

NEW YORK STATE

**COMMISSION ON JUDICIAL
CONDUCT**



**ANNUAL REPORT
2025**

NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT



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March 1, 2025

To Governor Kathy Hochul,
Chief Judge Rowan D. Wilson, and
The Legislature of the State of New York:

Pursuant to Section 42, paragraph 4, of the Judiciary Law of the State of New York, the New York State Commission on Judicial Conduct respectfully submits this Annual Report of its activities, covering the period from January 1 through December 31, 2024.

Respectfully submitted,

Robert H. Tembeckjian, Administrator
On Behalf of the Commission

TABLE OF CONTENTS

Foreword	ix
Introduction to the 2025 Annual Report	1
Bar Graph: Complaints, Inquiries & Investigations in the Last Ten Years	1
Action Taken in 2024	2
Complaints Received	2
Pie Chart: Complaint Sources in 2024	2
Preliminary Inquiries and Investigations	2
Formal Written Complaints	3
Summary of All 2024 Dispositions	4
Table 1: Town & Village Justices	4
Table 2: City Court Judges	4
Table 3: County Court Judges	5
Table 4: Family Court Judges	5
Table 5: Surrogates	5
Table 6: District Court Judges	6
Table 7: Court of Claims Judges	6
Table 8: Supreme Court Justices	6
Table 9: Court of Appeals Judges and Appellate Division Justices	7
Table 10: Non-Judges and Others Not Within the Commission's Jurisdiction	7
Note on Jurisdiction	7
Formal Proceedings	8
Overview of 2024 Determinations	8
Determinations of Removal	9
Determinations of Censure	10
Determinations of Admonition	12
Other Public Dispositions	14
Request for Review of Commission Determination by the Court of Appeals	18
Matters Closed Upon Resignation	19
Referrals to Other Agencies	20
Letters of Dismissal and Caution	21
Assertion of Influence	21
Audit and Control	21
Conflicts of Interest	21
Delay	21
Finances	21
Inappropriate Demeanor	21

Improper <i>Ex Parte</i> Communications	21
Miscellaneous	21
Political Activity	22
Violation of Rights	22
Follow Up on Caution Letters	22
Observations and Recommendations	23
Proposed Legislation Affecting the Commission	23
Using the Judicial Title in a Personal Email Address	28
Oversight of Court-Appointed Fiduciaries	29
The Commission’s Budget	31
Chart: Selected Budget Figures 1978 to Present	31
Conclusion	32
Appendix A: Biographies of Commission Members	33
Appendix B: Biographies of Commission Attorneys	37
Appendix C: Referees Who Served in 2024	41
Appendix D: The Commission’s Powers, Duties and History	42
Appendix E: Rules Governing Judicial Conduct	51
Appendix F: 2024 Determinations Rendered by the Commission	69
<i>Matter of James A. Bradshaw, Jr.</i>	70
<i>Matter of Jessica Byrne</i>	75
<i>Matter of Gary L. Carson</i>	80
<i>Matter of Michael W. Cole</i>	85
<i>Matter of Kevin E. Copeland</i>	93
<i>Matter of Alec H. Friedmann</i>	99
<i>Matter of Erin P. Gall</i>	104
<i>Matter of Mark J. Grisanti</i>	154
<i>Matter of Reginald J. Johnson</i>	197
<i>Matter of Jill Kehn</i>	202
<i>Matter of John D. Kinsella</i>	217
<i>Matter of Lewis J. Lubell</i>	222
<i>Matter of John J. Nevers</i>	231
<i>Matter of Joseph Nowakowski</i>	236
<i>Matter of Thomas Quinones</i>	241
<i>Matter of Thomas F. Rathbun, Jr.</i>	252
<i>Matter of James H. Ridgeway</i>	274
<i>Matter of Kathleen L. Robichaud</i>	282
<i>Matter of Mitchell Q. Soules, Jr.</i>	287
<i>Matter of Donald R. Spaccio</i>	292
<i>Matter of Gregory P. Storie</i>	297

<i>Matter of Kathy Wachtman.</i>	306
<i>Matter of Van H. White</i>	311
<i>Matter of David W. Wilbanks</i>	323
Appendix G: Statistical Analysis of Complaints	334
Complaints Pending as of December 31, 2023	334
New Complaints Considered by the Commission in 2024	335
All Complaints Considered in 2024: 3,353 New & 204 Pending from 2024	336
All Complaints Considered Since the Commission’s Inception in 1975	337

FOREWORD

Fifty years ago – in January 1975 – a temporary Commission on Judicial Conduct began operations, having been created by the state Legislature in advance of a constitutional amendment that would make the Commission a permanent, independent entity for the enforcement of judicial ethics. Prior to 1975, the authority to discipline judges, vested primarily in the courts, was rarely exercised. From 1975 to April 1978, that authority transitioned from the courts to the Commission.

On April 1, 1978, the Commission as it is currently constituted went into effect. Over the years, it has processed, analyzed and disposed of over 70,000 complaints alleging on- or off-the-bench wrongdoing. While the overwhelming majority were dismissed because they expressed displeasure with the outcome of a case rather than ethical misbehavior by the judge, the Commission has effectively held judges accountable when their misconduct was established.

- 969 judges have been publicly disciplined since 1978:
 - 288 were publicly admonished;
 - 352 were publicly censured;
 - 185 were removed from office, which under the Constitution renders the judge ineligible to return to the bench; and
 - 144 entered into public resignation stipulations, with commitments never to return to the bench
- 1,829 were issued confidential cautionary letters.

A more detailed history of the Commission and its record is available in Appendix D of this report.

While the vast majority of judges act honorably and discharge their responsibilities capably, the errant minority must be held accountable if public confidence in the courts is to be maintained. The Commission appreciates the cooperation extended by all – litigants, lawyers, judges, court staff, witnesses, and concerned citizens – who contribute to the fulfillment of its constitutional mission.

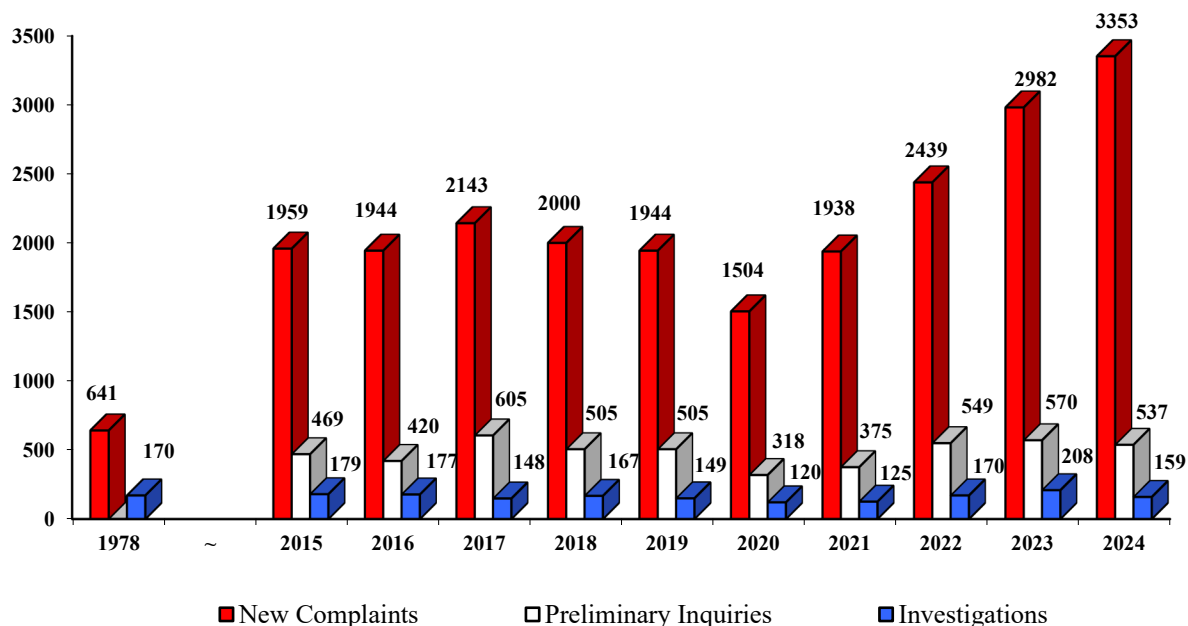
INTRODUCTION TO THE 2025 ANNUAL REPORT

The New York State Commission on Judicial Conduct is the independent agency designated by the State Constitution to review complaints of misconduct against judges and justices of the State Unified Court System and, where appropriate, render public disciplinary determinations of admonition, censure or removal from office. There are approximately 3,500 judicial positions in the system filled by approximately 3,350 individuals, in that some judges serve in more than one court.

The Commission's objective is to enforce high standards of conduct for judges, who must be free to act independently, on the merits and in good faith, but also must be held accountable should they commit misconduct. The text of the Rules Governing Judicial Conduct, promulgated by the Chief Administrator of the Courts on approval of the Court of Appeals, is annexed.

The number of complaints received annually by the Commission in the past 10 years has substantially increased compared to the first three decades of the Commission's existence. Since 2015, the Commission has averaged roughly 2,221 new complaints per year, 485 preliminary inquiries and 160 investigations. Last year, 3,353 new complaints were received – the most ever. Every complaint was reviewed by investigative and legal staff, and a report was prepared for each complaint. All such complaints and reports were reviewed by the entire Commission, which then voted on which complaints merited opening full scale investigations. As to these new complaints, there were 537 preliminary reviews and inquiries and 159 investigations.

This report covers Commission activity in the year 2024.



COMPLAINTS, INQUIRIES & INVESTIGATIONS IN THE LAST TEN YEARS

ACTION TAKEN IN 2024

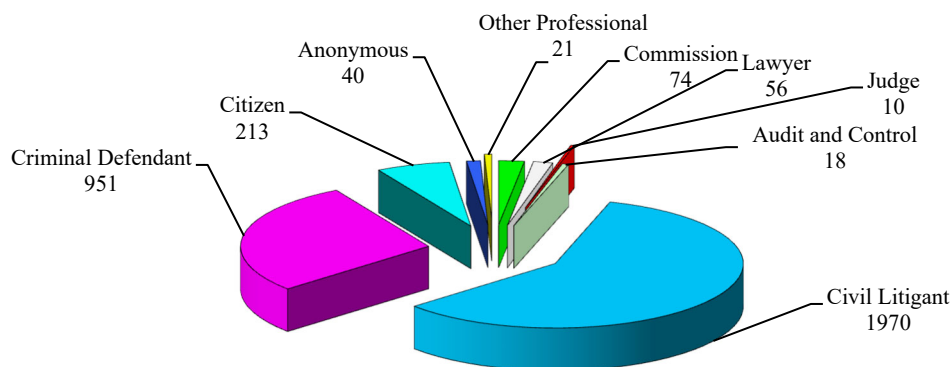
Following are summaries of the Commission’s actions in 2024, including accounts of all public determinations, summaries of non-public dispositions, and various numerical breakdowns of complaints, investigations and other dispositions.

COMPLAINTS RECEIVED

The Commission received 3,353 new complaints in 2024. All complaints are summarized and analyzed by staff and reviewed by the Commission, which votes whether to investigate.

New complaints dismissed upon initial review are those that the Commission deems to be clearly without merit, not alleging misconduct or outside its jurisdiction, including complaints against non-judges, federal judges, administrative law judges, judicial hearing officers, referees and New York City Housing Court judges. Absent any underlying misconduct, such as demonstrated prejudice, conflict of interest or flagrant disregard of fundamental rights, the Commission does not investigate complaints concerning disputed judicial rulings or decisions. The Commission is not an appellate court and cannot intervene in a pending case or reverse or remand trial court decisions.

A breakdown of the sources of complaints received by the Commission in 2024 appears in the following chart.



COMPLAINT SOURCES IN 2024

PRELIMINARY INQUIRIES AND INVESTIGATIONS

The Commission’s Operating Procedures and Rules authorize “preliminary analysis and clarification” and “preliminary fact-finding activities” by staff upon receipt of new complaints, to aid the Commission in determining whether an investigation is warranted. In 2024, staff conducted 537 such preliminary inquiries, requiring such steps as interviewing the attorneys involved, analyzing court files and reviewing trial transcripts.

In 159 matters, the Commission authorized full-fledged investigations. Depending on the nature of the complaint, an investigation may entail interviewing witnesses, subpoenaing witnesses to

testify and produce documents, assembling and analyzing various court, financial or other records, making court observations, and writing to or taking testimony from the judge.

During 2024, in addition to the 159 new investigations, there were 185 investigations pending from the previous year. The Commission disposed of the combined total of 344 investigations as follows:

- 63 complaints were dismissed outright.
- 28 complaints involving 23 different judges were dismissed with letters of dismissal and caution.
- 27 complaints involving 15 different judges were closed upon the judge's resignation, nine becoming public by stipulation and six that were not public.
- Eight complaints involving seven different judges were closed upon vacancy of office due to reasons other than resignation, such as the expiration of the judge's term.
- 29 complaints involving 23 different judges resulted in formal charges being authorized.
- 189 investigations were pending as of December 31, 2024.

FORMAL WRITTEN COMPLAINTS

As of January 1, 2024, there were pending Formal Written Complaints in 19 matters involving 10 judges. In 2024, Formal Written Complaints were authorized in 29 additional matters involving 23 judges. Of the combined total of 48 matters involving 33 different judges, the Commission acted as follows:

- 19 matters involving 11 different judges resulted in formal discipline (admonition, censure or removal).
- Six matters involving five different judges were closed upon the judge's resignation from office, four becoming public by stipulation and one that was not public.
- 23 matters involving 17 different judges were pending as of December 31, 2024.

SUMMARY OF ALL 2024 DISPOSITIONS

The Commission's investigations, hearings and dispositions in the past year involved judges of various courts, as indicated in the following ten tables.

TABLE 1: TOWN & VILLAGE JUSTICES – 2,090* ALL PART-TIME

	<i>Lawyers</i>	<i>Non-Lawyers</i>	<i>Total</i>
Complaints Received	160	173	333
Complaints Investigated	30	58	88
Judges Cautioned After Investigation	8	3	11
Formal Written Complaints Authorized	2	7	9
Judges Cautioned After Formal Complaint	0	0	0
Judges Publicly Disciplined	1	3	4
Judges Vacating Office by Public Stipulation	2	9	11
Formal Complaints Dismissed or Closed	0	1	1

NOTE: Approximately 880 town and village justices are lawyers.

*Refers to the approximate number of such judges in the state unified court system.

TABLE 2: CITY COURT JUDGES – 380, ALL LAWYERS

	<i>Part-Time</i>	<i>Full-Time</i>	<i>Total</i>
Complaints Received	35	472	507
Complaints Investigated	4	23	27
Judges Cautioned After Investigation	0	3	3
Formal Written Complaints Authorized	0	6	6
Judges Cautioned After Formal Complaint	0	0	0
Judges Publicly Disciplined	0	1	1
Judges Vacating Office by Public Stipulation	1	1	2
Formal Complaints Dismissed or Closed	0	0	0

NOTE: Approximately 51 City Court Judges serve part-time.

TABLE 3: COUNTY COURT JUDGES – 140, FULL-TIME, ALL LAWYERS*

Complaints Received	353
Complaints Investigated	10
Judges Cautioned After Investigation	3
Formal Written Complaints Authorized	1
Judges Cautioned After Formal Complaint	0
Judges Publicly Disciplined	2
Judges Vacating Office by Public Stipulation	0
Formal Complaints Dismissed or Closed	0

*Includes 16 who also serve as Surrogates, seven who also serve as Family Court Judges, and 39 who also serve as both Surrogates and Family Court Judges.

TABLE 4: FAMILY COURT JUDGES – 151, FULL-TIME, ALL LAWYERS

Complaints Received	464
Complaints Investigated	6
Judges Cautioned After Investigation	2
Formal Written Complaints Authorized	1
Judges Cautioned After Formal Complaint	0
Judges Publicly Disciplined	1
Judges Vacating Office by Public Stipulation	0
Formal Complaints Dismissed or Closed	0

TABLE 5: SURROGATES – 25, FULL-TIME, ALL LAWYERS*

Complaints Received	63
Complaints Investigated	4
Judges Cautioned After Investigation	0
Formal Written Complaints Authorized	0
Judges Cautioned After Formal Complaint	0
Judges Publicly Disciplined	0
Judges Vacating Office by Public Stipulation	0
Formal Complaints Dismissed or Closed	0

*Many Surrogates also serve concurrently as Judges of the County and/or Family Court.

TABLE 6: DISTRICT COURT JUDGES – 52, FULL-TIME, ALL LAWYERS

Complaints Received	21
Complaints Investigated	2
Judges Cautioned After Investigation	0
Formal Written Complaints Authorized	0
Judges Cautioned After Formal Complaint	0
Judges Publicly Disciplined	0
Judges Vacating Office by Public Stipulation	0
Formal Complaints Dismissed or Closed	0

TABLE 7: COURT OF CLAIMS JUDGES – 66, FULL-TIME, ALL LAWYERS

Complaints Received	84
Complaints Investigated	1
Judges Cautioned After Investigation	0
Formal Written Complaints Authorized	0
Judges Cautioned After Formal Complaint	0
Judges Publicly Disciplined	0
Judges Vacating Office by Public Stipulation	0
Formal Complaints Dismissed or Closed	0

TABLE 8: SUPREME COURT JUSTICES – 504, FULL-TIME, ALL LAWYERS*

Complaints Received	561
Complaints Investigated	21
Judges Cautioned After Investigation	4
Formal Written Complaints Authorized	6
Judges Cautioned After Formal Complaint	0
Judges Publicly Disciplined	3
Judges Vacating Office by Public Stipulation	0
Formal Complaints Dismissed or Closed	0

* Includes 13 who serve as Justices of the Appellate Term.

**TABLE 9: COURT OF APPEALS JUDGES – 7, FULL-TIME, ALL LAWYERS;
APPELLATE DIVISION JUSTICES – 80, FULL-TIME, ALL LAWYERS**

Complaints Received	132
Complaints Investigated	0
Judges Cautioned After Investigation	0
Formal Written Complaints Authorized	0
Judges Cautioned After Formal Complaint	0
Judges Publicly Disciplined	0
Judges Vacating Office by Public Stipulation	0
Formal Complaints Dismissed or Closed	0

**TABLE 10: NON-JUDGES AND OTHERS NOT WITHIN THE COMMISSION'S
JURISDICTION***

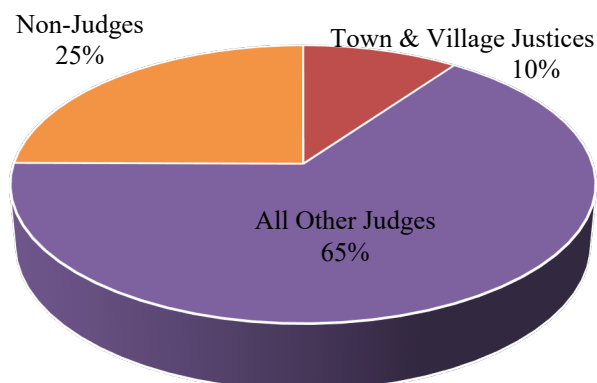
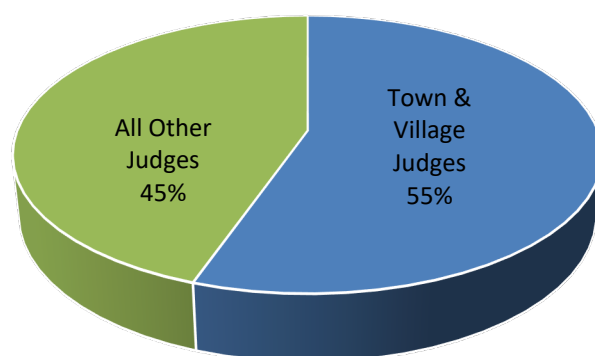
Complaints Received	835
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* The Commission reviews such complaints to determine whether to refer them to other agencies.

NOTE ON JURISDICTION

The Commission's jurisdiction is limited to judges and justices of the State Unified Court System. The Commission does not have jurisdiction over non-judges, retired judges, judicial hearing officers, administrative law judges (*i.e.* adjudicating officers in government agencies or public authorities such as the New York City Parking Violations Bureau), housing judges of the New York City Civil Court, or federal judges. Legislation that would have given the Commission jurisdiction over New York City housing judges was vetoed in the 1980s.

SUMMARY OF TABLES 1-10

**COMPLAINTS RECEIVED BY JUDGE TYPE****INVESTIGATIONS AUTHORIZED
TOWN & VILLAGE JUDGES v ALL OTHER JUDGES**

FORMAL PROCEEDINGS

The Commission may not impose a public disciplinary sanction against a judge unless a Formal Written Complaint, containing detailed charges of misconduct, has been served upon the respondent-judge and the respondent has been afforded an opportunity for a formal hearing.

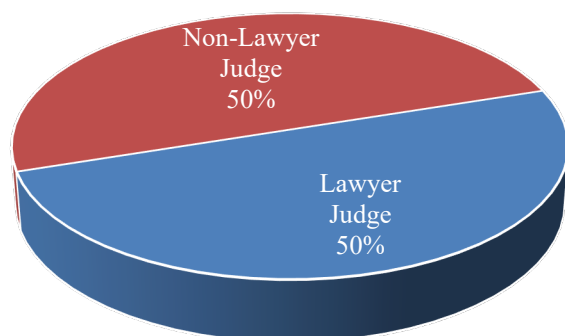
The confidentiality provision of the Judiciary Law (Article 2-A, Sections 44 and 45) prohibits public disclosure by the Commission of the charges, hearings or related matters, absent a waiver by the judge, until the case has been concluded and a determination of admonition, censure, removal or retirement has been rendered.

Following are summaries of those matters that were completed and made public during 2024. The actual texts are appended to this Report in Appendix F.

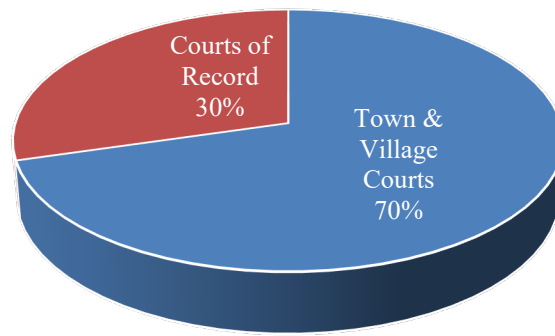
OVERVIEW OF 2024 DETERMINATIONS

The Commission rendered 11 formal disciplinary determinations in 2024: three removals, three censures and five admonitions. In addition, 13 matters were disposed of by stipulation made public by agreement of the parties (eight such stipulations were negotiated during the investigative stage, and five after a Formal Written Complaint had been served). Twelve of the judges were non-lawyer judges and 12 were lawyers. Fifteen of the 24 judges were town or village justices, and nine were judges of higher courts.

To put these numbers and percentages in some context, it should be noted that, of the roughly 3,500 judges in the state unified court system, approximately 60% are part-time town or village justices. About 60% of the town and village justices, *i.e.* 35% of all judges in the court system, are not lawyers. (Town and village justices serve part-time and need not be lawyers. Judges of all other courts must be lawyers.)



2024 DISPOSITIONS



1978-2024 DISPOSITIONS

DETERMINATIONS OF REMOVAL

The Commission completed three formal proceedings in 2024 that resulted in a determination of removal. The cases are summarized below and the full text can be found in Appendix F.

Matter of David W. Wilbanks

On April 12, 2024, the Commission determined David W. Wilbanks, a Justice of the Fort Covington Town Court, Franklin County, should be removed from office for failing to report and remit funds to the State Comptroller as required and subsequently failing to cooperate with the Commission's investigation. The Commission found that Judge Wilbanks failed to file mandatory monthly reports to the State Comptroller from December 2022 through May 2023, resulting in his judicial salary being stopped until he filed the reports in July 2023, up to six months late. Compounding his misconduct, Judge Wilbanks failed to cooperate with the Commission's investigation by not responding to two inquiry letters and not appearing for testimony when summoned. He also failed to answer the resulting ethics charges or otherwise participate in the Commission's disciplinary proceedings against him. In its removal determination, the Commission stated: "By not reporting and remitting funds to the State Comptroller as required for six months, [Judge Wilbanks] failed to diligently perform his administrative duties," and that his "failure to respond to the Complaint and participate in the proceedings demonstrated his disdain for the Commission's important function." Judge Wilbanks, who is not an attorney, did not request review by the Court of Appeals.

Matter of Erin P. Gall

On July 17, 2024, the Commission determined that Erin P. Gall, a Justice of the Supreme Court, Fifth Judicial District (Oneida County) should be removed from office for engaging in a racially offensive, profane, prolonged public diatribe outside a high school graduation party, during which she repeatedly invoked her judicial office, threatened gun violence, and both criticized and pledged favored treatment for the police. In July 2022, Judge Gall and her family attended a high school graduation party at a friend's home. Sometime after 11:30 PM, a number of apparently uninvited guests arrived at the party, and arguments ensued between invited and uninvited guests. Judge Gall's husband and 18-year-old son participated in the escalating arguments. When a group of four Black teens arrived at the party, having received a text message with the address, physical fighting broke out, in the course of which the key to the teens' car was lost. Five law enforcement agencies came to the scene, which was recorded on their body cameras. For the next hour and twenty minutes, while the police were on the scene, Judge Gall did the following: (1) Invoked her judicial office over a dozen times, including stating: (a) "...Get off the property! And's that's from Judge Gall! I'm a fucking judge!" (b) "Well, you're going to get in an Uber, buddy, or you're going to get a cop escort home. That's how it's happening. That's what I'm telling you right now. That's how I roll. That's how I roll. That's how Mrs. G rolls. That's how Judge Gall rolls." (c) "We didn't invite him. There was trespassing, there were assaults, there was everything. They're saying – they were not invited. There's social media. We didn't invite them. He owns the property. The owner of the property. I'm a judge, he's a lawyer. We're telling you. I'm telling you. This is insane;" (2) Told the police that if the Black teens returned to the property to look for the car key that she would "shoot them on the property;" (3) Told the police that the Black teens did not look

“that smart” and were “not going to business school, that’s for sure;” (4) Told the police that she would “take anyone down for you guys. You know that. You know that. You know I am on your side;” (5) Made disparaging comments about Extreme Risk Protection Orders, which keep guns away from people who are a danger to themselves or others; and (6) Expressed satisfaction that her son had “kick[ed] the shit out of” and “put the smack down on” another partygoer. In determining to remove Judge Gall from office, the Commission stated: “Impropriety permeated respondent’s conduct on July 2, 2022. Instead of leaving the chaotic situation, for over an hour, respondent repeatedly engaged in conduct that violated the Rules [Governing Judicial Conduct]. Her wide array of misconduct severely undermined public confidence in the judiciary and in her ability to serve as a fair and impartial judge.” In August 2024, Judge Gall requested review of the Commission’s determination by the Court of Appeals, but in December 2024 she moved to withdraw the request. In response, the Commission highlighted the issues that had been raised, without recommendation, deferring to the Court’s discretion whether to remove Judge Gall with or without oral argument or an opinion. On January 9, 2025, the Court granted the motion to withdraw and removed Judge Gall from office in accordance with the Commission’s determination.

Matter of Thomas F. Rathbun, Jr.

On August 5, 2024, the Commission determined that Thomas F. Rathbun, Jr., a Justice of the Salisbury Town Court, Herkimer County, should be removed from office for multiple acts of misconduct. The judge: (1) Failed to complete mandatory Continuing Judicial Education credits in 2022, resulting in his cases being reassigned to another judge; (2) Failed to file required monthly reports with the State Comptroller, resulting in his salary being stopped; (3) Failed to adjudicate an eviction proceeding for 11 months; (4) Displayed a statue featuring a Confederate flag on his desk which, when the door was open, was visible from the courtroom; (5) Posted inappropriate political commentary on his public Facebook page, including several demeaning political memes, support of then-presidential candidate Mitt Romney, and apparent support for the Confederacy; and (6) Failed to cooperate with the Commission’s investigation by not responding to its letters of inquiry. In its removal determination, the Commission stated: “...[Judge Rathbun’s] failure to comply with his mandatory judicial training requirements for 2022 and 2023, his display of the Confederate flag in his chambers, his inappropriate public Facebook posts, his failure to perform the duties of his office, including reporting and remitting funds to the State Comptroller, and his decision to ignore the Commission’s investigation and proceedings render him unfit for judicial office and warrant his removal.” Judge Rathbun, who is not an attorney, did not request review by the Court of the Appeals.

DETERMINATIONS OF CENSURE

The Commission completed three formal proceedings in 2024 that resulted in public censure. The cases are summarized below and the full text can be found in Appendix F.

Matter of Gregory P. Storie

On April 3, 2024, the Commission determined that County Court Judge Gregory P. Storie (St. Lawrence County) should be censured for making statements conveying his bias against a defendant and indicating his sentencing decision would be influenced by public opinion. Judge

Storie, who had been confidentially cautioned by the Commission for other misconduct only a month earlier, agreed to the censure. Beginning in 2022, Judge Storie presided over a high-profile murder trial, *People v Snow*. St. Lawrence County District Attorney Gary M. Pasqua and Public Defender James M. McGahan were the lawyers. In January 2023, while conferencing unrelated cases in chambers with Mr. McGahan and an assistant district attorney who was not involved in the *Snow* case, Judge Storie raised the *Snow* case, asked whether the defendant would plead guilty as charged, and said he would impose a sentence of 25 years to life, because anything less would not look good to the media or to the victim's family. When asked what incentive there would be to plead guilty under such circumstances, the judge replied that the defendant may do it because he appeared to be "catatonic." Subsequently, as a result of the judge's comments, Public Defender McGahan and DA Pasqua jointly requested that Judge Storie recuse himself from the *Snow* case, which he did. In its determination, the Commission found it "troubling" that [Judge Storie] engaged in this misconduct roughly two weeks after receiving the Letter of Dismissal and Caution and that he "should have been especially attentive to his obligation to follow the Rules [Governing Judicial Conduct]." Judge Storie did not request review by the Court of Appeals.

Matter of Mark J. Grisanti

On April 22, 2024, the Commission determined that that Mark J. Grisanti, a Judge of the Court of Claims and an Acting Justice of the Supreme Court, Erie County, should be censured for engaging in a street brawl with his neighbors, and for participating in cases involving an attorney with whom he had an ongoing financial relationship. (Four Commission members voted to remove him from office, and one did not participate.) On June 22, 2020, Judge Grisanti instigated a verbal and physical altercation with a neighbor and his wife over a parking spot. Upon seeing the neighbors' car parked near his own driveway, Judge Grisanti called 911. Before Buffalo police officers arrived, both Judge Grisanti and his wife confronted and yelled profanities at the neighbors, who responded in kind. During their confrontation, the parties came into rough physical contact with one another. Upon arriving at the scene, two police officers captured the ensuing events on body cameras. After one officer grabbed Mrs. Grisanti and brought her to the ground attempting to handcuff her, Judge Grisanti shoved him and yelled, "you arrest my f***** wife...you're going to be sorry," and "my son...and my daughter are...both police officers." Judge Grisanti himself was handcuffed and placed in a police car at the scene and continued to drop the names of high-ranking police officials and the Mayor of Buffalo. On becoming a full-time judge in May 2015, Judge Grisanti sold his law practice for \$50,000 to Peter J. Pecoraro and Matthew A. Lazroe, who put \$15,000 down and began making monthly payments of \$730 to satisfy the balance. Nevertheless, Judge Grisanti took judicial action in eight cases involving Mr. Lazroe, either during the time he was receiving the installment payments, or in the two-year period following the last payment. Among other things, Judge Grisanti awarded remunerative case assignments to Mr. Lazroe, did not disclose their relationship on the record of those cases, and failed to report the income earned from the sale on his 2015 Financial Disclosure Statement. In censuring Judge Grisanti, the Commission stated that: "Although we consider [Judge Grisanti's] misconduct on June 22, 2020 to be very serious and he displayed especially poor judgment that day, we do not find that removal from judicial office is warranted for this single incident particularly since it occurred in the context of a long-standing dispute between the entire neighborhood and the [neighbors], and involved a legitimate concern by respondent for the physical well-being of his wife as she was being taken to the ground by a police officer." The Commission also considered several mitigating factors, including that the judge has been attending counseling since the

incident. Judge Grisanti did not request review by the Court of Appeals. At the time this case was decided, Judge Grisanti's term on the Court of Claims had expired, but he continued to serve as a holdover because neither he nor a successor had been appointed to commence a new term. Soon thereafter, the Governor appointed a new judge to the position, and Judge Grisanti retired from the bench.

Matter of Jill Kehn

On June 21, 2024, the Commission determined that that Family Court Judge Jill Kehn (Rensselaer County) should be censured for sending hostile and demeaning emails about the court's chief clerk, and for failing to adhere to her administrative judge's directive not to confront court staff about their work. Judge Kehn agreed to the censure. Beginning in January 2022 and continuing on and off for about a year, Judge Kehn began denigrating and otherwise criticizing the new chief clerk of the court in emails and conversations with other court staff. She also yelled at and was otherwise disrespectful toward certain staff in the clerk's office. Moreover, after her administrative judge directed her to address any issues regarding the clerk's office with the District Office of the Third Judicial District, Judge Kehn berated the chief clerk in a loud voice and yelled at other staff in the office. This prompted a personal visit from the administrative judge, and after a human resources inquiry by the OCA Inspector General, Judge Kehn was transferred from Family Court in Rensselaer County to Albany County. In accepting the jointly recommended sanction of censure, the Commission noted Judge Kehn's acknowledgement of wrongdoing, acceptance of the public censure and pledge to work collegially with court staff. Judge Kehn did not request review by the Court of Appeals.

DETERMINATIONS OF ADMONITION

The Commission completed five formal proceedings in 2024 that resulted in public admonition. The cases are summarized as follows and the full texts can be found in Appendix F.

Matter of Van H. White

On May 13, 2024, the Commission determined that Rochester City Court Judge Van H. White should be admonished for making various public statements that created an appearance of bias or a lack of impartiality, and for giving legal advice via social media platforms that identified him as a judge. Judge White agreed to the admonition. The Commission found that, within a short time after becoming a judge in July 2022, Judge White made statements that undermined public confidence in the integrity and impartiality of the judiciary, as follows: (1) Judge White participated in a public rally after a three-year-old boy was hit by a stray bullet, on the same day a defendant was arraigned before another judge. At the rally, Judge White spoke with the media, was identified as a judge and was publicly reported as saying "the names of the victims have changed, but this problem has not;" and (2) Before arraigning a defendant in a case arising from the shooting of two police officers, and before the guilt of the defendant was established, Judge White asked for a moment of silence and made sympathetic statements about the relatives of the deceased, which were reported in the media. The Commission also found that Judge White made and posted videos on social media prior to becoming a judge that should have been removed after he became a judge – such as one in which he equated police officers to a "pack of wolves" – because they indicated bias or lack of impartiality. The posts remained on his social media for

approximately 10 months after he took the bench. In its determination the Commission found that “by his statements and actions, [Judge White] violated the Rules and undermined public confidence in his impartiality.” The Commission noted that the judge’s comments prior to the arraignment were “at a time when all defendants are presumed innocent.” Additionally, the Commission stated that “through his personal website and his Facebook page, both of which identified him as a judge, he improperly provided legal advice in violation of the Rules which prohibit a full-time judge from practicing law.” Judge White did not request review by the Court of Appeals.

Matter of Thomas Quinones

On October 3, 2024, the Commission determined that Supreme Court Justice Thomas Quinones (Westchester County) should be admonished for identifying himself as a judge on two pistol permit character reference letters, engaging in improper, undisclosed ex parte communications, and failing to timely file his financial disclosure statement. Judge Quinones agreed to the admonition. In 2022 Judge Quinones completed two Character Reference Letters on behalf of two family friends who were applying for pistol licenses, identifying himself as a “Supreme Court Justice” employed in the “NYS Courts.” He later sent a letter to the Westchester County Clerk Pistol Licensing Division, rescinding the reference letters. In August 2022, Judge Quinones called a plaintiff’s attorney, had a prohibited one-on-one conversation about a pending case the attorney had before him, then failed to disclose the conversation to the other side. Finally, Judge Quinones failed to file his 2021 financial disclosure statement on time, prompting two notices that it was overdue. He eventually filed it more than three months late. In accepting the jointly recommended sanction of admonition, the Commission considered that the judge “acknowledged that his conduct was improper and warrants public discipline.” Judge Quinones did not request review by the Court of Appeals.

Matter of Lewis J. Lubell

On November 7, 2024, the Commission determined that that Supreme Court Justice Lewis J. Lubell (Westchester County) should be admonished for engaging in inappropriate communications about a case pending before another judge. Judge Lubell agreed to the admonition. In August 2022, Judge Lubell and a lawyer friend spoke privately about a contested matrimonial matter in which the friend was representing the plaintiff. The case was pending before Supreme Court Justice Thomas Quinones. The friend complained about remarks made by Judge Quinones’s law clerk during a case conference (there is no suggestion that the law clerk engaged in any misconduct). Judge Lubell then initiated an improper ex parte conversation with Judge Quinones, offering advice on the issue and subsequently asking if Judge Quinones planned to replace his law clerk. In accepting the jointly recommended sanction of admonition, the Commission considered that the judge “acknowledged that his conduct was improper and warrants public discipline.” Judge Lubell did not request review by the Court of Appeals.

Matter of Michael W. Cole

On December 18, 2024, the Commission determined that that Michael W. Cole, a Justice of the Alden Town and Village Courts (Erie County), should be admonished for using his judicial position to delay the processing of a small claims case filed against him, while he attempted to

have the action withdrawn. Judge Cole agreed to the admonition. Judge Cole, who as a part-time judge is permitted to practice law, was hired as an attorney in 2018 and paid a \$1,500 retainer by a client with a family law matter. In 2019, after becoming dissatisfied with Judge Cole's representation, she made several requests for return of her retainer. In 2021, after the now ex-client filed a small claims case against him in his own court, Judge Cole asked his court clerk to delay processing the claim while he attempted to get the ex-client to withdraw it. He did so knowing the case would be transferred to another court because of the obvious conflict. Eventually, the matter was transferred to another court, Judge Cole sent the ex-client a check for the full amount at issue, and the case was closed without further action. In its determination the Commission stated, "Instead of promptly disqualifying himself from the action filed against him in the court where he presides, [Judge Cole] improperly influenced court staff and delayed the processing of the claim. In this way, respondent violated well-established ethical standards and used his judicial status for his personal benefit." Judge Cole did not request review by the Court of Appeals.

Matter of James H. Ridgeway

On December 18, 2024, the Commission determined that that James H. Ridgeway, a Justice of the Richland Town Court (Oswego County), should be admonished for directly or indirectly making more than \$6,000 in prohibited political contributions. Judge Ridgeway agreed to the admonition. Judge Ridgeway, who serves as a judge part-time, was also employed for many years on the staff of the United Steelworkers Union ("USW"). He made the following prohibited political contributions, either directly or by permitting others to make them for him: (1) From 2006 to 2017, he made 138 contributions totaling \$3,311 in automatic payroll deductions to the USW political action fund, which supported USW efforts to elect lawmakers sympathetic to unions; (2) From October 2006 to October 2016, he made 33 contributions totaling \$824 to ActBlue, an online fundraising platform for Democratic candidates, "progressive" organizations, and certain nonprofit organizations; (3) From 2015 to 2016, he made eight contributions totaling \$265 to Senator Bernie Sanders' presidential campaign; and (4) From 2019 to 2023, his wife made 109 contributions totaling \$1,306 to ActBlue, and seven contributions totaling \$322 to "Stop Republicans" – all in the judge's name through his credit card. In its determination the Commission noted that the Rules Governing Judicial Conduct require that a judge "refrain from directly or indirectly engaging in political activity, including making contributions to a political organization or candidate." In accepting the jointly recommended sanction of admonition, the Commission considered that the judge "acknowledged that his conduct was improper and warrants public discipline." Judge Ridgeway, who is not an attorney, did not request review by the Court of Appeals.

OTHER PUBLIC DISPOSITIONS

The Commission completed 13 other proceedings in 2024 that resulted in public dispositions. The cases are summarized below and the full text can be found in Appendix F. Eight of the matters were concluded during the investigative stage, and five after formal proceedings had been commenced.

Matter of Alec H. Friedmann

On March 14, 2024, pursuant to a stipulation, the Commission discontinued a proceeding involving Alec H. Friedmann, a Justice of the North Elba Town Court, Essex County, who was charged in November 2023 with, among other things demonstrating bias and retaliating against a defense attorney. The Formal Written Complaint alleged that he: (1) Failed to disqualify himself and presided over a criminal case despite being biased against the defense attorney, engaged in unauthorized ex parte communications, and dismissed the charges without notice to or consent of the prosecution as required by law, despite having previously been cautioned by the Commission for similar conduct; and, (2) Demonstrated hostility toward a defense attorney in retaliation for a complaint the attorney had filed with the Commission in 2019. In agreeing to resign, Judge Friedmann, who is not an attorney, affirmed that he would neither seek nor accept judicial office at any time in the future.

Matter of Kathleen L. Robichaud

On May 2, 2024, pursuant to a stipulation, the Commission closed its investigation of Kathleen L. Robichaud, a Judge of the Rensselaer City Court, Rensselaer County. In 2023, the Commission apprised Judge Robichaud that it was investigating complaints alleging as follows: (1) She failed to renew her attorney registration and failed to change her personal email address so it would no longer include her judicial title, notwithstanding that she had sworn nearly a year earlier she had already done so; (2) She failed to file her financial disclosure statement for 2021 as required in May 2022; and (3) She made prohibited political contributions. In agreeing to resign the judge, affirmed that she would neither seek nor accept judicial office at any time in the future.

Matter of Mitchell Q. Soules, Jr.

On May 2, 2024, pursuant to a stipulation, the Commission closed its investigation of a complaint against Mitchell Q. Soules, Jr., a Justice of the Little Falls Town Court, Herkimer County, who resigned from office after being arrested and charged with felonies for possession and sale of cocaine. On June 28, 2023, Judge Soules was arrested and charged with third-degree criminal possession of a controlled substance, criminal possession of a controlled substance with intent to sell and fourth-degree criminal possession of a controlled substance. The Commission authorized an investigation based on the felony arrest, and in September 2023 authorized investigation of a second complaint, alleging that the judge invoked his judicial office in trying to get the Herkimer police to drive him home from a location where he was stranded. On April 17, 2024, the judge pleaded guilty to criminal sale of a controlled substance in the third degree, a felony. Judge Soules, who is not an attorney, agreed that he would neither seek nor accept judicial office at any time in the future.

Matter of Joseph Nowakowski

On June 1, 2023, pursuant to a stipulation, the Commission closed its investigation of Joseph Nowakowski, a Justice of the Bethany Town Court, Genesee County. In February 2024, the Commission apprised Judge Nowakowski that it was investigating a complaint alleging that he had sexually harassed a court clerk, and that after the clerk told him to stop sending her inappropriate text messages unrelated to court business, the judge retaliated by seeking to have her

employment with the court terminated. In agreeing to resign the judge, who is not an attorney, affirmed that he would neither seek nor accept judicial office at any time in the future.

Matter of John J. Nevers

On June 13, 2024, pursuant to a stipulation, the Commission closed its investigation of John J. Nevers, a Justice of the New Lebanon Town Court, Columbia County. In May 2024, the Commission apprised Judge Nevers that it was investigating complaints alleging various misconduct, including his inappropriate dismissal of a traffic ticket, the failure to disqualify from a case despite a longstanding friendship with the defendant, and unpreparedness and unnecessary delay in handling an eviction matter. It also came to the Commission's attention that he appeared to have been unable to perform judicial duties since a medical emergency in late 2023. In agreeing to resign the judge, who is not an attorney, affirmed that he would neither seek nor accept judicial office at any time in the future.

Matter of Reginald J. Johnson

On September 19, 2024, pursuant to a stipulation, the Commission discontinued a proceeding involving Reginald J. Johnson, a Judge of the Peekskill City Court, Westchester County, who was charged in August 2024 with a Formal Written Complaint, alleging that he: (1) Dismissed 11 traffic tickets based on his personal relationships with the defendants or persons close to the defendants, not on the merits; (2) Addressed sexual innuendos and other inappropriate remarks to court staff and attorneys on at least two occasions; (3) On at least one occasion touched or caressed his co-judge's her arm without invitation or permission, and otherwise said offensive things to her; (4) Berated, screamed at, and otherwise treated court staff discourteously; and (5) Engaged in an unauthorized ex parte communication with a government official regarding a pending criminal matter. In agreeing to resign, Judge Johnson affirmed that he would neither seek nor accept judicial office at any time in the future.

Matter of John D. Kinsella

On September 19, 2024, pursuant to a stipulation, the Commission closed its investigation of John D. Kinsella, a Justice of the Geddes Town Court, Onondaga County. In August 2024, the Commission apprised Judge Kinsella that it was investigating a complaint that poor health was preventing the proper performance of his judicial duties. In agreeing to resign the judge, who is an attorney, affirmed that he would neither seek nor accept judicial office at any time in the future.

Matter of Jessica Byrne

On September 19, 2024, pursuant to a stipulation, the Commission closed its investigation of Jessica Byrne, a Justice of the New Lebanon Town Court, Columbia County. In March 2024, the Commission apprised Judge Byrne that it was investigating four complaints that, among other things, alleged that she: (1) Dismissed traffic tickets issued to some of her relatives; (2) Retaliated against a former court clerk for cooperating with the Commission's investigation; and (3) Inappropriately criticized the local dog control officer regarding a pending case, and intervened in a matter involving the officer's spouse despite being disqualified from the matter. In agreeing to resign the judge, who is an attorney, affirmed that she would neither seek nor accept judicial office at any time in the future.

Matter of Donald R. Spaccio

On September 19, 2024, pursuant to a stipulation, the Commission closed its investigation of Donald R. Spaccio, a Justice of the Montour Falls Village Court and the Montour Town Court, Schuyler County. In April 2024, the Commission apprised Judge Spaccio that it was investigating complaints that he: (1) Impermissibly attended the political rally in Washington, DC, on January 6, 2021; (2) Shouted at police officers and invoked his judicial office when they asked him to remove a propane cannon from the roof of his building; and (3) Yelled profanities at the Montour Code Enforcement Officer during the course of a dispute. In agreeing to resign the judge, who is not an attorney, affirmed that he would neither seek nor accept judicial office at any time in the future.

Matter of Gary L. Carson

On October 24, 2024, pursuant to a stipulation, the Commission closed its investigation of Gary L. Carson, a Justice of the Pittsfield Town Court, Otsego County. In August 2024, the Commission apprised Judge Carson that it was investigating complaints that he: (1) Was belligerent at public town meetings and in interactions with other town officials; (2) Failed to report and remit court funds in a timely manner as required by law; (3) Failed to transfer his son's traffic tickets to another court; (4) Engaged in unauthorized political activity by circulating nominating petitions for a town council candidate; (5) Engaged in unauthorized ex parte communications in pending cases; (6) Mishandled violations of local dog-control ordinances; and (7) Appeared to be suffering from health issues that prevented the proper performance of his judicial duties. In agreeing to resign the judge, who is not an attorney, affirmed that he would neither seek nor accept judicial office at any time in the future.

Matter of Kevin E. Copeland

On October 24, 2024, pursuant to a stipulation, the Commission discontinued a proceeding involving Kevin E. Copeland, a Justice of the New Hartford Town Court, Oneida County, who was charged in July 2024 with a Formal Written Complaint, alleging that the New York State Department of Labor (DOL) found that the judge made a "factually false statement" and "concealed...pertinent" information regarding his compensation as a judge which resulted in his receiving nearly \$14,000 in unemployment insurance benefits to which he was not entitled. He repaid the money after the DOL findings. In agreeing to resign, Judge Copeland, who is not an attorney affirmed that he would neither seek nor accept judicial office at any time in the future.

Matter of Kathy Wachtman

On October 24, 2024, pursuant to a stipulation, the Commission closed its investigation of Kathy Wachtman, a Justice of the Wolcott Village Court and the Huron Town Court, Wayne County. In January 2024, the Commission apprised Judge Wachtman that it was investigating a complaint alleging that she (A) issued an order of protection in a case that was pending before her co-judge, without notice to the defendant, and (B) amended the prior order of protection, added a protected party and misdated it, creating the false impression that it had been executed and served on the defendant five days earlier. In agreeing to resign the judge, who is not an attorney, affirmed that she would neither seek nor accept judicial office at any time in the future.

Matter of James A. Bradshaw, Jr.

On December 12, 2024, pursuant to a stipulation, the Commission discontinued a proceeding involving James A. Bradshaw, Jr., a Justice of the Rotterdam Town Court, Schenectady County, who was charged in August 2024 with a Formal Written Complaint, alleging among other things that he: (1) Made various improper remarks despite having been counseled by supervising and administrative judges, for (a) Referring to litigants appearing before him as “animals” during a meeting with town officials, and (b) Sarcastically saying it was “questionable” or “debatable” that a particular Assistant Public Defender was actually an attorney; (2) Conveyed the impression he was not being faithful to the law or considering cases on their individual merits, in that he: (a) Insisted on imposing a consecutive jail sentence for a defendant who had cases pending in neighboring counties because, “I don’t run things concurrent out of this Court because when you commit a crime in Rotterdam, you do the time for Rotterdam;” (b) Assumed without basis that a defendant charged with cell phone theft had a drug problem, and insisted on ordering a drug evaluation before granting an adjournment in contemplation of dismissal (ACD); (c) Denigrated a prosecutor’s recommendation of an ACD, \$50 restitution and community service in a Petit Larceny case as “not even really worth writing the paperwork up,” and (d) Set bail without considering the required factors, which resulted in a defendant being held in county jail for six days until the judge’s bail determination was overturned by a higher court; (3) Said that a public defender who believed the judge imposed excessive jail sentences actually did not have “faith” in this client; and (4) Failed to mechanically record a proceeding as required. In agreeing to resign, Judge Bradshaw, who is not an attorney affirmed that he would neither seek nor accept judicial office at any time in the future.

**REQUEST FOR REVIEW OF COMMISSION DETERMINATION
BY THE COURT OF APPEALS**

Matter of Gall

On July 17, 2024, the Commission determined that Supreme Court Justice Erin P. Gall (Fifth District, Oneida County), should be removed from judicial office for engaging in a racially offensive, profane, prolonged public diatribe outside a high school graduation party, during which she invoked her judicial office more than a dozen times, threatened gun violence against a group of Black teenagers, both criticized and pledged favored treatment for the police, and improperly belittled an important public safety tool by making disparaging comments about Extreme Risk Protection Orders in an apparent attempt to ingratiate herself with law enforcement personnel at the scene. The Commission found that Judge Gall’s conduct amounted to “truly egregious misconduct” in which she committed multiple violations of the Rules Governing Judicial Conduct, brought reproach upon the judiciary, and irreparably damaged her ability to serve as a judge. The Commission rejected her defense that her behavior was triggered by a past trauma.

The Commission’s determination is available at [*Matter of Gall*](#).

Consistent with its standard practice, the Court of Appeals suspended Judge Gall with pay on July 31, 2024, pending its final disposition of the matter. Judge Gall requested review of the Commission’s determination by letter dated August 16, 2024, and she subsequently perfected the

request by filing the Record on Review and a brief dated September 12, 2024. The Commission filed its brief, Judge Gall filed a reply, and the Court scheduled oral argument for January 9, 2025.

By papers dated December 17, 2024, Judge Gall filed a motion pursuant to Court Rule 530.8, seeking to withdraw her requested review and asking the Court either to issue of a *pro forma* order removing her from judicial pursuant to Judiciary Law §44(7), or to decide the matter on the briefs, without oral argument. Her motion indicated that she had submitted a letter of resignation dated December 15, 2024, effective January 1, 2025.

The Commission filed a response advising the Court that it neither opposed nor consented to the motion, deferring to the sound judgment and discretion of the Court, and raising several points for the Court’s consideration. First, the Commission noted that it had previously declined to stipulate to withdrawal because, *inter alia*, it was concerned doing so might encourage other judges to request review in bad faith, solely for the purpose of extending the time they would continue to collect a full judicial salary, only to abandon the request at the eleventh hour while simultaneously avoiding a decision on the merits by the Court of Appeals. The Commission noted that it had previously received information that Judge Gall may abandon her request for review before the oral argument date, and that she had collected approximately \$96,000 in judicial salary since filing her request for review.

Second, the Commission noted that Judge Gall’s motion insisted her substantive arguments were meritorious, and that she was asking the Court to effectuate her removal in a manner that would permit her to continue to claim the Commission’s determination was wrong.

By Orders decided and entered on January 9, 2025, the Court granted Judge Gall’s motion to withdraw the requested review and removed her from judicial office “in accordance with Judiciary Law § 44(7) and the findings of the Commission” (emphasis added).

MATTERS CLOSED UPON RESIGNATION

In 2024, 20 judges resigned while complaints against them were pending before the Commission, and the matters pertaining to those judges were closed. Six of those judges resigned while under formal charges by the Commission, five pursuant to public stipulation. Fourteen judges resigned while under investigation, eight of those pursuant to public stipulation. By statute, the Commission may continue an inquiry for a period of 120 days following a judge’s resignation, but no sanction other than removal from office may be determined within such period. When rendered final by the Court of Appeals, the “removal” automatically bars the judge from holding judicial office in the future. Thus, no other action may be taken if the Commission decides within that 120-day period that removal is not warranted.

REFERRALS TO OTHER AGENCIES

Pursuant to Judiciary Law Section 44(10), the Commission may refer matters to other agencies. In 2024, the Commission referred 25 matters to other agencies. Eighteen matters were referred to the Office of Court Administration, typically dealing with relatively isolated instances of delay, poor record-keeping or other administrative issues. Three matters were referred to an attorney grievance committee, two matters were referred to both a local district attorney's office and a US Attorney's office, and another two matters were referred to a US Attorney's office.

LETTERS OF DISMISSAL AND CAUTION

A Letter of Dismissal and Caution contains confidential suggestions and recommendations to a judge upon conclusion of an investigation, in lieu of commencing formal disciplinary proceedings. A Letter of Caution is a similar communication to a judge upon conclusion of a formal disciplinary proceeding with a finding that the judge's misconduct is established, but where the Commission determines that public discipline is not warranted.

Cautionary letters are authorized by the Commission's Rules, 22 NYCRR 7000.1(1) and (m). They serve as an educational tool and, when warranted, allow the Commission to address a judge's conduct without making the matter public.

In 2024, the Commission issued 23 Letters of Dismissal and Caution. Eleven town or village justices were cautioned, including eight who are lawyers. Twelve judges of higher courts – all lawyers, as required by law – were cautioned. The caution letters addressed various types of conduct as indicated below.

Assertion of Influence. One judge was cautioned for engaging in prohibited charitable fundraising.

Audit and Control. Two judges were cautioned for failing to properly supervise their court clerks, which resulted in misappropriated funds. Another judge was cautioned for accumulating a surplus of funds due to her failure to remit and report funds in a timely manner.

Conflicts of Interest. All judges are required by the Rules to avoid conflicts of interest and to disqualify themselves or disclose on the record circumstances in which their impartiality might reasonably be questioned. One judge was cautioned for failing to so disqualify.

Delay. One judge was cautioned for delay in rendering decisions in a relatively small number of matters. Section 100.3(B)(7) of the Rules Governing Judicial Conduct requires a judge to dispose of all judicial matters promptly, efficiently and fairly.

Finances. Two judges were cautioned for failing to file a financial disclosure statement in a timely manner with the Ethics Commission for the Unified Court System. Section 211(4) of the Judiciary Law and Section 40.2 of the Rules of the Chief Judge require judges to file an annual financial disclosure statement by May 15th of each succeeding year.

Inappropriate Demeanor. The Rules require every judge to be patient, dignified and courteous to litigants, attorneys and others with whom the judge deals in an official capacity. Three judges were cautioned during the year for various displays of discourtesy that did not warrant public discipline or were not part of a pattern of misconduct.

Improper *Ex Parte* Communications. One judge was cautioned for engaging in an isolated and minor instance of unauthorized out-of-court communications with a prosecutor.

Miscellaneous. One judge was cautioned for allowing a friend to communicate in the judge's name with potential partners on a dating website. Two other judges were cautioned for wrongly

collecting unemployment insurance benefits, which were subsequently repaid, after inadvertently excluding certain earned income.

Political Activity. Seven judges were cautioned for engaging in improper political activity. The Rules prohibit judges from making contributions to political organizations or candidates, including out-of-state candidates, outside of their specifically defined “window period” when they are candidates for elective judicial office. Five judges were cautioned for making such contributions outside their “window periods,” typically in small amounts to candidates running for President or other federal office, in the mistaken belief that the prohibition on political contributions applied only to candidates for state or local office. One judge was cautioned for accepting a campaign contribution personally rather than by establishing a campaign committee. Another judge posted photos to Facebook from various political events, posing with and expressing support for other candidates.

Violation of Rights. The Rules require that a judge respect, comply with, be faithful to and professionally competent in the law. Sections 100.2(A), 100.3(B)(1). One judge was cautioned for failing to give adequate direction to his court attorney, which resulted in her acting on his behalf as if she were the judge.

Follow Up on Caution Letters. Should the conduct addressed by a cautionary letter continue or be repeated, the Commission may authorize an investigation of a new complaint, which may lead to formal charges and further disciplinary proceedings. In certain instances, the Commission will authorize a follow-up review of the judge’s conduct to assure that promised remedial action was indeed taken. In 1999, the Court of Appeals, in upholding the removal of a judge who *inter alia* used the power and prestige of his office to promote a particular private defensive driver program, noted that the judge had persisted in his conduct notwithstanding a prior caution from the Commission that he desist from such conduct. *Matter of Assini v Commission on Judicial Conduct*, 94 NY2d 26 (1999).

OBSERVATIONS AND RECOMMENDATIONS

The Commission traditionally devotes a section of its Annual Report to a discussion of topics of special note that have come to its attention in the course of considering complaints. It does so for public education purposes, to advise the judiciary as to potential misconduct that may be avoided, and pursuant to its statutory authority to make administrative and legislative recommendations.

PROPOSED LEGISLATION AFFECTING THE COMMISSION¹

In 2024, by a vote of 61 to 1, the State Senate passed a major bill that would enhance the Commission's ability to hold judges accountable for any misconduct they may commit.² The legislation reflects what the Commission itself has advocated and addressed in numerous annual reports since 1978.

Although an identical companion bill was introduced in the Assembly, it was not voted on before the legislative session ended. For the bill to become law, the process must begin again, in both chambers, now that a newly elected Legislature has convened.

Created by the State Constitution in 1978, the Commission is responsible for investigating complaints of unethical behavior against the 3,400 judges of the state Unified Court System and, where appropriate, disciplining them with determinations of public admonition, public censure, or removal from office.³ The Commission may also retire a judge for mental or physical disability,⁴ or confidentially caution a judge.⁵

The proposed legislation – advanced in the Senate by Brad Hoylman-Sigal, co-sponsored by Mike Gianaris and Sean Ryan, and proposed in the Assembly by Charles Lavine⁶ – has three components, affecting (1) how the Commission is budgeted, (2) when its proceedings would become public, and (3) under what circumstances it may discipline judges who leave office before proceedings against them are concluded. The three components are discussed below.

POST-RESIGNATION DISCIPLINES

The proposed legislation would close a loophole in the Judiciary Law by allowing the Commission to conclude a proceeding even if the judge leaves office early. Executive- and Legislative-branch

¹ The discussion in this section is adapted from an article by Commission Chair Joseph W. Belluck and Administrator Robert H. Tembeckjian, published in the New York Law Journal on December 19, 2023.

² Bill numbers S4398 in the Senate, A4908 in the Assembly.

³ Const Art VI, §22(a).

⁴ *Id.*

⁵ 22 NYCRR 7000.1(n), (o).

⁶ Hoylman-Sigal Chairs the Senate Judiciary Committee, Gianaris is the Deputy Majority Leader, and Ryan Chairs the Committee on Commerce, Economic Development, and Small Business. Lavine Chairs the Assembly Judiciary Committee.

officials may be held to account for their ethical lapses in office, even after they leave.⁷ It should be no different for judges.

By statute, the Commission may continue an inquiry for only 120 days following a judge's resignation, but no sanction other than removal from office may be imposed. The theory behind this limitation is that since a removed judge is automatically barred from holding future judicial office,⁸ there is a consequence to "removing" a resigned judge. But when a judge resigns, it is not unusual for the Commission to need more than 120 days to complete the lengthy disciplinary process. Indeed, more than 650 judges have done exactly that since 1978, and the Commission – unable to conclude its proceedings in that short window – has been prevented by law from disclosing who they were and what they did, even if they had been served with formal charges.

Apart from the logistical hurdles in completing complex due process proceedings in 120 days, there are significant public policy questions at play. Should a judge who has committed serious but not removable misconduct be allowed to leave office without penalty? Should a judge who has engaged in removable conduct get a pass because of an arbitrary 120-day limitation? The proposed bill in the Legislature answers "no," for good reason.

Since Commission proceedings are confidential, the public typically would have no inkling that a judge who "voluntarily" left office in fact departed under an ethical cloud. When that happens, the Commission is not even able to explain to the aggrieved complainant that the judge chose to leave office rather than face public criticism, even where there were press reports that the Commission had been investigating.⁹ Yet were the departed judge to run for office again, the electorate would be unaware of this important history, and of the fact that the Commission would revive its proceeding were the judge to win and return to office. This has happened more than once.¹⁰ A recent case in point:

More than a decade ago, a city court judge's friend was issued a ticket for driving an unregistered vehicle. The judge fabricated a court proceeding, arranging for someone to masquerade as the defendant and present a fictitious defense, upon which the judge dismissed the ticket. When the charade was discovered, the Appellate Division suspended the judge's law license for two years, and the judge resigned from office. However, the Commission did not have time enough under existing law to complete a proceeding and

⁷ Exec L §§94(9)(f), 94(10)(k), and Leg L Art 5, §80(8), allow for the disciplining of executive and legislative officials for up to two years after they leave office.

⁸ Const Art VI, §22(h).

⁹ From the Commission's [website](#): "As it is, maintaining confidentiality is often beyond the Commission's control. For example, in any formal disciplinary proceeding, subpoenas are issued, and witnesses are interviewed and prepared to testify, by both the Commission staff and the respondent-judge. It is not unusual for word to spread around the courthouse, particularly as the hearing date approaches. Respondent-judges themselves often consult with judicial colleagues, staff and others, revealing the details of the charges against them and seeking advice. As more 'insiders' learn of the proceedings, the chances for 'leaks' to the press increase, often resulting in published misinformation and suspicious accusations as to the source of the 'leaks.' In such situations, both confidentiality and confidence in the integrity of the disciplinary system suffer."

¹⁰ [Matter of Bailey](#), 67 NY2d 61 (1986); [Matter of Young](#), 2012 Ann Rep, Comm Jud Conduct 206 (2011).

remove the judge from office, which would have barred the judge from ever returning to the bench.

In 2024, the local mayor appointed the ex-judge to fill a vacancy on his old court. When the Commission became aware of it, an investigation was commenced, and the judge was served with formal disciplinary charges. The judge challenged the formal charges in a motion that was denied, and he eventually agreed to resign and publicly declare he would never seek or assume judicial office in the future.

All of this – including the public resources spent on removing from office a “new” judge who should have been ineligible to return to the bench – could have been avoided if the proposed legislation had been law ten years ago.¹¹

The proposed bill balances the need to hold judges accountable even if they leave office early, against the unfair prospect of endless proceedings, by giving the Commission 120 days from the judge’s departure to decide whether to authorize formal disciplinary charges. If so, the matter would proceed to conclusion and could result in removal, public reprimand or stipulated resignation.

CONFIDENTIALITY OF COMMISSION PROCEEDINGS

The proposed legislation would increase the transparency of Commission proceedings at a critical point by making its proceedings public in the relatively rare case where formal disciplinary charges are initiated. This is the norm throughout the United States.

The Commission receives and processes over 2,500 complaints per year. The majority express dissatisfaction with the judge’s rulings in a case and are dismissed on a confidential basis. The proposed bill would not change that.

Complaints that allege ethical misconduct are investigated, but the majority are later dismissed as unsubstantiated, or the judge is cautioned confidentially for a minor infraction. The proposed bill would not change that, either.

When an investigation reveals serious misconduct, however, the Commission will authorize formal disciplinary charges. In 38 of the 50 states, proceedings become public at this point. But not in New York. Analogizing the process to criminal law, judicial misconduct inquiries (like grand jury investigations) are confidential everywhere, while formal charges and trials are public in 38 states.

New York is in the small minority of states where all judicial disciplinary proceedings – even the formal charges and trial – are conducted behind closed doors. The proposed legislation would align New York with the majority of the country. The rationale is that judges are public officials, and when a commission comprised of judges, lawyers and non-lawyers finds reasonable cause to institute formal charges, the public has a right to know.

The Commission itself has been advocating for this change since 1978. It is a fundamental premise of the American system of justice that the rights of citizens are protected by conducting trials in

¹¹ *Matter of Violanti*, (<https://cjc.ny.gov/Determinations/V/Violanti.html>)

the open. Not only does the public have a right to know when formal charges have been filed by an enforcement authority against a public official, but the enforcing entity is more likely to exercise its power wisely if it is subject to public scrutiny. While a judge as to whom charges are eventually dismissed may feel his or her reputation was damaged by the proceedings having been public, the historical presumption in favor of openness is so well established that criminal trials – where not only reputations but liberty is at stake – have rightfully been public since the adoption of the Constitution.

It must be noted that, even if the proposed bill were to become law, most Commission matters would remain confidential from start to finish. Roughly 135 of the 20,000 complaints reviewed over the past decade – less than 1% – resulted in formal charges, and only around five of those were disposed of with confidential cautions. Moreover, on review, the Court of Appeals has upheld all ten of the Commission decisions that were appealed in the past ten years.

Reflecting on these statistics, former Commissioner Joel Cohen observed in a Law Journal column: “The Commission simply isn’t trigger-happy; if it files a charge, an extremely high percentage of those respondents are publicly disciplined, and if appealed, those decisions are likely upheld. Given these sheer numbers, is there really a valid reason to keep *all formal complaints* confidential once filed?”¹² (Emphasis in original.)

The answer comes down to a public policy choice: transparency when a responsible agency files formal charges against judges, versus secrecy on the miniscule chance that a few cases might result in confidential cautions rather than public reprimands. Since its creation in 1978, the Commission has believed that the presumption should be openness. The Senate has now emphatically agreed.

There are also practical considerations. The disciplinary process – evaluating a complaint, conducting a comprehensive investigation, holding a formal evidentiary hearing, producing post-hearing briefs, issuing the hearing officer’s report, presenting another round of briefs and oral argument, and rendering a final determination subject to review by the Court of Appeals – is lengthy, in significant part because the Commission painstakingly endeavors to render determinations that are fair and comport with due process. In other words, under current law, the Commission goes through a process akin to a Grand Jury investigation, formal charge, trial, verdict and first appeal – all while bound by confidentiality from acknowledging or otherwise explaining to an inquisitive public why it is taking so long. Opening the charges, hearing and oral argument portions of a Commission matter would promote a better understanding of the entire disciplinary process and the basis for a Commission determination, thus leading to increased confidence in the Commission, its determinations, and ultimately the judiciary itself.

Ironically, at one time, disciplinary proceedings against judges *were* made public when a judge was formally charged with misconduct in New York. From 1974 to 1978, two temporary commissions on judicial conduct predated the current Commission. When they authorized formal disciplinary charges, those matters became public, and the adjudications took place in public, either before the Appellate Division or an *ad hoc* Court on the Judiciary whose judges were designated on a case-by-case basis by the Chief Judge of the Court of Appeals. Since *all* formal

¹² *Transparency and Judicial Misconduct*, NYLJ, 2/17/2023.

proceedings in those courts were public, there was no debate about judicial disciplinary proceedings also being public.

When the Constitution was amended in 1978 to create the present Commission, the adjudicatory responsibility was phased out from those two courts and transferred to the Commission. At that point, all judicial disciplinary proceedings in New York became confidential, at the insistence of the court system's leadership at the time, over the objection of the Commission, various civic organizations, and newspaper editorial boards. Subsequent requests to amend the law and make the Commission's adjudicatory proceedings public, by former Chief Judges Judith Kaye and Jonathan Lippman among others, did not succeed.

The proposed legislation presents the best opportunity in decades to bring New York in line with the vast majority of states in which formal judicial disciplinary charges and ensuing proceedings are made public.

DIRECT BUDGET SUBMISSION TO LEGISLATURE

The proposed legislation would confirm the Commission's independence by enabling it to submit its annual budget request directly to the Legislature, with comment by the Governor.

The Commission is unique among government agencies in that it regularly interacts with leaders of the executive, legislative and judicial branches of government, but is not supervised or controlled by any one of them. Its 11 members are appointed by six different appointing authorities, none of whom appoints a majority, the chair or the chief executive officer.¹³ The Commission members elect their own chair for a two-year term and appoint an administrator to lead the agency's day-to-day operations.¹⁴ Four of the 11 Commissioners are judges, five are lawyers, and two are non-lawyers.

While the Commission performs a purely judicial-branch function, *i.e.*, investigating and disciplining judges, an obvious conflict would exist were its budget controlled by the very judiciary whose conduct it reviews. Thus, in 1978, it was agreed that the Commission's annual budget request would be submitted to the Legislature by the Governor, leaving the judicial branch out of the process.

Then-Governor Hugh L. Carey was very supportive of the Commission, recognized its importance in one of his State of the State messages, and worked with its leadership to submit mutually agreed-upon budget recommendations. Not all subsequent Governors have followed his example. Some simply allowed their Budget Division to choose a figure, usually less than commensurate with the Commission's mandate and caseload. One Governor proposed a cut in the Commission's budget shortly after it dismissed one aspect of his own complaint against a judge. Such actions resulted in direct appeals from the Commission to the Legislature, which often added funds to the figures proposed by the Governor.

¹³ The Governor appoints four members, the Chief Judge appoints three, and one each is appointed by the Assembly Speaker, the Assembly Minority Leader, the Senate President Pro Tem and the Senate Minority Leader. Const Art VI, §22(b)(1).

¹⁴ Jud L §§41(2), (7).

This bill would institutionalize the Commission’s direct and transparent interactions with the Legislature on budgetary matters, with the Governor commenting on – but not amending – the agency’s budget request. This would mirror the way the annual judicial branch budget is handled, respecting the separation-of-powers principle and recognizing that the Commission is created in the Judiciary articles of the Constitution and statute, and that is not an executive branch agency reporting to the Governor.

CONCLUSION

Budgetary integrity, responsible transparency, and improved accountability are hallmarks of the proposed legislation affecting New York’s judicial disciplinary system. The Commission continues to advocate and work with the Legislature and the Governor toward enactment of this law.

USING THE JUDICIAL TITLE IN A PERSONAL EMAIL ADDRESS

The Rules Governing Judicial Conduct prohibit judges from lending the prestige of their office to advance the private interests of the judge or others and from otherwise allowing personal relationships to influence their judicial conduct and judgment. 22 NYCRR 100.2. It is a fundamental principle of the American system of justice that judicial office is a high public trust which may not be traded upon for private gain. This subject is a focal point of virtually every presentation made by representatives of the Commission at judicial ethics and education programs organized for judges and judicial associations around the state. Nevertheless, a significant number of judges have been disciplined in recent years for engaging in such behavior and violating that trust. In the last 20 years, approximately 50 judges have been disciplined in whole or in part for inappropriately asserting the influence of judicial office to benefit themselves or to benefit or harm others.

Every judge in the Unified Court System is or could be assigned an official email address by the Office of Court Administration, for use on court or other official business. Periodically, the Commission is made aware that some judges use the word “judge” in their personal email addresses, which raises the possibility that judicial office will be invoked when such email accounts are used in connection with private purposes, such as banking transactions, billing disputes, or arranging for certain home or travel services.

In [*Matter of Robichaud \(2022\)*](#), a part-time city court judge who had a part-time law practice was censured in 2022 for *inter alia* using her personal email account – “judgeklr@...” – to send and receive messages related to her representation of clients. Notwithstanding her declaration that she would change the name to remove the word “judge,” she did not do so, which resulted in a new investigation and her resignation in 2024. [*Matter of Robichaud \(2024\)*](#).

The Commission reminds all judges to be careful in general about the use of their judicial titles when engaged in extra-judicial activities, and specifically to avoid using the judicial title in their personal email addresses.

OVERSIGHT OF COURT-APPOINTED FIDUCIARIES

In previous annual reports, the Commission has commented on certain reforms implemented by the court system regarding the appointment and oversight of court-appointed fiduciaries, such as guardians, receivers and conservators. Periodically, [published reports](#) highlighting certain shortcomings in the process, or alleging that particular fiduciaries are acting wrongfully, prompt a review of the applicable rules and regulations.

In December 2001, the [report](#) of a blue-ribbon panel created by Chief Judge Judith S. Kaye criticized the lack of effective oversight over the fiduciary system and the individual fiduciaries themselves. One of the first reforms was to certify a list of fiduciaries from which judges must select, although there is a provision allowing them to pick someone not on the list in special circumstances so long as they provide an explanation as to why they did so. The reform also limited to one the number of lucrative appointments any individual fiduciary can get in a year.

When a fiduciary is believed to have acted wrongfully, there are various options. For example, (1) a party may bring the matter to the attention of the judge who appointed the fiduciary, (2) the Commission may investigate a complaint against the judge who may have failed to oversee or scrutinize the fiduciary's activities, or may even have been complicit in the fiduciary's misconduct, and (3) the court system's Inspector General may investigate the fiduciary.

- (1) An interested party, such as an heir or a creditor, may make an application to the judge who appointed the fiduciary. They may ask for an accounting or a new fiduciary. However, most people do not have the resources or expertise to discover that a fiduciary was malfeasant, or to hire a lawyer to pursue their claim. In estates where there are few, faraway or even no heirs, it would be even less likely that a fiduciary's misconduct would be spotted and reported.
- (2) Where the Commission learns that *a judge* may have negligently appointed a fiduciary or neglected to oversee or scrutinize the work of a fiduciary, resulting in misconduct by the fiduciary, it may investigate and hold the judge accountable. For example, in [Matter of Feinberg](#), a Brooklyn Surrogate was removed from office, and in [Matter of Holzman](#), a Bronx Surrogate was censured.
- (3) For investigating the actions of the *fiduciaries*, the court system has a [Special Inspector General for Fiduciary Matters](#). The Fiduciary IG has authority to investigate malfeasance by fiduciaries and their agents.

Inasmuch as the fiduciary system relies on so many appointees from around the state, the skills brought to the task can vary widely, and monitoring the performances of so many individuals is most difficult. One model that may be worth exploring is the [California Professional Fiduciaries Act](#), which created a [Professional Fiduciaries Bureau](#) within the Department of Consumer Affairs. The Bureau handles the licensing of professional fiduciaries, the investigation, and the disciplining of fiduciaries for wrongdoing. It covers guardians and conservators of the living, and the personal representatives of decedent estates.

For its part, the Commission will continue to investigate meritorious complaints of judicial misconduct regarding fiduciary appointments or oversight and, where warranted, take appropriate

disciplinary action. The Commission would also participate in a joint effort – with officials of the court system, the Governor, Attorney General, State Comptroller, the Legislature, the state and local bar associations, reputable civic reform groups and other stakeholders – to review and recommend reforms to the current system.

THE COMMISSION'S BUDGET

Although the Commission performs a purely Judicial Branch function and is not an Executive agency reporting to the Governor, it was determined in 1978 that the Commission's annual funding request would be submitted to the Legislature by the Governor in the Executive Budget. This is intended to avoid the obvious conflict that would arise were the Commission's budget to be controlled by the very Judicial Branch whose officers it may investigate and discipline. However, it was never intended for the Executive to unilaterally dictate or control the Commission's budget.

Over the years, some Governors and Budget Directors have worked with the Commission to arrive at an appropriate recommendation on the proposed budget. Where the Executive and the Commission have disagreed, and the Executive has unilaterally recommended a figure, the Commission has successfully appealed to the Legislature for additional funding.

For fiscal year 2025-26, the Commission requested a budget of \$9.3 million, reflecting an additional \$430,000 over last year, to cover contractual obligations and other mandated increases.

Governor Hochul's Executive Budget submission to the Legislature for the fiscal year beginning April 1, 2025, proposed the \$9.3 million as the Commission had requested.

SELECTED BUDGET FIGURES: 1978 TO PRESENT

Fiscal Year	Annual Budget ¹	New Complaints ²	Prelim Inquiries	New Investigations	Pending Year End	Public Dispositions	Full-Time Staff
1978	1.6m	641	N.A.	170	324	24	63
1988	2.2m	1109	N.A.	200	141	14	41
1996	1.7m	1490	492	192	172	15	20
2006	2.8m	1500	375	267	275	14	28
2007	4.8m	1711	413	192	238	27	51
2020	6.0m	1504	318	120	177	24	39
2021	6.4m	1938	375	125	191	17	43
2022	7.2m	2439	549	170	187	25	46
2023	8.1m	2982	570	207	204	17	49
2024	8.9m	3353	537	159	212	24	49
2025	9.3m	~	~	~	~	~	56

¹ Budget figures are rounded off; budget figures are fiscal year (Apr 1 – Mar 31).

² Complaint figures are calendar year (Jan 1 – Dec 31).

CONCLUSION

Public confidence in the independence, integrity, impartiality and high standards of the judiciary, and in an independent disciplinary system that helps keep judges accountable for their conduct, is essential to the rule of law. The members of the New York State Commission on Judicial Conduct are confident that the Commission's work contributes to those ideals, to a heightened awareness of the appropriate standards of ethics incumbent on all judges, and to the fair and proper administration of justice.

Respectfully submitted,

JOSEPH W. BELLUCK, ESQ., *CHAIR*

TAA GRAYS, ESQ., *VICE CHAIR*

HON. FERNANDO M. CAMACHO

STEFANO CAMBARERI, ESQ.

BRIAN C. DOYLE, ESQ.

HON. JOHN A. FALK

HON. ROBERT J. MILLER

NINA M. MOORE, PH.D.

MARVIN RAY RASKIN, ESQ.

HON. ANIL C. SINGH

AKOSUA GARCIA YEBOAH

APPENDIX A: BIOGRAPHIES OF COMMISSION MEMBERS

There are 11 members of the Commission on Judicial Conduct. Each serves a renewable four-year term. Four members are appointed by the Governor, three by the Chief Judge, and one each by the Speaker of the Assembly, the Minority Leader of the Assembly, the Temporary President of the Senate (Majority Leader) and the Minority Leader of the Senate.

Of the four members appointed by the Governor, one shall be a judge, one shall be a member of the New York State bar but not a judge, and two shall not be members of the bar, judges or retired judges. Of the three members appointed by the Chief Judge, one shall be a justice of the Appellate Division, one shall be a judge of a court other than the Court of Appeals or Appellate Division, and one shall be a justice of a town or village court. None of the four members appointed by the legislative leaders shall be judges or retired judges.

The Commission elects a Chair and a Vice Chair from among its members for renewable two-year terms, and appoints an Administrator who shall be a member of the New York State bar who is not a judge or retired judge. The Administrator appoints and directs the agency staff. The Commission also has a Clerk who plays no role in the investigation or litigation of complaints but assists the Commission in its consideration of formal charges, preparation of determinations and related matters.

Member	Appointing Authority	Year First App'ted	Expiration of Present Term
Joseph W. Belluck	Governor Kathy Hochul	2008	3/31/2028
Taa Grays	Senate President Pro Tem Andrea Stewart-Cousins	2017	3/31/2027
Fernando M. Camacho	Chief Judge Rowan Wilson	2021	3/31/2028
Stefano Cambareri	Assembly Minority Leader William A. Barclay	2024	3/31/2025
Brian C. Doyle	Senate Minority Leader Robert G. Ort	2023	3/31/2028
John A. Falk	(Former) Chief Judge Janet DiFiore	2017	3/31/2025
Robert J. Miller	Governor Kathy Hochul	2018	3/31/2026
Nina M. Moore	Governor Kathy Hochul	2023	3/31/2027
Marvin Ray Raskin	Assembly Speaker Carl Heastie	2018	3/31/2026
Anil C. Singh	Chief Judge Rowan Wilson	2023	3/31/2026
Akosua Garcia Yeboah	(Former) Governor Andrew M. Cuomo	2016	3/31/2025

Joseph W. Belluck, Esq., *Chair of the Commission*, graduated *magna cum laude* from the SUNY-Buffalo School of Law in 1994, where he served as Articles Editor of the Buffalo Law Review and where he is an adjunct lecturer on mass torts. He is the founder of the Manhattan law firm Belluck Law, which focuses on asbestos and serious injury litigation. Mr. Belluck previously served as counsel to the New York State Attorney General, representing the State of New York in its litigation against the tobacco industry, as a judicial law clerk for Justice Lloyd Doggett of the Texas Supreme Court, as staff attorney for Public Citizen in Washington, D.C., and as Director of Attorney Services for Trial Lawyers Care, an organization dedicated to providing free legal assistance to victims of the September 11, 2001 terrorist attacks. Mr. Belluck has lectured frequently on asbestos, product liability, tort law and tobacco control policy. He is an active member of several bar associations, including the New York State Trial Lawyers Association and was a recipient of the New York State Bar Association's Legal Ethics Award. He is also a member of the SUNY Board of Trustees, Chair of the New York State Cannabis Advisory Board, and sits on the board of several not-for-profit organizations.

Taa Grays, Esq., *Vice Chair of the Commission*, is a graduate of Harvard University, cum laude, and Georgetown University Law Center. She served in various senior positions at MetLife, Inc. since 2003 including most recently as Vice President & Associate General Counsel for Information Governance. Prior to MetLife, she previously served as an Assistant District Attorney in the Bronx from 1997 - 2003. Ms. Grays is the Secretary of the New York State Bar Association, is on the New York Law Journal Board of Editors and has served as President of the Metropolitan Black Bar Association, the Network of Bar Leaders and the Association of Black Women. She has received numerous awards and recognition for her leadership in bar and diversity endeavors.

Honorable Fernando M. Camacho is a graduate of Columbia College and Fordham University School of Law. He previously served as judge of the New York City Criminal Court from 1997 to 2008 and as Administrative Judge for Criminal Matters, 11th Judicial District from 2008 to 2012. Justice Camacho was appointed to the Court of Claims in 2009 and has served as an Acting Justice of the Supreme Court, Suffolk County, since 2013. Justice Camacho began his career in the Manhattan District Attorney's Office, where he served from 1985 until 1995 when he left to work in private practice.

Stefano Cambareri, Esq., is a graduate of the State University of New York at Albany with a B.S. (cum laude) in Business Administration, and the Syracuse University College of Law (magna cum laude), where he was a member of the Justinian Honorary Law Society and an Associate Editor of the Syracuse Law Review. Mr. Cambareri is Senior Partner in the law firm of Cambareri & Brenneck, PLLC, in Syracuse. He previously served as an associate at Bond, Schoeneck & King and later worked as an Assistant District Attorney in Onondaga County. Mr. Cambareri has taught trial practice at the Syracuse University College of Law and classes at Cazenovia College and Bryant & Straton College. He is a past member of the Lexis/Nexis New York Criminal Practice Editorial Board, has lectured on various law-related topics for the Onondaga County Bar Association Continuing Legal Education Program, the Syracuse Police Department, the Onondaga County Sheriff's Office, the Onondaga County Center for Forensic Sciences, local school districts and community groups.

Brian C. Doyle, Esq., is a graduate of the University of North Carolina at Chapel Hill and the Wake Forest School of Law. He is Co-Managing Shareholder of the Long Island office of law firm Greenberg Traurig. He began his career as an Assistant District Attorney in Suffolk County before

entering private practice. Mr. Doyle represents clients in real estate transactions, land use applications and litigated matters related to municipal determinations, construction, business and broker disputes, easements and adverse possession claims. Mr. Doyle previously chaired the Suffolk County Bar Association's East End Committee and was a member of its Judicial Screening Committee. He also previously served on the Board of Directors of the East Hampton Business Alliance and as the treasurer of the East End Regional Intervention Court. In 2011, Mr. Doyle received the Suffolk County Bar Association's Special Award of Recognition.

Honorable John A. Falk is a graduate of LeMoyne College and the University of Dayton School of Law. He has served as a Justice of the Brighton Town Court since 2008. He is the Managing Partner of Faraci Lange, LLP, in Rochester, where he focuses on serious injury litigation. Before joining Faraci Lange, he served as an Assistant District Attorney for Monroe County. Justice Falk is a member of the American Board of Trial Advocates.

Honorable Robert J. Miller is a graduate of Brooklyn College and the Georgetown University Law Center. In 2007, he was elected to the Supreme Court, Second Judicial District, and in 2010 he was appointed to the Appellate Division, Second Department. Prior to his judicial career Justice Miller was a partner in several law firms, including Reed Smith and Parker Duryee Rosoff & Haft. Justice Miller is a frequent lecturer at a variety of Continuing Legal Education programs and has long been active in various civic and bar associations endeavors. Justice Miller is the former Chair of the New York State Ethics Commission and is a member of the Association of the Bar of the City of New York, the Brooklyn Bar Association, the Kings County Columbian Lawyers and the Catholic Lawyers Guild.

Nina M. Moore, Ph.D., graduated magna cum laude and Phi Beta Kappa from Knox College and earned her M.A. and Ph.D. in political science at the University of Chicago. She is a professor of Political Science and former department chair at Colgate University, and the director of the Forum on Race and Public Policy. Dr. Moore previously taught at DePaul University, Loyola University of Chicago, and the University of Minnesota. The author of three books, *Governing Race: Policy Process and the Politics of Race*, *The Political Roots of Racial Tracking in American Criminal Justice* and *Toeing the Line: The Supreme Court and the Politics of Affirmative Action* (forthcoming), her research and teaching interests center on race and institutions. She is named in Princeton Review's Best 300 Professors in the U.S. volume and has served in numerous faculty leadership posts at Colgate, by appointment and peer election. Beyond Colgate she has worked as a consultant on a mayoral and presidential campaign and is the recipient of several outside grants. Dr. Moore previously served as a member of the Judicial Conduct Commission from 2009-2013 and as a New York State Senate appointee to the state Advisory Council on Underage Alcohol Consumption and Substance Abuse. She is on the editorial board of the Ralph Bunche Journal of Public Affairs and a member of the American Political Science Association, the Midwest Political Science Association, and the National Conference of Black Political Scientists. Dr. Moore is an active member of the Syracuse, NY community where she has served on not-for-profit boards, is a regular panelist on the PBS television series *Ivory Tower*, and is an active member of her church congregation.

Marvin Ray Raskin, Esq., is a graduate of New York Law School, where he served as Editor-in-Chief of the law school publication *Equitas*. He has maintained a private practice in the Bronx since 1977 and has an office in Yorktown Heights. Mr. Raskin previously served as an assistant district attorney in the Bronx. He has been a member of the Bronx County Bar Association for

over 40 years, was elected president in 1994, and since 1996 has been Chair of its Criminal Courts Committee. Mr. Raskin served on the New York City Mayor's Advisory Committee on the Judiciary, 2007-2017, under Mayors Bloomberg and DiBlasio. He is presently the Vice-Chair of the Central Screening Committee, Assigned Counsel Plan, for the Appellate Division, First Department. Among his professional awards are the New York County Lawyers Pro Bono Award for free legal services rendered to the Courts and the Public, The New York Law Journal award for Attorney's Who Lead by Example, and the President's Award for Extraordinary Service by the Bronx County Bar Association. Mr. Raskin regularly lectures on criminal law and procedure and legal ethics in the metropolitan area and has been an Adjunct Assistant Professor at the Herbert H. Lehman College of the City University of New York.

Honorable Anil C. Singh is a graduate of Lawrence University and the Antioch School of Law in Washington, D.C. In 2013, he was elected to the Supreme Court and in 2017 he was appointed to the Appellate Division, First Department. He served as a Judge of the New York City Civil Court from 2003 to 2013. Prior to his judicial career Justice Singh worked as a principal court attorney to the Hon. Alice Schlesinger. Before joining the Commission, Justice Singh had served on the Advisory Committee on Judicial Ethics.

Akosua Garcia Yeboah received her B.A. from the State University of New York at New Paltz and holds a Master of Science degree in Urban Planning and Environmental Studies from Rensselaer Polytechnic Institute. She is a former Senior Information Technology Project Manager for the City of Albany. She previously worked for the IBM Corporation as a Systems Engineer and I.T. Consultant. Ms. Yeboah is a former member of the Attorney Grievance Committee of the Appellate Division, Third Department. She also served as a member of the Commission on Statewide Attorney Discipline. Ms. Yeboah served two terms on the Albany Citizen's Police Review Board as a Board member and as Secretary of the Board. She was also a member of the Advisory Board of the Center for Women in Government & Civil Society, and Chair of the Advisory Board of the New York State Office of the Advocate for Persons with Disabilities.

RECENT MEMBER

Graham B. Seiter, Esq., served on the Commission from 2021 through July 2024. He is a graduate of Saint Lawrence University and Syracuse University College of Law. Mr. Seiter is an attorney in private practice with an office in Oswego County. His law practice includes family law, criminal defense, real estate, estate planning and business formation. He has also served as the Town Attorney to the Town of Richland, New York, since 2019. Mr. Seiter began his career with the law firm Caraccioli & Associates, PLLC. He is currently the president of the Oswego County Bar Association. In July 2024 he was appointed as a part-time Judge of the Fulton City Court.

APPENDIX B: BIOGRAPHIES OF COMMISSION ATTORNEYS

Eric Arnone, *Senior Attorney*, is a graduate of New York University (Phi Beta Kappa, magna cum laude) and Brooklyn Law School (Moot Court Honor Society selection). Prior to joining the Commission Staff, he served for ten years as an Assistant District Attorney in the New York County District Attorney's Office under the Hon. Robert M. Morgenthau. After handling over a thousand cases in the Trial Division, he was selected to join the Office's elite Homicide Investigations Unit where he tried homicides, large-scale narcotics conspiracy cases and handled firearms trafficking cases and "murders-for-hire." He continued this work in the Office's Violent Criminal Enterprises Unit under the Hon. Cyrus Vance, Jr. After leaving the Manhattan D.A., he spent a decade in private practice with a focus on criminal defense, Federal and state civil litigation. He also conducted investigations designed to identify and suppress criminal activity and extortion on behalf of private clients.

Denise Buckley, *Senior Litigation Counsel*, earned her J.D. at NYU School of Law and B.A. (magna cum laude, in cursu honorum) at Fordham University. Born and raised in Bronx, New York, she lived and worked in New York City, Edinburgh, and Dublin before settling in New York's Capital Region. She holds an LL.M., from the University of Edinburgh and a Diploma in Commercial Litigation from the Law Society of Ireland. Before assuming her current role with the Commission, she worked as a Professional Support Lawyer in the Edinburgh and Glasgow offices of a law firm in Scotland, a State Solicitor with the Chief State Solicitor's Office in Dublin, Ireland, an Adjunct Lecturer at Albany Law School of Union College, and an Assistant Attorney General with the New York State Office of the Attorney General. In 2021, she received a Louis J. Lefkowitz Memorial Award from New York State's Attorney General in recognition of her outstanding performance on behalf of the Office of the Attorney General and the people of the State of New York. In addition to her academic and professional achievements, Denise has served as a volunteer with St. Peter's Community Hospice and Capital City Rescue Mission.

Cathleen S. Cenci, *Deputy Administrator in Charge of the Commission's Albany office*, is a graduate of Potsdam College (summa cum laude) and the Albany Law School of Union University. In 1979, she completed the Course Superior at the Institute of Touraine in Tours, France. Ms. Cenci joined the Commission staff in 1985. She has been a judge of the Albany Law School moot court competitions and a member of Albany County Big Brothers/Big Sisters.

Brenda Correa, *Principal Attorney*, is a graduate of the University of Massachusetts at Amherst and Elisabeth Haub School of Law at Pace University (cum laude). Prior to joining the Commission staff, she served as an Assistant District Attorney in the New York County District Attorney's Office under Robert M. Morgenthau. She also worked as an associate for Wilentz Goldman & Spitzer, PA in the area of toxic torts and Kaufman Borgeest & Ryan, LLP in the area of legal malpractice defense and as Professional Responsibility Counsel for Foley & Lardner, LLP.

Kelvin S. Davis, *Staff Attorney*, is a graduate of Yale University and the University of Virginia Law School. Prior to joining the Commission staff, he served as an Assistant Staff Judge Advocate in the United States Air Force and as Judicial Law Clerk to New Jersey Superior Court Judge Eugene H. Austin.

Melissa DiPalo, *Principal Attorney*, is a graduate of the University of Richmond and Brooklyn Law School. She previously served as Administrative Counsel and as a Staff Attorney at the Commission. She has also served as an Assistant District Attorney in the Bronx and as a Court Attorney in Kings County Civil Court.

David M. Duguay, *Senior Attorney*, is a graduate of the State University of New York at Buffalo (summa cum laude) and the SUNY at Buffalo Law School. Prior to joining the Commission's staff, he was Special Assistant Public Defender and Town Court Supervisor in the Monroe County Public Defender's Office. He served previously as a staff attorney with Legal Services, Inc., of Chambersburg, Pennsylvania.

Stephanie A. Fix, *Staff Attorney*, is a graduate of the State University of New York at Brockport and Quinnipiac College School of Law in Connecticut. Prior to joining the Commission staff, she was in private practice focusing on civil litigation and professional liability in Connecticut, Manhattan and Rochester. She has served on the Monroe County Bar Association (MCBA) Board of Trustees and other boards in the community including Bishop Kearney High School. She is a current member of the MCBA's Professional Performance Committee. Ms. Fix received the President's Award for Professionalism from the Monroe County Bar Association in 2004. She is a member of the MCBA, New York State Bar Association and Greater Rochester Association of Women Attorneys (GRAWA). Ms. Fix is an adjunct professor at St. John Fisher University.

Alan W. Friedberg, *Special Counsel*, is a graduate of Brooklyn College, the Brooklyn Law School and the New York University Law School, where he earned an LL.M. in Criminal Justice. He previously served as Chief Counsel to the Departmental Disciplinary Committee of the Appellate Division, First Department, as Deputy Administrator in Charge of the Commission's New York City Office, as a Senior Attorney at the Commission, as a staff attorney in the Law Office of the New York City Board of Education, as an adjunct professor of business law at Brooklyn College, and as a junior high school teacher in the New York City public school system.

Stella Gilliland, *Staff Attorney*, is a graduate of Lewis and Clark College and Fordham University School of Law. She previously served as Deputy State Public Defender with the Colorado Public Defender in Alamosa, Colorado.

Shruti Joshi, *Staff Attorney*, completed her Bachelor of Arts and Bachelor of Law degree from Symbiosis Law School in India and Masters in Intellectual Property Law from George Washington University Law School in Washington, D.C. Prior to joining the Commission staff, she worked at the Legal Aid Society of Northeastern New York in Albany where she represented low-income clients in foreclosure and housing cases. Shruti practiced in India as an in-house counsel for PepsiCo, Inc. before moving to the United States of America. She is dual-qualified, with license to practice in New York and India.

Adam B. Kahan, *Staff Attorney*, is a graduate of Duke University (summa cum laude) and University of Virginia School of Law, where he served as Articles Editor for the Virginia Journal of International Law. Prior to joining the Commission Staff, he was in private practice focusing on capital markets and private fund formation at Simpson Thacher & Bartlett in Manhattan.

Kathleen E. Klein, *Senior Attorney*, is a graduate of State University of New York College at Fredonia (cum laude) and Pace University School of Law where she was a Merit Scholarship recipient. Prior to joining the Commission Staff, she served as a Senior Assistant District Attorney with the Ulster County District Attorney's Office. She worked in private practice as a litigator, but began her career negotiating contracts for fractional aircraft ownership for CitationShares Sales, Inc. in Greenwich, Connecticut.

Cassie M. Kocher, *Senior Attorney*, is a graduate of Cornell University and the University of Louisville Brandeis School of Law. Prior to joining the Commission staff, she was an Assistant United States Attorney for the Western District of New York assigned to the Narcotics and Violent Crime Section. She also previously worked as an Assistant District Attorney in Monroe County where she was assigned to the Special Investigation Bureau and prosecuted felony drug and gun cases.

Mark Levine, *Deputy Administrator in Charge of the Commission's New York office*, is a graduate of the State University of New York at Buffalo and Brooklyn Law School. He previously served as Principal Law Clerk to Acting Supreme Court Justice Jill Konviser and Supreme Court Justice Phylis Skloot Bamberger, as an Assistant Attorney General in New York, as an Assistant District Attorney in Queens, and as law clerk to United States District Court Judge Jacob Mishler. Mr. Levine also practiced law with the law firms of Patterson, Belknap, Webb & Tyler, and Weil, Gotshal & Manges. Mr. Levine is currently the President of the Association of Judicial Disciplinary Counsel.

Edward Lindner, *Deputy Administrator for Litigation*, is a graduate of the University of Arizona and Cornell Law School, where he was a member of the Board of Editors of the Cornell International Law Journal. Prior to joining the Commission's staff, he was an Assistant Solicitor General in the Division of Appeals & Opinions for the New York State Attorney General. He has been a Board Member and volunteer for various community organizations, including Bikeatoga, Catholic Charities, The Children's Museum at Saratoga, the Saratoga Springs Public Library and the Saratoga Springs Preservation Foundation.

Jennifer L. Lowry, *Principal Attorney*, is a graduate of Barnard College (magna cum laude) and Fordham Law School, where she received the Archibald R. Murray Public Service Award and served as the Managing Editor of the Environmental Law Journal. Prior to joining the Commission, she served as Principal Law Clerk to Acting Supreme Court Justice Jill Konviser. She previously served as an Assistant District Attorney in New York County, assigned to the Trial Division, Sex Crimes and Domestic Violence Units, and the Appeals Bureau, and as an Assistant District Attorney in Westchester County, assigned to the Special Prosecutions and Local Courts and Grand Jury Divisions.

Vickie Ma, *Principal Attorney*, is a graduate of the University of Wisconsin at Madison and Albany Law School, where she was Associate Editor of the Law Review. Prior to joining the Commission staff, she served as an Assistant District Attorney in Kings County. She previously worked for the Commission from 2000 to 2006, when she left for a legal consultant position in private industry.

M. Kathleen Martin, *Senior Attorney*, is a graduate of Mount Holyoke College and Cornell Law School (cum laude). Prior to joining the Commission's staff, she was an attorney at the Eastman Kodak Company, where among other things she held positions as Legal Counsel to the Health Group, Director of Intellectual Property Transactions and Director of Corporate Management Strategy Deployment. She also served as Vice President and Senior Associate Counsel at Chase Manhattan Bank, and in private practice with the firm of Nixon, Hargrave, Devans & Doyle.

S. Peter Pedrotty, *Principal Attorney*, is a graduate of St. Michael's College (cum laude) and the Albany Law School of Union University (magna cum laude). Prior to joining the Commission staff, he served as an Appellate Court Attorney at the Appellate Division, Third Department, and was engaged in the private practice of law in Saratoga County and with the law firm of Clifford Chance US LLP in Manhattan.

John J. Postel, *Deputy Administrator in Charge of the Commission's Rochester office*, is a graduate of the University of Albany and the Albany Law School of Union University. He joined the Commission staff in 1980.

David Stromes, *Senior Litigation Counsel*, is a graduate of Brandeis University and Brooklyn Law School. Prior to joining the Commission's staff, he served for nearly 12 years as an Assistant District Attorney in the Appeals Division of the New York County District Attorney's Office. He currently teaches Appellate Advocacy and Criminal procedure as an adjunct professor at Albany Law School, having previously taught at Brooklyn Law School as well. David is on the Board of Directors for the Daughters of Sarah Foundation.

Robert H. Tembeckjian, *Administrator and Counsel*, is a graduate of Syracuse University (BA), the Fordham University School of Law (JD) and Harvard University's Kennedy School of Government (MPA). He was a Fulbright Scholar to Armenia in 1994, teaching constitutional law and ethics at the American University of Armenia and Yerevan State University, and advising the Armenian Parliament on its drafting of a new constitution. Mr. Tembeckjian served on the Advisory Committee to the American Bar Association Commission to Evaluate the Model Code of Judicial Conduct from 2003-07. He is on the board of the Association of Judicial Disciplinary Counsel, has served on various bar association ethics committees, has published numerous articles on judicial ethics and discipline, and was on the editorial board of the Justice System Journal at the National Center for State Courts. In 2022-23, Mr. Tembeckjian served on a committee to evaluate the California Commission on Judicial Performance, by appointment of Governor Gavin Newsom.

Celia A. Zahner, *Clerk of the Commission*, is a graduate of Colgate University and Harvard Law School. She previously served as Special Counsel to the Independent Investigations Officer and the Chief Investigator appointed pursuant to the Consent Order in United States v International Brotherhood of Teamsters. Ms. Zahner also served as a Staff Attorney in the Law Enforcement Bureau of the New York City Commission on Human Rights and as a Staff Attorney in the Criminal Defense Division of the Legal Aid Society.

APPENDIX C: REFEREES WHO SERVED IN 2024

Referee	City/Town	County
Mark S. Arisohn, Esq.	Tuckahoe	Westchester
Howard Benjamin, Esq.	New York	New York
Peter Bienstock, Esq.	New York	New York
Helene E. Blank, Esq.	Brooklyn	Kings
Meagan E. Dean, Esq.	Syracuse	Onondaga
Daniel A. Drake, Esq.	Pittsford	Monroe
Thomas F. Gleason, Esq.	Albany	Albany
Richard A. Glickel, Esq.	West Nyack	Rockland
Ronald Goldstock, Esq.	Larchmont	Westchester
Gregory J. Huether, Esq.	Pittsford	Monroe
Souren Israelyan, Esq.	New York	New York
C. Bruce Lawrence, Esq.	Rochester	Monroe
Jane W. Parver, Esq.	New York	New York
Margaret M. Reston, Esq.	Rochester	Monroe
Joshua Silber, Esq.	New York	New York
Hon. Robert E. Torres	Bronx	Bronx
Michael Whiteman, Esq.	Albany	Albany

APPENDIX D: THE COMMISSION'S POWERS, DUTIES AND HISTORY

Creation of the New York State Commission on Judicial Conduct

For decades prior to the creation of the Commission on Judicial Conduct, judges in New York State were subject to professional discipline by a patchwork of courts and procedures. The system, which relied on judges to discipline fellow judges, was ineffective. In the 100 years prior to the creation of the Commission, only 23 judges were disciplined by the patchwork system of *ad hoc* judicial disciplinary bodies. For example, an *ad hoc* Court on the Judiciary was convened only six times prior to 1974. There was no staff or even an office to receive and investigate complaints against judges.

Starting in 1974, the Legislature changed the judicial disciplinary system, creating a temporary commission with a full-time professional staff to investigate and prosecute cases of judicial misconduct. In 1976 and again in 1977, the electorate overwhelmingly endorsed and strengthened the new commission, making it permanent and expanding its powers by amending the State Constitution.

The Commission's Powers, Duties, Operations and History

The State Commission on Judicial Conduct is the disciplinary agency constitutionally designated to review complaints of judicial misconduct in New York State. The Commission's objective is to enforce the obligation of judges to observe high standards of conduct while safeguarding their right to decide cases independently. The Commission does not act as an appellate court. It does not review judicial decisions or alleged errors of law, nor does it issue advisory opinions, give legal advice or represent litigants. When appropriate, it refers complaints to other agencies

By offering a forum for citizens with conduct-related complaints, and by disciplining those judges who transgress ethical constraints, the Commission seeks to insure compliance with established standards of ethical judicial behavior, thereby promoting public confidence in the integrity and honor of the judiciary.

All 50 states and the District of Columbia have adopted a commission system to meet these goals.

In New York, a temporary commission created by the Legislature in 1974 began operations in January 1975. It was made permanent in September 1976 by a constitutional amendment. A second constitutional amendment, effective on April 1, 1978, created the present Commission with expanded membership and jurisdiction. (For clarity, the Commission, which operated from September 1976 through March 1978, will be referred to as the "former" Commission.)

Membership and Staff

The Commission is composed of 11 members serving four-year terms. Four members are appointed by the Governor, three by the Chief Judge of the Court of Appeals, and one by each of the four leaders of the Legislature. The Constitution requires that four members be judges, at least one be an attorney, and at least two be lay persons. The Commission elects one of its members to be chairperson and

appoints an Administrator and a Clerk. The Administrator is responsible for hiring staff and supervising staff activities subject to the Commission's direction and policies. The Commission's principal office is in New York City. Offices are also maintained in Albany and Rochester.

The following individuals have served on the Commission since its inception. Asterisks denote those members who chaired the Commission.

Hon. Rolando T. Acosta (2010-17)
Hon. Sylvia G. Ash (2016)
Hon. Fritz W. Alexander, II (1979-85)
Hon. Myriam J. Altman (1988-93)
Helaine M. Barnett (1990-96)
Herbert L. Bellamy, Sr. (1990-94)
*Joseph W. Belluck (2008-present)
*Henry T. Berger (1988-2004)
*John J. Bower (1982-90)
Hon. Evelyn L. Braun (1994-95)
David Bromberg (1975-88)
Jeremy Ann Brown (1997-2001)
Hon. Fernando M. Camacho (2021-present)
Stefano Cambareri (2024-present)
Hon. Richard J. Cardamone (1978-81)
Hon. Frances A. Ciardullo (2001-05)
Hon. Carmen Beauchamp Ciparick (1985-93)
E. Garrett Cleary (1981-96)
Stephen R. Coffey (1995-2011)
Joel Cohen (2010-18)
Jodie Corngold (2013-2023)
Howard Coughlin (1974-76)
Mary Ann Crotty (1994-98)
Dolores DelBello (1976-94)
Brian C. Doyle (2023-present)
Colleen C. DiPirro (2004-08)
Richard D. Emery (2004-17)
Hon. Herbert B. Evans (1978-79)
Hon. John A. Falk (2017-present)
*Raoul Lionel Felder (2003-08)
*William Fitzpatrick (1974-75)
*Lawrence S. Goldman (1990-2006)
Taa Grays (2017-present)
Hon. Louis M. Greenblott (1976-78)
Paul B. Harding (2006-2021)
Christina Hernandez (1999-2006)
Hon. James D. Hopkins (1974-76)
Elizabeth B. Hubbard (2008-2011)

Marvin E. Jacob (2006-09)
 Hon. Daniel W. Joy (1998-2000)
 Michael M. Kirsch (1974-82)
 *Hon. Thomas A. Klonick (2005-17)
 Hon. Jill Konviser (2006-10)
 *Victor A. Kovner (1975-90)
 William B. Lawless (1974-75)
 Hon. Leslie G. Leach (2016-20)
 Hon. Daniel F. Luciano (1995-2006)
 William V. Maggipinto (1974-81)
 Hon. Frederick M. Marshall (1996-2002)
 Hon. Angela M. Mazzarelli (2017-22)
 Hon. Ann T. Mikoll (1974-78)
 Hon. Robert J. Miller (2018-present)
 Mary Holt Moore (2002-03)
 Nina M. Moore (2009-13; 2023-present)
 Hon. Juanita Bing Newton (1994-99)
 Hon. William J. Ostrowski (1982-89)
 Hon. Karen K. Peters (2000-12)
 *Alan J. Pope (1997-2006)
 Marvin Ray Raskin (2018-present)
 *Lillemor T. Robb (1974-88)
 Ronald J. Rosenberg (2020-2023)
 Hon. Isaac Rubin (1979-90)
 Hon. Terry Jane Ruderman (1999-2016)
 *Hon. Eugene W. Salisbury (1989-2001)
 Barry C. Sample (1994-97)
 Graham B. Seiter (2021-2024)
 Hon. Felice K. Shea (1978-88)
 John J. Sheehy (1983-95)
 Hon. Morton B. Silberman (1978)
 Hon. Anil C. Singh (2023-present)
 Richard A. Stoloff (2011-19)
 Hon. William C. Thompson (1990-98)
 Carroll L. Wainwright, Jr. (1974-83)
 Hon. David A. Weinstein (2012-18)
 Akosua Garcia Yeboah (2016-present)

The Commission's Authority

The Commission has the authority to receive and review written complaints of misconduct against judges, initiate complaints on its own motion, conduct investigations, file Formal Written Complaints and conduct formal hearings thereon, subpoena witnesses and documents, and make appropriate determinations as to dismissing complaints or disciplining judges within the state unified court system. This authority is derived from Article 6, Section 22, of the Constitution of the State of New York, and Article 2-A of the Judiciary Law of the State of New York.

By provision of the State Constitution (Article 6, Section 22), the Commission:

shall receive, initiate, investigate and hear complaints with respect to the conduct, qualifications, fitness to perform or performance of official duties of any judge or justice of the unified court system...and may determine that a judge or justice be admonished, censured or removed from office for cause, including, but not limited to, misconduct in office, persistent failure to perform his duties, habitual intemperance, and conduct, on or off the bench, prejudicial to the administration of justice, or that a judge or justice be retired for mental or physical disability preventing the proper performance of his judicial duties.

The types of complaints that may be investigated by the Commission include improper demeanor, conflicts of interest, violations of defendants' or litigants' rights, intoxication, bias, prejudice, favoritism, gross neglect, corruption, certain prohibited political activity and other misconduct on or off the bench.

Standards of conduct are set forth primarily in the Rules Governing Judicial Conduct (originally promulgated by the Administrative Board of the Judicial Conference and subsequently adopted by the Chief Administrator of the Courts with the approval of the Court of Appeals) and the Code of Judicial Conduct (adopted by the New York State Bar Association).

If the Commission determines that disciplinary action is warranted, it may render a determination to impose one of four sanctions, subject to review by the Court of Appeals upon timely request by the respondent-judge. If review is not requested within 30 days of service of the determination upon the judge, the determination becomes final. The Commission may render determinations to:

- admonish a judge publicly;
- censure a judge publicly;
- remove a judge from office;
- retire a judge for disability.

In accordance with its rules, the Commission may also issue a confidential letter of dismissal and caution to a judge, despite a dismissal of the complaint, when it is determined that the circumstances so warrant. In some cases the Commission has issued such a letter after charges of misconduct have been sustained.

Procedures

The Commission meets several times a year. At its meetings, the Commission reviews each new complaint of misconduct and makes an initial decision whether to investigate or dismiss the complaint. It also reviews staff reports on ongoing matters, makes final determinations on completed proceedings, considers motions and entertains oral arguments pertaining to cases in which judges have been served with formal charges, and conducts other Commission business.

No investigation may be commenced by staff without authorization by the Commission. The filing of formal charges also must be authorized by the Commission.

After the Commission authorizes an investigation, the Administrator assigns the complaint to a staff attorney, who works with investigative staff. If appropriate, witnesses are interviewed and court records are examined. The judge may be asked to respond in writing to the allegations. In some instances, the Commission requires the appearance of the judge to testify during the course of the investigation. The judge's testimony is under oath, and a Commission member or referee designated by the Commission must be present. Although such an "investigative appearance" is not a formal hearing, the judge is entitled to be represented by counsel. The judge may also submit evidentiary data and materials for the Commission's consideration.

If the Commission finds after an investigation that the circumstances so warrant, it will direct its Administrator to serve upon the judge a Formal Written Complaint containing specific charges of misconduct. The Formal Written Complaint institutes the formal disciplinary proceeding. After receiving the judge's answer, the Commission may, if it determines there are no disputed issues of fact, grant a motion for summary determination. It may also accept an agreed statement of facts submitted by the Administrator and the respondent-judge. Where there are factual disputes that make summary determination inappropriate or that are not resolved by an agreed statement of facts, the Commission will appoint a referee to conduct a formal hearing and report proposed findings of fact and conclusions of law. Referees are designated by the Commission from a panel of attorneys and former judges. Following the Commission's receipt of the referee's report, on a motion to confirm or disaffirm the report, both the administrator and the respondent may submit legal memoranda and present oral argument on issues of misconduct and sanction. The respondent-judge (in addition to his or her counsel) may appear and be heard at oral argument.

In deciding motions, considering proposed agreed statements of fact and making determinations with respect to misconduct and sanction, and in considering other matters pertaining to cases in which Formal Written Complaints have been served, the Commission deliberates in executive session, without the presence or assistance of its Administrator or regular staff. The Clerk of the Commission assists the Commission in executive session, but does not participate in either an investigative or adversarial capacity in any cases pending before the Commission.

The Commission may dismiss a complaint at any stage during the investigation or adjudication.

When the Commission determines that a judge should be admonished, censured, removed or retired, its written determination is forwarded to the Chief Judge of the Court of Appeals, who in turn serves it upon the respondent-judge. Upon completion of service, the Commission's determination and the record of its proceedings become public. (Prior to this point, by operation of the strict provisions in Article 2-A of the Judiciary Law, all proceedings and records are confidential.) The respondent-judge has 30 days to request full review of the Commission's determination by the Court of Appeals. The Court may accept or reject the Commission's findings of fact or conclusions of law, make new or different findings of fact or conclusions of law, accept or reject the determined sanction, or make a different determination as to sanction. If no request for review is made within 30 days, the sanction determined by the Commission becomes effective.

Temporary State Commission on Judicial Conduct

The Temporary State Commission on Judicial Conduct was established in late 1974 and commenced operations in January 1975. The temporary Commission had the authority to investigate allegations of misconduct against judges in the state unified court system, make confidential suggestions and recommendations in the nature of admonitions to judges when appropriate and, in more serious cases, recommend that formal disciplinary proceedings be commenced in the appropriate court. All disciplinary proceedings in the Court on the Judiciary and most in the Appellate Division were public.

The temporary Commission was composed of two judges, five lawyers and two lay persons. It functioned through August 31, 1976, when it was succeeded by a permanent commission created by amendment to the State Constitution.

The temporary Commission received 724 complaints, dismissed 441 upon initial review and commenced 283 investigations during its tenure. It admonished 19 judges and initiated formal disciplinary proceedings against eight judges, in either the Appellate Division or the Court on the Judiciary. One of these judges was removed from office and one was censured. The remaining six matters were pending when the temporary Commission was superseded by its successor Commission. Five judges resigned while under investigation.

Former State Commission on Judicial Conduct

The temporary Commission was succeeded on September 1, 1976, by the State Commission on Judicial Conduct, established by a constitutional amendment overwhelmingly approved by the New York State electorate and supplemented by legislative enactment (Article 2-A of the Judiciary Law). The former Commission's tenure lasted through March 31, 1978, when it was replaced by the present Commission.

The former Commission was empowered to investigate allegations of misconduct against judges, impose certain disciplinary sanctions and, when appropriate, initiate formal disciplinary proceedings in the Court on the Judiciary, which, by the same constitutional amendment, had been given jurisdiction over all 3,500 judges in the unified court system. The sanctions that could be imposed by the former Commission were private admonition, public censure, suspension without pay for up to six months, and retirement for physical or mental disability. Censure, suspension and retirement actions could not be imposed until the judge had been afforded an opportunity for a full adversary hearing. These Commission sanctions were also subject to a *de novo* hearing in the Court on the Judiciary at the request of the judge.

The former Commission, like the temporary Commission, was composed of two judges, five lawyers and two lay persons, and its jurisdiction extended to judges within the state unified court system. The former Commission was authorized to continue all matters left pending by the temporary Commission.

The former Commission considered 1,418 complaints, dismissed 629 upon initial review, authorized 789 investigations and continued 162 investigations left pending by the temporary Commission.

During its tenure, the former Commission took action that resulted in the following:

- 15 judges were publicly censured;
- 40 judges were privately admonished;
- 17 judges were issued confidential letters of suggestion and recommendation.

The former Commission also initiated formal disciplinary proceedings in the Court on the Judiciary against 45 judges and continued six proceedings left pending by the temporary Commission. Those proceedings resulted in the following:

- 1 removal;
- 2 suspensions;
- 3 censures;
- 10 cases closed upon resignation of the judge;
- 2 cases closed upon expiration of the judge's term;
- 1 proceeding closed without discipline and with instruction by the Court on the Judiciary that the matter be deemed confidential.

The remaining 32 proceedings were pending when the former Commission expired. They were continued by the present Commission.

In addition to the ten judges who resigned after proceedings had been commenced in the Court on the Judiciary, 28 other judges resigned while under investigation by the former Commission.

Continuation from 1978 to 1980 of Formal Proceedings Commenced by the Temporary and Former Commissions

Thirty-two formal disciplinary proceedings which had been initiated in the Court on the Judiciary by either the temporary or former Commission were pending when the former Commission was superseded on April 1, 1978, and were continued without interruption by the present Commission.

The last five of these 32 proceedings were concluded in 1980, with the following results, reported in greater detail in the Commission's previous annual reports:

- 4 judges were removed from office;
- 1 judge was suspended without pay for six months;
- 2 judges were suspended without pay for four months;
- 21 judges were censured;
- 1 judge was directed to reform his conduct consistent with the Court's opinion;
- 1 judge was barred from holding future judicial office after he resigned; and
- 2 judges died before the matters were concluded.

The 1978 Constitutional Amendment

The present Commission was created by amendment to the State Constitution, effective April 1, 1978. The amendment created an 11-member Commission (superseding the nine-member former Commission), broadened the scope of the Commission's authority and streamlined the procedure for disciplining judges within the state unified court system. The Court on the Judiciary was abolished, pending completion of those cases that had already been commenced before it. All formal disciplinary hearings under the new amendment are conducted by the Commission.

Subsequently, the State Legislature amended Article 2-A of the Judiciary Law, the Commission's governing statute, to implement the new provisions of the constitutional amendment.

Summary of Complaints Considered since the Commission's Inception

Since January 1975, when the temporary Commission commenced operations, 72,713 complaints of judicial misconduct have been considered by the temporary, former and present Commissions. Of these, 62,621 were dismissed upon initial review or after a preliminary review and inquiry, and 10,092 investigations were authorized. Of the 10,092 investigations authorized, the following dispositions have been made through December 31, 2024:

- 1,245 complaints involving 922 judges resulted in disciplinary action (this does not include the 147 public stipulations in which judges agreed to vacate judicial office). (See details below and on the following page.)
- 1,993 complaints resulted in cautionary letters to the judge involved. The actual number of such letters totals 1,829, 93 of which were issued after formal charges had been sustained and determinations made that the judge had engaged in misconduct.
- 1,018 complaints involving 690 judges were closed upon resignation of the judge during investigation or in the course of disciplinary proceedings.
- 670 complaints were closed upon vacancy of office by the judge other than by resignation.
- 4,954 complaints were dismissed without action after investigation.
- 212 complaints are pending.

Of the 1,245 disciplinary matters against 922 judges as noted above, the following actions have been recorded since 1975 in matters initiated by the temporary, former or present Commission. (It should be noted that several complaints against a single judge may be disposed of in a single action. This

accounts for the apparent discrepancy between the number of complaints and the number of judges acted upon.) These figures take into account the 101 decisions by the Court of Appeals, 16 of which modified a Commission determination.

- 183 judges were removed from office;
- 3 judges were suspended without pay for six months (under previous law);
- 2 judges were suspended without pay for four months (under previous law);
- 382 judges were censured publicly;
- 292 judges were admonished publicly;
- 59 judges were admonished confidentially by the temporary or former Commission; and
- 1 matter was dismissed by the Court of Appeals upon the judge's request for review.

Court of Appeals Reviews

Since 1978, the Court of Appeals, on request of the respondent-judge, has reviewed 102 determinations filed by the present Commission. Of these 102 matters:

- The Court accepted the Commission's sanctions in 86 cases (77 of which were removals, 6 were censures and 3 were admonitions);
- The Court increased the sanction from censure to removal in 2 cases;
- The Court reduced the sanction in 13 cases:
 - 9 removals were modified to censures;
 - 1 removal was modified to admonition;
 - 2 censures were modified to admonitions; and
 - 1 censure was rejected and the charges were dismissed.
- The Court remitted 1 matter to the Commission for further proceedings.

APPENDIX E: RULES GOVERNING JUDICIAL CONDUCT

22 NYCRR § 100 *et seq.*

Rules of the Chief Administrator of the Courts Governing Judicial Conduct

Preamble

- Section 100.0** Terminology.
- Section 100.1** A judge shall uphold the integrity and independence of the judiciary.
- Section 100.2** A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.
- Section 100.3** A judge shall perform the duties of judicial office impartially and diligently.
- Section 100.4** A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.
- Section 100.5** A judge or candidate for elective judicial office shall refrain from inappropriate political activity.
- Section 100.6** Application of the rules of judicial conduct.
-

Preamble

The rules governing judicial conduct are rules of reason. They should be applied consistently with constitutional requirements, statutes, other court rules and decisional law and in the context of all relevant circumstances. The rules are to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

The rules are designed to provide guidance to judges and candidates for elective judicial office and to provide a structure for regulating conduct through disciplinary agencies. They are not designed or intended as a basis for civil liability or criminal prosecution.

The text of the rules is intended to govern conduct of judges and candidates for elective judicial office and to be binding upon them. It is not intended, however, that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of

the text and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system.

The rules are not intended as an exhaustive guide for conduct. Judges and judicial candidates also should be governed in their judicial and personal conduct by general ethical standards. The rules are intended, however, to state basic standards which should govern their conduct and to provide guidance to assist them in establishing and maintaining high standards of judicial and personal conduct.

Section 100.0 Terminology.

The following terms used in this Part are defined as follows:

(A) A "candidate" is a person seeking selection for or retention in public office by election. A person becomes a candidate for public office as soon as he or she makes a public announcement of candidacy, or authorizes solicitation or acceptance of contributions.

(B) "Court personnel" does not include the lawyers in a proceeding before a judge.

(C) The "degree of relationship" is calculated according to the civil law system. That is, where the judge and the party are in the same line of descent, degree is ascertained by ascending or descending from the judge to the party, counting a degree for each person, including the party but excluding the judge. Where the judge and the party are in different lines of descent, degree is ascertained by ascending from the judge to the common ancestor, and descending to the party, counting a degree for each person in both lines, including the common ancestor and the party but excluding the judge. The following persons are relatives within the fourth degree of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, first cousin, child, grandchild, great-grandchild, nephew or niece. The sixth degree of relationship includes second cousins.

(D) "Economic interest" denotes ownership of a more than de minimis legal or equitable interest, or a relationship as officer, director, advisor or other active participant in the affairs of a party, except that

(1) ownership of an interest in a mutual or common investment fund that holds securities is not an economic interest in such securities unless the judge participates in the management of the fund or a proceeding pending or impending before the judge could substantially affect the value of the interest;

(2) service by a judge as an officer, director, advisor or other active participant in an educational, religious, charitable, cultural, fraternal or civic organization, or service by a judge's spouse or child as an officer, director, advisor or other active participant in any organization does not create an economic interest in securities held by that organization;

(3) a deposit in a financial institution, the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association or of a member in a credit union, or a similar proprietary interest, is not an economic interest in the organization, unless a proceeding pending or impending before the judge could substantially affect the value of the interest;

(4) ownership of government securities is not an economic interest in the issuer unless a proceeding pending or impending before the judge could substantially affect the value of the securities.

(5) "De minimis" denotes an insignificant interest that could not raise reasonable questions as to a judge's impartiality.

(E) "Fiduciary" includes such relationships as executor, administrator, trustee, and guardian.

(F) "Knowingly", "knowledge", "known" or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

(G) "Law" denotes court rules as well as statutes, constitutional provisions and decisional law.

(H) "Member of the candidate's family" denotes a spouse, child, grandchild, parent, grandparent or other relative or person with whom the candidate maintains a close familial relationship.

(I) "Member of the judge's family" denotes a spouse, child, grandchild, parent, grandparent or other relative or person with whom the judge maintains a close familial relationship.

(J) "Member of the judge's family residing in the judge's household" denotes any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides in the judge's household.

(K) "Nonpublic information" denotes information that, by law, is not available to the public. Nonpublic information may include but is not limited to: information that is sealed by statute or court order, impounded or communicated in camera; and information offered in grand jury proceedings, presentencing reports, dependency cases or psychiatric reports.

(L) A "part-time judge", including an acting part-time judge, is a judge who serves repeatedly on a part-time basis by election or under a continuing appointment.

(M) "Political organization" denotes a political party, political club or other group, the principal purpose of which is to further the election or appointment of candidates to political office.

(N) "Public election" includes primary and general elections; it includes partisan elections, nonpartisan elections and retention elections.

(O) "Require". The rules prescribing that a judge "require" certain conduct of others, like all of the rules in this Part, are rules of reason. The use of the term "require" in that context means a judge is to exercise reasonable direction and control over the conduct of those persons subject to the judge's direction and control.

(P) "Rules"; citation. Unless otherwise made clear by the citation in the text, references to individual components of the rules are cited as follows:

"Part"-refers to Part 100.

"Section"-refers to a provision consisting of 100 followed by a decimal (100.1).

"Subdivision"-refers to a provision designated by a capital letter (A).

"Paragraph"-refers to a provision designated by an arabic numeral (1).

"Subparagraph"-refers to a provision designated by a lower-case letter (a).

(Q) "Window Period" denotes a period beginning nine months before a primary election, judicial nominating convention, party caucus or other party meeting for nominating candidates for the elective judicial office for which a judge or non-judge is an announced candidate, or for which a committee or other organization has publicly solicited or supported the judge's or non-judge's candidacy, and ending, if the judge or non-judge is a candidate in the general election for that office, six months after the general election, or if he or she is not a candidate in the general election, six months after the date of the primary election, convention, caucus or meeting.

(R) "Impartiality" denotes absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintaining an open mind in considering issues that may come before the judge.

(S) An "independent" judiciary is one free of outside influences or control.

(T) "Integrity" denotes probity, fairness, honesty, uprightness and soundness of character. "Integrity" also includes a firm adherence to this Part or its standard of values.

(U) A "pending proceeding" is one that has begun but not yet reached its final disposition.

(V) An "impending proceeding" is one that is reasonably foreseeable but has not yet been commenced.

Historical Note

Sec. filed Feb. 1, 1996 eff. Jan. 1, 1996.

Amended (D) and (D)(5) on [Sept. 9, 2004](#).

Added (R) - (V) on [Feb. 14, 2006](#)

Section 100.1 A judge shall uphold the integrity and independence of the judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Part 100 are to be construed and applied to further that objective.

Historical Note

Sec. filed Aug. 1, 1972; renum. 111.1, new added by renum. and amd. 33.1, filed Feb. 2, 1982; repealed, new filed Feb. 1, 1996 eff. Jan. 1, 1996.

Section 100.2 A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

(A) A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(B) A judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment.

(C) A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.

(D) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of age, race, creed, color, sex, sexual orientation, gender identity, gender expression, religion, national origin, disability or marital status. This provision does not prohibit a judge from holding membership in an organization that is dedicated to the preservation of religious, ethnic, cultural or other values of legitimate common interest to its members.

Historical Note

Sec. filed Aug. 1, 1972; renum. 111.2, new added by renum. and amd. 33.2, filed Feb. 2, 1982; repealed, new filed Feb. 1, 1996 eff. Jan. 1, 1996.

Amended (D) on [Jun. 25, 2018](#)

Section 100.3 A judge shall perform the duties of judicial office impartially and diligently.

(A) **Judicial Duties in General.** The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply.

(B) Adjudicative Responsibilities.

(1) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor or fear of criticism.

(2) A judge shall require order and decorum in proceedings before the judge.

(3) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.

(4) A judge shall perform judicial duties without bias or prejudice against or in favor of any person. A judge in the performance of judicial duties shall not, by words or conduct, manifest bias or prejudice, including but not limited to bias or prejudice based upon age, race, creed, color, sex, sexual orientation, gender identity, gender expression, religion, national origin, disability, marital status or socioeconomic status, and shall require staff, court officials and others subject to the judge's direction and control to refrain from such words or conduct.

(5) A judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon age, race, creed, color, sex, sexual orientation, gender identity, gender expression, religion, national origin, disability, marital status or socioeconomic status, against parties, witnesses, counsel or others. This paragraph does not preclude legitimate advocacy when age, race, creed, color, sex, sexual orientation, religion, national origin, disability, marital status or socioeconomic status, or other similar factors are issues in the proceeding.

(6) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers concerning a pending or impending proceeding, except:

(a) Ex parte communications that are made for scheduling or administrative purposes and that do not affect a substantial right of any party are authorized, provided the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and the judge, insofar as practical and appropriate, makes provision for prompt notification of other parties or their lawyers of the substance of the ex parte communication and allows an opportunity to respond.

(b) A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and a copy of such advice if the advice is given in writing and the substance of the advice if it is given orally, and affords the parties reasonable opportunity to respond.

(c) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

(d) A judge, with the consent of the parties, may confer separately with the parties and their lawyers on agreed-upon matters.

(e) A judge may initiate or consider any ex parte communications when authorized by law to do so.

(7) A judge shall dispose of all judicial matters promptly, efficiently and fairly.

(8) A judge shall not make any public comment about a pending or impending proceeding in any court within the United States or its territories. The judge shall require similar abstention on the part of court personnel subject to the judge's direction and control. This paragraph does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This paragraph does not apply to proceedings in which the judge is a litigant in a personal capacity.

(9) A judge shall not:

(a) make pledges or promises of conduct in office that are inconsistent with the impartial performance of the adjudicative duties of the office;

(b) with respect to cases, controversies or issues that are likely to come before the court, make commitments that are inconsistent with the impartial performance of the adjudicative duties of the office.

(10) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.

(11) A judge shall not disclose or use, for any purpose unrelated to judicial duties, nonpublic information acquired in a judicial capacity.

(12) It is not a violation of this Rule for a judge to make reasonable efforts to facilitate the ability of unrepresented litigants to have their matters fairly heard.

(C) Administrative Responsibilities.

(1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.

(2) A judge shall require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.

(3) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered. A judge shall not appoint or vote for the appointment of any person as a member of the judge's staff or that of the court of which the judge is a member, or as an appointee in a judicial proceeding, who is a relative within the fourth degree of relationship of either the judge or the judge's spouse or the spouse of such a person. A judge shall refrain from recommending a relative within the fourth degree of relationship of either the judge or the judge's spouse or the spouse of such person for appointment or employment to another judge serving in the same court. A judge also shall comply with the requirements of Part 8 of the Rules of the Chief Judge (22 NYCRR Part 8) relating to the Appointment of relatives of judges. Nothing in this paragraph shall prohibit appointment of the spouse, domestic partner, or unrelated household member of the town or village justice, or other relative as clerk of the town or village court in which such justice sits, provided that the justice obtains the prior approval of the Chief Administrator of the Courts, which may be given upon a showing of good cause.

(D) Disciplinary Responsibilities.

(1) A judge who receives information indicating a substantial likelihood that another judge has committed a substantial violation of this Part shall take appropriate action.

(2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a substantial violation of the Rules of Professional Conduct (22 NYCRR Part 1200) shall take appropriate action.

(3) Acts of a judge in the discharge of disciplinary responsibilities are part of a judge's judicial duties.

(E) Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(a) (i) the judge has a personal bias or prejudice concerning a party or (ii) the judge has personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) the judge knows that (i) the judge served as a lawyer in the matter in controversy, or (ii) a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or (iii) the judge has been a material witness concerning it;

(c) the judge knows that he or she, individually or as a fiduciary, or the judge's spouse or minor child residing in the judge's household has an economic interest in the subject matter in controversy or in a party to the proceeding or has any other interest that could be substantially affected by the proceeding;

(d) the judge knows that the judge or the judge's spouse, or a person known by the judge to be within the sixth degree of relationship to either of them, or the spouse of such a person:

(i) is a party to the proceeding;

(ii) is an officer, director or trustee of a party;

(iii) has an interest that could be substantially affected by the proceeding;

(e) The judge knows that the judge or the judge's spouse, or a person known by the judge to be within the fourth degree of relationship to either of them, or the spouse of such a person, is acting as a lawyer in the proceeding or is likely to be a material witness in the proceeding. Where the judge knows the relationship to be within the second degree, (i) the judge must disqualify him/herself without the possibility of remittal if such person personally appears in the courtroom during the proceeding or is likely to do so, but (ii) may permit remittal of disqualification provided such person remains permanently absent from the courtroom.

(f) the judge, while a judge or while a candidate for judicial office, has made a pledge or promise of conduct in office that is inconsistent with the impartial performance of the adjudicative duties of the office or has made a public statement not in the judge's adjudicative capacity that commits the judge with respect to

(i) an issue in the proceeding; or

(ii) the parties or controversy in the proceeding.

(g) notwithstanding the provisions of subparagraphs (c) and (d) above, if a judge would be disqualified because of the appearance or discovery, after the matter was assigned to the judge, that the judge individually or as fiduciary, the judge's spouse, or a minor child residing in his or her household has an economic interest in a party to the proceeding, disqualification is not required if the judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.

(2) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse and minor children residing in the judge's household.

(F) Remittal of Disqualification. A judge disqualified by the terms of subdivision (E), except subparagraph (1)(a)(i), subparagraph (1)(b)(i) or (iii), or subparagraph (1)(d)(i) or subparagraph (1)(e)(i) of this section, may disclose on the record the basis of the judge's disqualification. If, following such disclosure of any basis for disqualification, the parties who have appeared and

not defaulted and their lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge believes that he or she will be impartial and is willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

Amended (B)(9)-(11) & (E)(f) -(E)(g) [Feb. 14, 2006](#)

Amended (B)(9)-(11) & (E)(f) -(E)(g) [Feb. 14, 2006](#)

Amended (C)(3) on [May 6, 2014](#)

Added (B)(12) effective [Mar. 26, 2015](#)

Amended (B)(4) & (B)(5) on [Jun. 25, 2018](#)

Amended (E)(1)(e) & (F) on [Dec. 12, 2018](#) effective January 1, 2019

Amended (D)(2) on [May 7, 2019](#), effective May 6, 2019

Section 100.4 A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations

(A) **Extra-Judicial Activities in General.** A judge shall conduct all of the judge's extra-judicial activities so that they do not:

- (1) cast reasonable doubt on the judge's capacity to act impartially as a judge;
- (2) detract from the dignity of judicial office; or
- (3) interfere with the proper performance of judicial duties and are not incompatible with judicial office.

(B) **Avocational Activities.** A judge may speak, write, lecture, teach and participate in extra-judicial activities subject to the requirements of this Part.

(C) Governmental, Civic, or Charitable Activities.

(1) A full-time judge shall not appear at a public hearing before an executive or legislative body or official except on matters concerning the law, the legal system or the administration of justice or except when acting pro se in a matter involving the judge or the judge's interests.

(2)(a) A full-time judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy in matters other than the improvement of the law, the legal system or the administration of justice. A judge may, however, represent a country, state or locality on ceremonial occasions or in connection with historical, educational or cultural activities.

(b) A judge shall not accept appointment or employment as a peace officer or police officer as those terms are defined in section 1.20 of the Criminal Procedure Law.

(3) A judge may be a member or serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice or of an educational, religious, charitable, cultural, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Part.

(a) A judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely that the organization

(i) will be engaged in proceedings that ordinarily would come before the judge, or

(ii) if the judge is a full-time judge, will be engaged regularly in adversary proceedings in any court.

(b) A judge as an officer, director, trustee or non-legal advisor, or a member or otherwise:

(i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund-raising activities;

(ii) may not be a speaker or the guest of honor at an organization's fund-raising events, but the judge may attend such events. Nothing in this subparagraph shall prohibit a judge from being a speaker or guest of honor at a court employee organization, bar association or law school function or from accepting at another organization's fund-raising event an unadvertised award ancillary to such event;

(iii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law, the legal system or the administration of justice; and

(iv) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation, but may be listed as an officer, director or trustee of such an organization. Use of an organization's regular letterhead for fund-raising or membership solicitation does not violate this provision, provided the letterhead lists only the judge's name and office or other position in the organization, and, if comparable designations are listed for other persons, the judge's judicial designation.

(D) Financial Activities.

(1) A judge shall not engage in financial and business dealings that:

(a) may reasonably be perceived to exploit the judge's judicial position;

(b) involve the judge with any business, organization or activity that ordinarily will come before the judge; or

(c) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.

(2) A judge, subject to the requirements of this Part, may hold and manage investments of the judge and members of the judge's family, including real estate.

(3) A full-time judge shall not serve as an officer, director, manager, general partner, advisor, employee or other active participant of any business entity, except that:

(a) the foregoing restriction shall not be applicable to a judge who assumed judicial office prior to July 1, 1965, and maintained such position or activity continuously since that date; and

(b) a judge, subject to the requirements of this Part, may manage and participate in a business entity engaged solely in investment of the financial resources of the judge or members of the judge's family; and

(c) any person who may be appointed to fill a full-time judicial vacancy on an interim or temporary basis pending an election to fill such vacancy may apply to the Chief Administrator of the Courts for exemption from this paragraph during the period of such interim or temporary appointment.

(4) A judge shall manage the judge's investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge shall divest himself or herself of investments and other financial interests that might require frequent disqualification.

(5) A judge shall not accept, and shall urge members of the judge's family residing in the judge's household not to accept, a gift, bequest, favor or loan from anyone except:

(a) a gift incident to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law, the legal system or the administration of justice;

(b) a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member of a judge residing in the judge's household, including gifts, awards and benefits for the use of both the spouse or other family member and the judge (as spouse or family member), provided the gift, award or benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties;

(c) ordinary social hospitality;

(d) a gift from a relative or friend, for a special occasion such as a wedding, anniversary or birthday, if the gift is fairly commensurate with the occasion and the relationship;

(e) a gift, bequest, favor or loan from a relative or close personal friend whose appearance or interest in a case would in any event require disqualification under section 100.3(E);

(f) a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges;

(g) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or

(h) any other gift, bequest, favor or loan, only if: the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge.

(E) Fiduciary Activities.

(1) A full-time judge shall not serve as executor, administrator or other personal representative, trustee, guardian, attorney in fact or other fiduciary, designated by an instrument executed after January 1, 1974, except for the estate, trust or person of a member of the judge's family, or, with the approval of the Chief Administrator of the Courts, a person not a member of the judge's family with whom the judge has maintained a longstanding personal relationship of trust and confidence, and then only if such services will not interfere with the proper performance of judicial duties.

(2) The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary capacity.

(3) Any person who may be appointed to fill a full-time judicial vacancy on an interim or temporary basis pending an election to fill such vacancy may apply to the Chief Administrator of the Courts for exemption from paragraphs (1) and (2) during the period of such interim or temporary appointment.

(F) Service as Arbitrator or Mediator. A full-time judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law.

(G) Practice of Law. A full-time judge shall not practice law. Notwithstanding this prohibition, a judge may act pro se and may, without compensation, give legal advice to a member of the judge's family.

(H) Compensation, Reimbursement and Reporting.

(1) *Compensation and Reimbursement.* A full-time judge may receive compensation and reimbursement of expenses for the extra-judicial activities permitted by this Part, if the source of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety, subject to the following restrictions:

(a) Compensation shall not exceed a reasonable amount nor shall it exceed what a person who is not a judge would receive for the same activity.

(b) Expense reimbursement shall be limited to the actual cost of travel, food and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse or guest. Any payment in excess of such an amount is compensation.

(c) No full-time judge shall solicit or receive compensation for extra-judicial activities performed for or on behalf of: (1) New York State, its political subdivisions or any office or agency thereof; (2) a school, college or university that is financially supported primarily by New York State or any of its political subdivisions, or any officially recognized body of students thereof, except that a judge may receive the ordinary compensation for a lecture or for teaching a regular course of study at any college or university if the teaching does not conflict with the proper performance of judicial duties; or (3) any private legal aid bureau or society designated to represent indigents in accordance with article 18-B of the County Law.

(I) **Financial Disclosure.** Disclosure of a judge's income, debts, investments or other assets is required only to the extent provided in this section and in section 100.3(F), or as required by Part 40 of the Rules of the Chief Judge (22 NYCRR Part 40), or as otherwise required by law.

Historical Note

Sec. filed Aug. 1, 1972; amd. filed Nov. 26, 1976; renum. 111.4, new added by renum. and amd. 33.4, filed Feb. 2, 1982; repealed, new filed Feb. 1, 1996; amds. filed: Feb. 27, 1996; Feb. 9, 1998 eff. Jan. 23, 1998. Amended (C)(3)(b)(ii).

Amended (D)(5)(h) and (H)(2) on [Dec. 30, 2022](#)

Section 100.5 A judge or candidate for elective judicial office shall refrain from inappropriate political activity.

(A) Incumbent Judges and Others Running for Public Election to Judicial Office.

(1) Neither a sitting judge nor a candidate for public election to judicial office shall directly or indirectly engage in any political activity except (i) as otherwise authorized by this section or by law, (ii) to vote and to identify himself or herself as a member of a political party, and (iii) on behalf of measures to improve the law, the legal system or the administration of justice. Prohibited political activity shall include:

(a) acting as a leader or holding an office in a political organization;

(b) except as provided in Section 100.5(A)(3), being a member of a political organization other than enrollment and membership in a political party;

(c) engaging in any partisan political activity, provided that nothing in this section shall prohibit a judge or candidate from participating in his or her own campaign for elective judicial office or shall restrict a non-judge holder of public office in the exercise of the functions of that office;

(d) participating in any political campaign for any office or permitting his or her name to be used in connection with any activity of a political organization;

(e) publicly endorsing or publicly opposing (other than by running against) another candidate for public office;

(f) making speeches on behalf of a political organization or another candidate;

(g) attending political gatherings;

(h) soliciting funds for, paying an assessment to, or making a contribution to a political organization or candidate; or

(i) purchasing tickets for politically sponsored dinners or other functions, including any such function for a non-political purpose.

(2) A judge or non-judge who is a candidate for public election to judicial office may participate in his or her own campaign for judicial office as provided in this section and may contribute to his or her own campaign as permitted under the Election Law. During the Window Period as defined in subdivision (Q) of section 100.0 of this Part, a judge or non-judge who is a candidate for public election to judicial office, except as prohibited by law, may:

(i) attend and speak to gatherings on his or her own behalf, provided that the candidate does not personally solicit contributions;

(ii) appear in newspaper, television and other media advertisements supporting his or her candidacy, and distribute pamphlets and other promotional campaign literature supporting his or her candidacy;

(iii) appear at gatherings, and in newspaper, television and other media advertisements with the candidates who make up the slate of which the judge or candidate is a part;

(iv) permit the candidate's name to be listed on election materials along with the names of other candidates for elective public office;

(v) purchase two tickets to, and attend, politically sponsored dinners and other functions, provided that the cost of the ticket to such dinner or other function shall not exceed the proportionate cost of the dinner or function. The cost of the ticket shall be deemed to constitute the proportionate cost of the dinner or function if the cost of the ticket is \$250 or less. A candidate may not pay more than \$250 for a ticket unless he or she obtains a statement from the sponsor of the dinner or function that the amount paid represents the proportionate cost of the dinner or function.

(3) A non-judge who is a candidate for public election to judicial office may also be a member of a political organization and continue to pay ordinary assessments and ordinary contributions to such organization.

(4) A judge or a non-judge who is a candidate for public election to judicial office:

(a) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the impartiality, integrity and independence of the judiciary, and shall encourage members of the candidate's family to adhere to the same standards of political conduct in support of the candidate as apply to the candidate;

(b) shall prohibit employees and officials who serve at the pleasure of the candidate, and shall discourage other employees and officials subject to the candidate's direction and control, from doing on the candidate's behalf what the candidate is prohibited from doing under this Part;

(c) except to the extent permitted by Section 100.5(A)(5), shall not authorize or knowingly permit any person to do for the candidate what the candidate is prohibited from doing under this Part;

(d) shall not:

(i) make pledges or promises of conduct in office that are inconsistent with the impartial performance of the adjudicative duties of the office;

(ii) with respect to cases, controversies or issues that are likely to come before the court, make commitments that are inconsistent with the impartial performance of the adjudicative duties of the office;

(iii) knowingly make any false statement or misrepresent the identity, qualifications, current position or other fact concerning the candidate or an opponent; but

(e) may respond to personal attacks or attacks on the candidate's record as long as the response does not violate subparagraphs 100.5(A)(4)(a) and (d).

(f) shall complete a campaign ethics education program developed or approved by the Chief Administrator or his or her designee within 30 days after the candidate makes a public announcement of candidacy, files a designating petition with the Board of Elections, receives a nomination for judicial office, or authorizes solicitation or acceptance of contributions, whichever is earliest. Written proof of compliance must be filed with the Judicial Campaign Ethics Center within 14 days of completing the training, unless the candidate is granted a waiver of this requirement for good cause shown. This provision shall apply to all candidates for elective judicial office in the Unified Court System except for town and village justices.

(g) shall file with the Ethics Commission for the Unified Court System a financial disclosure statement containing the information and in the form set forth in the Annual Statement of Financial Disclosure adopted by the Chief Judge of the State of New York. Such statement shall be filed within 20 days following the date on which the judge or non-judge becomes such a candidate; provided, however, that the Ethics Commission for the Unified Court System may grant an additional period of time within which to file such statement in accordance with rules promulgated pursuant to section 40.1(i)(3) of the Rules of the Chief Judge of the State of New York (22 NYCRR). Notwithstanding the foregoing, compliance with this subparagraph shall not be necessary where a judge or non-judge already is or was required to file a financial disclosure statement for the preceding calendar year pursuant to Part 40 of the Rules of the Chief Judge. This requirement shall not apply to candidates for election to town and village courts.

(5) A judge or candidate for public election to judicial office shall not personally solicit or accept campaign contributions, but may establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions and support from the public, including lawyers, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his

or her candidacy. Such committees may solicit and accept such contributions and support only during the Window Period. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

(6) A judge or a non-judge who is a candidate for public election to judicial office may not permit the use of campaign contributions or personal funds to pay for campaign-related goods or services for which fair value was not received.

(B) Judge as Candidate for Nonjudicial Office. A judge shall resign from judicial office upon becoming a candidate for elective nonjudicial office either in a primary or in a general election, except that the judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention if the judge is otherwise permitted by law to do so.

(C) Judge's Staff. A judge shall prohibit members of the judge's staff who are the judge's personal appointees from engaging in the following political activity:

(1) holding an elective office in a political organization, except as a delegate to a judicial nominating convention or a member of a county committee other than the executive committee of a county committee;

(2) contributing, directly or indirectly, money or other valuable consideration in amounts exceeding \$500 in the aggregate during any calendar year to all political campaigns for political office, and other partisan political activity including, but not limited to, the purchasing of tickets to political functions, except that this \$500 limitation shall not apply to an appointee's contributions to his or her own campaign. Where an appointee is a candidate for judicial office, reference also shall be made to appropriate sections of the Election Law;

(3) personally soliciting funds in connection with a partisan political purpose, or personally selling tickets to or promoting a fund-raising activity of a political candidate, political party, or partisan political club; or

(4) political conduct prohibited by section 50.5 of the Rules of the Chief Judge (22 NYCRR 50.5).

Historical Note

Sec. filed Aug. 1, 1972; renum. 111.5, new added by renum. and amd. 33.5, filed Feb. 2, 1982; amds. filed: Dec. 21, 1983; May 8, 1985; March 2, 1989; April 11, 1989; Oct. 30, 1989; Oct. 31, 1990; repealed, new filed; amd. filed March 25, 1996 eff. March 21, 1996. Amended (A)(2)(v).

Amended 100.5 (A)(2)(v), (A)(4)(a), (A)(4)(d)(i)-(ii), (A)(4)(f), (A)(6), (A)(7) on [Feb. 14, 2006](#)

Added 100.5 (A)(4)(g) on [Sept. 1, 2006](#)

Amended 100.5 (A)(4)(g) on [Sept. 1, 2006](#)

Amended 100.5 (A)(4)(f) on [Oct. 24, 2007](#)

Deleted 100.5(A)(7) on [May 7, 2019](#), effective May 6, 2019

Amended 100.5 (A)(4)(f) on [January 13, 2020](#), effective January 31, 2020

Section 100.6 Application of the rules of judicial conduct.

(A) **General Application.** All judges in the unified court system and all other persons to whom by their terms these rules apply, e.g., candidates for elective judicial office, shall comply with these rules of judicial conduct, except as provided below. All other persons, including judicial hearing officers, who perform judicial functions within the judicial system shall comply with such rules in the performance of their judicial functions and otherwise shall so far as practical and appropriate use such rules as guides to their conduct.

(B) **Part-Time Judge.** A part-time judge:

(1) is not required to comply with sections 100.4(C)(1), 100.4(C)(2)(a), 100.4(C)(3)(a)(ii), 100.4(E)(1), 100.4(F), 100.4(G), and 100.4(H);

(2) shall not practice law in the court on which the judge serves, or in any other court in the county in which his or her court is located, before a judge who is permitted to practice law, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto;

(3) shall not permit his or her partners or associates to practice law in the court in which he or she is a judge, and shall not permit the practice of law in his or her court by the law partners or associates of another judge of the same court who is permitted to practice law, but may permit the practice of law in his or her court by the partners or associates of a judge of a court in another town, village or city who is permitted to practice law;

(4) may accept private employment or public employment in a federal, state or municipal department or agency, provided that such employment is not incompatible with judicial office and does not conflict or interfere with the proper performance of the judge's duties.

(5) Nothing in this rule shall further limit the practice of law by the partners or associates of a part-time judge in any court to which such part-time judge is temporarily assigned to serve pursuant to section 106(2) of the Uniform Justice Court Act or Section 107 of the Uniform City Court Act in front of another judge serving in that court before whom the partners or associates are permitted to appear absent such temporary assignment.

(C) **Administrative Law Judges.** The provisions of this Part are not applicable to administrative law judges unless adopted by the rules of the employing agency.

(D) **Time for Compliance.** A person to whom these rules become applicable shall comply immediately with all provisions of this Part, except that, with respect to sections 100.4(D)(3) and 100.4(E), such person may make application to the Chief Administrator for additional time to comply, in no event to exceed one year, which the Chief Administrator may grant for good cause shown.

(E) **Relationship to Code of Judicial Conduct.** To the extent that any provision of the Code of Judicial Conduct as adopted by the New York State Bar Association is inconsistent with any of these rules, these rules shall prevail.

Historical Note

Sec. filed Aug. 1, 1972; repealed, new added by renum. 100.7, filed Nov. 26, 1976; renum. 111.6, new added by renum. and amd. 33.6, filed Feb. 2, 1982; repealed, new filed Feb. 1, 1996 eff. Jan. 1, 1996.

Amended 100.6(E) [Feb. 14, 2006](#)

Added 100.6(B)5 on [Mar. 24, 2010](#)

APPENDIX F:
DECISIONS RENDERED BY
THE COMMISSION IN 2024

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

JAMES A. BRADSHAW, JR.,

a Justice of the Rotterdam Town Court,
Schenectady County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and Kathleen E. Klein, Of
Counsel) for the Commission

Anderson, Moschetti & Taffany, PLLC (Peter J. Moschetti) for
respondent

The matter having come before the Commission on December 12,
2024; and the Commission having before it the Stipulation dated November 21,

2024; and respondent having tendered his resignation dated November 19, 2024 effective December 31, 2024; and having affirmed that upon vacating his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: December 12, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

JAMES A. BRADSHAW, JR.,

STIPULATION

a Justice of the Rotterdam Town Court,
Schenectady County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct, and the Honorable James A. Bradshaw, Jr. ("Respondent") and his attorney Peter J. Moschetti, Esq., of Anderson, Moschetti and Taffany, PLLC:

1. Respondent has been a Judge of the Rotterdam Town Court, Schenectady County, since January 1, 2016. His current term expires on December 31, 2027. Respondent, a retired police officer, is not an attorney.
2. Respondent was served with a Formal Written Complaint dated August 26, 2024, containing two charges, appended as Exhibit A.
3. Respondent enters into this Stipulation in lieu of filing an Answer to the Formal Written Complaint.
4. Respondent has tendered his resignation, effective December 31, 2024. A copy of resignation letter is appended as Exhibit B.

5. Pursuant to Section 47 of the Judiciary Law, the Commission may continue with proceedings against a judge who has resigned and, if it so determines, render and file a determination that the judge should be removed from office. Pursuant to Article VI, section 22(h) of the Constitution, a judge who is removed from office “shall be ineligible to hold other judicial office.”

6. Respondent affirms that he will vacate his judicial office at the close of business on December 31, 2024, and he will neither seek nor accept judicial office at any time in the future.

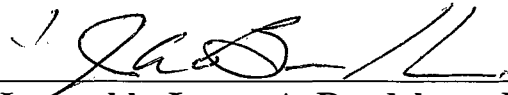
7. Respondent understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the present proceedings before the Commission will be revived and the matter may proceed to a hearing before a referee, or the Commission may summarily determine that he should be removed from office pursuant to 22 NYCRR 7000.6(c).

8. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

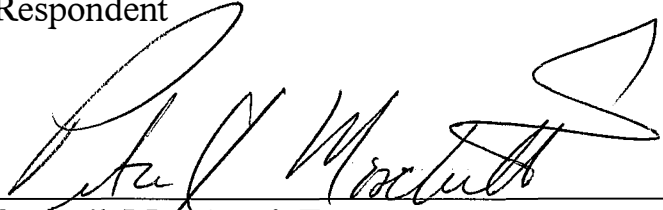
9. Respondent waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (A) this Stipulation will become public upon

being signed by the signatories below, and (B) the Commission's Decision and Order regarding this Stipulation will become public.


Dated: 11/19/2024


Honorable James A. Bradshaw, Jr.
Respondent

Dated: 11/19/2024


Peter J. Moschetti, Esq.
Anderson, Moschetti & Taffany, PLLC
Attorney for Respondent

Dated: November 21, 2024


Robert H. Tembeckjian
Administrator & Counsel to the Commission
(**Cathleen S. Cenci** and **Kathleen E. Klein**, Of
Counsel)

THE FOLLOWING EXHIBITS ARE AVAILABLE AT WWW.CJC.NY.GOV:
EXHIBIT A: FORMAL WRITTEN COMPLAINT
EXHIBIT B: RESPONDENT'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

JESSICA BYRNE,

a Justice of the New Lebanon Town Court,
Columbia County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and Shruti Joshi, Of Counsel)
for the Commission

Honorable Jessica Byrne, *pro se*

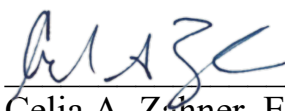
The matter having come before the Commission on September 19,
2024; and the Commission having before it the Stipulation dated September 17,

2024; and Judge Byrne having tendered her resignation dated July 29, 2024 effective that day; and having affirmed that having vacated her judicial office, she will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: September 19, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

JESSICA BYRNE,

STIPULATION

a Justice of the New Lebanon Town Court,
Columbia County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct, and the Honorable Jessica Byrne:

1. Judge Byrne was admitted to the practice of law in Massachusetts in 2006. She is not admitted to practice law in the New York. She has been a Justice of the New Lebanon Town Court, Columbia County, since January 1, 2010. Her current term expires on December 31, 2025.
2. In March 2024, the Commission apprised Judge Byrne that it was investigating four complaints alleging, *inter alia*, as follows:
 - A. She criticized the local dog control officer to the officer's husband regarding a pending case;
 - B. She intervened in a matter involving the dog control officer's husband, notwithstanding that she was disqualified from the matter;
 - C. She dismissed traffic tickets issued to some of her relatives;

- D. She disclosed confidential information to the town board regarding one of her clients;
- E. She remitted a check (representing court funds) to town officials that, contrary to her representation, was not signed by her co-judge; and
- F. She retaliated against a former court clerk for cooperating with the Commission's investigation.

3. Judge Byrne denies the allegations.

4. Judge Byrne tendered her resignation by letter dated July 29, 2024, a copy of which is annexed as Exhibit 1, and affirms that she vacated judicial office as of that date.

5. Pursuant to Section 47 of the Judiciary Law, the Commission may continue with proceedings against a judge who has resigned and, if it so determines, render and file a determination that the judge should be removed from office. Pursuant to Article VI, section 22(h) of the Constitution, a judge who is removed from office "shall be ineligible to hold other judicial office."

6. Judge Byrne affirms that, having vacated her judicial office, she will neither seek nor accept judicial office at any time in the future.

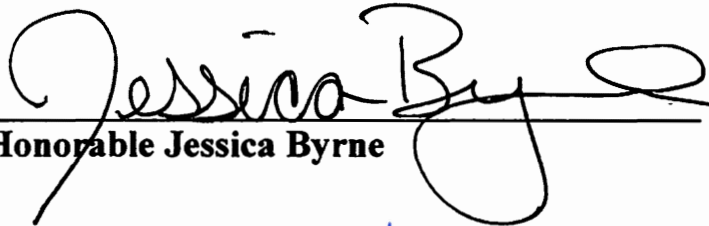
7. Judge Byrne understands that, should she abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission's investigation of the complaints would be revived, she would be served with a Formal Written Complaint on authorization of the Commission, and the matter would proceed to a hearing before a referee.

8. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

9. Judge Byrne waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (A) this Stipulation will become public upon being signed by the signatories below, and (B) the Commission's Decision and Order regarding this Stipulation will become public.

Dated:

9-13-24


Honorable Jessica Byrne

Dated: September 17, 2024



Robert H. Tembeckjian

Administrator & Counsel to the Commission
(Cathleen S. Cenci and Shruti Joshi, Of
Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV:
EXHIBIT 1: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

GARY L. CARSON,

a Justice of the Pittsfield Town Court,
Otsego County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and Shruti Joshi, Of Counsel)
for the Commission

Honorable Gary L. Carson, *pro se*

The matter having come before the Commission on October 24, 2024;
and the Commission having before it the Stipulation dated September 27, 2024;


and Judge Carson having tendered his resignation dated August 14, 2024 effective that day; and having affirmed that having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Judge Miller did not participate.

Dated: October 24, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

GARY L. CARSON,

STIPULATION

a Justice of the Pittsfield Town Court,
Otsego County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct, and the Honorable Gary L. Carson:

1. Gary L. Carson has been a Justice of the Pittsfield Town Court, Otsego County, since January 1, 2023. His current term expires on December 31, 2027.

Gary L. Carson is not an attorney.

2. In August 2024, the Commission apprised Judge Carson that it was investigating four complaints alleging, *inter alia*, that he failed to transfer to another court various traffic tickets issued to his son, engaged in *ex parte* communications, mishandled violations of local dog-control ordinances and failed to report and remit court funds in a timely manner as required by law for several months in 2023. In addition, it was alleged that he engaged in unauthorized political activity by circulating nominating petitions for his relative's candidacy

for town council, was belligerent at public town meetings and in interactions with other town officials, and appeared to be suffering from health issues that prevented the proper performance of his judicial duties.

3. Judge Carson tendered his resignation from judicial office on August 22, 2024, by letter dated August 14, 2024, a copy of which is annexed as Exhibit 1. Judge Carson affirms that he vacated judicial office as of August 14, 2024.

4. Pursuant to Section 47 of the Judiciary Law, the Commission may continue with proceedings against a judge who has resigned and, if it so determines, render and file a determination that the judge should be removed from office. Pursuant to Article VI, section 22(h) of the Constitution, a judge who is removed from office “shall be ineligible to hold other judicial office.”

5. Judge Carson affirms that, having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future.

6. Judge Carson understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission’s investigation of the complaint would be revived, he would be served with a Formal Written Complaint on authorization of the Commission, and the matter would proceed to a hearing before a referee.

7. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

8. Judge Carson waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (A) this Stipulation will become public upon being signed by the signatories below, and (B) the Commission's Decision and Order regarding this Stipulation will become public.

Dated:

September 17, 2024


Honorable Gary L. Carson

Dated: September 27, 2024


Robert H. Tembeckjian

Administrator & Counsel to the Commission
(**Cathleen S. Cenci** and **Shruti Joshi**,
Of Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV:
EXHIBIT 1: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

DETERMINATION

MICHAEL W. COLE,

a Justice of the Alden Town and
Village Courts, Erie County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and David M. Duguay, Of
Counsel) for the Commission

Gilmore & Killelea, LLP (Daniel M. Killelea) for respondent

Respondent, Michael W. Cole, a Justice of the Alden Town and Village

Courts, Erie County, was served with a Formal Written Complaint (“Complaint”) dated September 17, 2024 containing one charge. The Complaint alleged that from August 31, 2021 through October 5, 2021, respondent used his judicial position to delay the processing of a small claims action brought against him in the Town of Alden Justice Court while he attempted to have the matter withdrawn.

On October 22, 2024, the Administrator, respondent’s counsel and respondent entered into an Agreed Statement of Facts (“Agreed Statement”) pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be admonished and waiving further submissions and oral argument.

On December 12, 2024, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent was admitted to the practice of law in New York in 2001. He has been a Justice of the Alden Village Court, Erie County, since 2019, having previously served as Associate Justice of that court from 2018 to 2019. He has been a Justice of the Alden Town Court, Erie County, since 2021. Respondent’s term as town justice expires in December 2028, and his current term as village justice expires on March 31, 2025.

2. As a part-time town and village court justice, respondent is permitted to practice law.

3. In 2018, Candice Wynecoop-Kane hired respondent as an attorney and paid him a \$1,500 retainer to represent her with regard to a custodial relocation matter involving her child. Ms. Wynecoop became dissatisfied with respondent's representation and made several unsuccessful requests for his return of her retainer before hiring new counsel in the fall of 2019.

4. On August 31, 2021, Ms. Wynecoop filed a small claims action against respondent in the Alden Town Court for return of the \$1,500 retainer, and a \$15 filing fee.

5. On August 31, 2021, Alden Town Court Clerk Sarah Miller sent respondent a text message about Ms. Wynecoop's small claims application, *inter alia* noting that recusal would be necessary. Her message stated as follows:

Good morning Mike! Just a heads up a lady named Candace called in asking about a small claim application for a deposit she allegedly paid you at your office. We would have to recuse anyways but I just wanted to let you know.

6. Respondent replied via text message, inquiring about the identity of the caller. Ms. Miller then identified her as "Candace," and then noted, "Sorry I was to[o] late, She just left here."

7. Respondent then asked Ms. Miller, “Did she file?” Approximately one minute later, before Ms. Miller replied, respondent sent her a text message stating, “It’s okay. I just emailed her.”

8. Approximately seven minutes later, in response to respondent’s having asked if Ms. Wynecoop had filed a small claims application, Ms. Miller sent a text message stating, “She did.” Approximately one minute thereafter, respondent replied, “Okay. Don’t mail me the notice. Just put in my inbox.”

9. Approximately one minute later, Ms. Miller texted respondent that she did not intend to draft a case notice for him because she anticipated both Alden Town Court justices would recuse themselves from Ms. Wynecoop’s case. Approximately one minute later, respondent texted to Ms. Miller that she should “Hold for a bit,” adding, “I’m gonna call her and ask her to withdraw it.”

10. Shortly thereafter, in reply to his inquiry about Ms. Wynecoop’s phone number, Ms. Miller gave respondent the phone number on Ms. Wynecoop’s application.

11. On August 31, 2021, respondent telephoned Ms. Wynecoop and left a message. On September 3, 2021, respondent returned Ms. Wynecoop’s return call to his law office, and they discussed resolving her pending case against him in the Alden Town Court.

12. On September 3, 2021, respondent emailed Ms. Wynecoop, confirming their discussion, informing her that he had written and mailed a check in her name for \$1,515 to her Indiana mailing address, and requesting that she email him when she received his check. In both his email and letter of September 3, 2021, respondent asked Ms. Wynecoop to let the court know at her earliest convenience once the check cleared, and to request that her small claims case “be withdrawn as satisfied.”

13. Subsequent to his email to Ms. Wynecoop on September 3, 2021, respondent put a note in the Alden Town Court file for her, dated September 7, 2021, stating, “Candice should have received \$1,515.00 from my office today,” and “Please wait until next week, and if she hasn’t called, call her and ask her if she withdraws her action.”

14. On October 5, 2021, in the absence of any communication from Ms. Wynecoop confirming her withdrawal of her application, respondent signed a certificate of disqualification from her case. A transfer order of the Eighth Judicial District Administrative Judge, dated October 6, 2021, moved the case to the Clarence Town Court, which set the matter down for a hearing on December 14, 2021.

15. On December 14, 2021, after communication from Ms. Wynecoop, respondent emailed a letter to the Clarence Town Court, with a copy via email to

Ms. Wynecoop, stating that the parties had resolved their case, and neither intended to appear at court that evening.

Additional Factors

16. Respondent has been cooperative and contrite throughout the Commission's investigation.

17. Respondent acknowledges that it was improper for him as a judge to influence court staff to delay the processing of a claim filed against him by a litigant. He recognizes as well that such a claim would have to be transferred to another court because of the obvious conflict that would arise were his court to adjudicate a claim against him. Respondent also recognizes that even if his intent was to resolve the matter quickly, he effectively used his status as a judge to avoid public disclosure and the potential embarrassment of a personal lawsuit against him.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.2(C), 100.3(C)(1) and (2), 100.4(A)(1), (2) and (3) and 100.4(D)(1)(a) of the Rules Governing Judicial Conduct ("Rules") and should be disciplined for cause, pursuant to Article VI, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charge I of the Formal Written Complaint is sustained insofar as it is consistent with the above findings and conclusions and

respondent's misconduct is established.

Respondent acted in a manner that was inconsistent with his obligations to maintain high standards of conduct and to “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” (Rules, §§100.1, 100.2(A)) The Rules require that “[a] judge shall not lend the prestige of judicial office to advance the private interests of the judge. . . .” (Rules §100.2(C)) Respondent violated the Rules when he used his status as a judge to delay the processing of a small claims action filed against him seeking the return of a \$1,500 retainer paid to him in his capacity as an attorney.

“Members of the judiciary should be acutely aware that any action they take, whether on or off the bench, must be measured against exacting standards of scrutiny to the end that public perception of the integrity of the judiciary will be preserved. . . . Judges must assiduously avoid those contacts which might create even the appearance of impropriety.” *Matter of Lonschein*, 50 NY2d 569, 572 (1980) (citation omitted). Instead of promptly disqualifying himself from the action filed against him in the court where he presides, respondent improperly influenced court staff and delayed the processing of the claim. In this way, respondent violated well-established ethical standards and used his judicial status for his personal benefit. His conduct undermined public confidence in the integrity and impartiality of the judiciary. *See, Matter of Ayres*, 30 NY3d 59, 65 (2017).

In accepting the jointly recommended sanction of admonition, we have taken into consideration that respondent has acknowledged that his conduct was improper and warrants public discipline. We trust that respondent has learned from this experience and in the future will act in strict accordance with his obligation to abide by all the Rules Governing Judicial Conduct.

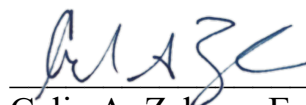
By reason of the foregoing, the Commission determines that the appropriate disposition is admonition.

Mr. Belluck, Ms. Grays, Judge Camacho, Mr. Cambareri, Mr. Doyle, Judge Falk, Judge Miller, Professor Moore, Mr. Raskin, Judge Singh and Ms. Yeboah concur.

CERTIFICATION

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

Dated: December 18, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

KEVIN E. COPELAND,

a Justice of the New Hartford Town Court,
Oneida County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and Shruti Joshi, Of Counsel)
for the Commission

Robert F. Julian for respondent

The matter having come before the Commission on October 24, 2024;
and the Commission having before it the Stipulation dated October 16, 2024; and

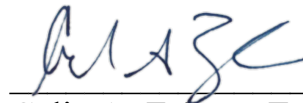
Judge Copeland having tendered his resignation dated October 15, 2024 effective October 31, 2024; and having affirmed that having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Judge Miller did not participate.

Dated: October 24, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

KEVIN E. COPELAND,

STIPULATION

a Justice of the New Hartford Court,
Oneida County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct, and the Honorable Kevin E. Copeland (“Respondent”) and his attorney Robert F. Julian, Esq.:

1. Respondent has been a Justice of the New Hartford Town Court, Oneida County, since January 1, 2014. His current term expires on December 31, 2025. Respondent is not an attorney.

2. Respondent was served with a Formal Written Complaint dated July 3, 2024, containing one charge alleging, *inter alia*, that the New York State Department of Labor (DOL) found that he had made a “factually false statement” and “concealed . . . pertinent” information regarding his compensation as a judge, resulting in his receiving nearly \$14,000 in unemployment insurance benefits to which he was not entitled.

3. The Formal Written Complaint, which is appended as Exhibit A, notes that Respondent repaid the \$13,878 to which he was not entitled after the DOL finding against him.

4. Respondent filed a Verified Answer dated August 26, 2024, which is appended as Exhibit B.

5. Respondent asserts that he attempted to obtain clarification from DOL regarding his eligibility but was unsuccessful because normal agency operations were curtailed during the COVID-19 pandemic. Respondent asserts that he contended to the DOL that the overpaid benefits he received were based on a misunderstanding during the pandemic. Respondent asserts that the overpaid benefits were kept in a separate account unused and were ultimately used by Respondent to repay the DOL. Respondent further asserts that the DOL did not seek interest or penalties on the overpaid benefits.

6. Respondent has tendered his resignation, a copy of which is annexed as Exhibit C, stating that he will vacate his judicial office on or before October 31, 2024.

7. Pursuant to Section 47 of the Judiciary Law, the Commission may continue with proceedings against a judge who has resigned and, if it so determines, render and file a determination that the judge should be removed from

office. Pursuant to Article VI, section 22(h) of the Constitution, a judge who is removed from office “shall be ineligible to hold other judicial office.”

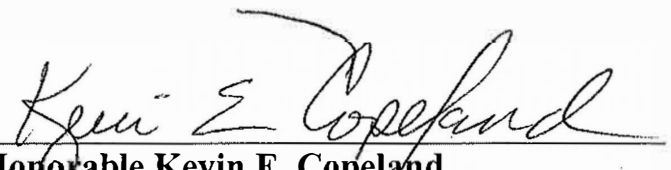
8. Respondent affirms that, he will vacate his judicial office at the close of business on October 31, 2024, and he will neither seek nor accept judicial office at any time in the future.

9. Respondent understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the present proceedings before the Commission will be revived and the matter may proceed to a hearing before a referee, or the Commission may summarily determine that he should be removed from office pursuant to 22 NYCRR 7000.6(c).

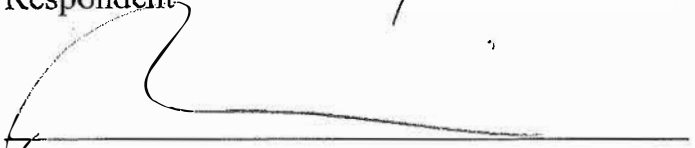
10. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

11. Respondent waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (A) this Stipulation will become public upon being signed by the signatories below, and (B) the Commission’s Decision and Order regarding this Stipulation will become public.

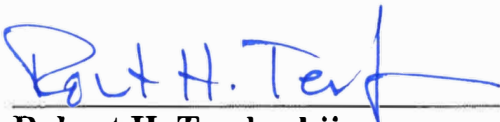
Dated: Oct 14, 2024


Honorable Kevin E. Copeland
Respondent

Dated: Oct 14, 2024


Robert F. Julian, Esq.
Attorney for Respondent

Dated: October 16, 2024


Robert H. Tembeckjian
Administrator & Counsel to the Commission
(**Cathleen S. Cenci** and **Shruti Joshi**, Of
Counsel)

THE FOLLOWING EXHIBITS ARE AVAILABLE AT WWW.CJC.NY.GOV:

EXHIBIT A: FORMAL WRITTEN COMPLAINT

EXHIBIT B: RESPONDENT'S ANSWER

EXHIBIT C: RESPONDENT'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

ALEC H. FRIEDMANN,

a Justice of the North Elba Town Court,
Essex County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Graham B. Seiter, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and Kathleen E. Klein, Of
Counsel) for the Commission

Hon. Alec H. Friedmann, *pro se*

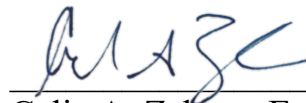
The matter having come before the Commission on March 14, 2024;
and the Commission having before it the Stipulation dated February 8, 2024; and

respondent having been served with a Formal Written Complaint dated November 20, 2023, and respondent having tendered his resignation dated December 26, 2023 effective December 31, 2023; and having affirmed that having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: March 14, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

ALEC H. FRIEDMANN,

STIPULATION

a Justice of the North Elba Town Court,
Essex County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct, and the Honorable Alec H. Friedmann (“Respondent”):

1. Respondent has been a Justice of the North Elba Town Court, Essex County, since January 2019. His current term would expire on December 31, 2026. Respondent is not an attorney.
2. On November 27, 2023, Respondent was served with a Formal Written Complaint dated November 20, 2023, containing charges alleging that he (A) failed to disqualify himself and presided over a criminal case despite being biased against the defense attorney, engaged in unauthorized *ex parte* communications, and dismissed the charges without notice to or consent of the prosecution as required by law, despite having been previously cautioned by the Commission for similar conduct; and (B) demonstrated bias and a hostile demeanor toward a

defense attorney in retaliation for a complaint the attorney had filed with the Commission in 2019.

3. Respondent's Verified Answer to the Formal Written Complaint was due by December 21, 2023. To date, Respondent has not filed an Answer.

4. Respondent tendered his resignation, by letter dated December 26, 2023, a copy of which is appended as Exhibit A. Respondent affirms that he vacated judicial office as of December 31, 2023.

5. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from a judge's resignation to complete proceedings and, if it so determines, render and file a determination that the judge should be removed from office.¹

Pursuant to Article VI, section 22(h) of the Constitution, a judge who is removed from office "shall be ineligible to hold other judicial office."

6. Respondent affirms that, having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future.

7. Respondent understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time, the present proceedings before the Commission will be revived and the matter may proceed to a hearing


¹ Pursuant to Section 47, the 120 days commence from the date the resignation is received by the Chief Administrator of the Courts.

before a referee, or the Commission may summarily determine that he should be removed from office pursuant to 22 NYCRR 7000.6(c).

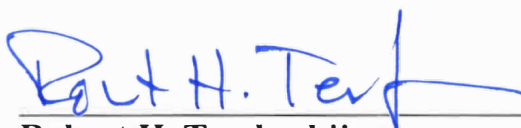
8. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

9. Respondent waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (1) this Stipulation will become public upon being signed by the signatories below, and (2) the Commission's Decision and Order regarding this Stipulation will become public.

Dated:


Honorable Alex H. Friedmann
Respondent

Dated: February 8, 2024


Robert H. Tembeckjian
Administrator & Counsel to the Commission
(**Cathleen S. Cenci** and **Kathleen E. Klein**, Of
Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV:
EXHIBIT A: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

DETERMINATION

ERIN P. GALL,

a Justice of the Supreme Court,
Fifth Judicial District, Oneida County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Graham B. Seiter, Esq.¹
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and S. Peter Pedrotty, Of
Counsel) for the Commission

Robert F. Julian, P.C. (Robert F. Julian) for respondent

¹ Mr. Seiter, who was a member of the Commission at the time of the vote in this matter, is no longer a member of the Commission.

Respondent, Erin P. Gall, a Justice of the Supreme Court, Fifth Judicial District, Oneida County, was served with a Formal Written Complaint (“Complaint”) dated May 23, 2023 containing one charge. The Complaint alleged, *inter alia*, that on July 2, 2022, after fights broke out at a graduation party respondent attended, she engaged in a loud, public, prolonged and profanity-laced confrontation with responding police officers and others at the scene during which she repeatedly invoked her judicial office, made comments that cast doubt on her ability to be impartial as a judge by, *inter alia*, stating Black teenagers at the scene “don’t look like they’re that smart”, stating to police officers that if the Black teenagers returned to look for a missing car key, “. . . when they trespass you can shoot them on the property. I’ll shoot them on the property” and telling a police officer that she was “always on your side” when the officer expressed concern about a possible civil rights suit in her court if the Black teenagers were arrested at respondent’s urging. The Complaint further alleged that respondent detracted from the dignity of her judicial office when, *inter alia*, she stated that her teenage son had “kicked the shit out of” someone and made disparaging comments to police officers about being on call to handle Extreme Risk Protection Orders (“ERPOs”). Respondent filed an Answer dated July 18, 2023.

On March 1, 2024, the Administrator, respondent’s counsel and respondent entered into an Agreed Statement of Facts (“Agreed Statement”) pursuant to

Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts and misconduct and requesting briefing and oral argument on the issue of sanction. On March 14, 2024, the Commission accepted the Agreed Statement and set a briefing schedule and scheduled oral argument on the issue of sanction.

The parties submitted briefs to the Commission regarding the issue of sanction. Commission counsel recommended the sanction of removal; respondent's counsel argued that a sanction no greater than censure be imposed. The Commission heard oral argument on June 13, 2024 and thereafter considered the record of the proceedings and made the following findings of fact.

1. Respondent was admitted to the practice of law in New York in 1997. She has been a Justice of the Supreme Court, Fifth Judicial District, Oneida County, since January 1, 2012. Respondent's term expires on December 31, 2025.

The Initiatory Complaint and Investigation

2. On September 22, 2022, the Commission directed the filing of an Administrator's Complaint, pursuant to Judiciary Law §44(2), authorizing an investigation of respondent, based upon the Commission's receipt of an anonymous complaint, alleging, *inter alia*, that on or about July 1, 2022,²

² The events at issue occurred in the late evening hours of July 1, 2022, past midnight and into the early morning hours of July 2, 2022. To avoid confusion, hereafter they will be referred to as having occurred on July 2, 2022, unless otherwise noted.

respondent invoked her judicial office and intervened with police officers who were called to the scene of a party at which, *inter alia*, her husband and son were involved in a fight with minors. The anonymous complaint also indicated that a video of the fight was circulating on social media and that respondent was recorded on an officer's body camera. The Administrator's Complaint was signed and dated on September 28, 2022.

3. By letter dated October 28, 2022, respondent was apprised of the Administrator's Complaint and directed to appear and give testimony on November 15, 2022. She was also provided body camera ("bodycam") and dashboard camera ("dashcam") footage recorded by the New Hartford Police Department and Oneida County Sheriff's Department in the early morning hours of July 2, 2022.³

4. On November 15, 2022, respondent appeared with her attorney, Mr. Julian, at the Commission's Albany office and testified.

5. On December 22, 2022, respondent co-signed and submitted through her attorney a letter to the Commission, supplementing and clarifying parts of her testimony.

6. At the conclusion of its investigation, which in addition to

³ The bodycam and dashcam videos were annexed as Exhibits 3 through 8 to the Agreed Statement of Facts.

respondent's testimony included, *inter alia*, sworn interviews of numerous witnesses and examination of the aforementioned videos, the Commission authorized formal disciplinary charges against respondent with regard to the events of July 2, 2022.

The Formal Written Complaint and Answer

7. Respondent was served with a Formal Written Complaint dated May 23, 2023.

8. Respondent filed a Verified Answer to the Formal Written Complaint dated July 18, 2023. The Answer admitted, *inter alia*, that respondent committed misconduct, proposed that a sanction less than removal be imposed, and set forth three affirmative defenses:

- a. She acted as a wife and a mother who had seen her husband and son attacked;
- b. On the bench she is fair, honest, respectful and conscientious toward all litigants and lawyers; and
- c. Her conduct on July 2, 2022, was the result of extreme emotional distress triggered by [REDACTED] associated with an assault that occurred in 1990.

As to Charge I of the Formal Written Complaint

9. On July 1, 2022, Stephen and Gina Pearce held a high school graduation party for their teenage son, Jackson Pearce, at their residence in the Town of New Hartford, Oneida County.

10. Respondent, her husband William Gall III, and their three teenage children, including her then 18-year-old son, William Gall IV, were among the approximately 60 invited guests who attended the party by written invitation of Stephen and Gina Pearce.

11. In addition to the guests invited by Stephen and Gina Pearce, their son Jackson separately invited a number of others. Jackson Pearce, the graduating honoree, invited additional friends by Snapchat which included a private message shared only with those he invited. Stephen and Gina Pearce did not limit the number of friends Jackson could invite, nor were they aware of the number and identities of those he invited.

12. The Pearces hired a bartender to serve alcoholic beverages to guests at the party from about 6:30 PM to 10:00 pm. The Pearces also provided a keg of beer from which guests could serve themselves, and which remained accessible to guests after 10:00 pm, when the bartender left for the evening. At a hearing before a Referee in this matter, respondent would testify that she did not consume any alcohol at the party, did not take any prescription medications or illicit drugs before or during the party, and was sober during the entirety of the party and throughout the events of July 2, 2022.

13. The Pearces set up a tent on their front lawn for the benefit of the party attendees.

14. Throughout the evening, dozens of individuals, including teenagers, arrived at the party. At some point, the crowd of attendees extended outside the tent and spread across the lawn and into and/or around the road adjoining the Pearces' property.

15. Sometime after 11:30 pm on July 1, 2022, a large number of individuals – many of whom respondent and her family understood had not been invited by any of the Pearces – arrived at the party in various cars and parked along the street. Thereafter, arguments ensued between invited and uninvited individuals. Respondent saw an unknown individual, whom she believed was uninvited, overturn a tray of food under the tent, and she heard people talking loudly, some with vulgarity. At that time, respondent could feel the tension building. There was an attempt to clear the area because it was dark, raining and arguments and confrontations were escalating. At that time, William Gall III, Michael Martyniuk (a parent and invited guest) and William Gall IV, began to shepherd individuals away from the tent area and to the street. Individuals began leaving the tent area and dispersing toward the street.

16. Meanwhile, on the evening of July 1, 2022, William Carter, Jahshiem Valladares, and two other young men known as “Dooley” and “Havo”⁴ – all four

⁴ Mr. Carter and Mr. Valladares declined to provide Commission Counsel with the full or formal names of Havo and Dooley, or their contact information. Commission Counsel was unable to independently ascertain their identities or contact them.

of them Black – were socializing in Utica and discussing what to do that night when Havo learned about a party in New Hartford via a live video feed from an unknown, unidentified friend in attendance.⁵ At 11:44 pm, that friend texted the address “[. . .] rd” to one of Mr. Carter’s group. The Pearces’ actual address is [. . .] Road. A few minutes later, Mr. Carter – who, at the time, had a learner’s permit but not a driver’s license – drove Mr. Valladares and their two other friends to the party, using his mother’s red SUV. The drive took approximately 20 minutes. No one from Mr. Carter’s group was invited by any of the Pearces. At a hearing, Mr. Valladares would testify that he smoked marijuana approximately an hour before the young men left for the party.⁴ Mr. Carter would testify that he did not smoke marijuana.

17. Mr. Carter’s group arrived at the Pearces’ address after midnight. Mr. Carter parked the SUV on the shoulder of the road, across the street from the Pearces’ driveway and not on the Pearces’ property. At a disciplinary hearing before a Referee in this matter, Mr. Carter and Mr. Valladares would testify that, upon their arrival, they observed a large number of individuals, including teenagers and adults, congregating on the street, near the end of the Pearces’ driveway.

⁵ Mr. Carter and Mr. Valladares declined to provide Commission Counsel with the name of the friend. It is unknown whether the friend had been invited to the party by Jackson Pearce or his parents. The friend was not Jackson Pearce or anyone from the Pearce family.

⁴ Respondent did not know of any marijuana use until after the conclusion of the Commission’s investigation in this matter.

18. At a disciplinary hearing before a Referee in this matter, Mr. Carter would testify that, shortly after getting out of the SUV, he heard raised voices and arguing outside the Pearces' residence. Although Mr. Carter did not see anyone physically fighting at that time, he quickly decided that he and his friends should leave. A cell phone video of the chaotic scene recorded by Mr. Carter at 12:19 am on July 2, 2022, was annexed as Exhibit 15 to the Agreed Statement.

19. Shortly after Mr. Carter stopped recording, a fight and/or multiple fights broke out among a large group of individuals, some of whom had not been invited to the party.

20. At some point, as William Gall IV was continuing to help clear the area, he was attacked by individuals whom respondent and her family members had never seen before and whom they believed were uninvited. William Gall IV fought with those individuals, and William Gall III interceded and attempted to disengage people from that fight and other fights that ensued.

21. At a disciplinary hearing before a Referee in this matter, respondent would testify as follows: her then 18-year-old son was approximately five feet from her when she saw him get slapped on the right side of his head; she saw her son nervously laugh and attempt to retreat when, within seconds, several unknown individuals violently attacked him; chaos ensued as the unknown individuals jumped on her son and brought him to the ground and then began to kick, stomp

and punch him on and about his head, face and body. William Gall IV sustained injuries to his ribs and face but did not require medical attention. Photographs of William Gall IV's injuries were included as Exhibit 10 to the Agreed Statement.

22. At a disciplinary hearing before a Referee in this matter, respondent would testify that, while watching the attack occur from about five feet away, she “froze” and did not physically intervene when she saw William Gall IV being attacked and fall to the ground. She would further testify that she stood there in shock without doing anything.

23. During the Commission's investigation, respondent identified photographs of Havo and Dooley as two of the individuals she saw fighting with her son. She identified a photograph of Dooley as the individual who slapped her son. At a disciplinary hearing before a Referee in this matter, respondent would testify consistently with these identifications.

24. With respect to Havo and Dooley's purported fighting with respondent's son:

- A. At a hearing, respondent would testify that she believed on July 2, 2022, that Havo and Dooley initiated and/or participated in the assault on her son; and
- B. In view of the totality of the circumstances regarding the incident, including the darkness of night, dim lighting, rainy conditions, and large number of persons involved in the melee – many of whom were unknown to respondent at the time – the parties agree that the evidence is insufficient to support any

finding as to whether Havo and Dooley fought with or assaulted respondent's son.

25. At a disciplinary hearing before a Referee in this matter, Mr. Carter and Mr. Valladares would testify that they attempted to avoid the fighting and leave the scene by returning to their SUV, after re-locating Havo and Dooley, from whom they had separated for a period. They would further testify that, as Mr. Carter was attempting to unlock the SUV, he and Mr. Valladares were grabbed from behind by other unidentified individuals and swept into a fight.

26. At around the same time, respondent's husband and two other adult males were attempting to separate several unknown individuals who were fighting. In the confusion, respondent's husband, Mr. Carter and Mr. Valladares became involved – though not necessarily with one another – in a physical altercation in or near a ditch along the road, during which respondent's husband had the back of his shirt ripped and suffered injuries to his ears, while Mr. Carter sustained a small facial abrasion. A photograph of Mr. Carter's injury was annexed as Exhibit 16 to the Agreed Statement. Meanwhile, Mr. Valladares suffered a laceration under one of his eyes, which bled and later required stitches. A photograph of Mr. Valladares's injury was annexed as Exhibit 17 to the Agreed Statement. Photographs of respondent's husband's injury were annexed as Exhibit 18 to the Agreed Statement.

27. Respondent witnessed her husband and two other adult party guests, Mr. Martyniuk and Dennis Philipkoski, attempt to separate the individuals who were fighting, but she did not physically intervene herself.

28. A cell phone video of a portion of the fighting was annexed as Exhibit 19 to the Agreed Statement. It is unclear from the video who was involved in this fighting or when it was taken.

29. A diagram of the Pearce property showing the approximate locations of the tent, ditch and spot where respondent would testify she saw her son get slapped was annexed as Exhibit 20 to the Agreed Statement.

30. When the fighting stopped, respondent did not believe that her husband or son were injured to the extent that they needed medical attention, which she explicitly told a responding police officer few minutes later. Neither respondent's son nor her husband sought or received any medical treatment for their injuries.

31. When the fighting stopped, Mr. Carter realized he no longer had the key to his mother's SUV. He and his three friends began searching the area for the missing key.

32. At approximately 12:22 am on July 2, 2022, New Hartford Police Department Officers Robert Cornish and Eric Cappelli arrived at the Pearce

residence in response to multiple reports of a large party with numerous fights.⁵

Very soon thereafter, police personnel from the following four law enforcement agencies also arrived at the scene: the Oneida County Sheriff's Department, the Kirkland Police Department, the Whitestown Police Department and the New York Mills Police Department. Because the Pearce residence was located in the Town of New Hartford, the New Hartford Police Department assumed jurisdiction over the matter, and the other law enforcement personnel provided support.

33. Upon arriving, New Hartford Police Officers Cornish and Cappelli broke up numerous fights and directed the partygoers to leave the area immediately. It appeared to them and other police personnel at the scene that many of the teenagers had been drinking alcohol and/or were intoxicated. Police personnel also observed numerous alcoholic beverage containers littering the ground on or around the Pearces' property, as well as along the road. Police personnel issued no tickets in relation to underage drinking.

34. Officers and deputies at the scene wore operational body cameras. Respondent was aware of the bodycams.

35. Shortly after the officers arrived, respondent approached Officer Cappelli and volunteered, "I'm Erin Gall, I'm a Supreme Court judge." She told

⁵ At a disciplinary hearing before a Referee in this matter, respondent would testify as to her understanding that an invited party guest had called 911.

him that the Pearces' graduation party had gotten out of control. The relevant portion of the bodycam video was annexed as Exhibit 4a to the Agreed Statement.

36. Soon thereafter, Stephen Pearce, who appeared intoxicated, ran toward Mr. Carter's group including Mr. Valladares, Havo and Dooley and screamed obscenities at them as they looked for the lost car key. As other adults physically restrained Mr. Pearce, respondent yelled at Mr. Carter, "What are you looking for? What are you looking for?" Respondent – who was a guest at the party, had no ownership interest in the Pearces' property, and did not live in the neighborhood – screamed at Mr. Carter, Mr. Valladares, Havo and Dooley:

You got to leave! You're not going to find your keys. You got to call an Uber and get off the property. That's what I'm saying. No. Done. You're done. Done, done, done. Get off the property! And's that's from Judge Gall! I'm a fucking judge! And I'm telling you! Get off the fucking property! No, judge. It's judge. I could give a fuck. . . . I don't want anyone on the property. If I have to clear it out, I will.

The relevant portion of the bodycam videos were annexed as Exhibits 3a and 4b to the Agreed Statement.

37. When Officer Cornish asked respondent if anyone needed medical attention, respondent replied in a more moderate voice, "No, Jesus, no. No, honestly, I'm a Supreme Court judge." The relevant portion of the bodycam video was annexed as Exhibit 3b to the Agreed Statement.

38. Respondent then resumed yelling:

They're not going to find keys . . . and you know what, this is just a stall tactic. They got to go. They got to go. There's no keys. There's absolutely no keys. You know what you're not going to find your mom's keys. You gotta ask her for a second set, bro!

The relevant portion of the bodycam video was annexed as Exhibit 3b to the Agreed Statement.

39. When Mr. Carter or one of his friends told respondent, "It's not going to work like that," respondent replied:

Yeah, that's how it's going to work. I'm telling you, that's how it's working. Well, you're going to get in an Uber, buddy, or you're going to get a cop escort home. That's how it's happening. That's what I'm telling you right now. That's how I roll. That's how I roll. That's how Mrs. G rolls. That's how Judge Gall rolls. We're clearing this place out.

The relevant portion of the bodycam video was annexed as Exhibit 3b to the Agreed Statement.

40. When Stephen Pearce subsequently yelled at the officers that Mr. Carter's group should be arrested, respondent added:

They should be arrested. Exactly. They were trespassing and . . . they should be arrested. Come on. This is not my first rodeo. Are you from New Hartford? Ok, New Hartford Police: they should either be arrested or driven off the property. We shouldn't be looking for their keys. They assaulted people here. We're not pressing charges. We just need them gone. I don't know if I have to call the Chief of Police. This is ridiculous.

The relevant portion of the bodycam videos were annexed as Exhibits 4c and

6a to the Agreed Statement.

41. At a hearing before a Referee in this matter, respondent would testify that, at this time on July 2, 2022, (A) she was frustrated because she wanted the Pearce property cleared of the individuals whom she believed had fought with her son and husband, as well as many other guests at her friends' private graduation party, and (B) she did not want her family and friends to be engaged in another violent encounter.

42. Several minutes later, when respondent resumed screaming that everyone should stop looking for the lost car key, the following exchange occurred between respondent and Officer Cappelli:

Respondent: I'm not looking for keys. Guys, don't look for keys anymore, please. I don't care about this kid's fucking keys.

Ofc. Cappelli: I do. So relax.

Respondent: I don't.

Ofc. Cappelli: It's not even your house. Chill out.

Respondent: It's my jurisdiction though.

Ofc. Cappelli: Okay.

Respondent: Yeah it is! Yeah it is! Yeah it is! Don't laugh!

Ofc. Cappelli: I'm not.

Respondent: What's your name.

Ofc. Cappelli: Cappelli.

Respondent: Cappelli. Okay. I'll make sure I tell them. I mean seriously you're worried about a trespasser and an assaulter's keys. He committed a crime and you're looking for his keys.

Ofc. Cappelli: So did all of the adults giving all of these kids booze, so what do you want?

Respondent: What was that?

Ofc. Cappelli: So did all of the adults giving all of these kids booze.

Respondent: I don't know who this kid was. No, we don't even know who this kid is! No adult gave this kid booze. Cappelli.

Respondent then told Officer Cappelli either to tow the vehicle belonging to the driver who lost the key, or to issue a ticket. The relevant portion of the bodycam video was annexed as Exhibit 4d to the Agreed Statement.

43. When respondent said, "Cappelli. Okay. I'll make sure I tell them," she was referring to her intention to call a lieutenant she knew in Officer Cappelli's department to complain about his actions that night.

44. While arguing with Deputy Steven Eilers about whether Mr. Carter's group had committed a trespass offense, respondent stated, "If you're not invited by a homeowner, it's still trespassing. I've done this for a million years. I'm a lawyer. I'm a judge. I know this." The relevant portion of the bodycam video was annexed as Exhibit 5a to the Agreed Statement.

45. Respondent then told Officer Cornish to tow the Carter SUV or to issue Mr. Carter a ticket. Officer Cornish explained to respondent that they could not do either because the vehicle was not illegally parked. Respondent then stated to Officer Cornish, “Well, put him in the back of a cop car and let him wait there.” The relevant portion of the bodycam video was annexed as Exhibit 3c to the Agreed Statement.

46. At approximately 12:50 am on July 2, 2022, Mr. Valladares’s sister, Mahkay-lah Mezza, arrived at the Pearce residence in response to Mr. Valladares’s call for assistance. Upon arrival, Ms. Mezza waited with Mr. Carter’s group in or around the SUV for a relative to arrive with a spare key.⁶

47. Shortly before 1:00 am on July 2, 2022, Stephen Pearce screamed obscenities at the officers and deputies to remove Mr. Carter’s group from the scene. Standing next to Mr. Pearce, respondent yelled:

This is ridiculous. . . . C’mon guys. . . . We didn’t invite him. There was trespassing, there were assaults, there was everything. They’re saying – they were not invited. There’s social media. We didn’t invite them. He owns the property. The owner of the property. I’m a judge, he’s a lawyer. We’re telling you. I’m telling you. This is insane.

The relevant portion of the bodycam videos were annexed as Exhibits 4e and 6b to the Agreed Statement.

⁶ Ms. Mezza could not fit Mr. Carter and his three friends into her vehicle, and therefore chose to wait with them until they all could leave at the same time.

48. Stephen Pearce argued with the deputies and officers about whether Mr. Carter could legally park on the shoulder of the road. Mr. Pearce told the deputies to “police the area. Police the fucking area.” Respondent added, “Police it, police it. Oh, my god, you’re not doing much. They’re obstructing a public road. That’s not a crime?” The relevant portion of the bodycam videos were annexed as Exhibits 4e and 6b to the Agreed Statement.

49. When respondent mentioned that she heard Mr. Carter’s group wanted to press charges, Deputy Norman Lyke stated:

But how about this? How about we end up in front of your court for a civil rights violation because we violated all their civil rights. That’s what I’m getting at. My point is this, with social media--.

50. Respondent interjected and stated to Deputy Lyke:

Listen, but guess what, the good part is – the good part is I’m always on your side. You know I’d take anyone down for you guys. You know that. You know that. You know I am on your side.

The relevant portion of the bodycam video was annexed as Exhibit 3d to the Agreed Statement.

51. Shortly after 1:00 am on July 2, 2022, as Stephen Pearce continued to scream obscenities at police personnel and/or Mr. Carter’s group, respondent approached the officers and deputies and stated:

Okay, Steve, Steve, I’ve got it. Look, you know, I know he’s upset because, guess what, his whole party was ruined because

all these people converged.

The relevant portion of the bodycam video was annexed as Exhibit 3e to the Agreed Statement.

52. As Mr. Pearce continued to complain that the police had made no arrests or issued any tickets, respondent interjected and asked if Mr. Carter's group had been charged with anything. After Officer Cornish stated that Mr. Carter's group wanted to press charges for assault and underage drinking, respondent told the officer that he needed to get the names of the people in Mr. Carter's group because "we're pressing charges against them for trespassing." The relevant portion of the bodycam video was annexed as Exhibit 3e to the Agreed Statement.

53. When the police disputed whether Mr. Carter's group had been trespassing, respondent stated:

It's a private property . . . wait, they were looking – you were looking. My point is he's saying they want to press charges so I'm saying if they're pressing charges we're pressing trespassing. . . . Well, can I say this, if they're pressing charges, we're pressing trespassing charges and assault.

The relevant portion of the bodycam video was annexed as Exhibit 3e to the Agreed Statement.

54. When a deputy advised respondent that a charge of assault required physical injuries or substantial pain, respondent laughed and stated, "Okay, I

know the law. I'm a judge." The relevant portion of the bodycam video was annexed as Exhibit 3e to the Agreed Statement.

55. Respondent disputed a statement by Officer Cornish that Mr. Carter's group got the worst end of the fight, and she had her son William show his face to the officers. After an officer commented that respondent's son "look[ed] like a million bucks," respondent said:

So, just so you know, it's not one sided. You're saying one side – he definitely . . . hopefully, hopefully I taught my son well. He put a smack down once he got hit . . . he put a smack down.

The relevant portion of the bodycam video was annexed as Exhibit 3f to the Agreed Statement.

56. Respondent repeatedly hit her fist into the palm of her hand and continued:

Hopefully he did get the worst end of it because I taught my son to kick the shit out of anyone who hits him first.

The relevant portion of the bodycam video was annexed as Exhibit 3f to the Agreed Statement.

57. About a minute later, respondent stated:

My husband and son got hit first . . . but they finished. Like I taught 'em.

The relevant portion of the bodycam video was annexed as Exhibit 6c to the Agreed Statement.

58. A short while later, when Deputy Eilers, speaking to other police personnel, referred to “not taking anything off [his] belt” because it would create too much paperwork, respondent interjected:

Do you want to talk way too much paperwork? Guess what we have to do now? We’re all on call for ERPOs. . . . Do ERPOs make you guys crazy?⁷

The relevant portion of the bodycam video was annexed as Exhibit 6d to the Agreed Statement.

59. A deputy responded, “No, we’re not going to pay attention,” to which respondent replied:

Don’t! Don’t! Because I get called in the middle of night, too, for those.

The relevant portion of the bodycam video was annexed as Exhibit 6d to the Agreed Statement.

60. Respondent then argued to Deputy Eilers that Mr. Carter’s group committed Criminal Trespass and/or Assault. Although Deputy Eilers explained to respondent that the New Hartford Police Department had jurisdiction over the matter, respondent stated that she wanted to press charges and asserted that she

⁷ Pursuant to Section 6340(1) of the CPLR, an Extreme Risk Protection Order (“ERPO”) is a “court-issued order of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun.” While anyone may file an application for an ERPO, all law enforcement officers are required by Section 6341 of the CPLR to file an application for an ERPO “upon the receipt of credible information that an individual is likely to engage in conduct that would result in serious harm to himself, herself or others.” Pursuant to CPLR §6341, such applications are to be filed in the supreme court in the county where the individual against whom the order is sought resides. As a supreme court justice, respondent is required to review applications for ERPOs filed in her court.

could call Sergeant Grant Langheinrich to file charges through the sheriff's department. Sergeant Langheinrich is personal friend of respondent and, at the time, was in charge of security at respondent's courthouse. The relevant portion of the bodycam video was annexed as Exhibit 5b to the Agreed Statement.

61. At approximately 1:27 am on July 2, 2022, as Mr. Carter and his friends sat in the SUV waiting for someone to arrive with a spare key, respondent said to Deputy Eilers:

Watch, I bet if they push the button, the keys are in the car.

The relevant portion of the bodycam videos were annexed as Exhibits 5c and 6e to the Agreed Statement.

62. Respondent, who a few minutes earlier had told Deputy Eilers that her son William would be attending business school in the fall, said of Mr. Carter and his group:

They don't look like they're that smart. They're not going to business school, that's for sure.

The relevant portion of the bodycam videos were annexed as Exhibits 5c and 6e to the Agreed Statement.

63. At approximately 1:35 am on July 2, 2022, one of Mr. Carter's relatives arrived at the scene with an extra key for the SUV.

64. As Mr. Valladares and Ms. Mezza were getting into Ms. Mezza's car to leave, Stephen Pearce said, sarcastically, "Thanks for coming out, guys." Ms.

Mezza said, “You’re welcome.” Stephen Pearce then said, “Go fuck yourselves.” Ms. Mezza responded, “Whoa, is that acceptable?” Respondent laughed and yelled, “Yes, it is!” Ms. Mezza said, “I just came to get my brother, though.” Stephen Pearce said, again sarcastically, “Thank you, thanks for coming.” Ms. Mezza replied, “Man, you look like a fucking cokehead.” Respondent remarked, “You look like a cokehead, okay. We might be able to afford the coke, but we don’t do it.” The relevant portion of the bodycam videos were annexed as Exhibits 5d and 6f to the Agreed Statement.

65. At approximately 1:37 am on July 2, 2022, Mr. Carter drove away in the SUV with two of the friends with whom he had arrived, leaving Mr. Valladares with Ms. Mezza at the scene.

66. While Ms. Mezza and Mr. Valladares were sitting in Ms. Mezza’s car with the windows open, trying to establish a GPS route, Officer Cornish approached respondent and Stephen Pearce, who was continuing to yell. Officer Cornish noted that the key to the Carter SUV might turn up in the morning, and respondent interrupted him and said:

We’re absolutely going to throw it in the toilet . . . You’re welcome. If you think we’re gonna – if you think we’re gonna turn over – we’re not looking for any keys.

The relevant portion of the bodycam video was annexed as Exhibit 3g to the Agreed Statement.

67. Ms. Mezza, overhearing respondent's comments, said that she wanted to file something if respondent was going to keep the key. Respondent yelled at Ms. Mezza:

I'm not looking for the key, is what I said. I'm not looking for the key. Move along. I'm not – yeah, but we're not looking for any key. We're looking for keys, are you kidding me?

The relevant portion of the bodycam video was annexed as Exhibit 3g to the Agreed Statement.

68. Officer Cornish continued to discuss the key with respondent and said the best outcome would be if someone found the key and turned it in to the police, in which case no one from Mr. Carter's group would need to return to look for it. Respondent loudly responded:

Well, if they come back looking for it, I'll call you while they're on the property. Because you want to find them on the property. I'll call you when they're on the property. If they did, they'll be arrested, or they'll be shot on the property. Because when they trespass you can shoot them on the property. I'll shoot them on the property.

The relevant portion of the bodycam video was annexed as Exhibit 3g to the Agreed Statement. From the passenger seat of Ms. Mezza's vehicle, Mr. Valladares heard respondent's threat about shooting them and reported it to Deputy Eilers.

69. At that point, Kirkland Police Department Officer Joseph McCormick challenged respondent for her comment about shooting the Black teenagers.

Calling her “lady” or “ma’am,” Officer McCormick told respondent:

This isn’t Texas. You can’t shoot somebody for simply going on your property. . . . Do you hear what you’re saying? You’re all White, privileged people with high-power jobs.

70. Respondent replied:

Don’t call me “Lady.” “Judge.” It’s “Judge.” . . . You guys didn’t really do much.

The relevant portion of the bodycam video was annexed as Exhibit 5e to the Agreed Statement.

71. Speaking to her husband after Officer McCormick left the scene, respondent said, “He called me ‘lady.’ Yeah, he’s really a sharp guy.” The relevant portion of the bodycam video was annexed as Exhibit 6g to the Agreed Statement.

72. Sometime after approximately 1:40 am on July 2, 2022, all police personnel left the scene.

73. On July 14, 2022, at the Oneida County Courthouse, respondent had conversations with Sergeant Langheinrich, Deputy Edmund Wiatr and Deputy Michael Baker, during which she expressed, *inter alia*, her dissatisfaction with how the officers from New Hartford Police Department handled the situation at the Pearces’ party on July 2, 2022.

Additional Factors

74. Respondent makes the following acknowledgements about her conduct in the aftermath of the graduation party:

- A. By repeatedly invoking her judicial office to police officers during the events of July 2, 2022, respondent created at least the appearance that she was seeking preferential treatment based on her status as a judge, and thus lent the prestige of her office to advance her own and her friends' private interests.
- B. By repeatedly invoking her judicial office to Mr. Carter and his friends, respondent created at least the appearance that she was speaking with judicial authority when ordering them to leave the Pearces' neighborhood, and thus lent the prestige of her office to advance her own and her friends' private interests.
- C. Her threat to call an officer's superior created at least the appearance that she was leveraging her judicial position to pressure the officers on the scene to do as she wished.
- D. Her statements that Mr. Carter and his friends did not look "that smart" and were "not going to business school, that's for sure," and her statement that she would shoot the young Black men if they returned to search for the missing car key, created at least the appearance of racial bias.
- E. Her expressions of satisfaction that her son had "kick[ed] the shit out of" and "put the smack down on" another partygoer, and her declaration that she would shoot the young Black men if they returned to search for the missing car key, were unbecoming of and incompatible with the role of a judge.
- F. Her statements to police personnel that she was "always on [their] side" and would "take anyone down" for the police, along with her disparaging statements concerning ERPOs, created at least the appearance of bias in favor of law enforcement.

75. At a hearing before a Referee in this matter, respondent would testify as follows:

- A. As a mother and wife, respondent was emotionally distraught, and she reacted viscerally rather than rationally upon witnessing her son and husband fighting and being hurt. She regrets having acted in that manner.
- B. Respondent became increasingly frustrated with the police officers for what she believed at the time was (1) their inadequate response to her pleas for assistance, (2) their failure to remove from the scene those individuals she regarded as party crashers, and (3) their lack of deference in speaking to her. She now acknowledges that the officers handled the situation appropriately and that her conduct made their jobs more difficult. She regrets her behavior toward the officers.
- C. Respondent regrets how she acted toward Mr. Carter's group, as well as Ms. Mezza and other friends and/or family members who came out early in the morning to help resolve the situation by picking up Mr. Carter's group from the Pearce residence and/or delivering an extra car key for Mr. Carter's vehicle.

76. At a hearing before a Referee in this matter, respondent would further testify that (A) her overreaction to the events of July 2, 2022, was related to a traumatic event she suffered on April 29, 1990, when she was the victim of an assault as an 18-year-old freshman attending Boston College, and (B) witnessing assaults on her son and husband on July 2, 2022, triggered memories of the 1990 assault and caused her severe emotional distress and feelings of [REDACTED]

[REDACTED].

77. At a hearing before a Referee in this matter, respondent would call Norman J. Lesswing, Ph.D., and Joanne Joseph, Ph.D., as witnesses in support of her defense that her conduct on July 2, 2022, was triggered, in part, by a trauma-based reaction to her having been assaulted in 1990. Schedule B to the Agreed Statement included the Lesswing and Joseph report and notes.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.2(C) and 100.4(A)(1), (2) and (3) of the Rules Governing Judicial Conduct (“Rules”) and should be disciplined for cause pursuant to Article VI, Section 22, subdivision (a) of the Constitution and Section 44, subdivision 1 of the Judiciary Law. Charge I of the Complaint is sustained insofar as it is consistent with the above findings and conclusions and respondent’s misconduct is established.

Each judge is obligated to observe high standards of conduct and must “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” (Rules, §§100.1 and 100.2(A)) The Rules also require that “[a] judge shall not lend the prestige of judicial office to advance the private interests of the judge or others. . .” and require that judges must “conduct all of the judge’s extra-judicial activities so that they do not . . . detract from the dignity of judicial office . . .” (Rules §§100.2(C) and 100.4(A)(2)) Respondent admitted that on July 2, 2022 she violated these Rules by, *inter alia*, lending the

prestige of her judicial office to advance her own and her friends' private interests, creating at least the appearance of racial bias, creating at least the appearance of bias in favor of law enforcement and engaging in conduct unbecoming a judge including by stating that she would shoot the Black teenagers if they returned to look for the missing car key.

It is well-settled that judges are held to a higher standard of conduct than the general public. "There is no question that judges are accountable for their conduct 'at all times', including in conversations off the bench. . . Because judges carry the esteemed office with them wherever they go, they must always consider how members of the public . . . will perceive their actions and statements." *Matter of Senzer*, 35 NY3d 216, 220 (2020) (citations omitted) "Standards of conduct on a plane much higher than for those of society as a whole, must be observed by judicial officers so that the integrity and independence of the judiciary will be preserved. A Judge must conduct his everyday affairs in a manner beyond reproach." *Matter of Kuehnel*, 49 NY2d 465, 469 (1980). "Members of the judiciary should be acutely aware that any action they take, whether on or off the bench, must be measured against exacting standards of scrutiny to the end that public perception of the integrity of the judiciary will be preserved." *Matter of Lonschein*, 50 NY2d 569, 572 (1980) (citation omitted).

Respondent repeatedly violated the ethical rule prohibiting judges from lending the prestige of their judicial office to advance their own private interests or the interests of others. (Rule, §100.2(C)); *See, Matter of Astacio*, 2019 Ann Rep of NY Commn on Jud Conduct at 71, 99 (“... gratuitous references to her judicial position while attempting to avoid the consequences of her arrest were an implicit request for special treatment, conveying the appearance that she was calling attention to her status as a judge in order to bolster her plea to the police.”), *accepted*, 32 NY3d 131 (2018); *Matter of Werner*, 2003 Ann Rep of NY Commn on Jud Conduct at 198, 199 (“... respondent gratuitously interjected his judicial status into the incident, which was inappropriate. ... Respondent's conduct was improper even in the absence of an explicit request for special consideration.” (citations omitted)). Over approximately an hour and twenty minutes on July 2, 2022, respondent invoked her judicial office more than a dozen times seeking to obtain preferential treatment and to influence the actions of the police and the conduct of the teenagers.

Initially, upon the arrival of the police, respondent introduced herself and gratuitously stated to the police, “I’m a Supreme Court Judge.” She later invoked her judicial office in an attempt to have the four Black teenagers arrested for assault, laughed at a deputy when he mentioned the elements required for an assault charge and told the deputy, “Okay, I know the law. I’m a judge.” In

attempting to convince law enforcement officers that the teenagers had trespassed, respondent told them, “. . . I’ve done this for a million years. I’m a lawyer. I’m a judge. I know this” and “I’m a judge, he’s a lawyer. We’re telling you. I’m telling you.” Respondent improperly referenced her judicial position numerous times in statements to law enforcement personnel and repeatedly tried to have the police arrest the Black teenagers.⁶

Respondent also invoked her judicial office when speaking to the teenagers which created at least the appearance that she was attempting to use her judicial status to influence their conduct as well. For example, she yelled at the four teenagers:

. . . Get off the property! And’s that’s from Judge Gall! I’m a fucking judge! And I’m telling you! Get off the fucking property! No, judge. It’s judge. I could give a fuck. . . . I don’t want anyone on the property. If I have to clear it out, I will.

In directing the teenagers to leave, she stated,

. . . Well, you’re going to get in an Uber, buddy, or you’re going to get a cop escort home. That’s how it’s happening. That’s what I’m telling you right now. That’s how I roll. That’s how I roll. That’s how Mrs. G rolls. That’s how Judge Gall rolls. We’re clearing this place out.

⁶ In additional evidence that respondent was seeking preferential treatment based on her judicial status, respondent stipulated that she became frustrated with the police officers for what she perceived to be a lack of deference in speaking to her.

By yelling at the teenagers that she was a judge while directing them what to do, respondent improperly asserted her judicial status and undermined public confidence in the judiciary. She also made the chaotic situation more difficult for law enforcement personnel.

After notifying police personnel that she was a judge, respondent also attempted to use her judicial position to influence their actions by indicating that she would call their superiors if they did not follow her instructions. In one instance, respondent stated:

. . . they should be arrested. Come on. This is not my first rodeo. Are you from New Hartford? OK, New Hartford Police: they should either be arrested or driven off the property. . . . We just need them gone. I don't know if I have to call the Chief of Police. This is ridiculous.

In another example, when New Hartford Police Officer Eric Cappelli told respondent that, "It's not even your house. Chill out", respondent replied, "It's my jurisdiction though." After a further exchange with Officer Cappelli, respondent asked the officer for his name and when he provided it, she replied,

Cappelli. Okay. I'll make sure I tell them. I mean seriously you're worried about a trespasser and an assaulter's keys. He committed a crime and you're looking for his keys.

Respondent acknowledged that when she made that statement to the officer, she was referring to her intention to call a lieutenant she knew in the New Hartford

Police Department to complain about the officer's conduct.⁷

In additional serious misconduct, respondent acknowledged that some of her comments created at least the appearance of racial bias. Respondent's inappropriate comments in this regard included that, shortly after telling a deputy that her son would be attending business school, respondent stated that the Black teenagers "don't look like they're that smart. They're not going to business school, that's for sure." In addition, when an officer told respondent that if someone found the missing car key and turned it into the police, there would be no need for Mr. Carter or anyone with him to return to look for the key, respondent stated, ". . . If they did, they'll be arrested, or they'll be shot on the property. Because when they trespass you can shoot them on the property. I'll shoot them on the property." One of the Black teenagers heard respondent's statement about shooting them and reported it to a deputy. In response to respondent's statements, another officer, recognizing the racial aspect of respondent's comments, chastised her by stating, ". . . You can't shoot somebody for simply going on your property. . . . Do you hear what you're saying? You're all White, privileged people with high-power jobs."

In a recent matter in which a judge created the appearance of racial bias by "repeatedly, and gratuitously, referring to the litigant's race", the Court of Appeals

⁷ As described below, approximately two weeks later, while in the Oneida County Courthouse, respondent complained to members of the Oneida County Sheriff's office about how officers from the New Hartford Police Department had handled the situation on July 2, 2022.

found removal was warranted stating, “[w]e stress that the ‘appearance of such impropriety is no less to be condemned than is the impropriety itself’ . . .” *Matter of Putorti*, 40 NY3d 359, 366, 368 (2023); *See, Matter of Pennington*, 2006 Ann Rep of NY Commn on Jud Conduct at 224, 226 (“[r]egardless of whether respondent’s remarks were knowingly racist or simply ill-considered, the use of such language by a judicial officer serves to undermine public confidence in the integrity and impartiality of the judiciary.”) Respondent’s improper comments were made to law enforcement personnel and at least one of the Black teenagers heard them. When respondent created at least the appearance that she harbored racial bias, she severely undermined public confidence in her integrity and impartiality.

Moreover, respondent also made comments that created the appearance that she was biased in favor of law enforcement. After a deputy stated to respondent, “How about we end up in front of your court for a civil rights violation because we violated all their civil rights,” respondent interrupted him and stated:

Listen, but guess what, the good part is – the good part is I’m always on your side. You know I’d take anyone down for you guys. You know that. You know that. You know I am on your side.

In addition to publicly proclaiming her improper partiality toward law enforcement, respondent’s statements were additional evidence of the appearance of racial bias. Furthermore, when speaking to law enforcement personnel,

respondent made disparaging comments regarding Extreme Risk Protection Orders that she was required to review as a supreme court justice.

By announcing that she was “always” on the side of law enforcement and implying that law enforcement personnel should ignore ERPOs, respondent created at least the appearance of bias in favor of law enforcement and further undermined confidence in her integrity and impartiality. *See, Matter of Peck*, 2022 Ann Rep of NY Commn on Jud Conduct at 136, 141-142 (“respondent’s public Facebook post in which he aligned himself with and expressed his strong support for law enforcement personnel, casts doubt on respondent’s ability to act impartially when he presided over matters which involved law enforcement personnel.”) Moreover, when she disparaged the responsibilities of judges and law enforcement personnel with respect to Extreme Risk Protection Orders, respondent improperly belittled an important public safety tool and appeared to be attempting to ingratiate herself with the law enforcement personnel at the scene.

Furthermore, respondent’s profanity-laced statements on a public street detracted from the dignity of her judicial office. Her improper comments included, *inter alia*, stating: “I’m a fucking judge”, “I don’t care about this kid’s fucking keys” and, regarding her son fighting, stating, “He put a smack down once he got hit . . . he put a smack down.” *See, Matter of Grisanti*, 2025 Ann Rep of NY

Commn on Jud Conduct at ___ (“... while in the street, respondent inappropriately unleashed a tirade of expletives in full view of the public.”)⁸

While we are very sympathetic to the impact of respondent’s past trauma and have reviewed the evidence she submitted regarding the [REDACTED] [REDACTED] diagnosis, we find that her significant misconduct is not excused by this evidence.⁹ During the incident, while repeatedly asserting her judicial office for more than an hour, respondent gave orders, directed the police to arrest the Black teenagers and made statements which created the appearance of racial bias and bias in favor of law enforcement. Such conduct cannot be explained by the psychological evidence in this matter.

The Court of Appeals has held,

... in rare cases "no amount of [mitigation] will override inexcusable conduct" ... sufficient to restore the public's trust in the judge's ability to faithfully execute his or her duties. ... "[A] cornerstone of our democracy" is the integrity of our judiciary ... , and judges must be mindful that their actions "reflect, whether designedly or not, upon the prestige of the judiciary". ...

Matter of Restaino, 10 NY3d 577, 590 (2008) (citations omitted). Here, even if respondent’s reported psychological condition and the involvement of her husband

⁸ Available at: <https://cjc.ny.gov/Determinations/G/Grisanti.Mark.J.2024.04.22.DET.pdf>

⁹ We note that after the July 2022 incident, respondent sought counseling only after she was served with the Complaint in this matter in May 2023. Her first visit to Dr. Lesswing was on June 20, 2023 and she did not meet with Dr. Joseph after the incident until June 29, 2023.

and son in the incident played a role in her actions on July 2, 2022, she irreparably damaged her integrity by repeatedly invoking her judicial office and forfeited her ability to be and to appear to be impartial, particularly as it relates to race and law enforcement personnel. Given the range of her misconduct, members of the public can have no confidence in her ability to preside in a fair and unbiased manner.

Moreover, respondent's arguments regarding a psychological explanation for her conduct as well as her claim that her conduct was attributable to the shock of observing her son and husband in altercations, were undercut by her actions approximately two weeks after the July 2, 2022 incident. On July 14, 2022, after she had time to reflect on her conduct, she decided to speak in the Oneida County Courthouse about the incident with three members of the Oneida County Sheriff's Office, including a personal friend who was in charge of security at the courthouse at the time. In these conversations, respondent again complained, as she had during the incident, about how members of the New Hartford Police Department handled the situation at the graduation party. By having these conversations in the courthouse two weeks later, respondent appears to have failed to recognize her misconduct during the earlier incident and to have ignored the impact of her judicial status on her complaints to law enforcement personnel. *See, Matter of Lonschein, supra*, 50 NY2d at 573 ("petitioner . . . should have realized that his

requests would be accorded greater weight by an administrative official that they would have been had petitioner not been a Judge.”).

Impropriety permeated respondent’s conduct on July 2, 2022. Instead of leaving the chaotic situation, for over an hour, respondent repeatedly engaged in conduct that violated the Rules. Her wide array of misconduct severely undermined public confidence in the judiciary and in her ability to serve as a fair and impartial judge. The Court of Appeals has held, “[w]e cannot view petitioner’s actions and the appropriate sanction through a limited prism but must instead consider the full spectrum of her behavior and its impact on public perception of the judiciary . . .” *Matter of Astacio*, 32 NY3d 131, 137 (2018) (citations omitted) Given the extent and range of respondent’s misconduct, particularly her repeated invocation of her judicial office to the police and to the teenagers, her remarks that created the appearance of racial bias and bias in favor of law enforcement and her decision to complain about how the police handled the matter approximately two weeks after the incident while in the Oneida County Courthouse, we find that respondent engaged in “truly egregious” misconduct. *See, Matter of Mazzei*, 81 NY2d 568, 571-572 (1993) (“A society that empowers Judges to decide the fate of human beings and the disposition of property has the right to insist upon the highest level of judicial honesty and integrity.”). Respondent committed multiple violations of several Rules, acted in a manner

unbecoming a judge, brought reproach upon the judiciary and irreparably damaged her ability to serve as a judge.

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

Ms. Grays, Mr. Doyle, Judge Camacho, Judge Falk, Judge Miller, Professor Moore, Mr. Raskin, Mr. Seiter and Judge Singh concur.

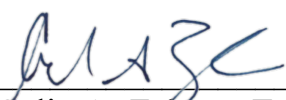
Professor Moore files a concurring opinion which Judge Camacho joins.

Mr. Belluck did not participate and Ms. Yeboah abstained.

CERTIFICATION

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

Dated: July 17, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

ERIN P. GALL,

A Justice of the Supreme Court,
Fifth Judicial District, Oneida County.

CONCURRING
OPINION BY
PROFESSOR
NINA M. MOORE
WHICH JUDGE
CAMACHO JOINS

I fully concur with the Commission’s decision to remove Judge Erin Gall and the reasons set forth. I write separately to underscore the issues and facts that I find especially consequential.

I. Maintaining Public Trust

Public trust in the judiciary is paramount. The Rules Governing Judicial Conduct (“Rules”) accord great significance to the public’s faith in the court system by way of explicit language that centers public confidence, judicial integrity and appearances. (Rules §§100.1, 100.2, 100.2(A), 100.3(E)(1)(g), 100.4(D)(5)(e), 100.4(H)(1) and 100.5(A)(4)(a)) Determinations of this Commission likewise acknowledge the pivotal importance of public perception. So do rulings by the Court of Appeals. In *Matter of Mazzei*, 81 NY2d 568 (1993) the Court held,

Judges personify the justice system upon which the public relies to resolve all manner of controversy, civil and criminal. A society that empowers Judges to decide the fate of human beings and the disposition of property has the right to insist upon the highest level of judicial honesty and integrity. A Judge's conduct that departs from this high standard erodes the public confidence in our justice system so vital to its effective functioning.

Id. at 571-572. (See also, *Matter of Esworthy*, 77 NY2d 280, 282-283 (1991); *Matter of Cohen*, 74 NY2d 272, 278 (1989); *Matter of Fabrizio*, 65 NY2d 275, 277 (1985); *Matter of Sardino*, 58 NY2d 286, 290-291 (1983); *Matter of Steinberg*, 51 NY2d 74, 81(1980); and, *Matter of Lonschein*, 50 NY2d 569, 572 (1980)).

The facts in this case establish the negative exposure wrought by respondent's egregious misconduct in connection with a public street melee that was live streamed on social media and that multiple police officers from five law enforcement agencies responded to, all tied to a high school graduation party attended by dozens of individuals. The damage is done. The strongest consequences must follow, to maintain public confidence in the judiciary.

II. Public Interest versus Personal Problems

The judiciary exists to serve the public interest in justice. This foundational precept is not superseded by the emotional and psychological problems of individual judges. It applies with added force when a judge's personal issues directly undermine public trust in the temperament, mental soundness, and fairness of those who wear the robe. It is borne out in prior Commission determinations,

including where a judge was not removed due to personal alcohol or drug-related problems that impacted off-the-bench behavior. The outcome in these cases was rested partly on a well-grounded sense of causality as well as assurances regarding rehabilitation. (See e.g., *Matter of Jacobsen*, 2022 Ann Rep of NY Commn on Jud Conduct at 98; *Matter of Miranda*, 2021 Ann Rep of NY Commn on Jud Conduct at 224; *Matter of Newman*, 2014 Ann Rep of NY Commn on Jud Conduct at 164; and, *Matter of Knott*, 2000 Ann Rep of NY Commn on Jud Conduct at 117). Of special note is the following conclusion in *Matter of Landicino*: “Were it not for the abundant evidence that respondent has taken significant steps to rehabilitate himself, and seems to be succeeding, we would vote to remove him for his egregious conduct.” *Matter of Landicino*, 2016 Ann Rep of NY Commn on Jud Conduct at 129, 142.

In the instant case there are strong hints of strategizing around the psychological evidence that is now offered by respondent as part of her third affirmative defense. The respondent did not pursue a forensic psychological evaluation until June 20, 2023, shortly after she was notified of formal charges authorized by this Commission in a letter dated May 23, 2023, but almost a year after the admitted misconduct of July 2, 2022. The record shows that it was respondent’s attorney that contacted one of the psychologists to perform the evaluation, not the respondent. (ASF Ex. B-1 at 2) This same psychological

evaluation, proffered as proof of mitigation, was secured before respondent commenced therapy sessions on June 29, 2023. Additionally significant is evidence that establishes that, at the outset of interactions with one of the witnesses called to support her trauma defense, respondent specifically asked the witness to concentrate on [REDACTED]. (ASF Ex. B-4 at 6) It bears mentioning too that Judge Gall concedes her conduct on July 2, 2022 was triggered only *in part* by her reaction to a 1990 assault. (ASF at 28, ¶78) Trauma does not explain it all.

III. Police Officers Explain to the Judge

The remarkably temperate decision-making of responding police officers is commendable. Five different law enforcement agencies were marshalled to deal with numerous street fights. Throughout, the responding officers judiciously managed the improper demands of a White female judge for removal on the one hand and, on the other, four Black male teenagers' insistence on staying put to find a car key—despite the precarious situation at hand.

The point of note is that police officers had to explain to a judge the multiple reasons why they could not lawfully submit to her pleas to handcuff, detain, arrest and/or remove the teenagers. The officers warned Judge Gall that it would be unlawful for her to shoot someone simply due to trespassing, as she threatened. (“I’ll shoot them on the property.” ASF at 23, ¶¶68-69) It was the officers that

advised the judge that she could not follow through on her plan to throw the key in the toilet if it turned up, as she stated. (“We’re absolutely going to throw it in the toilet.” ASF at 22-23, ¶¶66-68) Deputy Norman Lyke cautioned respondent that a judicious approach was necessary partly because the officers could end up in her court for violating the teenagers’ civil rights. (ASF at 17, ¶49)

In a volatile moment that could have led to far more harmful outcomes than occurred on July 2, 2022, it was police officers that displayed the kind of measured and reassuring judgement that the Rules of Judicial Conduct demand of New York state judges. Respondent now admits that the evidence is insufficient to support her initial claim that her son was assaulted by two of the young Black men. What if the responding police officers did not have the wherewithal to do the right thing over the strenuous objections of a state supreme court judge? The totality of circumstances in this case point up the strong probability that we would have before us a very different case: one with four Black teens unlawfully victimized by the criminal justice system, due to mistaken identity by a White female judge, based on the argument that it was because she was assaulted when she was a college freshman. No matter how extremely unfortunate and regrettable respondent’s 1990 assault, the long reach and unpredictability¹ of its effects cannot be enabled to wrongly jeopardize the freedom and safety of others.

¹ See Section IV below.

IV. Many Questions Remain

Many, many questions remain as to the precise mechanisms by which respondent's victimization of 1990 accounts for her choices 34 years later, what triggers the trauma effects, and why the effects show up in such peculiar forms. It is difficult to reconcile respondent's after-the-fact claims about her aversion to violence due to the 1990 incident with her boasting on July 2, 2022 of having taught her son to "put a smack down" and "to kick the shit out of anyone who hits him first." This, as she repeatedly hit her fist into the palm of her hand. (ASF at 19, ¶¶55-56). That her 1990 assault experience precipitated disturbing threats of violence *after* she was surrounded in the safety of multiple officers armed with guns and badges is equally confounding.

It remains unclear as well why respondent purportedly "froze" in shock as she observed her son being attacked and fall to the ground (ASF at 8, ¶22), yet moments later was clear-headed enough to present reasoned arguments as to: why the teenagers should be arrested for trespassing; that the police officers should obtain the teenagers' names to cross-compare with the list of invitees and press charges; the probability that their claim of a lost key was a farce; her command of what is and is not permissible under the law, and more. Judge Gall motioned the property owner and attorney Stephen Pearce to essentially stand down, as he screamed obscenities at police personnel and/or Mr. Carter's group. She remarked:

“Okay, Steve, Steve, I’ve got it.” (ASF at 18, ¶51) The proof of her follow-through is the voluminous police body camera footage that features an assertive, sharp, fast-talking ring leader that skillfully countered the reasonings of one officer after another for more than an hour.

None of the psychological evidence presented in this case accounts for the odd pattern of the timing of her [REDACTED] ([REDACTED]) impacts. Nor does it explicate the predictors of when they appear, disappear, then reappear and disappear again. According to that evidence respondent “returned to “being Judge Gall” the next day ...” after the July 2, 2022 incident. (ASF Ex. B-1 at 6) But, in another turnabout 12 days later on July 14, 2022 she conveyed to Sergeant Grant Langheinrich, Deputy Edmund Wiatr and Deputy Michael Baker her dissatisfaction with how police officers had handled the incident. At some point and for an unknown period of time thereafter she again returned to her normal self and was mortified by her statements, as when she appeared before this Commission on June 13, 2024. The psychological evidence reveals that, at another point during the years between 1990 and June 29, 2023, respondent indicated that she had recovered from that traumatic experience of 1990. (ASF Ex. B-4 at 5) And less than two months later, by August 21, 2023, the flashbacks are said to have disappeared. (ASF Ex. B-4 at 10) Indeed, throughout her 12-year judicial career Judge Gall maintained an unblemished record, right up until body cam footage

captured her bragging about the lessons she gave for the “smack down” on July 2, 2022, lessons that she presumably gave at some point before the actual smack down on July 2, 2022.

V. Black Litigant Trust in the Judiciary

Black litigants, attorneys, court staff and others who enter a New York state courtroom are entitled to equal justice. They should not have to carry the additional burden of wondering whether their matters will be adjudicated by a judge of sound and sober mind, or a traumatized judge with a proclivity toward racial stereotyping and racially tainted directives. Inexplicably, respondent’s 1990 trauma took the form of racialized behavior on July 2, 2022. Her derisive deployment of Black English (aka “African American vernacular,” “Ebonics,” and “blaccent”) is jolting.² She averred: “You know what you’re not going to find your mom’s keys. You gotta ask her for a second set, bro! ... That’s what I’m telling you right now. That’s how I roll. That’s how I roll. That’s how Mrs. G rolls. That’s how Judge Gall rolls. We’re clearing this place out.” (ASF at 13-14, ¶¶38-39).

Judge Gall’s mocking blaccent is in addition to the other racialized behaviors noted in the majority opinion, including her assessment of the four Black male teenagers as less than Business School material and the hint that they could

² For reference see: John McWhorter, *Talking Back, Talking Black: Truths about America’s Lingua Franca* (New York, NY: Bellevue Literary Press, 2017) and Geneva Smitherman, *Black Talk: Words and Phrases from the Hood to the Amen Corner* (San Francisco, CA: HarperOne, 2000)

not afford cocaine—reflexive assessments that she made with no personal knowledge whatsoever of the four Black teens. The defense argument that the teens’ behavior was distinctive and merited such harsh judgement is belied by the fact that Judge Gall’s own husband and son had, in her words, just given someone a “smack down,” and at her friend’s party where police officers observed many teens had been drinking or were intoxicated. Critically, respondent’s words on the night of the incident did not pertain to behavior. They expressly targeted physical features. She stated: “They don’t look like they’re that smart.” (ASF at 21, ¶62)

Respondent admits that her statements about the four Black teenagers created the appearance of racial bias. In *Matter of Putorti*, 40 NY3d 359 (2023), where petitioner admitted he “may have created the appearance of racial bias” in statements that he made, the Court of Appeals held,

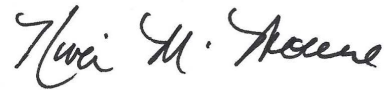
judges have a "continuing obligation to avoid even the appearance of impropriety" . . . and, here, petitioner acknowledged that his conduct "may have created the appearance of racial bias." We stress that the "appearance of such impropriety is no less to be condemned than is the impropriety itself" . . .

Id. at 366.

Even so, Judge Gall offers scholarly articles to explain away her racialized behavior based on a research finding that, in sum and substance, people resort to racial stereotyping when they get angry. None of the scholarship that is proffered pinpoints the origins of the brand of racial animus that is confined to moments of

anger. To date, no credible systematic research attributes reflexive racism against Black people to the kind of long ago criminal victimization that respondent offers as a defense. If there were a therapeutic cure for racialized behavior, the world would likely be a better place. But, until such a cure is available, Judge Erin Gall should not sit on the bench with Black litigants left to cross their fingers and hope for the best.

July 17, 2024

A handwritten signature in dark ink, reading "Nina M. Moore". The signature is fluid and cursive, with the first name "Nina" being the most prominent.

Nina M. Moore, Ph.D.
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

DETERMINATION

MARK J. GRISANTI,

a Judge of the Court of Claims and an
Acting Justice of the Supreme Court,
Erie County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Brian C. Doyle, Esq.¹
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Graham B. Seiter, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and David M. Duguay, Of
Counsel) for the Commission

Connors, LLP (Terrence M. Connors and Vincent E. Doyle, III) for
respondent

¹ Mr. Doyle joined the Commission on November 20, 2023 and did not participate in this matter.

Respondent, Mark J. Grisanti, a Judge of the Court of Claims and an Acting Justice of the Supreme Court, Erie County, was served with a Formal Written Complaint (“Complaint”) dated August 30, 2021, containing three charges. Charge I alleged, *inter alia*, that on June 22, 2020, respondent engaged in a public, profanity-laced and physical confrontation with two of his neighbors, after which he engaged in a physical confrontation with a Buffalo police officer; made threats and profane comments to police personnel and invoked his family ties to members of the Buffalo Police Department (“BPD”) and his relationship with the Mayor of Buffalo. Charge II alleged that from in or about January 2018 through in or about December 2020, respondent was assigned to and took judicial action in eight cases involving attorney Matthew A. Lazroe, notwithstanding and without disclosing that he had an ongoing financial relationship with Mr. Lazroe while five of the matters were pending, and that his financial relationship with Mr. Lazroe had ended within seven months of three of the matters. Charge III alleged that in or about 2016, respondent filed a Financial Disclosure Statement (“FDS”) with the Ethics Commission for the New York State Unified Court System in which he inaccurately reported the income he received from the sale of his law practice in 2015. Charge III also alleged that between 2015 and 2019, respondent failed to make timely and accurate reports of his extra-judicial income to the clerks of the Court of Claims and Erie County Supreme Court. Respondent filed an Answer

dated November 17, 2021.

By Order dated January 7, 2022, the Commission designated William T. Easton, Esq. as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on June 13-15, 21, 27, 28, 2022 and July 6, 7 and 11, 2022 in Buffalo. The referee filed a report dated May 24, 2023 which largely sustained the three charges in the Complaint.

The parties submitted briefs to the Commission with respect to the referee's report and the issue of sanction. Commission counsel recommended that the referee's findings and conclusions be confirmed and two additional findings be made. Respondent recommended that the referee's findings and conclusions be confirmed with two exceptions. Commission counsel recommended the sanction of removal; respondent's counsel argued that a sanction no greater than censure be imposed. The Commission heard oral argument on September 7, 2023 and thereafter considered the record of the proceedings and made the following findings of fact.

1. Respondent has been a Judge of the Court of Claims and an Acting Justice of the Supreme Court since May 2015. His term expired on July 31, 2023 and, as of the date of this determination, he is holding over pursuant to Section 2(4) of the Court of Claims Act, NY CLS Ct C Act §2(4). Respondent was admitted to the practice of law in New York in 1993.

As to Charge I of the Formal Written Complaint

2. On June 22, 2020, respondent and his wife, Maria Grisanti, resided at 21 [REDACTED] [REDACTED] in Buffalo, New York.

3. Joseph and Gina Mele lived across the street at 16 [REDACTED] [REDACTED].

4. By June 2020, the Grisantis and the Meles had been neighbors for approximately 16 years.

5. Several of respondent's neighbors - including Joseph and Jeanne Contino and Linda Chwalinski - reported a long history of conflict on [REDACTED] [REDACTED] between the Meles and their neighbors. One neighbor testified that she "feared for [her] life" every time she went on her front lawn and that "every neighbor" had incidents with the Meles. According to another neighbor, the Meles had "a history of just being extremely, extremely mean and threatening."

6. The Continos, who had lived next to the Meles, testified that they were afraid of the Meles and that they eventually moved away from [REDACTED] because of the Meles' conduct.

7. Respondent knew of the Meles' propensity for confrontation and provocation. In 2014, after respondent expanded his driveway, the Meles began parking their cars in a manner that respondent believed encroached on his driveway "to provoke and harass" him. According to respondent, when he asked the Meles to stop, they would give him "the finger, or... spit at" him in return.

8. Respondent testified that at times, Mr. Mele would ask respondent, “[d]o you want a shot at the title,” and respondent “took it to mean that he wanted to have some sort of an altercation.” Respondent knew Mr. Mele to be “an instigator” who “liked to start trouble with all the neighbors.”

9. On June 22, 2020, respondent and his wife were actively involved in an incident with Gina Mele, Joseph Mele and Gina Mele’s sister, Dr. Theresa Dantonio. On the evening of June 22, 2020, respondent arrived at his home to find two vehicles that did not belong to him parked on opposite sides of his driveway, both of which he believed belonged to the Meles. Respondent was disturbed by the location of the parked vehicles and called 911 to request that the cars be ticketed or towed if not moved prior to the arrival of law enforcement. Lt. Larry Muhammad, one of the first two officers to arrive on the scene, after observing where the Meles’ parked their cars that day, concluded that it was likely done to “fuck with the Grisantis.”

10. Respondent and his wife thereafter exchanged words with Joseph and Gina Mele across [REDACTED] regarding the two vehicles parked on either side of the Grisanti driveway.

11. With the Meles on their own property, respondent walked off his property, stepped into the street, and headed toward the Mele driveway, his wife a step or two behind him. Respondent preceded his wife as the pair walked across

the Grisantis: “fuck you, Maria,” “you’re a fucking cunt,” “you motherfucker,” “come on, you bitch,” “fucking choke her,” and “you fucking piece of shit, dumb bitch,” and “chickenshit”. She also made chicken sounds as Mr. Mele was challenging respondent to fight, and yelled at a neighbor, Linda Chwalinski, calling her a “Pollock dumb fuck”. During the incident, Joseph Mele loudly stated: “come on, motherfucker,” “come on, you cocksucker,” “take your fucking shot,” “get the fuck out of here,” “fucking motherfucker,” “come on, asshole” and “you piece of shit.”

18. Gina Mele acknowledged that she had been arrested at least four times for shoplifting.

19. Commission counsel decided not to call Joseph Mele or Theresa Dantonio to testify. The referee drew adverse inferences based upon the failure to call those two witnesses at the hearing. An adverse inference permits a fact-finder to infer that if the witnesses had been called, their testimony would not have supported the position of Commission Counsel.

20. At approximately 8:45 pm, BPD Officer Ryan Gehr and his partner, Lt. Larry Muhammad, arrived at 21 [REDACTED] in response to a call about a fight to find respondent standing in the street. Both officers were wearing body cameras.

21. Prior to arriving on the scene, Officer Gehr made a comment to his partner that he “was mad coming in today.” When asked on cross-examination what he was mad about, Officer Gehr responded, “Given the time, probably something female-related Something related to a female.”

22. Shortly after the arrival of Officer Gehr and Lt. Muhammad, Ms. Grisanti returned to the Mele driveway and verbally re-engaged with Dr. Dantonio, Gina Mele’s sister. Officer Gehr stated “we’re not doing this” to Ms. Grisanti. Lt. Muhammad thereafter guided Ms. Grisanti and respondent to the Grisanti side of [REDACTED] [REDACTED]. At this time, Officer Gehr was attempting to take a statement from the Meles.

23. Ms. Grisanti, exclaiming profanities, again approached the Mele side of [REDACTED] while Officer Gehr was speaking with the Meles.

24. In response to Ms. Grisanti’s renewed approach, Officer Gehr said “[y]ou’re going to step back” to Ms. Grisanti, and Lt. Muhammad again walked her back across [REDACTED] [REDACTED] to the Grisanti driveway.

25. Despite Lt. Muhammad’s efforts, Ms. Grisanti persisted in yelling profanities across the street at the Meles. Officer Gehr announced that he would not listen to yelling and asked the Meles to speak with him farther down their driveway. Ms. Grisanti continued yelling profanities across the street at the Meles.

26. Officer Gehr said to Ms. Grisanti, “Ma’am, if you don’t stop yelling, this is going to be a problem for you.” Ms. Grisanti replied, “I don’t care... You’re not going to arrest me.” Officer Gehr crossed [REDACTED] to the Grisanti side of the street and replied, “I sure fucking am.”

27. The actions of Officer Gehr toward Ms. Grisanti exacerbated the volatile situation. As Officer Gehr approached Maria Grisanti, Lt. Muhammad said, “She’s good” three times, implying that Lt. Muhammad had the situation with Ms. Grisanti under control.

28. Officer Gehr reached for Ms. Grisanti’s arm, attempting to handcuff her. Ms. Grisanti yelled, “[d]on’t fucking arrest me” as she attempted to twist away from Officer Gehr. Officer Gehr continued his attempts to handcuff Ms. Grisanti. Respondent walked up behind Officer Gehr and yelled “hey,” three times.

29. Ms. Grisanti continued to resist Officer Gehr, which prompted him to grab her right wrist, turn her body with both his hands, and bring her to the ground on her left side, a takedown procedure in which he had been trained.

30. In June 2020, Maria Grisanti was approximately five-foot-one inch tall and weighed approximately one-hundred and ten pounds.

31. While Officer Gehr had Ms. Grisanti on the ground, respondent approached Officer Gehr, placed both of his hands on Gehr's upper body and shoved Officer Gehr.

32. In describing his state of mind at the time that he pushed Officer Gehr, respondent testified,

There was a protest at least a couple of weeks before this -- this incident in Niagara Square, where the police officers pushed a gentleman, and he fell over and he cracked his head open. That -- when you saw the video, you were kind of in shock because of the force that was used. . . .

My concern for Maria is I knew what she just went through. I knew how she was just attacked and choked out. When I saw her being grabbed and thrown down by this officer, when she's five-foot-one, 105 pounds, that, to me, was excessive. That was improper. And I'm telling him to get off my wife, because I didn't know if she was hurt or not.

33. Lt. Muhammad promptly intervened and placed respondent in a bear hug, saying, "keep your hands off a cop." Respondent thereafter told Officer Gehr, "you better get off my fucking wife." Officer Gehr completed handcuffing Ms. Grisanti. Respondent yelled, "you arrest my fucking wife... you're going to be sorry," and stated "my son... and my daughter are... both police officers."

34. When Officer Gehr did not release Ms. Grisanti, respondent continued, "[l]isten... if you don't get the cuffs off of her right now... you're going to have a

problem.” Respondent then said to the police officers, “No. Watch... I’m going to need to call my son and daughter and their Lieutenants right now.”

35. After Ms. Grisanti was placed in a police vehicle, Officer Gehr, Lt. Muhammad, and Officer Richard Hy, who had since arrived at the scene, heard respondent’s side of the story. Respondent began by stating that his daughter works “in B District,” and volunteered that his “son’s... in C District.”²

36. As the conversation progressed, respondent asserted that the Meles were looking “to start problems” and then volunteered, “I’m good friends with Byron Brown. He’s like, ‘It’s always something. Mark, just freaking ignore them’”.³

37. Continuing his conversation with Officer Gehr, Lt. Muhammad, and Officer Hy, respondent eventually told Officer Gehr that Gehr’s conduct “was not necessary,” and that Officer Gehr needed “to chill out”. Respondent then stated that he was “just giving [Gehr] a little constructive criticism.”

38. Officer Hy interjected and admonished respondent, “[l]et me give you some constructive criticism. You want to drop another copper’s name? You want to scream about you know Gramaglia or the Mayor?” Hy then handcuffed

² “B District” and “C District” are divisions within the BPD.

³ Byron Brown was the Mayor of Buffalo at the time.

respondent and placed him in the back of a police vehicle. Officer Hy was not at the scene and did not observe respondent push Officer Gehr.

39. Prior to being removed from the scene, respondent stated that he should not have pushed Officer Gehr. He also apologized to Officer Gehr.

40. According to the police officers' testimony and the footage from their body cameras, respondent did not invoke his judicial status during the incident. Despite this, Gina Mele repeatedly claimed that respondent told the police officers, "I'm a judge" in a sworn statement to the police and in letters to the District Attorney, the Governor, the Judicial Conduct Commission and in interviews with the press. Gina Mele was the one who released the home camera videotape to the press.

41. The evidence concerning the June 22 altercation between the Meles and the Grisantis was reviewed by the District Attorney's Office who determined not to file any charges against the Grisantis as a result of the incident.

42. At the time of the June 22, 2020 incident, the pandemic was a stressor for respondent and he was also caring for his ill mother. Respondent's mother passed away on July 13, 2020, less than a month after the incident.

43. Six months prior to the incident, respondent's father-in-law had passed away. His aunt also passed away prior to June 2020.

44. Just prior to June 2020, respondent had suffered the loss of several

friends and other members of his family, some from COVID.

45. Respondent's family dog was ill in June 2020, and, at that time, the Grisantis were taking the dog for dialysis every other day. The dog passed away on June 27, 2020, five days after the incident.

46. After the incident, in July 2020, respondent voluntarily contacted Dan Lukasik, the Judicial Wellness Coordinator for the Office of Court Administration ("OCA"), to seek counseling. Respondent participated in counseling with him until approximately February 2021.

47. Between approximately March 2021 and approximately July 2021, respondent participated in counseling with a licensed clinical social worker affiliated with OCA's Employee Assistance Program in order to better understand his actions on June 22, 2020, to cope with his grief and to prevent a similar situation from happening again.

48. In approximately July 2021, after using all the available sessions with the OCA-affiliated social worker, respondent was referred to another a licensed clinical social worker and he has worked with this counselor on coping skills, anger management, and other issues to help respondent improve his ability to deal with stressors. When respondent appeared before us, he stated that he has continued to participate in counseling with this licensed clinical social worker to ensure that nothing like the June 2020 incident ever happens again.

49. Respondent's supervising judge, Honorable Paula Feroletto, the Administrative Judge for the 8th Judicial District from approximately September 2009 until July 2021, testified that the day after the incident with the Meles, respondent notified her about the incident. She testified that during the time that she supervised respondent, she did not receive any complaints about his judicial temperament.

50. At the hearing before the referee, respondent presented testimony and an affidavit from three attorneys who had appeared before respondent and who stated that respondent had an excellent reputation in the legal community for his judicial temperament.

As to Charge II of the Formal Written Complaint

51. Respondent's term as a Judge of the Court of Claims and as an Acting Justice of the Supreme Court, Erie County, began on May 14, 2015.

52. On or about May 18, 2015, respondent entered into an agreement to sell his law practice to attorneys Peter J. Pecoraro and Matthew A. Lazroe.

53. The agreement provided for the sale of the "goodwill" of respondent's law practice for \$50,000, with \$15,000 down and monthly payments of \$730 beginning on July 1, 2015 and extending until the balance was fully paid.

54. In or about May 2015, Mr. Lazroe paid respondent approximately \$10,000 pursuant to the agreement as part of the down payment.

55. Respondent knew that Mr. Lazroe was an attorney and “his practice was real estate and foreclosures and bankruptcy.”

56. Upon becoming a judge, respondent placed Mr. Pecoraro on his recusal list, but did not include Mr. Lazroe on the list.

57. Respondent understood that “[t]he purpose of the recusal list is to make sure there is no... appearance of any sort of impartiality” and to keep attorneys and other people with conflicts from appearing before him.

58. Respondent testified that he did not read every document that he signed and has signed appointment orders “before somebody is actually appointed” and without knowing who is going to be appointed.

59. From in or about May 2015 through in or about June 2019, in connection with the agreement for the sale of his law practice, respondent received approximately \$27,530 from Mr. Lazroe which included monthly installments during that period. The final installment of \$365 was paid in June 2019.

60. Respondent took judicial action in five cases involving Mr. Lazroe while Mr. Lazroe and respondent were engaged in an ongoing financial relationship.⁴

⁴ These matters were: *Bayview Loan Servicing, LLC v Mary Lee Fornes et al.*; *Buffalo Seminary v Stephanie Satterwhite*; *Matter of the Application of M. F.*; *Trifera, LLC v Morrison, Unknown Heirs*; and *Federal National Mortgage Association v Anderson et al.*

61. Respondent also took judicial action in three cases involving Mr. Lazroe within seven months of June 2019 when the financial relationship between Mr. Lazroe and respondent ended.⁵

62. In five of these eight matters, respondent signed orders appointing attorney Lazroe as a court evaluator (two matters), a guardian ad litem (two matters) or a referee.⁶

63. In the five cases he presided over prior to Mr. Lazroe's last payment, respondent did not disclose to the parties the 2015 sale of his law practice to Mr. Lazroe or Mr. Lazroe's ongoing payments to him. In addition, respondent did not disclose the 2015 sale or the financial relationship with Mr. Lazroe in any of the three cases he presided over within two years of Mr. Lazroe's final payment to him.

As to Charge III of the Formal Written Complaint

64. Pursuant to the agreement for the sale of his law practice as described in paragraphs 52-53 above, in or about 2015, respondent received approximately \$12,190 from Mr. Lazroe and approximately \$7,190 from Mr. Pecoraro. In his

⁵ These matters were: *Greater Woodlawn Federal Credit Union v Charles Pachucki et al.*; *Matter of the Application of W [REDACTED] L [REDACTED]*, and *Rasheena Jones v Jerry Gradl Motors, Inc.*

⁶ The appointments were made in the following matters: *Matter of the Application of M [REDACTED] F [REDACTED]*; *Trifera, LLC v Morrison, Unknown Heirs*; *Federal National Mortgage Association v Anderson et al.*; *Greater Woodlawn Federal Credit Union v Charles Pachucki et al.*; and *Matter of the Application of W [REDACTED] L [REDACTED]*.

verified 2015 Financial Disclosure Statement filed with the Ethics Commission for the New York State Unified Court System, respondent reported the amount of income he received from Mr. Lazroe and Mr. Pecoraro for the sale of his law practice as “under \$5,000”, which was Category A on the FDS form.

65. On his 2015 FDS, respondent did not include the \$15,000 down payment that he received for the sale of his law practice.

66. According to respondent, he “inadvertently clicked the incorrect box when reporting the income he received for the purchase of his private law practice in 2015.”

67. Upon being made aware of the missing \$15,000, respondent wrote a letter to the Executive Director of the New York State Ethics Commission acknowledging his incorrect FDS.

68. Respondent thereafter corrected his FDS changing his response to Questions 13 and 18 to reflect that the amount of income received for the sale of his law practice was in Category B, “between \$5,000 - \$20,000”, instead of Category A, “under \$5,000”, as he had originally reported.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(C)(1), 100.3(E)(1), 100.4(A)(1) and (2), 100.4(D)(1)(a) and (c) and 100.4(I) of the Rules Governing Judicial Conduct (“Rules”) and should be disciplined for cause pursuant to Article

VI, Section 22, subdivision (a) of the Constitution and Section 44, subdivision 1 of the Judiciary Law.⁷ Charges I through III of the Complaint are sustained insofar as they are consistent with the above findings and conclusions and respondent's misconduct is established.

Each judge is obligated to “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary” and must observe “high standards of conduct . . . so that the integrity and independence of the judiciary will be preserved.” (Rules, §§100.1 and 100.2(A)) The Rules also prohibit a judge from engaging in extra-judicial activities which “detract from the dignity of judicial office.” (Rules §100.4(A)(2)) Respondent admitted that he violated these Rules when he engaged in the public confrontation with his neighbors during which he repeatedly cursed and then pushed a police officer who was trying to place handcuffs on respondent's wife. After his wife was handcuffed, respondent told police officers at the scene that he had relatives who were members of the police force and he referenced his friendship with the Mayor of Buffalo in an apparent attempt to obtain preferential treatment based on those connections.

⁷ The Complaint also alleged that respondent violated Section 100.4(H)(2) of the Rules. This section was recently removed from the Rules and a finding regarding this section would not change the outcome in this matter. Accordingly, we do not find it necessary to determine whether respondent violated this provision of the Rules.

It is well-settled that judges are held to a higher standard of conduct than the general public. “There is no question that judges are accountable for their conduct ‘at all times’, including in conversations off the bench. . . . Because judges carry the esteemed office with them wherever they go, they must always consider how members of the public . . . will perceive their actions and statements.” *Matter of Senzer*, 35 NY3d 216, 220 (2020) (citations omitted) “Standards of conduct on a plane much higher than for those of society as a whole, must be observed by judicial officers so that the integrity and independence of the judiciary will be preserved. A Judge must conduct his everyday affairs in a manner beyond reproach.” *Matter of Kuehnel*, 49 NY2d 465, 469 (1980). Respondent exhibited exceptionally poor judgment on June 22, 2020. He fell far short of the high standards of judicial conduct when, knowing of the Meles’ propensity for conflict, he decided to cross the street to confront them instead of waiting for the police to arrive to address the parking issue about which he had called the police. Moreover, while in the street, respondent inappropriately unleashed a tirade of expletives in full view of the public.⁸

⁸ The June 22, 2020 confrontation garnered both television and print media attention. While this was outside respondent’s control, it reinforces the necessity for all judges to ensure that their off the bench conduct is consistent with the dignity of their judicial office. This determination is based upon the full record of the nine-day hearing before the referee which included, *inter alia*, videos of the incident and the sworn testimony of 19 witnesses, including Gina Mele, Officer Gehr, Lt. Muhammad, respondent, respondent’s wife, and neighbors who witnessed the incident. We note that Commission counsel did not call Joseph Mele or Theresa Dantonio, who participated in the June 22, 2020 incident, to testify at the hearing. We draw an adverse inference from this failure, as did the referee. *See, Matter of McGuire*, 2021 Ann Rep of NY Commn on Jud Conduct at 131, 187.

Respondent's most troubling behavior was shoving a police officer while the officer was attempting to handcuff respondent's wife. Such conduct is unacceptable for any person but, given the high standards of conduct required of a judge both on and off the bench, is particularly inappropriate for a judge. *Matter of Steinberg*, 51 NY2d 74, 81 (1980) ("a Judge cannot simply cordon off his public role from his private life and assume safely that the former will have no impact upon the latter. . . . Wherever he travels, a Judge carries the mantle of his esteemed office with him. . . ." (citation omitted)) By his conduct, respondent acted in a manner unbecoming a judge, brought reproach upon the judiciary and undermined public confidence in the judiciary.

In addition, respondent exacerbated his misconduct that day when he apparently sought to obtain preferential treatment from the police by referencing his relatives who were police officers and well as his friendship with the Mayor of Buffalo. When he sought preferential treatment in this way and under these circumstances, he detracted from the dignity of his judicial office.

Section 100.3(E)(1) of the Rules provides that, "[a] judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned" The Rules also provide that, "[a] judge shall not engage in financial and business dealings that . . . involve the judge in frequent transactions or continuing business relationships with those lawyers" likely to

appear before the judge. (Rules, §100.4(D)(1)(c)) Even in circumstances in which there was no indication of favoritism toward an attorney in a business relationship with a judge, all parties to the proceeding have the right to know of the business relationship. *Matter of Pulver*, 2005 Ann Rep of NY Commn on Jud Conduct at 203, 208. Here, respondent was inattentive to his ethical obligations when he failed to place attorney Lazroe on his recusal list and failed to notify the parties in the eight matters that he either had an ongoing financial relationship with attorney Lazroe or that such financial relationship had recently concluded. Respondent failed to avoid the appearance of impropriety when he appointed attorney Lazroe in various matters and presided over the eight matters involving attorney Lazroe without the required disclosure.

Section 100.4(I) of the Rules requires judges to disclose their income as required by Part 40 of the Rules of the Chief Judge. “Judges must complete their financial disclosure forms with diligence, making every effort to provide complete and accurate information.” *Matter of Joseph and Francis Alessandro*, 13 NY3d 238, 249 (2009). Even careless omissions from an FDS can be misconduct warranting discipline. *Id.* While respondent did report to whom he sold his law practice on his 2015 FDS, he failed to report the correct amount for this sale by selecting the incorrect monetary category on the form. As a result, respondent filed an inaccurate 2015 FDS which was improper and violated the Rules.

Although we consider respondent's misconduct on June 22, 2020 to be very serious and he displayed especially poor judgment that day, we do not find that removal from judicial office is warranted for this single incident particularly since it occurred in the context of a long-standing dispute between the entire neighborhood and the Meles, and involved a legitimate concern by respondent for the physical well-being of his wife as she was being taken to the ground by a police officer. *See, Matter of Mazzei*, 81 NY2d 568, 572 (1993) ("removal, the ultimate sanction, should not be imposed for misconduct that amounts simply to poor judgment or even extremely poor judgment, but should be reserved for truly egregious circumstances" (citations omitted))

It also appears that Officer Gehr's conduct exacerbated the volatile situation. In taking Ms. Grisanti into custody, Officer Gehr, who acknowledged that he came to work "mad" that evening, ignored Lt. Muhammad's statement, "She's good" which he repeated three times. Those statements implied that Lt. Muhammad had the situation with Ms. Grisanti under control. Instead, Officer Gehr, a trained and experienced police officer, tackled a five-foot-one, one-hundred-and ten pound woman to the ground in front of her husband.⁹ Respondent testified that he was concerned for the welfare of his wife as this happened.

⁹ Although the dissent strongly relies on a claim that respondent interfered with Officer Gehr's "lawful arrest" of Ms. Grisanti, it is unclear for what crime Officer Gehr arrested Ms. Grisanti. If Officer Gehr is taken at his word, it appears she was arrested for yelling on a public street. Prior to the arrest, and before he concluded his investigation of the altercation with the Meles, Officer Gehr said to Ms. Grisanti,

The dissent relies on certain assertions that are not supported by the record and are contrary to the determinations of the experienced referee who had an opportunity to hear testimony firsthand and assess the credibility of the witnesses.¹⁰ First of all, the dissent contends that respondent repeatedly and intentionally lied to the 911 operator when he called to complain about how the Meles parked their cars. The referee specifically found that respondent did not lie to the 911 operator. The referee stated, “I do not find that the Commission established that these accounts, even if inaccurate, were deliberately false and not merely indicative of respondent’s perception of the event.” Respondent’s perceptions were indeed supported by Lt. Muhammad’s observation that it appeared that the Meles’ cars were parked in an annoying way which was likely done to “fuck with the Grisantis.”

Secondly, the dissent contends that respondent threatened the police officers during the arrest of Ms. Grisanti. The referee found that, while his excessive use

“Ma’am, if you don’t stop yelling, this is going to be a problem for you.” Ms. Grisanti replied, “I don’t care... You’re not going to arrest me.” Officer Gehr then crossed [REDACTED] to the Grisanti side of the street and replied, “I sure fucking am.”

¹⁰ Commission counsel argued that the Commission should modify the referee’s finding that respondent did not lie to the police and that respondent did not threaten police officers at the scene. The Commission may accept or reject a referee’s proposed findings. 22 NYCRR §§7000.6[f][1][iii], 7000.6[1]; *Matter of Marshall*, 8 NY3d 741, 743 (2007). When the evidentiary record supports a referee’s proposed findings, the Commission accords deference to the referee because he or she was in the position to evaluate the credibility of witnesses firsthand. Here, the referee’s findings were supported by the record and we find no basis to disturb them.

of profanity was improper, respondent did not threaten the police officers with his statements. The referee stated, “Rather, such remarks conveyed Respondent’s ardent belief that his wife was improperly detained and further detention would lead to controversy.”

The dissent also relies heavily on the veracity and credibility of Ms. Mele, describes her as having a “cowered physical demeanor” on the body-cam video, and argues that the respondent should be removed because he resigned Ms. Mele to a position of “powerlessness” and “disempower[ed]” her through the use of his position. The dissent’s reliance is misplaced. This is the same Ms. Mele who is a serial thief, who has “a history of just being extremely, extremely mean and threatening” to her neighbors, who caused one neighbor to “fear[] for [her] life” every time she went on her front lawn, who lied repeatedly under oath and in letters to public officials, and who referred to her neighbor of Polish descent as a “Pollock dumb fuck.”

We note that the incident happened during the pandemic at a time of significant personal stress for respondent in that several family members and friends, including his mother, were either very ill at the time or had recently passed away. While respondent should have been cognizant before this incident of the impact of the significant stressors and should have engaged in counseling before the incident occurred, he did voluntarily initiate counseling shortly after the

incident. When he appeared before us, more than three years after the incident, respondent stated that he continues to participate in counseling.

Respondent's behavior during the June 22, 2020 incident appears to have been an aberration. According to respondent's former supervising judge and three attorneys who have appeared before him, there have been no issues with respondent's judicial temperament.

According to respondent, when he pushed the police officer, his judgment was clouded by the involvement of his wife who was brought to the ground by the police officer. As respondent has acknowledged, his interference in this way was improper. We note that the involvement of a close family member has been found to mitigate, but not excuse, an ethical breach. *See, Matter of Edwards*, 67 NY2d 153, 155 (1986) (involvement of judge's son); *Matter of Canary*, 2003 Ann Rep of NY Commn on Jud Conduct at 77, 82-83 (involvement of judge's son).

With respect to respondent's failure to disclose or disqualify in matters involving attorney Lazroe, there was no indication that respondent engaged in favoritism toward the attorney, including in respondent's appointments of attorney Lazroe. In addition, in connection with respondent's 2015 FDS, there was no attempt to conceal as respondent did disclose pertinent information regarding to whom his practice was sold, albeit with the incorrect amount listed.

In determining the sanction, we have also taken into consideration respondent's 30-year unblemished record as a lawyer and then as a judge. Respondent has accepted responsibility for his misconduct. When respondent appeared before us, he was contrite and pledged to be mindful of his ethical obligations and the high standards of judicial conduct.

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

Ms. Grays, Judge Camacho, Judge Miller, Mr. Raskin, Mr. Seiter and Judge Singh concur.

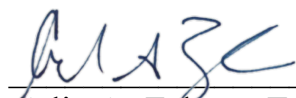
Mr. Belluck, Judge Falk, Ms. Moore and Ms. Yeboah dissent as to sanction and vote that removal is appropriate. Mr. Belluck files a dissenting opinion. Ms. Moore files a dissenting opinion which Ms. Yeboah joins.

Mr. Doyle did not participate.

CERTIFICATION

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

Dated: April 22, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

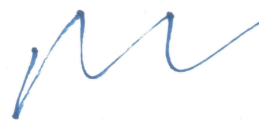
MARK J. GRISANTI,

a Judge of the Court of Claims and an
Acting Justice of the Supreme Court,
Erie County.

DISSENTING
OPINION BY MR.
BELLUCK

I dissent because I find the misconduct of the respondent sufficient to warrant removal. The evidence as well as the judge's temperament during oral argument make clear both that the judge acted in a manner inconsistent with holding judicial office and that there is a significant risk he will repeat this or similar behaviors in the future.

April 22, 2024



Joseph W. Belluck, Esq., Chair
New York State
Commission on Judicial Conduct

STATE OF NEW YORK
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Pursuant to Section 44, subdivision 4,
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Erie County.

DISSENTING OPINION
BY PROFESSOR NINA M.
MOORE, PH.D., WHICH
MS. YEBOAH JOINS

The official rules of judicial conduct are not the only reason that the 3,350 judges of the New York State Unified Court System conduct themselves in a manner befitting the office. They sacrifice certain personal and social freedoms also to help maintain the dignity of judicial office, public confidence in the judiciary, and the integrity of decisions rendered by their court. Judge Mark J. Grisanti does not belong in this class of respectable public servants. He has failed to abide by the Rules Governing Judicial Conduct ("Rules"), dishonored the robe, and undermined public confidence in the Court of Claims and Supreme Court where he has served since 2015 and, thanks to today's majority decision, where he will continue to serve.

The unavoidable impact of behavior off-the-bench on the reputation of the judiciary as a whole was long ago established by the Court of Appeals in *Matter of Kuehnel*, 49 NY2d 465, 469 (1980) where it was held,

a Judge may not so facilely divorce behavior off the Bench from the judicial function. Standards of conduct on a plane much higher than for those of society as a whole, must be observed by judicial officers so that the integrity and independence of the judiciary will be preserved. A Judge must conduct his everyday affairs in a manner beyond reproach. Any conduct, on or off the Bench, inconsistent with proper judicial demeanor subjects the judiciary as a whole to disrespect and impairs the usefulness of the individual Judge to carry out his or her constitutionally mandated function. . .

Respondent has abdicated the requisite ethical and professional standing for judging the credibility of citizens, attorneys, police officers and others who turn to New York courts for sound judgement and resolution. Judge Grisanti shoved and threatened a police officer, interfered with a lawful arrest process, lied to a 911 operator, instigated a physical confrontation with a neighbor, launched into a profanity- laced tirade in full public view, and invoked his connections to the city's mayor and police department— all because he was upset about a car being parked close to his driveway. The judge's admission to all three charges brought against him says less about his contrition and more about the

overwhelming evidence presented in this case. The referee found that the three charges were established. In addition to financial documents, there is video footage from a home security camera, police bodycam, and evidence of widespread publicity, including YouTube videos.

The case for removal of Judge Grisanti is easily rested on the severe nature of his transgressions and the plain words of the Rules. Respondent has violated nine of those rules, namely: Section 100.1; Section 100.2(A); Section 100.3(C)(1); Section 100.3(E)(1); Section 100.4(A)(1) and (2); Section 100.4(D)(1)(a) and (c); and Section 100.4(I).

I. Compliance with the Law

The average citizen that commits multiple offenses against a police officer would be sitting in a jail cell awaiting trial, instead of sitting on the bench of a courtroom overseeing trials.¹ On June 22, 2020 Respondent shoved Officer Ryan Gehr of the Buffalo, NY Police Department, placing both of his hands on the officer's upper body to do so.² When he shoved Officer Gehr and yelled profanities, Judge Grisanti was interfering with the officer's attempt to handcuff Respondent's extremely belligerent wife who moments before inflicted a bite wound on the forearm of her neighbor (Joseph Mele), repeatedly and defiantly ignored multiple police directives to step back, then pulled away and physically resisted the officer's attempts to handcuff her. Officer Gehr had ample cause to initiate a lawful arrest process.³ Later at the station house Respondent admitted as much when he informed Detective Moretti that he "apologized to ... you know, kind of stopping the officer from doing what he had to do ..."

Respondent also lied to a 911 operator, falsely claiming—three times—that two (and then one) of his neighbor's cars blocked his driveway and that he "almost hit 'em" as he entered his driveway. CJC.Ex1 and CJC.Ex1a The home security video footage in the record, specifically at minute 07:00:56-07:01:04, shows the exact opposite: a wholly unobstructed driveway that he was able to enter without special maneuvering. CJC.Ex41 The majority makes an illogical leap in its proffer of Lieutenant Larry Muhammad's musings about why the Meles parked in a legal parking spot as proof that Judge Grisanti may have mistakenly believed that he had driven into a driveway that was obstructed, even though it was not. Nevertheless, facts matter more than musings.

The police body camera footage in the record establishes that Respondent repeatedly lied to officers on the scene about where he was when the confrontation started. Over and over, he reported that he was in his home, whereas the home security video evidence in the record shows that he was not. CJC.Ex2 The home video at 07:14:28-07:14:54 shows that Judge Grisanti led his wife across the street to the Meles' driveway before the fight began, his wife a few feet behind him. See CJC.Ex42 below. The police body cam footage shows that Respondent afterward lied to Detective Costantino when he stated: "I was in the house ... And then when I came out, the, these girls, like, they had Maria in a chokehold ... So, I came over ..." He repeated the lie to Det. Costantino, claiming, "And when I come out, back out of the house, she's engaged with the two ... So, I ran over there to break it up." CJC.Ex12 Judge Grisanti reported the same lie to Officer Ryan Gehr as well, saying "She goes across the street. I come out, the two girls and Joe are, like, in their

face. So, I come walking across the street.” He doubled down on the lie, adding: “The girl’s got her frigging hand on my wife’s throat, and that’s when I walked over there. And that’s when it all started.” CJC.Ex11

The majority offers a total of zero specifics to support its remark that this dissent “relies on certain assertions that are not supported by the record.” All the same, the facts in the video and audio exhibits in the evidentiary record of this case are undisputed, because they are indisputable. When there is such clear audio and video, there can be no credible ‘alternative facts’ or reliance on Respondent’s ‘own truth’ about where he was when the fight started and whether his driveway was indeed blocked. Even in the absence of video and audio recordings Judge Grisanti is not entitled to his own “perception,” especially since he admitted at the referee hearing on July 11, 2022 that he gave Detective Constantino information about the altercation that was “not correct,” as carefully briefed by Commission counsel. Commn Brief at pp. 24-25, Tr. 1349-1350, 1389 And if one were to accept the implausible claim that Respondent did not know whether he was inside his home when he started the street fight, such a claim should serve as conclusive proof that he lacks the mental aptitude to know whether litigants in his court are acting inside the bounds of law or outside.

The only common sensical construction of Respondent’s verbal warnings is that they constituted direct threats to Officer Gehr. Any other construction strains credulity and ignores the plain meaning of words. After being physically restrained by the second officer on the scene (Lt. Muhammad) Judge Grisanti yelled to Officer Gehr: “you better get off my fucking wife,” “you arrest my fucking wife . . . you’re going to be sorry,” “[l]isten . . . if you don’t get the cuffs off her right now . . . you’re going to have a problem.” Lt. Muhammad immediately understood these words as threats, and told Respondent “We’re not doing that; we’re not threatening that.” At the hearing the lieutenant testified: “I’m not easily threatened. So they were — they’re empty threats to me personally ...”⁴

By committing these appalling acts against duly sworn officers of the Buffalo Police Department, Respondent violated Section 100.2(A) of the Rules which provides: “A judge shall avoid impropriety and the appearance of impropriety in all of the judge’s activities” and that “A judge shall respect and comply with the law . . .”

Contrary to assertions by the majority, the Commission is obligated to distinguish fact from fiction even if a referee opts to do otherwise on the basis of procedural constraints. This is especially so when the facts are in plain view in video footage and loud and clear in audio recordings. Putting on blinders is not an option for a governmental body charged with overseeing judicial misconduct. Prior determinations rendered by this commission, Court of Appeals precedents, the Judiciary Law, the Commission Policy Manual, and the record before us all corroborate that the majority is mistaken in the suggestion that the Commission must essentially relinquish its duty and authority to “render the findings of fact and conclusions of law on which its determinations are based,”⁵ and rubber stamp the determinations of a referee.⁶ The aforementioned legal authorities require “due deference,” not acquiescence—no matter the truth.

II. Public Confidence and Dignity of Judicial Office: *Modus Operandi*

The most jolting evidence in this case is a witness statement that suggests Judge Grisanti regularly and wantonly throws his weight around for self-serving purposes. I find it difficult to not take notice of Ms. Gina Mele's countenance in the bodycam footage when she reported to Officer Gehr the following,

Right away, this is, this is what they do. They throw around that, that the daughter's a cop, the son-in-law's a cop, this and that . . . then it always gets turned against us . . . somehow or some way, because they pull all their weight . . . I'm sure they made a phone call . . .

Her cowered physical demeanor in that moment strikes me as one of resignation to a position of powerlessness, brought on by a judge's penchant for leveraging familial and professional connections to disempower those with whom he has personal disagreements. The majority is dismissive of Gina Mele's account through its reliance on a victim-blaming strategy that stretches from nearly 30 years ago up until June 22, 2020 when Judge Grisanti walked across the street to her home and instigated a street fight that culminated in physical injuries. Notably, none of the majority's selective review of Gina Mele's life story documents violent acts on her part. This notwithstanding, facts are stubborn things that stand independent of one's character.

The majority is correct in its implicit acknowledgement that this dissent does not ground the veracity of Gina Mele's claim regarding Judge Grisanti's penchant for throwing his weight around on her character or mistakes from her youth, but rather the fact that Respondent engaged in the very same behavior in the audio and video evidence reviewed by members of this commission.⁷ In the 911 call he asserted that he has "daughters, and sons, and son-in-law that are police, that are the fire department." Among other things, he afterwards stated to officers on the scene "I'm good friends with Byron Brown," the mayor of Buffalo, NY.

These actions and, more generally, Judge Grisanti's *modus operandi* contravene the second portion of Section 100.2(A) which stipulates "A judge shall . . . act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

Respondent conducted himself in a manner that exhibited zero respect for the dignity of the judicial office that he holds. His conduct reveals a temperament unsuited for a public-facing profession. The referee found that on June 22, 2020 and "in daylight hours, in full view of neighbors and the public," Judge Grisanti instigated a physical confrontation once he walked to his neighbor's driveway and proceeded to "loudly and repeatedly direct profane language at the Meles, including but not limited to the following phrases: "Every fucking Thursday," "fucking asshole," "fucker," "you want to go again, tough fucking guy," "I'll fucking flatten your face again," "get the fuck out of here," "get the fuck out of my driveway," "you fucking asshole," "fuck you," "nobody fucking likes you guys," and "you piece of shit." Amid the brawl, Respondent ended up "a shirtless Supreme Court Judge standing on the street," as aptly described (without objection) at the hearing and as depicted in police body camera footage. CJC.Ex44

As a sitting judge admitted to practice law in New York in 1993, Respondent was well aware of more civil remedies for redressing the years-long parking dispute with his neighbors. Respondent might have told his wife to stop biting the neighbor, or to comply with Officer Gehr's orders to stay on their side of the street, or to stop resisting a lawful police arrest process. Instead he chose a physical

confrontation and verbal tirade against his neighbors and Officer Gehr. Commission Deputy Administrator John J. Postel framed this choice precisely at oral arguments,

Our society requires its citizens, and especially its judges, to resolve disputes through words not violence. The record before you portrays a judge who chose to employ repeated physical aggression as his means of resolution. For this and his other misconduct, removal is the appropriate sanction.

The fact that Respondent's disgraceful behavior is forever memorialized on social and traditional media platforms is not dispositive in the instant case, but it is unavoidably impactful on public perception of the judiciary precisely because it is widely publicized.⁸ Judge Grisanti's YouTube debut will serve as a textbook example to other professionals of how to not conduct oneself in the age of omnipresent video recording devices. Worse, whenever one of YouTube's 2.7 billion users watch raw footage of a street brawl jumpstarted by a judge of the New York State Court of Claims, they will likely wonder why he remains empowered to adjudicate disagreements between litigants who appear before him, after he abandoned self-restraint in a disagreement over something as petty as car parking.

They will observe that Respondent demonstrated no regard for Section 100.4(A)(2) of the Rules which states that "A judge shall conduct all of the judge's extra-judicial activities so that they do not . . . detract from the dignity of judicial office."

III. Professional Competence and Perception of Impartiality

The events of June 22, 2020 are part of a larger, extended pattern of Respondent flouting protocols, one that stretches back to the beginning of his tenure as a judge. It is undisputed that from approximately January 2018 through December 2020 Respondent violated Section 100.3(E)(1) and Section 100.4(D)(1)(c) when he took judicial action in eight matters without disclosing, as required, his ongoing or recently ended financial relationship with attorney Matthew Lazroe. Inexplicably, despite knowing the purpose of a recusal list, Respondent failed to include attorney Lazroe on his recusal list although he did include on the list the other attorney who had purchased Respondent's law practice. Judge Grisanti claimed that he was unaware of his obligation to disclose his financial relationship with attorney Lazroe to the parties in the matters in which attorney Lazroe appeared. Ignorance of ethical obligations is no excuse. *Matter of Vonderheide*, 72 NY2d 658, 660 (1988) ("ignorance and lack of competence do not excuse violations of ethical standards. As a Judge, petitioner had an obligation to learn about and obey the Rules Governing Judicial Conduct . . .").

In five of the eight matters, Respondent signed orders appointing attorney Lazroe to various positions. Consistent with a larger pattern of not taking responsibility for his conduct, Respondent testified at the hearing before the referee that he sometimes signed appointment orders without knowing who would be appointed and he did not read every document he signed. Such carelessness is violative of Section 100.3(C)(1) which orders judges to maintain professional competence in judicial administration.

In additional misconduct in or about 2016, Respondent violated Section 100.4(I) of the Rules when he

reported the income from the sale of his law practice as “under \$5,000” on his 2015 Financial Disclosure Statement (FDS). He did not disclose on his 2015 FDS that he had received a \$15,000 down payment that year for the sale of his practice. In another example of Respondent attempting to avoid responsibility for his actions, at the hearing before the referee, Respondent claimed that he received the down payment before he became a judge and he thought that it did not need to be reported. However, the record showed that Respondent’s term of office began on May 14, 2015. On or about May 18, 2015, Respondent entered into the agreement to sell his law practice. Moreover, Respondent did not correct his 2015 FDS until after a Commission inquiry regarding his filing. After receiving an inquiry from the Commission, Respondent wrote a letter to the New York State Ethics Commission acknowledging his incorrect FDS and he corrected the FDS in June 2021. As the Court of Appeals held in *Matter of Miller*, 35 NY3d 484, 491 (2020), “the timing of petitioner’s amendment of his tax returns and FDF – after he had received actual notice that he was being investigated for failure to report income related to his former legal practice . . . goes beyond mere carelessness and points to a pattern of disregard for his ethical obligations.”

To suggest, as the majority does, that Respondent has an unblemished record is to ignore both the referee and the majority’s own findings of fact that extend back to within the first year of his judgeship.

IV. Honor and Integrity of the Judiciary

Respondent’s actions on June 22, 2020 amount to a pattern of manipulative behavior that contravenes Section 100.1 of the Rules, which stipulates that an “honorable judiciary is indispensable to justice in our society” and that “A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved.” Additionally, it specifies that “‘Integrity’ denotes probity, fairness, honesty, uprightness and soundness of character.”

Taken together, Judge Grisanti’s troubling pattern of behavior calls into question the fundamental nature of his moral and ethical character. His presence on the bench casts a shadow on the integrity of the judiciary. The facts in this case suggest that he is willing to say anything in the moment to get his way, no matter how demonstrably untrue, harmful to others, or insidious.

The fact that Respondent freely mentioned the positions held by his daughter, son-in-law, and other relatives in the police department, but carefully avoided invocation of his own judicial office underlines a willingness to muddy the careers of others while protecting his own. This includes Deputy Commissioner of Police Gramaglia, with whom Respondent invented a familial cousin relationship, despite later admitting that he doesn’t even have a social relationship with Gramaglia.

In the space of an hour Respondent disparaged Mayor Byron Brown of Buffalo, NY in one breath, then bragged about his friendship with the mayor in another. In the 911 call that he placed on June 22, 2020 he stated: “Whatever it’s worth, the mayor’s not doing things right with you guys.” In an about-face moments later, he sought to capitalize on Mayor Brown’s name when he stated to officers on the scene: “I’m good friends with Byron Brown.” At the time that Respondent remarked about the mayor’s faux pas concerning Buffalo police, hearing testimony reveals that both he and his

wife were aware that Buffalo, NY and other cities across the country were besieged by at-times violent George Floyd protests as well as one of its own police controversies that captured national headlines, one in which police officers were accused of fracturing the skull of an elderly protester when they pushed him to the ground during a George Floyd demonstration. (Tr. 1215, 1394, 1445) Knowing the tumult surrounding the Buffalo police in connection with the George Floyd protests,⁹ Respondent poked an open wound in order to gain the upper hand in a parking dispute.

A particularly problematic element of Respondent's defense to shoving Officer Gehr is his resort to a colorblind George Floyd tale.¹⁰ At the hearing, Judge Grisanti imputed equivalency between Officer Gehr's handling of Maria Grisanti's belligerent defiance of multiple police directives in a volatile situation on the one hand, and, on the other, the police killing of an unarmed black man via a nine-minute knee on his neck and gun to his head, while handcuffed face-down in the street due to a \$20 counterfeit bill. Respondent had followed news accounts of the George Floyd killing and the nation's response.¹¹ Yet, he would have this commission believe that his main takeaway was that George Floyd and his wife Maria Grisanti were in equal peril. (Tr. 1388, 1394, 1445). To believe Respondent's George Floyd tale, one would have to ignore the elephant in the room—the most common of common knowledge in the “constant” news coverage of Floyd's killing: that it was part of a pattern of police killings of unarmed black men.

This ‘apples to oranges’ fallacy distorts Officer Gehr's commendable efforts to deescalate Ms. Grisanti's explosive behavior through multiple verbal warnings before ‘doing what he had to do,’ in the words of Judge Grisanti. Worse, it trivializes the systemic problem of unarmed black men killed by police. Inasmuch as Judge Grisanti's own testimony indicates that he followed years of news coverage concerning police killings, a logical inference is that he knew that Maria Grisanti was never in danger of being George Floyd, but did not care when invoking Floyd's death for his own selfish purposes.

V. Capacity to Act Impartially

Respondent's claim of contrition is a fig leaf devised to cover up the fact that he has irreparably undermined public trust in his capacity to act impartially as a judge. His “I'm sorry” proffer is contradicted by the stunning obstinacy Respondent displayed from Day One, right up until and including his appearance before this Commission at oral argument on September 7, 2023. Unable or unwilling to earnestly adjudicate and accept responsibility for his own behavior, the Respondent has not and cannot live up to the dictates of Section 100.4(A)(1) of the Rules which requires that: “A judge shall conduct all of the judge's extra-judicial activities so that they do not . . . cast reasonable doubt on the judge's capacity to act impartially as a judge.”

We need look no further than Respondent's own words to establish that he blames and implicates other people and other things for choices and actions for which he alone is responsible.

He blames the neighbors for what transpired. At the referee hearing on June 15 and June 21 in 2022 he called four [REDACTED] neighbors to testify about the history of the Meles' conduct in the neighborhood, as if the Meles forced Respondent to walk over to their driveway. Respondent's counsel described the Meles as “the scourge of [REDACTED].” The majority likewise attacks the Meles' character. However, among the Commission Hearing Exhibits is an order of protection that

Gina Mele obtained for her own protection against one of Respondent's character witnesses (Linda Chwalinski). CJCEX32 Among Respondent Hearing Exhibits is a protection order for Ms. Chwalinski against Ms. Mele. Hence, a more balanced construction of the long-simmering feud among [REDACTED] neighbors is that it was a hot mess. It was the kind of mess that Respondent should have known to not walk into on June 22, 2020, and one that he had at least six years to learn ways to navigate around. The length and depth of the [REDACTED] acrimony should not be counted in Respondent's favor or as mitigation. As the referee found, the nature and extent of the provocation Respondent may have faced did not diminish his obligation to conduct himself in a dignified manner. "In fact, the provocation may even increase this obligation." Rep. at 9.

Contrary to a full-throated and sincere apology, Respondent blames Officer Gehr for causing him to push Officer Gehr. Shortly after the push he stated: "I didn't mean to tackle you, but, I mean, you kind of threw my wife down on the ground pretty hard and I don't appreciate that." In his conversation with Officers Gehr and Lt. Muhammad and Officer Hy, he chided Officer Gehr, telling him that his action "was not necessary" and that he needed "to chill out." At oral argument on September 7, 2023 when asked to explain why he shoved Officer Gehr, Respondent offered: "I did that because I said to myself he has no idea what she just went through. He has no idea what, that she was almost choked out into unconsciousness by a sister-in-law of the Meles, who actually knows jujitsu ... That's why I pushed the officer."

COVID is also partly blamed for Respondent's choices. He described the unfortunate loss of two aunts, his mother's illness, together with the death of the family pet, the latter characterized by his counsel at the referee hearing on June 13, 2022 as a "significant matter." Judge Grisanti's stress and anxiety was on par with that of many New Yorkers who also suffered devastating losses during COVID, but nevertheless managed to not instigate a street brawl and shove the responding police officer. Meanwhile, at the time of the incident on June 22, 2020 Respondent's neighbor, Joseph Mele, had lupus and half a kidney. Just prior to the brawl, Mr. Mele's wife (Gina Mele) had returned from the hospital visiting her father who was in the Intensive Care Unit. Nonetheless, both Mr. and Ms. Mele interacted with the police officers on the scene in a respectful and cooperative fashion.

Judge Grisanti blames his daughter and the questioning officer for his false claim of kinship with the Deputy Police Commissioner. At the hearing on July 7, 2022 Respondent's jumbled testimony on this point was as follows,

So he's asking me questions at the same time my daughter's talking to me. And my daughter asked, "Do you want me to call Gramaglia?" And I was saying -- what he -- because I told them about my kids, because I have other family members. I have a cousin who's a detective. And I was about to tell him, you know, "My cousin, who's a detective." He mentioned Gramaglia. And I kind of comingled and convoluted the conversation, and basically said my cousin. Joe Gramaglia's not my cousin. I don't know him socially. It came out like that basically because I have somebody -- I have my daughter talking in my ear, and I have, you know, an officer asking me questions as to who everybody was.

He blames the video too. At oral argument Respondent insisted that "the video and the audio they don't match ... In my opinion, they were trying to erase the audio. But the video and audio don't match. And the dates don't match and the time doesn't match." When pointedly asked by my

colleague Mr. Rosenberg whether he was accusing the police of altering the video, he replied: “No. I’m accusing, before the police were able to get it from the Meles, the Meles were upstairs and it was on the officer’s camera, they were trying to do something with the video and the officer said stop touching it. I will go and I will retrieve it. It took him a day to get it.”

The sum and substance of Judge Grisanti’s main takeaway from the incident is that an amalgamate of parked cars, his driveway apron, and, once again, his neighbors are to blame. At oral argument on September 7, 2023, when asked the overarching “why would you do something like that?” question by my colleague Judge Singh, abandoning his “no excuses” mantra, Respondent dove into how the neighbor’s truck was parked “two to three feet from the curb,” how it “isn’t a one-time incident,” but something that had been “happening every Monday through Thursday for the last six years, every single day,” and so on. When Judge Singh next pointed out that “it’s a legal spot,” Respondent’s direct reply to this was,

– Here’s, and I appreciate that judge, here’s what they do, okay. And I don’t know if it was clear, if you read it. If you’re coming out of my driveway, I have a flaring driveway, I call it the apron. I don’t know if anybody calls it that. I call it the apron, it flares out. Ms. Mele will come up and she will pull up to that apron and let’s say the left side ... And I’ve testified that I’ve said to her and her husband numerous times, why do you have to do that when you have eight feet behind you have and eight feet in front of you? Why do you have to pull up right to the tip?

Over and over, when he appeared in person before this Commission on September 7, 2023 and was asked several different ways to explain his actions, each time he redirected attention to someone else’s actions while at the same time proclaiming his “I’m sorry.” Respondent’s reflective remarks suggest that he still feels that he was pushed, not that he walked over to his neighbor’s driveway of his own volition, to wit,

It was, for lack of a better term, so uncharacteristic of how I act and behave that the only thing that I can tell you all is that taking into consideration everything that the Meles did in the past, what was going on in my life with regards to family members who were ill and dying and everybody deals with that every single day, it was, it was the old adage of, that was like the straw that broke the camel’s back, where everything came to a head. And when I looked at that and I saw that on the video, I said to myself I can’t believe it.

Even accepting Respondent’s fig leaf of contrition, the Court of Appeals held in *Restaino* and *Bauer* that in rare circumstances, no amount of mitigation can overcome a judge’s improper conduct. In *Matter of Bauer*, 3 NY3d 158 (2004)¹² the Court held, “Petitioner’s apparent lack of contrition is telling. In some instances contrition may be insincere, and in others no amount of it will override inexcusable conduct. Here, while petitioner’s conduct was far from uniformly foul, his utter failure to recognize and admit wrongdoing strongly suggests that, if he is allowed to continue on the bench, we may expect more of the same.” *Id.* at 165. In finding removal appropriate in *Matter of Restaino*, 10 NY3d 577 (2008),¹³ the Court wrote,

we have previously stated that in rare cases “no amount of [mitigation] will override inexcusable conduct” (*Bauer*, 3 NY3d at 165) sufficient to restore the public’s trust in

the judge's ability to faithfully execute his or her duties (*see Blackburne*, 7 NY3d at 220, 221). "[A] cornerstone of our democracy" is the integrity of our judiciary . . . , and judges must be mindful that their actions "reflect, whether designedly or not, upon the prestige of the judiciary" . . .

Id. at 590 (citations omitted).

VI. Unprecedented Final Disposition

The majority's decision to permit Judge Grisanti to remain on the bench sets a new precedent and a new low for judicial conduct. The Rules require that this Commission weigh the "seriousness of the transgression" in determining the proper punishment. The totality of circumstances in this case distinguishes it from prior determinations rendered by this Commission and from rulings by the Court of Appeals. In particular, the egregious nature of Respondent's transgressions exceeds that of *Matter of Canary*, another case where the judge pushed a police officer and the Commission did not remove.

In *Matter of Canary*, 2003 Ann Rep of NY Commn on Jud Conduct at 77, the Respondent did not physically interfere in a lawful arrest process. The judge in that case pushed the police officer after his son was already subdued, handcuffed, and on the ground. Judge Canary did not arrive on the scene until "five to ten minutes later." (*Matter of Canary*, *Id.* at 79). In the instant case, Respondent shoved a police officer during the course of an arrest process, an arrest that was necessitated by disorderly, out-of-control behavior. As the referee found "While Officer Gehr was handcuffing Ms. Grisanti, Respondent approached Officer Gehr, placed both of his hands on Gehr's upper body, and shoved Officer Gehr." Judge Canary did not use physical aggression to obstruct an arrest process. When informed that his son was "going to be arrested," the Respondent in *Canary* said: "You can't do that." *Id.* at 79 It bears underscoring that he "said" it. He did not use bodily force to try to obstruct an arrest process.

There was no ongoing threat to public safety and order in *Canary*, as in the instant matter in which police intervention was critical to preventing further harm. Judge Grisanti's wife had just bitten a neighbor on the forearm, repeatedly ignored police directives to remain on her side of the street, and shouted to the officer "You're not going to arrest me," then physically resisted as the officer sought to contain her out-of-control behavior. The egregiousness of Respondent's physical aggression against a police officer is thusly compounded by the fact that, in that moment, police action was crucial to maintaining law and order.

The nature and degree of emotional provocation in these two cases are worlds apart. Here, Respondent used both hands to push a police officer, notwithstanding the fact that his wife was out of control and sustained no bruises as the officer used a lawful procedure to wrestle her onto Respondent's front lawn and in full view of other officers and onlookers. The *Canary* infraction occurred after Judge Canary arrived on the scene and observed his son on the ground, lying in front of a truck on the shoulder of Route 29, with visible injuries, whereupon he improperly pushed the officer and remarked: "What the hell happened here? There isn't a mark on you." *Id.* at 79. Notably, the son was subdued by the police officer in *Canary* after he "ran away" from the officer. Contrarily, Judge Grisanti observed first-hand that his wife was the aggressor and witnessed her advance toward the other side of the street in defiance of the officer's verbal order. As opposed to being injured,

police bodycam footage captures Respondent's wife afterward bragging in a disturbing display of privilege: "I bit that motherfucker!" (Ex. 12 at 0:46) When questioned about his wife biting the neighbor in the scuffle jumpstarted by him and his wife, Judge Grisanti remarked: "She had no choice, really, but to bite him. And I'm glad she did." (Tr. at 1210-1211)

Relatedly, *Canary* involved a judge's son who was later escorted by ambulance to the hospital for treatment of the injuries sustained when he was taken to the ground by police officers. In the instant case Respondent's wife is the one who inflicted injury, namely a severe bite wound on the forearm of a neighbor (Mr. Mele) as he tried to separate the judge's wife from his own wife. (See Exhibit CJC.Ex6 and CJC.Ex9 below—Photographs of the severe human bite wound on Mr. Mele's forearm)

Respondent's immediate and subsequent reactions are also incomparable to that in *Canary*. When told at the scene by law enforcement to "stop," Respondent walked away" in the *Canary* incident. Here, Respondent declared to the police officers that, "[y]ou arrest my fucking wife, you're going to be sorry." He had to be physically restrained. As the referee concluded: Lieutenant Muhammad had to "intervene[] and place[] Respondent in a bear hug" after which he admonished Respondent, "keep your hands off a cop." Rather than aid Mr. Mele as he sought to separate the two fighting women, Respondent preserved his energies to impede law enforcement. It was fully two years after-the-fact at the referee hearing on July 7, 2022 that Respondent's reaction to his wife having bit the forearm of the neighbor was to say, "And I'm glad she did." In *Canary* the judge's misconduct stemmed from his perception that police officers "were always picking on his kid." *Id.* at 79. Contrarily, Judge Grisanti bragged about his relationship with police officers. As opposed to beliefs about police bias against his wife, Respondent testified at the referee hearing on July 7, 2022 that his wife "wasn't being under arrest" and "was in the car just to calm down." Respondent acted out of a sense of entitlement to special treatment because of his connections to the Buffalo Police Department.

The judge-police interaction in *Canary* originated from the judge's son being stopped "because the brush had fallen from the truck" that he was driving, "creating a traffic obstruction." *Id.* at 78 In the matter before us it was the judge himself who brought on the judge-police interaction, by way of engaging 911 resources based on lies, walking across the street to confront his neighbors, then shoving the police officer called to the scene. Aware of the potentially damaging impact on public perception, the non-attorney judge in *Canary* sought behind closed doors to keep the incident out of the public's eye. In this instance, Respondent, a lawyer, apparently gave no thought to public imagery as he engaged in a series of disgraceful acts in broad daylight. As the referee found, "With the Meles on their own property, Respondent walked off of his property, stepped into the street, and headed toward the Mele driveway, his wife a step or two behind him."

In *Canary* the son's traffic stop culminated in a formal arrest, prosecution, and guilty plea to Resisting Arrest. Here there was no formal arrest and prosecution of Respondent's wife. And with today's decision, Judge Grisanti will remain empowered to enforce the law. The majority's decision to permit Respondent to continue as a Judge of the Court of Claims and an Acting Justice of the Supreme Court sends the wrong message at the wrong time. It tells Respondent's neighbors, officers of the Buffalo Police Department, the citizens of New York and YouTube's 2.7 billion users that it is permissible to resort to violence against one's neighbor and to shove a police

officer during a lawful arrest process, without worry of losing one's job—let alone the power and prestige of judicial office.

In another case that involved a judge's use of profanity against police officers the Court of Appeals¹⁴ accepted the Commission's determination. In *Matter of Romano*, 1999 Ann Rep of NY Commn on Jud Conduct at 133, a town justice, after hearing that police officers had criticized his bail decision, went to the police station and "in a loud and angry manner" said, "if you have anything to say to me, grow some balls and say it to my face." *Id.* at 134. He called a detective an "asshole" and a "low life scumbag." *Id.* Judge Romano also remarked from the bench in a case in which a husband was accused of hitting his wife in the face with a phone, "What was wrong with this? You need to keep these women in line now and again." *Id.* at 135. As in this case the Respondent in *Romano* engaged in additional misconduct beyond verbal transgressions; he asserted his judicial office for personal gain. However, he did not engage in a brawl that ended with physical injuries, as did Judge Grisanti. See also CJC.Ex8 below. Judge Romano was removed from the bench.

As recently as December 27, 2023 this Commission removed a part-time Justice of the Athens Town Court for infractions that pale in comparison to those in the instant case. It was determined in *Matter of Mercer*, 2024 Ann Rep of NY Commn on Jud Conduct at 127, that the Respondent engaged in self-dealing by awarding a no-bid \$3,300 contract to his own company for courthouse improvements and by misrepresenting the cost of the equipment. The judge's company did not receive payment. Removal of Judge Mercer was deemed the appropriate disposition because, to quote the majority opinion,

"[T]he purpose of judicial disciplinary proceedings is 'not punishment but the imposition of sanctions where necessary to safeguard the Bench from unfit incumbents'." *Matter of Reeves*, 63 NY2d 105, 111 (1984) (citation omitted) We are mindful that "the extreme sanction of removal is warranted only in the event of 'truly egregious circumstances' that extend beyond the limits of 'even extremely poor judgment' . . ." *Matter of Putorti*, __ NY3d __, 2023 NY Slip Op 05304 at *3 (Oct. 19, 2023) (citation omitted). Given the totality of evidence, including respondent's deceptive conduct and his continued efforts to seek payment to his company even after he was aware of the improprieties, respondent is unfit for judicial office.

As compared to *Matter of Mercer* where the judge "caused his personal business interests to improperly take precedence over his judicial duties," the need to "safeguard the Bench from unfit incumbents" is exponentially more apparent here. The aggregated list of financial, physical, verbal and ethical infractions committed by Judge Grisanti constitutes, by definition, 'truly egregious circumstances.'

VII. Judicial Disciplinary Matters are *Sui Generis*: Prevailing Standards

Even though the fact pattern clearly distinguishes the seriousness of the transgressions in the instant case from prior cases—most notably *Canary*, the Court of Appeals has held that judicial disciplinary matters are *sui generis* and must be evaluated on the specific facts and circumstances of

each case. In *Matter of Blackburne*, 7 NY3d 213 (2006)¹⁵ the judge argued that she should not be removed for “a single act of bad judgment, unless the misconduct involved venality, breach of trust, moral turpitude or personal gain.” *Id.* at 219. However, the Court found,

In impeding the legitimate operation of law enforcement by helping a wanted robbery suspect to avoid arrest, petitioner placed herself above the law she was sworn to administer, thereby bringing the judiciary into disrepute and undermining public confidence in the integrity and impartiality of her court. Although “removal is not normally to be imposed for poor judgment, even extremely poor judgment” . . . petitioner’s dangerous actions exceeded all measure of acceptable judicial conduct. By interposing herself between the defendant and the detective, petitioner abandoned her role as neutral arbiter, and instead became an adversary of the police. This is completely incompatible with the proper role of an impartial judge.

Id. at 221 (citation omitted). The Court further held, “. . . we have never implied that removal is limited to those categories of cases that have formerly come before us. Judicial misconduct cases are, by their very nature, sui generis. That until now no judge has thought to prevent the lawful arrest of a suspected felon cannot shield petitioner from the necessary consequence of her actions.” *Id.* at 219-220. It additionally concluded, “In any event, we reject petitioner’s argument that she should not be removed because removal would be unprecedented. Petitioner’s *conduct* was unprecedented. We know of no instance in which a judge has facilitated the escape of an accused violent felon.” *Id.* at 220 (emphasis in original). The judge in *Blackburne* was removed.

In another removal case, *Matter of Roberts*, 91 NY2d 93 (1997),¹⁶ the Court of Appeals held that, “To be sure, precedents and fact patterns can vary as they bear on the level of discipline to be meted out for judicial misconduct. Ultimately, however, these cases are essentially institutional and collective judgment calls based on assessment of their individual facts, in relation to prevailing standards of judicial behavior and the prospect of future misconduct and continued judicial service . . .” *Id.* at 97.

VIII. Enforcement of the Rules Governing Judicial Conduct

The Preamble of the Rules provides that, “the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the text and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system.”

The evidentiary record in this case is overwhelming. The transgressions in this case are many and unconscionable, the lack of contrition deeply troubling, and the impact on public perception and confidence severely damaging. The evidence compels Respondent’s removal from judicial office. His presence on the bench is a shame on the judicial system. The majority has concluded otherwise, determining instead that Respondent should continue to preside in a court of law—the voluminous body of evidence to the contrary notwithstanding. Six of my esteemed colleagues believe that Judge Mark A. Grisanti is worthy of remaining in office, alongside the 3,350 judges of New York state that serve impeccably, faithfully, and honorably.

I respectfully disagree.

April 22, 2024

A handwritten signature in black ink, reading "N M Moore". The signature is written in a cursive style with a horizontal line extending from the end of the word "Moore".

Professor Nina M. Moore, Ph.D., Member
New York State Commission on Judicial Conduct

¹The reality, especially for people of color, is an increased statistical probability of never making it safely to a jail cell after pushing or threatening a police officer. See: Nina M. Moore, *The Political Roots of Racial Tracking in American Criminal Justice* (Cambridge University Press, 2015).

² CJC.Ex43 – a still photo of Respondent shoving Officer Gehr during the arrest process.

³The majority opinion effectively faults the responding Buffalo police officers for enforcing law and order when confronting: the street brawl instigated by Judge Grisanti, report of bodily injury inflicted by Ms. Grisanti, and her brazen defiance of multiple police directives geared to deescalate, etc. The fact that the majority relies heavily on hearing testimony about Officer Gehr's prior state of mind as a basis for its disparagement of the officers and their actions on the scene is worth noting. The reason Officer Gehr handcuffed Ms. Grisanti is that she repeatedly ignored his and Lieutenant Muhammad's directives and continued her verbal and physical aggressions, as established by bodycam footage at 0:38 through 01:37. The video shows that upon first encountering Ms. Grisanti who came within inches of the neighbor's face, with arms fully extended horizontally, and yelling, Officer Gehr stated "We're, we're not doing this" (0:38) and Lieutenant Muhammad calmly motioned (0:42) Ms. Grisanti to go to her side of the street so that Officer Gehr could interview the neighbors. She again walked across the street and interrupted, at which point Officer Gehr stated: "You're going to step back" (0:50). Lieutenant Muhammad again calmly placed himself between an aggressive Ms. Grisanti and the neighbors and directed her to return to her side of the street (0:51). Interrupted a third time by Ms. Grisanti's yelling, profanity and threats, Officer Gehr next warned (01:37): 'Ma'am ... if you don't stop yelling, this is going to be a problem for you.' To this, police directive Number 5, Ms. Grisanti screamed back: "I don't care," "You're not going to arrest me," "No, no, you're not going to ...," "Don't fucking arrest me ..." See CJC.Ex11 and CJC.Ex11a. As to Lieutenant Muhammad's bear hug, it was used to restrain Judge Grisanti as he physically shoved Officer Gehr.

It is unclear what the majority believes the officers should have done differently after five failed attempts to redirect Ms. Grisanti's belligerent behavior, followed by Respondent's physical aggression against one of their own. The majority opinion conveniently skips past the fact that Ms. Grisanti physically fought Officer Gehr as he attempted to handcuff her, as the bodycam footage clearly shows. It was in a moment of lucidity afterward that even Judge Grisanti, in his words, "apologized to ... you know, kind of stopping the officer from doing what he had to do ..." Accordingly, the Buffalo police officers who responded to Judge Grisanti's street fight should be commended for doing what they had to do. The fact that the *Judicial* Conduct Commission rebukes the police officers who brought law and order to a street fight instigated by a judge is concerning. The public whose interests we are empowered to serve and protect expects this commission to adjudge Respondent and to hold him solely accountable for his failure to abide by the Rules of Judicial Conduct—not to unfairly disparage the police officers left to clean up the aftermath.

⁴ *Berenhaus v. Ward*, 70 NY2d 436, 443 (1987) highlighted the constraints of a "lifeless record" as grounds to defer to a referee's findings. In this case, however, commissioners observed a live video recording of Respondent's threatening words.

⁵ The Commission rejected a referee finding in *Matter of Marshall*, 8 NY3d 741 (2007). The Court of Appeals affirmed, noting that "Neither the Commission or this Court is bound to accept the Referee's findings." (*Id.* at 743). The Operating Procedures and Rules of the Commission state: "The commission shall decide ... a motion to confirm or disaffirm the findings of the referee ..." 22 NYCRR §§7000.6[f][1][iii]. Section 3.4(B) of the Commission Policy Manual provides that, "A referee's report proposes findings of fact and conclusions of law but is not binding on the Commission," encouraging *due* deference regarding the credibility of witnesses, though not the referee nor the Respondent and certainly not abdication. The manual further provides more definitively: "... the Constitution, Judiciary Law and case law reserve to the Commission the authority and obligation to render the findings of fact and conclusions of law on which its determinations are based." (Commission's Policy Manual, Section 3.4(B)) It is noteworthy too that both Respondent and Commission counsel argued that the Commission should reject one or more of the referee findings.

⁶ The majority also neglects to note that the gravamen of the referee's holding on whether a lie is a lie was that he considered it an expansion of the charges initially brought by Commission counsel and, thus, violative of "Respondent's right to notice."

⁷ Ms. Mele's despondency is borne out also by the fact that the judge's wife was not arrested on the scene, despite

a report to Officer Gehr (captured on bodycam) of a fresh, red, swollen bite wound inflicted on Mr. Mele by the judge's wife, Ms. Grisanti, as detailed above and depicted in CJC.Ex.6 – A photograph of the severe human bite wound.

⁸ Evidence of widespread publicity on YouTube and the internet was supplied at the Oral Argument at pp. 81-82, and evidence of television news coverage was supplied at the hearing (Tr 789), along with coverage in multiple newspapers (Tr 1416-1420), in broadcast and print media (Tr 747), and social media (Tr 789).

⁹ Maria Grisanti testified that in June 2020 she had concerns for her family members who were involved in police work, because there was a “ton of protesting ... they were throwing, like, firebombs ...,” adding “I was afraid for my – you know, for my children.” She remarked that “the police were under a lot of duress and stress.” (Tr. at 988-999) Respondent testified about his knowledge that “the George Floyd incident was in the news constantly for months.” (Tr. 1445) He added, “I knew that in 2018 and ’19, it seemed like one a year of excessive force ... it was something that stayed in the media for a long period of time. Just prior to this incident, you had the George Floyd incident that was nationally televised. It was televised where there were literally demonstrations all across, not only this nation, but also in Buffalo. And then those demonstrations resulted in protests.” (Tr. 1215-1216) He spoke of what he heard from his kids about “what goes on with – just happened to Mr. Gugino with the excessive force, what happened nationwide with excessive force.” (Tr. 1226) He noted “. . . it was just two weeks ago what happened to Mr. Gugino . . .” (Tr. 1394)

¹⁰ The majority omits the full context of Grisanti's hearing testimony, specifically failing to note his multiple mentions of George Floyd. This omission is unfortunate because doing so could be read as endorsement of Respondent's colorblind reconstruction of the incident and, thus, leave the wrong impression of this commission's capacity to understand and appreciate the gravity of such incidents.

¹¹ He testified at the hearing that the incident was “nationally televised,” was among multiple excessive force incidents that “stayed in the media for a long period of time” (Tr. 1215), that the “George Floyd incident was in the news constantly for months” (Tr. 1445), and that the “video of George Floyd” evoked shock (Tr. 1216).

¹² In *Bauer* a City Court judge was removed for “a pattern of abuse by which petitioner on numerous occasions not only failed to advise defendants of their rights but perverted CPL 170.10 by telling defendants that they must engage their own attorneys -- concealing from them that the statute requires the court to assign counsel when warranted and to see to it that the right to counsel is protected . . .” *Id.* at 162.

¹³ In *Restaino* a City Court judge, after a device rang in his courtroom and the owner of the device could not be located, committed 46 defendants into custody. Only one of the 46 had an attorney present. *Id.* at 583.

Psychiatrists testified at the hearing before the referee that Respondent suffered from “marital stressors” and that he was experiencing “a somewhat anxious crisis state of mind.” *Id.* at 587. Respondent argued to the Court that the sanction of removal was “unwarranted in light of the proffered psychological evidence.” *Id.* at 588.

¹⁴ 93 NY2d 161 (1999)

¹⁵ In *Blackburne* a Supreme Court justice was removed for arranging for an accused felon to be escorted out of her treatment courtroom so as to prevent the defendant from being arrested by a waiting detective.

¹⁶ In *Roberts* a village justice was removed for, *inter alia*, summarily ordering an individual to 89 days in jail without affording minimal constitutional and procedural safeguards and making callous comments in domestic violence cases such as “every woman need a good pounding every now and then.” *Id.* at 95-96.

EXHIBITS ARE AVAILABLE AT WWW.CJC.NY.GOV

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

REGINALD J. JOHNSON,

a Judge of the Peekskill City Court,
Westchester County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Mark Levine and Brenda Correa, Of Counsel)
for the Commission

Kutner Friedrich, LLP (Charles E. Kutner) for respondent

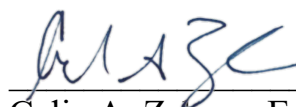
The matter having come before the Commission on September 19,
2024; and the Commission having before it the Stipulation dated September 3,

2024; and respondent having been served with a Formal Written Complaint dated July 31, 2024 and an Amended Formal Written Complaint dated August 8, 2024, and respondent having tendered his resignation dated August 29, 2024 effective September 30, 2024; and having affirmed that once he has vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: September 19, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

REGINALD J. JOHNSON,

STIPULATION

a Judge of the Peekskill City Court,
Westchester County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct, and the Honorable Reginald J. Johnson (“Respondent”) and his attorney Charles E. Kutner, of Kutner Friedrich, LLP:

1. Respondent was admitted to the practice of law in New York in 1994. He has been a Judge of the Peekskill City Court, Westchester County, since January 1, 2014. His current term expires on December 31, 2033.

2. Respondent was served with a Formal Written Complaint dated July 31, 2024, and an Amended Formal Written Complaint dated August 8, 2024, containing five charges alleging that he (A) dismissed eleven traffic tickets based on his personal relationships with the defendants or persons close to the defendants, or otherwise not on the merits or contrary to law and proper procedure; (B) engaged in an unauthorized *ex parte* communication with a government official regarding a pending criminal matter; (C) acted in a rude,

impatient, undignified and/or otherwise discourteous manner by berating, screaming, yelling or otherwise raising his voice to staff members of the Peekskill City Court; (D) made multiple inappropriate written and oral comments to his co-judge, and on at least one occasion touched or caressed her arm without invitation or permission; and, (E) on two occasions made inappropriate remarks to staff and attorneys that included sexual innuendos.

3. The Amended Formal Written Complaint is annexed as Exhibit A.

4. Respondent enters into this Stipulation in lieu of filing an Answer to the Amended Formal Written Complaint.

5. Respondent has tendered his resignation by letter dated August 29, 2024, a copy of which is annexed as Exhibit B.

6. Pursuant to Section 47 of the Judiciary Law, the Commission may continue with proceedings against a judge who has resigned and, if it so determines, render and file a determination that the judge should be removed from office. Pursuant to Article VI, section 22(h) of the Constitution, a judge who is removed from office “shall be ineligible to hold other judicial office.”

7. Respondent affirms that he will vacate his judicial office at the close of business on September 30, 2024, and he will neither seek nor accept judicial office at any time in the future.

8. Respondent understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the present

proceedings before the Commission will be revived and the matter may proceed to a hearing before a referee, or the Commission may summarily determine that he should be removed from office pursuant to 22 NYCRR 7000.6(c).


9. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

10. Respondent waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (A) this Stipulation will become public upon being signed by the signatories below, and (B) the Commission's Decision and Order regarding this Stipulation will become public.

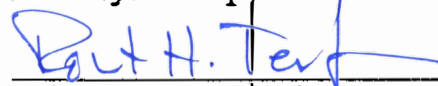
Dated: 8/31/2024


Honorable Reginald J. Johnson
Respondent

Dated: Aug 31, 2024


Charles E. Kutner, Esq.
Kutner Friedrich, LLP
Attorney for Respondent

Dated: September 3, 2024


Robert H. Tembeckjian
Administrator & Counsel to the Commission
(Mark Levine and Brenda Correa, Of Counsel)

THE FOLLOWING EXHIBITS ARE AVAILABLE AT WWW.CJC.NY.GOV:
EXHIBIT A: AMENDED FORMAL WRITTEN COMPLAINT
EXHIBIT B: RESPONDENT'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

JILL KEHN,

DETERMINATION

a Judge of the Family Court,
Rensselaer County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Graham B. Seiter, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and Shruti Joshi, Of
Counsel) for the Commission

Anderson, Moschetti & Taffany, PLLC (Peter J. Moschetti, Jr. for
respondent

Respondent, Jill Kehn, a Judge of the Family Court, Rensselaer County, was served with a Formal Written Complaint (“Complaint”) dated April 29, 2024 containing one charge. The Complaint alleged that from January 2022 through December 2022, respondent contributed to a hostile work environment at the Rensselaer County Family Court, failed to perform her administrative duties in a fair and impartial manner, failed to be dignified and courteous with court staff, acted to undermine the authority of the chief clerk of her court, and defied a directive from her Administrative Judge, by, *inter alia*, exchanging numerous petty and demeaning emails about the newly hired chief clerk with the deputy chief clerk; raising her voice and being rude during multiple confrontations with the chief clerk, at times while in her judicial robe, and failing to abide by the directive of Administrative Judge Gerald Connolly that she address all issues regarding the clerk’s office with the District Office of the Third Judicial District, and not with the chief clerk or court staff.

On May 30, 2024, the Administrator, respondent’s counsel and respondent entered into an Agreed Statement of Facts (“Agreed Statement”) pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be censured and waiving further submissions and oral argument.

On June 13, 2024, the Commission accepted the Agreed Statement and made

the following determination:

1. Respondent was admitted to the practice of law in New York in 1990. She has been a Judge of the Family Court, Rensselaer County, since January 1, 2022, having previously served as a Judge of the Troy City Court, Rensselaer County, from 2015 to 2021. Her current term expires December 31, 2031.
2. Helen Barrington was the Deputy Chief Clerk of the Rensselaer County Family Court from 2018 to May 2023, when her employment was terminated by the Office of Court Administration (“OCA”).
3. In 2021, Ms. Barrington applied for the position of Chief Clerk but was not successful.
4. In October 2021, OCA named Erin Scott the Chief Clerk of the Rensselaer County Family Court. Ms. Scott had been the Chief Clerk of the Greene County Family Court.
5. At all times relevant to the material facts herein, Erin Scott was the Chief Clerk, Helen Barrington was the Deputy Chief Clerk, Richard Curtin was a Senior Court Clerk, Richard Funchion and Michelle Perkinson were Clerical Assistants, and Jessica Robillard was a Senior Court Assistant at the Rensselaer County Family Court. Ms. Barrington, Mr. Curtin, Mr. Funchion, Ms. Perkinson, and Ms. Robillard were all supervised by Chief Clerk Scott. All of the clerks were employees of OCA, and the Family Court judges did not have the authority to hire,

fire, or supervise them.

6. Respondent was friendly with Ms. Barrington and believed she should have been promoted to the Chief Clerk position.

7. After Ms. Scott was hired, respondent and Ms. Barrington remained friendly, and respondent occasionally socialized with Ms. Barrington at lunch.

8. On January 5, 2022, Ms. Scott sent an email to Ms. Barrington and Mr. Curtin, asking them to be available for a meeting to discuss case reassignments. Ms. Barrington forwarded this email to respondent, who wrote in reply, “Unbelievable . . .” The email exchange continued between respondent and Ms. Barrington, with Ms. Barrington accusing Ms. Scott of not doing any work. In reply to Ms. Barrington, respondent wrote, “[D]on’t let her [Ms. Scott] get away with it . . . should have been done a month ago. Why is she [Ms. Scott] including Richard in a plan when he doesn’t check to begin with???”

9. On January 7, 2022, respondent and Ms. Scott met in respondent’s chambers to discuss a plan to address the assignment of cases as to which respondent had a conflict.¹ During the meeting, respondent asked Ms. Scott what was happening with the assignment of conflict cases and Ms. Scott responded that Ms. Barrington and Mr. Curtin were responsible for it. Respondent stopped the

¹ Prior to becoming respondent’s law clerk, Karen Bauer was assigned as defense counsel in numerous cases pursuant to County Law Section 18B, which resulted in numerous conflicts with respect to certain cases coming before respondent.

meeting immediately, ran down the hall looking for Ms. Barrington and Mr. Curtin, then told Ms. Barrington what Ms. Scott had just said. When Ms. Scott denied respondent's characterization, respondent replied in a raised voice, "Are you calling me a liar?"

10. Later that day, Ms. Barrington asked respondent for her "[t]houghts" on a draft email from Ms. Barrington to Ms. Scott. In the draft email, Ms. Barrington described respondent as "call[ing] out" Ms. Scott, in front of Ms. Barrington and Mr. Curtin, for attacking Ms. Barrington's character and work ethic. Respondent proofread the email and replied, "Yes better."

11. On January 19, 2022, Ms. Barrington forwarded respondent an email she received from Ms. Scott that was addressed to Judge Walsh and copied to Ms. Barrington, regarding Ms. Scott leaving early for work for her son's medical appointment. Respondent wrote back to Ms. Barrington that, "Apparently I don't need to know if she [Ms. Scott] is in the building." The email exchange continued between respondent and Ms. Barrington, and respondent further wrote, "I have not seen her [Ms. Scott] since our confrontation I am so over her [Ms. Scott] it is not funny."

12. On January 26, 2022, respondent exchanged emails with Ms. Barrington regarding backlogged petitions, making the following statements about Ms. Scott:

- A. “Is CC [Ms. Scott] helping you or is she even aware? Probably didn’t have the presence of mind to look.”
- B. “Jen just said that trying to talk to her [Ms. Scott] is exhausting. Jen I [*sic*] was right about an issue and Erin [Ms. Scott] has not [*sic*] clue. Nice chief clerk v. employee who has been here for 20 days!”
- C. “I think her [Ms. Scott’s] life would be much easier if she lived closer to home. Do you think she is applying for the Supreme Court position?”

13. On March 30, 2022, Ms. Scott sent another clerk an email about courtroom training and copied Ms. Barrington. Ms. Barrington forwarded the email to respondent and wrote, “FYI B.S.!” to which respondent replied, “What happened to her [Ms. Scott’s] buddy? And why lie?”

14. On March 30, 2022, Ms. Barrington received another email from Ms. Scott regarding court clerk replacement, which she forwarded to respondent. Ms. Barrington wrote, “More B.S.,” to which respondent replied, “OMG this is so not true!” The email exchange continued between Ms. Barrington and respondent, and respondent made the following statements about Ms. Scott:

- A. “The way that lies are perpetuated, people are gaslit, it is like being in a twilight zone. You have to let it go. This place is not your life you cannot let it affect you like that. I understand you have to work closely with her [Ms. Scott] and it [*sic*] all outrageous, you need to stay healthy! She [Ms. Scott] is so not worth your energy. As my grandmother would say, what goes around comes around, hopefully she [Ms. Scott] will be exposed.”
- B. “She [Ms. Scott] should be called out on everything!!!”

15. On April 8, 2022, emails were exchanged between Ms. Scott, Ms. Barrington, and another court clerk regarding the clerk's request for two days off, in which Ms. Scott suggested which days would be easier for coverage in court. On April 11, 2022, Ms. Barrington forwarded the April 8 email exchange to respondent and wrote, "Another good laugh for the day." Respondent replied saying, "What is she [Ms. Scott] thinking? ... oh wait she doesn't." The email exchange continued, and Ms. Barrington wrote, referring to Ms. Scott's statement that she would be out for a week for her son's sports tournament, "Sounds like baloney! BB season just started and they jump right into a tournament? Joe played since he was 5 and until HS graduation I happen to know a thing or two." Respondent wrote in response, "Oh I didn't even catch that!! You are right why would there be a tournament in April??? You should inquire."

16. On April 13, 2022, a court employee sent an email to Ms. Barrington, Ms. Scott and another court clerk regarding issues with scanned petitions being illegible if written with a pencil, and Ms. Scott replied to the email. Ms. Barrington forwarded the email exchange to respondent and wrote, "lmao,"² to which the respondent replied, "Haha I love it!"

17. On June 10, 2022, Ms. Barrington prepared an email to be sent to Mr.

² LMAO is a common abbreviation for "Laughing My Ass Off."

Curtin and Ms. Scott regarding concerns with court coverage, which she first sent to respondent for her approval. Respondent proofread the email and replied, “I think that covers it!”

18. On July 7, 2022, Ms. Barrington received an email from Ms. Scott scheduling a staff meeting to review a variety of issues for the following day, when Ms. Barrington was scheduled to be working in a different county. Ms. Barrington forwarded the email to respondent and wrote, “How opportune since I’m working in Albany tomorrow,” to which respondent replied, “Write her back and tell you [*sic*] you want it moved until you are there!!!”

19. On July 13, 2022, respondent sent an email to Ms. Barrington complaining about a variety of errors made by the clerks and wrote, “So my new thing is to send an email every time docketing doesn’t do there [*sic*] job (smiley face emoji) She [Ms. Scott] must be thrilled with me.”

20. On July 26, 2022, Ms. Barrington sent an email to respondent complaining about another clerk, to which respondent replied, “Erin [Ms. Scott] has poisoned the well against you.” The email exchange between respondent and Ms. Barrington continued, with respondent writing, “She [Ms. Scott] should work in city court that is more her personality/vibe, not as polished or professional. Her attitude would serve her well there.”

21. On September 9, 2022, Ms. Barrington and Ms. Scott exchanged

emails with a Department of Social Services employee regarding a pending adoption case and related paperwork that was sent to the court but may have been lost. Ms. Barrington forwarded the email exchange to respondent and wrote “Unbelievable,” to which respondent replied, “LOST IN THE SAUCE! THAT MUST BESOME [*sic*] SAUCE!!!!!!”

22. On September 12, 2022, Ms. Barrington received an email from Ms. Scott about court coverage. She forwarded the email to respondent and wrote, “She’s [Ms. Scott’s] really dumb. We are 2 diff people! How many times has she [Ms. Scott] abandoned ship and left me to pick up the pieces. I am NOT like her. So please spare me.” Respondent replied, “And the other thing is that she [Ms. Scott] had to docket and we know how she loves to do that !”

23. On September 14, 2022, Ms. Barrington forwarded to respondent an email exchange between her and Ms. Scott regarding another clerk reviewing petitions received by mail. Respondent replied, “Not sure what this means other than Lucas is doing what he shouldn’t be doing!” Ms. Barrington continued the email exchange with respondent and wrote the letter “D” in large font, to which respondent replied, “HAHA.”³

24. On September 19, 2022, Ms. Barrington sent an email to respondent

³ According to Urban Dictionary, the letter “D” may stand for the word “Dick.”

about Mr. Curtin and wrote, “Real piece of work Richard is 1 hr 37 min lunch he just returned,” to which respondent replied, “Nice. No one will Call him out.”

25. On October 4, 2022, respondent sent Ms. Scott an email about posters that had been put up in the clerk’s office with messages stating, in sum and substance, “Always be kinder than necessary,” “Everyone is welcome here,” “Be kind,” and “This is a safe space.” Respondent’s email stated, “Erin [Ms. Scott], while I understand the intent of the posters, as I told you, I found them to be passive aggressive, juvenile and completely unprofessional. We are a court of law and I have never seen anything akin to them in any other court house [*sic*] and certainly wouldn’t expect to. If there is a kindness issue with your staff than [*sic*] perhaps internal team building and training would be more appropriate for them then [*sic*] posters.”

26. On October 21, 2022, Administrative Judge Gerald Connolly met with respondent and her co-judge after being informed by the District Executive for the Third Judicial District of complaints from both judges about the clerk’s office and concerns about the judges’ conduct. At the meeting, Judge Connolly directed respondent to approach the District Office about any issues regarding the clerk’s office or the chief clerk, and he instructed her not to address such matters with the clerks or Ms. Scott directly.

27. In December 2022, respondent became upset upon learning that a

protocol initiated at her request had not been followed, pertaining to the viewing and copying of subpoenaed records. While still wearing her judicial robe, respondent went to Ms. Scott's office to address this issue with her and, using an elevated tone of voice, berated her by demanding that Ms. Scott show respondent the email sent to staff about the protocol. Respondent yelled at the clerk staff, including Ms. Perkinson and Mr. Curtin, asking if they knew the protocol regarding subpoenaed records. Respondent then asked for Ms. Robillard and said she wanted to speak to her as soon as she arrived in the office. Respondent came back to the clerk's office at least four times in a span of 20 minutes looking for Ms. Robillard, and she was wearing her judicial robe at least two out of the four times.

28. On December 20, 2022, when Judge Connolly learned that respondent had berated Ms. Scott in front of her staff after an attorney photocopied subpoenaed court records, he promptly drove to the Rensselaer County Family Court to meet with respondent because she had acted against his directive that she was to bring all complaints about the clerk's office directly to the District Office.

29. In May 2023, respondent was moved out of Rensselaer County Family Court to Albany County Family Court after an inquiry by the OCA Inspector General into allegations that she had contributed to a hostile work environment in Rensselaer County. Ms. Barrington was fired for her conduct.

Additional Factors

30. Respondent regrets her emails, her conduct toward the Chief Clerk and other clerical staff, and her disregard of Administrative Judge Connolly's directive, which she now realizes were inappropriate, notwithstanding her frustration over what she perceived as disorganization within the court clerk's office. Respondent commits herself to the high standards of behavior required of all judges, and she pledges to work collegially with court staff and to defer to the District Office of the Third Judicial District for the administrative oversight of court staff.

31. Respondent has fully cooperated with the Commission's investigation.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(B)(3), and 100.3(C)(1) of the Rules Governing Judicial Conduct ("Rules") and should be disciplined for cause, pursuant to Article VI, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charge I of the Formal Written Complaint is sustained insofar as it is consistent with the above findings and conclusions and respondent's misconduct is established.

The Rules require judges to maintain high standards of conduct and to "act at all times in a manner that promotes public confidence in the integrity and

impartiality of the judiciary.” (Rules, §§100.1, 100.2(A)) The Rules also require that judges “cooperate with other judges and court officials in the administration of court business” and “be patient, dignified and courteous” to those “with whom the judge deals in an official capacity. . .” (Rules, §§100.3(B)(3), 100.3(C)(1))

Respondent acknowledged that she violated the Rules when she exchanged several emails with the deputy chief clerk which were demeaning to the chief clerk and contributed to a hostile work environment at the Rensselaer County Family Court. Furthermore, respondent improperly defied the directive of her Administrative Judge to refrain from addressing any issues directly with the chief clerk or court staff.

By writing emails that were derogatory toward the chief clerk and sharing them with the deputy chief clerk, respondent acted in manner unbecoming a judge and undermined the authority of the chief clerk. The comments respondent wrote in her emails regarding the chief clerk included stating, “I am so over her [Ms. Scott] it is not funny” and “What is she [Ms. Scott] thinking? . . . oh wait she doesn’t.” In addition, while wearing her judicial robe, respondent raised her voice and was rude during a confrontation with the chief clerk and court staff. By this conduct, respondent failed to be dignified and courteous to court staff as the Rules required. *See, Matter of Pineda-Kirwan*, 2021 Ann Rep of NY Commn on Jud Conduct at 282, 296 (“Respondent’s pattern of intemperate and abusive behavior

was improper and severely undermined confidence in the judiciary.”)

Compounding her misconduct, respondent failed to abide by her Administrative Judge’s specific directive that she was required to address any issues regarding the clerk’s office to the District Office of the Third Judicial District. Approximately two months after receiving this instruction during a meeting with her Administrative Judge, respondent, while wearing her judicial robe, went to the chief clerk’s office and berated her in a loud voice. Respondent then proceeded to yell at the clerk staff. When her Administrative Judge learned of respondent’s conduct, he promptly drove to the Rensselaer County Family Court to address this with respondent. Respondent’s failure to comply with her Administrative Judge’s directive violated the Rules. Moreover, her actions contributed to conflict and a difficult work environment. *See, Matter of Going*, 97 NY2d 121, 126 (2001) (judge was “uncooperative with administrators, and showed a lack of respect for their repeated attempts to address problems he helped create.”)

In accepting the jointly recommended sanction of censure, we have taken into consideration that respondent has acknowledged that her conduct was improper and warrants public discipline and that she has committed to working collegially with court staff and to defer to the District Office for the Third Judicial District for the administrative oversight of court staff. We trust that respondent has

learned from this experience and in the future will act in strict accordance with her obligation to abide by all the Rules Governing Judicial Conduct.

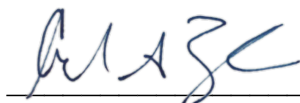
By reason of the foregoing, the Commission determines that the appropriate disposition is censure.

Mr. Belluck, Ms. Grays, Judge Camacho, Mr. Doyle, Judge Falk, Judge Miller, Ms. Moore, Mr. Raskin, Mr. Seiter, Judge Singh and Ms. Yeboah concur.

CERTIFICATION

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

Dated: June 21, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

JOHN D. KINSELLA,

a Justice of the Geddes Town Court
Onondaga County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and David M. Duguay, Of
Counsel) for the Commission

Honorable John D. Kinsella, *pro se*

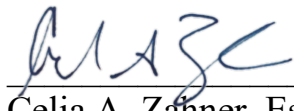
The matter having come before the Commission on September 19,
2024; and the Commission having before it the Stipulation dated September 16,

2024; and Judge Kinsella having tendered his resignation dated August 26, 2024 effective September 30, 2024; and having affirmed that once he has vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: September 19, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

JOHN D. KINSELLA,

STIPULATION

a Justice of the Geddes Town Court,
Onondaga County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct, and the Honorable John D. Kinsella:

1. John D. Kinsella was admitted to the practice of law in New York in 1971. He has been a Justice of the Geddes Town Court, Onondaga County, since January 9, 2001. His current term expires on December 31, 2025.
2. In August 2024, the Commission apprised Judge Kinsella that it was investigating a complaint that poor health was preventing the proper performance of his judicial duties.
3. Judge Kinsella has tendered his resignation by letter dated August 26, 2024, a copy of which is annexed as Exhibit 1, stating he will vacate judicial office as of September 30, 2024.

4. Pursuant to Section 47 of the Judiciary Law, the Commission may continue with proceedings against a judge who has resigned and, if it so determines, render and file a determination that the judge should be removed from office. Pursuant to Article VI, section 22(h) of the Constitution, a judge who is removed from office “shall be ineligible to hold other judicial office.”

5. Judge Kinsella affirms that he will vacate his judicial office at the close of business on September 30, 2024, and that he will neither seek nor accept judicial office at any time in the future.

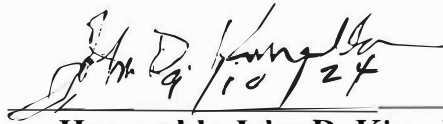
6. Judge Kinsella understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission’s investigation of the complaint would be revived, he would be served with a Formal Written Complaint on authorization of the Commission, and the matter would proceed to a hearing before a referee.

7. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

8. Judge Kinsella waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (A) this Stipulation will become public upon

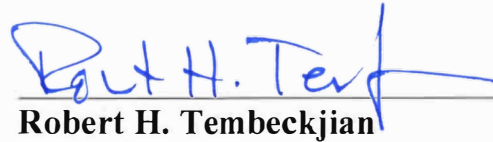
being signed by the signatories below, and (B) the Commission's Decision and Order regarding this Stipulation will become public.

Dated: 9/10/24

A handwritten signature in black ink, appearing to read "John D. Kinsella", with the date "9/10/24" written below it.

Honorable John D. Kinsella

Dated: September 16, 2024

A handwritten signature in blue ink, appearing to read "Robert H. Tembeckjian".

Robert H. Tembeckjian

Administrator & Counsel to the Commission
(John J. Postel and David M. Duguay, Of
Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV:
EXHIBIT 1: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

DETERMINATION

LEWIS J. LUBELL,

a Justice of the Supreme Court,
Westchester County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Mark Levine and Vickie Ma, Of
Counsel) for the Commission

Kutner Friedrich, LLP (by Charles E. Kutner) for respondent

Respondent, Lewis J. Lubell, a Justice of the Supreme Court, Westchester County, was served with a Formal Written Complaint (“Complaint”) dated August 27, 2024 containing one charge. Charge I of the Complaint alleged on August 19, 2022, after having spoken with his friend Mitchell P. Lieberman about a pending matrimonial case that Mr. Lieberman, an attorney, had before Supreme Court Justice Thomas Quinones (Westchester County), respondent initiated an *ex parte* conversation about that case with Judge Quinones and gave him advice on an issue Mr. Lieberman had raised. The Complaint further alleged that on September 16, 2022, respondent had another *ex parte* conversation with Judge Quinones about Mr. Lieberman’s case, *inter alia* asking if Judge Quinones had considered firing his court attorney over the matter raised by Mr. Lieberman.

On September 20, 2024, the Administrator, respondent’s counsel and respondent entered into an Agreed Statement of Facts (“Agreed Statement”) pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be admonished and waiving further submissions and oral argument.

On October 24, 2024, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent was admitted to the practice of law in New York in 1995.

He was an Acting Justice of the Ardsley Village Court from 2003 to 2005. He has been a Justice of the Supreme Court since 2006, having been assigned to sit in Orange County, then Westchester County. Respondent's current term expires on December 31, 2033.

2. At all times relevant to the matters herein, respondent and Mr. Lieberman were friends who would socialize and occasionally meet for dinner.

3. At all times relevant to the matters herein, respondent was acquainted as a fellow judge with Thomas Quinones, who was a judge of the Yonkers City Court from 2016 to 2021, and has been a Justice of the Supreme Court, Westchester County, since 2022. Respondent and Judge Quinones socialized together and with mutual acquaintances, their Supreme Court chambers were near to each other in 2022, and from time to time, respondent gave Judge Quinones professional advice.

4. On August 17, 2022, Edit Shkreli,¹ who at the time was Judge Quinones' court attorney, conducted a case conference in *Allison Cooper Cohen v Jacques Cohen* ("Cohen"), a contested matrimonial matter. Mr. Lieberman's law partner, John O. Farley, appeared with his client, Ms. Cooper Cohen; attorney Stuart P. Slotnick appeared with his client, Mr. Cohen; and attorney Tiffany Gallo

¹ In January 2024, Ms. Shkreli took office as an elected judge of the New York City Civil Court, serving in Bronx County.

appeared on behalf of the children.

5. On August 19, 2022, Mr. Lieberman spoke to respondent about the August 17 conference in *Cohen*. Mr. Lieberman complained that Mr. Farley had had a bad experience with Ms. Shkreli, and that she had made an unflattering comment about their firm in the presence of the parties and their attorneys. Mr. Lieberman asked respondent what he should do. Respondent replied that Mr. Lieberman needed to speak to Judge Quinones.*

6. On August 19, 2022, respondent asked Judge Quinones to his chambers and said he had become aware of a problem involving Ms. Shkreli during the August 17 conference conducted by Ms. Shkreli in the *Cohen* case. Respondent suggested that Judge Quinones insulate Ms. Shkreli from handling any cases involving Mr. Lieberman or his firm, and that he should speak to Mr. Lieberman to work things out.

7. On September 16, 2022, respondent had another conversation with Judge Quinones in respondent's chambers. Respondent asked Judge Quinones if he had considered replacing Ms. Shkreli as his court attorney. Judge Quinones replied, in words or substance, that he had no intention of firing her and that she had not done anything to warrant being fired.

8. Neither respondent nor Judge Quinones disclosed respondent's conversations with Mr. Lieberman, or respondent's conversation with Judge

* See addendum.

Quinones, to the parties, the defense attorney or the attorney for the children.

Additional Factors

9. Respondent has served as a judge for more than 20 years and has never been disciplined previously.

10. Respondent has been contrite and cooperative throughout the Commission's inquiry, and forthrightly acknowledged the impropriety of his conversations with Judge Quinones.

11. Respondent commits to being especially mindful of the rule against unauthorized *ex parte* communications, whether with lawyers, fellow judges or others engaged in pending litigation.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.2(B), 100.2(C), and 100.3(B)(6) of the Rules Governing Judicial Conduct ("Rules") and should be disciplined for cause, pursuant to Article VI, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charge I of the Formal Written Complaint is sustained insofar as it is consistent with the above findings and conclusions and respondent's misconduct is established.

Respondent's conduct was inconsistent with his obligations to maintain high standards of conduct and to "act at all times in a manner that promotes public

confidence in the integrity and impartiality of the judiciary.” (Rules, §§100.1, 100.2(A)) The Rules, with limited exceptions not applicable here, prohibit a judge from initiating, permitting or considering *ex parte* communications about a pending matter. (Rules, §100.3(B)(6)) In addition, the Rules provide that “[a] judge shall not lend the prestige of judicial office to advance the private interests of the judge or others. . . .” (Rules, §100.2(C)) Respondent violated his ethical obligations when he engaged in improper, undisclosed communications regarding the *Cohen* matter with attorney Lieberman and with his co-judge.

The Court of Appeals held in *Matter of Lonschein*, 50 NY2d 569, 571-572 (1980), “no Judge should ever allow personal relationships to color his conduct or lend the prestige of his office to advance the private interests of others.” *See, Matter of Young*, 2001 Ann Rep of NY Commn on Jud Conduct at 129, 130 (“respondent intervened on behalf of another in a pending proceeding and used the prestige of judicial office in an attempt to advance his friend’s private interests. Such assertion of influence is clearly prohibited by the ethical standards. . .”).

Respondent violated the Rules when he had communications about the *Cohen* matter with his friend, attorney Lieberman, who was plaintiff’s counsel in the *Cohen* matter. At the time of their communication, the *Cohen* matter was pending before Judge Quinones, respondent’s co-judge. After speaking with his friend about the *Cohen* matter, respondent then initiated *ex parte* communications

with Judge Quinones about the matter. Respondent improperly gave Judge Quinones advice on an issue that Mr. Lieberman had raised.² In addition, respondent exacerbated his misconduct when he failed to disclose his *ex parte* communications. “Even ‘brief and unsolicited’ *ex parte* communications must be disclosed to the parties.” *Matter of Carter*, 2021 Ann Rep of NY Commn on Jud Conduct at 71, 79 (citation omitted).

In accepting the jointly recommended sanction of admonition, we have taken into consideration that respondent has acknowledged that his conduct was improper and warrants public discipline. We trust that respondent has learned from this experience and in the future will act in strict accordance with his obligation to abide by all the Rules Governing Judicial Conduct.

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

Mr. Belluck, Ms. Grays, Judge Camacho, Mr. Cambareri, Mr. Doyle, Judge Falk, Professor Moore, Mr. Raskin, Judge Singh and Ms. Yeboah concur.

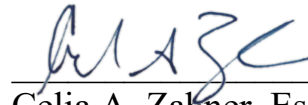
Judge Miller did not participate.

CERTIFICATION

² On October 3, 2024, the Commission issued a determination in *Matter of Quinones* which is available at: <https://cjc.ny.gov/Determinations/Q/Quinones.Thomas.2024.10.03.DET.pdf>

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

Dated: November 7, 2024

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

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

Addendum

There is no finding that Judge Shkreli made the “unflattering comment” referenced in paragraph 5 of the determination, and there is no suggestion that she engaged in any misconduct.

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

JOHN J. NEVERS,

a Justice of the New Lebanon Town Court,
Columbia County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Graham B. Seiter, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci Of Counsel) for the
Commission

Hon. John J. Nevers *pro se*

The matter having come before the Commission on June 13, 2024; and the

Commission having before it the Stipulation dated May 28, 2024; and Judge Nevers having tendered his resignation effective May 30, 2024; and having affirmed that having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: June 13, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

JOHN J. NEVERS,

STIPULATION

a Justice of the New Lebanon Town Court,
Columbia County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct, and the Honorable John J. Nevers:

1. John J. Nevers has been a Justice of the New Lebanon Town Court, Columbia County, since 1996. His current term expires on December 1, 2027.

Judge Nevers is not an attorney.

2. In May 2024, the Commission apprised Judge Nevers that it was investigating complaints alleging that: (1) he was unprepared for and unnecessarily delayed an eviction matter; (2) he dismissed a traffic ticket issued to a relative of his co-judge, at her request; (3) he did not disqualify himself in another case, notwithstanding his longstanding friendship with the defendant and his family; and (4) he has been unable to perform judicial duties since suffering a medical emergency in late 2023.

3. Judge Nevers has tendered his letter of resignation, a copy of which is annexed as Exhibit 1.

4. Pursuant to Section 47 of the Judiciary Law, the Commission may continue with proceedings against a judge who has resigned and, if it so determines, render and file a determination that the judge should be removed from office. Pursuant to Article VI, section 22(h) of the Constitution, a judge who is removed from office “shall be ineligible to hold other judicial office.”

5. Judge Nevers affirms that, having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future.

6. Judge Nevers understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission’s investigation of the complaints would be revived, he would be served with a Formal Written Complaint on authorization of the Commission, and the matter would proceed to a hearing before a referee.

7. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

8. Judge Nevers waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (A) this Stipulation will become public upon


being signed by the signatories below, and (B) the Commission's Decision and Order regarding this Stipulation will become public.

Dated: May 24, 2024



Honorable John J. Nevers

Dated: May 28, 2024



Robert H. Tembeckjian

Administrator & Counsel to the Commission
(**Cathleen S. Cenci** and **Shruti Joshi**, Of
Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV:
EXHIBIT 1: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

JOSEPH NOWAKOWSKI,

a Justice of the Bethany Town Court,
Genesee County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Graham B. Seiter, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and David M. Duguay Of
Counsel) for the Commission

Gilmour & Killelea, LLP (Daniel M. Killelea) for Judge Nowakowski

The matter having come before the Commission on June 13, 2024; and the

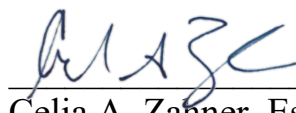
Commission having before it the Stipulation dated June 4, 2024; and Judge Nowakowski having tendered his resignation effective June 1, 2024; and having affirmed that having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the

Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: June 13, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

JOSEPH NOWAKOWSKI,

STIPULATION

a Justice of the Bethany Town Court,
Genesee County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct, and the Honorable Joseph Nowakowski and his attorney, Daniel M. Killelea, of Gilmour & Killelea, LLP:

1. Joseph Nowakowski has been a Justice of the Bethany Town Court, Genesee County, since January 1, 2022. His term expires on December 31, 2025. Judge Nowakowski is not an attorney.

2. In February 2024, the Commission apprised Judge Nowakowski that it was investigating a complaint that he had sexually harassed a court clerk, and that after the clerk told him to stop sending her inappropriate text messages unrelated to court business, the judge retaliated by seeking to have her employment with the court terminated.

3. Judge Nowakowski has tendered his resignation by letter dated May 31, 2024, a copy of which is annexed as Exhibit 1. Judge Nowakowski affirms that he has vacated judicial office as of June 1, 2024.

4. Pursuant to Section 47 of the Judiciary Law, the Commission may continue with proceedings against a judge who has resigned and, if it so determines, render and file a determination that the judge should be removed from office. Pursuant to Article VI, section 22(h) of the Constitution, a judge who is removed from office “shall be ineligible to hold other judicial office.”

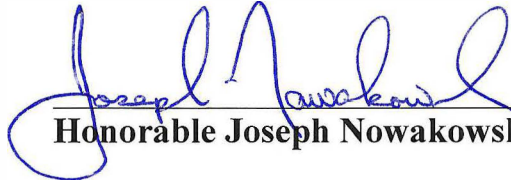
5. Judge Nowakowski affirms that, having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future.

6. Judge Nowakowski understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission’s investigation of the complaint would be revived, he would be served with a Formal Written Complaint on authorization of the Commission, and the matter would proceed to a hearing before a referee.


7. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

8. Judge Nowakowski waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (A) this Stipulation will become public upon being signed by the signatories below, and (B) the Commission's Decision and Order regarding this Stipulation will become public.

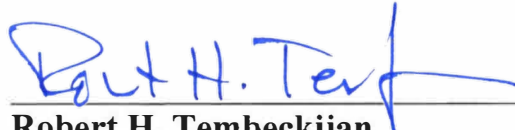
Dated: 5.31.24


Honorable Joseph Nowakowski

Dated: 5/31/2024


Daniel M. Killelea
Gilmour & Killelea, LLP
Attorney for Judge Nowakowski

Dated: June 4, 2024


Robert H. Tembeckjian
Administrator & Counsel to the Commission
(John J. Postel and David M. Duguay, Of
Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV:
EXHIBIT 1: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

THOMAS QUINONES,

DETERMINATION

a Justice of the Supreme Court,
Westchester County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Honorable Anil S. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Mark Levine and Vickie Ma, Of
Counsel) for the Commission

Richard E. Grayson for respondent

Respondent, Thomas Quinones, a Justice of the Supreme Court,

Westchester County, was served with a Formal Written Complaint (“Complaint”) dated May 15, 2024 containing three charges. Charge I of the Complaint alleged that in 2022, respondent voluntarily prepared two Character Reference Letter forms, in which he indicated his occupation as a Supreme Court Justice, in support of pistol license applications filed with the Westchester County Department of Public Safety by two family friends. Charge II alleged that on August 20, 2022, respondent initiated, engaged in, and considered improper *ex parte* communications with the plaintiff’s attorney in a matrimonial case that was pending before him. Charge III alleged respondent failed to file his 2021 financial disclosure statement with the Ethics Commission for the Unified Court System (“Ethics Commission”) by May 15, 2022, or to seek an extension of time to do so, contrary to the requirements of the Rules of the Chief Judge (22 NYCRR Section 40.2).¹ Respondent filed an Answer dated June 27, 2024.

On August 16, 2024, the Administrator, respondent’s counsel and respondent entered into an Agreed Statement of Facts (“Agreed Statement”) pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending

¹ After the Ethics Commission sent him a Notice to Cure and then a Notice of Delinquency, respondent filed his financial disclosure statement on August 23, 2022.

that respondent be admonished and waiving further submissions and oral argument.

On September 19, 2024, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent was admitted to the practice of law in New York in 1990. He has been a Justice of the Supreme Court, Westchester County, since 2022. Respondent's current term expires on December 31, 2035.

As to Charge I of the Formal Written Complaint

2. In 2022, respondent voluntarily prepared two Character Reference Letter forms, in which he indicated his occupation as a Supreme Court Justice, in support of pistol license applications filed with the Westchester County Department of Public Safety on behalf of family friends Michael Rafferty and Laurence Cheatham.

Regarding Michael Rafferty

3. Respondent has known Michael Rafferty since Mr. Rafferty was a child. Respondent's daughter was a close childhood friend of Mr. Rafferty's sister, and the two families have remained in touch through the years.

4. In June 2022, at the request of Mr. Rafferty's sister Caitriona, respondent agreed to serve as a character witness in support of Mr. Rafferty's application for a pistol license.

5. On June 14, 2022, respondent completed and signed a Character Reference Letter form for Mr. Rafferty, in which he indicated his occupation as “Justice Sup. Ct.” and described Mr. Rafferty as “a personal and family friend.”

6. Respondent gave the letter to Mr. Rafferty, who submitted it to the Westchester County Clerk Pistol Licensing Division.

Regarding Lawrence Cheatham

7. Respondent has known Laurence Cheatham since Mr. Cheatham was in high school. Mr. Cheatham and respondent’s son were friends, and over the years, Mr. Cheatham became a friend of respondent and his family.

8. In 2022, at Mr. Cheatham’s request, respondent agreed to serve as a character reference in support of Mr. Cheatham’s application for a pistol license.

9. On October 13, 2022, respondent completed and signed a Character Reference Letter form for Mr. Cheatham, in which he indicated his occupation as “Supreme Court Justice.” The letter described Mr. Cheatham as a “very thoughtful, kind and caring young man” whom respondent had known for “close to twenty years.”

10. Respondent gave the letter to Mr. Cheatham for submission to the Westchester County Clerk Pistol Licensing Division.

11. In November 2022, respondent became aware that judges are prohibited from voluntarily serving as character witnesses, and on November 18,

2022, he sent a letter to the Westchester County Clerk Pistol Licensing Division, rescinding the reference letters he had provided for Mr. Rafferty and Mr. Cheatham. At the time, Mr. Cheatham had not yet submitted his completed application to the Licensing Division, and at respondent's request, he did not submit the reference respondent had provided him.

As to Charge II of the Formal Written Complaint

12. On August 20, 2022, respondent initiated, engaged in, and considered improper *ex parte* communications with Mitchell Lieberman, the plaintiff's attorney in a matrimonial case that was pending before him.

13. In 2022, respondent presided over *Allison Cooper Cohen v Jacques Cohen*, a contested matrimonial matter. Mitchell P. Lieberman and John O. Farley represented the plaintiff, Stuart P. Slotnick represented the defendant, and Tiffany Gallo was appointed attorney for the children.

14. On August 17, 2022, respondent's court attorney at the time, Edit Shkreli,² conducted a case conference at which the parties, Mr. Farley, Mr. Slotnick and Ms. Gallo were present. Subsequent to the conference, respondent learned from Ms. Shkreli that Mr. Farley had become contentious during the conference.

² In January 2024, Ms. Shkreli took office as an elected judge of the New York City Civil Court, serving in Bronx County.

15. On August 19, 2022, Supreme Court Justice Lewis Lubell (Westchester County) asked respondent to his chambers and said he had become aware of a problem involving Ms. Shkreli during the August 17th conference conducted by Ms. Shkreli in the *Cohen* case. Judge Lubell suggested that respondent insulate Ms. Shkreli from handling any cases involving Mr. Lieberman or his firm, and that respondent should speak to Mr. Lieberman to work things out.

16. On Saturday, August 20, 2022, respondent sent a text message to Mr. Lieberman that read, “Hey Mitch, this is Tom Quinones. I had a conversation with Judge Lubell last evening. Please let me know when you have a few minutes to chat.”

17. Mr. Lieberman telephoned and spoke with respondent later that day. Respondent told Mr. Lieberman that he had learned of the August 17th conference conducted by Ms. Shkreli, that he had spoken with Judge Lubell about the matter, and that pursuant to Judge Lubell’s guidance, he would be insulating Ms. Shkreli from all of his and his law firm’s cases.

18. Respondent did not disclose to the parties, defense counsel or the attorney for the children that he had spoken to Judge Lubell on August 19th or Mr. Lieberman on August 20th. Respondent did not discuss the substance of the case with any of the parties or attorneys.

As to Charge III of the Formal Written Complaint

19. Pursuant to Part 40 of the Rules of the Chief Judge (22 NYCRR Section 40.2), respondent is required to file a financial disclosure statement with the Ethics Commission by May 15 of each year with respect to his finances for the previous calendar year.

20. Respondent did not file his 2021 statement by May 15, 2022.

21. The Ethics Commission sent, and respondent received, a Notice to Cure dated June 23, 2022, notifying him of his failure to file his 2021 financial disclosure statement. Notwithstanding the notice, respondent did not file his 2021 statement.

22. Thereafter, the Ethics Commission sent, and respondent received, a Notice of Delinquency dated August 23, 2022, notifying him that his continued failure to file his 2021 financial disclosure statement subjected him to disciplinary action. Respondent filed his 2021 financial disclosure statement the same day that he received the Notice of Delinquency.

23. Respondent filed his 2021 financial disclosure statement on August 23, 2022, more than three months after it was due, and on the same day the Notice of Delinquency was issued to him.

24. Since August 23, 2022, respondent has timely filed his two subsequent financial disclosure statements. Respondent avers he has every

intention of making timely filings for the balance of his tenure as a judge.

Additional Factors

25. Respondent was new to the bench when he engaged in the conduct herein, having assumed the Supreme Court bench on January 1, 2022.

26. Upon becoming acquainted with the applicable rules, advisory opinions and Commission decisions that constrain judges with regard to providing character references, he rescinded the letters at issue in Charge I.

27. Respondent acknowledges as to Charge II that his communications with Mr. Lieberman, and his reliance on what Judge Lubell told him, were improper and should have been disclosed to all the other attorneys and parties.

28. Respondent has been forthright, cooperative and contrite throughout the Commission's inquiry.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.2(B), 100.2(C), 100.3(B)(6) and 100.3(C)(1) of the Rules Governing Judicial Conduct ("Rules") and should be disciplined for cause, pursuant to Article VI, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charges I through III of the Formal Written Complaint are sustained insofar as they are consistent with the above findings and conclusions and respondent's misconduct is established.

Respondent's actions were inconsistent with his obligations to maintain high standards of conduct and to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." (Rules, §§100.1, 100.2(A)) The Rules, with limited exceptions not applicable here, prohibit a judge from initiating, permitting or considering *ex parte* communications about a pending matter. (Rules, §100.3(B)(6)) In addition, the Rules provide that "[a] judge shall not lend the prestige of judicial office to advance the private interests of the judge or others . . ." and that "[a] judge shall not testify voluntarily as a character witness." (Rules, §100.2(C)) Respondent violated his ethical obligations when he completed the two Character Reference Letter forms, in which he identified himself as a judge; engaged in improper, undisclosed *ex parte* communications in the *Cohen* matter and failed to timely file his 2021 financial disclosure statement.

The Court of Appeals held in *Matter of Lonschein*, 50 NY2d 569, 571-572 (1980), "no Judge should ever allow personal relationships to color his conduct or lend the prestige of his office to advance the private interests of others." It is well-established that a judge is not permitted to voluntarily serve as a character witness including by preparing and signing a Character Reference Letter form in support of a pistol license. *Matter of Aronian*, 2023 Ann Rep of NY Commn on Jud Conduct at 92, 98 ("Respondent violated his ethical obligations when he completed the two

Character Reference Letter forms, in which he identified himself as a judge.”) In addition, in 2010, the Advisory Committee on Judicial Ethics opined that a judge “should not serve as a character reference for a friend who is applying for a pistol permit.” *Adv. Op.* 10-17. When respondent signed such forms for two family friends, he violated his ethical responsibilities.

In addition, respondent violated Section 100.3(B)(6) of the Rules when he initiated and had *ex parte* communications with plaintiff’s counsel in the *Cohen* matter. Moreover, respondent exacerbated his misconduct when he failed to disclose his *ex parte* communications. “Even ‘brief and unsolicited’ *ex parte* communications must be disclosed to the parties.” *Matter of Carter*, 2021 Ann Rep of NY Commn on Jud Conduct at 71, 79.

When he did not file his 2021 financial disclosure statement in a timely manner, respondent failed to comply with his important financial disclosure obligations and failed to “diligently discharge” his administrative duties in violation of the Rules. *Matter of McAndrews*, 2014 Ann Rep of NY Commn on Jud Conduct at 157, 162. Respondent failed to file his 2021 financial disclosure statement on time and failed to file even after receiving a Notice to Cure. It was only after he received a Notice of Delinquency that respondent filed his 2021 financial disclosure statement.

In accepting the jointly recommended sanction of admonition, we have taken into consideration that respondent has acknowledged that his conduct was improper and warrants public discipline. We trust that respondent has learned from this experience and in the future will act in strict accordance with his obligation to abide by all the Rules Governing Judicial Conduct.

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

Mr. Belluck, Ms. Grays, Judge Camacho, Mr. Cambareri, Mr. Doyle, Judge Falk, Mr. Raskin, Judge Singh and Ms. Yeboah concur.


Professor Moore votes to not accept the Agreed Statement on the ground that a private letter of caution is the appropriate disposition.

Judge Miller did not participate.

CERTIFICATION

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

Dated: October 3, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

DETERMINATION

THOMAS F. RATHBUN, JR.,

a Justice of the Salisbury Town Court,
Herkimer County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Graham B. Seiter, Esq.¹
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and Kathleen E. Klein, Of
Counsel) for the Commission

Hon. Thomas F. Rathbun, Jr., *pro se*

¹ Mr. Seiter, who was a member of the Commission at the time of the vote in this matter, is no longer a member of the Commission.

Respondent, Thomas F. Rathbun, Jr., a Justice of the Salisbury Town Court, Herkimer County, was served with a Formal Written Complaint (“Complaint”) dated February 7, 2024 containing five charges. Charge I of the Complaint alleged that since in or about 2022, respondent failed to complete the annual judicial certification training and education required for all non-lawyer town and village court justices by Article VI, Section 20(c) of the New York State Constitution, and Section 105(a) of the Uniform Justice Court Act. As a result, he has been prohibited from performing judicial duties since March 2023. Charge II alleged that for the months of January, February and March 2023, respondent failed to report or remit court funds in a timely manner to the Office of the State Comptroller (“Comptroller”) as required. Charge III alleged that from in or about 2005 through in or about March 2023, respondent displayed a Confederate flag on his desk in chambers. Additionally, from in or about March 2012 through in or about September 2017, respondent posted inappropriate, partisan, political, and otherwise controversial content to his public Facebook page. Charge IV alleged that from in or about February 2021 to in or about January 2022, respondent failed to schedule or otherwise adjudicate *Bradsen Properties, LLC v Perry Siver*, a residential eviction case. Charge V alleged that respondent failed to cooperate with the Commission’s investigation of allegations that he posted inappropriate

content to his Facebook page, by failing to respond to two inquiry letters from the Commission. Respondent did not file an Answer.

By motion dated April 5, 2024, the Administrator of the Commission moved for summary determination pursuant to Sections 7000.6(b) and (c) of the Commission's Operating Procedures and Rules. Respondent did not submit a response to the Commission. By decision and order dated May 2, 2024, the Commission granted the Administrator's motion and determined that the factual allegations of the Complaint were sustained and that respondent's misconduct was established.

By letter dated May 2, 2024, the Commission set a schedule for briefs and oral argument on the issue of sanction. On May 20, 2024, the Administrator submitted a memorandum which argued for respondent's removal. The Administrator waived oral argument unless respondent was to appear. Respondent did not make a submission on the issue of sanction, did not respond to the Administrator's sanction memorandum, and did not appear for oral argument. Thereafter the Commission considered the record of the proceeding and made the following findings of fact.

1. Respondent has been a Justice of the Salisbury Town Court, Herkimer County, since January 1, 2002. His current term expires on December 31, 2025. Respondent is not an attorney.

As to Charge I of the Formal Written Complaint

2. Pursuant to Section 17.2 of the Rules of the Chief Judge, town and village justices are required to complete a basic course of training upon first assuming office, and then to complete an advanced course of training annually while holding office, by December 31st of each year. *See* Uniform Justice Court Act §105(a); 22 NYCRR §17.2.

3. On or about July 18, 2022, the Office of the Deputy Chief Administrative Judge issued respondent a written notice reminding him that justices are required to earn at least twelve Continuing Judicial Education (CJE) credits each year and advised that, as of the date of the letter, respondent had “No Courses Taken” for the year 2022.

4. On or about October 20, 2022, the Office of the Deputy Chief Administrative Judge issued respondent a second written notice reminding him that justices are required to earn at least twelve CJE credits each year and advised that, as of the date of the letter, respondent had “No Courses Taken” for the year 2022.

5. On or about November 22, 2022, the Office of the Deputy Chief Administrative Judge issued respondent a third written notice reminding him that justices are required to earn at least twelve CJE credits each year and advised that, as of the date of the letter, respondent had “No Courses Taken” for the year 2022.

6. On or about December 14, 2022, the Office of the Deputy Chief Administrative Judge issued respondent a fourth written notice reminding him that justices are required to earn at least twelve CJE credits each year and advised that, as of the date of the letter, respondent had “No Courses Taken” for the year 2022.

7. On or about December 29, 2022, the Office of the Deputy Chief Administrative Judge issued respondent a fifth written notice reminding him that justices are required to earn at least twelve CJE credits each year and advised that, as of the date of the letter, respondent had “No Courses Taken” for the year 2022.

8. On or about January 30, 2023, respondent’s request for an extension of time to complete the training, due to health issues, was granted by the Office of the Deputy Chief Administrative Judge, which gave respondent until March 3, 2023, to fulfill his training requirements for the year 2022.

9. Respondent failed to complete the required training for the year 2022 before the March 3, 2023, deadline. As a result, on or about March 3, 2023, Deputy Chief Administrative Judge Norman St. George issued Administrative Order 095/2023 directing that:

- A. All judicial matters pending before respondent be reassigned to German Flatts Town Justice Jeffrey M. Stone;
- B. No additional matters be assigned to respondent; and

- C. Respondent be restricted to judicial chambers until the training was completed and documentation of completion was provided to the District Administrative Judge.

10. To date, respondent has failed to complete the required Continuing Judicial Educational training for the year 2022.

11. Respondent has also failed to complete required Continuing Judicial Educational training for the year 2023. As a result, he remains restricted to judicial chambers without a caseload, and he is ineligible to perform the duties of his judicial office.

As to Charge II of the Formal Written Complaint

12. On or about May 16, 2023, the Comptroller issued respondent a written notice indicating that:

- A. Respondent had failed to file monthly reports for January, February, and March 2023 by the 10th day of the following months with the Comptroller, as required;² and
- B. Respondent's failure to file his monthly reports in a timely manner resulted in his judicial salary being stopped on or about May 16, 2023.

13. To date, respondent has not filed the monthly reports for January, February and March 2023 with the Comptroller as required by law, and his judicial salary remains stopped.

² The filings are required by Section 1803 of the Vehicle and Traffic Law, Sections 2020 and 2021 of the Uniform Justice Court Act, Section 27, subdivision 1, of the Town Law, and Section 99-1 of the State Finance Law.

As to Charge III of the Formal Written Complaint

14. Respondent's judicial office is adjacent to the courtroom via a doorway. He frequently left the door open, and his desk was visible from the courtroom. Respondent permitted attorneys to use the office to conference cases.

15. Beginning in or around 2005 and continuing through in or about March 2023, respondent displayed a statue featuring a Confederate flag on his desk in his judicial office. When the door to his office was open, the Confederate flag was visible from the courtroom. When attorneys used the office to conference cases, the flag was visible to them.

16. Facebook is an internet social networking website and platform that, *inter alia*, allows users to post and share content on their own Facebook pages as well as on the Facebook pages of other users and on Facebook groups. Facebook users are responsible for managing the privacy setting associated with their accounts. At the option of the account holder, the content of one's Facebook page may be viewable online by the public or restricted to one's Facebook "Friends."

17. At all times relevant to this Charge, respondent maintained a personal Facebook account under the name "Thomas Rathbun," which was viewable by the public.

18. On or about March 21, 2012, respondent posted to his Facebook page a meme entitled "AMERICAN PRESIDENTS IN UNIFORM," which depicted

former President Clinton in a High School band uniform and former President Obama wearing a turban.

19. On or about June 13, 2012, respondent posted to his Facebook page a meme featuring a Black man whose underwear was visible above sagging jeans accompanying the text, “Did you know that sagging pants originated in jail, and the inmates would purposely sag their pants as a sign that they were ‘available’ to other inmates for sex.”

20. On or about September 20, 2012, respondent shared to his Facebook page a post in support of then-presidential candidate Mitt Romney.

21. On or about October 1, 2012, respondent posted to his Facebook page a meme attributing the following quote to former President Barack Obama: “HEY, DON’T BE MAD. YOU’RE THE ONE WHO FELL FOR ALL MY BULLSHIT FOUR YEARS AGO.”

22. On or about October 12, 2012, respondent posted to his Facebook page a meme suggesting that then-Vice Presidential candidate Joseph Biden and “the Joker” – a fictional villain from the 1989 movie “Batman” – were “SEPARATED AT BIRTH.”

23. On or about October 12, 2012, respondent posted to his Facebook page a meme of then-Vice Presidential candidate Joseph Biden wearing clown makeup

accompanied by wording which inquired what was so “DAMN FUNNY” about the “ECONOMIC CRISIS.”

24. On or about October 12, 2012, respondent posted to his Facebook page a meme disparaging then-Presidential candidate Barack Obama and suggesting people should vote for then-Presidential candidate Mitt Romney because he was “an adult.”

25. On or about October 31, 2012, respondent posted to his Facebook page a meme that stated, “THAT OBAMA SIGN IN YOUR YARD MIGHT AS WELL SAY ‘YES, I’M STUPID.’”

26. On or about November 16, 2012, respondent posted to his Facebook page a cartoon implying that restaurants charge an “Obamacare surcharge” to fund “*FREE* CONTRACEPTIVES” for women.

27. On or about November 17, 2012, respondent posted to his Facebook page a meme of Hillary Clinton purportedly showing her raising a glass in a toast to four dead Americans, and stating she lied to their families and to the people of the United States because she is “a coward.”

28. On or about November 17, 2012, respondent posted to his Facebook page a cartoon depicting President Obama as the “FOOD STAMP PRESIDENT” and suggesting food stamp recipients will “BECOME DEPENDENT” and “NEVER LEARN TO FEND FOR [THEMSELVES].”

29. On or about January 21, 2013, respondent posted to his Facebook page an image of a Columbia University Foreign Student Identification card depicting then-President Obama with the name “BARRY SOETORO.” Related text below the image indicated that the image had been digitally altered.

30. On or about March 25, 2013, and on or about May 26, 2015, respondent posted to his Facebook page a message suggesting that food stamp recipients are like “ANIMALS” who will “GROW DEPENDENT ON . . . HANDOUTS, AND . . . NEVER LEARN TO TAKE CARE OF THEMSELVES.”

31. On or about April 2, 2013, respondent posted to his Facebook page a meme depicting then-Vice President Joseph Biden, then-President Barack Obama, and then-Speaker of the House Nancy Pelosi in a cage accompanied by the statement, “We don’t need GUN CONTROL. We need IDIOT CONTROL.”

32. On or about April 19, 2013, respondent posted to his Facebook page a post containing a map of New York State accompanied by the suggestion that “fellow Patriots” oppose the “Anti-Gun Law” known as the “SAFE Act.”

33. On or about May 12, 2013, respondent posted to his Facebook page a meme stating, “Why the hell do I have to press one for ENGLISH?? Did America move?”

34. On or about June 30, 2013, respondent posted to his Facebook page an image of then-President Barrack Obama quoting him as stating, “Weapons of war

have no place on our streets,” accompanied by an image of a non-military armored vehicle with the words “Homeland Security” and “POLICE/RESCUE” emblazoned on its side.

35. On or about September 6, 2013, respondent posted to his Facebook page an image of Senator Ted Cruz accompanied by text attributing to him the quote, “Anyone know if President Obama intends to perform background checks on the Syrian rebels before providing them weapons?”

36. On or about June 29, 2015, respondent posted to his Facebook page an image of the Confederate flag and the United States flag, with text suggesting that if one believed the Confederate flag should be banned because it represents “SLAVERY . . . RACISM, MURDER, AND OPPRESSION,” then one must support the banning of the United States flag based upon its history.

37. On or about July 5, 2015, respondent posted to his Facebook page an image of a man wearing a white hooded Ku Klux Klan robe standing next to a burning cross with text stating, *inter alia*, that the Democratic party started the Ku Klux Klan, opposed civil rights legislation, and fought against the right of Black Americans to vote.

38. On or about August 26, 2017, respondent shared to his Facebook page a post stating, “Reality check: Chief Justice Taney told Lincoln any ‘state’ had a legal right to secede and return to be a ‘free and independent state’ . . . i.e., an

independent nation. Thus, General Robert E. Lee was in reality defending his Nation of Virginia against a murderous invasion of his country. And Lincoln was, in reality, the greatest mass murderer America has ever seen. Ain't reality a bitch?"

39. On or about September 2, 2017, respondent posted to his Facebook page an image of Confederate soldiers carrying weapons and a Confederate flag that read, "35,000,000 OF US ARE THE LIVING DESCENDANTS OF BRAVE CONFEDERATE SOLDIERS AND SAILORS AND WE WILL NOT SURRENDER THEIR LEGACY TO YOUR IGNORANCE OR POLITICAL AGENDA."

40. On or about September 5, 2017, respondent posted to his Facebook page an image stating, "'I'm proud to be white' I bet no one passes this on because they are scared of be (sic) called a racist."

41. All of the above posts remained viewable as of February 7, 2024, the date of the Complaint.

As to Charge IV of the Formal Written Complaint

42. On or about February 10, 2021, Ken Bouchard, a process server from National Court Services, sent a petition to the Salisbury Town Court on behalf of Howard Stoll, a member of Bradsen Properties, LLC, to recover real property in the matter of *Bradsen Properties, LLC v Perry Siver*.

43. After several weeks without a response, Mr. Bouchard attempted to contact the court via telephone, but his calls were not returned. He eventually spoke with Town Clerk Stanley Bilinski, who advised that he had not seen respondent in court for a period of months and suggested certain dates and times when Mr. Bouchard might reach respondent. Mr. Bouchard made numerous attempts to reach respondent at the suggested dates and times but was unsuccessful.

44. On or about May 22, 2021, Howard Stoll went to the town hall in an attempt to locate respondent. There, Mr. Bilinski informed him that respondent had not come to court or opened court mail for months. Mr. Bilinski suggested that Mr. Stoll try reaching respondent at his residence.

45. Based upon Mr. Bilinski's suggestion, Mr. Stoll went to respondent's residence several times over a period of several days, but no one answered the door, and respondent could not be located.

46. Mr. Stoll then turned the matter over to his attorney, Gerard Snyder, who also was unable to reach respondent.

47. In or about December 2021, Charles J. Tallent, an attorney for Bradsen Properties, LLC, located respondent at the Salisbury Town Court, during a scheduled calendar for traffic cases, and handed him the papers he had failed to act on during the preceding year. Respondent advised Mr. Tallent he had not

previously seen the documents, despite the fact that the papers had been sent to the court in February 2021.

48. Mr. Stoll’s eviction matter was not resolved until on or about January 12, 2022, when the defendant defaulted by failing to appear. Judgment was entered for the plaintiff, approximately 11 months after his initial filing with the court. As a result of respondent’s neglect of his judicial duties, Mr. Stoll’s case was subjected to unnecessary delays, and he was required to pay additional attorney’s fees.

As to Charge V of the Formal Written Complaint

49. Respondent failed to cooperate with the Commission’s investigation of allegations that he posted inappropriate content to his Facebook page, in that he failed to respond to letters of inquiry from the Commission dated August 10, 2023, and September 25, 2023. The letter of September 25 was personally served upon respondent.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(A), 100.3(B)(1), 100.3(B)(7), 100.3(C)(1), 100.4(A)(1) and (2) and 100.5(A)(1)(c) of the Rules Governing Judicial Conduct (“Rules”) and should be disciplined for cause, pursuant to Article VI, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charges I

through V of the Formal Written Complaint are sustained and respondent's misconduct is established.

The Rules require judges to maintain high standards of conduct and to “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” (Rules, §§100.1, 100.2(A)) Judges are required to “be faithful to the law and maintain professional competence in it”, “diligently discharge the judge’s administrative responsibilities” and “dispose of all judicial matters promptly, efficiently and fairly.” (Rules §§100.3(B)(1), 100.3(B)(7) and 100.3(C)(1)) The Rules also prohibit judges from engaging in extra-judicial activities which “detract from the dignity of judicial office.” (Rules §100.4(A)(2)) Section 100.5(A)(1)(c) of the Rules provides that, with limited exceptions not applicable here, judges shall not “directly or indirectly engage in any political activity . . .” Respondent violated these Rules when he, *inter alia*, failed to complete his mandatory judicial training, displayed a statue featuring a Confederate flag in his chambers and made improper public Facebook posts, including posts lauding the Confederacy and posts engaging in prohibited political activity. In addition, he failed to make required reports to the Office of the State Comptroller, failed to dispose of the *Bradsen* matter in a timely manner and failed to cooperate with the Commission’s investigation.

“Any conduct, on or off the Bench, inconsistent with proper judicial

demeanor subjects the judiciary as a whole to disrespect and impairs the usefulness of the individual Judge to carry out his or her constitutionally mandated function . . .” *Matter of Kuehnel*, 49 NY2d 465, 469 (1980) (citations omitted); *Matter of Senzer*, 35 NY3d 216, 220 (2020) (“[b]ecause judges carry the esteemed office with them wherever they go, they must always consider how members of the public . . . will perceive their actions and statements . . .” (citation omitted)); *Matter of Lonschein*, 50 NY2d 569, 572 (1980) (“[m]embers of the judiciary should be acutely aware that any action they take, whether on or off the bench, must be measured against exacting standards of scrutiny to the end that public perception of the integrity of the judiciary will be preserved.” (citation omitted)).

Respondent disregarded the constitutional and statutory requirements of his judicial office when he failed to complete his required annual judicial training for 2022 and 2023 even after being notified multiple times that he was not in compliance with his obligations. By this conduct, respondent failed to comply with his legal obligations and his administrative responsibilities in violation of the Rules and rendered himself ineligible to serve as a judge. *See, Matter of Lobdell*, 1984 Ann Rep NY Commn on Jud Conduct at 120, 123 (“[b]y failing to attend and complete the training and certification program required by law for all non-lawyer town and village justices, despite repeated notice from the Office of Court Administration and his administrative judge, respondent demonstrated a serious

disregard of the constitutional and statutory obligations of judicial office.”); *Matter of Joedicke*, 1982 Ann Rep NY Commn on Jud Conduct at 73, 76 (“[f]ailure to obtain the required certificate renders a judge unqualified to hold office and has been held, *per se*, to constitute cause for removal.”) By failing to meet his judicial training requirements for 2022, despite being granted an extension of time to do so, and continuing to fail to comply with the requirements for 2023, respondent demonstrated that he is unfit for judicial office.

In additional significant misconduct, respondent undermined the integrity of the judiciary and created at least the appearance of racial bias by displaying a statue featuring a Confederate flag on his desk in his chambers. According to New York statutes, the Battle Flag of the Confederacy is a “symbol[] of hate.” *See, e.g.*, NY CLS Pub B §146(2), NY CLS Educ §1527-a(2) and NY CLS Gen Mun §99-x(2). It is deeply troubling that this flag was displayed on respondent’s desk in his judicial chambers for approximately 18 years until he was relieved of his judicial duties in 2023. The Confederate flag was viewable from the courtroom and by those who used respondent’s chambers to conference cases. Furthermore, respondent made public Facebook posts which also created the appearance of racial bias, including posts that praised the Confederacy. In a recent matter in which a judge created the appearance of racial bias, the Court of Appeals found removal was warranted stating, “[w]e stress that the ‘appearance of such

impropriety is no less to be condemned than is the impropriety itself” . . .” *Matter of Putorti*, 40 NY3d 359, 366 (2023) (citations omitted) By displaying the Confederate flag, a divisive symbol, in his chambers and celebrating the Confederacy in his public Facebook posts, respondent created at least the appearance that he harbored racial bias which severely undermined public confidence in his integrity and impartiality.

The ethical Rules strictly prohibit judges from direct and indirect engagement in political activity other than in connection with their own campaigns for judicial office. (Rules, §100.5(A)(1)(c)) Despite this prohibition, respondent made public Facebook posts in which he improperly engaged in political activity. For example, during a presidential election year, respondent made public posts supportive of a presidential candidate as well as posts denigrating other candidates. “The ethical standards require a judge to avoid extra-judicial conduct that casts doubt on the judge’s impartiality. . . or detracts from the dignity of judicial office. . . Upon assuming the bench, a judge surrenders certain rights and must refrain from certain conduct that may be permissible for others.” *Matter of Barringer*, 2006 Ann Rep of NY Commn on Jud Conduct at 97, 100 (citation omitted); *Matter of Fisher*, 2019 Ann Rep of NY Commn on Jud Conduct at 126, 135 (“[e]very judge must understand that a judge's right to speak publicly is limited because of the important responsibilities a judge has in dispensing justice, maintaining

impartiality and acting at all times in a manner that promotes public confidence in the judge's integrity.”). Through his public Facebook posts, in addition to creating the appearance of racial bias, respondent engaged in improper political activity, detracted from the dignity of his judicial office and undermined public confidence in his integrity.

Furthermore, respondent engaged in a pattern of disregarding his administrative responsibilities and the duties of his judicial office. In addition to failing to comply with mandatory judicial training requirements, respondent failed to report and remit funds to the Office of the State Comptroller for three months. “The handling of official monies is one of a judge’s most important responsibilities. . . . The failure to comply with these mandates constitutes misconduct, even if there is no evidence that monies were missing or used for inappropriate purposes.” *Matter of Ridgeway*, 2010 Ann Rep NY Commn on Jud Conduct at 205, 209 (citations omitted); *See, Matter of Hrycun*, 2002 Ann Rep NY Commn on Jud Conduct at 109, 110 (citations omitted) (“[t]he failure to remit funds promptly to the State Comptroller constitutes neglect of a judge’s administrative duties, even if the money is accounted for and on deposit and even if the amounts are small.”) By not reporting and remitting funds to the State Comptroller as required, respondent failed to diligently perform his administrative duties.

In addition, respondent failed to timely dispose of the *Bradsen* matter, a residential eviction case. Between approximately February 2021 and January 2022, respondent neglected to schedule or adjudicate this matter. Respondent's inattention to his responsibilities in this regard constituted additional misconduct. *See, Matter of Corretore*, 2021 Ann Rep of NY Commn on Jud Conduct at 87, 91 (“[u]ndue delay in rendering judgment in small claims matters undermines public confidence in the judiciary. . . .”)

Moreover, respondent's failure to cooperate during the Commission's investigation as well as his failure to participate in the Commission's proceedings after the Complaint was issued constituted additional significant misconduct. The Commission's Operating Procedures and Rules, 22 NYCRR 7000.3(c), authorize the Commission during an investigation to request a written response from a judge who is the subject of a complaint. During the investigation, respondent failed to respond to two inquiry letters from the Commission, one of which was personally served on him. In addition, he failed to file an Answer to the Complaint as Section 7000.6(b) of the Commission's Operating Procedures and Rules required, failed to respond to the Administrator's motion for summary determination, failed to make a submission regarding sanction after summary determination was granted, failed to respond to the Administrator's memorandum which argued that he should be removed and did not appear for oral argument before the Commission on the issue

of sanction. All judges must be attentive to their responsibility to participate in Commission proceedings. *See, Matter of O'Connor*, 32 NY3d 121, 129 (2018) (“... willingness to cooperate with the Commission's investigations and proceedings is not only required -- it is essential.”) Respondent’s failure to cooperate during the investigation, respond to the Complaint, and participate in the proceedings demonstrated his disdain for the Commission’s important function.

“[T]he purpose of judicial disciplinary proceedings is ‘not punishment but the imposition of sanctions where necessary to safeguard the Bench from unfit incumbents’.” *Matter of Reeves*, 63 NY2d 105, 111 (1984) (citation omitted) In *Matter of Miller*, 35 NY3d 484, 490 (2020) (citation omitted), in determining that removal was the appropriate sanction, the Court of Appeals held that “[a] judge’s behavior must be considered ‘in the aggregate.’” Here, respondent’s failure to comply with his mandatory judicial training requirements for 2022 and 2023, his display of the Confederate flag in his chambers, his inappropriate public Facebook posts, his failure to perform the duties of his office, including reporting and remitting funds to the State Comptroller, and his decision to ignore the Commission’s investigation and proceedings render him unfit for judicial office and warrant his removal.³

³ This finding is consistent with New York attorney grievance proceedings in which nonresponsive attorneys are routinely disbarred. *Matter of Carlos*, 192 AD3d 170 (1st Dept. 2021); *Matter of Lovett*, 194

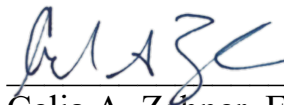
By reason of the foregoing, the Commission determines that the appropriate disposition is removal.

Mr. Belluck, Ms. Grays, Judge Camacho, Mr. Doyle, Judge Falk, Judge Miller, Professor Moore, Mr. Raskin, Mr. Seiter, Judge Singh and Ms. Yeboah concur.

CERTIFICATION

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

Dated: August 5, 2024



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

AD3d 39 (2nd Dept. 2021); *Matter of McCoy-Jacien*, 181 AD3d 1089 (3rd Dept. 2020); *Matter of Shaw*, 180 AD3d 1 (4th Dept. 2019).

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

JAMES H. RIDGEWAY,

DETERMINATION

a Justice of the Richland Town Court,
Oswego County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and David M. Duguay, Of
Counsel) for the Commission

Robert F. Julian for respondent

Respondent, James H. Ridgeway, a Justice of the Richland Town Court,

Oswego County, was served with a Formal Written Complaint (“Complaint”) dated August 2, 2024 containing two charges. Charge I of the Complaint alleged that from June 2006 through May 2017, respondent engaged in prohibited political activity by making 179 prohibited political contributions totaling more than \$4,400. Charge II alleged that from March 2019 through April 2023, respondent engaged in prohibited political activity by making 116 prohibited political contributions, attributed to him through his wife, totaling more than \$1,600.

On November 1, 2024, the Administrator, respondent’s counsel and respondent entered into an Agreed Statement of Facts (“Agreed Statement”) pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be admonished and waiving further submissions and oral argument.

On December 12, 2024, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent has been a Justice of the Richland Town Court, Oswego County, since 2000. His current term expires on December 31, 2027. He previously served as an Acting Justice of the Pulaski Village Court, Oswego County, from 2001 to 2012. Respondent is not an attorney.

As to Charge I of the Formal Written Complaint

2. In early 2006, respondent became a staff representative with the United Steelworkers Union (“USW”).

3. In connection with his USW employment, respondent made political contributions to the United Steelworkers Political Action Fund (“USW PAF”), ActBlue, and Bernie 2016.

4. The USW PAF is a fund for member contributions that are used to support the union’s efforts to elect pro-worker, pro-union lawmakers.

5. From June 15, 2006 to May 31, 2017, respondent made 138 contributions to the USW PAF, totaling approximately \$3,311. Respondent’s contributions to the USW PAF were paid through automatic payroll deductions that he authorized.

6. ActBlue is an online fundraising platform for Democratic candidates, organizations identified as “progressive,” and certain nonprofit organizations. ActBlue is a conduit for small-dollar donors to contribute to political candidates and organizations of their choice.

7. From October 10, 2006 to October 27, 2016, respondent made 33 contributions to ActBlue totaling approximately \$824. Respondent made these contributions to ActBlue on a credit card in his own name, the bills for which respondent paid through his personal checking account.

8. “Bernie 2016” refers to the campaign of United States Senator Bernie Sanders, who was a candidate for the Democratic Party’s presidential nomination in 2016.

9. From August 25, 2015 to April 8, 2016, respondent made eight contributions to *Bernie 2016* totaling approximately \$265. Respondent’s contributions to *Bernie 2016* were made on a credit card in respondent’s name, the bills for which respondent paid through his personal checking account.

As to Charge II of the Formal Written Complaint

10. In June 2017, respondent retired from employment with USW and his payroll deductions ended. Nevertheless, ActBlue continued to communicate electronically with respondent and/or his wife, seeking political contributions, including contributions to ActBlue directly and contributions earmarked for specific entities through ActBlue.

11. From March 31, 2019 to April 16, 2023, respondent’s wife made 109 contributions to ActBlue, totaling approximately \$1,306. Respondent’s wife made these contributions using a credit card in respondent’s name, the bills for which respondent paid through his personal checking account. Attendant to these payments, respondent’s wife listed respondent’s name as the contributor and indicated that respondent was employed by the Town of Richland as a judge or part-time judge.

12. “Stop Republicans” is a program of the Progressive Turnout Project, dedicated to defeating Republican Party candidates and causes and encouraging support of Democratic Party candidates and causes.

13. From August 11, 2020 to November 13, 2020, respondent’s wife made seven contributions to Stop Republicans, totaling \$322. Respondent’s wife made these contributions using a credit card in respondent’s name, the bills for which respondent paid through his personal checking account. Attendant to these payments, respondent’s wife listed respondent’s name as the contributor and indicated that respondent was not employed, notwithstanding that he was at the time employed as a Justice of the Richland Town Court.

Additional Factors

14. Respondent has been cooperative and contrite throughout the Commission’s investigation.

15. Respondent acknowledges that before making political contributions, he should have researched pertinent decisions of the Commission and opinions of the Advisory Committee on Judicial Ethics, which constrain judges from making such contributions.

16. Respondent now recognizes that it was improper for him, as a judge, to cede to his spouse, employer or anyone else, the authority and means to make political contributions, in his name, that he did not approve or were otherwise

prohibited. He commits to being more vigilant in this regard for the remainder of his judicial service.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), and 100.5(A)(1)(h) of the Rules Governing Judicial Conduct (“Rules”) and should be disciplined for cause, pursuant to Article VI, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charges I and II of the Formal Written Complaint are sustained insofar as they are consistent with the above findings and conclusions and respondent’s misconduct is established.

The Rules require judges to maintain high standards of conduct and to “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” (Rules, §§100.1, 100.2(A)) The Rules also provide that judges must refrain from directly or indirectly engaging in political activity, including making contributions to a political organization or candidate. (Rules, §100.5(A)(1)(h)) Respondent acknowledged that he violated the Rules by making prohibited political contributions to the United Steelworkers Political Action Fund, ActBlue, Bernie 2016 and Stop Republicans.

The Court of Appeals upheld the restrictions on political activity by judges set forth in Section 100.5(A)(1)(h) of the Rules stating, “the rules are

constitutionally permissible because they are narrowly tailored to further a number of compelling state interests, including preserving the impartiality and independence of our state judiciary and maintaining public confidence in New York State's court system." *In re Raab*, 100 NY2d 305, 312 (2003). Consistent with this decision, judges have been disciplined for making prohibited political contributions, including such contributions made by their law firm about which the judge was unaware. *Matter of Sakowski*, 2016 Ann Rep of NY Commn on Jud Conduct at 178, 185 ("The contributions by respondent's law firm were improper regardless of whether respondent was aware of them or who signed the checks. . ."); *Matter of Kelly, Jr.*, 2012 Ann Rep of NY Commn on Jud Conduct at 113, 128 ("The onus was on respondent to ensure that his law firm was in compliance with the ethical rules.").

Respondent acknowledged that he made approximately 179 contributions to political organizations and campaigns and also paid for an additional 116 prohibited political contributions that his wife attributed to him. By this conduct, respondent undermined confidence in the impartiality and independence of the judiciary and violated his ethical obligations.

In accepting the jointly recommended sanction of admonition, we have taken into consideration that respondent has acknowledged that his conduct was improper and warrants public discipline. We trust that respondent has learned

from this experience and in the future will act in strict accordance with his obligation to abide by all the Rules Governing Judicial Conduct.

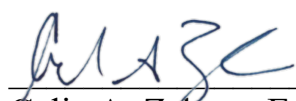
By reason of the foregoing, the Commission determines that the appropriate disposition is admonition.

Mr. Belluck, Ms. Grays, Judge Camacho, Mr. Cambareri, Mr. Doyle, Judge Falk, Judge Miller, Professor Moore, Mr. Raskin, Judge Singh and Ms. Yeboah concur.

CERTIFICATION

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

Dated: December 18, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

KATHLEEN L. ROBICHAUD,

a Judge of the Rensselaer City Court,
Rensselaer County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Graham B. Seiter, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and Kathleen E. Klein, Of
Counsel) for the Commission

Trey Smith for Judge Robichaud

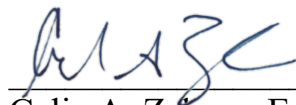
The matter having come before the Commission on May 2, 2024; and the

Commission having before it the Stipulation dated April 19, 2024; and Judge Robichaud having tendered her resignation dated April 18, 2024 effective May 17, 2024; and having affirmed that after vacating her judicial office, she will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: May 2, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

KATHLEEN L. ROBICHAUD,

STIPULATION

a Judge of the Rensselaer City Court,
Rensselaer County.

THE FOLLOWING IS HEREBY STIPULATED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct (“Commission”), and the Honorable Kathleen L. Robichaud.

1. Kathleen L. Robichaud was admitted to the practice of law in New York in 1990. She has been a Judge of the Rensselaer City Court, Rensselaer County, since January 1, 1996. Her current term expires on December 31, 2025.

2. In March 2023, the Commission apprised Judge Robichaud that it was investigating two complaints alleging that she: (A) failed to renew her attorney registration within thirty days of her birthday in June 2022 and failed to change her email address so that it does not reflect her judicial title, notwithstanding that in July 2022, in a written stipulation, she affirmed to the Commission that she had done so, and (B) failed to file her 2021 financial disclosure statement with the Ethics Commission for the Unified Court System by the required deadline. In

August 2023, Judge Robichaud was advised by the Commission that it was also investigating a third complaint alleging that she made prohibited political contributions.

3. Judge Robichaud has tendered her resignation by letter to the Chief Administrative Judge, a copy of which is annexed as Exhibit 1.

4. Judge Robichaud affirms that she will vacate judicial office on or before May 17, 2024, and that she will neither seek nor accept judicial office at any time in the future.

5. Pursuant to Section 47 of the Judiciary Law, the Commission may continue with proceedings against a judge who has resigned and, if it so determines, render and file a determination that the judge should be removed from office. Pursuant to Article VI, section 22(h) of the Constitution, a judge who is removed from office “shall be ineligible to hold other judicial office.”

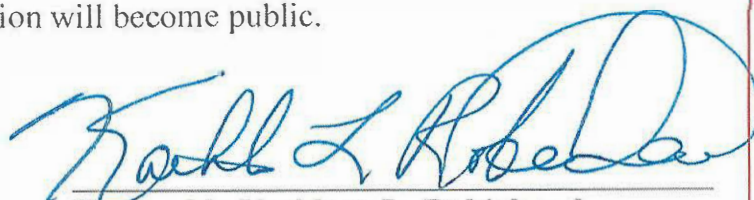
6. Judge Robichaud understands that, should she abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission’s investigation of the complaint would be revived, she would be served with a Formal Written Complaint on authorization of the Commission, and the matter would proceed to a hearing before a referee.

7. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation


that the matter be concluded, by the terms of this Stipulation, without further proceedings.

8. Judge Robichaud waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (A) this Stipulation will become public upon being signed by the signatories below, and (B) the Commission's Decision and Order regarding this Stipulation will become public.

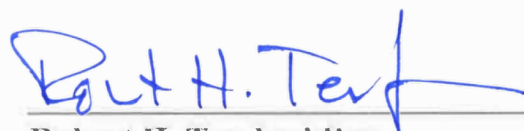
Dated: April 19, 2024


Honorable Kathleen L. Robichaud

Dated: April 19, 2024


Trey Smith, Esq.
Trey Smith Law, PLLC
Attorney for Judge Robichaud

Dated: April 19, 2024


Robert H. Tembeckjian
Administrator & Counsel to the Commission
(Cathleen S. Cenci and Kathleen E. Klein,
Of Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV:
EXHIBIT 1: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

MITCHELL Q. SOULES, JR.,

a Justice of the Little Falls Town Court,
Herkimer County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Graham B. Seiter, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci Of Counsel) for the
Commission

Michael E. Daley for Judge Soules

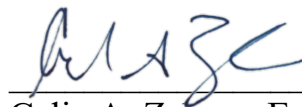
The matter having come before the Commission on May 2, 2024; and the

Commission having before it the Stipulation dated April 25, 2024; and Judge Soules having tendered his resignation effective April 17, 2024; and having affirmed that having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: May 2, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

MITCHELL Q. SOULES, JR.,

STIPULATION

a Justice of the Little Falls Town Court,
Herkimer County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct, and the Honorable Mitchell Q. Soules, Jr., and his attorney, Michael E. Daley:

1. Judge Soules has been a Justice of the Little Falls Town Court, Herkimer County, since January 2022. His current term expires on December 31, 2025. Judge Soules is not an attorney.

2. In July 2023, the Commission authorized investigation of a complaint against Judge Soules based upon his having been arrested and charged with felonies for possession and sale of cocaine. In September 2023, the Commission authorized investigation of another complaint against Judge Soules, alleging that he invoked his judicial office with Herkimer police to give him a ride home from a location where he was stranded.

3. On April 17, 2024, Judge Soules pleaded guilty to one count of criminal sale of a controlled substance in the third degree, a felony.

4. Judge Soules has tendered his resignation from judicial office. A copy of his resignation letter, dated and effective April 17, 2024, is annexed as Exhibit 1.

5. Pursuant to Section 47 of the Judiciary Law, the Commission may continue with proceedings against a judge who has resigned and, if it so determines, render and file a determination that the judge should be removed from office. Pursuant to Article VI, section 22(h) of the Constitution, a judge who is removed from office “shall be ineligible to hold other judicial office.”

6. Judge Soules affirms that, having vacated his judicial office on April 17, 2024, he will neither seek nor accept judicial office at any time in the future.

7. Judge Soules understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission’s investigation of the complaints would be revived, he would be served with a Formal Written Complaint on authorization of the Commission, and the matter would proceed to a hearing before a referee.

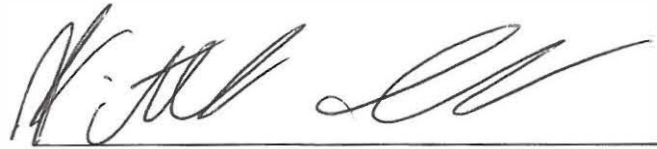
8. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation

that the matter be concluded, by the terms of this Stipulation, without further proceedings.

9. Judge Soules waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (A) this Stipulation will become public upon being signed by the signatories below, and (B) the Commission's Decision and Order regarding this Stipulation will become public.

Dated:

4/24/24



Honorable Mitchell Q. Soules, Jr.

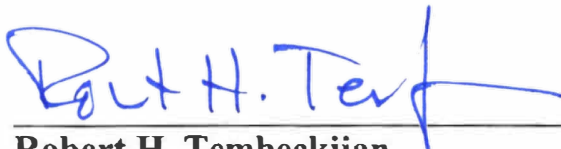
Dated:

4/24/24



Michael E. Daley
Attorney for **Judge Soules**

Dated: April 25, 2024



Robert H. Tembeckjian
Administrator & Counsel to the Commission
(**Cathleen S. Cenci**, Of Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV:
EXHIBIT 1: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

DONALD R. SPACCIO,

a Justice of the Montour Falls Village Court and
Montour Town Court, Schuyler County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and Cassie M. Kocher, Of
Counsel) for the Commission

Honorable Donald R. Spaccio, *pro se*

The matter having come before the Commission on September 19,
2024; and the Commission having before it the Stipulation dated September 11,

2024; and Judge Spaccio having tendered his resignation dated September 9, 2024 effective October 7, 2024; and having affirmed that once he has vacated his judicial office, he will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Dated: September 19, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

DONALD R. SPACCIO, **STIPULATION**

a Justice of the Montour Falls Village Court and
Montour Town Court, Schuyler County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct, and the Honorable Donald R. Spaccio:

1. Donald R. Spaccio has been a Justice of the Montour Falls Village Court, Schuyler County, since November 8, 2001, and a Justice of the Montour Town Court, Schuyler County, since January 24, 2005. His current term as village justice expires on March 31, 2026, and as town justice on December 31, 2025. Judge Spaccio is not an attorney.
2. In April 2024, the Commission apprised Judge Spaccio that it was investigating complaints that he: (A) shouted at law enforcement officers and invoked his judicial office when police asked him to remove a propane cannon from the roof of his building, (B) yelled profanities at the Town of Montour Code Enforcement Officer during the course of a dispute, and (C) attended the political

rally in Washington, DC, on January 6, 2021, notwithstanding the prohibition on judicial participation in political activities outside the “Window Period” when a judge or judicial candidate is running for elected judicial office.¹

3. Judge Spaccio has tendered his resignation by letter dated September 9, 2024, a copy of which is annexed as Exhibit 1, stating that he will vacate judicial office as of October 7, 2024.

4. Pursuant to Section 47 of the Judiciary Law, the Commission may continue with proceedings against a judge who has resigned and, if it so determines, render and file a determination that the judge should be removed from office. Pursuant to Article VI, section 22(h) of the Constitution, a judge who is removed from office “shall be ineligible to hold other judicial office.”

5. Judge Spaccio affirms that he will vacate his judicial offices by the close of business on October 7, 2024, and he will neither seek nor accept judicial office at any time in the future.

6. Judge Spaccio understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission’s investigation of the complaint would be revived, he would be

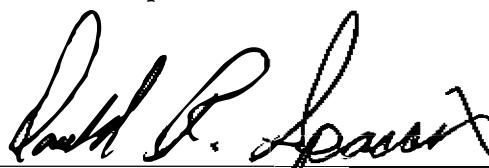
¹ Sections 100.0(Q) and 100.5 of the Rules Governing Judicial Conduct define the “Window Period” and the nature of permissible political activity for judges and judicial candidates.

served with a Formal Written Complaint on authorization of the Commission, and the matter would proceed to a hearing before a referee.

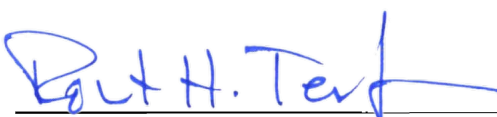
7. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

8. Judge Spaccio waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (A) this Stipulation will become public upon being signed by the signatories below, and (B) the Commission's Decision and Order regarding this Stipulation will become public.

Dated:


Honorable Donald R. Spaccio

Dated: September 11, 2024


Robert H. Tembeckjian
Administrator & Counsel to the Commission
(John J. Postel and Cassie M. Kocher,
Of Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV:
EXHIBIT 1: JUDGE'S LETTER OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

GREGORY P. STORIE,

DETERMINATION

a Judge of the County Court,
St. Lawrence County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Graham B. Seiter, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and S. Peter Pedrotty, Of
Counsel) for the Commission

William J. Galvin for respondent

Respondent, Gregory P. Storie, a Judge of the County Court, St. Lawrence

County, was served with a Formal Written Complaint (“Complaint”) dated January 4, 2024 containing one charge. The Complaint alleged that on January 5, 2023, in connection with *People v Michael J. Snow*, in which the defendant was charged with murder, respondent initiated and engaged in an unscheduled discussion about the case in chambers and made inappropriate statements to the defense attorney and an Assistant District Attorney who was not assigned to the case, conveying that he was biased against the defendant, would accept a guilty plea from the defendant notwithstanding that the defendant appeared “catatonic,” and would be swayed by public clamor and/or fear of criticism to impose the maximum sentence upon the defendant.

On January 29, 2024, the Administrator, respondent’s counsel and respondent entered into an Agreed Statement of Facts (“Agreed Statement”) pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be censured and waiving further submissions and oral argument.

On March 14, 2024, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent was admitted to the practice of law in New York in 2007. He has been a Judge of the County Court, St. Lawrence County, since January 1, 2021, having previously served as a Justice of the Canton Village Court, St.

Lawrence County, from 2010 to 2012. Respondent's term expires on December 31, 2030.

2. On March 31, 2022, a St. Lawrence County grand jury charged Michael J. Snow with Murder in the Second Degree, Manslaughter in the First Degree, Assault in the First Degree and Criminal Use of a Firearm in the First Degree for allegedly shooting and killing Elizabeth Howell, a SUNY Potsdam student, on February 18, 2022. The case received substantial attention from local media outlets.

3. St. Lawrence County District Attorney Gary M. Pasqua personally handled the prosecution of the defendant. The defendant was represented by St. Lawrence County Public Defender James M. McGahan.

4. On April 11, 2022, respondent arraigned the defendant and remanded him to the custody of the St. Lawrence County Sheriff.

5. On May 6, 2022, Mr. McGahan filed a Notice of Intent to Proffer Psychiatric Evidence at a trial in *People v Snow*, in connection with the assertion of an affirmative defense of lack of criminal responsibility by reason of mental disease or defect.

6. By Order dated November 2, 2022, respondent scheduled the *Snow* trial to commence on January 30, 2023.

7. On January 5, 2023, respondent was conferencing unrelated cases in chambers with Mr. McGahan and Assistant District Attorney Michael Abbruzzese of St. Lawrence County. A probation officer was also present.

8. Notwithstanding that *People v Snow* was not scheduled to be conferenced, and in the absence of Mr. Pasqua, respondent raised the topic of the possibility of the *Snow* case being resolved by a plea to the indictment. When Mr. McGahan reported, in sum or substance, that the District Attorney's Office had offered to permit the defendant to plead to the indictment and leave sentencing to the court's discretion, respondent stated, in sum or substance, that he would sentence the defendant to the maximum of 25 years to life because anything less would not look good in the media or to the victim's family. When Mr. Abbruzzese asked respondent what incentive the defendant would have to plead under that circumstance, respondent stated, in sum or substance, that the defendant might do so rather than proceed to trial because he appeared to be "catatonic."

9. At a pre-trial conference in the *Snow* case on January 18, 2023, Mr. McGahan and Mr. Pasqua jointly requested that respondent recuse himself from that matter based upon his comments during the January 5 conference.

10. On January 18, 2023, respondent recused himself from *People v Snow* and filed a "Reason for Recusal" form, noting the following reason for his recusal: "I wish to avoid any potential appearance of impropriety that my impartiality

might be questioned as it may appear that: Counsel has questioned my impartiality in this matter.”

Additional Factors

11. Respondent’s inappropriate comments regarding the *Snow* case occurred less than two weeks after the Commission issued him a confidential Letter of Dismissal and Caution. The caution letter, which should have prompted respondent to be especially sensitive to his ethical obligations, included the following admonition pertinent to his misconduct in *Snow*:

Finally, in noting that the foregoing conduct occurred while you were running for or were relatively new to judicial office, the Commission hopes you reflect on the qualities of restraint and thoughtful deliberation that contribute to one’s success as a judge....

12. Were a hearing to be held before a Referee in this matter herein, respondent would testify as follows regarding the comments he made as described in paragraph 8 herein:

- A. Respondent acknowledges having made the comments described in paragraph 8 based on Mr. Abbruzzese’s and Mr. McGahan’s recitations of the January 5 conference. While he does not specifically remember making the comments, respondent acknowledges that they were inconsistent with his judicial responsibilities.
- B. Respondent did not actually consider the defendant to be “catatonic” or otherwise incapacitated. If he had, he would have ordered him to undergo an examination pursuant to Article 730 of the Criminal Procedure Law. Nevertheless, respondent acknowledges his comment to that effect was inappropriate.

13. Respondent has been cooperative and contrite throughout the Commission's proceeding. He regrets suggesting that his sentencing decision in *Snow* would be influenced by his concern about potentially negative media reaction, and that he would accept a guilty plea from a "catatonic" defendant. Respondent commits to being more circumspect and sensitive to his ethical obligations and the rights of those appearing before him.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(B)(1), and 100.3(B)(4) of the Rules Governing Judicial Conduct ("Rules") and should be disciplined for cause, pursuant to Article VI, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charge I of the Formal Written Complaint is sustained and respondent's misconduct is established.

The Rules require judges to maintain high standards of conduct and to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." (Rules, §§100.1, 100.2(A)) The Rules also require that judges "shall not be swayed by . . . public clamor or fear of criticism" and "shall perform judicial duties without bias or prejudice against or in favor of any person." (Rules §§100.3(B)(1) and (4)) When respondent stated that if the defendant in the *Snow* matter pled guilty to the indictment, he would sentence him

to the maximum of 25 years to life because a lesser sentence would not look good in the media or to the victim's family, respondent violated the Rules. Moreover, when respondent indicated that rather than go to trial, the *Snow* defendant might plead guilty under those circumstances because the defendant appeared to be "catatonic", respondent gave at least the impression that he was biased against the defendant.

Judges are required to be independent and not swayed by public opinion concerning matters pending before them. "The ability to be impartial and to appear impartial is an indispensable requirement for a judge." *Matter of Frati*, 1996 Ann Rep of NY Commn on Jud Conduct at 83, 84 (citation omitted) (judge "made it appear that he was influenced by community hostility" toward a litigant); *Matter of Dickerson*, 2002 Ann Rep of NY Commn on Jud Conduct at 93 (as a result of unfavorable publicity, judge announced a change in his view of the law) Here, respondent explicitly indicated that his sentencing decision in the *Snow* matter would be influenced by how the sentence would be viewed in the media. When he made this statement, respondent undermined public confidence in the independence and impartiality of the judiciary.

Furthermore, respondent improperly gave at least the appearance that he was biased against the defendant in the *Snow* matter when he described the defendant as "catatonic" and suggested that he would accept a guilty plea from a "catatonic"

defendant. *See, Matter of Knopf*, 2021 Ann Rep of NY Commn on Jud Conduct at 118 (judge exhibited the appearance of bias when he referred to a defendant as a “deadbeat”). Here, respondent’s improper statements caused defense counsel and the prosecutor in the *Snow* matter to make a joint request that respondent recuse himself.

We find it troubling that respondent engaged in this misconduct approximately two weeks after the Commission issued him a confidential Letter of Dismissal and Caution in which he was cautioned to adhere to the Rules Governing Judicial Conduct. After receiving the Letter of Dismissal and Caution, respondent should have been especially attentive to his obligation to follow the Rules. Instead, respondent’s misconduct in this matter was exacerbated because it took place shortly after he received the Letter of Dismissal and Caution from the Commission. *See, Matter of Pebler*, 2021 Ann Rep of NY Commn on Jud Conduct at 263, 270-271.

In accepting the jointly recommended sanction of censure, we have taken into consideration that respondent has acknowledged that his conduct was improper and warrants public discipline and that he has committed to being more sensitive to his ethical obligations and the rights of individuals who appear before him. We trust that respondent has learned from this experience and in the future

will act in strict accordance with his obligation to abide by all the Rules Governing Judicial Conduct.

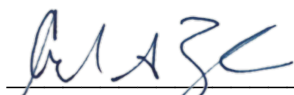
By reason of the foregoing, the Commission determines that the appropriate disposition is censure.

Mr. Belluck, Ms. Grays, Judge Camacho, Mr. Doyle, Judge Falk, Judge Miller, Ms. Moore, Mr. Raskin, Mr. Seiter, Judge Singh and Ms. Yeboah concur.

CERTIFICATION

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

Dated: April 3, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

KATHY WACHTMAN,

a Justice of the Wolcott Village Court and the
Huron Town Court, Wayne County.

DECISION
AND
ORDER

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and M. Kathleen Martin, Of
Counsel) for the Commission

Honorable Kathy Wachtman, *pro se*

The matter having come before the Commission on October 24, 2024;
and the Commission having before it the Stipulation dated October 21, 2024; and

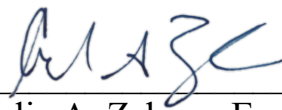
Judge Wachtman having tendered her resignations dated August 15, 2024 effective December 31, 2024; and having affirmed that having vacated her judicial offices, she will neither seek nor accept judicial office at any time in the future, and having waived confidentiality as provided by Judiciary Law Section 45 to the extent that the Stipulation will become public upon being signed by the signatories and that the Commission's Decision and Order with respect thereto will become public; now, therefore, it is

DETERMINED, on the Commission's own motion, that the Stipulation is accepted and that the pending matter is concluded, by the terms of the Stipulation, subject to being revived according to the terms of the Stipulation; and it is

SO ORDERED.

Judge Miller did not participate.

Dated: October 24, 2024



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Investigation of Complaints
Pursuant to Section 44, subdivisions 1 and 2,
of the Judiciary Law in Relation to

KATHY WACHTMAN

STIPULATION

a Justice of the Wolcott Village Court and Huron
Town Court, Wayne County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H.
Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct,
and the Honorable Kathy Wachtman:

1. Kathy Wachtman has been a Justice of the Wolcott Village Court,
Wayne County, since September 1, 2019, and a justice of Huron Town Court,
Wayne County, since April 2, 2013. Her current term as village justice expires on
September 1, 2025, and as town justice on December 31, 2025. Judge Wachtman
is not an attorney.

2. In January 2024, the Commission apprised Judge Wachtman that it was
investigating a complaint alleging as follows:

A. On February 8, 2022, in *People v* [REDACTED], a matter
pending before her co-judge, Judge Wachtman *sua sponte*
issued an *ex parte* order of protection, without notice to the

defendant or the defendant's attorney, amending a prior order of protection and adding a protected party; and

- B. Judge Wachtman dated the amended order of protection to February 3, 2022, creating the false appearance that it had been executed and served in court five days earlier, when the defendant had previously appeared in court.

3. Judge Wachtman was scheduled to testify at the Commission in connection with this matter on November 6, 2024.

4. Judge Wachtman has tendered her resignation from both of her judicial positions by letters dated August 15, 2024, copies of which are annexed as Exhibit 1, stating that she will vacate her judicial offices on December 31, 2024.

5. Pursuant to Section 47 of the Judiciary Law, the Commission may continue with proceedings against a judge who has resigned and, if it so determines, render and file a determination that the judge should be removed from office. Pursuant to Article VI, section 22(h) of the Constitution, a judge who is removed from office "shall be ineligible to hold other judicial office."

6. Judge Wachtman affirms that she will vacate her judicial office on December 31, 2024, and she will neither seek nor accept judicial office at any time in the future.


7. Judge Wachtman understands that, should she abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission's investigation of the complaint would be revived, she would be served with a Formal Written Complaint on authorization of the Commission, and the matter would proceed to a hearing before a referee.

8. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

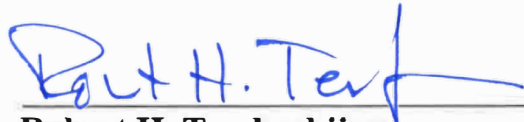
9. Judge Wachtman waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (A) this Stipulation will become public upon being signed by the signatories below, and (B) the Commission's Decision and Order regarding this Stipulation will become public.

Dated:

10/21/24


Honorable Kathy Wachtman

Dated: October 21, 2024


Robert H. Tembeckjian
Administrator & Counsel to the Commission
(John J. Postel and M. Kathleen Martin Of
Counsel)

THE FOLLOWING EXHIBIT IS AVAILABLE AT WWW.CJC.NY.GOV:
EXHIBIT 1: JUDGE'S LETTERS OF RESIGNATION

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

DETERMINATION

VAN H. WHITE,

a Judge of the Rochester City Court,
Monroe County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Graham B. Seiter, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and David M. Duguay, Of
Counsel) for the Commission

Hon. Van H. White, *pro se*

Respondent, Van H. White, a Judge of the Rochester City Court, Monroe

County, was served with a Formal Written Complaint (“Complaint”) dated November 6, 2023 containing three charges. Charge I of the Complaint alleged that on July 23, 2022, just prior to the arraignment of Kelvin J. Vickers, Jr. on criminal charges in connection with his alleged shooting of two Rochester Police Department officers, respondent asked everyone present in the courtroom, including more than a hundred uniformed members of the Rochester Police Department, to join him in a moment of silence for victims of violence. Charge II alleged that on September 29, 2022, respondent participated in a public demonstration against violence near the site where a child had been wounded by stray gunfire the day before, and made televised comments sympathetic to victims of violence, notwithstanding that two individuals had been arrested in connection with the alleged crime, one of whom already had been arraigned in Rochester City Court. Charge III alleged that from July 2022 through May 2023, on his personal website and personal Facebook page, both of which identified him as a Rochester City Court Judge, respondent posted a video that he created entitled, “Deadly Encounters,” which provided legal advice to individuals involved in traffic stops. In the video, which was recorded and posted when he was an attorney in private practice, but which remained posted for approximately 10 months after he took the bench, respondent *inter alia* referred to the police as a “pack of wolves.” Respondent filed an Answer dated November 27, 2023.

On March 26, 2024, the Administrator and respondent entered into an Agreed Statement of Facts (“Agreed Statement”) pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be admonished and waiving further submissions and oral argument.

On May 2, 2024, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent was admitted to the practice of law in New York in 1990. He has been a Judge of the Rochester City Court, Monroe County, since July 14, 2022. Respondent’s term expires December 31, 2032.

As to Charge I of the Formal Written Complaint

2. On July 23, 2022, respondent, who was serving by appointment as a Rochester City Court Judge, was a candidate for election to that office in the election scheduled for November 2022.

3. On July 23, 2022, in *People v Kelvin J. Vickers, Jr.*, respondent arraigned the defendant, who was charged with Murder in the Second Degree, Attempted Murder in the Second Degree, two counts of Criminal Possession of a Weapon in the Second Degree, and Assault in the Second Degree, in connection with the shooting of two Rochester Police Department officers.

4. Prior to the arraignment, over defense counsel's objection, respondent granted media requests to videotape and photograph the proceeding for public distribution and viewing.

5. Just before Mr. Vickers was brought into the courtroom, which was filled with more than 100 uniformed members of the Rochester Police Department, respondent made the following comments from the bench:

Good morning. Actually, it is a difficult morning . . . In the five days that I have been on the bench, this is probably the third occasion where I have felt [it] necessary to ask everyone to join me in a moment of silence . . .

I've seen too many mothers and fathers, sons and daughters here grieving . . . So I ask you all to take [a] moment to think of those left to deal with the tragedy of this type of loss.

Those comments were subsequently published by the media.

As to Charge II of the Formal Written Complaint

6. On September 28, 2022, two defendants were arrested shortly after gunshots were fired in the area of North Clinton Avenue in the Northeast Quadrant of Rochester, New York. A three-year-old boy was struck by a stray bullet.

7. On September 29, 2022, in connection with the shooting, one of two defendants was arraigned in Rochester City Court before a judge other than respondent, on felony assault and weapons charges, as well as on a misdemeanor charge of endangering the welfare of a child.

8. On September 29, 2022, in the evening, after having presided in Rochester City Court during the day, respondent participated in a public rally at a location near the site of the shooting, organized by individuals demonstrating opposition to violence. The demonstration was covered by local media.

9. Respondent spoke to media representatives at the demonstration, both on and off camera, and was identified by name and title in video, online and print news coverage of the event. Among other things, respondent was publicly reported as having said during the demonstration that “the names of the victims have changed, but this problem has not.”

As to Charge III of the Formal Written Complaint

10. Years before becoming a judge, respondent created a personal website with the following web address: <https://www.thelegalbrief.com>.

11. Facebook is an internet social networking website and platform that, *inter alia*, allows users to create and curate their own Facebook pages, on which they can share personal and personalized content. Facebook users are responsible for managing the privacy settings associated with their accounts. At the option of the account holder, the content of one’s Facebook page - including photographs and textual posts - may be viewable online by the general public or restricted to one’s Facebook “Friends.” Years before becoming a judge, respondent created and has maintained a personal Facebook account in the name of “Van Henri White.”

12. Prior to becoming a judge, respondent wrote, produced and narrated a series of legal videos that he called, “The Legal Brief with Van White,” which was accessible to members of the public through his personal website and his personal Facebook page. Respondent’s website described the videos as being designed to inform urban residents of their legal rights.

13. One episode of respondent’s “Legal Brief” was a video of approximately four minutes in length entitled, “Deadly Encounters,” which *inter alia* provided information and commentary about various legal cases, the law, and police weapons. The video *inter alia* advised individuals on how to interact with the police if stopped in their vehicles by law enforcement. “Deadly Encounters,” in which respondent depicted and identified “PR-24s” (*i.e.* a standard-issue police baton) as “the modern-day equivalent of a billy club,” also contained video of aggressive, hostile and violent police behavior, including video of Los Angeles police officers beating Rodney King in 1991 and a photograph of Mr. King’s badly beaten face. In the video, respondent stated, *inter alia*, “you are always going to be on the losing end if it’s a battle between you and a pack of wolves with PR-24s.”

14. From July 2022, when he first became a judge, to May 2023, respondent identified himself as a Rochester City Court Judge on his Facebook page, to which he also posted various photographs of himself in his judicial robe, as well as information related to his judicial appointment and election.

15. From July 2022, when he first became a judge, to May 2023, respondent continued to operate his personal website, on the cover page of which he posted a photograph of himself beside his judicial nameplate and wearing his judicial robe at his Rochester City Court bench.

16. From July 2022, when he first became a judge, to May 2023, the “Deadly Encounters” video, and other videos from respondent’s “Legal Brief” series, remained posted to his personal website (“The Best of the Legal Brief”) and accessible to the public. The website, *inter alia*, included a statement that said:

Now that Van White is a judge, he can no longer practice law or offer legal advice. Therefore, The Legal Briefs contained in this section are from the Legal Briefs archives and are not offered for the purposes of offering legal advice. However, even as a judge, Van will always be there, wherever and whenever he is asked, to inform and inspire our community.

Additional Factors

17. As to Charge I, respondent understands that his conduct, occurring as it did in the context of the shooting of police officers, in the midst of the arraignment of a defendant whose innocence was presumed and whose guilt had not been established, failed to avoid impropriety and the appearance of partiality. Respondent is now more mindful of, and commits to promote, the judicial obligation to be and appear impartial.

18. As to Charge II, respondent understands that his conduct at a public

demonstration, occurring as it did in reaction to a shooting, and shortly after the arraignment of a defendant whose innocence was presumed and whose guilt had not been established, failed to avoid impropriety and the appearance of partiality. Respondent is now more mindful of, and commits to promote, the judicial obligation to be and appear impartial.

19. As to both Charges I and II, the conduct occurred shortly after respondent became a judge. With experience, he is now more attentive to his ethical obligations under the Rules.

20. As to Charge III, respondent has closed his “legalbrief” website and realizes he should have done so promptly upon assuming judicial office, to avoid even the appearance of bias and that he was dispensing legal advice.

21. Between July 2022 and December 2022, respondent communicated with the Advisory Committee on Judicial Ethics on several occasions, in order to clarify and better understand his ethical responsibilities.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(B)(1), 100.3(B)(4), 100.4(A)(1) and 100.4(G) of the Rules Governing Judicial Conduct (“Rules”) and should be disciplined for cause, pursuant to Article VI, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charges I, II and III of the Formal Written

Complaint are sustained insofar as they are consistent with the above findings and conclusions and respondent's misconduct is established.

The Rules require judges to maintain high standards of conduct and to “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” (Rules, §§100.1, 100.2(A)) Judges are prohibited from engaging in extra-judicial activities which “cast reasonable doubt on the judge’s capacity to act impartially as a judge.” (Rules §100.4(A)(1)) The Rules also require that judges “shall not be swayed by . . . public clamor or fear of criticism” and “shall perform judicial duties without bias or prejudice against or in favor of any person.” (Rules §§100.3(B)(1) and (4)) Respondent violated these Rules by the comments he made in the *Vickers* matter shortly before the defendant’s arraignment at a time when all defendants are presumed innocent. Moreover, respondent again violated the Rules when he was identified as a judge and made public statements sympathetic to victims of violence at a demonstration held in response to a shooting when, in connection with that shooting, one individual had been arraigned that same day in Rochester City Court before another judge.

“Upon assuming the bench, a judge surrenders certain rights and must refrain from certain conduct that may be permissible for others. Even otherwise laudable conduct must be avoided if it . . . impairs public confidence in judicial

impartiality and independence.” *Matter of Barringer*, 2006 Ann Rep of NY Commn on Jud Conduct at 97, 100-101. “Every judge must understand that a judge's right to speak publicly is limited because of the important responsibilities a judge has in dispensing justice [and] maintaining impartiality . . .” *Matter of Fisher*, 2019 Ann Rep of NY Commn on Jud Conduct at 126, 135. By his statements and actions, respondent violated the Rules and undermined public confidence in his impartiality.

“The ability to be impartial and to appear impartial is an indispensable requirement for a judge.” *Matter of Frati*, 1996 Ann Rep of NY Commn on Jud Conduct at 83, 84 (citation omitted) (judge “made it appear that he was influenced by community hostility” toward a litigant); *Matter of Elia*, 2023 Ann Rep of NY Commn on Jud Conduct at 120, 133 (“[b]y aligning himself with law enforcement personnel . . . respondent . . . cast doubt on his ability to act impartially when he presided over matters which involved law enforcement personnel.”); *Matter of Peck*, 2022 Ann Rep of NY Commn on Jud Conduct at 136 (judge’s public Facebook post expressing his strong support for law enforcement personnel cast doubt upon the judge’s impartiality). Respondent’s reference to the police as a “pack of wolves” on his public website, which identified him as a judge, cast doubt on his impartiality and was improper. By the totality of his conduct, respondent undermined public confidence in the judiciary and cast doubt on his ability to act

impartially when he presided over matters involving violence or law enforcement personnel.

In addition, as respondent has acknowledged, through his personal website and his Facebook page, both of which identified him as a judge, he improperly provided legal advice in violation of the Rules which prohibit a full-time judge from practicing law. (Rules §100.4(G)) *See, Matter of Nugent Panepinto*, 2021 Ann Rep of NY Commn on Jud Conduct at 239, 248 (judge violated Section 100.4(G) of the Rules when she advised parents at her child's school regarding language to include in letters to meet the legal standard for injunctive relief).

In accepting the jointly recommended sanction of admonition, we have taken into consideration that respondent has acknowledged that his conduct was improper and warrants public discipline, that his misconduct took place shortly after he became a judge and that he has committed to being more sensitive to his ethical obligations. We trust that respondent has learned from this experience and in the future will act in strict accordance with his obligation to abide by all the Rules Governing Judicial Conduct.

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

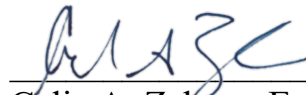
Mr. Belluck, Ms. Grays, Judge Camacho, Mr. Doyle, Judge Miller, Ms. Moore, Mr. Raskin, Mr. Seiter, Judge Singh and Ms. Yeboah concur.

Judge Falk did not participate.

CERTIFICATION

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

Dated: May 13, 2024

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

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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

DETERMINATION

DAVID W. WILBANKS,

a Justice of the Fort Covington Town Court,
Franklin County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Graham B. Seiter, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and Shruti Joshi, Of
Counsel) for the Commission

Hon. David W. Wilbanks, *pro se*

Respondent, David W. Wilbanks, a Justice of the Fort Covington Town

Court, Franklin County, was served with a Formal Written Complaint (“Complaint”) dated October 26, 2023 containing two charges. Charge I of the Complaint alleged that for the months of December 2022 through May 2023, respondent failed to report and remit court funds in a timely manner to the Office of the State Comptroller (“Comptroller”), as required by Section 1803 of the Vehicle and Traffic Law, Sections 2020 and 2021 of the Uniform Justice Court Act, Section 27, subdivision 1 of the Town Law and Section 99-a of the State Finance Law. Charge II alleged that from in or about May 2023 to in or about August 2023, respondent failed to cooperate with the Commission’s investigation of the complaint that he failed to timely report and remit court funds to the Comptroller, in that he failed to respond to two letters from the Commission requesting his response to the complaint; failed to produce court records and other related documents requested by the Commission; and failed to appear for scheduled testimony before the Commission, as was required. Respondent did not file an Answer.

By motion dated December 18, 2023, the Administrator of the Commission moved for summary determination pursuant to Sections 7000.6(b) and (c) of the Commission’s Operating Procedures and Rules. Respondent did not submit a response to the Commission. By decision and order dated January 25, 2024, the Commission granted the Administrator’s motion and determined that the factual

allegations of the Complaint were sustained and that respondent's misconduct was established.

By letter dated January 25, 2024, the Commission set a schedule for briefs and oral argument on the issue of sanction. On February 15, 2024, the Administrator submitted a memorandum which argued for respondent's removal. The Administrator waived oral argument unless respondent was to appear. Respondent did not make a submission on the issue of sanction, did not respond to the Administrator's sanction memorandum, and did not appear for oral argument. Thereafter the Commission considered the record of the proceeding and made the following findings of fact.

1. Respondent has been a Justice of the Fort Covington Town Court, Franklin County, since January 1, 2021. His term expires on December 31, 2024. Respondent is not an attorney.

As to Charge I of the Formal Written Complaint

2. On or about February 14, 2023, the Comptroller issued to respondent a written notice that his December 2022 monthly report had not been filed by the 10th day of the following month as required and still was not on file with the Comptroller.

3. On or about March 22, 2023, the Comptroller issued to respondent a second written notice that his December 2022 monthly report had not

been filed, and simultaneously notified him that he had failed to file his January 2023 monthly report by the 10th day of the following month as required.

4. Respondent failed to file his February 2023 monthly report by the 10th day of the following month as required, and it remained unfiled through on or about mid-April 2023.

5. On or about April 20, 2023, the Comptroller left a phone message for respondent regarding his still-unfiled reports for December 2022, January 2023, and February 2023, as a courtesy before mailing him a notice that his salary would be stopped in connection with those delinquencies.

6. That same day, the Comptroller also sent an email to respondent, again noting the delinquent December 2022 and January 2023 monthly reports and notifying him of his failure to file his February 2023 monthly report in a timely manner. The email further advised respondent of the prior written notices, as well as the phone message left for him that same day, concerning his delinquent reports.

7. On or about April 18, 2023, the Comptroller notified the Fort Covington Town Supervisor to stop respondent's judicial salary in connection with his failure to file his monthly reports for December 2022, January 2023 and February 2023. Thereafter, respondent failed to timely file his reports for March, April and May 2023.

8. Respondent failed to file his monthly reports with the Comptroller for the

months of December 2022 through May 2023 until on or about July 6, 2023.

Thereafter, respondent's judicial salary was resumed.

As to Charge II of the Formal Written Complaint

9. Section 44, subdivision 3, of the Judiciary Law, and Volume 22, Sections 7000.3(c) and (e) of the New York Codes, Rules and Regulations (22 NYCRR 7000.3[c] and [e]), authorize the Commission to request a written response from a judge who is the subject of a complaint, and to require a judge's testimony during an investigation.

10. By letter dated May 3, 2023, the Commission notified respondent that it was investigating a complaint from the Comptroller alleging that he had failed to file reports or remit funds to the Comptroller in the time required by law for the months of December 2022, January 2023, and February 2023, which resulted in his judicial salary being stopped on or about April 18, 2023. The letter requested that respondent provide a written response to the allegations and to produce court records and other related documents by May 31, 2023. The letter was sent to respondent by regular mail and via email to his court system account:

@nycourts.gov.

11. Respondent failed to respond to the Commission's letter of May 3, 2023, and failed to produce any documents requested therein.

12. By letter dated June 14, 2023, the Commission sent respondent a copy

of its letter dated May 3, 2023, and requested his response by June 28, 2023. The letter informed respondent that his “failure to respond may be found by the Commission to be failure to cooperate with the investigation” (emphasis in original).

13. Respondent did not respond to the Commission’s letter of June 14, 2023.

14. By letter dated July 13, 2023, which was personally delivered to the Fort Covington Town Court and accepted by the court clerk, the Commission notified respondent that his testimony concerning the stop-salary complaint was required on August 16, 2023, at 10:30 a.m. at the Commission’s Albany office. The letter noted that the Commission had not received a response from respondent and enclosed a copy of the complaint, as well as copies of the letters from the Commission dated May 3, 2023, and June 14, 2023. The letter of July 13, 2023, requested that respondent confirm his appearance by August 7, 2023.

15. Respondent neither confirmed his appearance for testimony nor provided any documents to the Commission.

16. On or about August 15, 2023, a member of the Commission’s staff telephoned respondent at his place of employment. Respondent confirmed having received the Commission’s letter requiring his appearance the following day for testimony. Respondent stated that he was going to be out of town and could not

appear to testify as scheduled, but offered to appear for testimony on his day off the following week, on August 21, 2023.

17. The Commission sent respondent a letter dated August 15, 2023, to his home address, adjourning his appearance for testimony to August 21, 2023, as he had requested and agreed, and providing directions to the Commission's Albany office.

18. Respondent failed to appear at the Commission's Albany office on August 21, 2023, and failed to communicate with the Commission in any manner. A transcript was prepared on August 21, 2023, noting respondent's failure to appear. On August 23, 2023, a copy of the transcript along with its exhibits and a cover letter were mailed to respondent's home address. Respondent personally received and signed for those documents on August 28, 2023.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(A), 100.3(B)(1) and 100.3(C)(1) of the Rules Governing Judicial Conduct ("Rules") and should be disciplined for cause, pursuant to Article VI, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charges I and II of the Formal Written Complaint are sustained and respondent's misconduct is established.

The Rules require judges to maintain high standards of conduct and to "act

at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” (Rules, §§100.1, 100.2(A)) Judges are required to “be faithful to the law and maintain professional competence in it” and to “diligently discharge the judge’s administrative responsibilities.” (Rules §§100.3(B)(1) and 100.3(C)(1)) When respondent failed to report and remit funds to the State Comptroller as he was required by statute to do, he violated the Rules and undermined public confidence in the judiciary. Moreover, respondent continued to be delinquent even after being notified multiple times that he was not in compliance with his obligations.

“The handling of official monies is one of a judge’s most important responsibilities. . . . The failure to comply with these mandates constitutes misconduct, even if there is no evidence that monies were missing or used for inappropriate purposes.” *Matter of Ridgeway*, 2010 Ann Rep NY Commn on Jud Conduct at 205, 209 (citations omitted). *See, Matter of Hrycun*, 2002 Ann Rep NY Commn on Jud Conduct at 109, 110 (citations omitted) (“The failure to remit funds promptly to the State Comptroller constitutes neglect of a judge’s administrative duties, even if the money is accounted for and on deposit and even if the amounts are small.”) By not reporting and remitting funds to the State Comptroller as required for six months, respondent failed to diligently perform his administrative duties. His conduct brought reproach upon the judiciary.

Furthermore, respondent's failure to cooperate during the Commission's investigation as well as his failure to participate in the Commission's proceedings after the Complaint was issued constituted additional serious misconduct. Section 44(3) of the Judiciary Law and the Commission's Operating Procedures and Rules, 22 NYCRR 7000.3(c) and (e), authorize the Commission during an investigation to request a written response from a judge who is the subject of a complaint and to require a judge's testimony. Respondent failed to respond to two inquiry letters from the Commission and failed to appear for testimony during the Commission's investigation. In addition, he failed to file an Answer to the Complaint as Section 7000.6(b) of the Commission's Operating Procedures and Rules required, failed to respond to the Administrator's motion for summary determination, failed to make a submission regarding sanction after summary determination was granted, failed to respond to the Administrator's memorandum which argued that he should be removed and did not appear for oral argument before the Commission on the issue of sanction. All judges must be attentive to their responsibility to participate in Commission proceedings. *See, Matter of O'Connor*, 32 NY3d 121, 129 (2018) ("... willingness to cooperate with the Commission's investigations and proceedings is not only required -- it is essential.") Respondent's failure to respond to the Complaint and participate in the proceedings demonstrated his disdain for the Commission's important function.

We are mindful that “. . . the extreme sanction of removal is warranted only in the event of “‘truly egregious circumstances’ that extend beyond the limits of ‘even extremely poor judgment’” . . .” *Matter of Putorti*, 40 NY3d 359, 367 (2023) (citation omitted) The Court of Appeals has held that, “the purpose of judicial disciplinary proceedings is ‘not punishment but the imposition of sanctions where necessary to safeguard the Bench from unfit incumbents’.” *Matter of Reeves*, 63 NY2d 105, 111 (1984) (citation omitted) Respondent’s failure to report and remit funds to the State Comptroller was significantly exacerbated by his decision to ignore the Commission’s investigation and proceedings and his misconduct warrants removal.¹

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

Mr. Belluck, Ms. Grays, Judge Camacho, Mr. Doyle, Judge Falk, Judge Miller, Ms. Moore, Mr. Raskin, Mr. Seiter, Judge Singh and Ms. Yeboah concur.

¹ This finding is consistent with New York attorney grievance proceedings in which nonresponsive attorneys are routinely disbarred. *Matter of Carlos*, 192 AD3d 170 (1st Dept. 2021); *Matter of Lovett*, 194 AD3d 39 (2nd Dept. 2021); *Matter of McCoy-Jacien*, 181 AD3d 1089 (3rd Dept. 2020); *Matter of Shaw*, 180 AD3d 1 (4th Dept. 2019).

CERTIFICATION

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

Dated: April 12, 2024



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

APPENDIX G: STATISTICAL ANALYSIS OF COMPLAINTS

COMPLAINTS PENDING AS OF DECEMBER 31, 2023								
SUBJECT OF COMPLAINT		STATUS OF INVESTIGATED COMPLAINTS						TOTALS
		PENDING	DISMISSED	CAUTION	RESIGNED	CLOSED*	ACTION*	
INCORRECT RULING								
NON-JUDGES								
DEMEANOR		22	11	4	3	1	3	44
DELAYS		1	2	1	1	0	0	5
CONFLICT OF INTEREST		3	1	1	3	0	0	8
BIAS		3	4	1	2	0	2	12
CORRUPTION		0	0	0	0	0	0	0
INTOXICATION		1	0	0	0	0	0	1
DISABILITY/QUALIFICATIONS		1	1	0	1	0	0	3
POLITICAL ACTIVITY		4	10	8	2	0	1	25
FINANCES/RECORDS/TRAINING		8	2	5	2	0	3	20
TICKET-FIXING		2	0	0	1	0	0	3
ASSERTION OF INFLUENCE		8	3	1	4	0	2	18
VIOLATION OF RIGHTS		27	13	6	6	3	6	61
MISCELLANEOUS		1	0	0	1	0	2	4
TOTALS		81	47	27	26	4	19	204

*Matters are “closed” upon vacancy of office for reasons other than resignation. “Action” includes determinations of admonition, censure and removal from office by the Commission.

NEW COMPLAINTS CONSIDERED BY THE COMMISSION IN 2024								
SUBJECT OF COMPLAINT	DISMISSED ON FIRST REVIEW OR PRELIMINARY INQUIRY	STATUS OF INVESTIGATED COMPLAINTS						TOTALS
		PENDING	DISMISSED	CAUTION	RESIGNED	CLOSED*	ACTION*	
INCORRECT RULING	1,801							1,801
NON-JUDGES	835							835
DEMEANOR	115	30	5	1	1	0	0	152
DELAYS	53	5	0	0	0	0	0	58
CONFLICT OF INTEREST	47	18	1	0	1	0	0	67
BIAS*	90	6	0	0	0	0	0	96
CORRUPTION	94	3	0	0	0	0	0	97
INTOXICATION	5	5	0	0	0	0	0	10
DISABILITY/QUALIFICATIONS	1	2	0	0	1	0	0	4
POLITICAL ACTIVITY	12	6	1	0	1	0	0	20
FINANCES/RECORDS/TRAINING	23	19	4	0	1	1	0	48
TICKET-FIXING	0	1	0	0	0	0	0	1
ASSERTION OF INFLUENCE	2	8	1	0	0	1	0	12
VIOLATION OF RIGHTS	103	26	0	0	1	1	0	131
MISCELLANEOUS	13	2	4	0	1	1	0	21
TOTALS	3,194	131	16	1	7	4	0	3,353

*Matters are “closed” upon vacancy of office for reasons other than resignation. “Action” includes determinations of admonition, censure and removal from office by the Commission.

* Of the 96 bias complaints received in 2024, 53 were classified as bias against an individual, 51 of which were dismissed upon initial review and two of which were opened for investigation. Forty-three were classified as bias based on a broader basis of race, culture, religion, gender or ethnicity, 39 of which were dismissed upon initial review and four of which were opened for investigation. All six complaints are still being investigated.

ALL COMPLAINTS CONSIDERED IN 2024: 3,353 NEW & 204 PENDING FROM 2023								
SUBJECT OF COMPLAINT	DISMISSED ON FIRST REVIEW OR PRELIMINARY INQUIRY	STATUS OF INVESTIGATED COMPLAINTS						TOTALS
		<i>PENDING</i>	<i>DISMISSED</i>	<i>CAUTION</i>	<i>RESIGNED</i>	<i>CLOSED*</i>	<i>ACTION*</i>	
<i>INCORRECT RULING</i>	1,801							1,801
<i>NON-JUDGES</i>	835							835
<i>DEMEANOR</i>	115	52	16	5	4	1	3	196
<i>DELAYS</i>	53	6	2	1	1	0	0	63
<i>CONFLICT OF INTEREST</i>	47	21	2	1	4	0	0	75
<i>BIAS</i>	90	9	4	1	2	0	2	108
<i>CORRUPTION</i>	94	3	0	0	0	0	0	97
<i>INTOXICATION</i>	5	6	0	0	0	0	0	11
<i>DISABILITY/QUALIFICATIONS</i>	1	3	1	0	2	0	0	7
<i>POLITICAL ACTIVITY</i>	12	10	11	8	3	0	1	45
<i>FINANCES/RECORDS/TRAINING</i>	23	27	6	5	3	1	3	68
<i>TICKET-FIXING</i>	0	3	0	0	1	0	0	4
<i>ASSERTION OF INFLUENCE</i>	2	16	4	1	4	1	2	30
<i>VIOLATION OF RIGHTS</i>	103	53	13	6	7	4	6	192
<i>MISCELLANEOUS</i>	13	3	4	0	2	1	2	25
TOTALS	3,194	212	63	28	33	8	19	3,557

*Matters are “closed” upon vacancy of office for reasons other than resignation. “Action” includes determinations of admonition, censure and removal from office by the Commission.

ALL COMPLAINTS CONSIDERED SINCE THE COMMISSION'S INCEPTION IN 1975								
SUBJECT OF COMPLAINT	DISMISSED ON FIRST REVIEW OR PRELIMINARY INQUIRY	STATUS OF INVESTIGATED COMPLAINTS						TOTALS
		<i>PENDING</i>	<i>DISMISSED</i>	<i>CAUTION</i>	<i>RESIGNED</i>	<i>CLOSED*</i>	<i>ACTION*</i>	
<i>INCORRECT RULING</i>	34,541							34,541
<i>NON-JUDGES</i>	11,574							11,574
<i>DEMEANOR</i>	4,685	52	1,440	391	189	149	292	7,198
<i>DELAYS</i>	1,906	6	214	116	45	24	34	2,345
<i>CONFLICT OF INTEREST</i>	1,020	21	554	202	78	37	151	2,063
<i>BIAS</i>	2,378	9	321	71	43	27	42	2,891
<i>CORRUPTION</i>	1,145	3	159	15	56	24	47	1,449
<i>INTOXICATION</i>	87	6	43	8	19	7	35	205
<i>DISABILITY/QUALIFICATIONS</i>	75	3	38	2	31	18	6	173
<i>POLITICAL ACTIVITY</i>	514	10	404	282	42	39	61	1,352
<i>FINANCES/RECORDS/TRAINING</i>	403	27	422	270	194	111	119	1,546
<i>TICKET-FIXING</i>	28	3	96	161	50	63	172	573
<i>ASSERTION OF INFLUENCE</i>	268	16	242	110	57	25	89	807
<i>VIOLATION OF RIGHTS</i>	3,017	53	732	270	165	92	132	4,461
<i>MISCELLANEOUS</i>	980	3	289	95	49	54	65	1,535
TOTALS	62,621	212	4,954	1,993	1,018	670	1,245	72,713

* Matters are “closed” upon vacancy of office for reasons other than resignation. “Action” includes determinations of admonition, censure and removal from office by the Commission since its inception in 1978, as well as suspensions and disciplinary proceedings commenced in the courts by the temporary and former commissions on judicial conduct operating from 1975 to 1978.



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