

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

BERNARD J. GRAHAM,

DETERMINATION

a Judge of the Surrogate's Court,
Kings County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable David Fried
Robin Chappelle Golston
Nina M. Moore, Ph.D.
Honorable Peter H. Moulton
Marvin Ray Raskin, Esq.

APPEARANCES:

Robert H. Tembeckjian (Mark Levine and Jennifer L. Lowry, Of
Counsel) for the Commission

Scalise & Hamilton, P.C. (Deborah A. Scalise) for respondent

Respondent, Bernard J. Graham, a Judge of the Surrogate's Court, Kings

County was served with a Formal Written Complaint dated March 17, 2026 containing two charges. Charge I of the Complaint alleged that from January 2, 2023, to November 7, 2023, while serving as Acting Surrogate in Kings County, respondent appointed five attorneys as Guardians Ad Litem at least 22 times in 21 matters, notwithstanding that those five attorneys and/or their respective law firms were sponsors, hosts, or otherwise involved in a campaign event on respondent's behalf; failed to disclose to the parties in those matters that the five attorneys and/or their law firms were involved in a campaign event on his behalf; and failed to disqualify himself in any of the matters. Charge II alleged that from January 1, 2023, through May 6, 2025, while serving as Surrogate in Kings County, respondent presided over at least ten estate matters, notwithstanding that one or more of the attorneys involved, and/or their law firms, were involved in a campaign event on respondent's behalf; failed to disclose to the parties in those matters that an attorney and/or his or her law firm was involved in a campaign event on his behalf; and failed to disqualify himself in any of the matters.

On June 29, 2026, the Administrator, respondent's counsel and respondent entered into an Agreed Statement of Facts pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be admonished and waiving

further submissions and oral argument.

On August 13, 2026, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent was admitted to the practice of law in New York in 1986. He has been a Judge of the Surrogate's Court, Kings County, since January 1, 2024, having previously served as Acting Surrogate, Kings County, from 2023 to 2024, as a Supreme Court Justice, Kings County, from 2014 to 2023, and as a Civil Court Judge, Kings County, from 2005 to 2013. Respondent's current term expires on December 31, 2030.

Background

2. On January 2, 2023, respondent, who was an elected Justice of the Supreme Court, was appointed Acting Surrogate of Kings County.

3. On January 18, 2023, respondent announced his candidacy for Surrogate of Kings County.

4. On November 7, 2023, respondent was elected Surrogate of Kings County, for a term that commenced on January 1, 2024.

As to Charge I of the Formal Written Complaint

5. From January 2, 2023, to November 7, 2023, while serving as Acting Surrogate in Kings County, respondent appointed a Guardian Ad Litem in at least 79 estate matters. Respondent:

- A. appointed five attorneys as Guardians Ad Litem at least 22 times in 21 of those matters, notwithstanding that each of those five attorneys and/or his law firm was a sponsor, host, or otherwise involved in a campaign event on respondent's behalf;
- B. failed to disclose to the parties in any of those 21 matters that the five attorneys and/or their law firms sponsored, hosted, or otherwise were involved in a campaign event on his behalf; and/or
- C. failed to disqualify himself in any of the 21 matters.

6. At all times relevant herein, the following attorneys were active on the Office of Court Administration's fiduciary list for Kings County, pursuant to Part 36 of the Rules of the Chief Judge (22 NYCRR 36): William S. Gillen, Joseph R. Vasile, Stephen A. Spinelli, Dominic J. Famulari, and Robert L. Howe.

7. From January 2, 2023, through November 7, 2023, while serving as Acting Surrogate, respondent appointed the five attorneys listed above as Guardians Ad Litem at least 22 times in at least 21 estate matters, without disclosing to the parties that those attorneys or their law firms sponsored, hosted or otherwise were involved in a campaign event on his behalf.

William S. Gillen, Esq.

8. On March 9, 2023, Mr. Gillen co-sponsored an event on behalf of respondent's campaign for Surrogate. A flyer for this event was entitled "JOIN US TO HELP ELECT HON. BERNARD J. GRAHAM AS SURROGATE OF KINGS COUNTY."

9. Respondent appointed Mr. Gillen as Guardian Ad Litem in the following matters, on the following dates:

- A. May 10, 2023: *Estate of Bowen*, Index # 2021-4532;
- B. June 22, 2023: *Estate of Kalkstein*, Index # 2017-3969/A;
- C. August 4, 2023: *Estate of Ruppenthal*, Index # 2021-1115/A;
- D. August 14, 2023: *Estate of Rasmussen*, Index # 2022-612;
- E. October 10, 2023: *Estate of Gershberg*, Index # 2023-2909; and
- F. October 20, 2023: *Estate of Galvin*, Index # 2023-2227.

Joseph R. Vasile, Esq.

10. On March 9, 2023, Mr. Vasile co-sponsored the event on behalf of respondent's campaign referenced above.

11. Respondent appointed Mr. Vasile as Guardian Ad Litem in the following matters, on the following dates:

- A. March 16, 2023: *Estate of Watts*, Index # 2020-2450/B;
- B. March 28, 2023: *Estate of Sasoon*, Index # 2022-1924;
- C. April 28, 2023: *Estate of Urban*, Index # 2020-1201/A;
- D. May 31, 2023: *Estate of Costello*, Index # 2020-848;
- E. August 17, 2023: *Estate of Gary*, Index # 2022-1421;

- F. September 15, 2023: *Estate of Andall*, Index # 2019-3556/D;
and
- G. September 18, 2023: *Estate of Isaac*, Index # 21-3358.

Stephen A. Spinelli, Esq.

12. On March 9, 2023, Mr. Spinelli co-sponsored the event on behalf of respondent's campaign referenced above.

13. Respondent appointed Mr. Spinelli as Guardian Ad Litem in the following matters, on the following dates:

- A. March 17, 2023: *Estate of Bazil*, Index # 2019-4369/A;
- B. April 24, 2023: *Estate of Andall*, Index # 2019-3556/D; and
- C. September 15, 2023: *Estate of Eckroth*, Index # 2020-3082.

Dominic J. Famulari, Esq.

14. On March 9, 2023, Mr. Famulari co-sponsored the event on behalf of respondent's campaign referenced above.

15. Respondent appointed Mr. Famulari as Guardian Ad Litem in the following matters, on the following dates:

- A. March 17, 2023: *Estate of Russell*, Index # 2016-1275/A; and
- B. September 25, 2023: *Estate of Jones*, Index # 2023-2051.

Robert L. Howe, Esq.

16. On March 22, 2023, Mr. Howe co-hosted an event on behalf of respondent's campaign for Surrogate. A flyer for this event was entitled "Bernard J. Graham for Surrogate's Court."

17. Respondent appointed Mr. Howe as Guardian Ad Litem in the following matters, on the following dates:

- A. April 25, 2023: *Estate of Dunbar*, Index # 2021-3681/A;
- B. June 7, 2023: *Estate of Fields*, Index # 2021-617;¹
- C. September 12, 2023: *Estate of Demartino*, Index # 2020-2057;
and
- D. October 20, 2023: *Estate of Graffeo*, Index # 2022-2069.

As to Charge II of the Formal Written Complaint

18. From January 1, 2023, through May 6, 2025, while serving as Surrogate in Kings County, respondent:

- A. presided over at least ten estate matters, notwithstanding that one or more of the attorneys involved, and/or their law firms, were a sponsor, host, or otherwise involved in a campaign event on respondent's behalf;
- B. failed to disclose to the parties in any of those matters that an attorney and/or his or her law firm was a sponsor, host, or otherwise involved in a campaign event on his behalf; and/or

¹ On July 20, 2023, respondent amended the order of appointment in *Fields*, assigning Mr. Howe to represent an additional person under disability.

C. failed to disqualify himself in any of the matters.

19. At all times relevant herein, the following attorneys and law firms appeared before respondent in estate matters: Dominic J. Famulari, Robert L. Howe, Bruno F. Codispoti, Greenfield Stein & Senior, LLP, Angelo M. Grasso, Antonelli & Antonelli, Daniel R. Antonelli, Samantha M. Sbrocchi, Erin Cummings, Cahill & Cahill, P.C., and James H. Cahill, Jr.

20. From January 1, 2023, through May 6, 2025, while serving as Surrogate, respondent presided over at least ten estate matters, without disclosing that those attorneys and/or their law firms sponsored, hosted or otherwise were involved in a campaign event on his behalf.

Dominic J. Famulari, Esq.

21. On March 9, 2023, Mr. Famulari co-sponsored the event on behalf of respondent's campaign referenced above.

22. On October 20, 2023, Mr. Famulari filed a Probate Petition in *Estate of McGloin* ("McGloin"), Index # 2023-5161.

23. Respondent presided over *McGloin* on the following dates:

A. April 10, 2024: respondent issued a Citation on the petitioner's behalf; and

- B. June 20, 2024: respondent issued a “Referral Order,” transferring *McGloin* to Surrogate Rosemarie Montalbano, without identifying the reason for the transfer.

Robert L. Howe, Esq.

24. On March 22, 2023, Mr. Howe co-hosted the event on behalf of respondent’s campaign referenced above.

25. On January 18, 2022, approximately fourteen months prior to the March 22, 2023 campaign event, Mr. Howe filed a Petition for Letters of Administration in *Estate of Negron* (“*Negron*”), Index # 2022-1539, a matter that had been pending before respondent became Acting Surrogate.

26. Respondent presided over *Negron* on the following dates:

- A. April 6, 2023: respondent issued an Order granting substituted service;
- B. November 21, 2024: respondent issued an Order directing the parties to appear in person for a conference with a Court Attorney-Referee; and
- C. March 3, 2025: respondent ordered a hearing.

Bruno F. Codispoti, Esq.

27. On March 9, 2023, Mr. Codispoti co-sponsored the event on behalf of respondent’s campaign described above.

28. On May 1, 2023, Mr. Codispoti co-sponsored a second event on behalf of respondent's campaign. A flyer for this event was entitled, "JOIN US TO HELP ELECT HON. BERNARD J. GRAHAM AS SURROGATE OF KINGS COUNTY."

29. On January 26, 2023, prior to the March 9 and May 1, 2023 campaign events, Mr. Codispoti filed a Petition to Compel Production of a Will and an Affirmation of Urgency on behalf of two beneficiaries in *Estate of Graci* ("Graci"), Index # 2021-5294/A.

30. Respondent presided over *Graci* on the following dates:

- A. May 11, 2023: respondent heard oral argument on the Petition;
- B. May 12, 2023: respondent granted the Petition to Compel; and
- C. May 6, 2025: respondent issued a "Referral Order," transferring *Graci* to Surrogate Rosemarie Montalbano, without identifying the reason for the transfer.

Greenfield, Stein & Senior, LLP

31. On May 2, 2023, Greenfield, Stein & Senior, LLP, cosponsored an event on behalf of respondent's campaign. A flyer for this event was entitled, "a reception hosted by Antonelli & Antonelli[,], Cahill & Cahill PC[,], Greenfield Stein & Senior LLP."

32. On December 11, 2020, approximately two and a half years prior to the May 2, 2023 campaign event, Angelo M. Grasso, Esq., a partner at Greenfield, Stein & Senior, LLP, filed a Construction Petition in *Estate of Pearce* (“*Pearce*”), Index # 2019-2735/B, C, D.

33. Respondent presided over *Pearce* on the following dates:

- A. March 14, 2024: respondent issued a Decision and Order granting the Petitioner’s Motion for Summary Judgment; and
- B. November 8, 2024: respondent issued a “Referral Order,” transferring *Pearce* to Surrogate Rosemarie Montalbano, without identifying the reason for the transfer.

Antonelli & Antonelli

34. On May 2, 2023, Antonelli & Antonelli co-hosted the event on behalf of respondent’s campaign referenced above.

35. On March 27, 2017, approximately six years prior to the May 2, 2023 campaign event, Erin Cummings, an attorney with Antonelli & Antonelli, filed a Probate Petition in *Estate of Russell* (“*Russell*”), Index # 2016-1275/A.

36. Respondent presided over *Russell* on the following dates:

- A. February 6, 2023: respondent issued a Citation, directing the parties to appear in court to address the Petitioner’s Application for an Extension of Preliminary Letters;

- B. March 17, 2023: respondent appointed a Guardian Ad Litem to protect the interests of a party who did not respond to the Citation; and
- C. February 13, 2024: respondent issued a Decree and Order granting probate.

37. On August 25, 2020, approximately two and a half years prior to the May 2, 2023 campaign event, Daniel R. Antonelli, a partner at Antonelli & Antonelli, filed a Notice of Appearance on behalf of the Administrator in *Estate of Garrett* (“*Garrett*”), Index # 2016-2190/A, D.

38. Respondent presided over *Garrett* on the following dates:

- A. October 24, 2024: respondent issued an Order directing the parties to appear in court for a status conference; and
- B. April 11, 2025: respondent issued a “Referral Order,” transferring *Garrett* to Surrogate Rosemarie Montalbano, without identifying the reason for the transfer.

39. On November 4, 2020, approximately three and a half years prior to the May 2, 2023 campaign event, Samantha M. Sbrocchi, a partner at Antonelli & Antonelli, filed a Petition for Letters of Administration in *Estate of Leon* (“*Leon*”), Index # 2021-229/A, B, C.

40. Respondent presided over *Leon* on the following dates:

- A. January 13, 2023: respondent issued a Citation directing the parties to appear in court to show cause why Antonelli &

Antonelli's Petition for Payment of Legal Fees should not be granted;

- B. April 17, 2023: respondent issued an Order to Show Cause, directing the parties to appear in court to address Antonelli & Antonelli's Affirmation of Urgency and Petition to Appoint the Public Administrator;
- C. May 11, 2023: respondent appointed the Kings County Public Administrator as temporary administrator of the estate; and
- D. November 20, 2023: respondent issued a Decision & Order, granting the motion for legal fees in its entirety.

41. On August 22, 2023, Ms. Sbrocchi filed a Petition for Letters of Limited Administration in *Estate of Caicedo* ("Caicedo"), Index # 2023-3982, 3982/A.

42. Respondent presided over *Caicedo* on the following dates:

- A. February 16, 2024: respondent issued a Citation, directing the parties to appear to address the Petition; and
- B. April 8, 2024: respondent issued a Decree granting letters of administration to the Petitioner.

Cahill & Cahill, P.C.

43. On May 2, 2023, Cahill & Cahill, P.C., co-hosted the event on behalf of respondent's campaign described above.

44. On June 14, 2023, James H. Cahill, Jr., a partner at Cahill & Cahill, filed a Petition for probate in *Estate of Gershberg* (“*Gershberg*”), Index # 2023-2909.

45. Respondent presided over *Gershberg* on the following dates:

- A. October 3, 2023: respondent issued a Citation, directing the parties to appear to address the Petition;
- B. October 10, 2023: respondent appointed a Guardian Ad Litem to protect the interests of an infant with an interest in the proceedings; and
- C. September 25, 2024: respondent issued a Decree granting probate.

46. On September 11, 2023, Mr. Cahill filed a Notice of Appearance in *Estate of Bailey* (“*Bailey*”), Index # 2014-3174/A-G on behalf of an Executor for a post-deceased distribute.

47. Respondent presided over *Bailey* on the following dates:

- A. September 19, 2023, to September 22, 2023: respondent presided over a jury trial; and
- B. October 23, 2023: respondent issued a Decision on a Motion to Set Aside the Verdict.

Additional Factors

48. Respondent has served as a judge for approximately 21 years and has no prior disciplinary history with the Commission. He has been cooperative and contrite throughout this inquiry.

49. Respondent recognizes that he failed to familiarize himself with the Rules and Advisory Opinions as they relate to campaigns for judicial office and appointments during the election period of attorneys who had sponsored, hosted, or were otherwise actively involved in a campaign event on his behalf. Respondent acknowledges that, even without knowing the pertinent rules or opinions, he should have recognized the impropriety and the appearance of impropriety he created.

50. When respondent was appointed as Acting Surrogate, the attorneys he later appointed to Guardian Ad Litem positions were already on the Office of Court Administration's list of approved fiduciaries for Kings County. Respondent made the appointments in question in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR 36), and the fee awards he granted followed the guidelines set forth in the Surrogate's Court Procedure Act.

51. Respondent appears to have treated the attorneys who were involved in his campaign in the same manner as he treated other attorneys on the OCA list of approved fiduciaries, insofar as he did not grant more appointments or approve

higher fees amounts to his supporters than to others. There is no indication of any *quid pro quo* or other inappropriate arrangement or understanding between respondent and the attorneys and law firms that sponsored or hosted fundraisers, or were otherwise involved in his campaign.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A) and 100.3(E)(1) of the Rules Governing Judicial Conduct (“Rules”) and should be disciplined for cause pursuant to Article VI, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law. Charges I and II of the Formal Written Complaint are sustained insofar as they are consistent with the above findings and conclusions and respondent’s misconduct is established.

Judges must observe high standards of conduct “so that the integrity and independence of the judiciary will be preserved” and must “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” (Rules, §§100.1 and 100.2(A)) Section 100.3(E)(1) of the Rules provides in pertinent part: “[a] judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned” Respondent violated the Rules when he appointed five attorneys to Guardian Ad Litem positions during his campaign after they co-sponsored or co-hosted events for his campaign without disclosing the relationship to the parties or disqualifying

himself. Respondent also violated the Rules when he presided over ten estate matters in which one or more of the attorneys involved or their law firm was a co-sponsor or co-host of an event supporting respondent's campaign without disclosing the relationship or disqualifying himself.

Disqualification is required if a judge's impartiality could reasonably be questioned. *See, Matter of Muller*, 2026 Ann Rep of NY Commn on Jud Conduct at 172, 184 ("respondent failed to disqualify or disclose that, during his campaign, law firms that hosted a fundraiser for his campaign represented a party in several matters pending before him."); *Matter of Fabrizio*, 65 NY2d 275 (1985) (judge failed to disqualify or disclose in a small claims matter in which the defendant was his dentist); *Matter of Kraker*, 2023 Ann Rep of NY Commn on Jud Conduct at 190 (judge failed to disqualify or disclose that a plaintiff in a pending matter was a customer of judge's business). In *Matter of Doyle*, 23 NY3d 656, 661 (2014), the judge, *inter alia*, did not disqualify or disclose when an attorney appearing before her had a leadership role in the judge's election campaign. The Court held, "... a judge's obligation to disqualify [himself] based on the appearance of impropriety has long been in place" *Id.* at 660. Respondent's failures to disclose or disqualify violated the Rules and created the appearance of impropriety.

In accepting the jointly recommended sanction of admonition, we have

taken into consideration that respondent has no disciplinary history in his more than 20 years on the bench and has acknowledged that his conduct was improper and warrants public discipline. Furthermore, it was stipulated that there was no indication of any inappropriate arrangement or understanding between respondent and the attorneys and law firms that co-sponsored or co-hosted events for his campaign. We trust that respondent has learned from this experience and that in the future he will act in strict accordance with his obligation to abide by the Rules Governing Judicial Conduct.

By reason of the foregoing, the Commission determines that the appropriate disposition is admonition.

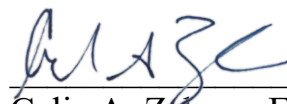
Mr. Belluck, Ms. Grays, Judge Camacho, Mr. Cambareri, Mr. Doyle, Judge Falk, Judge Fried, Ms. Golston, Judge Moulton and Mr. Raskin concur.

Ms. Moore dissents as to sanction and votes that censure is the appropriate disposition.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct.

Dated: August 26, 2026



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct