

1 NEW YORK STATE SENATE  
2 STANDING COMMITTEE ON JUDICIARY

3 -----  
4 PUBLIC HEARING IN THE MATTER OF  
5 AN EXAMINATION OF THE JUDICIAL DISCIPLINARY PROCESS  
6 -----

7 Senate Hearing Room  
8 250 Broadway  
9 19th Floor  
10 New York, N.Y.

11 September 24, 2009  
12 Thursday  
13 10 a.m.

14 BEFORE: Senator John Sampson  
15 Chair  
16 Judiciary Committee

17 Senator Bill Perkins  
18 Chair  
19 Corporations, Authorities & Commissions

20 Senator George D. Maziarz

21 Senator Eric Adams

22 Senator Ruben Diaz

23 OTHER STAFF MEMBERS:

24 Shelly Mayer  
Majority Counsel

Lisa Lashley  
Counsel

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1                   SENATOR SAMPSON:       Thank you.

2                   MS. KLEIN:        Just to say, I didn't  
3 complain yet to the judicial commission to  
4 Judge Falanga because he's not done with me  
5 yet, and I'm afraid of what he could do to  
6 me before we are done.

7                   SENATOR SAMPSON:       But I think it's  
8 good you come because sometimes judges, you  
9 know, that's why you have the Commission of  
10 Judicial Conduct, you make these complaints  
11 if you feel the judges is just stepping out  
12 of his bounds of the parameters he is  
13 supposed to be operating in.

14                   MS. KLEIN:        I feel almost a little  
15 safer because now I'm on record of saying  
16 how I've been treated by him, and whatever  
17 his future things are to do to me, will be  
18 now noted because I have said, sat here and  
19 given my statement of what has been done by  
20 this man to me until today.

21                   So I thank you for your help after.

22                   SENATOR SAMPSON:       Thank you, Ms.  
23 Klein.

24                   The next witness is Ike Aruti of

1           Rosedale. Mr. Ike Aruti.

2                   MR. ARUTI:       I have prepared the  
3           copies that were requested so you might read  
4           a little.

5                   Thank you very much, Senator Sampson,  
6           for the opportunity to give my testimony  
7           today.

8                   My name is Ike Aruti, and I am a patent  
9           attorney.

10                   I was an engineer for many years before  
11           going to law school and I was very  
12           successful as an engineer because I always  
13           had a special talent for diagnosing  
14           malfunctions.

15                   I did not leave this talent behind when  
16           I became an attorney.

17                   Beginning in May of 2007 I was the  
18           victim of false charges of domestic  
19           violence, and in June of 2007 my son was  
20           taken away from me by the NYPD in the middle  
21           of the night.

22                   Since then I have lost my job, I have  
23           lost my reputation, and I have lost my  
24           family.

1           And to depart from the text of my  
2 transcript here, I respectfully disagree,  
3 Senator, with your concern for the  
4 reputations of judges.

5           Why is a judge's reputation any more  
6 important than mine?

7           SENATOR SAMPSON:       I said that? I  
8 don't think I said that. I said -- what  
9 what did I say?

10          MR. ARUTI:       When you were saying that  
11 the CJC procedures cannot be made public and  
12 must be kept confidential unless something  
13 is being done.

14          I think that transparency is the only  
15 way, and to steal a phrase from you,  
16 Senator, it needs the benefit of  
17 disinfecting daylight.

18          It should all be public, and it should  
19 be a citizen's committee of people who are  
20 not affiliated with the court.

21          However, I became aware of the Queens  
22 County Family Court and a perverse symbiosis  
23 of malfunctioning government agencies that  
24 had been spiraling out of control, and I

1           have learned that this is commonly referred  
2           to as the domestic violence industry, and  
3           the court plays the leading role in this.

4           The Commission for Judicial Conduct is  
5           the only control over the court.

6           The abuse and misconduct that I  
7           suffered at the hands of the New York City  
8           Administration for Children's Services and  
9           New York State Office of Children and Family  
10          offices were truly horrifying.

11          But I feel that what I observed and  
12          experienced in court was truly a disgrace to  
13          the Bench and the Bar.

14          The system is desperately in need of  
15          what Senator Sampson refers to as  
16          disinfecting daylight.

17          In the Queens County Family Court the  
18          public is routinely excluded from what are  
19          public proceedings where they would see  
20          assigned counsel, counsel being assigned by  
21          the judges that they will be appearing  
22          before.

23          This is a glaring appearance of  
24          impropriety which is prohibited by the model

1 rules, and it's a conflict of interest in  
2 that counsel may not wish to bite the hand  
3 that feeds them and compromise -- and this  
4 compromises their client's representation.

5 To depart again from the text of my  
6 transcript, I was on an 18B panel in the  
7 Nassau County District Court and when I was  
8 appointed by the arraignment judge, he was  
9 not the judge that I was appearing before,  
10 and if it occurred at a later stage in the  
11 proceeding, a call was made to the assigned  
12 counsel office and the judge did not  
13 participate in the selection of counsel.

14 On December 17th I attempted to enter a  
15 courtroom for a public proceeding where  
16 opposing counsel were present.

17 I was arrested, physically and verbally  
18 abused by the court officers, humiliated in  
19 front of all of the people in the waiting  
20 room, and the court officers where no name  
21 tags and refuse to identify themselves.

22 In the Queens County Family Court it  
23 took almost two years before I had my first  
24 opportunity to be heard, as is required by

1 due process.

2 My wife was given assigned counsel  
3 under the same conditions for which I was  
4 refused and that was homeownership.

5 When Judge Friedman eventually assigned  
6 counsel to me, a Mr. Anthony Johnson, she  
7 told him not to do anything.

8 My orders to show cause were routinely  
9 ignored. They are still pending from 2007.

10 Despite the fact that all of the  
11 charges against me were now dismissed, my  
12 parental rights remain in a state of de  
13 facto termination.

14 I have no contact with my children  
15 whatsoever, and there is nothing in any  
16 record negative about me.

17 SENATOR SAMPSON: So, why do you have  
18 no contact, your rights were terminated?

19 MR. ARUTI: Yes, de facto my rights  
20 were terminated. I do not know where my  
21 children go to school, I do not know where  
22 they live.

23 SENATOR SAMPSON: Are you still in  
24 Family Court proceedings?

1                   MR. ARUTI:       I am still in Family  
2                   Court proceedings.

3                   SENATOR SAMPSON:       I am just saying  
4                   you are still in Family Court proceedings  
5                   and you have no idea where your children go  
6                   to school at?

7                   MR. ARUTI:        No.

8                   SENATOR SAMPSON:       You don't have any  
9                   contact with them?

10                  MR. ARUTI:        No.

11                  SENATOR SAMPSON:       And you have raised  
12                  this to the Queens Family Court?

13                  MR. ARUTI:        Yes, I have, I raised it  
14                  in fact just this week, it was about three  
15                  weeks ago.

16                  In fact tomorrow will make three weeks  
17                  that all of the family offense charges and  
18                  all of the violence charges and all of those  
19                  things were thrown out completely.

20                  The Order of Protection should never  
21                  have been issued.

22                  No good cause was ever shown, it wasn't  
23                  recited in the order as it was required, and  
24                  again, to depart from the text of my

1 transcript, the only thing easier than  
2 getting an Order of Protection from the  
3 court these days is the abuse of one.

4 SENATOR SAMPSON: No, I understand  
5 that, but let's get back to really the gist  
6 of everything.

7 So how has the court or the judiciary  
8 or the courts or the attorneys impeded your  
9 progress in allowing you to see your  
10 children or what obstacles or what  
11 misconduct has been exhibited?

12 MR. ARUTI: The other counsel has  
13 engaged in a lot of dilatory practice, and  
14 they have outright lied in court.

15 I had to beg the judge to pull a  
16 transcript, I've been through about 9 judges  
17 already there, I understand it's only two  
18 judges left in the building that I haven't  
19 been before, I hesitate to make further  
20 complaints against Judge Pam Jackman Brown  
21 because, quite frankly, she's the best judge  
22 I've had there.

23 Maybe it's because she's new.

24 SENATOR SAMPSON: Just for

1 disclaimer, she's my cousin, just to --

2 MR. ARUTI: I have not received  
3 better treatment in the court than I have by  
4 her.

5 It still doesn't mean that I think it  
6 was fundamentally fair, or it resulted in  
7 substantial justice.

8 Apart from the procedural due process  
9 requirements, which are notice and an  
10 opportunity to be heard.

11 SENATOR SAMPSON: Have you filed any  
12 complaints, if any?

13 MR. ARUTI: I have filed numerous  
14 complaints.

15 SENATOR SAMPSON: I don't want you to  
16 be -- as a lawyer, we don't want to be  
17 subject to the document, the written  
18 document, I want to hear from you, you know.

19 MR. ARUTI: They were oh, well, in my  
20 particular case.

21 SENATOR SAMPSON: I can read the  
22 document.

23 MR. ARUTI: It was a sneak attack  
24 from Mexico. I guess I may have gotten

1           married for the wrong reasons, the woman  
2           treated me like a king for 12 years, when my  
3           parents died I didn't want to be alone, I  
4           married her, we had children, she came to  
5           New York and could not function.

6                     She destroyed my practice because she  
7           had no domestic skills, she had no  
8           linguistic skills, she became a recluse in  
9           the home.

10                    She couldn't answer the phone, answer  
11           the door, I had to hire an intern and teach  
12           him how to draft patent applications to get  
13           my work done, and it very soon became really  
14           the point of diminishing returns.

15                    SENATOR SAMPSON:        So --

16                    MR. ARUTI:         So I got an opportunity  
17           to purchase an automobile race facility in  
18           Mexico, I have had a very long history of  
19           amateur road racing championships.

20                    SENATOR SAMPSON:        But --

21                    MR. ARUTI:         In any event, we have  
22           been living in Mexico since September of  
23           2000 and with regard to the purchase of the  
24           sale there were some stumbling blocks that

1           delayed it, and I was unhappy with the  
2           education my children were getting, so I  
3           grabbed my son, who was the older of the  
4           two, and I brought him to New York for the  
5           third grade and for the fifth grade, solely  
6           for the purpose of coming to school.

7                    SENATOR SAMPSON:        Okay.

8                    MR. ARUTI:            He was in the gifted and  
9           talented class.

10                   SENATOR SAMPSON:        What we are trying  
11           to pinpoint is --

12                   MR. ARUTI:            I asked -- I have begged  
13           for visitation with my children at every  
14           single appearance.

15                   The judge has agreed with me that there  
16           is nothing in the record, there was nothing  
17           at the family offense violation trial to  
18           substantiate any loss, and this is another  
19           thing, I think that part of the problem is  
20           also the statutory framework of the Family  
21           Court act where Judge Friedman sarcastically  
22           answered me that she remembered due process  
23           from law school, and I said that I cited  
24           Matthews versus Eldridge that due process is

1 a flexible concept that has to be tailored  
2 to every situation.

3 In any event she told me that Article 6  
4 of the Family Court Act doesn't provide for  
5 hearings.

6 I argued that Amendment 5 of the  
7 Constitution does.

8 SENATOR SAMPSON: I'll give you one  
9 more minute.

10 MR. ARUTI: I would like to go  
11 through this because I know you were asking  
12 for suggestions and constructive criticisms,  
13 and I have many of those.

14 SENATOR SAMPSON: In one minute  
15 articulate them. You don't have to read  
16 them, just articulate them.

17 MR. ARUTI: Well, in any event this  
18 was taken as a case of emergency  
19 jurisdiction and now that we have disproved  
20 the existence of the emergency, somehow this  
21 jurisdiction continues.

22 Despite the fact that the ACS workers  
23 have committed wire fraud by communicating  
24 with my wife in Mexico using my long

1 distance account.

2 They have induced her to violate the  
3 Immigration and Naturalization Act Section  
4 274 which are both RICO predicate offenses.

5 SENATOR SAMPSON: I've got you, but  
6 give me the recommendations because we have  
7 got to close it down, I've got to go to the  
8 next one.

9 MR. ARUTI: My recommendations,  
10 transparency, there is no reason that a  
11 judge should make any statement to any party  
12 that is not on the record.

13 There is limited immunity for judges,  
14 however when the real world factors are  
15 considered, they are totally immune.

16 They are a stronger body than the blue  
17 wall of silence.

18 Furthermore, part of access to justice,  
19 and you said yourself, well that's why we  
20 have so many levels of Appellate Courts,  
21 look at how onerous the appellate procedure  
22 is and I think that we are remiss in our  
23 obligations to embrace very mature  
24 technology.

1           If I want a transcript of the record, I  
2           have to pay somebody who knows how much a  
3           page and wait how many months and it's  
4           hundreds of dollars, and I don't know what  
5           it says, you can't review the facts that  
6           were established in the lower court, why?  
7           Because all you have is the transcript.

8           SENATOR SAMPSON:       Got you.

9           MR. ARUTI:       Audio visual recordings  
10          are very mature, Senator.

11          There is no reason that you shouldn't  
12          be able to walk out of the courthouse and on  
13          your way out pay \$1 for a DVD that contains  
14          the entire proceeding.

15          SENATOR SAMPSON:       Mr. Aruti, since  
16          time is up, I will --

17          MR. ARUTI:       One more point, Mr.  
18          Senator, I respectfully submit to you that  
19          parental rights are among the most  
20          fundamental rights that we have and, in  
21          fact, equally as fundamental as our right to  
22          freedom. If not more so.

23          I personally would have rather spent  
24          this two years in jail and come out to a

1           loving family than to have lost my children  
2           and had them alienated in the process.

3           SENATOR SAMPSON:       Thank you.

4           MR. ARUTI:       And accordingly, and in  
5           an opinion by Clarence Thomas, where he was  
6           dissenting, I believe it was Troxel versus  
7           Granville, where he went so far as to say  
8           well, I concur, however the court has not  
9           reached the issue as to what level of  
10          scrutiny should be applied to these.

11          And he volunteered that he was of the  
12          position that this is something that  
13          requires strict scrutiny.

14          SENATOR SAMPSON:       Got you. Thank you  
15          very much, Mr. Aruti.

16          MR. ARUTI:       The protections are not  
17          there in the Family Court Act.

18          SENATOR SAMPSON:       We will work on it.

19          MR. ARUTI:       Our children are our  
20          future.

21          SENATOR SAMPSON:       Terrence Finnan.

22          MR. FINNAN:       Here is a copy you might  
23          look at it. I have a large number of issues  
24          with the court system and the complaints