

'DA' Rieman and 'ADA' Marshall Failed and/or Refused to File Oaths of Office. Position vacated and cases must be vacated.

ALERT

Cattaraugus County, New York, 'ADA' William Preston Marshall has no Oath of Office. FOIL Request filed. 'DA' Lori Rieman did not have an oath until 2014. More criminal incompetence discovered in DA's office.

VACATE CASES

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County of Cattaraugus District Attorney Lori Rieman did not file an Oath of Office from 2010 to 2014! By law she did not have the authority to function as the district attorney! All cases under her control must be vacated. While Rieman did finally file a Oath of Office in 2014, Assistant District Attorney [William Preston Marshall](#), /AKA/ Preston Marshall, /AKA/ Bill Marshall and 'ADA' Kelly Balcom did not, as of October 6, 2017 filed any. They are without authority to prosecute any cases and Rieman was without authority to prosecute ANYTHING from 2010 to 2014. Certified copies from the Public Record and articles from official state website and sources that can be viewed in the following article prove it...

Because Rieman failed in her duty to file her Oath of Office in 2010 there is question on whether or not she properly holds the office now and further proves, as a former Erie County Assistant District Attorney stated that the employees and/or servants and/or agents of the Cattaraugus County District Attorney's Office lack the **temperamental and psychological makeup to properly carry out their duties as responsible government officials...** The documents below were acquired by the publicly accessible computer terminals located in the Cattaraugus County Clerks Office on the 1st floor at the county building in Little Valley. Oath's of Office are so important that it has its own specific category in the records.

The query (search) on the county computer "Rieman" produced the results that she only filed her oath of office in 2014, [none in 2010 when she was elected for that term](#). As such her position was vacated within thirty days of her failing to file her oath of office and she ran as the District Attorney incumbent for 2014, which she was not. **She is presently running unopposed for the 2018 term. A true dictatorship, just like you would find in Stalinist Russian or Nazi Germany.**

Therefore, her position pursuant to [Public Officers Law Section 30](#) provides that the office of a public officer becomes vacant when Rieman refused and/or neglected to take and file her oath of office within the time required by law, therefore his cases are also.

ALL REIMAN'S PROSECUTIONS MUST BE VACATED

On to Marshall, AKA Baby Faced Finster. While Rieman did finally file her oath of Office in 2014, Marshall has not as of October 5, 2017 FILED ANYTHING.

The query (search) on the county computer for "Marshall" produced only one result, that being of Bridget Marshall, wife of Preston [who assaults victims in court of their criminal conduct when the victims call them out and dare to exercise their rights.](#)

After this discovery Marshall has now attained the most corrupt "ADA" in the County, with Ensell coming a very close second. [Marshall](#), Ensell and and Cattaraugus County Judge Ronald Ploetz utilize the [Soviet Stalinist era 'mental' issue](#) on their victims wherever anyone dares to exercise their rights vigorously.

ALL MARSHALL'S PROSECUTIONS MUST BE VACATED

The most shocking fact is what Marshall, once he was made aware that he had no Oath on file by a co-conspirator went in filed one! If that is not the proof he needed one on file in the first place, that what is? This proves beyond reasonable doubt his culpability in the serious matter. Balcom would go on and do the same thing. To your left is a certified copy of William Preston Marshall's Oath of Office. You will notice that he took his Oath of Office on October 12, 2017 (and filed in the county clerks office the same day) and his term expires on December 31, 2017. So everyone who has been victimized by this criminal now has more legal recourse against him. It also proves he never had one on file in the first place.

But what tipped him off that failed and/or refused to file his Oath of Office? One of the victims of the corruption in the District Attorney's Office when he discovered that Marshall did not have a Oath of Office on file he filed a FOIL request for a copy of it. The victim sensing the the pompous and arrogant attitudes for the complete disregard of the law and the constant violation of We the Peoples rights by the employees in the District Attorney's Office came to the rationalization that they were so arrogant and criminally minded that they would not care if they file their Oaths of Office. His hunch paid off. To the right you will see a copy of the victims FOIL request. He filed it on October 5, 2017. Marshall filed his Oath a mere seven days later. when it comes to conspiracy's, timelines are everything. Where did the FOIL request go after its filed? The individual who oversaw this request is also now in trouble. They never should have sent the tickets in.

"It is not necessary to prove a conspiracy before evidence of specific acts of the alleged conspirators can be received. The conspiracy itself can be established by evidence of particular acts, which, taken together, furnish a basis for a finding that a conspiracy exists," see The [People of the State of New York, Respondent, v. Maurice E. Connolly and Frederick Seely, Appellants 253 N.Y. 330; 171 N.E. 393; 1930 citing People v. Miles, 123 App. Div. 862, 875; affd., 192 N. Y. 541.](#)

While we basically finished this article in mid October of 2017, we decided to wait publish it to see if we could identify more corruption and the "[accessories after the fact](#)". This is a serious liability and criminal issue taxpayers. The law is cut and dry on the matter and there is no room for wiggling out of the crimes committed. We are on the hook for some serious problems due to the criminal incompetence in the District Attorney's Office. As you can see to the right when we searched for the last name of "Balcom" in the county computers on October 17, 2017 it came back "No Matching Documents Found"

In a eye-opening law review of what happens to individuals who don't file their Oaths of Office on time, Carolyn H. Mann, New York State Bar Association 69-APR N.Y. St. B.J. 12 writes;

"[Vetere v. Ponce](#), emanating from the jurisdiction of the Town/Village of Harrison, has recently cast significant public opinion on § 30, Public Officers Law. Although surrounded by political mischief, the case

ultimately concerns the perceived right of a duly elected public official to retain his elected post, even though not in strict compliance with a qualifying section of Public Officers Law. The New York Law Journal (April 22, 1996, p. 1.) has headlined its piece on this case (and its most curious sequence of political events) with the words, "Technical Omission Costs Official His Post." We question here whether non-compliance with this statute is properly characterized as a "technical" omission. We submit that the failure to timely file an oath of office is an important and justifiable disqualification for holding public office. Those who are hurt by the consequences of failure to strictly comply, must resignedly accept their fate because, as we intend to show, the purpose of the statute is to secure a trust rather than to punish the careless."

Some other highlights of the article;

In 1913, in *People v. Keator*, 166 App. Div. 368, 154 N.Y.S. 1007, the relator filed his oath 17 days after commencement of his duties and in spite of the fact that the relator received the highest number of votes, the Board passed a resolution reciting the existence of a vacancy and properly proceeded to fill the vacancy by appointing another individual. The relator pleaded relief from the Board's action appointing someone other than himself, the duly elected official. The Court concluded:

Taking the constitutional oath of office being a condition precedent to relator being entitled to enter upon the duties of the office, and hence to his right to maintain an action to oust defendant and to recover possession of the office, we conclude that the relator is not entitled to succeed in this action... It would be unfortunate, if the refusal or neglect of a person elected to such office to qualify, as required by the Constitution of the state, could deprive a town of such an officer, as the position is one of importance, and particularly so in certain contingencies.

In the [Matter of Comins v. County of Delaware 66 A.D. 2d 966, 412 N.Y.S. 2d 428](#), a public officer entered upon his duties and performed them for some time only to find his position declared vacant. He pleaded before the court that his removal must be annulled for surely his service for such an extended period surely conferred rights of legitimacy to his claim to office. The court disagreed, repeated the clear words of § 30 and continued:

The fact that the Board did not earlier move to dismiss petitioner, does not, in our view, constitute an appointment of petitioner to his position. When a person appointed to office fails to timely file his oath of office, **neither notice nor judicial procedure is necessary, the office is automatically vacant and may be filled by the proper appointive power. Consequently,... no hearing on charges was required in order to dismiss him from office.**

The [criminal Elizabeth Ensell](#) who object in court when a victim of her criminal conduct brought the issue of no Oaths of Offices on file for 'employees' of the District Attorney's Office and as usual she is proven again to lie. Psychopaths have a hard time telling the truth, they lie so much they don't remember the last statement they made, lies are fleeting, truth is eternal. To your right you will see Ensell getting caught in another lie.

Back to the article;

Perhaps the circumstances set forth in [McDonough v. Murphy 92 A.D. 2d 1022, 461 N.Y.S. 2d 439](#), would lead one to expect the court to annul the declaration of a vacancy. Here, two appointed members of the College Board entered upon their official duties and subsequently were officially notified of the appointments. Both filed the oath within 30 days of that official notification, but the Court allowed the vacancy to stand, stating:

... when by one's own actions it is clear that a person knows of his appointment, he should not be

allowed to wait indefinitely before filing an oath of office. This interpretation is mandated by the necessity to file an oath of office, which is intended to be part of the requirements making an officer fully qualified to carry out the duties of his office... Thus, once plaintiffs have taken actions as official members of the board, as has been done here, they cannot be heard to claim that they had no notice of their appointments, for without a doubt the contrary is true.

No exceptions!

Neither is ignorance of the law an excuse for non-compliance with the requirement for a timely filing, as the Court declared in [Boisvert v. County of Ontario 89 Misc. 2d 183, 391 N.Y.S. 2d 49, aff'd 57 A.D. 2d 1051, 395 N.Y.S. 2d 617](#). where petitioner pleaded he was unaware of § 30 Public Officers Law. The court ruled:

The obligation imposed by the Public Officers Law statute is personal to plaintiff, it is an act he is required to do and the office became vacant by the mere failure to file the oath, whether or not the defendants knew or were chargeable with notice that plaintiff had failed to file his oath, and they are not required to make any declaration or give any notice. On his default in filing his official oath "the appointment was vitiated and the office * * * became vacant" [citing *Ginsberg v. City of Long Beach*, 286 N.Y. 400, 36 N.E.2d 637; and also *People ex rel. Walton v. Hicks*, *infra*].

No exceptions!

WHAT DOES THE OFFICIAL NEW YORK STATE WEBSITE HAVE TO SAY ABOUT IT?

NYS Department of State own website clearly shows that public employees must file an oath of office. Below are excerpts from the official NYS Department of State website. [Click here to visit the site page](#).

"An oath of office for an elective office must be taken and filed before or within thirty days after the commencement of the term of office. An oath of office for an appointive office must be taken and filed within thirty days after notice of his or her appointment or within thirty days after the commencement of his or her term of office."

"Public Officers Law Section 30 provides that the office of a public officer becomes vacant when the public officer refuses or neglects to take and file his or her oath of office within the time required by law. Therefore it is of particular importance that public officers take and file their oath of office within the time permitted by law."

WHAT ARE THE DISCIPLINARY RULES FOR NEW YORK STATE ATTORNEY'S?

What are the mandated responsibilities for other attorneys who are aware of this?

[DR 1-102 \[1200.3\] Misconduct.](#)

A. A lawyer or law firm shall not:

1. Violate a Disciplinary Rule.
2. Circumvent a Disciplinary Rule through actions of another.

3. Engage in illegal conduct that adversely reflects on the lawyer's honesty, trustworthiness or fitness as a lawyer.

4. Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. Engage in conduct that is prejudicial to the administration of justice.

DR 1-103 [1200.4] Disclosure of Information to Authorities.

A. **A lawyer possessing knowledge**, (1) not protected as a confidence or secret, or (2) not gained in the lawyer's capacity as a member of a bonafide lawyer assistance or similar program or committee, of a violation of DR 1-102 [1200.3] **that raises a substantial question as to another lawyer's honesty, trustworthiness or fitness as a lawyer shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation.**

B. A lawyer possessing knowledge or evidence, not protected as a confidence or secret, concerning another lawyer or a judge shall reveal fully such knowledge or evidence upon proper request of a tribunal or other authority empowered to investigate or act upon the conduct of lawyers or judges.

A lawyer who has complied with DR 1-103(a) by disclosing her knowledge of serious misconduct by another lawyer is immune from liability for defamation. [*Wiener v. Weintraub*, 22 N.Y.2d 330, 292 N.Y.S.2d 667 (1968).] **They are also protected from workplace retaliation. This shield is important, because there is always a risk of retaliation when a lawyer reports the misconduct of a colleague, especially a senior colleague.** [See, *Wieder v. Skala*, 80 N.Y.2d 628, 593 N.Y.S.2d 752.]

ALL OF RIEMAN'S, MARSHALL'S AND BALCOM'S CASES MUST BE VACATED BY LAW!

So are the Attorney's that represent the county, town and cities in lawsuits by victims of the corruption aware of these facts?

To you left you will see an image from pacer.gov. PACER (acronym for [Public Access to Court Electronic Records](#)) is an electronic public access service of United States federal court documents. It allows users to obtain case and docket information from the United States district courts, United States courts of appeals, and United States bankruptcy courts. The system is managed by the Administrative Office of the United States Courts in accordance with the policies of the Judicial Conference, headed by the Chief Justice of the United States. As of 2013, it holds more than 500 million documents.

You will notice that the Attorney's for Defendant's 1 & 2 filed an Answer on 07/17/17. Defendants 1 & 2 also filed a Answer to the victims amended complaint on 08/29/17. **When you have a federal lawsuit filed against you, you have a number of options to pursue when it comes to responding to the complaint, which could be filing a Motion to Dismiss or Answer to the Complaint. Gee... we wonder what they are attempting to do with this case now that the Oath of Office issue has come to light....**

The [American Bar Association has a good detailed article on the subject](#), which they basically boiled it down to a nice conclusion; The next time your client is served with a complaint, take a moment to consider the appropriate course of action for your case. First, you need to determine your deadline to file a responsive pleading. Then, you need to decide whether you should file an answer or a motion. If you are planning to file an answer, you must think about admissions and denials, defenses, and counterclaims or cross-claims. However, you may want to assert certain defenses by filing a motion, which must be done before an answer is filed. You must consider multiple factors to decide if a motion is appropriate or necessary. It is extremely important to determine the strategy of your case before you file your responsive

pleading, because it could change the entire course and outcome of the case.

As you can see, you would have two choices in the matter, not both. If you Answer the complaint you are stating that there is no reason to [dismiss do to 'technicalities'](#) and you lose the right to file a Motion to Dismiss. However if you file a Motion to Dismiss you have the ability to file an Answer if your Motion to Dismiss is denied. But in this matter the Attorney's for defendants 1 & 2 filed a Motion to Dismiss on November 6, 2017, after the filed TWO ANSWERS, that doesn't happen and the Attorney's for Defendant's 3 & 4, as their first response filed a Motion to Dismiss after the no Oath was discovered. See the collusion?

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It all goes back to the completely corrupt District Attorney's Office. Just like in the four million dollar lawsuit against the county where a former Erie County Assistant District Attorney stated that the employees and/or servants and/or agents of the Cattaraugus County District Attorney's Office lack the **temperamental and psychological makeup to properly carry out their duties as responsible government officials...**

Sheriff Timothy Whitcomb appears to take the filing of his oath seriously, he has been doing it since 2008.

We have a New York State Citizen by the name of Bill Bastuk, another victim of a corrupt District Attorney in New York State lost over \$160,000.00, he and his wife's life savings over bogus charges. He is one gentle soul, a very nice charming man who did not deserve what they did to him. They did the same thing to him. They claimed he was crazy for defending himself and locked him up and sent him off for mental evaluations to which led to a major lawsuit against the perpetrators.

He has founded the it could happen to you foundation (itcouldhappen2you.org) and is spearheading a bill in the legislator to create a committee specifically for District Attorney and Assistant District Attorney misconduct. The bill is gathering wide support. It is Senate Bill 2412A and Assembly Bill A05285.

The purpose of this legislation is to create the commission on prosecutor conduct, to serve as a disciplinary entity designated to review complaints of prosecutor misconduct in New York State, to enforce the obligation of prosecutors to observe acceptable standards of conduct, and to establish reasonable accountability for the conduct of prosecutors during the performance of their functions, powers and duties as prosecutors. The commission on prosecutorial conduct is modeled after legislation that established the state commission on judicial conduct.

A recent article in the New York Daily News details the corruption we New Yorkers are facing. In one county a candidate actually campaigning on that platform of cleaning up the corruption. The all-but-certain election of Eric Gonzalez to a full term as Kings County district attorney places a wakeup call to other New York leaders, especially the lawmakers in Albany, to hold prosecutors accountable for the serious problems — not honest errors, but deliberate malfeasance — that land innocent people in prison. The article goes on further to state;

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~~Cattaraugus County, New York State Corruption & the Powers of the NYS Jury & Grand Jury System~~

“One of the most stunning things when I began to work on my own case was just how common this misconduct was,” Collins told me. “These were institutional policies regarding withholding particular documents, not making a record of all of the incentives given to witnesses. All of the catalog of misconduct that took place in my case wasn’t confined to my prosecution.”

“I think the prosecutors should be held responsible. I think their law license should be on the line. I think that there should be charges that could be brought against them,” says Rita Dave, an attorney who works with wrongfully convicted defendants. “Some people will say I’m being extreme, but there has to be repercussions to your actions. Because if there are not, you get to walk away.”

To [read the full article click here.](#)

Call your Representatives NOW and demand they support Senate Bill 2412A and Assembly Bill A05285!

- [Contact your assembly members here](#)
- [Contact your senators here](#)

Good lawyers have to tow the line in order to make a living. If they actually start really defending their clients all of a sudden they find that there are no favorable decisions based on fairness and justice. They start losing cases in which they could have easily won. They start losing clients because they can't win cases. This is very apparent in Cattaraugus County where the rule of law is on permanent vacation. One recent court case clearly proves that to be fact. Judges can take full advantage of what is called '[judicial immunity](#)' which allows them to violate every constitutional right of a defendant with no repercussions. Judicial immunity does not protect judges from suits stemming from administrative decisions made while off the bench, like hiring and firing decisions. But immunity generally does extend to all judicial decisions in which the judge has proper jurisdiction, even if a decision is made with "corrupt or malicious intent" which is exactly what is going on here in Cattaraugus County.