

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

FRANK M. MORA,

DETERMINATION

a Judge of the Poughkeepsie City Court,
Dutchess 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, Edward Lindner and Melissa
DiPalo, Of Counsel) for the Commission

O'Connell & Aronowitz, P.C. (Stephen R. Coffey) for respondent

Respondent, Frank M. Mora, a Judge of the Poughkeepsie City Court,

Dutchess County, was served with a Formal Written Complaint (“Complaint”) dated January 14, 2025, containing three charges. Charge I alleged that on December 28, 2021, respondent engaged in a discourteous verbal confrontation with Stacey Koch (“Koch”), an office manager at Seeta Eye Center (“Seeta”), an ophthalmology practice in Poughkeepsie, over respondent’s failure to wear a face mask in the office as required by the practice’s policy, which led to the office manager calling the police after respondent refused repeated directives to leave the office. Charge II alleged that on December 29, 2022, respondent filed a defamation suit against Ms. Koch in what was and/or appeared to be in retaliation for her having filed a confidential complaint against him with the Commission. Charge III alleged that in response to Commission requests to produce information, respondent improperly withheld documents and/or improperly redacted materials he did produce.¹ Respondent filed an Answer dated April 11, 2025.

By Order dated June 30, 2025, the Commission designated Peter Bienstock, Esq. as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on October 15, 16 and 17, 2025 in New York, New York. The referee filed a report dated April 9, 2026 which sustained Charge II of the Complaint and found that Charges I and III were not established.

¹ As noted below, Charge III was not established and is dismissed.

The parties submitted briefs to the Commission with respect to the referee's report and the issue of sanction. Commission counsel and respondent argued that the referee's findings and conclusions should be confirmed in part and disaffirmed in part. Commission counsel recommended the sanction of removal. Respondent argued that all three charges, including Charge II, the one charge the referee sustained, should be dismissed. The Commission heard oral argument on June 18, 2026 and thereafter considered the record of the proceedings and made the following findings of fact.

1. Respondent was admitted to the practice of law in New York in 1997. He has been a Judge of the Poughkeepsie City Court, Dutchess County, since 2011. Respondent's current term expires on December 31, 2030.

As to Charge I of the Formal Written Complaint

2. In December 2021, Seeta had COVID-19 pandemic safety protocols in place including a requirement that staff and patients wear a face mask in the office. Appointment confirmation texts to patients advised that masks were required in the office. There were signs on the front door of the office stating that masks were required in the office. Ms. Koch testified that approximately 50% of Seeta's patients were elderly and Seeta took pandemic safety protocols "very seriously."

3. On December 28, 2021, respondent and one of his children entered Seeta, where his child had an appointment for an eye examination.

4. Respondent was wearing a clear plastic face shield which, unlike a mask, was open on the bottom and sides. There were approximately 15 to 20 patients in the waiting room, which was full.

5. The clear plastic face shield that respondent wore did not comply with the face mask policy that was in place at Seeta at that time.

6. Seeta employees Kristine Monteverdi, a receptionist, and Jessica Feather, who was Ms. Monteverdi's supervisor, were working at the reception desk on December 28, 2021. Their duties included making sure that Seeta's safety protocols, including the face mask requirement, were followed. If there was an issue, their practice was to ask one of Seeta's managers for assistance.

7. On December 28, 2021, respondent approached the reception desk in the waiting room to check in and Ms. Monteverdi asked him to put on a face mask in compliance with the practice's policy.²

8. Respondent refused Ms. Monteverdi's request and stated that he could not wear a mask due to a medical condition, without identifying it or providing proof that he had such a condition.

9. Ms. Monteverdi asked respondent to wait outside while one of the

² Approximately eleven months earlier, in January 2021, respondent and an older child went to Seeta for his child's eye examination. At that time, respondent was also wearing a face shield and refused requests by Seeta employees that he put on a face mask. During that earlier visit, respondent waited outside while his child, who was wearing a face mask, had the appointment.

managers was asked to come to the reception area. Respondent refused Ms. Monteverdi's request to wait outside.

10. Ms. Feather called Stacey Koch, one of the Seeta managers, and asked Ms. Koch to come to the waiting room to assist with a patient who was refusing to comply with Seeta's face mask policy.

11. Ms. Koch went to the waiting room and asked respondent to put on a face mask.

12. Respondent again refused to put on a mask, stating that he had a medical condition, without identifying the alleged medical reason he could not wear a mask.

13. Ms. Koch asked respondent for documentation to support his claim that he had a medical condition that prevented him from wearing a mask. Respondent had nothing to document his claimed condition.

14. Ms. Koch asked respondent to put on a face mask or go outside, and said that if he was unwilling to do so, she would call the police. Respondent refused to step outside.

15. As Ms. Koch's discussion with respondent continued, Ms. Koch more than once repeated her request that respondent leave the premises, and each time respondent refused.

16. The exchange between respondent and Ms. Koch took place in Seeta's

waiting room where patients were waiting.

17. After respondent continued to refuse to leave, Ms. Koch asked Ms. Feather to call the police. Ms. Koch spoke with officials from 911 and the Town of Poughkeepsie Police Department. Ultimately, the police were called twice and Ms. Koch's two telephone calls with 911 and the police were recorded.

18. At the beginning of the first call to the police, Ms. Koch stated to the 911 operator, "I'm a private medical practice, and I have a gentleman who's refusing to leave and will not wear a mask. And I have . . . an office full of people. . ."

19. The 911 operator then transferred Ms. Koch's call to the Town of Poughkeepsie Police Department, "for a male causing a disturbance."

20. After identifying herself, Ms. Koch stated to the police official on the call, "I have many patients present, and I have a gentleman who is not adhering to the mask that we require in our practice."

21. During the call, the police official asked Ms. Koch, "And he's right in front of you, and you said he's refusing to leave, and he's also refusing to put a mask on?" Ms. Koch replied, "Yes. And I'm very surprised because I believe he's a longtime patient. But he says he has a medical explanation, but he has no documentation."

22. The police official then asked Ms. Koch to stay on the line while the

call was placed on hold.

23. Ms. Koch is heard on the recording stating to a patient in the waiting room, “I understand, ma’am. I’m doing the best I can to protect you.”

24. At some point, respondent’s conduct caused Seeta employee Monteverdi to feel uncomfortable and she went to another part of the building where she asked Seeta employee Michael Brown, who was with a patient, to assist with a problem in the waiting room.

25. Mr. Brown went to the waiting room and stood between respondent and Ms. Koch.

26. Mr. Brown observed Ms. Koch ask respondent to leave because he was not wearing a mask, to which respondent replied “I’m wearing a mask,” referring to his face shield. Respondent refused to leave.³

27. At one point, Ms. Koch told respondent that she lived with someone who had [REDACTED] three times and she did not want contact with respondent’s germs. Despite Ms. Koch’s expressed concerns, respondent continued to refuse to leave.

28. When the police official returned to the call, he advised Ms. Koch that

³ During the hearing before the referee, respondent claimed that he did not leave the Seeta office when asked to do so on December 28, 2021 because he was having a panic attack. Respondent acknowledged that he did not tell Ms. Koch that he was having a panic attack. A June 13, 2022 letter, which respondent wrote and Seeta employee Brown signed, stated that respondent was “calm” during the entire incident in the Seeta waiting room. At the time of the incident, respondent had not been diagnosed by any medical professional with a health condition that caused him to be unable to wear a mask. In late April 2022, after receiving a letter from the Commission requesting a response to the complaint filed against him about the incident in the Seeta waiting room, respondent consulted with a licensed clinical social worker who diagnosed him with a form of “object phobia.”

the police department did not enforce the mask mandate, but if respondent was refusing to leave, an officer could be sent to Seeta. Ms. Koch replied, “That’s right. That’s what I’m requesting” and explained that she had “a room full of people so it’s really creating a problem for me.”

29. The official on the phone replied, “Okay. So you have a bunch of people in the waiting room?” to which Ms. Koch replied “Yes.” The police official said that an officer would be sent soon.

30. Mr. Brown asked respondent to leave before the police came to the Seeta offices.

31. The police were called a second time and Ms. Koch told the 911 operator, “I’m having a big problem with a patient who refuses to leave and is making a big ruckus in my waiting room.” During this call, Ms. Koch told the 911 operator, “He’s walking out now.”⁴

32. Respondent remained at Seeta for a significant amount of time after being asked to leave which Ms. Koch estimated to be approximately 30-40 minutes.

⁴ Shortly after leaving Seeta, respondent asked his chiropractor to write a letter on his behalf. That afternoon, respondent sent an email to Ms. Koch which attached a letter dated that day from his chiropractor which stated, “Frank Mora is currently under my care. Due to his current health condition, he is medically unable to wear a mask.” After receiving respondent’s chiropractor’s letter, Ms. Koch arranged for a Seeta doctor to examine respondent’s child that day. A Seeta employee escorted respondent and his child through a side door at Seeta to an exam room, where a doctor performed the eye examination.

33. Respondent admitted that he was wrong to refuse to leave Seeta and that, in hindsight, he should have left after being asked to do so.

As to Charge II of the Formal Written Complaint

34. On December 29, 2021, Ms. Koch used the electronic complaint form on the Commission's website to file a complaint against respondent, alleging misconduct based upon respondent's conduct at Seeta on December 28, 2021.

35. On April 12, 2022, the Commission sent a letter to respondent asking him to answer questions about his alleged conduct at Seeta. Pursuant to Commission Policy Manual Section 2.6(D), the letter included a copy of Ms. Koch's December 29, 2021, complaint to the Commission. Respondent became aware of Ms. Koch's complaint to the Commission at that time.

36. Respondent returned to Seeta for an eye examination on May 20, 2022, during which time he spoke with Seeta employee Brown who had witnessed part of the incident on December 28, 2021. During this conversation, Mr. Brown offered to help respondent and respondent asked him to sign a statement on respondent's behalf.

37. Respondent prepared a typewritten statement for Mr. Brown to sign about the December 28, 2021 incident. Respondent brought the statement to Mr. Brown's home and Mr. Brown signed the statement dated June 13, 2022.

38. In November 2022, respondent contacted Michael Sussman, Esq., an

attorney who was representing him in another lawsuit, and asked if Mr. Sussman would represent him in a lawsuit against Ms. Koch over the statements made in her complaint to the Commission.

39. Mr. Sussman described respondent as “very angry” and “very upset” about what had occurred at Seeta. According to Mr. Sussman, respondent expressed that Ms. Koch deserved to be punished by “bringing a lawsuit which would get damages” for the statements made in her Commission complaint.

40. After the hearing before the referee was held in October 2025, the referee found that, “Respondent's anger resulting from that complaint was palpable in the hearing room, and in the facts to which he testified.”

41. Respondent admitted that he brought the lawsuit against Ms. Koch because he wanted to “make her pay.” Respondent did not believe that the Commission’s process would provide him with recourse because, even if the Commission decided to dismiss Ms. Koch’s complaint as meritless, the Commission’s process would not allow for the imposition of monetary damages against Ms. Koch.

42. Mr. Sussman told respondent that he could sue Ms. Koch for defamation, but stated that it does not look good for a judge to sue the person who complained about him to the Commission. Respondent testified that Mr. Sussman

“went through a whole diatribe” about “optics.” He did not follow Mr. Sussman’s advice.

43. At the time he filed his defamation lawsuit against Ms. Koch, respondent was represented in connection with her Commission complaint by Chad LaVeglia, Esq. Respondent did not ask Mr. LaVeglia whether suing the complainant for the Commission complaint would be misconduct. Respondent also did not seek the advice of the Advisory Committee on Judicial Ethics (“Advisory Committee”), whom he stated he consulted frequently regarding unrelated matters, as to whether a defamation suit against a Commission complainant would violate the Rules Governing Judicial Conduct.

44. On December 29, 2022, respondent filed a defamation suit against Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 54141/2022), in Supreme Court, Dutchess County, seeking \$425,000 in alleged damages: \$250,000 in compensatory damages and \$175,000 in punitive damages. Respondent made no request to seal or otherwise keep confidential his lawsuit, which was public. Respondent reviewed and approved the Verified Complaint before it was filed.

45. Respondent’s defamation action was based solely on statements Ms. Koch made in her December 29, 2021 complaint to the Commission. The

Verified Complaint alleged that five statements made by Ms. Koch in her complaint to the Commission were “false and libelous,” and that “[d]efendant's conduct has caused plaintiff emotional distress, humiliation, shame and embarrassment and required him to answer her false claims before a state commission designed and empowered to investigate judicial misconduct.”

46. Respondent’s Verified Complaint was served on Ms. Koch at Seeta on January 3, 2023.

47. Respondent’s lawsuit against Ms. Koch received media coverage including a January 3, 2023 article in *MidHudsonNews.com* titled, “Judge suing office manager for defamation after argument over mask policy at doctor’s office.” Seeta employees Feather and Monteverdi each testified that they saw in the media that Ms. Koch had been sued.

48. On February 2, 2023, Ms. Koch, through counsel, moved to dismiss respondent’s defamation suit as barred by New York Civil Rights Law §76-a, also known as New York State’s anti-SLAPP (“Strategic Lawsuits Against Public Participation”) statute, and, additionally, as barred by the doctrine of absolute privilege.

49. On February 6, 2023, the Commission moved to intervene and to dismiss the lawsuit because the statements in Ms. Koch’s complaint were shielded by absolute privilege, making her (and similarly situated Commission

complainants and witnesses) immune from defamation suits in connection with confidential information given to the Commission.

50. Shortly thereafter, on February 13, 2023, Mr. Sussman sent an email to respondent and recommended that respondent withdraw his defamation suit against Ms. Koch. Mr. Sussman stated, in part, “You could also file a response and then withdraw. However, I do think withdrawing is a good idea, regardless of the legal merits of our position. It is just a bad look for a judge to sue the person who complains about him rather than to resolve the issues in the forum intended to resolve the complaint.”

51. Respondent did not take Mr. Sussman’s advice that he withdraw the lawsuit. On March 6, 2023, respondent’s counsel filed papers in opposition to the motions to dismiss, arguing, *inter alia*, that Ms. Koch’s complaint to the Commission was a “sham” and that the protection of absolute privilege did not apply.

52. On March 20, 2023, counsel for Ms. Koch and Commission Counsel filed papers in response to respondent’s opposition.

53. By Decision and Order dated April 4, 2023, Dutchess County Supreme Court Justice Maria G. Rosa, after having heard oral argument, granted Ms. Koch’s and the Commission’s motions to dismiss respondent’s Verified Complaint, and awarded Ms. Koch mandatory costs and attorney’s fees. The Court

found, *inter alia*, that Ms. Koch's complaint to the Commission involved public petition and participation and that her statements in her Commission Complaint were therefore absolutely privileged. In making this finding, the Court stated that, "there is a very real fear that others may be deterred from bringing legitimate and serious complaints before the Commission if retribution in the form of a lawsuit is a viable possibility."

54. On May 22, 2023, respondent and Ms. Koch entered into a settlement agreement pursuant to which respondent agreed to pay Ms. Koch \$20,000 for her attorney's fees, send her a signed letter of apology, and avoid future contact with Ms. Koch and any Seeta location.

55. In respondent's apology letter to Ms. Koch dated May 4, 2023, he apologized for bringing the defamation suit, stating, "I now know that this suit should not have been brought in the first instance, and I apologize for doing so" and "Please forgive me for any angst I have caused you."

56. Respondent also admitted during the hearing before the referee that he should not have brought the lawsuit against Ms. Koch.

As to Charge III of the Formal Written Complaint

57. Charge III of the Complaint was not established and is dismissed.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), and 100.4(A)(2) 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)) The Rules further provide: “A judge shall conduct all of the judge's extra-judicial activities so that they do not . . . detract from the dignity of judicial office.” (Rules, §100.4(A)(2)) Respondent engaged in egregious misconduct and detracted from the dignity of judicial office when he retaliated against a Commission complainant by filing a defamation suit against her. Respondent also violated the Rules when he persisted in refusing to leave the Seeta ophthalmology practice despite repeated requests that he leave.

It is well-settled that judges are held to a higher standard of conduct than the general public. “There is no question that judges are accountable for their conduct ‘at all times’, including in conversations off the bench. . . Because judges carry the esteemed office with them wherever they go, they must always consider how members of the public . . . will perceive their actions and statements.” *Matter of*

Senzer, 35 NY3d 216, 220 (2020) (citations omitted) “Standards of conduct on a plane much higher than for those of society as a whole, must be observed by judicial officers so that the integrity and independence of the judiciary will be preserved. A Judge must conduct his everyday affairs in a manner beyond reproach.” *Matter of Kuehnel*, 49 NY2d 465, 469 (1980). “Members of the judiciary should be acutely aware that any action they take, whether on or off the bench, must be measured against exacting standards of scrutiny to the end that public perception of the integrity of the judiciary will be preserved.” *Matter of Lonschein*, 50 NY2d 569, 572 (1980) (citation omitted). Respondent failed to meet these high standards.

The referee conducted a three-day hearing and heard the testimony of respondent and four other participants in the events at Seeta on December 28, 2021. We accept the experienced referee’s finding that the evidence did not establish that respondent’s demeanor was inappropriate during the incident at Seeta as was alleged in Charge I of the Complaint.⁵ However, we find that respondent’s persistent refusal to leave the Seeta offices after repeatedly being asked to leave was improper and violated the Rules.⁶ Respondent’s

⁵ In submissions to the Commission and during oral argument, Commission Counsel did not ask the Commission to overturn the referee’s credibility findings which, pursuant to Section 3.4(B) of the Commission’s Policy Manual, are accorded deference when, as here, the evidence supports the findings.

⁶ The Commission may accept or reject a referee’s proposed findings, 22 NYCRR §§7000.6[f][1][iii], 7000.6[1]; *Matter of Marshall*, 8 NY3d 741, 743 (2007).

unwillingness to comply with the practice's established pandemic protocols and his prolonged refusal to leave the office necessitated the involvement of four Seeta employees to manage the situation respondent created in a waiting room full of patients. His failure to leave the practice, which continued for a significant amount of time, caused the office manager to take the unusual step of seeking assistance from the police to remove respondent from Seeta's office. We note that respondent did not leave the office until after the police were called not once, but twice because of his conduct. We also note that respondent's conduct in refusing to leave, resulted in a Seeta employee, Ms. Monteverdi, feeling uncomfortable to such an extent that she went to another part of the building where she asked her co-worker, Mr. Brown, who was with a patient, to assist with a problem in the waiting room. Respondent admitted that he should have left the Seeta office after being asked to do so. As a judge, respondent's behavior off the bench impacts public confidence in the integrity of the judiciary. Respondent's persistent failure to leave the ophthalmology practice when asked multiple times to do so violated the Rules and brought reproach upon the judiciary, conducting himself in a manner beneath the esteemed dignity of judicial office.

Of paramount concern, however, it cannot be overstated that retaliating against an individual who made a complaint to the Commission is particularly

serious misconduct because it undermines the New York State judicial disciplinary process. The integrity and effectiveness of that process is critical to public confidence in the judiciary. “Retaliating against an individual who has complained about a judge’s conduct is especially improper and threatens the integrity of the judicial disciplinary system.” *Matter of Tripp*, 2011 Ann Rep of NY Commn on Jud Conduct at 151, 155. *See, Matter of Esposito*, 2004 Ann Rep of NY Commn on Jud Conduct at 100, 102 (“in singling out the assessment of property owned by the wife of his former colleague, . . ., respondent’s conduct created the appearance that he was retaliating against the individual, who had previously made a complaint about respondent to the Commission.”); *Matter of Tavormina*, 1990 Ann Rep of NY Commn on Jud Conduct at 164, 167 (judge’s “continued verbal abuse of [a Commission complainant] was plainly in retaliation for the fact that she had exercised her legal right. Such retaliation, standing alone, constitutes misconduct.”)

The evidence established that respondent retaliated against Ms. Koch for filing a complaint against him with the Commission by bringing a defamation action against her in which he sought \$425,000 in purported damages, including \$175,000 in alleged punitive damages. Notably, the sole basis for respondent’s

defamation lawsuit was Ms. Koch's statements in her Commission complaint.⁷

Further evidencing that his defamation suit was retaliatory, respondent asserted that Ms. Koch deserved to be punished and that he wanted to get damages for her statements in her Commission complaint. According to the referee, "Respondent's anger resulting from that complaint was palpable in the hearing room . . ."

Attempting to shift blame, respondent argued that he engaged in no wrongdoing because he relied on the advice of counsel that he had grounds to bring a defamation suit. It has not gone unnoticed that prior to filing the defamation suit, respondent's attorney for that lawsuit advised respondent that it did not look good for a judge to sue a Commission complainant. Respondent ignored that advice. While respondent discounted his attorney's advice as being concerned with "optics," respondent's ethical obligations required that he avoid even the appearance of impropriety. *See, Matter of Putorti*, 40 NY3d 359, 366 (2023) (citations omitted) ("[w]e stress that the 'appearance of such impropriety is no less to be condemned than is the impropriety itself' . . .")

After his attorney advised him that it did not look good for a judge to sue a Commission complainant, respondent did not consult about that issue with the ethics attorney who was representing him in connection with Ms. Koch's

⁷ While respondent claimed that statements Ms. Koch reportedly made to Seeta employee Brown caused respondent to file the defamation suit, no such alleged statements by Ms. Koch to Mr. Brown were included in the defamation complaint. Respondent, an attorney, reviewed the defamation complaint before it was filed.

Commission complaint. Nor did respondent contact the Advisory Committee, with whom he testified he communicated frequently about unrelated matters, regarding the propriety of filing a defamation suit against a Commission complainant.

After the defamation case was commenced and motions to dismiss were filed, respondent's attorney advised respondent to withdraw the defamation suit, again advising that it did not look good for a judge to bring suit against a Commission complainant instead of addressing the claims through the Commission's process. Respondent again ignored this advice from his attorney. Since respondent failed to follow his attorney's advice, respondent cannot rely on the advice of his attorney as a defense to his misconduct. Such contentions of the respondent are inconsistent with the record and wholly without merit.

Given the special role of judges in society, there are certain limitations on their conduct which are not applicable to non-judges. "The ethical standards require a judge to avoid extra-judicial conduct that . . . detracts from the dignity of judicial office. . . . Upon assuming the bench, a judge surrenders certain rights and must refrain from certain conduct that may be permissible for others." *Matter of Barringer*, 2006 Ann Rep of NY Commn on Jud Conduct at 97, 100 (citation omitted); *See, In re Raab*, 100 NY2d 305, 316 (2003) ("Once elected to the bench, a judge's role is significantly different from others who take part in the political process and, for this reason, conduct that would be appropriate in other types of

campaigns is inappropriate in judicial elections.”); *Matter of Fisher*, 2019 Ann Rep of NY Commn on Jud Conduct at 126, 135 (“[e]very judge must understand that a judge's right to speak publicly is limited because of the important responsibilities a judge has in dispensing justice, maintaining impartiality and acting at all times in a manner that promotes public confidence in the judge's integrity.”). Having decided to become a judge, respondent was required to fully comply with the judiciary’s heightened ethical standards and adhere to the expectations of good conduct that prevent detraction from the dignity of judicial office. Respondent clearly failed to do so when he retaliated against a Commission complainant.

Respondent argued that he had a legal basis to file a defamation suit against Seeta’s office manager. He also argued that his conduct was appropriate under Advisory Opinion 12-96 from the Advisory Committee which noted that a judge is permitted to file a lawsuit to vindicate their rights like any other citizen. In making these arguments, respondent ignored that judges have an ethical obligation to uphold the integrity of the judiciary and that, as a judge, he is prohibited from engaging in certain conduct. He also disregarded the fact that it is inappropriate to take any action, even one that may otherwise be permissible, in retaliation against an individual for filing a Commission complaint. *See, Matter of Tripp*, 2011 Ann Rep of NY Commn on Jud Conduct at 151 (judge denied an extension of time to pay a fine in retaliation for the defendant’s complaint against the judge to the

Commission).

In Advisory Opinion 12-96, which did not involve a lawsuit against a Commission complainant, the Advisory Committee stated, “A judge must always promote public confidence in the judiciary’s integrity and impartiality” Respondent’s ethical obligations also included avoiding even the appearance of impropriety and not engaging in conduct that detracts from the dignity of judicial office. Respondent violated all these obligations when he took the unprecedented step of retaliating against a Commission complainant by filing a lawsuit against her. In addition, respondent sought to improperly bypass the Commission’s judicial disciplinary process set forth in the New York State Constitution (Article VI, §22) and the Judiciary Law (Article 2-A) by filing his defamation suit against a Commission complainant, while her complaint was pending, seeking a court decision as to facts alleged in her complaint to the Commission.

Moreover, respondent did not appear to recognize that his defamation suit against a Commission complainant had a serious potential chilling effect on members of the public by discouraging them from filing a complaint or cooperating with a Commission investigation. Judge Rosa and the referee both found that filing the defamation suit had significant potential to deter individuals from cooperating with the Commission. In making this finding, the Court held that, “there is a very real fear that others may be deterred from bringing legitimate

and serious complaints before the Commission if retribution in the form of a lawsuit is a viable possibility.” *Mora v Koch*, 79 Misc3d 434, 442 (Sup Ct Dutchess Co 2023)⁸ Despite Judge Rosa’s finding, at the subsequent hearing before the referee, respondent did not appear to recognize the chilling effect of his defamation suit and why such chilling effect was detrimental to the functioning of the judicial disciplinary process.⁹ To be clear, the judicial misconduct lies in simply bringing an action against a Commission complainant. Respondent’s failure to recognize the impropriety of his conduct is an aggravating factor in determining the appropriate sanction. *See, Matter of Aldrich*, 58 NY2d 279, 283 (1983) (removal appropriate when judge “fails to recognize the inappropriateness of his actions or attitudes.”)

The Court of Appeals has held, “[i]f the public trust in the judiciary is to be maintained, as it must, those who don the robe and assume the role of arbiter of what is fair and just must do so with an acute appreciation both of their judicial obligations and of the Commission’s constitutional and statutory duties to investigate allegations of misconduct (see N.Y. Const, art VI, § 22; Judiciary Law,

⁸ Respondent did not appeal Judge Rosa’s decision and his arguments regarding the absolute privilege Judge Rosa determined was applicable to statements made in a Commission complaint are not considered here.

⁹ The hearing evidence supported the referee’s finding that, “[r]espondent demonstrated no awareness of, or interest in, the institutional fact that permitting judges who are brought before the Commission to respond by suing the complainant for damages will of course dissuade an unknown, but large, number of citizens from bringing meritorious complaints to the Commission.”

article 2–A).” *Matter of O’Connor*, 32 NY3d 121, 129 (2018). In order to fulfill its important mission, it is critical that the Commission receive information from the public. *See, Stern v. Morgenthau*, 62 NY2d 331, 339 (1984) (“[The Commission’s] concern is institutional, to protect the integrity of the judiciary and thereby preserve and enhance the public’s confidence in its courts. Experience teaches that the effective performance of that function necessarily requires the free flow of information to the Commission.”) Given the role of the Commission in protecting the integrity of the judiciary, respondent’s retaliation against a Commission complainant was extremely inappropriate. That respondent ignored the advice of his attorney made his conduct especially concerning and problematic.

“[T]he purpose of judicial disciplinary proceedings is ‘not punishment but the imposition of sanctions where necessary to safeguard the Bench from unfit incumbents’.” *Matter of Reeves*, 63 NY2d 105, 111 (1984) (citation omitted) As the Court of Appeals has held, “[w]e cannot view petitioner’s actions and the appropriate sanction through a limited prism but must instead consider the full spectrum of [his] behavior and its impact on public perception of the judiciary . . .” *Matter of Astacio*, 32 NY3d 131, 137 (2018) (citations omitted)

Respondent appears to be the first New York State judge to have retaliated against a Commission complainant by filing a defamation suit against the complainant. The impropriety of respondent’s conduct cannot be overstated.

Bringing a lawsuit claiming \$425,000 in alleged damages against the individual who made a Commission complaint about him was aggressive and egregious. By filing the defamation action despite his attorney's advice that it did not look good to do so, respondent blatantly disregarded his ethical obligations and undermined the integrity of the judicial disciplinary process. His failure to recognize the impact of his actions was an aggravating factor in determining sanction. Moreover, respondent exhibited poor judgment when he refused to leave the ophthalmology office despite repeated requests that he leave and only left after the police were called twice.

By reason of the foregoing, the Commission determines that the appropriate disposition is removal.¹⁰

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

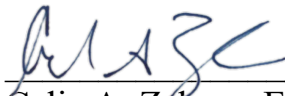
Mr. Cambareri dissents only as to the finding regarding Charge I and would dismiss that charge.

¹⁰ Given the seriousness of respondent's retaliation against a Commission complainant, we would find removal appropriate based upon that misconduct alone.

CERTIFICATION

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

Dated: August 21, 2026

A handwritten signature in blue ink, appearing to read 'CAZ', is written over a horizontal line.

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