

STATE OF NEW YORK  
COMMISSION ON JUDICIAL CONDUCT

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

**FRANK M. MORA,**

**VERIFIED ANSWER**

a Judge of the Poughkeepsie City Court,  
Dutchess County  
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Hon. Frank M. Mora, by and through his attorney, Stephen R. Coffey, Esq., as and for his  
answer to the Formal Written Complaint, sets forth the following upon information and belief:

**RESPONSE #1:** Respondent admits the allegations contained in this paragraph.

**RESPONSE #2:** Respondent denies information sufficient to form a belief as to the  
allegations in this paragraph.

**RESPONSE #3:** Respondent repeats and re-alleges the responses to the specific acts  
set forth in Charges I, II, and III, *infra*, as if fully set forth herein,  
and denies that he committed judicial misconduct.

**RESPONSE #4:** Respondent admits the allegations contained in this paragraph.

**CHARGE I**

**RESPONSE #5:** Respondent admits that he had a verbal confrontation with Stacey  
Koch, denies that it was discourteous, admits that he advised Ms.  
Koch that he could not medically tolerate a mask, that he was in  
full compliance with 10 NYCRR 2.60, hereinafter the “mandate,”  
admits that any Seeta mask policy that contravenes the mandate is  
void, a nullity, and unenforceable, admits that Ms. Koch called the  
police, denies that he left only after a police official said he would

send an officer to Seeta, and admits he left after Ms. Koch agreed to have his son's eyes examined if he provided medical documentation that he could not medically tolerate wearing a mask.

**RESPONSE #6:** Respondent denies information sufficient to form a belief as to Seeta's policies, admits that any Seeta mask policy that contravenes the mandate is void, a nullity, and unenforceable, admits that he advised Ms. Koch that he could not medically tolerate a mask, and that he was in full compliance with the mandate. Respondent admits that he was more than six (6) feet away from EVERYONE in the room the entire time he was there (with his son standing next to him). Respondent admits that Ms. Koch had known since January 29, 2021, that he did not medically tolerate a mask, which is eleven (11) months prior to this incident, when he advised her of same when he accompanied his other son, [REDACTED] at Seeta for an eye examination. Respondent admits that [REDACTED] was wearing a mask (as he could medically tolerate masks). Respondent admits that he was not asked to provide medical documentation for the next time he would be at Seeta to be allowed in the building. He admits that although there is nothing in the mandate that stated one must show proof or medical documentation, he would have provided same if it was requested prior to the December 28, 2021, visit.

**RESPONSE #7:** Respondent admits that on December 28, 2021, Respondent and his [REDACTED] son, [REDACTED] entered Seeta, where [REDACTED] had an appointment for an eye examination. Respondent admits that both he and his son were in full compliance with the mandate; [REDACTED] was wearing a mask (as he could medically tolerate masks), and Respondent was wearing a clear plastic face shield that was provided to him by his employer, the New York State Unified Court System, Office of Court Administration, hereinafter "OCA," which he was authorized by OCA to wear in lieu of a mask. Respondent admits that the mandate states, "any person who is over age two and **able to medically tolerate** a face-covering may be required to cover their nose and mouth with a mask or face-covering...." (emphasis added). Respondent admits that the mandate states in (e), "For purposes of this section face-coverings shall include, **but are not limited to**, cloth masks, surgical masks, and N-95 respirators that are worn to completely cover a person's nose and mouth." (emphasis added). Respondent admits that his shield met this definition, as it completely covered his nose and mouth. Respondent admits that the shield is open at the bottom and admits that many masks are open not only at the bottom, but at the top, and on the sides. Respondent admits that there were approximately 20 patients in the waiting room but denies information sufficient to form a belief as to the waiting room's

fullness, or the number of chairs occupied.

**RESPONSE #8:** Respondent admits that a receptionist asked him if he had a face mask and that he advised he could not medically tolerate masks. Respondent denies that he was told that he could alternatively wait outside. He admits that had a policy been in place for those who could not tolerate a mask where he would wait outside and then be called in, even by a backdoor, he would have gladly done so. He admits that he would not wait outside while his [REDACTED]-minor son remained inside with approximately twenty (20) strangers, and that he would not allow his son to go into the exam room without him. Respondent admits that Ms. Koch was called.

**RESPONSE #9:** Respondent admits that Ms. Koch entered the waiting room and asked him to put on a face mask, and that he advised he was not able to medically tolerate a mask. Respondent admits that he did not identify his disability or any medical reason that he was unable to wear a mask. Respondent admits that he was not asked by anyone why he could not medically tolerate wearing a mask. He admits that even if he had been asked, this information is personal, confidential, and under no circumstances something Ms. Koch was entitled to know.

**RESPONSE #10:** Respondent denies that Ms. Koch asked him to produce documentation of the medical condition that exempted him from the face masking requirement. Respondent admits that she asked

for medical documentation stating that he could not medically tolerate a mask. Respondent admits that he did not produce such documentation at that moment, but stated he would try to get it for her (as he was not sure if Dr. M [REDACTED] was available or able to write a note), and asked her to please have [REDACTED] seen. He admits that no other person or entity prior to, or after, this incident asked him any questions regarding his inability to wear a mask, or for medical documentation, as EVERY other person/entity followed the mandate. He admits that there is nothing in the mandate that allowed for someone to request, let alone demand, medical records. Respondent admits that the mandate did not speak to an exemption requirement, nor was there a process setup for same.

**RESPONSE #11:** Respondent admits that Ms. Koch asked him to put on a face mask, and that he was not able to do so. Respondent admits that he again told her he could not medically tolerate a mask. He admits that Ms. Koch was in violation of the mandate by demanding that he put on a face mask or leave. Respondent admits that he did not put on face mask, not because he was refusing, but because he was not medically able to tolerate one. Respondent admits that although Seeta is a private business, it is a Public Accommodation, as defined by 42 USC, Chapter 126. Section 12181(F) lists, among many other establishments, a professional office of a health care provider. Respondent admits that he had a license to be there

(his appointment for his minor son's eye exam), and that Ms.

Koch's demand that he leave was for the sole reason that he could not wear a mask, which was a violation of the mandate, unlawful, and discriminatory.

**RESPONSE #12:** Respondent admits that Ms. Koch stated she would call the police. Respondent denies that he stated that the police would not come to remove him because Dutchess County was not enforcing the mask mandate. Respondent admits that he stated that Dutchess County was not enforcing the mask mandate. He admits that just as the police dispatcher advised Ms. Koch, respondent was referring to County Executive Molinaro's Executive Order stating same.

**RESPONSE #13:** Respondent admits that Ms. Koch called 911 and the call was transferred to the Town of Poughkeepsie Police Department, which recorded the call. Respondent denies stating, "Go ahead. They're not coming." Respondent admits that he again stated in words or substance, "Go ahead. They're not enforcing it."

**RESPONSE #14:** Respondent admits that Ms. Koch offered to provide him with a paper mask and in violation of the mandate repeated that he could not be in the office without a mask. He admits the balance of the paragraph. Respondent admits that he wanted desperately to put the mask on, but could not mentally do it, as just the thought caused a panic attack.

**RESPONSE #15:** Respondent admits that Ms. Koch was on the phone with the

police, but at the time of the incident did not know what was said to Ms. Koch, as the officer was not on speakerphone. Respondent denies that he left the premises because of anything the official said, as he could not hear what the official said. Respondent admits to practically begging Ms. Koch to please have [REDACTED]'s eyes examined, but she refused. He admits that while Ms. Koch was still on the phone with the police during the second call, he asked her if she would have [REDACTED] seen if he could get medical documentation from his doctor, and she said yes. Respondent admits that it was at that point, while Ms. Koch was still on the phone with the police, that he left to try to get medical documentation, as all he wanted was for [REDACTED]'s eyes to be examined.

**RESPONSE #16:** Respondent admits the allegations contained in this paragraph. He admits that the mandate did not establish any procedure that required a certain type of doctor to give a medical exemption, and that the mandate does not even speak to the requirement of an exemption. Respondent admits that he sought treatment for his disability, and he began treating with a therapist on April 30, 2022. He admits that he has been continuously treating with her since then, and continues to the present day. He further admits that he was diagnosed with severe anxiety, which manifests as object phobia. He admits that although not diagnosed at the time of the

incident, this is what he was suffering from. He admits that physical symptoms and manifestations from this are headaches and neck pain. He admits that the regulation does not call for, contemplate, nor require a diagnosed medical condition. As chiropractors cannot diagnose mental health issues, and they deal with physical and body structural issues, no diagnosis was provided. Respondent admits that Dr. M [REDACTED], as his treating doctor for his physical symptoms, and a doctor licensed by the State of New York, had the right and authority to provide a doctor's note.

**RESPONSE #17:** Respondent admits the allegations contained in this paragraph.

**RESPONSE #18:** Respondent denies the allegations and inferences of misconduct contained in this paragraph.

## **CHARGE II**

**RESPONSE #19:** Respondent admits that he filed a defamation suit but denies that it was in retaliation for her having filed a confidential complaint against him with the Commission. Respondent admits that he takes his ethical responsibilities extremely seriously. He does not leave anything to chance when placed in a situation where it is not clear what is ethically proper. He admits that even prior to becoming a judge on January 1, 2011, he had sought advice formally and informally from the Judicial Advisory Committee (JAC), and its long-time former Co-chair, the Honorable George

Marlow. He also speaks regularly with Laura Smith, Esq., the JAC's Chief Counsel, whenever an issue arises that he has questions about. He admits that he is mindful of and careful to adhere to the Rules of Judicial Conduct. Respondent admits that he has written to the JAC approximately twenty (20) times for opinions so he can follow the rules appropriately. He admits that in a time span of approximately fifteen (15) months alone (1/20/22 – 6/6/24), he exchanged phone calls with Ms. Smith approximately fifty (50) times. He admits that prior to bringing this suit, he called Ms. Smith to seek advice about bringing lawsuits and she advised that a judge, like any individual, is allowed to bring lawsuits. He admits that Ms. Smith did not qualify her answer in any way. He admits that had she stated that certain lawsuits are not allowed, he would have inquired further. He admits that he would have provided specifics about this suit, and if she did not have an answer, he would have written to the JAC and would have complied with its advice. He admits that had she advised that the suit was not proper, he would not have filed it. He admits that he would not have sought advice from Mr. Sussman if that were the case. Respondent admits that prior to this lawsuit, he had NEVER been involved in a defamation case, neither in his professional capacity as a lawyer or judge, or as an individual. He admits that prior to this lawsuit, he had NEVER heard of a SLAPP suit.

Respondent admits that this lawsuit was a good faith attempt to vindicate conduct he perceived to be actionable.

**RESPONSE #20:** Respondent denies information sufficient to form a belief as to the allegations in this paragraph.

**RESPONSE #21:** Respondent denies information sufficient to form a belief as to the allegations in this paragraph.

**RESPONSE #22:** Respondent admits the allegations contained in this paragraph.

**RESPONSE #23:** Respondent admits the allegations contained in this paragraph.

**RESPONSE #24:** Respondent admits the allegations contained in this paragraph.

**RESPONSE #25:** Respondent admits the allegations contained in this paragraph.

**RESPONSE #26:** Respondent admits the allegations contained in this paragraph.

Respondent admits that prior to the suit his attorney, Mr. Sussman, advised that the filing of the complaint with the Commission satisfied the publication element of defamation, and was therefore public.

**RESPONSE #27:** Respondent admits the allegations contained in this paragraph, in that Mr. Sussman arranged for service of Ms. Koch.

**RESPONSE #28:** Respondent admits the allegations contained in this paragraph. He admits that in addition to this visit, he had two (2) other visits after the December 28, 2021, visit, and prior to filing of the suit. Respondent admits that he had no interactions with Ms. Koch during any of these visits, he was wearing his face shield the entire time, and all three (3) visits took place without incident.

**RESPONSE #29:** Respondent admits that he telephoned Janna Whearty as a potential witness. He denies that he was angry, that his tone was aggressive, and denies the remainder of the allegations in this paragraph.

**RESPONSE #30:** Respondent admits the allegations contained in this paragraph.

**RESPONSE #31:** Respondent admits the allegations contained in this paragraph.

**RESPONSE #32:** Respondent admits the allegations contained in this paragraph, in that Mr. Sussman filed the papers.

**RESPONSE #33:** Respondent admits the allegations contained in this paragraph.

**RESPONSE #34:** Respondent admits the allegations contained in this paragraph.

**RESPONSE #35:** Respondent denies the allegations and inferences of misconduct contained in this paragraph.

### **CHARGE III**

**RESPONSE #36:** Respondent admits that certain documents, including emails, were not turned over to the Commission, but it was inadvertent and due to human error. He admits that Mr. Sussman was retained to represent him on his federal suit, the Koch defamation suit, and advised him pro-bono regarding the original three (3) Commission complaints: 2021/N-1176, 2021/N-0723, and 2021/N-1120. Respondent admits that he spent several hours searching for, printing, reviewing, and culling the emails that he sent to the Commission, even numbering each email in the July 10, 2024, submission by hand from 1 to 127. He admits that he culled the

emails to make it easier for the Commission to review them, and when he did, he mistakenly put several of the missing emails in a “duplicate” pile, which was accidentally excluded. Regarding the redacted emails, Respondent admits that he redacted in good faith approximately 24 of the 127 emails that related to his federal suit and the Commission complaints, of which he did not waive his attorney-client privilege between himself and Mr. Sussman.

Respondent admits that he pointed out to the Commission that he was redacting non-Koch matters in both the May 9<sup>th</sup> and July 10<sup>th</sup> submissions, and the Commission did not object to it. He admits that had the Commission objected, he would have created a privilege log and asked for an independent 3<sup>rd</sup> party referee be appointed to determine if the emails had to be unredacted.

Respondent admits that he acted in good faith in redacting emails, has cooperated with the commission for three (3) years now, and would not intentionally withhold or redact anything the Commission is entitled to. Respondent apologizes for any mistakes that were made.

**RESPONSE #37:** Respondent admits the allegations contained in this paragraph.

**RESPONSE #38:** Respondent denies that the letter dated April 8, 2024, contains the words “and related matters,” and admits the remaining allegations contained in this paragraph.

**RESPONSE #39:** Respondent admits the allegations contained in this paragraph. He

again admits that the Commission did not state that the redactions were unacceptable.

**RESPONSE #40:** Respondent admits the allegations contained in this paragraph. He again admits that the Commission did not state that the redactions were unacceptable.

**RESPONSE #41:** Respondent admits the allegations contained in this paragraph. He again admits that the Commission did not state that the redactions were unacceptable.

**RESPONSE #42:** Respondent admits the allegations contained in this paragraph in that he waived the attorney-client privilege of confidentiality between himself and Mr. Sussman SOLEY related to the matter related to *Frank Mora v Stacey Koch* (Index No. 2022-54141).

**RESPONSE #43:**

(A): Respondent denies the allegations contained in this paragraph, as he searched diligently and could not find these two (2) emails. He admits they were not produced because he had no record of them. He admits that these emails corroborate that he sought and relied upon Mr. Sussman's advice in determining whether a viable suit could be brought and are exculpatory.

(B): Respondent repeats and re-alleges the response from thirty-six (36) above, as if fully set forth herein. He denies that the text was redacted, and admits that the email was not turned over as it was missed due to human error as explained in Response 36.

- (C): Respondent repeats and re-alleges the response from thirty-six (36) above, as if fully set forth herein. He admits that the attachment was not turned over as it was missed due to human error. He admits that it is exculpatory, as it shows Respondent believed the suit was viable as he was putting forth his theory of the case. He also admits that the Commission left out these exculpatory statements, "I would have gladly waited until the commission was through to bring suit against Koch, however, the one year SOL prevented that." "The paragraph regarding the police is complete nonsense. I knew the police were coming, and was waiting. It was after she called the 2<sup>nd</sup> time regarding the "emergency," that I left. I think we should spell this out exactly as in my response starting on page 31." "We should also point out that I did not criticize masks. Both my sons were wearing masks on January 29, 2021, and December 28, 2021. If I was able to tolerate a mask, I would have been wearing one." "No time when I was in the waiting room did I come within 6 feet of anyone.... I had Covid in September 2021, and was completely healthy when I went in there. Per Koch's instructions, I called when I was in the parking lot, and Brown came out to let my son and I in through the side door. If she had done this from the beginning, there would have been no issues."
- (D): Respondent repeats and re-alleges the response from thirty-six (36)

above, as if fully set forth herein.

(E): Respondent repeats and re-alleges the response from thirty-six (36) above, as if fully set forth herein.

(F): Respondent repeats and re-alleges the response from thirty-six (36) above, as if fully set forth herein.

(G): Respondent repeats and re-alleges the response from thirty-six (36) above, as if fully set forth herein.

(H): Respondent repeats and re-alleges the response from thirty-six (36) above, as if fully set forth herein.

(I): Respondent repeats and re-alleges the response from thirty-six (36) above, as if fully set forth herein.

**RESPONSE #44:** Respondent denies the allegations and inferences of misconduct contained in this paragraph.

**FURTHER ANSWERING THE COMPLAINT**

**45:** Respondent denies the remaining allegations of the complaint not hereinbefore specifically admitted or otherwise denied.

Dated: April 11, 2025

**O'Connell and Aronowitz, P.C.**



Stephen R. Coffey  
Attorneys for Respondent  
54 State Street, Floor 9  
Albany, NY 12207

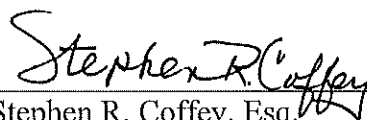
To: Robert H. Tembeckjian  
Administrator and Counsel  
State Commission on Judicial Conduct  
61 Broadway, Suite 1200  
New York, New York 10006  
(646) 386-4800

**ATTORNEY VERIFICATION**

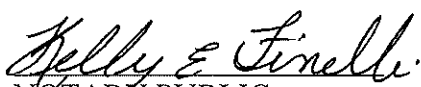
STATE OF NEW YORK     )  
                                  )ss.:  
COUNTY OF ALBANY     )

Stephen R. Coffey, being duly sworn, deposes and says that he is an attorney-at-law and is a shareholder of the law firm of O'Connell and Aronowitz, P.C., attorneys for the Respondent, HON. FRANK M. MORA, that he has read the foregoing VERIFIED ANSWER and knows the contents thereof; that the same is true to his knowledge, except as to the matters stated to be alleged upon information and belief, and that as to those matters he believes them to be true.

The reason why this verification is made by deponent instead of the Respondent is because the Respondent does not reside within the County of Albany which is the county where the deponent has his office.

  
\_\_\_\_\_  
Stephen R. Coffey, Esq.  
Attorney for the Respondent

Sworn to before me on this  
11<sup>th</sup> day of April 2025

  
\_\_\_\_\_  
NOTARY PUBLIC

**KELLY E. FINELLI**  
Notary Public, State of New York  
Qualified in Rensselaer County No. 01F16412906  
Commission Expires January 11, 2028