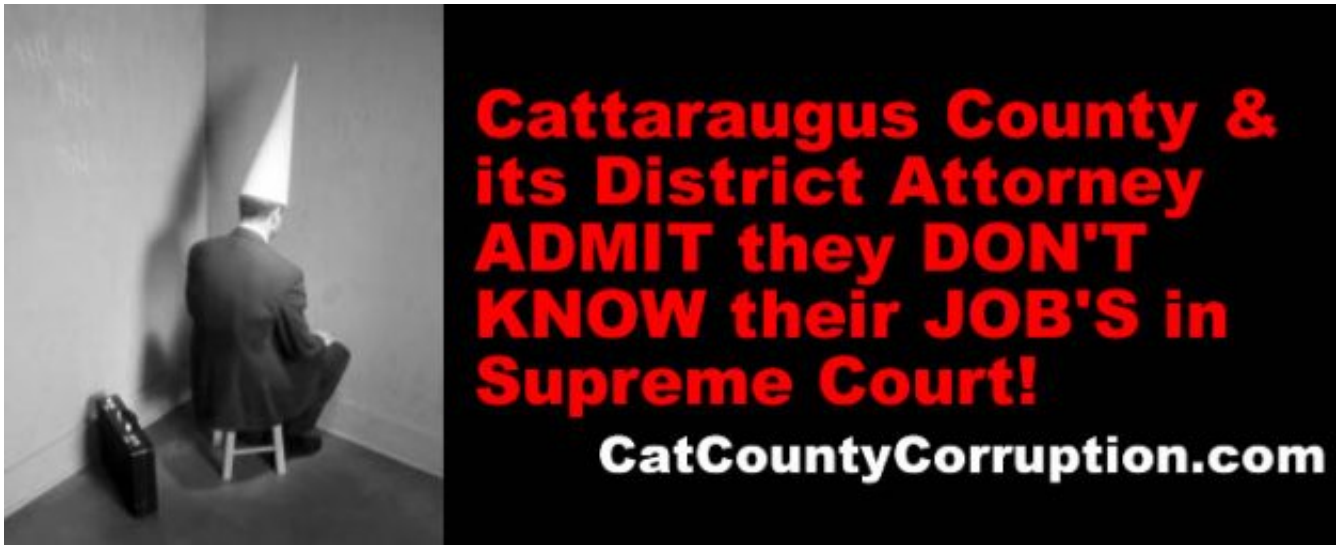
Catt County & DA Reiman ADMIT they are INCOMPETENT in SUPREME COURT!



A Pro-Se litigant who is battling the criminal element that exist in the Cattaraugus County Government filed an Article 78 petition in the Supreme Court to shut down the criminally minded District Attorney and her criminal cabal with an article 78 writ of prohibition, which would order the DA to stop her criminal activity and/or the court to stop its proceeding. The petition alleged...

that the DA did not have jurisdiction to prosecute and the court to proceed. In the Parties part of the of his complaint, the section where you describe all of the parties involved in the Petition, the Pro-Se described "DA" Lori P Rieman as;

(14) *Respondent/Defendant Lori P Rieman is the Cattaraugus County District Attorney, is an elected official required to prosecute all crimes and offenses cognizable by the courts in Cattaraugus County and as the respondent superior is responsible for the actions of her employees and/or servants and/or representatives, and was and is responsible for the operation, maintenance and control of the Cattaraugus County District Attorney's Office* ***and the selection, training, supervision, evaluation and disciplining of Assistant District Attorneys in the Cattaraugus County District Attorney's Office*** *and is responsible for prosecuting case no...*

In a legal proceeding each and every paragraph has to be either [1];

- Admitted to by the opposing party, or;
- Denied by the opposing party, or;
- That the opposing party cannot form an opinion because they deny they have the knowledge or information to form a belief as to the facts described in the allegation.

Rieman would admit in her alleged 'second answer' (which was illegal, your only allowed one) in paragraph 4 answering my paragraph 14 of the Article 78 complaint, she claimed that *"she is an elected official who prosecutes crimes in Cattaraugus County"* **but are not the ones *"responsible for the actions of her employees and/or servants and/or representatives and/or agents and was and is responsible for the operation, maintenance and control of the Cattaraugus County District Attorney's Office and the selection, training, supervision, evaluation and disciplining of Assistant District Attorney's..."* They admitted that they don't know their job functions.**

Here is where she has admitted she does not understand her job functions. Further, because M Mark Howden, the attorney of Cattaraugus County, was the one that helped craft the response the county admits that they do not understand they are responsible for selection, training, supervision, evaluation and disciplining their employees and/or agents and/or servants.

Further, this was the SECOND answer filed/served by Reiman which is ILLEGAL. You can only serve one answer and you need permission form the court to amend it if you want to change anything. There is no provision in law that would allow a party to file a second answer. Do you think the court would allow them to file another answer? That is the subject of another article concerning the term "fraud upon the court".

Legal Background

Case law, as well as the legislative enactments is well settled on the matter of admittance's by parties to the matter, N.Y. C.P.L.R. 3018(a), to wit;

(a) Denials. A party shall deny those statements known or believed by him to be untrue. He shall specify those statements (emphasis added) as to the truth of which he lacks knowledge or information sufficient to form a belief and this shall have the effect of a denial. All other statements of a pleading are deemed admitted, except that where no responsive pleading is permitted they are deemed denied or avoided.

There are two types of admissions; (1) Formal, and; (2) Informal. The question becomes what type of assertion have the people admitted to and what are the repercussions of such admissions? Formal admissions are binding [Rahman v. Smith, No. 23495/03, 2005 WL 5118512 (N.Y. Sup. Ct. Nov. 29, 2005)]. Once made, the statement cannot be contradicted and is therefore conclusively bound to the party.

Once a statement is defaulted upon to be a formal judicial admission, the statement is no longer evidence but rather a concession that completely withdraws the fact from contention [See Rahman, *supra*].

In this matter because Rieman and the County Attorney stated that they did not have the knowledge or information to form a belief as to the facts described in the allegation they admitted that they did not know their job functions and they did this in Supreme Court.

***"…failure to deny the statement is generally admissible as evidence demonstrating his or her acquiescence to the truth of the statement"* [People v Allen, 300 NY 222, 225].**

No top of that M Mark Howden failed and/or refused to file a Notice of Appearance, He committed a crime when he did so. The CPLR is very clear, all Attorneys appearing on behalf of their clients, in this case Howden was representing the criminal Rieman, he was required to file a Notice of Appearance. And because Rieman is also an attorney (and we use that term loosely) she was also required to appear for herself; See CPLR § 3029 (a);

(a) "Requirement of appearance. The defendant appears by serving an answer or a notice of appearance,

or by making a motion which has the effect of extending the time to answer. An appearance shall be made within twenty days after service of the summons, except that if the summons was served on the defendant by delivering it to an official of the state authorized to receive service in his behalf…" See also;

i. http://www.nycourts.gov/courts/ad4/clerk/forms/perf-appeal.pdf
ii. see also See Estate of Michele V. Gaolrapp 2005 N.Y. Misc. LEXIS 4977; 234 N.Y.L.J. 58

They both failed and/or refused to file a timely Notice of Appearance therefore she had failed and/or refused to appear. Pursuant to N.Y. CVP. LAW § 3215. Petitioner requests that the court sign the orders as requested. N.Y. CVP. LAW § 3215 specifically states;

"(a) Default and entry. When a defendant has failed to appear, plead or proceed to trial of an action reached and called for trial, or when the court orders a dismissal for any other neglect to proceed, the plaintiff may seek a default judgment against him."

How do you think the judge ruled on this issue?