STATE OF NEW YORK
COMISSION 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 **VERIFIED ANSWER**

NAITA A. SEMAJ

a Justice of the Supreme Court,
12th Judicial District, Bronx County,

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I, Naita A. Semaj affirm the following is true:

Opening Statement

1. This Answer is respectfully submitted to The Commission in response to the Formal Written Complaint dated January 21, 2025. I admit to introductory statements in the Complaint at page 1, paragraphs 1 through 4.

2. Further, after review of the record, I admit that the transcripts provided, and citations made thereto, reflect my recorded statements as transcribed.

3. I apologize to the attorneys that I offended and admit that I committed actions did not adhere to specified provisions of the Code and Rules of Judicial Conduct.

4. I acknowledge that the expiration of my tenure at Bronx County Supreme Criminal Term does not moot judicial misconduct.

5. I understand that upon review, the Commission may dismiss this matter, or the Commission may determine that I be removed. I maintain that I handled the referenced matters in accordance with the law and New York State Constitution.

6. I maintain that I am fit to continue in office.

7. I acknowledge that sanctions for my past behavior may be appropriate.

8. Although I pray that the Commission favors sanctions of admonishment, or censure over removal; I will accept the Commission's determination.

I
IN RESPONSE TO CHARGE

9. I plead in general here, and more specifically below. I deny the allegations set forth in the complaint, page 2 at paragraph 5 to the extent that I was not impatient, undignified, discourteous, or otherwise disrespectful toward and biased against assistant district attorneys [ADA's].

10. After review and retrospection, I admit, however, that I appeared to be impatient, undignified, discourteous, disrespectful, or bias.

11. I deny speaking in an impatient and discourteous matter; I deny advocating for the defense; I deny failing to afford the prosecutors the opportunity to be heard.

12. I admit that I mischaracterized certain policies from the Bronx District Attorney's Office.

13. I admit ejecting – but I deny unjustifiably ejecting - ADA's from my courtroom; and I deny acting inappropriately.

Specifications

People v S[redacted] S[redacted]

14. Summarily, I plead the following:

    a. Admit to: ¶ 6, 7, 9, 11, 12, 15, 16, 18, 30, 33

    b. Admit, *in part*: 8, 10, 13, 14, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 34, 36

    c. Deny: 10, 29, 31, 32, 33, 35

15. S[redacted] S[redacted] was a defendant youth. It was DA's position that Mr. S[redacted] should face a term of 7 years' incarceration. It was as my position that the ADA's assigned were unprepared and that the suggestion of 7 years of prison for this youth defendant was unjustified.

16. Here, I am accused of being unprofessional and discourteous to Complainant during plea deal discussions.

17. I admit to paragraph 8 to the extent that I restated ADA's offer of seven years in jail and I asked ADA's to "help me understand how you got there."(Exhibit 1, 2:18-24).

18. I admit that I asked counsel about counsel's familiarity with the video and that I questioned counsel's interpretation of the video. (¶ 9).

19. I made the statement in paragraph 10; however, I deny any sarcasm.

20. I admit that while I attempted to finish my statement, I cut off ADA's statement. (¶ 13). I responded to ADA as alleged; however, I misinterpreted ADA's statement, "okay" to mean that it is "okay" to be violent. I maintain that violence is not acceptable. (¶ 14).

21. The record correctly reflects that I apologized for summoning ADA Kharkover while he was at a meeting. I did not intend to be sarcastic. I admit that I stated to ADA Kharkover that he, "should already have all the information prior to deciding that this young person should sit in jail for seven years..." (Exhibit 1, 6:2 – 6:24). My concern was that ADA's assigned should be fully familiar with the facts, offer and allegations.

22. I admit that the record reflects my statement. Although stated colloquially, I intended to pose a counter-hypothetical to ADA Kharkover's position and I wanted to direct counsel to the video which demonstrated that others were the initial aggressors. (¶ 18).

23. I acknowledge that the time and location of my statements were not optimal. I yield to the Commission's determination of the same. I maintain that ADA's assigned should be familiar with the facts, plea offer and allegations. I also believe that ADA's should be able to qualify their recommendation when challenged.

24. I also maintain - and the People do not dispute - that the felony complaint was drafted as if S[redacted] was the only individual engaged in unlawful activity. I acknowledge that this is not the forum to relitigate the matter; therefore, I respectfully request that the Commissions view the record regarding my position that there were additional individuals engaged in unlawful activity to determine if my reaction to the events was justified, albeit subjectively obtuse under the totality of circumstances. (¶ 19).(Exhibit 1, 8:5-19)

25. I admit that the video was played to the grand jury; but I disagree with ADA's presumption that "[t]here is no question that the grant jury of aware of [the video]." (¶ 20) (Exhibit 1,8: 20-23).

26. I admit that I stated, "[S[redacted]] chased down the person who goes to the left. The fact that he's chasing down the person who, quite frankly, tried to kill him, is not necessarily, mind blowing." (¶ 21) (Exhibit 1, 11:24 – 12:1- 3). The parties do not dispute that the initial aggressors were armed and "came into the store to "attack [S[redacted]]"). (Exhibit 1, 12: 3-9).

27. It must be noted that the record accurately reflects that Mr. Kharkover proposed a prison sentence of 7 years, he did so in a concerningly arbitrary manner: shrugging his shoulders and not addressing his proposal directly to me.

28. I accused Mr. Kharkover of misusing the courts' time. In response, Mr. Kharkover stated "clearly" four times. As such, one must be true: either Mr. Kharkover *agrees* with my statement or Mr. Kharkover's statement was a sarcastic rebuttal. (¶ 22; Exhibit 1; 7: 17 – 24).

29. I admit to the statements presented at paragraph 23; however, I offer that Commission consider my complete statement as follows:

> "But the realty is if you're going to make an offer it should be based on all of the facts; all of the circumstances. It really should. It should not be based on just a snapshot of a moment in time. Context matters. Context 100 percent matters. Seven years in jail based on what I saw in this video? I am not excusing the fact that he had a gun. There is nothing in the firing of the gun that seems as if it's anything besides panic. I don't even see how you gather intent to do anything besides stop the attack. Stop the attack. I don't see how you even got there."

(Ex 1; 13: 17 – 14:2)

30. I admit to the statements presented at paragraphs 24 and 25; however, ask that the Commission consider my subsequent statement which cites my ultimate concern that:

> "There should be a good faith basis for every single thing an attorney steps into a courtroom and says, on the record. Every single thing. It should never be: My supervisor told me to or, well, this is what they said. There should be a good faith basis. Because regardless as whether you started as an ADA yesterday, last week or last month, you're a lawyer. You're a lawyer. And lawyers should never walk into a courtroom and make an argument that's not based on good faith."

(Exhibit 1, 14 : 23 – 15:6)

31. I admit to the statements presented: however, I offer my complete, statement which is summarized by an ellipsis: "[b]ut it is still a crime. And this is not the first time that this happened in this part." (¶ 26)(Ex 1, 16:14-15).

32. I acknowledge that I stated, "[a]nd to just turn a blind eye to other crime; I can't even begin to wrap my brain around it." (¶ 27) I made this as a general statement. I acknowledge that the content was directed to ADA, and I affirm that my statement's context was not aimed at the ADA.

33. Further, please consider my full statement. I opined that:

> "Mr. S[redacted] was trying to save himself and trying to stop anything else from happening. The same cannot be said for those other people [who] went in the store. The same cannot be said of them at all. And with all that in mind, the facts of seven years in jail is what y'all gave the audacity to come in here with a straight face and then try to talk to me like I'm an idiot..."

(Ex 1, 20:10-13).

34. I admit to the remainder of ¶ 27, however I offer my complete statement not submitted, so to present context:

> "Your office, chooses to see things through a certain lens and once you've decided who the bad guy is then that's the lens you stick with. Because I've watched the same videos that you've watched and, clearly, walked away with different impressions. So you telling me what a video shows means nothing to be. Either you provide the video and I get to determine for myself what the video shows or we are not talking about it."

(Ex 1, 20:25 - 21:7)

35. I made this statement in response to ADA's statement:

ADA Kharkover	Your Honor, there's also additional video surveillance." (Ex 1, 20:14-15)
Me:	Which you need not tell me about because you have not provided it to me.
ADA Kharkover	But, Your Honor, that's part of this case.
Me:	...The fact that you tell me a video shows X or Y means nothing to me because it's already [determined] obviously, because the way the felony complaint is drafted. And it's already [determined] obviously, the way you described the video that we've all saw; ....that you, your office, chooses to see things through a certain lens and once you've decided who the bad guy is then that's the lens you stick with.

(Exhibit 1, 20:14-25).

36. ADA Kharkover admitted that the additional video, while important, was not provided when he stated "I can provide the video, Your Honor, if you'd like to see it. (¶ 28) (Exhibit 1, 21:9-10). I am the finder of fact and believe that is

within my discretion to weigh the strength of evidence presented and question why all evidence may not have been presented.

37. In response to ADA's statement regarding adjourning the matter for two weeks (Exhibit 1, 23: 1 – 6), I stated that I am "not inclined to continue to have this hang over his head; I'm not inclined [adjourn for two weeks]." (Exhibit 1, 23: 7-9).

38. I stated that "There's no reason to drag something on when we know the ending is going to be the same." (Ex 1, 23: 25 – 24:2). The outcome that I referenced was that "the representative of the higher ups...wasn't moving from the seven years [offer]." For ADA Kharkover to offer as what appeared to be a guess, "would he be willing to take five years?"(Exhibit 1, 23: 19-24) was arbitrary, capricious, and not based on the totality of circumstances. Since the plea offer will not change, there was no reason to delay the proceeding.

39. I deny or need more specific information regarding the accusation that I stood up at the bench, removed my mask, and pointed and yelled at ADA's Couce and Kharkover, with spittle visibly emanating from my mouth.(¶ 29).

40. I am 5'1". Standing at the bench would undermine an attempt to impose authority while, in comparison, I sit higher atop on a chair. I deny that spittle emanated from my mouth. As presented, this accusation compares me to a rabid animal. This comparison is unwarranted.

41. In the Complaint, it appears that I presided over this matter on April 4, 2022 and on April 5, 2022. To clarify, on April 5, 2022, I adjourned the matter to May 12, 2022. (Complaint, page 11, paragraphs 30-35).

42. I admit to the statement made, citing transcript, in paragraph 36 however, I ask the commission to consider my response. I adjourned this matter to May 12, 2022. I adjourned because a material term in the plea offer was materially altered. Therefore, I stated:

> " So while I understand that ["S[redacted]"] is still interested in the offer and willing to plead to the entire indictment that's not what was previously discussed and I do want to make sure that he is making an informed decision and that he has time to really think about what he's doing so we're going to put this over for May 12 at 10:00 a.m. for possible disposition. (Exhibit 2, 3: 10-16).

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People v K[redacted] C[redacted]

43. Summarily, I plead the following:

- **a.** Admit to: 37, 38
- **b.** Admit, *in part*: 39
- **c.** Deny: 42, 44
- **d.** Deny, or *need info:* 40, 42, 43

44. Here, ADA Clement alleges that I belittled her. I apologize for my responses to her requests for me to confirm that I will email the decision to another attorney at the DA's office. Regarding context, it is my position that my refusal to email another ADA from ADA Clement's office was discretionary and justified.

45. On October 14, 2022, at a calendar call, ADA Clement and Defense Counsel Dula gave their appearances. (Exhibit 3, 2: 1-8). Ms. Clement stated that she was ready. (Exhibit 3, 2: 11 -12). The following interaction transpired while ADA Clement was reclined in her chair with phone in hand to her ear:

ME: This matter is on for decision. Have you

	received a copy of the decision?
Counsel Dula:	Yes. Thank you.
Me:	So the defendant's motion to dismiss is granted. The people have 45 days to re-present. So, we are going to come back on November 30th to see if it's actually re-presented. Is that a good date?
Ms. Dula:	Yes.
Me:	How is 10:00 o'clock?
Ms. Dula:	That's fine.
Ms. Clement:	What type of motion was that?
Me:	It was an Omnibus.

(Exhibit 3, 2: 13-25).

ADA Clement:	Was a decision sent to ADA Gattus?
Me:	The decision is right there on the table.
ADA Clement.:	I know. Was an electronic copy sent to ADA Gattuso?
Me:	I am not his secretary. The case is on right now for decision. The decision is right there.
ADA Clement:	I understand. Is a copy going to be sent to ADA Gattuso?
Me:	You can send it to the ADA. What is happening right now?

(Exhibit 3, 3: 9-19)

46. It must be noted that when I asked whether the parties received a copy of the decision, ADA Clement nodded her head, which I interpreted as an affirmative answer.

47. Also, it was my custom and practice to leave written decisions on each parties' table.

48. The need for clarification may have been caused by Ms. Clement's phone distraction.

49. In addition, Ms. Clement demonstrated unfamiliarity with the motion (Exhibit 3, 2: 24), the reason for adjournment (Exhibit 3, 3:6-7), or the status and location of the decision (Exhibit 2, 3: 9-17).

50. Regarding paragraph 40 of the complaint, I did not yell at ADA Clement. However, I admit to the remaining portion of the transcript citied.

51. I deny the conversations between ADA Clement and Bureau Chief, ADA Susanna Imbo. I admit that ADA Imbo entered the courtroom with ADA Clement.

52. Upon entry, ADA Imbo stopped at the rail, then I asked her to step up to the bench.

53. Instead, ADA Imbo approached the ADA table, turned to the Court Reporter, and while pointing at the reporter with voice raised, demanded that the reporter place this "on the record, I want this on the record".

54. I requested that ADA Imbo state her name on the record; however, she refused. Instead, ADA Imbo raised her voice at the Court Reporter and, again, demanded the reporter to place this matter on the record, insisting:"I want this on the record".

55. Thereafter, I asked that she step out and return when she is willing to address me and not yell at the Court Reporter. ADA Imbo then left the part while making statements that I do not recall. She did not return.

56. I deny the statements presented in paragraph 44, both in "words" and "substance". (page 14, paragraph 5). I admit that ADA Clement returned to my part for a hearing. Prior to that hearing, another ADA indicated that Ms. Clement wanted to apologize. As such, I asked that Ms. Clement approach.

57. When Ms. Clement approached, she explained her perspective and indicated she accepted a new job offer elsewhere. I accepted her perspective, I let her know that I am happy to move forward, and I wished her well at her new position. Then, I proceeded with the hearing.

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People v Tyresse Minter

58. Summarily, I plead the following:

- **a.** Admit to: ¶ 45, 46,
- **b.** Admit *in part*: 48, 49
- **c.** Deny: 42, 44
- **d.** Deny or *need info:* 47,

59. Mr. Minter is an adult defendant. On the day of his matter, upon information from the parties and court staff, he appeared in court before lunch and remained seated in the part for several hours waiting for his case to be called.

60. It was Claimant's position that a victim's mother has the right to appear in Court at arraignment and that right cannot be infringed by Mr. Minters constitutional rights.

61. It is my position that the due process rights afforded at arraignment, as to Mr. Minter, are paramount.

62. On October 14, 2022, this matter was on for a return on an arrest warrant and arraignment.

63. I do not have enough information to confirm that ADA Conway planned seating arrangements or his reasonings. (page 15, paragraph 47).

64. I admit that the case was called late in the afternoon, after the Court Officers confirmed that everyone was present and ready to proceed. After the matter was called, all parties put their appearance on record: Defense Counsel by Ms. Prakash and Mr. Miram; Office of the District Attorney by ADA Mohta (page 16, paragraph 48, sentence 1) (*see* Exhibit 4: 1-13).

65. I admit that when the matter was called and when ADA Mohta answered, ADA Conway was not in the courtroom. (page 16, paragraph 48, sentence 1).

66. I deny or do not have enough information to confirm whether the victim's mother had arrived (id).

67. I admit that I asked a Court Officer to find ADA Conway (page 16, paragraph 48, sentence 2).

68. I did not point and yell at ADA Conway. (page 16, paragraph 49, sentence 1).

69. When ADA Conway advised that "the mother of the victim is in the building, walking down the hallway," I responded, "What does that have to do with what we are doing here? I understand that you might want her to be sitting here in the courtroom, but what does that have to do with the actual task at hand?" (page 16, paragraph 49, sentence 2) (Exhibit 4, 3: 2 -10).

70. To clarify my statement, it is my position that the constitutional and primary purpose of an arraignment is to ensure that a defendant is afforded due process; however, I admit that I should have been more receptive to the rights of the victim's mother and ADA Conway's preference to have her present at arraignment. If ADA Conway asked me for this specific preference, I would have granted the preference, so long as it would not prejudice or infringe on Mr. Minters right to due process.

71. I admit to the statements quoted and transcribed in paragraph 49, and cited at Exhibit 4, 2:14 – 4:5. I add that after I made this statement, ADA Conway stated that he is ready to proceed and gave his appearance on record. (Exhibit 4, 4: 6-10).

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People v Maurice Baptise

72. Summarily, I plead the following:

- **a.** Admit to: ¶ 50, 51, 52, 54
- **b.** Admit, *in part*: 53, 55, 56
- **c.** Deny: 57

73. It is Claimant's position ADA Fiorenza's request for a bench warrant was denied without cause.

74. It is my position that I denied ADA Fiorenza's application after I applied CPL § 530.60(1) and CPL § 510.50(2) to the facts presented.

75. I admit to the statements presented at page 17, paragraph 53; however, ask that the Commission consider the entire statement made by ADA Fiorenza, which is not accurately cited in the complaint. What ADA Fiorenza stated on record was:

> "[...] I believe this is now the third date the defendant has not appeared. On the last two court dates, I believe counsel said that she made contact with her client. BCS has indicated that there was supposed to be some additional sessions of programing that defendant had yet to complete as of September 16. The assigned has a note for us to ask for a warrant today. Given the fact that we have no medical documentation of the defendant's whereabouts, I would request a warrant."

(Exhibit 5, 3:1-9).

76. It must be noted that Defense Counsel made this statement:

> "[...] He had previously been in a motorcycle accident. That's why he has not been able to make it to court. He thought that he was going to be able to get a ride today, but the ride fell through, he informs me. He actually sent me some photographic evidence that supports his knew injury, for what it's worth. But we would be asking for an adjournment for him to be able to come to court and resolve the case. (Exhibit 5, 2:16 – 3:19).

77. As such, and respectfully, I proffered that ADA Fiorenza should have reviewed Defense counsel's claims prior to making a warrant application.

78. Also at page 17, paragraph 53, sentence 1, Complainant references that its request for a bench warrant is consistent with CPL § 530.60 (1), which reads as follows:

> Whenever in the course of a criminal action or proceeding a defendant is at liberty as a result of an order of recognizance, release under non-monetary conditions or bail issued pursuant to

> this chapter, and the court considers it necessary to review such order, whether due to a motion by the people or otherwise, the court *may*, and except as provided in subdivision two of section 510.50 of this title concerning a failure to appear in court, by a bench warrant if necessary, require the defendant to appear before the court. Upon such appearance, the court, for good cause shown, *may* revoke the order of recognizance, release under non-monetary conditions, or bail. If the defendant is entitled to recognizance, release under non-monetary conditions, or bail as a matter of right, the court must issue another such order. If the defendant is not, the court may either issue such an order or commit the defendant to the custody of the sheriff in accordance with this section. Where the defendant is committed to the custody of the sheriff and is held on a felony complaint, a new period as provided in section 180.80 of this chapter shall commence to run from the time of the defendant's commitment under this subdivision. (CPL § 530.60[1], emphasis added).

79. The CPL § 510.50(2) reads:

> *Except* when the principal is charged with a new crime while at liberty, absent relevant, credible evidence demonstrating that a principal's failure to appear for a scheduled court appearance was willful, the court, prior to issuing a bench warrant for a failure to appear for a scheduled court appearance, *shall* provide at least forty-eight hours notice to the principal or the principal's counsel that the principal is required to appear, in order to give the principal an opportunity to appear voluntarily. (CPL § 510.50[2], emphasis added).

80. The Complainant is correct that ADA Fiorenza's application was made pursuant to CPL § 530.60(1), but Complainant does not evidence any exception set forth in CPL § 510.50(2). Therefore, it was within my discretion to order a bench warrant. Information as to Maurice's whereabouts was made available by Ms. Scheck and not reviewed by ADA Fiorenza prior to her application for a bench warrant. (Exhibit 5, 2:16 – 3:19). As such, the request was denied.

81. I admit to the statements presented at page 17, paragraph 55; however, ask that the Commission consider my entire statement:

> "If somebody is not physically capable of getting here today because he just had his knee drained, which is something defense counsel said on record -I don't believe she said on the record about his knee being drained – what is the point of coming back in a week, because in week we are probably going to hear the same thing. Make records that are consistent with facts and reality. Like you are asking for a warrant – warrants are not so cops can go drag somebody in because you want them here faster. Warrants are because someone chose simply not to come to court. Nothing in that record indicates that he chose to simply not come to court."

(Exhibit 5, 3:21-4:7).

82. I admit to the transcript cited presented at page 18, paragraph 56; however, ask that the Commission consider the entire statement made by ADA Fiorenza, which is not accurately cited in the complaint.

83. Specifically, defense counsel had pictures of their client and his injuries on her phone, both of which defense counsel allowed ADA Fiorenza the opportunity to review. ADA Fiorenza did not reiterate that the reason she requested either a short adjournment or medical documentation providing some assurance of the defendant's whereabouts was due to his chronic history of failing to appear.

84. ADA Fiorenza did not affirm or cite any history of chronically failing to appear.

85. Instead, what ADA Fiorenza stated on record was, "I am asking for a short adjournment for information or medical documentation providing some assurances of where he is. That's it, just considering his history of court appearance." (Exhibit 5, 4:12-18).

86. I did not make any statement under my breath or off record as alleged in paragraph 57.

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People v S[redacted]-P[redacted] [redacted] and M[redacted] M[redacted]

87. Summarily, I plead the following:

a. Admit to: ¶ 59, 61, 69

b. Admit, *in part*: 63, 64, 65, 66

c. Deny: 62, 68

d. Deny or *need info:* 58, 60, 67

88. In this matter, there were three individuals charged.

89. S[redacted]-P[redacted] and M[redacted] were adults. The third individual was a minor and his case was removed to Bronx Family Court.

90. It is Claimant's position that dismissal against S[redacted]-P[redacted] and M[redacted] was unwarranted because there were 3 individuals in the car, more than one person may jointly possess a weapon, multiple defendants may be prosecuted for possessing the same firearm, and that ADA Miller did not requisition or receive the records from the Family Court to confirm that the third-party admitted liability.

91. All parties acknowledge that the third-party was a juvenile, that the issue of the admission of juvenile's gun possession was heard by the Family Court, that the juvenile admitted to possessing the firearm; and the Family Court rendered a decision and sentence. Further, all parties acknowledge that this matter was before the court for at least eight months and adjourned at the People's request at least twice to adjourn "for dismissal" (Exhibit 6, 3: 21).

92. The People, during the prior appearances, repeatedly stated their intent to dismiss this matter as to the charged adults, based on the youth's guilty plea. Further, the People stated that they would request the dismissal once the People confirmed the youth was sentenced. I agreed to the Peoples' position as did defense counsel. Dismissal as sought by the People was warranted and appropriate by issue preclusion, as there was one gun charge and one juvenile suspect who admitted to possessing the gun.

93. I admit to the procedural posture as presented at paragraph 58, sentences 1-3; and I deny or do not have necessary information to confirm the portion alleged in parenthesis at page 19, paragraph 58, sentence 4. Specifically, prior to calendar call, I was not advised about ADA Miller's leave of absence or return.

94. I deny or do not have necessary information to confirm ADA Miller's ability to obtain Family Court records to confirm that a juvenile had been sentenced in his Family Court case or that the People believed that receipt of the sentence was prerequisite to dismissing the charges against S[redacted]-P[redacted] and M[redacted]. (page 20, paragraph 60).

95. I offer, however, that this matter was adjourned multiple times for the DA's office, not a particular ADA, to obtain the Family Court records and sentence. (page 20, paragraph 60).

96. In Exhibit 6, 3:8 – 4:2, defense counsel specifically stated:

> "Your Honor, this case has been before Your Honor for a very long time. This is a three-defendant case. There are two defendants before Your Honor. There is another defendant that was ultimately – they had a case in Family Court because of his age, and he took a plea and was convicted. I believe on this case, there was an

> allocution. There was a video where, basically, it shows that that particular [juvenile defendant]... in Family Court. And there was a video that shows him taking and switching jackets, and it's on video, and that was made known to the People. I think there have been two or three prosecutors, all of them each time we come to court saying that we are adjourning for dismissal. This case is really not just an injustice for the attorneys, the judicial economy, but my client has a job that he is missing, and I know he is supposed to be excused today. But, this has been going for approximately eight or nine months, and someone else already took the weight and took the gun. I just don't understand why we are here."

(Exhibit 6, 3: 8 – 4:2)

97. To which ADA Fiorenza responded, "Judge, unfortunately, this case has recently been reassigned again to ADA Samantha Miller. The note that from her is that she is asking the Court for a brief adjournment so that she confirm sentencing on the codefendant in Family Court." (Exhibit 5, 4: 4-8).

98. Then, I stated and inquired that: "We have had this conversation on at least two appearances, likely three appearances. So why hasn't she confirmed that before now?" (Exhibit 5, 4:9-11).

99. In response, Defense Counsel Mr. Ferris noted that, "[This] is probably the third time we have the same status, which is an adjournment for dismissal purposes on the next adjourned date. So I think that this is at least the third time that myself and co-counsel have been here." (Exhibit 5, 4:20-25).

100. Defense counsel, Mr. Gross, added that the Family Court is next door and not out of state, and raised an issue in this matter regarding 30.30; to which ADA Fiorenza said: "Judge, the assigned, like I said, was recently just assigned this case. The prior ADA did not leave her the contact information for the Family Court Attorney."

101. As such, at ADA Fiorenza's request, I adjourned for second call at 2:15pm.

102. I did not yell at or berate ADA Miller for emailing me at 2:02pm with a request that I sign off on the "so ordered" subpoena for Family Court records as alleged in Complaint, page 21, paragraph 62.

103. Instead, I cited the procedural posture, on record:

> "I didn't request that you reach out to Family Court. I requested that you come back, either you or a supervisor come back with a dismissal because this has been on for possible disposition August 18th. It was adjourned to August 29th for possible disposition. August 29th it was adjourned for[sic] today for possible disposition. And we are in the same ["stage of litigation]--- literally, it's like Ground Hog Day. We are having the same conversation which we had back in August today.
>
> Quite frankly, you sent an email to me at 2:02 this afternoon, and your email reads: 'This case is on the calendar today, and it was requested that I go to Family Court to request information regarding the current status of former co-defendant case, which was removed to Family.'"

(Exhibit 5, 7:18 – 8:6).

104. I admit to the transcript cited at page 22, paragraph 63 (Exhibit 6 8:13-16); however, I ask that the Commission consider the entire recorded dialogue between ADA Fiorenza and myself, which is not cited in its entirety in the complaint. What I stated on record was: "Any and everything that happened today could have been and should have happened since August." (Exhibit 6, 8:11-12).

105. I acknowledge that the juvenile was sentenced one week earlier and I believe that ADA Miller was out of office during that week due to a family

emergency, as alleged at page 22, paragraph 64. I also admit that I described the DA Office's action as "disingenuous and ridiculous."(page 22; Exhibit 6, 10: 9-10). I ask that the Commission review my entire statement to ADA Miller as follows:

> "And your office has been aware of this [issue] for months now. That is the point. It is not necessarily about you. It is about the fact that your office has been aware of it. While you are standing here right now, and while she is in here right now, I was here on the last date in August. He was here on the last date in August. His client was here on the last date in August. And we had a whole entire discussion on and off the record about what needed to happen, and that's why this date was picked. This date was specifically picked because it was after sentencing. And you said – whoever was here on that date said that they would have the information, they would make sure they would get it for defense counsel and be here so we can move forward today. That is the representation that was made in August, and we are literally here in the middle of Octoberand it's just, oh, I will give you a subpoena and try to get the information. Do you realize how disingenuous and ridiculous that is?" (Exhibit 6, 10:10 – 11:13).

106. I maintain that a request for a subpoena 15 minutes before a 2nd calendar call on the 3rd date of an adjournment is disingenuous and concerning because it negatively impacted due process of the Defendants and did not support the best interests of the People.

107. I admit that I stated that the People "have dragged their feet" and that the People did not do "the bare minimum" (Exhibit 6, 11: 13-14.) and that '[i]t could have been done, but the lack of any desire to get this done is mind blowing to me[;]" (page 22, paragraph 64) however, I ask the commission to consider my entire response regarding this statement where I reference the delay and explain the bare minimum:

"The position from the People since August has been it's going to be dismissed as to H[redacted] and M[redacted]. That has been the position. And knowing that that's the position, the fact that it's not getting done strictly because...[the People, have dragged their feet and not done the bare minimum, because the bare minimum is literally what you did between the first and second [calendar] call which was make a phone call and prepare a subpoena, which could have been done."

(Exhibit 6, 11: 9-17).

108. In paragraph 65, ADA Miller is misquoted. ADA Miller did not say that she was not in possession of any "proof that would conclusively establish that the separately-charged juvenile had taken responsibility for possessing the firearm." This allegation does not corroborate with ADA Miller's statements on record, whereby ADA Miller alleged:

"Your Honor, I have no notes as to any – the only thing that's mentioned in my file – I don't have any minutes from Family Court. IT appears that he took responsibility for the gun from a note. That's all I have. I don't have any minutes. I don't have any disposition."

(Exhibit 6, 13:12 – 17).

109. I maintain and stated that:

"A [certificate of disposition] is not required by law. A DOR is something your offices like[s] to have. You could reach out to your supervisor or chief and give me a reason why this case should not be dismissed today, because it's been the People's representation that these cases are being dismissed. It's been the People's representation. It's been the People's representation they – I deferred to the People, and you said ["dismissal"] has to be after sentencing. I deferred to the People, it's now after sentencing and, alas, we are here with nothing, nothing. And the only reason why I am getting this so-ordered subpoena, the only reason any phone call was made today is literally because of the second call, not even because of the first call. The first call, it was simply a status sheet saying I need more time.

(Exhibit 6, 12:13 – 13: 2).

110. I believe that the matter should have been dismissed especially because the ADA's requested 3 adjournments for the specific purpose of dismissal.

111. I apologize for my statements. I did not make my statements with sarcasm or condescension.

112. I admit that this matter was adjourned a third time for ADA Miller's supervisor ADA Villaverde to appear, as per Complaint, page 23, paragraph 66, sentence 1. I deny screaming while ADA Miller called ADA Villaverde.

113. I also deny or need more information as to whether ADA Miller was crying outside of the courtroom when ADA Villaverde arrived, as alleged in paragraph 67.

114. I deny stating in sum or in substance that "I don't care what [Ms. Miller's] issues are[,]" at Complaint, page 24, paragraph 68.

115. I admit that at 3rd call, I signed the subpoena and I adjourned this matter at the People's request, without bias. (Complaint, page 24, paragraph 69).

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People v J[redacted] L[redacted]

116. Summarily, I plead the following:

- **a.** Admit to: ¶ 70, 71, 72, 73, 75, 76, 78, 79, 80, 81
- **b.** Admit, *in part*: 77
- **c.** Deny:

d. Deny or *need info:*

117. J[redacted] is a youth defendant. I believe he was 17 years old at the time of the calendar call.

118. It is the People's position that Mr. L[redacted] was previously accused of domestic violence and that jail was recommended.

119. It is my position that ADA Castrellon did not present evidence of prior domestic violence, and that if there was indeed, domestic violence, the ADA did not proceed in accordance with pre-requisite recommendations; did not conference with an ADA for DV; and was not prepared to provide any additional or factual background regarding past incidents.

120. I admit that I made the statements cited on page 25, paragraph 74 and quoted from Exhibit 7, 7:3 – 7:10, that I expressed concern with ADA Castrellon's recommendation of a prison sentence, and I deny asking why ADA Castrellon had not requested that the Defendant participate in a program, as stated in complaint, page 25, paragraph 74.

121. Instead I stated that "If the People's position is that there is a history of domestic violence, I would think that the People would have at least asked or expected him to engage in some services related to [domestic violence]." (Exhibit 7, 5:25 -6:3).

122. I ask the commission to consider my entire statement regarding this claim.

123. I admit to the transcript as cited in the complaint on page 27, paragraph 77 (Exhibit 7: 10:14 – 12:22); and I submit that the Commission review my next statement that, "[j]ust because there is a history of domestic

violence – I would think it would be more appropriate for a DV assistant to be here."

124. I did not insinuate that ADA Castrellon acted in bad faith as alleged in paragraph 78. Instead, it must be noted that ADA Castrellon agreed with my statements and said "...[j]udge, I don't disagree." (Exhibit 7, 13:1).

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People v J[redacted] J[redacted] and People v W[redacted] A[redacted]

125. Summarily, I plead the following:

- **a.** Admissions to: ¶ 82, 84
- **b.** Admission *in part*:
- **c.** Deny: 83, 85
- **d.** Deny or *need info:*

126. It is the People's position I was rude or discourteous and made inappropriate statements to ADA Kurteva.

127. It is my position that I was not rude, inappropriate or discourteous.

128. I did not say "in words or substance" what is alleged in the complaint at page 29, paragraph 83.

129. I did not make the statements alleged in the complaint at page 30, paragraph 85.

130. I admit, however, that ADA Kurteva voluntarily announced to me, without prompting, that she was pregnant. I also admit that after ADA Kurteva told me that she would be going on leave shortly, that this was her first child, and that she was excited and nervous about labor. I admit that I should not have engaged in any conversation with ADA Kurteva about her pregnancy.

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Other Matters

131. Summarily, I plead the following:

a. Admissions to:

b. Admission *in part*: ¶ 87

c. Deny: 86, 88

d. Deny or *need info:*

132. I deny asking ADA Levi Stoep the question presented in paragraph 86 and I deny asking ADA Levi Steop to answer any racially charged question.

133. I admit to the allegation made in paragraph 87; however, I add that Administrative Judge Alvin Yearwood repeatedly indicated that I was excelling in my position.

134. In fact, AJ Yearwood praised my handling of the Youth Part, openly and during judges' meetings. He further indicated that he was moving me to a "gun part" because, "the press is not going to leave you alone and you don't need the stress".

135. After several months, and moving along many cases in the part, Judge Yearwood created a new Trial Part specifically for me to preside over.

136. I was assigned my first trial and the only impediment to starting that trial was a shortage of officers to staff the part.

137. Judge Yearwood also indicted that he wanted me to sit with him to observe how he handles jury selection. At no time did Judge Yearwood, or anyone else, indicate that any reassignment was based on poor performance.

138. I advised Judge Yearwood that the press regularly discussed me, waited around my home, and followed me around my neighborhood.

139. Judge Yearwood, was also aware of a Facebook group, joined by current and retired Court staff. The Group shared derogatory and threatening messages about me. I reported this Group to Judge Yearwood who indicated that he would report the matter to the Inspector General. I state this so as to demonstrate that any reassignments - within Supreme Court - were relayed to me as being due to the press, my safety, and the high quality of my work.

140. I deny paragraph 88, in general, and to the extent that I offer this Answer as my defense. I respectfully request that the Commission allow me to amend my Verified Answer if new information or facts arise, if I made any scrivener errors in drafting or if I misquoted the record.

End Statement

141. I understand that the following may not justify as a defense, however, I ask that the Commission consider the following in its decision.

142. I am embarrassed. My transcribed words explode with the howling's of a phantom and yields collateral resonance. A resonance that pierces the reader's ear, penetrate ADA's spirit, and paralysis my consciousness.

143. To the DA's office and attorneys: I take responsibility and address my actions. Although it is difficult to address my past self, it is necessary to keep honored the professional relationships that I cultivated on my journey to the bench. I understand that it is *even more* difficult for attorneys to proffer complaints about a judge or a superior. I respect their words.

144. The law is the paramount authority which permits a person of any age, status, race, sex, gender, income, and past wrongdoings to seek justice. Here, before the Commission, there is a complaint and there is an answer. This is not a quarrel, but a request for a resolution and, with assistance of the Commission, a blueprint to sowing seeds viable to future correspondence, convictions, and principles.

145. I am held to a higher standard of conduct; the bench is not my pulpit for sarcastic commentary. I re-affirm that I will continue to honor the opportunity bestowed upon me at inauguration and I thank the Commission for allowing me to submit this Answer.

Dated: 2/18/25

Hon. Naita A. Semaj