

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,

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

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to Respondent, Bernard J. Graham, a Judge of the Surrogate's Court, Kings County, pursuant to Section 44, subdivision 4, of the Judiciary Law, that the State Commission on Judicial Conduct has determined that cause exists to serve upon Respondent the annexed Formal Written Complaint; and that, in accordance with said statute, Respondent is requested within twenty (20) days of the service of the annexed Formal Written Complaint upon him to serve the Commission at its New York office, 61 Broadway, Suite 1200, New York, New York 10006, with his verified Answer to the specific paragraphs of the Complaint.

Dated: March 17, 2026
New York, New York

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006
(646) 386-4800

To: Deborah A. Scalise, Esq.
Attorney for Respondent
Scalise & Hamilton, P.C.
111 Brook Street, Suite 202
Scarsdale, New York 10583

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

**FORMAL
WRITTEN COMPLAINT**

BERNARD J. GRAHAM,

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

1. Article VI, Section 22, of the Constitution of the State of New York establishes a Commission on Judicial Conduct ("Commission"), and Section 44, subdivision 4, of the Judiciary Law empowers the Commission to direct that a Formal Written Complaint be drawn and served upon a judge.
2. The Commission has directed that a Formal Written Complaint be drawn and served upon Bernard J. Graham ("Respondent"), a Judge of the Surrogate's Court, Kings County.
3. The factual allegations set forth in Charges I and II state acts of judicial misconduct by Respondent in violation of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct ("Rules").
4. 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.

CHARGE I

5. From on or about January 2, 2023, to on or about November 7, 2023, while serving as Acting Surrogate in Kings County, Respondent:

- A. appointed five attorneys as Guardians Ad Litem at least 22 times in at least 21 different estate matters, notwithstanding that each attorney 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 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 matters.

Specifications to Charge I

Background

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

7. On or about January 18, 2023, Respondent announced his candidacy for Surrogate of Kings County.

8. On or about November 7, 2023, Respondent was elected Surrogate of Kings County, for a term that commenced on or about January 1, 2024.

9. At all times relevant to this Formal Written Complaint, 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.

10. From on or about January 2, 2023, through on or about 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.

11. On or about March 9, 2023, Mr. Gillen co-sponsored an event on behalf of Respondent's campaign for Surrogate. A copy of the flyer, entitled "JOIN US TO HELP ELECT HON. BERNARD J. GRAHAM AS SURROGATE OF KINGS COUNTY," is appended as Exhibit 1.

12. Respondent appointed Mr. Gillen as Guardian Ad Litem in the following matters, on or about 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.

13. On or about March 9, 2023, Mr. Vasile co-sponsored the event on behalf of Respondent's campaign referenced in Exhibit 1.

14. Respondent appointed Mr. Vasile as Guardian Ad Litem in the following matters, on or about 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*, 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.

15. On or about March 9, 2023, Mr. Spinelli co-sponsored the event on behalf of Respondent's campaign referenced in Exhibit 1.

16. Respondent appointed Mr. Spinelli as Guardian Ad Litem in the following matters, on or about 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.

17. On or about March 9, 2023, Mr. Famulari co-sponsored the event on behalf of Respondent's campaign referenced in Exhibit 1.

18. Respondent appointed Mr. Famulari as Guardian Ad Litem in the following matters, on or about 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.

19. On or about March 22, 2023, Mr. Howe co-hosted an event on behalf of Respondent's campaign for Surrogate. A copy of the flyer, entitled "Bernard J. Graham for Surrogate's Court," is appended as Exhibit 2.

20. Respondent appointed Mr. Howe as Guardian Ad Litem in the following matters, on or about 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.

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

21. By reason of the foregoing, Respondent 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, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to disqualify himself in proceedings in which his impartiality might reasonably be questioned, in violation of Section 100.3(E)(1) of the Rules.

CHARGE II

22. From on or about January 1, 2023, through on or about 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

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

Specifications to Charge II

Background

23. The allegations contained in paragraphs 6-8 are incorporated by reference herein.

24. At all times relevant to this Formal Written Complaint, 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.

25. From on or about January 1, 2023, through on or about 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.

26. On or about March 9, 2023, Mr. Famulari co-sponsored the event on behalf of Respondent's campaign referenced in Exhibit 1.

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

28. Respondent presided over *McGloin* on or about 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.

29. On or about March 22, 2023, Mr. Howe co-hosted the event on behalf of Respondent’s campaign referenced in Exhibit 2.

30. On or about January 18, 2022, Mr. Howe filed a Petition for Letters of Administration in *Estate of Negron* (“*Negron*”), Index # 2022-1539.

31. Respondent presided over *Negron* on or about 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.

32. On or about March 9, 2023, Mr. Codispoti co-sponsored the event on behalf of Respondent’s campaign referenced in Exhibit 1.

33. On or about May 1, 2023, Mr. Codispoti co-sponsored a second event on behalf of Respondent’s campaign. A copy of the flyer entitled, “JOIN US TO HELP ELECT HON. BERNARD J. GRAHAM AS SURROGATE OF KINGS COUNTY,” is appended as Exhibit 3.

34. On or about January 26, 2023, 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.

35. Respondent presided over *Graci* on or about 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, LLC

36. On or about May 2, 2023, Greenfield, Stein & Senior, LLP, co-sponsored an event on behalf of Respondent’s campaign. A copy of the flyer, entitled, “a reception hosted by Antonelli & Antonelli[,], Cahill & Cahill PC[,], Greenfield Stein & Senior LLP,” is appended as Exhibit 4.

37. On or about December 11, 2020, 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.

38. Respondent presided over *Pearce* on or about 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

39. On or about May 2, 2023, Antonelli & Antonelli co-hosted the event on behalf of Respondent's campaign referenced in Exhibit 4.

40. On or about March 27, 2017, Erin Cummings, an attorney with Antonelli & Antonelli, filed a Probate Petition in *Estate of Russell* ("Russell"), Index # 2016-1275/A.

41. Respondent presided over *Russell* on or about 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.

42. On or about August 25, 2020, 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.

43. Respondent presided over *Garrett* on or about 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.

44. On or about November 4, 2020, 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.

45. Respondent presided over *Leon* on or about 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.

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

47. Respondent presided over *Caicedo* on or about 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.

48. On or about May 2, 2023, Cahill & Cahill, P.C. co-hosted the event on behalf of Respondent's campaign referenced in Exhibit 4.

49. On or about June 14, 2023, James H. Cahill, a partner at Cahill & Cahill, filed a Petition for probate in *Estate of Gershberg* ("Gershberg"), Index # 2023-2909.

50. Respondent presided over *Gershberg* on or about 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.

51. On or about 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.

52. Respondent presided over Bailey on or about the following dates:

- A. September 19, 2023 to on or about 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.

53. By reason of the foregoing, Respondent 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, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to disqualify himself in proceedings in which his impartiality might reasonably be questioned, in violation of Section 100.3(E)(1) of the Rules.

WHEREFORE, by reason of the foregoing, the Commission should take whatever further action it deems appropriate in accordance with its powers under the Constitution and the Judiciary Law of the State of New York.

Dated: March 17, 2026
New York, New York



ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006
(646) 386-4800

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

VERIFICATION

BERNARD J. GRAHAM,

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

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

ROBERT H. TEMBECKJIAN, being duly sworn, deposes and says:

1. I am the Administrator of the State Commission on Judicial Conduct.
2. I have read the foregoing Formal Written Complaint and, upon
information and belief, all matters stated therein are true.
3. The basis for said information and belief is the files and records of
the State Commission on Judicial Conduct.



Robert H. Tembeckjian

Sworn to before me this
17th day of March 2026



Notary Public

MELISSA R. DIPALO
Notary Public, State of New York
No. 02D16231282
Qualified in Suffolk County
Commission Expires January 13, 2027

**JOIN US TO HELP ELECT
HON. BERNARD J. GRAHAM
AS SURROGATE OF KINGS COUNTY**

Sponsored by:

Joseph R. Vasile, Esq.	Susanne Gennusa, Esq.
Stephen A. Spinelli, Esq.	Bruno F. Codispoti, Esq.
William S. Gillen, Esq.	Dominick R. Dale, Esq.
Dominic J. Famulari, Esq.	

**For an event to support
Hon. Bernard Graham for Surrogate
King's County**

**Thursday, March 9, 2023
6:00 P.M. - 9:00 P.M.**

**The Wicked Monk
9510 Third Avenue
Brooklyn, New York 11209**

**Co-Host: \$500 per person
Supporter: \$400 per person
Friend: \$250 per person
Guest: \$150 per person**

**To RSVP or for additional information, please contact
[REDACTED]@gmail.com**

Paid for and Authorized by Bernard Graham for Surrogate's Court

c/o John Bartos [REDACTED]

Bernard J. Graham

EXHIBIT 2

For Surrogate's Court

Craig Eaton, Robert Howe
and Friends cordially
invite you to a campaign
fundraiser!!



Location:

8019 Harbor View Terrace
Brooklyn, NY 11209

Save the Date

March 22, 2023
6:00-8:30pm

RSVP:

 @robert-howe.com

**JOIN US TO HELP ELECT
HON. BERNARD J. GRAHAM
AS SURROGATE OF KINGS COUNTY**

Sponsored by:

Gregory LaSpina, Esq. Hon. Randolph Jackson
Joseph Rosato, Esq. Donald Minerva
Michael Benjamin, Esq. Salvatore Marino, Esq.
John Dalli, Esq. Bruno F. Codispoti, Esq.

**For an event to support
Hon. Bernard Graham
for Surrogate Kings County**

**Monday, May 1, 2023
6:00 P.M. - 8:00 P.M.**

**Scottadito Osteria Toscana
788A Union Street
Brooklyn, New York 11215
(718) 636-4800**

Co-Host: \$500 per person
Supporter: \$400 per person
Friend: \$250 per person
Guest: \$150 per person

**To RSVP or for additional information, please contact
[REDACTED]@gmail.com**

Paid for and Authorized by Bernard Graham for Surrogate's Court
c/o John Bartos [REDACTED]

a reception hosted by

Antonelli & Antonelli
Cahill & Cahill PC
Greenfield Stein & Senior LLP

HON. BERNARD GRAHAM

for

Surrogate

May 2, 2023

6-9pm

The Capital Grille, 155 E42 St

RSVP to [REDACTED]@gmail.com

Online donations [CLICK HERE](#)

See attached form for paper checks