

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, :

A Judge of the Poughkeepsie City Court,
Dutchess County. :
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B e f o r e:

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

P r e s e n t:

For the Commission

Edward Lindner, Esq., Deputy Counsel
Melissa DiPalo, Principal Attorney

For the Respondent

Stephen R. Coffey, Esq.
Honorable Frank M. Mora

A l s o P r e s e n t:

Celia A. Zahner, Esq., Clerk of the Commission

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ORAL ARGUMENT

Commission Office
61 Broadway, Suite 1200
New York, NY 10006

June 18, 2026
10:38 AM

1 MS. ZAHNER: Good morning, Mr.
2 Belluck and members of the Commission. This
3 is the oral argument in the Matter of *Frank M.*
4 *Mora*, a Judge of the Poughkeepsie City Court.
5 Judge Mora is appearing with his attorney, Mr.
6 Coffey. Mr. Lindner and Ms. DiPalo are
7 appearing for the Commission.

8 MR. BELLUCK: Thank you. In the
9 *Matter of Frank M. Mora*, a Judge of the
10 Poughkeepsie City Court, this is the oral
11 argument with respect to whether misconduct
12 has occurred and if so, what an appropriate
13 sanction shall be.

14 Counsel will each have 30 minutes for
15 their argument. Counsel for the Commission
16 may reserve a portion of his time for rebuttal.
17 After the initial presentations, the judge may, if
18 he wishes, make a presentation to the
19 Commission not to exceed 10 minutes. Counsel
20 for respondent may reserve time to speak after
21 the judge and prior to the rebuttal. The judge
22 and counsel are subject to questioning by the
23 Commission at any time during their
24 presentation. Counsel are advised that their
25 argument should be confined to the record and

1 any statements outside the record will be
2 disregarded. You will notice that there are three
3 lights on the podium to indicate your time. The
4 green light means that you still have time, the
5 yellow light means there are two minutes left and
6 the red light means you should stop your
7 argument. I'd like to remind everyone to please
8 silence your cell phones and electronic devices
9 and disable any Wi-Fi connections so we don't
10 have any interference with the recording of the
11 proceeding. I also want to mention that three of
12 our missed members, Mr. Cambareri, Ms.
13 Golston and Dr. Moore, are appearing remotely.
14 They will be able to ask questions and participate
15 as if they were here. And if there are any
16 technical difficulties, we will pause the argument
17 and not count any time lost against your
18 presentation.

19 Are you ready to proceed, Mr. Lindner?

20 MR. LINDNER: I am, Mr. Chairman.

21 Mr. Chairman, I'd like to reserve five minutes.

22 MR. BELLUCK: Thank you.

23 MR. LINDNER: Good morning,
24 members of the Commission. The case before
25 you this morning presents the most serious threat

1 to the ordinary course of Commission
2 proceedings since the Commission's inception.
3 In *Stern v Morgenthau*, the Court of Appeals
4 said that the Commission's ability to fulfill its
5 constitutional mandate necessarily requires the
6 free flow of information to a Commission
7 investigation. And that's precisely the issue in
8 this case. The respondent's vindictive
9 defamation suit was more than an attack on
10 Stacey Koch and her family. It was an assault on
11 the free flow of information to this
12 Commission's investigation. It was a warning
13 shot to anyone in the community who was
14 thinking of coming forward with relevant
15 information that cooperating with the
16 Commission had, could have serious
17 repercussions. As the Commission said in
18 *Matter of Tripp*, this is conduct that threatened
19 the integrity of the judicial disciplinary system.
20 Even at this late date, respondent cannot bring
21 himself to concede what's obvious to everyone
22 that filing a defamation lawsuit against the
23 complainant could have a chilling effect on other
24 potential witnesses. It's a fact that's so well
25 established that it actually forms the basis of the

1 legal analysis that caused his suit to be so
2 quickly dismissed. There's a controlling Court of
3 Appeals case in which the court held that a
4 lawyer could not bring a libel action against
5 someone who complained about him to the
6 Disciplinary Committee, facts very similar to
7 what we have here. The Court recognized that it
8 was, that its ruling would necessarily protect
9 what it called false and malicious claims. But it
10 was necessary to do that because if lawsuits like
11 this defamation suit were permitted to go
12 forward, it would deter legitimate complaints.

13 Respondent had to pay \$20,000 in Ms.
14 Koch's attorney fees because he violated New
15 York's Anti-SLAPP suit. That's a statute the
16 Legislature created because they recognized that
17 citizens were unlikely to participate in public
18 proceedings if they could be sued for what they
19 said. And Judge Rosa certainly understood this.
20 In her decision dismissing respondent's suit, she
21 wrote, "There is a very real fear that others may
22 be deterred from bringing legitimate and serious
23 complaints if retribution in the form of a lawsuit
24 is a viable possibility." Yet the respondent
25 continues to deny that obvious fact. As the

1 referee found at the hearing, he showed no
2 awareness. In fact, he showed no interest in the
3 fact that permitting judges to sue complainants
4 would, of course, dissuade a large number of
5 citizens from bringing meritorious complaints.
6 The fact that he continues to argue in his brief to
7 the Commission that his lawsuit did not have a
8 chilling effect on potential witnesses is among
9 the many reasons that you should remove him.

10 The referee heard the testimony. He was
11 able to judge the respondent's credibility. He
12 found the evidence was overwhelming that the
13 respondent brought his defamation suit in
14 retaliation for the Commission complaint.
15 Respondent in fact conceded that on cross-
16 examination that the complaint was at least part
17 of the reason he brought suit. And in fact, all of
18 the statements in the defamation lawsuit came
19 from Ms. Koch's complaint. He quoted them
20 verbatim. Although respondent knew that Ms.
21 Koch had talked to Mr. Brown prior to filing his
22 complaint, there's no mention of Mr. Brown or
23 anything that she said to Mr. Brown in the
24 complaint. It's all about the Commission
25 complaint that Stacey Koch filed with us.

1 Why bring the defamation suit at all? If all
2 respondent wanted to do was establish that Stacey
3 Koch's allegations were false, he could have done
4 it. He should have done it in this proceeding.
5 That's what this proceeding is for. He chose not
6 to in part because he thinks this Commission is
7 corrupt. He told his attorney that he would not
8 have brought his defamation suit if he thought the
9 Commission process would be fair. But that's not
10 the only reason. He testified at the hearing that he
11 didn't want to rely on his potential exoneration in
12 a Commission proceeding because that was not
13 recourse. He wanted more than vindication. He
14 wanted vengeance. And vengeance here is not too
15 strong a word. He told his attorneys he wanted to
16 punish Ms. Koch. He said that he wanted to make
17 her pay. Three years after the incident at Seeta
18 Eye Care, he was still angry. He testified again at
19 the hearing that he wanted to make her pay.
20 According to the referee, his anger at the hearing
21 was palpable. That sentiment, that burning desire
22 to make Ms. Koch pay for filing a complaint,
23 that's the very essence of retaliation.

24 This case is orders of magnitude more
25 egregious than any prior Commission retaliation

1 case. Imagine how Stacey Koch felt when she
2 was served with this complaint. Imagine what
3 would have happened if the suit had gone
4 forward. For most families, a \$400,000
5 judgment means losing your savings, having
6 your wages garnished. It maybe means that you
7 lose your house. There's nothing in any prior
8 Commission case, in retaliation case that
9 compares with that. It's also a problem that this
10 was a very public act of retaliation. Respondent
11 filed his action in Supreme Court. He did not
12 ask to have it sealed. It was reported in the local
13 media, which means that there are still people in
14 the Poughkeepsie area who read in the Mid
15 Hudson News that if you file a complaint with
16 the Commission, you can be sued.

17 Finally, there's the fact that respondent still
18 won't concede he did anything wrong. Not
19 anything. He's asking you to dismiss charge II.
20 He's asking you to say that he did not commit
21 misconduct by filing this complaint. And –

22 JUDGE MOULTON: – Counsel, speaking
23 of retaliation, the respondent has stated that this
24 proceeding, this disciplinary proceeding, is
25 retaliation for his participation in a federal

1 lawsuit challenging COVID-19 regulations. Is
2 there any evidence of that?

3 MR. LINDNER: There's absolutely no
4 evidence of that. The things are completely
5 unrelated. As the Commission is aware and the
6 respondent is aware, there was a separate
7 complaint that was related to that matter, and the
8 Commission held that in abeyance while the
9 federal suit went forward. This was a complaint
10 by Stacey Koch about his conduct in the Seeta
11 Eye Care office when he refused to wear a mask
12 and refused to leave.

13 JUDGE MOULTON: Is he insulated from
14 any punishment because he sought Mr.
15 Sussman's advice about whether the lawsuit was
16 valid?

17 MR. LINDNER: The advice of counsel
18 defense has to start with identifying what's the
19 relevant legal issue on which he got the advice of
20 counsel. The issue in the case is not whether he
21 had a viable lawsuit for defamation under the
22 civil law. In fact, even if he'd had a viable
23 defamation suit, it would have been misconduct
24 to use that power to sue a Commission
25 complainant to retaliate. The issue is an ethics

1 issue, whether it violates the rules governing
2 judicial conduct to sue a complainant. And on
3 that score, he ignored Mr. Sussman's repeated
4 advice that it was bad optics, that it didn't look
5 good to sue a complainant. He didn't consult his
6 ethics attorney. He did have counsel that he had
7 retained with respect to the other Commission
8 complaint. He had someone who was
9 knowledgeable in judicial ethics. He didn't
10 consult that attorney.

11 JUDGE MOULTON: He did rely on an
12 advisory opinion, correct?

13 MR. LINDNER: Yeah. Well, you should
14 read the advisory opinion. The advisory opinion
15 says that judges have the right to sue just like
16 everyone else does. And of course they do.
17 Judges have the right who, if they own an
18 apartment building, they can evict the tenant.
19 But if they evict the tenant right after the tenant
20 has filed a complaint and it's clear that it was
21 done in retaliation, then it violates the rules.
22 That's the problem here. He acted as his own
23 attorney. And so the referee quite properly
24 found that the advice of counsel defense fails as
25 a matter of fact.

1 I'm sorry, Professor Moore.

2 DR. MOORE: No, no, that's fine,

3 counselor. So, I wanted to just go back to your

4 assessment of a broader public impact of this

5 having occurred and the potential chilling effect

6 that it would have on other prospective

7 complainants and does the fact that the

8 respondent ended up settling, paying for the

9 attorney's fees, but also apologizing, making an

10 official apology to Ms. Koch, does that help to

11 bring more balance back?

12 MR. LINDNER: Well, one, I mean, I'm

13 hearing two different questions there. The

14 apology doesn't do anything in terms of the

15 general public. I mean, the problem with a case

16 like this is that once it's out there, it's hard to get

17 it back. People read in the newspaper that you

18 could be sued if you came to the Commission.

19 The apology is a somewhat nuanced issue

20 because although he did sign the apology, when

21 he was asked about it at the hearing, he said,

22 well, they needed an apology to settle the suit.

23 My lawyers told me to sign the apology. What I

24 think you can see –

25 DR. MOORE: – Didn't he also say at the

1 hearing, didn't he also say at the hearing that he
2 felt that it was a mistake?

3 MR. LINDNER: He said that it was a
4 mistake because he got bad legal advice. In
5 terms of any feelings of remorse or reconsidering
6 a position, I would offer the following because I
7 really find that there's a lack of empathy here
8 that's quite, quite shocking really. As I said,
9 \$425,000 is a lot of money for most of us. It
10 certainly would have been a lot of money for
11 someone who is a manager in an eye care
12 situation. And he was asked at the hearing if he
13 thought that \$425,000 might be a lot of money,
14 would likely be a lot of money for Ms. Koch.
15 And he said, I don't know, maybe she's a
16 billionaire, maybe she's a billionaire. He
17 wouldn't even concede that his lawsuit would
18 require her to hire an attorney. And so I don't
19 think that there's much evidence in the record at
20 the hearing that he had changed his mind on this.
21 And in fact, he's still asking you in his brief to
22 find that he did not commit misconduct. Not that
23 he committed misconduct, but he's thought better
24 of it and he shouldn't have done it. And he's
25 learned his lesson. But no, he did nothing

1 wrong. Entirely throughout this proceeding, he's
2 done nothing wrong.

3 If the Commission has no other questions,
4 I'll reserve the rest of my time.

5 MR. BELLUCK: Can I just ask you how
6 you think the Commission should interpret the
7 referee's findings with respect to charge I and
8 charge III?

9 MR. LINDNER: We're not going to contest
10 charge III. I think the record is pretty clear.
11 There were a number of emails that the
12 respondent did not turn over. The referee found
13 that it was inadvertent. We think it shows that
14 it's not. But we're not choosing to contest that
15 charge. As to charge I, even if you accept the
16 facts as we do, as the referee found them, what
17 you have here is at a time, you know, when
18 COVID was rampant, when tensions were high.
19 You have two people with positions that were
20 adverse who raised their voices. There was a bit
21 of a scene one way or the other. The police were
22 called. It's no, there's no doubt that respondent
23 was asked to leave multiple times and he refused
24 to do so.

25 JUDGE MOULTON: How long was he at

1 the office? Wasn't it 40 minutes?

2 MR. LINDNER: It was, it was a long time.

3 JUDGE MOULTON: Do you know how
4 long?

5 MR. LINDNER: I don't know. I can find
6 that out and I will let you know –

7 JUDGE MOULTON: – I think in the
8 transcript it says, anyway, go ahead.

9 MR. LINDNER: This went on for a while.
10 There were multiple phone calls to the police.
11 You know, I, we do hold judges to higher
12 standard of conduct. This was not the crime of
13 the century. It was a dispute. But he acted
14 badly. A normal person who in that situation is
15 told that they have to leave or the police are
16 going to be called, would leave. They, they'd
17 come back and deal with this another time. You
18 know, Kace, Stacey Koch told him at the time
19 that her husband had had [REDACTED] three times, that
20 he was [REDACTED]. And he was asked
21 about that at the hearing as well. He was asked
22 whether or not the fact that she told him that, that
23 the husband was sick gave him pause, gave him
24 reason to reconsider whether his actions were
25 appropriate. And he said no. Literally, that was

1 his answer. No, I wasn't breathing on her. And
2 he went into a long defense of his conduct. But
3 there's no real sense that he has any regrets about
4 this other than the fact that he finds himself here
5 today.

6 MR. BELLUCK: Thank you.

7 DR. MOORE: (INAUDIBLE) Do you
8 have a sense –

9 MR. BELLUCK: – Oh, go ahead.

10 DR. MOORE: The way you characterized
11 the scene between the respondent and Ms. Koch
12 you said, and I'm paraphrasing here, that they
13 were both sort of going at each other. And I read
14 that comment that the respondent made at the
15 hearing. He said that she came out when she
16 initially told him, that she came out and I quote,
17 “She came out yelling at him” and I'd like to
18 explore this further with the respondent and I
19 will, but could you just comment on that remark
20 because it seems to suggest that Ms. Koch was
21 the aggressor and that the respondent was
22 essentially responding.

23 MR. LINDNER: Make no doubt about this,
24 the staff believes that Ms. Koch's version of
25 events was correct. We felt that she was

1 credible. The referee did not find that she was
2 the aggressor. It found that both parties raised
3 their voices. And I think that's the fact on which
4 you have to make your decision. But let me say
5 this again, even if Ms. Koch was this terrible
6 person, and I have a feeling that Mr. Coffey is
7 going to try to tell you that she was, her husband
8 had [REDACTED] three times, he's [REDACTED]
9 [REDACTED]. Maybe she was a little uptight
10 about this. Maybe she raised her voice. How
11 does that justify suing this woman for \$425,000?
12 Because he wrote that she, he made a scene? It's
13 a matter of opinion. It's hardly the worst thing
14 you could say about someone. He really
15 overreacted here in a way that not only
16 threatened Ms. Koch and her family's finances,
17 but it really does threaten this Commission's
18 proceedings. You said that in *Tripp*. *Tripp* was
19 relatively minor. The judge made a comment.
20 He denied a two-week request to pay a fine and
21 said you reported me to the Commission, now
22 you want me to do a favor? No, denied. That's
23 it. And you said that was a threat to the integrity
24 of the judicial disciplinary system. Orders of
25 magnitude here, orders of a two-week extension

1 to pay a fine versus a \$425,000 suit. Keeping in
2 mind that when she was served, she didn't know
3 that it was going to be thrown out. She didn't
4 know that she was going to be able to find
5 counsel and it would come out the right way. It
6 was a serious threat and certainly something that
7 people in the community would have noticed,
8 people in Seeta Eye Care. You know, one of the
9 problems with things like this is that it's hard to
10 ever know what the impact is. It's not just that
11 there are people out there who might have come
12 forward but didn't. It's all the witnesses who we
13 know about, who we subpoena, who have faulty
14 memories. Maybe they weren't paying attention.
15 Maybe they didn't quite hear. Commission
16 knows from vast experience that we see that all
17 the time where we have people that were right
18 there in the courtroom but they didn't quite hear
19 what the judge said. That's the real danger here.
20 We don't even know in this case whether all of
21 our witnesses told us everything that we know,
22 everything they know.

23 MR. BELLUCK: Thank you. And before
24 Mr. Coffey speaks, let me just, want to say thank
25 you to all the staff of the Commission and Mr.

1 Coffey and the judge for making the effort to be
2 here today, given all the activity outside. So,
3 Mr. Coffey, please proceed.

4 MR. COFFEY: Yes, I want to thank Judge
5 Camacho's wife for getting me in here.
6 Everybody outside is wondering what I was
7 doing there. Having said that, why don't we do
8 some, I'd like to reserve five minutes.

9 MR. BELLUCK: Okay.

10 MR. COFFEY: Why don't we look at the
11 facts of this case? The Commission uses these
12 general statements, and I'm going to go through
13 the facts here and you, you can look at them. If
14 I'm correct, incorrect, that's fine. A, the judge
15 comes to the Seeta Eye Care Center, he gets into
16 a dispute with Ms. Koch. There's no question.
17 That's in December 2021. She then a couple of
18 days later, contacts the Commission with a
19 complaint. In April, in the spring, they notify
20 Mister, Judge Mora that a complaint has been
21 filed. At that time, he does nothing and then
22 proceeds on into the summer. And in that period
23 of time, which the Commission consistently
24 overlooks, and frankly, there's two issues here
25 that you're going to have to decide and number

1 one, does she have a privilege? They claim that
2 privilege is absolute. They've used this language
3 repeatedly. She has an absolute privilege to
4 bring the complaint and she does. They claim
5 that privilege it extends beyond. There are no
6 absolute privileges at law. I can waive my
7 lawyer-client privilege. I can waive my privilege
8 of self-incrimination. If they can define what an
9 absolute privilege is, and having raised the
10 question of privilege, it is incumbent upon the
11 party against whom it is raised to defend whether
12 privilege has been waived. Number two, is did
13 she waive the privilege? Now they treat her as a
14 woman who's been badly treated, who's been
15 attacked, who's really done nothing at all to
16 really –

17 JUDGE MOULTON: – Counsel, is there
18 anything in the record whether Judge Mora paid
19 the costs that he agreed to pay to Ms. Koch? Is
20 there anything in the record about that? Do you
21 know if he did?

22 MR. COFFEY: He didn't pay. He paid the
23 \$20,000 fine.

24 JUDGE MOULTON: Okay. That's what I
25 meant.

1 MR. COFFEY: Yeah. But that was
2 attorney's fees.

3 JUDGE MOULTON: Right.

4 MR. COFFEY: So the context of that was
5 Judge Rosa issued a decision they had an
6 agreement at that point. He said I'll pay 20,000
7 with an apology at that time based upon his
8 advice of counsel. And they treat Judge
9 Sussman as some kind of, or Mr. Sussman, as
10 apparently or they don't really and the lawyer-
11 client reliance that he should have, that as Judge
12 Mora should have asked the ethics person at that
13 he worked with. Well, we're now in a position
14 apparently where the Commission is going to
15 have to rule as to which lawyers you should
16 contact because he didn't go to some schlep.
17 Sussman is a noted expert in this state on civil
18 rights and he's done 30 to 40 defamation cases. I
19 don't know of any lawyer –

20 JUDGE FRIED: – And he and he indicated
21 that the optics were bad. Don't the optics matter
22 in the realm of judicial ethics –

23 MR. COFFEY: – Well –

24 JUDGE FRIED: – With the appearance of
25 impropriety as is an issue?

1 MR. COFFEY: Judge, I'm glad you asked
2 that question. I'm going to answer that directly.
3 You come to me. I don't mean to personalize it.
4 Judge comes to me and says I want to sue my
5 neighbor, alright. And or even better, I represent
6 a law firm and I do. And the firm's breaking up
7 and they say we're going to get those guys for
8 what they did. And I say to the senior partners,
9 go ahead. If you want to bring that lawsuit
10 against that other people leaving, you can and
11 you're going to win. But I'm telling you, you're
12 going to have hell to pay for doing that. The
13 legal community is going to go crazy when they
14 hear these allegations coming out. There's legal
15 advice and there's practical advice. I tell my
16 client, you're nuts to go to trial on this. I don't
17 care. I'm going to trial. You're crazy to settle
18 this case. I don't care. I'm going to settle it.
19 You're going to sue your neighbor and every
20 person on that block is going to know that you
21 sued the neighbor who is maybe paralyzed.
22 Even if that person does that and the optics may
23 not be great, he has a right to sue.

24 Now let's talk about the optics. I'm now a
25 sitting judge and what I didn't tell you was, and I

1 have a copy of the letter which I'll show you, you
2 should see this, it's not in the record and I don't
3 know why I didn't offer in the record. This is her
4 letter the next day to the Mayor of Poughkeepsie.
5 You ought to see this letter. She writes a letter to
6 the Mayor of Poughkeepsie the next day. She
7 goes public. She says to the mayor, I'm sending
8 you a copy of this complaint I sent to the New
9 York State Commission on Judicial Conduct.
10 Frank Mora exhibited unprofessional behavior in
11 a medical practice. Free to contact me if there is
12 any additional information I can provide. Judges
13 should not be able to harass private citizens
14 while at work. He's now a judge. And it's
15 interesting that the Commission says we don't
16 know who, how this far this gets out. The facts
17 at the hearing are this, which they don't address.
18 Ms. Koch, who has been wrong, goes to Brown
19 and she tells Brown, and by the way the hearing
20 officer finds him credible, finds that she is not
21 credible. Ms. Koch, the hearing officer says, is
22 not credible. She tells Brown the things that he
23 did. Brown testifies and says her version of the
24 events is wrong. It's not just incorrect, it's
25 wrong. She was hostile. She was not violent,

1 but she was certainly aggressive. She goes to
2 three employees –

3 JUDGE MOULTON: – Counsel, where
4 does he say that she's not credible? Do you have
5 chapter and verse for that?

6 MR. COFFEY: I'll get you that. Yes, we
7 can get you that judge.

8 JUDGE MOULTON: Okay.

9 MR. COFFEY: His findings also at the end
10 finds that at the very least her complaints are not
11 warranted. So if that word is, well, let me put it
12 this way, he finds that on the inverse, he finds
13 that Judge Mora was credible. He accepts his
14 version. He accepts Brown's version of the
15 events. He finds Brown to be credible.

16 JUDGE MOULTON: But did he say at any
17 place that Ms. Koch was not credible?

18 MR. COFFEY: I'd have to correct that. I
19 don't think he actually said that she was not
20 credible.

21 JUDGE MOULTON: Because I missed
22 that.

23 MR. COFFEY: But we can –

24 JUDGE MOULTON: – Okay. Alright.

25 MR. COFFEY: Judge Mora and I

1 appreciate that. I appreciate that because in case
2 I forget or I misstate something, I don't want this
3 to be misunderstood by the Commission. What
4 is not in dispute, Ms. Koch testified that she had
5 no interaction with the respondent on January
6 29th. This is beforehand.

7 JUDGE MOULTON: Where are you
8 reading from?

9 MR. COFFEY: I'm reading from page 7 of
10 the Report of the Referee. Testimony was
11 entirely contradicted by the respondent's direct
12 testimony. Now that's, let me move on from that
13 to this extent –

14 DR. MOORE: – But before, before you
15 move on from there –

16 MR. COFFEY: – Yes –

17 DR. MOORE: – If I could just follow up
18 on where you were going Mr. Coffey, with Mr.
19 Brown's comments about Ms. Koch's –

20 MR. COFFEY: – Yes –

21 DR. MOORE: – Now I do understand that
22 the referee had found him credible and so we as
23 the Commission have to (INAUDIBLE) whether
24 to accept the referee's decision in whole or in
25 part. But I do want to explore this with you that

1 two other people who were there and witnessed
2 the event from start to finish, namely Ms.
3 Feathers and also Ms. Monteverdi. They had a
4 different account than Mr. Brown. They felt that
5 it was in essence mutual combat, that it wasn't
6 Ms. Koch who, as you say, was found to be out
7 of pocket. So, can you speak to that. And then
8 based on what the referee said about the facts
9 from the hearing show that two other witnesses
10 had a different account than Mr. Brown.

11 MR. COFFEY: Well, professor, they also,
12 that is true without going through in depth
13 because that charge is not the most serious
14 charge we're here for today. But nonetheless
15 they also disagree with whether she was yelling.
16 So, there's a disagreement between the parties
17 whether she was yelling.

18 In reference to Judge Moulton's question,
19 they found her incredible. I would stand by my
20 statement that if he did not actually say that and I
21 acknowledge that. He did find Brown credible
22 and Brown's statement, and you can find, you
23 can find anybody incredible. But nonetheless,
24 he's an independent witness. Brown, so
25 independent that she went to him that is Ms.

1 Koch and asked him to sign a statement
2 supporting her view of the events that occurred
3 in the eye care center. And the reason why that's
4 —

5 DR. MOORE: — (INAUDIBLE)

6 MR. COFFEY: I'm sorry.

7 DR. MOORE: I'm sorry, I just, I guess I'm
8 having a little trouble with maybe it's your
9 characterization Mr. Coffey, I'm not sure that's
10 not. But as I understand it, the standard protocol
11 of the office for which she was the manager of,
12 she had an account of what had occurred till
13 when she solicited the statement from Mr.
14 Brown and recorded it in the office's log. Do I
15 understand that correctly from your standpoint?

16 MR. COFFEY: Well, I'm drawn into an
17 argument on a, on a claim that the Commission
18 does not want removal and they, they've agreed
19 that it's a minor claim. So the whole argument
20 now is, is revolving around what happened in
21 that —

22 DR. MOORE: — I'm sorry, would you say
23 that part again, I'm not sure what you mean.

24 MR. COFFEY: What I'm getting at is the
25 reason why we're having this hearing is the well,

1 not the reason, but the sole reason the
2 Commission wants Judge Mora removed
3 because of what happened in the defamation
4 case. There's a disagreement as to what
5 happened in the Seeta Eye Care. My position is
6 that even if you were to find that the hearing
7 officer was incorrect and he obviously did not
8 find that there was misconduct, that the real issue
9 that I, that we're here is the issue of the
10 defamation case, which is what I, which I'm
11 prepared for both. But obviously I've would
12 assume that the most serious matter is the
13 defamation case. If it's not, then I'm happy to
14 address what happened at Seeta. But I don't
15 want to sit down after my 25 minutes and never
16 having addressed the matter that they want him
17 removed.

18 MR. BELLUCK: Judge Falk.

19 JUDGE FALK: And I know you want to
20 get to the defamation case, but I just want to
21 make sure you're talking about the credibility
22 issue. Is there any issue? There's no issue that
23 the rule of this office, the Seeta office, was that
24 masks were required –

25 MR. COFFEY: – Correct.

1 JUDGE FALK: Is that correct?
2 MR. COFFEY: Correct.
3 JUDGE FALK: And there's no issue that
4 the judge was asked to leave the office. Is that
5 correct?
6 MR COFFEY: Correct. He was wrong.
7 JUDGE FALK: And there's no issue that
8 he refused to leave and ultimately left after a
9 significant period of time.
10 MR. COFFEY: Correct.
11 JUDGE FALK: Okay, very good.
12 MR. BELLUCK: Can I just –
13 MR. COFFEY: – Before I do that I'm,
14 we're, we acknowledge that he was wrong at
15 Seeta. We acknowledge that. Now the hearing
16 officer, I'm not obviously, we're happy with the
17 results, but we acknowledge and he said I was
18 wrong. Yes, yes.
19 MR. BELLUCK: Okay. So just with
20 respect to charge II, putting aside charge I,
21 charge III, the referee who I think we could
22 come to the conclusion was very fair and
23 balanced because he essentially found in your
24 favor on two of the three charges.
25 MR. COFFEY. Well, the third charge was

1 nothing.

2 MR. BELLUCK: But on charge II he was
3 equally clear that there was overwhelming
4 evidence of retaliation and that the misconduct
5 being alleged was serious and cuts to the heart of
6 judicial conduct. So, why isn't it a removal
7 based just on charge II?

8 MR. COFFEY: Well, alright, I was going
9 through that.

10 MR. BELLUCK: Okay, here's your
11 chance.

12 MR. COFFEY. Thank you. They don't
13 deny, they don't argue that Brown is not credible.
14 They don't. They've never argued this. They
15 never argued that the conversation that Brown
16 has, that he did not have a conversation with
17 Judge Mora, that's never been a question. At
18 some time during the summer, there's a
19 discussion between Mora, Judge Mora and Mr.
20 Brown, when Mr. Brown says she said she's
21 going to get you, she wants you removed. This
22 is woman who's just this kindly woman said and
23 I, and she says I've told other people. I've told
24 my husband, I told other people about what
25 happened. She shows Mr. Brown a copy of the

1 complaint. I want to see him taken out. Now
2 you talk about optics. You're now a judge. And
3 any of you judges here, so now a complaint
4 brings, someone brings a complaint against the
5 Supreme Court judge and calls a press
6 conference, says he raped me right out here and
7 raped me. And I filed a complaint and the press
8 comes to the judge and says, what about I can't, I
9 can't comment on that. Well, she's saying you
10 did these things. The point is that when she goes
11 public, she waives that privilege. They don't
12 address that. That is not addressed at all in their
13 brief, at all. All they say is that she has an
14 absolute privilege. And we've claimed that when
15 the privilege issue is, the waiver is raised, it is up
16 to the party against whom it is raised to defend
17 why that privilege has not been waived. If you
18 reach this decision and find that he should be
19 removed, then your decision must necessarily
20 state that, while she has a right to make a
21 complaint, she has a right to go public, she has a
22 right to say whatever she wants, whenever she
23 wants, however she wants. And the judge
24 against whom she makes these complaints and,
25 and by the way, there is no analysis by the

1 hearing officer. So in terms of fairness, he
2 never, he never analyzed this question, never.
3 Therefore, she could say whatever she wants.
4 She could go out into the public and the optics
5 his life could be ruined, his family, himself. He,
6 according to the Commission –

7 JUDGE FRIED: – Well, but isn't, aren't
8 there restrictions on judges' ability to speak
9 generally? I mean, wouldn't his option be to go
10 through this process and establish that he wasn't
11 in the wrong?

12 MR. COFFEY: How does he do that?
13 Where does he do that, here?

14 JUDGE FRIED: Yes.

15 MR. COFFEY: So two years later, and I'm
16 not, Judge, I'm not being, I'm not being –

17 JUDGE FRIED: – Well –

18 MR. COFFEY: – (INAUDIBLE) here –

19 JUDGE FRIED: – The Commission
20 counsel indicated that the judge thinks that the
21 Commission's process is unfair. So is that an
22 accurate assessment? And if so, what is unfair
23 about it?

24 MR. COFFEY: That corrupt statement was
25 about the religious lawsuit, which is a whole

1 different issue here.

2 JUDGE FRIED: Okay.

3 MR. COFFEY: Okay. That was a whole
4 different issue. But so a year, he has a year to
5 bring a lawsuit. The Commission says, well all
6 you have to do is wait. We'll go through the
7 process. It'll be secret. You'll win here in front
8 of the Commission if you're right or you cut a
9 deal. Meanwhile, talk about optics, the entire
10 community, do we know, does anybody sitting
11 here know who the mayor told that the mayor
12 said you ought to hear what they're saying about
13 Judge Mora. He's now defense –

14 JUDGE MOULTON: – Counsel, were
15 there any allegations about Mr. Brown's
16 statements in the complaint, in the defamation
17 action?

18 MR. COFFEY. No, no.

19 JUDGE MOULTON: Any, any comments
20 by the mayor in that complaint either?

21 MR. COFFEY: He didn't know about the
22 mayor.

23 JUDGE MOULTON: Okay. And yet, but
24 any other publication aside from Ms. Koch's
25 pleading? –

1 MR. COFFEY: – No, there weren't –
2 JUDGE MOULTON: – In the Commission
3 case.
4 MR. COFFEY: But I would say this to
5 you, judge, that does not make his claim
6 defective. So let's go to the lawyer-client. No
7 one's ever addressed this issue. It's like it doesn't
8 exist. He goes to see Sussman. Sussman, by any
9 standard, is an expert. They claim maybe he
10 isn't. The Commission has taken the position –
11 JUDGE MOULTON: Sussman says he's an
12 expert in civil rights law. He says he's brought
13 about 30 or 40 defamation cases. He would not
14 describe himself as an expert in defamation law.
15 MR. COFFEY: Judge, if you had someone
16 in front of you, 30 to 40 defamation –
17 JUDGE MOULTON: – We get to ask the
18 questions, counsel.
19 MR. COFFEY: I'm sorry.
20 JUDGE MOULTON: Please continue.
21 MR. COFFEY: I would say this, if a
22 person, if I go to person, he's got 30 to 40, as a
23 Harvard Law School graduate, he's done 30 to 40
24 defamation cases, he may be somewhat self-
25 effacing to say he's not an expert. Call him what

1 you want. He's done 30 to 40 of them.

2 I don't know what this woman at the
3 Poughkeepsie City Court has done on ethics, I
4 have no idea. And I have no idea what she
5 would have told him. But having said that, he
6 doesn't do anything, Judge Mora. I mean, these
7 are the facts of the case until Brown tells him
8 what she said. Then he is angry because he is
9 now exposed publicly, publicly to humiliation,
10 embarrassment and he has to get reappointed by
11 the person who is getting this complaint by Ms.
12 Koch. But they want Ms. Koch to be insulated
13 from anything. She, their position is it doesn't
14 make a difference what she says or where she
15 says it or to whom she says it.

16 MR. BELLUCK: Vice Chair, did you have
17 a question?

18 MS. GRAYS: I do. So, I am just going to
19 give a little context and then I have a question.
20 So, I mean, I think judges appreciate that when
21 they become judges that you give up certain
22 rights, your life is impacted.

23 MR. COFFEY: True.

24 MS. GRAYS: Right. And under the Ethics
25 Rule, right, Section 100.2(A), there is the

1 obligation to avoid appearance of impropriety.
2 What are optics?
3 MR. COFFEY: That's a good point. I think
4 if you accuse me publicly of being a rapist I
5 think I have to go back to Albany and everybody
6 calls me up and says, hey, did you see Steve
7 Coffey is a rapist. I don't think those are good
8 optics. I wouldn't want to have that.
9 MS. GRAYS: Correct. But are optics
10 appearance?
11 MR. COFFEY: They can be sure, yes.
12 MS. GRAYS: Can be or?
13 MR. COFFEY: No, broadly stated, yes, I
14 would agree with you, yes.
15 MS. GRAYS: And so the advice that he
16 was given that the optics on this are not good, he
17 as a judge knowing that appearances which are
18 optics actually is a part of an ethical obligation
19 should be concerning to him.
20 MR. COFFEY: You want me to answer
21 that directly?
22 MS. GRAYS: Yes, please.
23 MR. COFFEY: That's true. But the optics
24 of how he appears to the public and the
25 retaliation are different matters. Judge, Miss

1 Grays, we can't ignore what the Commission's
2 papers are saying replete throughout this entire
3 matter. And I understand they have to protect
4 their, I have no problem with that. It became an
5 issue about whether accusations are made.
6 They've taken the position that she never went
7 public. She did go public. There's no question
8 she went public. But having said that, when a
9 person, if that's the case, that means the judge
10 can never sue, which is the law is very clear he
11 can. He can't sue for assault. He couldn't sue for
12 anything because the optics may not be good.
13 They have always claimed that we're here
14 because he retaliated against her. Forget what
15 Sussman may have said about the optics. That
16 he went after her because he had no basis for
17 doing that and he had. There was absolutely no
18 cause for him to do that.

19 And Judge Moulton talked about the
20 lawsuit later, which was drawn by Sussman.
21 Sussman, his expert, told him you can bring this
22 lawsuit. And Sussman at the hearing, as you
23 know, said, I stand by that position. This was
24 not a SLAPP lawsuit. You know, maybe he's
25 wrong. He probably is. But nonetheless, he said

1 you can bring this lawsuit, he went to. And by
2 the way, the Commission also says that he never
3 took his advice. Just plain wrong. And they say
4 that Sussman told him not to bring a lawsuit.
5 That's a misstatement of fact.

6 MS. GRAYS: Well, it seemed like he
7 followed some of the advice, but not all of the
8 advice. I think that's what –

9 MR. COFFEY: – Well, he went two for
10 four. He had four possible claims, the business
11 interference, HIPAA, suing a newspaper and the
12 defamation. So he went to a lawyer. We all do
13 this. Practical advice. The Commission says
14 there's nothing about practical and legal advice.
15 I give practical. I've given practical advice to
16 him today. He's relying upon me. When I go
17 back to my office tomorrow, the client's going to
18 come to see me and I'm going to give legal
19 advice and I'm going to give practical advice.
20 He can rely upon it or not.

21 MS. GRAYS: So you're saying –

22 MR. COFFEY: – But it's wrong to say that
23 he didn't follow his advice. It's not true.

24 MS. GRAYS: So, Mr. Coffey, are you
25 saying that as it relates to the privilege issue, that

1 that's an integral part of our analysis in order to
2 determine whether he avoided the appearance of
3 impropriety? Which particular ethics violation is
4 that relevant to?

5 MR. COFFEY: Well –

6 MS. GRAYS: – Or which charge, however
7 way you want to disclose it?

8 MR. COFFEY: What I'm saying to you is
9 this, that when she went public with her
10 complaint and she decided to bring this to a
11 different forum, a forum, not this forum, but a
12 different forum and she made that intentional
13 decision, at that point she waived the privilege
14 she has here. And we don't know whether the
15 Commission, you know, in Article 45 of the
16 Judiciary Law, employees, if they were to
17 express this publicly, there's penalties for that. It
18 says nothing about private litigants. We don't
19 know whether the Commission told her, hey,
20 don't go pub-, don't say anything. Is our position
21 that when she goes public and she puts out to the
22 public that a judge has done something, she's
23 waived her privilege. For example, if I'm in
24 Congress and I stand on the floors of Congress
25 or the Assembly, and I make the most

1 outrageous defamatory statements or in court, I
2 can get away with it because I'm privileged. But
3 once I walk outside in those steps of the
4 courthouse steps and I say that Joe Blow did this,
5 I've lost that privilege. I have no longer that, that
6 privilege is gone. I have now exposed myself to
7 a lawsuit. There's nothing that says if the judge
8 can't bring a lawsuit, how about a car accident?
9 What about if he's assaulted?

10 MS. GRAYS: I would argue that this is a
11 very different situation that –

12 MR. COFFEY: – But his reputation is at is
13 at stake. Now, they kind of pooh pooh that as no
14 big deal. He could be ruined by these
15 allegations.

16 JUDGE FRIED: Well, how is it any
17 different if he were to, in a judicial capacity,
18 preside over a case, render a decision –

19 MR. COFFEY: – Alright –

20 JUDGE FRIED: – And the litigants go out
21 on the front steps of the courthouse and make a
22 statement about the judge in a personal capacity?
23 The judge was prejudiced, the judge was biased,
24 the judge was wrong. Under your theory, the
25 judge would then have a claim to be able to

1 present litigation that about the public comment
2 regarding a judicial act.

3 MR. COFFEY: I will answer specifically
4 this way. If that person goes out and says the
5 judge is wrong, he was prejudiced, whatever. If
6 he goes out on those on that courthouse steps,
7 judge, and he says and the reason why Judge
8 Coffey did this is because he got bribed by the
9 plaintiff, then he has bought himself a potential
10 defamation lawsuit because he has said
11 something knowingly false. I don't think I have
12 to sit there and hear somebody say I've been
13 bribed. No, I don't think that you have an
14 absolute privilege. I don't, we don't think so.
15 And let's not forget he went to an attorney who
16 told him you can bring this lawsuit. They keep
17 saying about the optics. They don't deny the fact
18 that's what the advice was and the law is clear.
19 You've seen these cases we've cited even if the
20 lawyer's advice is wrong. And as Judge
21 Moulton points out, the ultimate complaint, they
22 didn't put everything in. That doesn't mean the
23 person bringing the case has no basis, doesn't
24 mean he's wrong. He's relied upon an attorney.

25 MR. BELLUCK: Judge Falk.

1 JUDGE FALK: Is it your position that –

2 DR. MOORE: – (INAUDIBLE) –

3 MR. BELLUCK: – Professor Moore, hang
4 on one second. Judge Falk has a question, then
5 we'll have your question.

6 JUDGE FALK: Is it your position that
7 Judiciary Law 45 applies to the complainant?

8 MR. COFFEY: Yes. It doesn't say
9 specifically. I think it does, yes. She will walk
10 through here. He'll be removed. She'll make
11 these public statements. She'll have had a
12 finding against her referee's finding, which will
13 be, won't be public and in fact, a dispute that she
14 intentionally brought out. She's the one who
15 made this a public event. And yes, it is our
16 position that I'm not here to lecture the comm–.
17 I have a great respect for the Commission. I
18 know that this is contentious in some ways. I'm
19 not claiming that the Commission ever hid the
20 statement that she made to the mayor. We're not.
21 We're not claiming that. We're claiming that
22 when she went to the mayor, she didn't even tell
23 them. I don't know if you know that. She has
24 this letter to the mayor. She doesn't even tell the
25 Commission. It's only later when they were

1 asking about that and we found out on
2 examination that she had a discussion, said, oh,
3 by the way, I have the letter to the mayor.

4 MR. BELLUCK: (INAUDIBLE)

5 JUDGE FALK: So is it your position then
6 once she tells the Commission of an event, she
7 cannot relate that to anybody else?

8 MR. COFFEY: No. No, I'm not saying
9 that. I'm saying if she goes public. The
10 Commission then this gets a little further out. I
11 think the Commission then has to disclose that
12 it's public, but I think they had to be told and
13 that this isn't the place for this. I don't suppose.
14 Listen, you go public here and you started, you
15 start telling everybody what happened here, you
16 no longer have a privilege. Because the whole
17 purpose of this Commission, let's not forget the
18 reason why we're doing this, unless the judge
19 waives the hearing publicity, is to keep this
20 private, sole purpose of this. That's why we do it
21 this way. She's now absolutely tipped that over
22 on its head. She's gone to make a complaint.
23 She's going public –

24 MR. BELLUCK: – Okay.

25 MR. COFFEY: Okay, now she says, well,

1 I'm going public. But you know, you really can't
2 do anything about that.

3 MR. BELLUCK: Alright, Mr. Coffey.
4 Your time is up. But Professor Moore had one
5 question.

6 DR. MOORE: Yeah, I did just one
7 question. Mr. Coffey (INAUDIBLE) the
8 premise of all of your arguments about the
9 privilege seems to be predicated on this idea that
10 she went public. She went public. You said that
11 several times. I just want to be clear in
12 understanding that by going public you mean
13 one, she went and gave this letter to the mayor
14 and that two, you're not sure whether the mayor
15 shared that with anybody else? Am I
16 understanding that correctly?

17 MR. COFFEY: Partially. She went public
18 when she went to Brown, when she went to her
19 co-employees, when she told them all about this.
20 That is public. A defamation lawyer told them
21 that's public. If I tell you on the street this is
22 what happened, you've gone public. It is. The
23 whole purpose of this is that no one is supposed
24 to know. Now she's told everybody in her sphere
25 of influence, forgetting the mayor, hey, this is

1 what he did to me.

2 MR. BELLUCK: Okay. I think there's one
3 additional question.

4 MR. COFFEY: I would say one last thing,
5 if I might. And you can ask the Commission
6 whether that privilege can be waived and
7 whether she went public and whether by going
8 public it waives a privilege. They haven't
9 answered that. And don't forget, aside from that,
10 we are telling you we relied upon an attorney
11 who told us you can bring this lawsuit.

12 MR. BELLUCK: Okay.

13 MR. COFFEY: Sorry.

14 MR. BELLUCK: Just hang on. There's
15 one more question.

16 MS. GOLSTON: Just real quick, just to
17 kind of pull out a little bit because I think we're
18 being very specific on certain issues. But what
19 was the intention of bringing the defamation suit
20 against her?

21 MR. COFFEY: The intent? That's a very –

22 MS. GOLSTON: – What was the point?

23 MR. COFFEY: The point was number one,
24 for money damages, why would you bring a
25 lawsuit? Number two, to defend himself. And,

1 number three, to defend himself publicly from
2 what he had had happened to him and that
3 because she was going public and in his mind
4 destroying him or trying to destroy him publicly.
5 The purpose of that defamation suit was to tell
6 her I'm not going to put up with it. And they
7 make a big deal about –

8 MS. GOLSTON: – (INAUDIBLE) try to
9 destroy her –

10 MR. COFFEY: – No, to make her pay
11 money.

12 MS. GOLSTON: And this is a very mid-
13 level worker that obviously cannot afford
14 anything near that or even legal fees for that
15 matter. So that is a very aggressive act and
16 response.

17 MR. COFFEY: Judge, if I can tell you this,
18 I do plaintiffs work and it happens. You don't
19 know if they have insurance. If a person wants
20 to bring a lawsuit whether the person has money
21 or doesn't have money, that's a question of
22 insurance. Would she have to pay money if she
23 lost? Yes. But it's his life that would ruin.
24 Everybody's feeling sorry for her. She's the one
25 who came public with this. This is why we're

1 here. And so –
2 MR. BELLUCK: – Okay –
3 MR. COFFEY: – She has to pay money for
4 what she said, which may very well be libelous.
5 Well, that's the purpose of defamation cases.
6 You don't bring lawsuits unless you ask for
7 money. Judge, I mean, I, I'm not being sarcastic,
8 but that's –
9 MR. BELLUCK: – Alright, thank you, Mr.
10 Coffey.
11 MR. COFFEY: Sorry, Judge.
12 MR. BELLUCK: That's okay. Judge
13 Mora, are you interested in addressing the
14 Commission?
15 JUDGE MORA: Okay. Yeah. May I use
16 the restroom first?
17 MR. BELLUCK: Use the restroom? Does
18 anybody have an objection to? Okay.
19 JUDGE MORA: Thank you. I'll be right
20 back.
21 MR. COFFEY: He has a statement he'd
22 like to read as well.
23 MR. BELLUCK: I am aware of the judge's
24 request and I will advise the Commission of his
25 request, but I can't guarantee it's going to be

1 honored.

2 MR. COFFEY: Okay. Alright. Okay.

3 MR. BELLUCK: Okay. So, Judge, I
4 understand that you have written a prepared
5 statement that you've requested to be able to read
6 in its entirety. So, I am alerting my colleagues
7 that that is your request. But I cannot guarantee
8 you that you won't be interrupted by questions
9 while you're –

10 JUDGE MORA: – I do understand. I
11 appreciate that.

12 MR. BELLUCK: Okay.

13 JUDGE MORA: And I think this may
14 answer a lot of the questions. And of course, if
15 there's any others after that, of course, I'll answer
16 whatever you ask me. Alright, thank you.

17 My name is Frank Mora. I'm a devout
18 practicing Catholic, husband to my wife Sherry
19 of 24 years, father of three children, and a
20 Poughkeepsie City Court Judge for more than 15
21 years.

22 I did not bring a lawsuit against Ms. Koch
23 in retaliation for filing what is supposed to be a
24 confidential complaint against me with this
25 Commission. I want the Commission to know

1 that the referee found my testimony credible. In
2 fact, he used the word credible approximately
3 seven times in his report describing my
4 testimony.

5 JUDGE FRIED: So, if it isn't retaliatory,
6 why would there be a prayer for relief, including
7 punitive damages?

8 JUDGE MORA: Well, as I believe Mr.
9 Coffey said, basically any lawsuit is
10 "retaliatory." I'm talking about retaliation for
11 filing a complaint with the Commission. That's
12 what I'm talking about. It wasn't for filing the
13 complaint. I think I'm going to answer that
14 shortly. Thank you. So, he said approximately
15 seven times describing my testimony.

16 I sought advice from my attorney Michael
17 Sussman after I learned from Ms. Koch's co-
18 worker, Michael Brown, that Ms. Koch was
19 publicly lying about me to Mr. Brown and
20 others. This was seven months after I found out
21 about her complaint to the Commission and after
22 she testified before the Commission. Had I
23 wanted to retaliate for filing the complaint and
24 wanting to silence her, it would have been right
25 after I found out about the filing of complaint,

1 not over eight months later and on the last day of
2 the statute of limitations. I wanted to wait until
3 after the Commission's case was over, but the
4 statute of limitations prevented that. I asked Mr.
5 Sussman if I had a tortious interference with
6 business claim against her. I did not inquire
7 about defamation as at that time I knew
8 practically nothing about defamation and it was
9 Mr. Sussman who advised that I had a viable
10 defamation claim. I had never been involved
11 with the defamation claim, neither as a lawyer or
12 as a judge, nor was I familiar with absolute
13 privilege, nor had I heard of a SLAPP suit. It
14 was Mr. Sussman who drafted the complaint
15 based on the false statements made to this
16 Commission. I absolutely relied on Mr.
17 Sussman's advice that the suit was viable and I
18 acted in good faith. I did not hire just any
19 attorney. I hired Michael Sussman, who at the
20 time had initiated over 800 federal lawsuits in
21 the Southern District of New York, who had
22 handled 30 to 40 defamation cases and is
23 renowned throughout New York State and
24 beyond. I relied completely, and now I know
25 naively, on Mr. Sussman.

1 The referee mentions that I was angry when
2 I was testifying and that is why I sued. This is
3 not true. I was upset during my testimony, but it
4 was not because Ms. Koch filed a complaint with
5 this Commission. It was because Ms. Koch
6 bragged that the day after filing the complaint,
7 she broadcasted her false statements to the
8 Mayor of the City of Poughkeepsie. And then
9 she systematically defamed me to person after
10 person after person. During her testimony she
11 was so proud to the point of exclaiming, “I
12 would probably tell anybody who would listen
13 that day.” I was even more upset because
14 counsel for the Commission has turned a blind
15 eye to it. And in her opening statement, Ms.
16 DiPalo stated, “In fact, it was Judge Mora who
17 made Koch's private statements about him public
18 when he publicly filed his defamation lawsuit
19 and attached a copy of Ms. Koch's complaint to
20 the lawsuit.” For counsel to knowingly have a
21 copy of the letter that Ms. Koch mailed to the
22 mayor, knowing full well that it was Ms. Koch
23 who made it public the day after filing with this
24 Commission, which is about a year before I filed
25 a defamation suit, and for counsel to state three

1 times that it was confidential and that I made it
2 public is shocking to the conscience.

3 MR. CAMBARERI: Judge Mora, let me
4 interrupt here for a second, please. Your, the
5 letter that Ms. Koch sent to the mayor, when did
6 you become aware of it?

7 JUDGE MORA: We, I became aware of it
8 when my attorney, when we got it through a
9 subpoena, when we subpoenaed her records.
10 That's the only way we found out about it.

11 MR. CAMBARERI: So, that didn't happen
12 prior to the filing of the lawsuit?

13 JUDGE MORA: Correct. It was her public
14 statements –

15 MR. CAMBARERI: – You didn't find out
16 about this public letter to the mayor until after
17 the lawsuit was filed?

18 JUDGE MORA: That is correct.

19 MR. CAMBARERI: Okay.

20 JUDGE MORA: Okay. I brought –

21 MR. CAMBARERI: – When is it, excuse
22 me, Judge –

23 JUDGE MORA: – Yes.

24 MR. CAMBARERI: When is it that you
25 were made aware of any public statements that

1 she made other than the filing with the commi—,
2 the complaint, filing with the Commission?

3 JUDGE MORA: When Michael Brown
4 called me in September of '22, 2022.

5 MR. CAMBARERI: So Michael Brown
6 indicated to you that she was telling some of the
7 people in the office that she filed this complaint?

8 —

9 JUDGE MORA: — Right, she was lying to
10 him and others. He didn't give me specific
11 names at that point. So if I could —

12 MR. CAMBARERI: — Did she then, she
13 had told this information throughout just that
14 individual dental or I'm sorry, eye doctor's
15 office?

16 JUDGE MORA: No, that I didn't know
17 how far it went beyond that at that point.

18 MR. CAMBARERI: Okay.

19 JUDGE MORA: Alright. I brought suit
20 based on what I deemed the false statement she
21 made to Mr. Brown, so that goes right into what
22 you were saying. her former co-worker and the
23 other individuals he said she was defaming me
24 to. To this day, and as I testified in October of
25 last year, I do not know why Mr. Sussman did

1 not draft the complaint that way. He also
2 testified that he could have but did not. And I
3 have citations if you need any of where this is. I
4 brought suit to my, to protect my reputation and I
5 was advised that I legally could do so. I sued
6 because after relaying the facts to Mr. Sussman,
7 he advised that I had a viable defamation suit.
8 When you read all the emails between me and
9 Mr. Sussman, there was not even a hint of a
10 retaliatory motive for the filing of the lawsuit.
11 Mr. Sussman's testimony confirms this. At some
12 point, I asked Mr. Sussman to withdraw the
13 matter. Ms. Koch's attorney demanded a public
14 apology, \$5,000 and an agreement to cease
15 contact with Seeta Eye and Ms. Koch. Instead of
16 advising me to accept the offer or to make a
17 counteroffer, Mr. Sussman advised against it,
18 replying to Ms. Koch's attorney, "We brought
19 the claim, not you. Your client did not
20 countersue. This is not happening. You either
21 agree to his withdrawal or we will litigate the
22 claim." Mr. Sussman's continuing advice to me
23 was that the suit was viable. He advised me that
24 we can defeat the motions to dismiss. He went
25 on further to advise me that he did the research

1 and they're wrong. This is an exception outside
2 of SLAPP or Anti-SLAPP and that we could
3 defeat the motions to dismiss.

4 MS. GRAYS: Judge Mora –

5 JUDGE MORA: – All of this is
6 undisputed.

7 MS. GRAYS: Judge Mora, I just want to
8 ask –

9 JUDGE MORA: – Yes –

10 MS. GRAYS: – A question. I understand
11 what you're saying. You're basing your actions
12 on a legal argument that you had the legal right
13 to do that. Was there a point where you
14 considered the ethical obligations you had and
15 how that could be perceived by the public as
16 being problematic? They don't, the public's not
17 going to know everything that you just shared
18 with us. What the public will see is that you
19 initiated a lawsuit against someone who filed a
20 complaint against you. So, did you consider
21 that?

22 JUDGE MORA: So what the public
23 wouldn't know, because it was a public lawsuit
24 and I didn't even know as it said you can ask for
25 it to be secret, if you will. Mr. Sussman didn't

1 even tell me that. If he said if he said you could
2 make it secret, I would have. They would have
3 seen the testimony that came out as the referee
4 did. And as you read in the transcript that Ms.
5 Koch and it says it, I the what the referee says,
6 he didn't actually say she's not believable, but he
7 did. He veiled it. He said Judge Mora credibly
8 contradicted Ms. Koch.

9 MS. GRAYS: Judge Mora, I'm going to
10 interrupt. That isn't my question.

11 JUDGE MORA: I'm sorry.

12 MS. GRAYS: Right. My question was
13 about the ethical component of this. You're
14 basing your argument on a legal that legally you
15 could act, and we're not going to quibble about
16 whether you could do that or not. But about the
17 appearance of that from an ethical obligation.
18 Did you think about how that would impact the
19 public seeing that you were bringing a lawsuit
20 against someone who filed a complaint against
21 you and this process that we have to determine
22 whether your behavior was ethical or not?

23 JUDGE MORA: So, as I believe Mr.
24 Coffey said, it was because of the public, going
25 public with it, not because it was brought here.

1 So my understanding is if you can legally bring a
2 suit, and that's what the opinion says, Laura
3 Smith from the Advisory is the one that gave me
4 that opinion 12-96 when I called her to ask her if
5 I could bring my federal lawsuit, which was a
6 week or two before I asked Mr. Sussman about
7 bringing this one. She said, do you have an
8 attorney? Yes. Absolutely, a judge, like any
9 other person can bring a lawsuit. Now, if I'm not
10 legally allowed to do something I'm not going to
11 do it. I get that here. So legally, if I was allowed
12 to bring it, I thought the facts would have come
13 out to show that it was ethical to do. So –

14 JUDGE CAMACHO: – Judge –

15 JUDGE MORA: – I hope that answered the
16 question.

17 JUDGE CAMACHO: Did you tell Miss
18 Smith what it is the action that you were
19 contemplating on bringing?

20 JUDGE MORA: So not for this case. It
21 was for my –

22 JUDGE CAMACHO: – No, I understand.
23 But during that conversation, when Miss Smith
24 told you the judge has a right to bring an action,
25 did you tell him, her it, I'm contemplating

1 bringing this particular type of action?

2 JUDGE MORA: No, because at first I was
3 asking her about the federal suit. And it's
4 interesting because the Commission counsel says
5 that that opinion has nothing to do with it. It has
6 to do with the traffic matters. But no, that's the
7 exact opinion, 12-96, that Miss Smith gave to me
8 to bring a federal lawsuit. So I'm confused
9 because if that opinion has nothing to do, if it
10 only has to do with traffic matters as they're
11 suggesting, how can it have anything to do with
12 a federal suit? It's because it doesn't. It has to do
13 with all suits. Judges are allowed to participate
14 as a litigant. That's why I sought the advice of
15 counsel. I didn't do this on my own. So –

16 JUDGE CAMACHO: – Did you consider,
17 I've spoken to Miss Smith numerous times, did
18 you consider saying to her, these are the facts,
19 this is what I'm thinking about doing. What do
20 you think, Miss Smith?

21 JUDGE MORA: At that point? No,
22 because I already talked to her about bringing a
23 suit. I had the opinion which allowed you to go
24 forward if it's a legal basis to go forward. That's
25 what my attorney said I was. If I could go back,

1 of course I would have wrote, I would have
2 written for an opinion. I wouldn't have just
3 asked her. I would have said I would write for
4 an opinion because I've done that in the past. So
5 using hindsight, I would have definitely done
6 that, a hundred percent.

7 MR. BELLUCK: Judge –

8 DR. MOORE: – So, Judge Mora, I'm sorry,
9 Chair, did you want me to wait?

10 MR. BELLUCK: No, the judge is out of
11 time. If you want to ask this last question, that's
12 fine.

13 DR. MOORE: Yeah. So judge, thinking
14 about hindsight, I'm still at charge I. And so, I
15 want to give you an opportunity to respond to
16 this, that all of this, all of it, the defamation suit,
17 the charge III, which is (INAUDIBLE)
18 everything could have been avoided had you
19 complied with a fairly elaborate office policy
20 concerning wearing a mask. You were offered
21 accommodations. You were already in the
22 thicket of having had your children removed
23 from school, you've got the OCA thing going
24 on. You, I want you to respond. You could
25 have avoided all of this by simply going to the

1 parking lot or putting on a mask or offering the
2 medical documentation that was needed. Could
3 you respond to that?

4 JUDGE MORA: Alright, well that there's
5 multiple questions. So regarding the
6 accommodation, there was no accommodation
7 made. So going back to January, that was 11
8 months before, I waited outside because my
9 older son was almost ■ years old. So I said,
10 listen, when I come back for my minor children
11 who I can't leave alone or when I come back for
12 myself for we have to please have something in
13 place. Right after that was done, I waited in the
14 parking lot, alright. My son called me from the
15 exam room and he said I talked to the doctor and
16 I said, okay, awesome, go check out and come
17 on out. When he was there to check out, they
18 said he calls me up and he says, dad, you have to
19 come in and pay. I said, oh, they want me to
20 come in. They know I'm just wearing my shield.
21 He checked with them. I don't know if he talked
22 to Ms. Koch. He may have. And they said, yes,
23 come in. So I said I, I said, this is great. They're
24 accommodating me. So that's where I saw an
25 accommodation and I went into the same area

1 that I just stepped out of wearing my shield. So
2 in my mind, mistakenly, I thought it was all
3 resolved. Now, had Ms. Koch said to me at that
4 point for you to come next time and to make an
5 accommodation, come in with a shield, you're
6 going to need medical documentation, I would
7 have gotten it for her, even though I don't think
8 you're allowed to ask for it. I would have gotten
9 it because I'm not trying to cause a scene. And
10 as I stated, if I could go back, I would have never
11 have gone in there knowing it wasn't resolved.
12 So I went in after this and I called each time to
13 make sure. So I'm still wearing a shield. Yep,
14 everything's all set. Come on in. And I didn't go
15 into a back door the next times I came. I went in
16 right into the front and they let me in because I
17 don't want to cause problems. Now that's
18 number one.

19 Number two, you say why didn't I wear a
20 mask? If, if I could wear a mask, I would have
21 worn a mask. My children were wearing masks.
22 I'm not anti-mask. I could not, my anxiety, I
23 could not wear a mask. I, just thinking about it
24 now I'm starting to feel, I got a panic attack
25 when I was in there when she, Ms. Koch asked

1 me to wear a mask. I'm thinking to myself, I was
2 praying that I could put one on. I couldn't do it.
3 I should have left. I admit that. Right then I
4 should have left and worked it out outside of
5 there or asked her to come outside with me. I
6 didn't do that. I agree that I should have walked
7 out. I lost my train of thought. Did you have
8 another part to that question? So the mask, I
9 couldn't –

10 DR. MOORE: – No, I'm good.

11 MR. BELLUCK: – Okay –

12 JUDGE MORA: – Okay.

13 MR. BELLUCK: Alright judge, thank you
14 so much. Mr. Coffey, I know you reserved five
15 minutes. We, we've let you, both you and the
16 judge go over your allotted time already. So if
17 there's something very brief, you –

18 MR. COFFEY: – There is something very
19 brief.

20 MR. BELLUCK: Okay.

21 MR. COFFEY: Number one, let me just
22 say this. On this question of judicial
23 impropriety, that has not been specifically raised
24 as a different issue. It's a retaliation case. It's his
25 mind to go after her. And by the way, Sussman,

1 when he said optics did not say to him he's a
2 client. That's all he is. Just like you are, me,
3 somebody else going to a closing. He never said
4 it's judicially improper. It's a question. Can you
5 imagine what the Commission would be saying
6 to you if the testimony was that Sussman says
7 you can't bring this lawsuit?

8 Lastly, I'd like to answer, Professor Moore
9 raised an issue about what could have been
10 avoided because the issue is, well, if only you
11 would reach an agreement, if you hadn't done all
12 this, it wouldn't have happened. Well, if she
13 hadn't gone public, if she hadn't told everybody
14 in the world that she knew that he was a terrible
15 human being, we wouldn't be here, wouldn't be
16 here. Or if we're here, we'd be solely on what
17 happened at Seeta. So in terms of what could
18 have been avoided, this train of events was
19 started by her. Thank you.

20 MR. CAMBARERI: Mr. Coffey, who in
21 the whole world did she tell? I mean, your client
22 just testified that a couple of people in the eye
23 doctor's office is the only one who knew about it.

24 MR. COFFEY: No, she said she told
25 Brown, she told co-employees and at her

1 testimony, which discovery would have
2 disclosed, she said and I probably told a lot of
3 other people and I would have told anybody I
4 could have told. Professor Moore, that is the
5 testimony in this case. That is her testimony. I
6 was telling every, everybody I knew. And this is
7 a small town. So just saying, well, you just told
8 a couple of people. These people would who
9 knows who they could have said and the
10 Commission's correct. Who knows how far that
11 seed would have grown.

12 MR. BELLUCK: Thank you. Alright, Mr.
13 Lindner, would you –

14 MR. LINDNER: – Thank you, Mr.
15 Chairman –

16 MR. BELLUCK: – Like your rebuttal
17 time?

18 MR. LINDNER: Yes, thank you. I'd like
19 to quickly respond to some of the questions
20 raised by the members, and then I want to
21 address the waiver of privilege argument that's
22 taken up so much of our time. Ms. Moore had a
23 question about yelling and whether or not Ms.
24 Koch was yelling. The referee's findings of fact,
25 paragraph 6 found, and this is a quote, both

1 parties raised their voices somewhat and that
2 both parties were steadfast in their opinion. I
3 don't think you can conclude from that that she
4 was in some way the aggressor. Judge Fried
5 asked a question about the comment that the
6 Commission was corrupt and counsel suggested
7 that was in relation to the federal lawsuit.
8 Whether that was true or not, the comment about
9 the process being fair was very much about this
10 process. I don't have a page site, but it is in our
11 brief. He sent an email to Mr. Sussman saying if
12 I thought this Commission process would be fair,
13 I would not have brought the defamation suit.
14 Judge Moulton, I don't think we have an answer
15 on how long this time in the Seeta office took the
16 entirety of it.

17 JUDGE MOULTON: On page 179, Ms.
18 Koch says it was 30 to 40 minutes.

19 MR. LINDNER: Well, you're better at it
20 than some of us then. Thank you.

21 JUDGE MOULTON: But I don't know if
22 that was contested by Judge Mora.

23 MR. LINDNER: I don't think it was
24 contested. I, you know, we know that it was
25 about five minutes. We have the recordings

1 from the police and their time stamps, so you can
2 get some of it from that. But in any event, thank
3 you for that and for clarifying the record for me.

4 The waiver argument that has taken so
5 much time is really quite telling that he's still
6 arguing a case that he lost. You know, he's
7 wrong on the law and more importantly, it's
8 irrelevant. On the law. well, we have an
9 argument in our brief which we can go into about
10 whether this privilege is waivable. But even if it
11 were waivable, that's an argument he could have
12 made to Judge Rosa and did not. He just told
13 you that he knew that she had already talked to
14 Michael Brown and that made him mad and
15 that's why he sued. He could have said that she
16 waived the privilege because she made the same
17 allegations to Mr. Brown. They didn't do that.
18 They waived the argument. They lost the case.
19 They didn't appeal. Every first-year law student
20 learns what *res judicata* and collateral estoppel
21 means. The fact that he's still arguing it here
22 suggests to me that there's a paucity of
23 arguments that really address the ethical issues
24 that you have here. But this is the most
25 important part. Even if he was right, even if he

1 could have legally sued her and there was no
2 privilege, it would still be misconduct to do it in
3 this circumstance. Look at your cases in *Matter*
4 *of Tripp*, the judge denied a two-week extension
5 of time to pay a fine. Judges have the absolute
6 right to deny an extension of time. There's
7 nothing wrong about that unless you do it in
8 retaliation for a Commission complaint. And
9 you see that in the other cases. In *Hart*, it was
10 another adjournment case. In *Esposito*, he talked
11 to the assessor about the assessment of the wife
12 of a former colleague that had filed a complaint
13 about them and tried to get the assessment
14 changed. These are all things which judges are
15 permitted to do as long as they don't do this in a
16 way that's retaliatory.

17 There's another aspect to this which we
18 touched on the brief which I haven't mentioned
19 here, and that's that if this suit had gone forward,
20 not only would it have chilled potential
21 witnesses, but it really would have circumvented
22 your process. He's asking for findings of fact,
23 credibility on issues that you are going to have to
24 decide. You know, it's, there's just no way that
25 we could permit a judge to take the issues that

1 are before you and then bring them to some other
2 proceeding to get to, to get a ruling that would
3 somehow be binding on you. So, the waiver
4 argument, you know, the fact that he's still
5 making it, I think tells you that there's really no
6 good defense to the appearance of impropriety to
7 the ethical issue.

8 I'll just say one last thing. Go back and take
9 a look at Ms. Koch's complaint. It's no question
10 that she thought that he had acted badly. He
11 made a scene, he refused to leave. He was
12 unprofessional. She didn't call him a rapist. She
13 didn't call him a murderer. Is that the kind of
14 statement that if a complainant made that really
15 justifies all of this, the anger that was still
16 palpable in the room three years later? It's a
17 complete overreaction. It's the kind of thing that
18 suggests that the judge really doesn't have the
19 temperament to sit on the bench. Tens of
20 thousands of complaints have been sent to this
21 Commission now, many tens of thousands of
22 complaints in the 40 years you've been here.
23 Many of them have been false. Many of them
24 have been malicious. They have been salacious.
25 They have been outrageous. No other judge

1 thought that it was necessary for them to go
2 outside this process to try to find recourse
3 elsewhere. You should remove this judge.

4 MR. BELLUCK: Thank you. Alright.
5 Thank you judge and counsel. And this will
6 conclude the record.

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10 (Whereupon the oral argument was
11 concluded at 11:48 AM.)
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Dated: July 21, 2026

Jocan

JACQUELINE AYALA