



FOR IMMEDIATE RELEASE  
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FINDINGS IN THE COMPLAINT OF  
**Kurt Mausert against the Hon. Courtenay Hall**  
COMPLAINT 2008-5

Fair Campaign Practices for the Capital Region, Inc. (FCP) held a hearing on October 6, 2008, to consider a complaint made by Kurt Mausert, candidate for Saratoga Family Court Judge, against his opponent, sitting Family Court Judge Courtenay Hall. Hearing Panel members present were: Barbara Thomas (Chair), Judi Campbell, Therese Lowenthal, George O'Connor, Robert Turner, Linda Ward along with FCP Coordinators Betsey Swan and Joan Elliott. Kurt Mausert appeared to present his complaint. Judge Hall responded to the complaint in a letter dated October 6, 2008. Ex- Officio panel members, all from Saratoga County, were: Larry Bulman (Democratic Party Chair); Lee Kolesnikoff (Independence Party Chair); Jasper Nolan (Republican Party Chair).

Kurt Mausert complained that Courtenay Hall refuses to debate him, despite "receiving two written notifications of being challenged to a debate," and that this constitutes a violation of FCP Principle One. Judge Hall at one point replied through his attorney and campaign manager, Jeff Bagnoli, that "A debate is improper for judicial candidates". In his letter to FCP in response to the complaint Hall stated, "I recognize that such activities [face-to-face debates] are desirable and the cannons of judicial ethics permit them." However he went on to express concerns about the way such a debate could be structured to ensure that there would be no violation of the codes of judicial conduct, including not revealing confidential information about specific cases. Mr. Mausert countered that the Family Court is open to the public but also said that the judicial codes severely limit discussion.

**NO FINDING:**

Section 5.6 of the Judicial Campaign Ethics Handbook, published by the New York State Advisory Committee on Judicial Ethics, provides:

A judicial candidate may participate in a debate with other judicial candidates, as long as he/she adheres to the Rules Governing Judicial Conduct. Opinion 94-78. For instance, judicial candidates should be careful to maintain the dignity of judicial office, avoid making pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the

office, and avoid making statements that commit or appear to commit him/her with respect to cases, controversies or issues that are likely to come before the court. Opinions 05-119; 94-78; 22 NYCRR 100.5(A)(4)(d). A judicial candidate may need to make clear to organizers of a debate that, as a candidate for judicial office, he or she must comply with the Rules, and that such compliance may constrain his or her participation in any debate. Opinion 05-119.

Judge Hall was correct to raise concerns about the nature and moderator of any debate in which he was asked to participate. Given that FCP had no information about the scope of or moderator of the proposed debate, or other campaign activity designed to inform voters of issues subject to fair debate by judicial candidates, it cannot make a finding in this particular matter.

However, judicial candidates are advised that, under FCP Principle One, they have a duty to engage in fair debate of those subjects that are condoned for debate by the Canons of Judicial Ethics. In considering whether Principle One has been violated by judicial candidates, FCP will look at the public's right to know, whether existing campaign materials and appearances have given the public sufficient information with which to make an informed decision, and whether the proposed debate or forum is designed to ensure adherence to the Canons of Judicial Ethics.

When there is uncertainty about the appropriateness of a proposed debate, candidates are advised that the prudent course for judicial candidates is to seek guidance from the Judicial Campaign Ethics Center.

*Candidates are reminded that misrepresentation of FCP findings in order to obtain political advantage constitutes an unfair campaign practice.*

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