

1 BEFORE THE NEW YORK STATE SENATE  
2 STANDING COMMITTEE ON JUDICIARY

3 -----  
4 Public Hearing on the  
5 Appellate Division First Department  
6 Departmental Disciplinary Committee,  
7 the Grievance Committees of the  
8 Various Judicial Districts, and the  
9 New York State Commission on Judicial Conduct  
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8 Hearing Room 6  
9 Empire State Plaza  
Albany, NY

10 June 8, 2009  
11 10:35 a.m.

12 PRESIDING:

13 Senator John Sampson  
14 Chair  
Senate Standing Committee on Judiciary

15 PRESENT:

16 Senator John A. DeFrancisco (R)  
17 Senator Bill Perkins  
18  
19  
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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