It should be clearly stated that the CJC must not provide a copy of this complaint to Judge Cooper, in case he seeks to use it for retaliatory action.

Unless the CJC takes action, other citizens faced with Judge Cooper's bullying and retaliatory conduct, and his willingness to use the media for his own purposes, will be intimidated from standing up for their own due-process rights.

8. By ordering my arrest, without probable cause, Judge Cooper denied me rights guaranteed to me by the 4th Amendment of the US Constitution, and violated judicial canon Section 100.2 (A) (“A judge shall respect and comply with the law.”)

Judge Cooper ordered his court officer Donnelly to “take him into custody,” and to seize my property. This was an unlawful order.

It should be stated that Judge Cooper had no legal authority to order my arrest, or the seizure of my property. Judge Cooper is not a police officer. He is a civil court judge. I was not a party to the action being heard in his court-room. I was not a litigant or an attorney. I was a journalist, exercising me right to report on his court-room. His orders to arrest me, and to seize my property, and his interrogation of me, were issued outside his jurisdiction. Those actions remove his judicial immunity from charges stemming from such actions.

Moreover, the Fourth Amendment is clear that a citizen cannot be arrested “*without probable cause*”. An unsubstantiated allegation of filming a court proceeding on a cell-phone does not constitute “probable cause” for arrest. This black-letter law has been reinforced in case-law. See *Baker v McCollan*, 443 U.S. 137 (1979), explaining that it is a requirement that “an arrest be made only on probable cause.”

Finally, the record clearly shows that Judge Cooper did not have probable cause to interrogate or incarcerate me, or to seize my property. Court officer Donnelly confirmed the falsity of the allegations made by Mr Wallack, which prompted Judge Cooper to drag me up to the witness stand. (See *Ibid* at 73-75]



Will the CJC now send a message that judges under its oversight are not permitted to issue arrest orders?

9. By denying me my right to plead the Fifth Amendment to the Constitution, Judge Cooper violated Section 100.2 (A) (“*A judge shall respect and comply with the law*”)

On November 6, 2015, Judge Cooper told me: "*You cannot take the 5th Amendment on that. Otherwise I will hold you in contempt of court.*" [Ibid, p. 69: 5-7]

Judge Cooper sought to justify this threat by stating that "*You do not have a right to take the 5th Amendment in this case since there is no proceedings being brought against you.*" [Ibid, p. 69 20-22]. Yet Judge Cooper had himself made me a part of proceedings, by hauling me up to the witness stand.

By falsely informing me that I was not entitled to plead the Fifth Amendment to avoid my interrogation, Judge Cooper enacted a fraud on the court as an officer of the court. For this, Judge Cooper should be severely sanctioned.

His attempt to interrogate me, without affording me Fifth Amendment rights, was also made beyond his jurisdiction, meaning he has lost his privileges of judicial immunity.

10. By denying me my right to counsel, guaranteed to me by the 6th Amendment of the US Constitution Judge Cooper violated judicial canon Section 100.2 (A) (“*A judge shall respect and comply with the law.*”)

I asked Judge Cooper on three separate occasions to exercise my right to counsel, and consult my attorney David Schorr Esq, who was in the room. Judge Cooper refused to allow me to do so on all occasions. The statutory law on civil contempt is clear that you cannot be arrested without a hearing and without a lawyer present.

By refusing to allow me to consult my attorney, and by threatening to have me incarcerated if I did not testify to him, Judge Cooper blatantly violated my 6th Amendment rights, and my rights to due process and equal justice under the law.

11. By falsifying the official record, Judge Cooper violated judicial canon, section 100.2(A) (“*A judge shall respect and comply with the law*”) and violated state and federal laws

Judge Cooper willfully broke the law, by apparently arranging for the official transcript to be doctored, altered, and amended by his court reporter Jacqueline Glass. By removing his



instruction to his armed court officer to “take him into custody”, for example, he was seeking to alter the record, and mitigate his culpability in bullying me.

It is a fraud on the court by a court officer to willfully generate untruthful transcripts as a way of establishing a false and fraudulent record. To ensure the integrity of the court system, and preserve the trust of the public, any allegations of such conduct need to be investigated, and civilly and criminally enforced without delay.

When a full and independent investigation is begun into the facially meritorious facts of this complaint, I will present an audio recording made of the November 6, 2015 court proceedings. This recording will show that the “official transcript” produced by Judge Cooper’s accomplice, Reverend Glass, was not only inaccurate, but willfully altered to protect Judge Cooper from allegations of misconduct. I will also present evidence that Judge Cooper routinely generates inaccurate and incomplete transcripts. From information and belief, there is a pattern and practice by Judge Cooper – and many of his colleagues -- of falsifying the record.

As part of its investigation, I ask that that the CJC require Senior Court Reporter, Reverend Jacqueline Glass to produce the original dictaform taken at the time of the one on-the-record proceeding; and that it order Judge Cooper to produce unedited electronic copies of all the audio-recordings made in the case at bar, and also produces the written transcripts already generated. And I ask that the CJC subpoenas all correspondence between Ms Glass and Judge Cooper, Timothy Corboo, and Ms Cobean.

I also request that Reverend Glass, and all the other court reporters who have transcribed proceedings in this matter, be interviewed, under oath, and on camera. This will allow a full investigation into the process of recording court proceedings in Judge Cooper’s courtroom. I also request that the CJC share this information with the ongoing criminal investigations into NY State and City Judiciary malpractice, with which a number of court reporters are cooperating witnesses.

12. Justice Cooper systematically bullies litigants in his courtroom, in violation of judicial canon, section 100.3 (B)(3)

Judge Cooper’s intimidating, bullying conduct is not restricted to me. I have witnessed Judge Cooper's bullying and denial of due process with other litigants. In the case of Mr Zappin, I observed him scream at Mr Zappin and threaten to completely exclude Mr Zappin from access to his four year old son unless he stopped questioning him. (This was a threat that Cooper carried through on in his final custody order which has deprived the young boy from any access to his father for over a year).

This pattern and practice of bullying is very clear from reports by other litigants. On the judicial review website, TheRobingroom.com, here are just a few testimonials:

Justice Cooper is a bully. One need sit in his courtroom for one morning to hear how he berates, insults and pressures litigants and attorneys. He is very impressed with his own



pithy commentary; watching him on the bench is like watching a theater performance. He loves his high profile cases, loves to rule on "important" issues like dog custody, but the day-to-day stuff bores him and he is flip and dismissive. [Comment #6051]

Teamster Thug Democrat Party bag man who specializes in Denial of Due Process, Violation of Cannons of Judicial Conduct, and his own protection racket that takes your money and puts it into the hands of his divorce industry cronies. [Comment #NY5766]

Gender Bias and Ignorance reign supreme in the farcical world of Matthew F Cooper's PART 51. What organization would the wise guys of the Democratic party turn to in order to deal with sensitive matters of family law and child custody? Why the Teamsters Local 237 of course. Though in all fairness Cooper had a failed year as an Adjunct professor at CUNY in between. Cooper is a Theatrical Thug, prone to hysterics. Ignorant of the law and not very discreet about his bias in court (towards women, and big firm lawyers). Judges like this one are what give the American Legal system such a bad name [Comment #Ny5488]

He never should have been appointed into this position. He destroys too many peoples and kids lives. He better should have lived during the old times of medieval inquisition. There it was normal to have this restricted view to the world. And the fact that he rules to the favor of certain lawyer friends, no matter how the case is set and no matter if he has to break the law or to turn the case into a direction he wants, is no secret. I hope that the days will come, where his bosses or the committee of judicial conduct looks into his business with scrutiny and finds out. [Comment # NY5402]

It is vital that, if Judge Cooper continues on the bench, the CJC takes real action to ensure that this conduct does not continue.

13. Judge Cooper violated judicial canon, section 11.3(B) (“A judge shall be faithful to the law and maintain professional competence in it.”)

Judge Cooper regularly mis-stated and mis-applied New York and Constitutional Law. He had no basis to drag me up to the witness stand. He was absolutely incorrect that I had no right to plead the Fifth Amendment, when he was trying to interrogate me for allegations he judged serious enough to warrant incarceration.

Judge Cooper had no legal basis on which to threaten holding me in contempt. How could he hold me in contempt when I was not even a party to the action?

Judge Cooper again mis-stated the law on filming court proceedings: "*You have been recording these proceedings. That is in violation of State Law.*" [Ibid, at 69:15-17] This characterization of state law was untruthful. Restrictions on filming in our courts are a **rule** set by the Unified Court System. They are not a "State Law". As a judge, he should be fully aware of that distinction.



14. By bringing the court into disrepute through his actions inside and outside the court, Judge Cooper violated judicial canon, section 100.2 (A) (“A judge shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”)

Judge Cooper’s actions bring into disrepute the court both inside the courthouse, and outside. As evidence of his inappropriate, callous and intemperate conduct outside the court, you have only to peruse these publicly accessible clips, of Judge Cooper boasting about his power to incarcerate people on charges of contempt; denigrating women; and generally treating the court system as his chance to preside over *The Hunger Games*:

- <https://www.youtube.com/watch?v=X661udvkcC8>
- <https://www.youtube.com/watch?v=zuITIMEvJug>
- <https://www.youtube.com/watch?v=9yVOCGVqCGA>
- <https://www.youtube.com/watch?v=cTOnYzcGeg0>
- https://www.youtube.com/watch?v=TyQnCFRZ_ko
- <https://www.youtube.com/watch?v=kiIzRmy73vU>
- <https://www.youtube.com/watch?v=Jeb2dNLB2Wo>
- <https://www.youtube.com/watch?v=CLshHWxa-eM>
- <https://www.youtube.com/watch?v=p2wm5UANgkk>
- <https://www.youtube.com/watch?v=YTrwwZU2o4A>
- <https://www.youtube.com/watch?v=P9IC0zHCWtl>
- <https://www.youtube.com/watch?v=JEMvtN5VpLg>
- <https://www.youtube.com/watch?v=G9xociqC300>
- <https://www.youtube.com/watch?v=0DpZtTX9YXk>

QUESTIONS FOR THE COMMISSION

- (1) Should Judge Cooper be permitted to interrogate and intimidate journalists?
No. Judge Cooper should be removed from the ben, suspended, or, at the very least, reprimanded, sanctioned and directed to cease and desist from this conduct.
- (2) Should Judge Cooper be permitted to misstate the law as a means to intimidate a journalist with the intent of forcing him to make a record that the judge could use to try and incarcerate him for contempt and/or perjury?
No. For that, he should be removed from the bench. Any other ruling would cause a chilling effect with the press. A clear and public directive needs to be sent that journalists should be able to carry out their work without the interference of the judges.
- 3) Should Judge Cooper be permitted to trample on the 1st, 4th, 5th and 6th Amendments to the Constitution?
No. These are the most sacred principles of American democracy and the Rule of Law. Public servants and judges like Matthew Cooper should be the standard-bearers for these values, not their desecrators. The CJC must impose severe consequences for people like Judge Cooper who use the privilege of office to violate the Constitution.



(4) Should Judge Cooper be permitted to generate an incomplete and untruthful record by producing transcripts that incorrectly document proceedings?

No. This Commission should compel Judge Cooper to hand over to petitioner and the parties the court's unedited audio recordings of all proceedings in this matter, and the electronic files of all transcripts published to date, in both Judge Cooper's and Judge Kaplan's courtrooms. This will enable further investigation and analysis of the extent of the mis-statement of the record, and ensure that any fraudulent activity is exposed and corrected.

THE NEED FOR REMEDIAL ACTION

I now request that your office launches a full-scale investigation into the allegations of behavior constituting professional misconduct and violations of judicial canons, and the substantiating proof, provided herein. The copious record references and legal authority, and additionally appending voluminous exhibits, establish, prima facie, the case for your office to investigate and take action.

There are a number of attorneys who can provide relevant testimony, including those who were present in the court on November 6, 2015: David Schorr Esq, Saadya Bendelstein Esq and Anthony Zappin Esq. On your assurance of anonymity, we can also provide you with a list of other parents, attorneys and litigants who have been treated abusively and unethically by Judge Cooper.

In our call for you to investigate all these allegations, I and the FCLU offer all our research and resources. I am happy to provide and transcripts, motions, orders, correspondence, or other papers necessary to investigate Judge Cooper.

Please respond in writing with a complaint number, assign this matter to your chief of investigations, and advise me of a date and time for an interview. If you would require any further information, please do not hesitate to get in touch. Thank you for your assistance in this matter of vital public interest.

Yours very truly

SEBASTIAN DOGGART
President, New York Families Civil Liberties Union

Encs.