

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

----- X

RESPONDENT’S REPLY TO COMMISSION’S PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW

DATED: February 9, 2026

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Respondent, Frank M. Mora, (“Respondent”), by and through his counsel, O’Connell & Aronowitz P.C., submits this Reply to the Commission on Judicial Conduct’s (“Commission”) proposed Findings of Fact and Conclusions of Law for the consideration and inclusion in the referee’s decision regarding the hearing that commenced on October 15, 2025.

INTRODUCTION

As Respondent has conceded, he should have left Seeta Eye Center when he was asked to do so by Ms. Koch on December 28, 2021, even if she was not following the Mask Mandate. Although he was advocating for his minor son to have an eye exam, which was urgently needed due to problems with his eyes, he should have done so with her outside after being asked to leave. His conduct thus violated Rule 100.1.

The facts developed at the hearing, including the relevant legal analysis, support finding a violation of Rule 100.1, but not the other violations alleged by the Commission.

In its submission, Commission Counsel (hereinafter “Prosecution”), repeatedly and often inaccurately summarizes, or wholeheartedly leaves out, purported evidence to exaggerate and embellish Judge Mora’s culpability. By cherry-picking, taking snippets here and there of evidence, and taking things out of context, they completely distort the actual record. Over the course of three days of testimony, the Referee undoubtedly came to perceive a figurative picture of Judge Mora and his actions on December 28, 2021. The portrait the Prosecution attempts to paint with its submission bears no resemblance to that picture. The Prosecution’s portrayal overreaches, distorts, and creates facts not established by the record, and highlights discredited and unsupported accusations. Indeed, the Prosecution goes so far as to suggest that Judge Mora should be found guilty of misconduct not charged in the complaint.

Judge Mora accepts responsibility for not leaving Seeta when asked, but the evidence at the hearing did not prove the other accusations now levied by the Prosecution in its submission.

The Prosecution's introduction is fraught with misstatements and inaccuracies. They claim that Judge Mora knew that his face shield did not satisfy Seeta's masking policy. That is simply not true, as the last time he was there on January 29, 2021, Seeta allowed him in wearing just his face shield. As no one stated that this was a one time occurrence, and no one stated that he would be required to submit medical documentation before entering again, he had no way of knowing that there would be a problem going in again with his face shield.

To say that Judge Mora had never consulted a medical professional about his inability to wear a mask, is plainly false. He consulted Dr. M [REDACTED], and it was determined that wearing the mask was the cause of his symptoms, and not to wear it.

To say that Judge Mora sued Ms. Koch for defamation because of the "corrupt" Commission is a blatant misrepresentation of Judge Mora's testimony. To say that Judge Mora ignored the advice of his counsel (Mr. Sussman) seems to suggest that Mr. Sussman advised Judge Mora that the suit was not proper and not viable. The exact opposite is the case.

THE HEARING EVIDENCE

I. CHARGE I MUST BE VIEWED IN CONTEXT.

Judge Mora did not contact anyone prior to his son's appointment on December 28, 2021, as by going in to Seeta with only his face shield on January 29, 2021, he mistakenly thought that the issue was resolved and would again be allowed to wear a face shield in lieu of a mask.

On January 29, 2021, Respondent never spoke with Danielle Foster, but instead interacted with Ms. Koch. He advised Ms. Koch that he did not medically tolerate a mask, agreed to wait outside, and asked to have something in place for when he came back the next time wearing just

his face shield. His son, [REDACTED], who was wearing a mask, went in by himself for the exam. However, after the exam, Judge Mora was allowed back in the premises wearing only his face shield. Based on this, he reasonably believed that the issue was resolved, and that he would be able to wear the face shield for the next appointment.

The Prosecution misrepresents Mr. Brown's testimony saying it was "embarrassing," to make it look like Mr. Brown was saying Judge Mora's behavior was embarrassing, when in fact he was stating it was Ms. Koch's behavior. Mr. Brown testified, "I apologized to him [Judge Mora] on behalf because it was embarrassing. I apologized." (Transcript: 312)

The Prosecution states that the, "Respondent heard that the police were coming (Respondent: 473-474) and then left the building (Koch: 175; Respondent: 473). That is not what pages 473-474 state at all, and it actually goes onto page 475. Judge Mora specifically testified the exact opposite, that he did not leave because the police were coming, but only after Ms. Koch agreed to have his son's eyes examined if he provided medical documentation.

The Prosecution again leaves out pertinent testimony when describing Judge Mora's level of his voice. They state, "Respondent conceded that the level of his voice may have gotten 'louder than normal talking' but claimed that if it did, it was not intentional, and it happened only because he was 'trying to reason with [Ms. Koch] and explain the situation' (Respondent 390-391)." What they leave out is, "But as you heard on the 911, she kept telling me to stop talking. She was cutting me off any time I even tried to explain the situation, so I was just trying to get her to hear me. So if my voice raised, I didn't do it intentionally. I don't believe it did, but if it did, that would be the reason."

The Prosecution states that, "Although Respondent admitted that he did not leave until after he learned that the police said they were going to send an officer to Seeta, Respondent denied

leaving the premises out of fear that the police would come (Respondent: 390, 473-474).” Again, this is a complete misrepresentation of Judge Mora’s testimony. When asked if he left because he was afraid the police were coming, he stated, “No, of course not. I thought they were coming the first call.” It’s very convenient that the Prosecution does not mention that Ms. Koch gave Judge Mora a business card, that she would see his son if he got her medical documentation, that he got medical documentation moments after leaving Seeta, and that his son was back for an appointment that same afternoon.

The Prosecution’s statement that Judge Mora had not been diagnosed with a condition that made him medically unable to tolerate a mask, is technically correct. However, he specifically testified that Dr. M [REDACTED] was treating him for the physical symptoms that were caused by wearing a mask. By letter dated May 18, 2022, Dr. M [REDACTED] advised the Commission that he was treating Judge Mora, and that once Judge Mora stopped wearing a mask, his symptoms disappeared. (Commission Ex 32, page 76)

The Prosecution claims that the email that Judge Mora sent to Ms. Koch in March 2022, was sent to berate her. That is not the case. The email was sent because Ms. Koch was attempting to kick Judge Mora and his family out of the practice because he could not tolerate wearing a mask. He pointed out that it is, “blatant and outright discrimination ... and a violation of Americans with Disabilities Act.”

The Prosecution keeps stressing the fact that Judge Mora did not have a formal diagnosis on December 28, 2021. Judge Mora did not need a formal diagnosis, and had medical documentation from his treating healthcare professional, Dr. M [REDACTED]. The Prosecution points out that Judge Mora and his doctor are friends. Are they suggesting that you cannot have a doctor who is also your friend? Part of the Prosecution’s job is to obtain the truth, not just to prosecute.

When Ms. Koch demanded a diagnosis from the doctor, he was not able to provide one because he did not have a HIPAA release signed by Judge Mora. There is no testimony from anyone that Ms. Koch even asked Judge Mora to have his doctor provide a diagnosis. Had she done so, Judge Mora could have authorized his doctor to provide her a diagnosis. He also could have declined to provide her a diagnosis, as the ADA protects an individual's privacy. Indeed, the Office of Court Administration itself recognizes this as stated in a memo from the Hon. Joseph Zayas, Chief Administrative Judge, dated March 6, 2024. He states, "As you know, the Americans with Disabilities Act (ADA) protects people from being discriminated against on the basis of a disability and guarantees people with disabilities an equal opportunity to participate in society. ... Some people, particularly those with non-apparent disabilities (also known as invisible disabilities) strongly prefer to keep details about their disability private."

However, Judge Mora did sign a HIPAA release for the Prosecution. They could have easily requested a diagnosis from Dr. M [REDACTED], but they did not. They go as far as to say that Judge Mora's "underlying claim – that he could not wear a mask due to an unspecified "medical condition" – was at best disingenuous, if not an outright fabrication. Had the Prosecution been interested in the truth, they could have deposed the doctor to verify the truth of his treatment of Judge Mora's symptoms as he states in his letter. They did not. They did not even call him to verify these things. Now, for the very first time in their submission, with no testimony or basis in fact, they assert that Judge Mora is making the whole thing up. This is outright insulting.

The Prosecution's statement that "Respondent conceded at the hearing that at the time of his confrontation with Ms. Koch, he had never been evaluated by an medical or mental health professional regarding his ability to wear a mask ..." is simply not true. Judge Mora was treating

with Dr. M [REDACTED] and the symptoms were being addressed (*see* Dr. M [REDACTED]'s letter, Commission Ex. 32, page 76).

Footnote 10 on page 51 of the Prosecution's submission where they state that "It should be noted that Seeta was not legally required to grant Respondent a medical exemption to their mask policy, even if he had presented appropriate documentation" is simply not true. The citing of Doe v. Franklin Square Union Free Sch. Dist. is misplaced. That case deals with a school setting, which is completely different than the case before you. The Doe court held that there was not a fundamental, constitutional right, however, they remanded the matter back to the District Court, as they held that the child's ADA claim should proceed. Seeta is a place of Public Accommodation, as defined by 42 USC, Chapter 126. Section 12181(F) lists, among many other establishments, a professional office of a health care provider. They are absolutely bound by the American with Disabilities Act. The Prosecution's attempt to now try an ADA case in this proceeding, and to do so for the very first time in their submission, is misplaced. In addition, the ADA does not require a specific diagnosis for an individual to be accommodated. Even *arguendo* had a diagnosis been required, Judge Mora could have authorized Dr. M [REDACTED] to provide one.

In *A.A.C. and T.C., on behalf of their minor children G.C. and A.C. v Starpoint Cent. School Dist.* (2025 WL 1201971 [WDNY 2025]), the court held that the school physician improperly second-guessed the treating physician's conclusion. They stated that the statute does not create a system in which school officials are given improper discretion to evaluate the reasons given for a requested medical exemption. The denial exceeded statutory authority ... by substituting its lay judgment for that of a NYS licensed doctor who personally examined A.C. In the case before you, Judge Mora demonstrated that wearing a mask caused headaches and neck pain that substantially limited a major life activity of performing manual tasks. He had a licensed doctor provide medical

documentation that stated he could not medically tolerate wearing a mask. Unlike New York Public Health Law Section 2164(8), (hereinafter “2164”) which authorizes physicians, and which limits the physician’s medical judgment by statute and regulations, the same cannot be said of 10 N.Y.C.R.R. 2.60 – it makes no mention of physician or limitations to the professional’s medical judgment. Once a doctor determined that Judge Mora could not medically tolerate wearing a mask, the Mask Mandate required Ms. Koch to accept the determination. She did not have the discretion to approve or deny exemptions on a case-by-case basis for *any* reason. The Starpoint court quoted We the Patriots USA, Inc., 76 F.4th at 151. As such, the Mask Mandate required Ms. Koch to accept Judge Mora’s valid exemption documentation. She had no authority under the Mask Mandate to second-guess Dr. M [REDACTED]’s healthcare opinion. Nor did she have the right to demand a diagnosis. The same applies to the Commission. Indeed, unlike 2164 which detailed the mechanism to be followed including requiring the parents to provide a completed medical exemption certification form, no such mechanism existed for the Mask Mandate. Whereas 2164 authorizes school officials to ask, “for additional information supporting the exemption,” the Mask Mandate did not. NYS could have written the Mask Mandate to mirror the language of 2164, but it did not. There is nothing in the Mask Mandate that requires the healthcare provider to give a diagnosis, nor even to specify any reason for the exemption.

Judge Mora sought counseling and therapy. Instead of commending him for addressing his condition, all they can do is point out that he started it after being notified of the allegation. For many individuals it takes some event to ignite a spark to seek help. Countless defendants across our great state enter counseling & therapy for drug problems, alcoholism, domestic violence, etc., after they are charged with crimes. The courts routinely encourage and congratulate these defendants for engaging in needed treatment, and for successfully completing therapy. Again, did

the prosecution depose his therapist? No, they specifically chose not to, in order to deny the truth and advance their narrative. Had they deposed her, they would have learned that Judge Mora has struggled with anxiety his whole life since childhood, but was too prideful and embarrassed to get the help he needed.

II. CHARGE II MUST BE DISMISSED.

Respondent explained that Count II must be dismissed because (1) he relied in good faith on the advice of counsel in commencing the defamation action against Koch and (2) Koch waived whatever privilege she may have had by virtue of her filing of the complaint with the Commission by disclosing both the filing of the complaint and the contents thereof to numerous third parties long before the defamation action was commenced. The Prosecution takes the position that, regardless of these defenses, Respondent commenced the defamation action in retaliation for Koch's filing of the complaint, and this fact alone sustains Count II. The Prosecution's position is both factually and legally baseless.

A. The Mere Fact that Respondent Commenced the Defamation Action Does Not Mean that it was Retaliatory.

The Prosecution argues that, because Respondent was allegedly angry with Koch and sought monetary damages, the commencement of the defamation action was retaliatory. In essence, the Prosecution argues that the mere fact of the commencement of the action automatically makes it retaliatory. The Prosecution offers no support for this position.

Obviously, if a judge under investigation commences a lawsuit against the complainant solely because the complainant filed a complaint, such a filing would be retaliatory. That is not what occurred in the instant case. Here, the testimony shows that Respondent did not commence

the defamation action immediately after he learned that Koch filed the complaint. Rather, he filed the defamation action after he learned from Michael Brown that Koch (1) misstated the events in the complaint,¹ (2) told Brown that she filed the complaint to “go after Judge Mora” because of his position on vaccines (Tr. pp. 311-313) and was “trying to destroy [Respondent]”(Tr. p. 410),² and (3) that she published the fact that she filed the complaint and the contents thereof to numerous third parties in violation of Judiciary Law § 45(1).

The timeline of the relevant dates in question supports Respondent’s testimony that the lawsuit was not brought in retaliation for Koch’s complaint filed with the Commission:

- 12/29/2021 – Koch files a complaint against Judge Mora with the Judicial Commission.
- 4/12/2022 – Respondent is made aware of Koch’s complaint when he receives an email from the Commission.
- 8/25/2022 – Koch testified before the Commission.
- Sept. 2022 – Brown tells Respondent that Koch told Brown about the contents of her complaint and brags to him that she was going to get Respondent fired.
- Nov. 2022 – Respondent seeks counsel from Attorney Sussman re potential defamation claim.
- 12/29/2022 – Respondent files defamation lawsuit on the last day of the Statute of Limitations.

When asked whether he intended to bring a lawsuit against Koch prior to his conversation with Brown, Respondent testified “[t]here was no thought in my mind of bringing a lawsuit against Ms. Koch up until that call from Mr. Brown” (Tr. p. 410). Attorney Sussman confirmed in his affidavit that “the first time Judge Mora and I spoke about taking legal action against Ms. Koch, was after Michael Brown appeared before the Commission in or about September 2022.” (*Id.* at ¶

¹ Koch’s description of the incident was directly contrary to the testimony of Respondent and Brown. Further, even if the testimony of Respondent and Brown is ignored, it is apparent from the testimony of Jessica Feather and Karen Monteverdi that Koch’s description of the incident was, at best, a gross exaggeration.

² Koch admitted that she told Brown that she had filed the complaint and that she “probably” also told him that she hoped that Respondent would be removed (Tr. p. 285).

6). Attorney Sussman further confirms that, “... In mid-November 2022, Mr. Mora requested that I work on the SEETA matter...” (*Id.* at ¶ 7). Attorney Sussman confirmed in his hearing testimony that his consultation with Respondent regarding the possible defamation claim against Koch occurred in November of 2022 (Tr. p. 240).

If Respondent’s intent was to retaliate against Koch for filing the complaint with the Commission – as the Prosecution alleges – he would not have waited more than eight (8) months after he found out about her filing the complaint, and four (4) months after she testified before the Commission, before commencing the defamation lawsuit. If Respondent wanted to intimidate or silence Koch, he would have filed the lawsuit before she testified before the Commission. It is apparent that Koch’s mere filing of the complaint with the Commission was not the triggering event for the commencement of the lawsuit.

Importantly, the fact that Respondent is a judge does not prohibit him from commencing a lawsuit. Opinion 12-96 (Respondent’s Ex. G) provides that:

the Rules Governing Judicial Conduct do not preclude a judge from exercising the same rights as any other citizen when appearing as a litigant. For example, the Committee has advised that a judge may commence an action in a court of competent jurisdiction, whether proceeding pro se or through counsel (*see* Opinions 12-41; 09-12; 93-05 [Vol. X]; 90-11 [Vol V] (*Id.*).

The Prosecution offered no proof that Respondent’s purpose in commencing the defamation action was retaliation for the mere filing of the complaint. Rather, the Prosecution tries to infer a retaliatory intent from the fact that Respondent was angry about Koch’s conduct and sought money damages in the lawsuit.

The fact that Respondent may have been angry with Koch does not mean retaliation for the filing of the complaint was the reason Respondent filed the lawsuit—or even one of the reasons. There is no proof in the record that Respondent was angry simply because Koch filed the

complaint. On the contrary, he testified that he had no intention of commencing any action against her after he learned that she had filed the complaint but before he spoke to Brown (Tr. p. 410). What he was angry about was her stated intention to destroy him, her gross misrepresentation of the facts regarding the incident and her publication of the complaint and the contents thereof to numerous third parties, which was in clear violation of the confidentiality requirements of Judiciary Law § 45(1). It can hardly be said that Respondent should not have been upset with this highly inappropriate conduct on the part of Koch.

The fact that Respondent sought money damages does not mean the lawsuit was retaliatory. Obviously, every lawsuit is, in some sense, retaliatory in that the plaintiff feels that he or she was wronged by the defendant and seeks damages that were occasioned by the defendant's wrongful conduct.

The mere fact that a lawsuit is commenced against a party who engaged in protected activity by filing a complaint does not automatically mean that the lawsuit was in retaliation for the filing of the complaint. For example, it is unlawful to retaliate against a person for filing a human rights complaint (*see* Executive Law § 296[7]). To establish retaliation, a complainant must not only show that he or she engaged in protected activity, that the opposing party was aware of this activity and that the opposing party took adverse action against the complainant, but must also establish a causal connection between the protected activity and the adverse action (*see Rosen v Price Chopper*, 239 AD3d 1132, 1135 [3d Dept 2025]). A plaintiff may establish that an action was retaliatory, and thereby demonstrate a causal connection, by showing that the defendant was motivated, in whole or in part, by an impermissible motive (*see Bilitch v New York City Health & Hosps. Corp*, 194 AD3d 999, 1005 [2d Dept 2021]).

Applying these principles to the instant case, a lawsuit against a party who filed a complaint with the Commission would be retaliatory when the purpose is not to seek damages for wrongful conduct but is directed at the fact that the complainant filed the complaint. As explained above, Respondent did not commence the defamation action against Koch, in whole or in part, because she filed the complaint. Respondent did not commence the defamation action immediately after he learned that Koch filed the complaint but only after he learned from Brown that Koch had done so for an improper purpose and that she had published the fact that she filed the complaint and the contents thereof to third parties in violation of Judiciary Law § 45(1). Respondent testified that “[t]here was no thought in my mind of bringing a lawsuit against Ms. Koch up until that call from Mr. Brown” (Tr. p. 410). Accordingly, the Prosecution has not shown that Respondent’s commencement of the defamation action was for an improper motive or was retaliatory.

B. The Commencement of the Defamation Action Did Not Have a Chilling Effect.

The Prosecution argues that Respondent’s commencement of the lawsuit against Koch was retaliatory because it had a chilling effect. There is no basis for the Prosecution’s argument.

In a typical case, a person files a complaint with the Commission and an investigation takes place. During that time, the confidentiality requirements of Judiciary Law § 45(1) protect the complainant, the judge and the process as a whole. In such a case, it can readily be seen that the judge commencing a lawsuit against the complainant solely because the complaint was filed would indeed have a chilling effect. That is not what happened in the instant case.

Koch not only filed a complaint, but she stated to Brown that her purpose in doing so was to go after Respondent because of his position on vaccines (Tr. pp. 311-313, 410), clearly not a proper purpose. In addition, instead of complying with the confidentiality provisions of Judiciary

Law § 45(1), Koch immediately wrote to the Mayor of the City of Poughkeepsie regarding the complaint and then proceeded to tell numerous people including Brown, Feather, (Tr. pp. 41-44, 285), Monteverdi (Tr. pp. 80-81), her boss, Dr. Modi, her husband and her brother (Tr. p. 286) about the complaint.

Further, Koch admitted that such disclosure was not inadvertent but was intentional. When asked whether she told any additional people about the complaint, Koch replied “[o]f course, because it was very upsetting” and “of course I would have talked about it amongst my friends. Absolutely” (Tr. p. 286). Koch testified that “I would probably tell anyone who would listen that day” (Tr. p. 287). She also testified that she did not advise the people she spoke to not to tell anyone else (Tr. p. 286-287).

None of this conduct by Koch was proper conduct in connection with an investigation being done by the Commission. Further, Koch certainly was not chilled by the defamation action because she had engaged in all of this improper conduct well before the lawsuit was commenced.

What is even more troubling is the Prosecution staff’s apparent acquiescence of Koch’s improper conduct. Koch admitted that she advised Commission staff, including its attorney, prior to the hearing that she had disclosed her complaint to the Mayor of Poughkeepsie (Tr. pp. 294-296). Thus, the Commission and its attorney were aware, prior to the hearing, that Koch had not only waived any privilege that it claims protected her but had also violated the confidentiality provisions of Judiciary Law § 45(1). Yet, in her opening statement, the Prosecution’s attorney misstated that Respondent violated the confidentiality provision by commencing the defamation proceeding: “it was Judge Mora who made Koch’s private statements about him public when he publicly filed his defamation lawsuit and attached a copy of Ms. Koch’s complaint to the lawsuit” (Tr. p. 14). Similarly, the Prosecution’s attorney questioned Respondent during the hearing

suggesting that he violated the confidentiality of the Commission's proceedings by filing the complaint (Tr. pp. 553-555) when she was well aware that Koch had destroyed the confidentiality of these proceedings long before Respondent commenced the lawsuit.

If there was any chilling effect from what occurred in this case, it would be on judges who may be the subject of complaints to the Commission in the future. Those judges cannot safely let the process play out as urged by the Commission because they will fear that the Commission will turn a blind eye to violations of the confidentiality requirements of Judiciary Law § 45(1).

**C. Attorney Sussman Did Not Advise Respondent
Not to Commence the Defamation Action.**

The Prosecution attempts to avoid the reliance on advice of counsel defense by arguing that Attorney Sussman advised Respondent not to commence the lawsuit. The Prosecution's argument is based on a misstatement of the testimony.

Respondent retained Attorney Sussman (Tr. pp. 412-413), who was an expert in civil rights litigation and was very familiar with defamation law, having handled 30 to 40 defamation cases (Tr. pp. 215-216). Respondent retained Attorney Sussman specifically to give him legal advice on whether he had a defamation claim against Koch (Tr. pp. 222-227, 250). Attorney Sussman testified that, based on the facts, he advised Respondent that he had a valid defamation claim against Koch (Tr. pp. 224-228) and that he had no doubt as to Respondent's veracity (Tr. p. 225). Sussman testified that, in his opinion, Koch did not have an absolute privilege (Tr. p. 236) and that he did not agree with Judge Rosa's decision to dismiss the defamation action (Tr. p. 231). Respondent testified that Sussman advised him that he had a viable defamation claim against Koch and that he relied on that advice (Tr. pp. 400, 417, 419-420, 504-505, 513, 551). Respondent further testified that, even after the defamation complaint was dismissed, Attorney Sussman was

still of the firm opinion that Respondent had a viable claim (Tr. pp. 422- 424). It is absolutely clear that Attorney Sussman advised Respondent that he had a valid defamation claim against Koch.

The Prosecution selectively quotes from Attorney Sussman's testimony to support its false argument. During cross examination, Attorney Sussman testified about advice he gives to all of his clients prior to bringing defamation lawsuits regarding the practical effect of bringing the lawsuit, as opposed to their legal right to do so. The full text of the testimony is as follows:

Q. ... Mr. Sussman, did you ever warn Judge Mora about the perils of bringing a defamation lawsuit?

A. I remember saying -- I remember saying to Judge Mora what I say to all defamation clients. Which is that when you bring a defamation case, you run the risk of spreading more broadly than was already spread, whatever the alleged defamatory comment is. So I do remember having that kind of conversation. I think I have that with every defamation -- potential defamation client.

Q. And did you ever tell Judge Mora that it may be best just to move on?

A. I mean, it is possible I said to Mr. Mora -- because again, I say to many clients, not only defamation clients, that litigation is difficult, time consuming, emotionally draining process. And that any client should consider that in the context of -- and obviously, in this particular instance, it would be artificial to not consider Mr. Mora had another piece of litigation, which I viewed as a major Constitutional and statutory challenge related to his employment.

And if you would ask me, which would -- you know, which was the primary focus for both of us, it had to be on that one. But on the other hand, I think he did feel strongly about the defamation he believed Ms. Koch had engaged in. And you know, I think the emails reflect that in the November time period. And I didn't I didn't view that as problematic or unusual. Many people who are defamed, frankly, feel that way. So I, you know, wasn't anything unusual, honestly.

Q. No --

MR. BIENSTOCK: Can we go to the next question, please?

BY MS. DIPALO:

Q. Now, Mr. Sussman, before Judge Mora initiated his lawsuit against Ms. Koch, did you ever discuss the optics of a Judge suing the person who complained about them with the Commission?

A. Before? I don't believe so.

Q. And would it surprise you to learn that Judge Mora has said that you talked to him about the optics of bringing a lawsuit against a person who complained to the Commission before he filed the lawsuit?

A. It possible – look, it doesn't surprise me and it's possible that we had such discussions. I know we had such discussions afterwards because Judge Rosa, in our settlement negotiations, was concerned about that issue and raised it. But again, it's an obvious – it's an obvious type of issue, but I don't remember any sustained discussion about it (Tr. at pp. 249-250).

Is it absolutely clear from the testimony that Attorney Sussman advised Respondent that, in his opinion, he had a lawful defamation claim against Ms. Koch. The testimony relied on by the Prosecution simply shows that Attorney Sussman also advised Respondent, like he advised all defamation clients, of the practical difficulties that are encountered in bringing a defamation case.

D. Respondent Relied on Attorney Sussman's Legal Advice.

The Prosecution falsely argues that Respondent did not rely on Attorney Sussman's advice in deciding to bring the defamation action but, instead, acted as his own attorney. This is directly contradicted by the testimony.

Respondent, although a lawyer and judge, was not knowledgeable regarding defamation, privilege or SLAPP lawsuits (Tr. pp. 413, 415, 417, 422, 502, 537). Respondent testified that he was unaware of SLAPP when he commenced the defamation action and did not become aware of it until the motions to dismiss were filed (Tr. pp. 417-418). Further, he had never handled a defamation case as a judge (Tr. p. 560). Respondent retained Attorney Sussman (Tr. pp. 412-413), who was an expert in civil rights litigation and was very familiar with defamation law, having

handled 30 to 40 defamation cases (Tr. pp. 215-216). Respondent retained Attorney Sussman specifically to give him legal advice on whether he had a defamation claim against Koch (Tr. pp. 222-227, 250). Respondent testified that Sussman advised him that he had a viable defamation claim against Koch and that he relied on that advice (Tr. pp. 400, 417, 419-420, 504-505, 513, 551).

Attorney Sussman testified that, based on the facts, he advised Respondent that he had a valid defamation claim against Koch (Tr. pp. 224-228) and that he had no doubt as to Respondent's veracity (Tr. p. 225). With respect to the issue of privilege, Sussman testified that, in his opinion, Koch did not have an absolute privilege (Tr. p. 236) and that he did not agree with Judge Rosa's decision to dismiss the defamation action (Tr. p. 231).

All of the above-described testimony establishes that Respondent did not represent himself but relied on Attorney Sussman's legal advice. Indeed, the fact that Attorney Sussman represented Respondent in the defamation action is confirmed by the fact that Attorney Sussman signed the summons and the complaint as the attorney for the plaintiff (Comm. Ex. 7).

Further, as explained in Respondent's initial memorandum of law, reliance on the advice of counsel is a well-recognized defense. Respondent will not repeat the analysis of the cases cited therein but offers an additional case to support his position.

In *Haywood Lumber & Mining Co v Commissioner* (178 F2d 769 [2d Cir 1950]), the Second Circuit held that mistakes by a tax consultant cannot be imputed to the taxpayer who relied upon the professional advice of the accountant:

[w]hen a corporate taxpayer selects a competent tax expert, supplies him with all necessary information, and requests him to prepare proper tax returns, we think the taxpayer has done all that ordinary business care and prudence can reasonably demand...he affirmatively requested the preparation by his consultant of proper returns. To require Mr. Sprague to inquire specifically about the personal holding

company act nullifies the very purpose of consulting an expert. We doubt if anyone would suggest that a client who states the facts of his case to a lawyer must, in order to show ordinary business care and prudence, inquire specifically about the applicability of various legal principles which may be relevant to the facts stated (emphasis added) (*Id.* at 771).

As in *Haywood*, to require Respondent to inquire specifically about the applicability of various legal principles – of which he was wholly unaware – would nullify the very purpose of retaining an attorney. To impute any mistakes that Attorney Sussman may have made—if he made any—to Respondent would penalize Respondent for retaining an attorney and relying upon the attorney’s professional advice.

Moreover, as discussed in detail in Respondent’s initial memorandum of law, the Prosecution is incorrect in concluding that, merely because Justice Rosa dismissed the defamation complaint, it was filed in error. One of the primary bases of Justice Rosa’s decisions was that “until [Respondent] filed this lawsuit, [Koch’s] statements and the Commission’s proceedings with respect thereto were confidential and non-public” (Comm. Ex. 15 at p. 4). It later became clear that these statements were manifestly incorrect. As the proof at the hearing established, it is undisputed that Koch published the fact that she filed the complaint with the Commission and the sum and substance of the complaint to a large number of parties long before Respondent commenced the defamation action, including the Mayor of the City of Poughkeepsie (Tr. pp. 190-191, 284-287), and she conceded that, in so doing, she made the complaint public (Tr. p. 287). In addition to the mayor, Koch admittedly published the fact that she filed the complaint with the Commission and the sum and substance of the complaint to Michael Brown (Tr. pp. 285, 313-315, 319, 337), Jessica Feather (Tr. pp. 41-44, 285) and Karen Monteverdi (Tr. pp. 80-81). Koch admitted that she also told her husband, her boss, Dr. Modi, and her brother that she may have told others (Tr. pp. 286, 289). In response to questions whether she told any additional people about

the complaint, Koch replied “[o]f course, because it was very upsetting” and “of course I would have talked about it amongst my friends. Absolutely” (Tr. p. 286). Koch testified that “I would probably tell anyone who would listen that day” (Tr. p. 287). She also testified that she did not tell the people she told not to tell anyone else (Tr. p. 286-287).

E. The Defamation Action Was Not an Attack on the Commission.

The Prosecution contends that Respondent’s commencement of the defamation action against Koch was somehow an attack on the Commission itself. There is absolutely nothing to support the Prosecution’s argument.

The defamation action was commenced against Koch based on her conduct and had nothing to do with anything done by the Commission. First, Koch’s description of the incident in her complaint, when compared to the descriptions of all of the witnesses at the hearing, was, at best, a gross exaggeration and, at worst, an outright misstatement of the facts. Secondly, as described in detail above, Koch told numerous third parties that she had filed the complaint and the contents of the complaint long before the action was commenced, and she admitted that she did so intentionally because, notwithstanding the confidentiality requirements of Judiciary Law § 45(1), she felt she had a right to tell anybody who would listen. Finally, the testimony of Brown makes it clear that Koch’s purpose in filing the complaint was to go after Respondent because of his position on vaccines. It is apparent from these facts that the defamation action was directed solely against Koch’s improper conduct and was not an attack on the Commission.

F. Respondent’s Intent Is Crucial to Count II of the Charges.

The Prosecution claims that the advice of counsel defense is inapplicable because Respondent’s intent is not relevant. This argument is without merit.

The entire basis of Count II of the charges is that Respondent commenced the defamation action against Koch in retaliation for her filing a complaint with the Commission. Respondent's intent in bringing the defamation action obviously is crucial to determining whether the commencement of that action was retaliatory. Indeed, the Commission concedes, citing case law, that litigation may be considered retaliatory if motivated, even partially, by a retaliatory animus (Commission Post-Hearing Memorandum at p. 59). A person's intent is crucial to determine his or her motivation. The only way to determine whether a person's motivation for an action is retaliatory is to determine the intent of that person. Because the entire basis of Count II of the charges is that Respondent's commencement of the defamation action was in retaliation for Koch filing a complaint, Respondent's intent in doing so was unquestionably relevant.

III. CHARGE III MUST BE DISMISSED.

The Prosecution's attempts to portray Judge Mora as intentionally withholding the missing emails fails. The Referee is in the sole position to rule on Judge Mora's veracity. After hearing Judge Mora's testimony, and viewing his demeanor and credibility, there can be no doubt that the missing documents were a mistake. When you view each of the missing documents, you see that there is no reason why Judge Mora would not include them.

Judge Mora does not deny that certain emails were not turned over, however, the Prosecution is distorting the record, making it appear as if it was done intentionally. Judge Mora's submission on January 12, 2026, which summarizes the testimony, clearly shows that it was a mistake. Not one of the missing emails is relevant to whether Judge Mora initiated the defamation suit in retaliation for Ms. Koch filing a complaint with the Commission. The following address each missing email and corresponds to the Exhibit in the Formal Written Complaint:

Exhibit 8

Respondent's Exhibit H address these two (2) November 23, 2022 missing emails. Mr. Sussman stated, "There are a few earlier emails from Frank to me. I will send them to you." Judge Mora responds, "Also, we need to see those emails that he mentioned ... because I could not find any prior to the December 8th email." Judge Mora was never provided these emails from either Mr. LaVeglia or Mr. Sussman.

There is no reason for Judge Mora to withhold these emails, as they corroborate both his testimony, and Mr. Sussman's testimony, that Judge Mora contacted Mr. Sussman in November, 2022, regarding bringing suit against Ms. Koch, which is after Mr. Brown spoke to Judge Mora about the statements made to Mr. Brown by Ms. Koch.

Exhibit 9

Judge Mora's belief that, "Since she knew almost a year before the confrontation that I did not medically tolerate the mask, I believe she had this all planned," has no relevance to initiating a retaliatory suit, as this email was sent on February 2, 2023, which is 13 months after commencement of the suit.

Exhibit 10

On page 44 of their submission, The Prosecution states, "Respondent testified that this email and its attachment was 'missed'". Again, the Prosecution misstates the testimony. The email was not missed; it was turned over. Only the attachment was missed. There are two (2) attachments with this February 7, 2023, email. To see exactly what Judge Mora redacted, you must look at Exhibit 10 of the Formal Written Complaint, where the email is numbered 19 in the bottom right corner. That email shows two (2) redactions. In the body of the email, the following

was redacted, “Any word on the federal preliminary injunction?” And at the bottom of the email, only one (1) of the attachments was redacted, “Judicial Conduct Commission Reply with Exhibits 6-17-22.pdf.” As can be seen, Judge Mora did not redact the missing attachment, “Answer to Koch Motion to Dismiss.” If he was intentionally leaving that out of the submission, why would he not redact it from the email, or withhold the email altogether? The answer is simple, that was not his intention. He credibly testified that it was an oversight. It was due to human error. When you read the attachment, it clearly shows it is exculpatory in nature. It states that the lawsuit was “specifically brought after I found out she testified before the commission and then bragged to her former co-worker Michael Brown that she told the commission that she felt threatened by me, and that she was going to get me removed from the bench.” Regarding his meaning behind the “process not being fair,” he states, “I would have gladly waited until the commission was through to bring suit against Koch, however, the one year SOL prevented that.”

Exhibit 11

This email stated that, “The corruption doesn’t end!” It has no relevance to initiating a retaliatory suit and will be addressed in Point IV below.

Exhibit 12

This email speaks to Mr. Linder’s comments to Judge Rosa in oral argument and has no relevance to initiating a retaliatory suit. Judge Mora testified to this. (Respondent: 547). It is also addressed in Point IV below.

Exhibit 13

The redacted part was upon the advice of counsel, and is part of the discovery dispute. The statement, “This is a proverbial witch hunt,” has no relevance to initiating a retaliatory suit and will be addressed in Point IV below.

Exhibit 14

This email refers to oral argument at the defamation suit. It has no relevance to initiating a retaliatory suit.

Exhibit 15

As in Exhibit 12 above, this email relates to Mr. Linder's comments to Judge Rosa in oral argument and has no relevance to initiating a retaliatory suit. Judge Mora testified to this. (Respondent: 547). It is also addressed in Point IV below.

Exhibit 16

The redacted part related to the Commission, and was redacted upon the advice of counsel as Judge Mora did not waive his attorney-client privilege regarding Mr. Sussman's pro-bono advice regarding the Commission proceedings. It has no relevance to initiating a retaliatory suit.

IV. THERE IS NO BASIS FOR THE CLAIM THAT RESPONDENT IS A CONSPIRACIST.

The Prosecution attempts to paint Judge Mora as a conspiracist. He is not. Because someone thinks there is corruption, does not make him a conspiracist. Judge Mora's thoughts about corruption are completely irrelevant to the three charges, however, since the Prosecution is trying to again enflame the Commission Members, we will address it here.

The Prosecution again twists Judge Mora's words. He was not saying the Commission is corrupt; he was specifically referring to certain things that OCA and the Prosecution were doing. As he pointed out, "It has nothing to do with the retaliation suit. ... It has to do with my thoughts to my attorney, a private conversation, that I think there's corruption going on." (Respondent: 453) He further stated, "... when I say 'Commission,' I'll say the Prosecution because I don't know if

the Commission members know what's going on.” (Respondent: 548) With this submission, the Commission Members now know.

By leaving out the meaning of “the process being fair,” the Prosecution continues to twist Judge Mora’s words, and take them out of context, making it look like he brought the defamation suit against Ms. Koch because he thinks the Commission is corrupt. He explained that this “is shorthand because I’m not going to keep repeating what I said to him [Mr. Sussman] in the attachment. You have to go back to the attachment now.” The Prosecution did not want Judge Mora to read from the attachment, as that confirmed his statement. Judge Mora insisted, and then read it, as follows: “I would gladly have waited until the Commission was through to bring suit against Koch. However, the one-year statute of limitation prevented that. And that further goes back to my conversation when I talked about bringing the suit, how the process isn’t fair, that they can drag it past the one year, and then I would not bring suit.” (Respondent: 456-457) The only thing Judge Mora was referring to process-wise not being fair, was that the Commission proceeding did not toll the Statute of Limitations, and he needed to proceed while it was still pending. This has nothing to do with corruption. The corruption he was referring to is explained in depth below.

Judge Mora is referring to two separate issues in his email (Comm Ex 25) to Mr. Sussman. The Prosecution is conflating Judge Mora’s statements to make it look as though he was referring to Ms. Koch and the Koch lawsuit regarding “the proverbial witch hunt,” when he was referring to his not getting the Covid shots because he refused to renounce his religious beliefs.

The Prosecution, by Mr. Levine, went to great lengths to keep the Referee and Commission Members from hearing about the following case that they are currently holding in abeyance. He claims, “that anything to do with a matter that’s been held in abeyance - - that’s not before you at

all. The court system isn't before you. Vaccination isn't before you. There's not one word of vaccination in that complaint. In fact, we just spoke about the necessity of having things within the four corners. ... Judge Mora's involved in litigation against the Office of Court Administration, and his lawsuit is pending before the Second Circuit – United States Court – Second Circuit Court of Appeals. So based on all that, the Commission held that in abeyance. ... And I submit to you – meaning that we're not holding a hearing about whether the Judge violated OCA's vaccination rules. It's not before us.” (Hearing Transcript pages 122-133)

Mr. Levine, by his own words above, states that, **“Vaccination isn't before you. There's not one word of vaccination in that complaint.”** Then, in an attempt to poison the Referee and Commission Members, the Prosecution puts in their submission papers the following under Charge I on page 6, “Respondent, who was unvaccinated” Then again on page 8, “Respondent, who was unvaccinated... .” They then put it in Appendix A at paragraph 8, “Respondent, who was unvaccinated” (emphasis added)

Regarding holding the “vaccination” matter in abeyance, Mr. Levine, by his own words above, states that Judge Mora's involved in litigation against the Office of Court Administration, and his lawsuit is pending before the Second Circuit – United States Court – Second Circuit Court of Appeals. **So based on all that, the Commission held that in abeyance.**” (emphasis added) This is simply not true, as will be shown below.

Respondent started to point out what he believes is corruption until he was cut-off by the Referee. Before being cut off, he was able to offer the following, which has been expanded to fill in the gaps resulting from not being able to testify fully (Respondent: 547-550):

1. Edward Linder, Esq., Of Counsel to the Commission, goes into open court and on the record tells Judge Rosa that Judge Mora has other complaints and issues that we are dealing with, which is a violation of the Commission's own confidentiality rules.
2. Judge Mora has a pending Commission investigation that was initiated by Lawrence Marks dated January 6, 2020 [sic 2022], who was Chief Administrative Judge for OCA at the time. In the letter, he states, "Poughkeepsie City Court Judge Frank Mora submitted a request for a religious exemption. That request was ultimately denied on December 23, 2021, and in accordance with stated policy Judge Mora was required to submit proof of COVID-19 vaccination (one dose) within ten days. As of this date, Judge Mora has failed to do so. Accordingly, I am referring this matter to the Commission for its consideration and appropriate action."
3. On March 30, 2022, Judge Mora received correspondence from the Commission dated the same day, File No. 2021/N-1176, that he was under investigation because he, "failed to comply with an administrative mandate requiring that all judges and employees of the Unified Court System be vaccinated against COVID-19, after your request for a religious exemption to the vaccination requirement was denied."
4. Judge Mora emailed Mr. Levine on April 7, 2022, advising him that he had a pending religious discrimination claim against OCA with the NYS Division of Human Rights and the Equal Employment Opportunity Commission. Judge Mora respectfully requested that the investigation be held in abeyance until his administrative and legal remedies have been exhausted.
5. Judge Mora was advised by several attorneys that the Commission routinely holds matters in abeyance when there are things of this nature pending.

6. By letter dated April 12, 2022, Mr. Levine advised that they would not “adjourn your (Judge Mora) response until the disposition of the above matters (meaning until after Judge Mora’s religious discrimination claims and legal remedies were exhausted). Mr. Levine further stated, “The Commission’s jurisdiction is independent from the jurisdiction of the Human Rights Commission or the civil courts, and the questions raised in those fora are separate and distinct from the issue of judicial misconduct.”
7. Several hundred employees of OCA, both judicial employees and non-judicial employees were granted religious exemptions based on submitting a single statement, and then answering five questions.
8. These several hundred employees were asked no additional questions, nor were they required to provide ANY other documentation. However, that is not the case for Judge Mora.
9. Unlike these several hundred employees who were allowed to go to work, Judge Mora was banned from entering his courtroom, his chambers, and EVERY OCA run court facility in all of New York State, for 13 ½ months from January 4, 2022, until February 17, 2023, the date OCA was forced to allow him back to work because Judge Mora filed a federal lawsuit and asked for a preliminary injunction. The day before OCA was required to answer the preliminary injunction and to explain why Judge Mora was banned, while every other unvaccinated person could enter his court, it ended the vaccine mandate for the court system in the entire State of New York.
10. During this time (13 ½ months) Judge Mora was even banned by OCA from attending judicial training in a private hotel.

11. At least three of Judge Mora's co-workers, who had similar beliefs as Judge Mora, were allowed to work in the courthouse, and were not banned.
12. As the Prosecution would not hold this investigation in abeyance, Judge Mora was forced to answer several questions from the March 30, 2022 inquiry, regarding his religious beliefs.
13. By submission dated June 17, 2022, Jude Mora advised the Prosecution that he is a devout Catholic. He advised that he would not vaccinate due to his core religious beliefs, and that vaccination is repugnant to his religious beliefs. He advised that taking the vaccine would permanently damage his soul and relationship with God. He advised that he has not, and cannot, receive the COVID-19 vaccination due to his deeply held, sincere, and genuine religious beliefs. He also provided the Prosecution with his submission to the NYS Division of Human Rights, where he went into great detail about his religious beliefs. He asked that it be reviewed since it demonstrated how deeply his religious beliefs are.
14. Was any of this sufficient for the Prosecution to stop pursuing and persecuting Judge Mora for not renouncing his religious beliefs? Did the Prosecution then hold the investigation in abeyance pending his federal suit which was filed on December 6, 2022. The resounding answer is, No!
15. On November 14, 2022, although Judge Mora applied for a religious exemption and not a medical exemption, the Prosecution then demanded Judge Mora provide ALL medical records from anyone who has ever treated him from January 1, 2011 (at that time that would have been close to twelve years of medical records). They demanded ANY and ALL medical and health records for anyone Judge Mora had seen, including

- health care professionals, doctors, physician assistants, nurse practitioners, osteopaths, ophthalmologists, chiropractors, psychologists, hospitals, pharmacies, urgent care clinics, and health insurance carriers. They demanded that HIPAA release forms be signed for all the above.
16. The Commission and Referee are reminded that all of this is because Judge Mora has religious beliefs to not vaccinating, and it has nothing to do with a medical exemption. Nonetheless, and although Judge Mora's children have absolutely nothing to do with this issue, in that same letter, the Prosecution demanded the names and dates of birth of his children, the names and addresses of all schools they have attended and dates of attendance, and why they left school in 2019.
17. Although the above is extremely invasive and irrelevant to the issue, the Prosecution then had the audacity to demand Judge Mora's children's medical records regarding any and all vaccines they have received. They demanded that Family Educational Rights and Privacy Act release forms be signed.
18. In that same letter, the Prosecution then demanded Judge Mora to provide ALL of his childrens' medical professionals and health care providers, doctors, physicians' assistants, nurse practitioners, osteopaths, hospitals, urgent care clinics and pharmacies, from whom his children received treatment, services or medications, between January 1, 2011, and the present date (close to twelve years). They demanded that HIPAA release forms be signed so they could obtain all the above information.
19. On January 13, 2023, by another submission to the Prosecution, including a seven page letter, Judge Mora further explained his religious beliefs, and why his religious beliefs absolutely forbid him from taking the vaccination.

- a. He provided a letter from his doctor attesting to the fact that he has not received a vaccination from October 24, 2011 (the time he started seeing this doctor), to present, due to his religious beliefs.
- b. He provided a letter from his children's doctor attesting to the fact that his children have never been vaccinated (from birth to present) due to their father's religious beliefs.
- c. He advised the Prosecution that his oldest child received a religious exemption from college regarding the Covid shots based on the same religious beliefs that were passed down from his father.
- d. He submitted a letter from a priest who has known him since birth, attesting to the fact that, "He is very serious about his beliefs ... and his religious beliefs have become central to his judgments for his family and himself. I would certainly attest to his sincerity."

20. Did the above put an end to the Prosecution's persecution of Judge Mora? It did not. By letter dated February 9, 2023, they continued to demand all of Judge Mora's medical records. They also demanded a "sworn and notarized statement" from the children's doctor verifying that each of Judge Mora's children has never been vaccinated. They also demanded all of his children's homeschool records for several years, seeking such personally invasive information including:

- a. Any and all written notices of intent to educate the Mora children at home submitted to the superintendent of the school district.
- b. Any and all records of attendance maintained for the Mora children.

- c. Any and all annual assessments for the Mora children submitted to the school district.
 - d. Any and all written acknowledgments by the school district that the Mora children are not registered in public and/or non-public school.
21. Again, no other employee that received an exemption, judicial or non-judicial, was required to do any of this.
22. On March 28, 2023, Judge Mora's attorney (LaVeglia) objected to providing the Prosecution with 12 years of his medical records, which would have encompassed every facet of medical treatment, pointing out that this information was completely irrelevant to his religious beliefs. Mr. LaVeglia pointed out that if letters from two medical doctors licensed to practice medicine in the State of New York and Judge Mora's priest since birth – in addition to the documentation and HIPAA releases already provided – is not enough, then nothing will be. Judge Mora's averments are internally and externally consistent. Judge Mora also provided a sworn and notarized letter from his children's physician. Mr. LaVeglia pointed out that the doctor already gave a letter, and that demanding the letter to be sworn and notarized flies in the face of an impartial investigation. In addition, of the dozen or so letters provided by Judge Mora, none other than this one was required to be sworn and notarized. Judge Mora provided it even though the Prosecution had no basis to question Judge Mora's veracity nor the averments of the children's doctor.
23. Regarding the demand for all of the children's homeschool records, in lieu of that, Judge Mora provided a letter from the Superintendent of Schools for the Poughkeepsie City School District confirming that Judge Mora was in compliance with all of the

regulations of the Commission of Education of the State of New York regarding homeschooling.

24. In this same letter, Judge Mora advised the Prosecution of his federal lawsuit for religious discrimination. He then provided the Prosecution with a sworn and notarized statement from another OCA employee with the initials M.S., who applied for and received a religious exemption based on almost identical religious beliefs as Judge Mora. Judge Mora compared his statement with M.S.'s statement, along with answers to the five (5) questions, and they were practically identical. M.S. was granted an exemption, and Judge Mora was denied. He provided the Prosecution with a New York State Public Relations Board (PERB) order dated February 24, 2023, ordering OCA to cease and desist from unilaterally imposing the COVID-19 shots. These employees who were fired were ordered to be made whole, by bringing them back to work, along with other relief.

25. Mr. LaVeglia pointed out that, "At this point, no rational person can justifiably question that Judge Mora holds genuine and sincere religious beliefs regarding not vaccinating. ... For this Commission to continue with its investigation into this file, and not outright dismiss it, would continue the blatant and outright religious discrimination against Judge Mora, and would continue the blatant intrusion and entangling of church and state prohibited by the First Amendment. It would be nothing more than a witch hunt. To continue to seek Judge Mora's medical records for the past twelve (12) years, would be nothing more than a fishing expedition, as the Commission has no basis or grounds to believe Judge Mora has violated his religious beliefs. In addition, it is not "judicial

- misconduct” for Judge Mora to refuse to be vaccinated against his religious beliefs, just as it is not for the other judges whose religious exemptions were approved.”
26. After sending that March 28, 2023 letter, the Prosecution held in abeyance the demand for Judge Mora’s medical information and HIPAA authorizations, “while we pursue other lines of investigation.” At this point, the Prosecution did not dismiss the matter, nor did they hold the investigation in abeyance.
27. On October 10, 2023, the Prosecution again demanded ALL of Judge Mora’s medical information and HIPAA releases.
28. On October 11, 2023, Mr. LaVeglia advised the Prosecution that he is “unable to grasp how the information requested is relevant.”
29. On October 13, 2023, the Prosecution advised they want to confirm that Judge Mora has “not received a vaccination for anything since turning eighteen (18) years old, ...”
30. On November 2, 2023, Mr. LaVeglia objected to the Prosecution’s demand that Judge Mora turn over medical records going back over a decade, covering every conceivable medical decision he has made. Mr. LaVeglia pointed out that it was irrelevant to the allegations lodged against Judge Mora. He pointed out, “For instance, how is medical records from an ophthalmologist related to Judge Mora’s religious based objections to vaccination? His ophthalmologist does not prescribe or administer vaccinations.” He stated, “If the Commission’s request is to determine Judge Mora’s veracity, then we respectfully request the Commission’s permission to provide HIPAA authorizations limited to Judge Mora’s vaccination history.” He pointed out further that, “Judge Mora has affirmed at least three times that he does not vaccinate a healthy body due to his religious beliefs.” He went on to state, “Further, Judge Mora has affirmed that he has

not received a vaccination for anything since he was eighteen (18) years old. The Commission is in receipt of a letter from [his doctor] – Judge Mora’s primary care physician – that Judge Mora has not been vaccinated since at least October 2011, because of his religious beliefs. Furthermore, Judge Mora also provided a sworn and notarized statement from his children’s doctor ... stating that they have never vaccinated his children due to his religious beliefs. Judge Mora has explained his religious beliefs *ad nauseum*. As necessitated by the Commission’s continued inquiries Judge Mora is providing the Commission with his affidavit submitted in his reapplication for a religious exemption dated September 1, 2022, see Exhibit 1. In addition, Judge Mora is providing the Commission with the National Catholic Bioethics Center guidance statement, dated July 9, 2021, titled *Vaccine Exemption Resource for Individuals*, as Exhibit 2.”

31. On November 16, 2023, the Prosecution stated, “The Commission’s request was intended to corroborate Judge Mora’s assertion that he ‘has not received a vaccination for anything since turning eighteen (18) years old’ because his religious beliefs ‘do not allow a healthy person to take drugs.’”

- a. This cannot be true, as if it was, the Prosecution would have asked for limited HIPAA authorizations limited to vaccination history.
- b. The Prosecution then stated, “As a first step, the Commission is willing to accept your proposal ... to disclose only those records related to his receipt or declination of any vaccine from January 1, 2011, through the present. The Commission reserves its right to reassert its original request after review of

those records and any additional information we receive in the course of our investigation.” Meaning, the persecution of Judge Mora will never end!

- c. The Prosecution also demanded HIPAA authorizations from every health care provider and every health insurance carrier since January 1, 2011, “in order [to] insure we have a complete record of the judge’s vaccination history.”
- d. Again, it must be pointed out that no other judicial employee or non-judicial employee that was approved for the exemption was required to do any of this.

32. On December 4, 2023, Judge Mora provided limited HIPAA authorizations for “Vaccination Records from January 1, 2011, to Present.” He also provided HIPAA authorizations for his insurance carriers for the “Names and Addresses of All Health Care Providers and Entities that Billed for Treatment or Services between January 1, 2011, to Present.” He also provided a HIPAA authorization for OCA to release the “Names and Addresses of All Health Insurance Carriers that have Provided Coverage to Patient Between January 1, 2011, to Present.”

- a. It must be pointed out that no other judicial employee or non-judicial employee that was approved for the exemption has been put through such an invasion of privacy.

33. On February 27, 2024, Judge Mora gave testimony to the Commission, where he was grilled for over an hour regarding his religious beliefs and his refusal to renounce those beliefs and get vaccinated.

- a. No other judicial employee or non-judicial employee that was approved for the exemption has been put through this.

34. On January 23, 2025, the Prosecution advised Judge Mora that the “vaccination” matter is being held in abeyance.

35. Even after Judge Mora provided proof-after-proof-after-proof of his genuine and sincerely held religious beliefs to the Prosecution, instead of dismissing the complaint, they are now holding it in abeyance pending the federal suit, the very thing they said they would not do on April 12, 2022, nearly four (4) years prior.

As shown above, Mr. Levine’s words and reasoning for why the Prosecution held the “vaccination” matter in abeyance ring hollow. Had it been the case that the Prosecution was holding it in abeyance pending Judge Mora’s resolution of his civil remedies, they would have done so on April 7, 2022, when Judge Mora advised that he was pursuing religious discrimination claims. They did not do so, and have only done it after persecuting Judge Mora for close to four (4) years, because they can come to no other conclusion than Judge Mora does not vaccinate due to his sincerely held religious beliefs.

It again bears repeating that no other employee, judicial or non-judicial, that received a religious exemption (and there are several hundred), was put through what Judge Mora has been put through. ALL these religious exemption approvals were based solely on one statement and answers to five (5) questions. ALL these statements and answers were taken at face value of the individual’s veracity, with no further inquiry being made. Not for Judge Mora.

Pointing out discrimination and the fact that OCA banned him from his courtroom for 13 ½ months while granting several hundred religious exemptions, OCA firing over 200 employees because they would not get Covid Shots in violation of their rights, only to be forced to offer them their jobs back, OCA to then refer his refusal to get Covid shots against his religious beliefs to the

Judicial Commission, and to have this Commission continue to persecute him by not dismissing that baseless complaint and holding it in abeyance, is not a conspiracy.

Based on what OCA and the Prosecution have put Judge Mora through for nearly four (4) years now because he did not, could not, and will not renounce his religious beliefs and get the Covid shots, he relayed his belief that there is corruption to his retained attorney in a private email. This would have remained private, but for the Prosecution making it part of the record. Although that email, and Judge Mora's personal beliefs are completely irrelevant to these proceedings, the Prosecution has attempted to attribute those beliefs to the reason why Judge Mora brought a defamation suit against Ms. Koch. Cherry picking testimony, and taking snippets of evidence completely out of context, will not make that true. The record clearly shows that Judge Mora brought the defamation suit after Mr. Brown told him of Ms. Koch's statements, and it was brought upon advice of counsel.

The Prosecution's attempt to poison the minds of the Referee and Commission Members against Judge Mora fails. Is Judge Mora not allowed to privately think that OCA and the Prosecution are corrupt? Is the Commission now the Thought Police, as described in George Orwell's 1984?