

**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**

LETICIA D. ASTACIO,

**A Judge of the Rochester City Court,
Monroe County**

Referee's Report

FINDINGS OF FACT AND CONCLUSIONS OF LAW

By Order of the New York State Commission on Judicial Conduct (the "Commission") dated August 15, 2017, I was designated as referee to hear and report to the Commission with respect to proceedings that had been commenced against Judge Leticia D. Astacio ("Judge Astacio"). Hearings in the matter were held in Syracuse, New York on October 17, 18 and 19, 2017. Counsel to the Commission submitted a Post-Hearing Memorandum and Proposed Findings of Fact and Conclusions of Law dated January 26, 2018. Counsel for Judge Astacio submitted Proposed Findings of Fact and Conclusions of Law on January 26, 2018. On February 7, 2018 Counsel to the Commission submitted a Letter in Reply to Judge Astacio's Proposed Findings of Fact and Conclusions of Law and Counsel for Judge Astacio submitted a Reply Brief.

I make the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Judge Astacio was admitted to practice law in New York in 2007. She has been a Judge of the Rochester City Court, Monroe County, since January 1, 2015. Her current term expires on December 31, 2024 (FWC ¶4; Ans ¶1).¹ On February 24, 2016 by administrative order of the Deputy Chief Administrative Judge of the Courts, Judge Astacio was relieved of her duties as a Judge of the Rochester City Court (Ex J).

2. Judge Astacio is 36 years old, divorced with two children (Tr. 197, 199-200, 216). She has an undergraduate degree and dual degrees in law and social work from the University of Buffalo (Tr. 226-27). Judge Astacio overcame substantial personal and family difficulties to achieve her college and legal education (Tr. 194-200; 218-227). Prior to her election to the City Court, Judge Astacio was employed by the Monroe County Legal Assistance Center, the Monroe County District Attorney's Office and in private practice (Tr. 228-232).

Findings of Fact as to Charge I:

3. On Saturday, February 13, 2016, at approximately 7:54 AM, New York State Trooper Christopher Kowalski, who had been employed by the New York State Police for approximately thirteen years and who was trained in DWI detection and enforcement, was traveling westbound on Interstate 490, west of downtown Rochester,

¹ "FWC" refers to The Formal Written Complaint dated May 30, 2017. "Ans" refers to Judge Astacio's Amended Answer to the Formal Written Complaint dated September 11, 2017. "SFWC" refers to the Second Formal Written Complaint dated August 3, 2017. "SFWC Ans" refers to Judge Astacio's Answer to the Second Formal Written Complaint dated September 11, 2017. "Tr." refers to the transcript of the hearing in this matter. "Ex" refers to exhibits admitted into evidence at the hearing.

when he observed a vehicle on the right shoulder of the road (Tr 5-7; Exs 10, 13).

Trooper Kowalski pulled over behind the vehicle (Tr 7).

4. There had been a light snow that morning and the road was slightly snow-covered and wet, with approximately a half-inch of snow on the shoulder (Tr 5-6, 88, 102; Exs 10 [road conditions listed as "snow/ice"], 13 [weather conditions listed as "snow covered roads"]). It was the coldest day of the year with the 7:54 AM temperature recorded at -2.9° F, with a wind chill of -27.2° F (Tr 5; Ex 30).

5. Judge Astacio was the sole occupant of the car, a gray Hyundai Santa Fe, and she was seated in the driver's seat. The car was running with the keys in the ignition, the back lights and daytime running lights were on, and, according to Kowalski, both front windows were down when Trooper Kowalski approached (Tr 7-8; Ex 10). Judge Astacio testified that she rolled her driver's window down either as Trooper Kowalski approached her car or once he was at the window (Tr. 243). Judge Astacio was wearing black sneakers, black pants and a gray zip-up; her clothes appeared "pretty disheveled" to Kowalski (Tr 28; Ex 13). Judge Astacio confirmed that although the morning was cold and the weather was "bad" (Tr 239), she had a hoodie on but was not wearing a coat (Tr 238, 329).

6. Trooper Kowalski observed that both tires on the driver's side of the vehicle were flat, and the front tire was about to fall off of the rim. There was heavy front-end damage to the driver's side of the vehicle (Tr 7, 9, 12; Exs 7, 8, 10).

7. Trooper Kowalski asked Judge Astacio if she was okay and if she had been in an accident (Tr 13; Exs 10). According to Kowalski, Judge Astacio replied that she was "fine" and stated that she "had only thought she had a flat tire and that she didn't strike anything at that time;" "I don't recall hitting anything" (Tr 13, 17; Ex 10). Judge Astacio testified that she left home and was on her way to the YMCA gym when "I don't know if I hit...a chunk of ice, or some debris on the roadway...or if my tire blew out. Either way, I lost control of my car, and I realized that I had a flat, or that my car wasn't working properly....I pulled over to the shoulder" (Tr 239-40).

8. Trooper Kowalski asked Judge Astacio to get out of the vehicle and to look at the damage (Tr 17). He did not recall any reaction that Judge Astacio had after looking at the vehicle (Tr 18).

9. The Trooper requested her license and registration but Judge Astacio told him that she "didn't have anything on her." He then asked her to come back to his vehicle because "it was so cold out" to "get everything squared away, get her name, get her address, figure ... everything out." Judge Astacio complied (Tr 18).

10. Judge Astacio sat in the back seat of the patrol car, approximately one to two feet behind Trooper Kowalski, who sat in the driver's seat (Tr 19). The Trooper observed that Judge Astacio was chewing gum and smelled the odor of an alcoholic beverage. He asked her to remove the gum from her mouth and she did (Tr 19).

11. Trooper Kowalski still perceived a strong smell of an alcoholic beverage when Judge Astacio began to talk (Tr 20, 28). He also observed that her eyes were

bloodshot, watery, and glassy, that her face was flushed and that her speech was slurred (Tr 28; Ex 13).

12. Trooper Kowalski asked Judge Astacio if she had consumed any alcohol and she replied that she had “drank in her lifetime” (Tr 20; Exs 10, 13).

13. In response to the Trooper's questions, Judge Astacio stated that she was coming from “home” and “that she was going to the City Court to do the arraignments at 9:30 this morning” (Tr 20, 21, 62, 67; Ex 10).

14. Rochester City Court was to the east from where Judge Astacio's car was located and in the opposite direction of Judge Astacio's westbound-facing vehicle (Tr 7). When Trooper Kowalski asked what direction she was headed, Judge Astacio stated that she was “not good with direction, east, west, north, south” (Tr 22; Ex 10). Judge Astacio explained at the hearing that her intention that morning upon leaving from home was to go to the Gates YMCA on Elmgrove Road for an 8 AM work out class before heading to City Court for 9:30 AM arraignments (Tr 238-39, 248). At the time Judge Astacio pulled her car over to the shoulder of the road heading westbound, she was pointed in the direction of the YMCA (Tr 250-51). According to Judge Astacio, by the time of her initial exchanges with Trooper Kowalski, she had already abandoned her plans of going to the YMCA before court (Tr 248).

15. At approximately 8:15 AM, when Trooper Kowalski asked Judge Astacio what time it was, she responded, “7:15” (Tr 23; Ex 10).

16. When Trooper Kowalski again inquired about whether Judge Astacio had consumed alcohol that morning or the night before, Judge Astacio told Kowalski that she

“didn’t feel comfortable in my car, and that she didn’t want to be in the car, and that I was possibly going to shoot her” (Tr 21, 24, 74, 76-78, 262-63; Ex 10).

17. Trooper Kowalski had not displayed or unholstered his weapon or made any threat (Tr 24, 263, 330). Judge Astacio testified that Kowalski never made an overt threat of force to her, yelled, or used vulgarity or profanity in speaking with her (Tr 330-331). The Trooper was uncomfortable about Judge Astacio's comment and got out of the car (Tr 24). He called dispatch to get another unit to show up to the scene so he could have a witness as to what was starting to unfold and then re-entered the patrol car and told Judge Astacio not to make any other statements that were of that nature (Tr 24-25).

18. Trooper Kowalski's asked Judge Astacio if she would submit to any Standardized Field Sobriety Tests. She declined, stating that she could not do them because she had a brain injury during her pregnancy that had an impact on her ability to take such tests (Tr 25, 67; Ex 10, 13). The medical records introduced by Judge Astacio confirm that she did have a “Chiari malformation,” a structural defect in the base of the skull and cerebellum, the part of the brain that controls balance (Tr. 230-232; Exs E, F). Following surgery to address this condition, there was improvement, but the balance issue was resolved only “to the extent that it was” (Tr. 232). However, Judge Astacio did agree to take and passed the alphabet and counting tests administered by Trooper Kowalski (Tr 26- 27, 72; Ex 13).

19. Despite passing the alphabet and counting tests, at 8:43 AM Judge Astacio was arrested by Trooper Kowalski who had formed an opinion based on his observations and his professional expertise that Judge Astacio was intoxicated (Tr 27; Ex 10).

20. At around the time of the arrest, Trooper Kowalski asked Judge Astacio to take a preliminary breath test ("PBT") to detect the presence of alcohol (Tr 29-30). Judge Astacio initially declined the test and told Kowalski that she wanted to have a lawyer present (Tr 38).

21. Earlier, sometime after 7:00 AM after Judge Astacio pulled onto the shoulder of the road, she called her friend Christian Catalano, a Rochester attorney, and asked him to help her change her flat tire. She was waiting for him in her car when Trooper Kowalski pulled behind her vehicle at 7:54 AM. (Tr 241).

22. Trooper Casey Dolan, a 21-year veteran of the State Police, responded shortly after 9:00 AM to Kowalski's call for back-up and arrived at the scene with a PBT device (Tr 33, 101, 103). When Trooper Dolan pulled his patrol vehicle behind Trooper Kowalski's vehicle, there was another vehicle parked in front of Judge Astacio's vehicle that had not been present when Trooper Dolan had passed the location a short time earlier (Tr 101-103). Mr. Catalano had recently arrived on the scene. Trooper Dolan passed the PBT device to Trooper Kowalski through the window (Tr 103-104). Trooper Dolan heard Judge Astacio speaking in a raised irritated voice, and she seemed upset (Tr 104).

23. Trooper Dolan told Judge Astacio, about the PBT, "this trooper has an obligation to ask you to submit to that. You were involved in a motor vehicle accident" (Tr 104; Ex 12). Judge Astacio replied, "No, he doesn't. He can just go mind his own fucking business" (Tr 104, 264; Ex 12).

24. Trooper Kowalski spoke with Catalano, who Judge Astacio stated would act as her attorney, about having her submit to a PBT (Tr 38, 81-82). Trooper Kowalski

discussed the possibility of “unarresting” Judge Astacio with Catalano, and allowed him to speak privately with Judge Astacio to discuss whether she would take the PBT (Tr 38-39, 56-57, 81-82). Kowalski admitted that despite what he told Catalano, he had no intention of “unarresting” Judge Astacio (Tr 82).

25. After Judge Astacio discussed taking the PBT with Mr. Catalano, she provided a breath sample three times. The third test registered positive for the presence of alcohol on her breath at a “.19” according to Kowalski (Tr 33, 57, 82-83; Exs 10, 13). Kowalski explained that for the first two tests Judge Astacio did not blow into the instrument for a sufficient amount of time but no records were kept by Kowalski to corroborate that fact (Tr 83-84). Nor did Kowalski show the claimed positive result of the third test to anyone (Tr 84-85).

26. At approximately 9:23 AM, Trooper Kowalski transported Judge Astacio to the New York State Police barracks (Tr 57-58). Trooper Kowalski did not ask Judge Astacio any questions during the trip (Tr 35). Judge Astacio was upset, irate, belligerent, loud and swearing during the drive (Tr 35). She stated: “I can’t believe you’re doing this to me. You’re fucking ruining my life;” “You don’t have to do this. This isn’t part of your job;” and “Why are you fucking doing this to me?” (Tr 34-35, 266-67). Judge Astacio testified that she regrets the words she said in anger, and while at the station, told Trooper Kowalski that “I’m really sorry about the way that I behaved, about the things that I said to you. You have to understand the impact this is going to have on my life, irrespective of the outcome. And I’m sorry. I was really really upset, and I really couldn’t believe

this was happening, but I, I shouldn't have spoken to you that way and I apologize" (Tr 443-44).

27. Judge Astacio remained irate, angry, and upset and was unruly and swearing loudly while at the barracks (Tr 36). Lieutenant Jon Lupo, the designated Acting Zone Commander on duty, heard Judge Astacio yelling at Trooper Kowalski and noted that she sounded emotionally upset and that her speech was "slurred" (Tr 117-118). However, Lupo sent an email to his boss at 10:04 AM stating about Judge Astacio: "Her attorney is present, and so far she's cooperative" (Tr 134; Ex 84).

28. Lt. Lupo is a 30-year veteran of the New York State Police who had been trained as a Drug Recognition Expert by the NYSP and had administered and supervised the NYSP's Standardized Field Sobriety Testing Program between 1997 and 2001 (Tr 115).

29. Lt. Lupo introduced himself to Judge Astacio as Trooper Kowalski's supervisor. Judge Astacio insisted that she not be put through the arrest process (Tr 119). According to Lupo, she appeared to be on an "emotional rollercoaster." She vacillated between being very upset, then being a bit composed, and then being upset again (Tr 121). Lupo characterized her behavior as "pleading in a way" (Tr 121-122). Judge Astacio used the word "fuck" on a couple of occasions in Lupo's presence (Tr 130). Lupo observed that Judge Astacio was handcuffed to the bench reserved for arrestees (Tr 117, 270).

30. Lt. Lupo, standing no more than three or four feet from Judge Astacio, observed that her eyes appeared glassy and very bloodshot, and he detected the stale

smell of an alcoholic beverage that he recognized from his experience (Tr 118-119, 128).

In Lt. Lupo's opinion, Judge Astacio was impaired by alcohol (Tr 131).

31. At the barracks, Trooper Kowalski read Miranda and DWI warnings to Judge Astacio and asked her if she would submit to a chemical test at approximately 10:43 AM. Judge Astacio refused the test at that time and again at approximately 11:12 AM. Thereafter, Kowalski completed a report of the refusal to submit to a chemical test (Tr 43-44; Ex 14, FWC ¶ 17; Ans ¶ 2).

32. Trooper Kowalski then issued three Uniform Traffic Tickets to Judge Astacio: for Driving While Intoxicated (a misdemeanor); for Stopping/Standing/Parking on Highway (a traffic infraction); and for Unsafe Tire (a traffic infraction) (Tr 44- 45; Exs 1-3).

33. On August 15, 2016, Canandaigua City Court Judge Stephen D. Aronson sat as an Acting Judge of Rochester City Court and presided over a non-jury trial on the simplified traffic informations filed pursuant to the tickets issued to Judge Astacio by Trooper Kowalski (Tr 44-45; Exs 4-6, 25). On August 22, 2016, Judge Aronson found Judge Astacio guilty of the misdemeanor of driving while intoxicated (Vehicle and Traffic Law §1192(3)). He dismissed both traffic infractions (Exs 17, 26; FWC ¶ 20; Ans ¶ 2).

34. On October 4, 2017, Acting Monroe County Court Judge William F. Kocher affirmed the judgment of driving while intoxicated on appeal (Ex 86).

35. Judge Astacio had a full and fair opportunity in the Rochester City Court criminal action and on its subsequent appeal to County Court to litigate the issue of whether on Feb. 13, 2016 she was driving while intoxicated.

36. With respect to her consumption of alcohol, Judge Astacio acknowledged that she drank wine the night before her arrest (Tr 348). She previously testified during the Commission's investigation that she did not consume alcohol after 10:00 PM on February 12, 2016 but conceded at the hearing that in connection with her alcohol evaluations one of her counselors reported that "she did drink alcohol the night before, consuming 2-3 glasses of wine. The report from the counselor states that Judge Astacio told her she "started [drinking] at about 1030/11 pm and unsure when she finished" (Tr 349; Ex C). Judge Astacio testified that the report is inaccurate as to what she told the counselor about when she started drinking (Tr 350). And while at the side of the road with Trooper Kowalski and Catalano, Judge Astacio told Catalano that she had not consumed alcohol the night before (Tr 332).

37. Judge Astacio's sister, Felicia Astacio, testified that Judge Astacio did not drink on a regular basis "did not consider her sister to be alcohol-dependent and that she did not drink daily (Tr 208-209).

38. On March 24, 2016, Judge Astacio underwent a comprehensive chemical dependency evaluation performed by Elizabeth Rybczak, a Credentialed Alcoholism and Substance Abuse Counselor (Ex C). Ms. Rybczak "determined that patient is not being recommended for any treatment at this time as patient does not meet the criteria for a substance use disorder" (Ex C).

39. On November 3, 2016, Judge Astacio attended a substance abuse intake at Strong Recovery (Ex A). Her assessment included a breathalyzer and a supervised urine toxicology screen, both of which were negative. Karen Hospers, CASAC, reported a diagnostic impression of alcohol use disorder, mild (Ex A). Ms. Hospers recommended that Judge Astacio attend a 10-week relapse prevention group which she successfully completed (Exs A, B).

40. On November 16, 2016, Judge Astacio was evaluated by Dr. George Anstadt, through a referral from the Office of Court Administration (Ex E). Dr. Anstadt reported that Judge Astacio's DWI "episode was motivated by a constellation of adverse events occurring simultaneously, causing her to resort to too much alcohol," and he advised that Judge Astacio was able to perform her judicial duties at that time (Exs E, F).

41. Judge Astacio began seeing a clinical psychologist, Vincent Ragonese, in October 2016 (Ex H). In a letter dated October 9, 2017, Dr. Ragonese reported that Judge Astacio admitted to consuming alcohol prior to pleading guilty to violating the terms and conditions of her conditional discharge and wrote that he "believe[d] that was an instance of self-medicating due to difficulty adjusting to her situation and not to alcoholism" (Ex H). Dr. Ragonese reported that "[i]n the time that I have been working with Ms. Astacio, I have not seen any evidence that suggests she has a substance abuse problem" (Ex. H). Additionally, Judge Astacio introduced evidence that "most likely" she had not used alcohol from the end of May through August 2017 (Tr 179; Ex G).

42. Judge Astacio argues that "the referee can, based on the totality of evidence, conclude that it has not been proven by a preponderance of the evidence that

she was under the influence of alcohol at the time of her arrest” (Respondent’s Reply Brief, 5). However, in the absence of any argument or evidence that Judge Astacio did not have a full and fair opportunity to contest the charge of driving while intoxicated at her criminal trial that resulted in judgment of conviction under a “beyond a reasonable doubt” standard of proof, the doctrine of collateral estoppel forecloses Judge Astacio from contesting the fact that she was driving while intoxicated on February 13, 2016. Moreover, Judge Astacio was found in her car on the side of the road in Rochester, NY, unable to explain why her car had two flat tires and part of her front bumper missing, had an odor of an alcoholic beverage, bloodshot, watery, and glassy eyes and slurred speech. This evidence independently supports my finding by a preponderance that on February 13, 2016 in Rochester New York, Judge Astacio operated an automobile while intoxicated.

43. Judge Astacio further argues that “the referee can find that her conduct was precipitated and caused by the misconduct of the state Police, and therefore, find that she did not violate any Canon of Judicial Conduct alleged in Charge I ...” (Respondent’s Reply Brief, 5). The record does not support a finding of any police misconduct and certainly nothing that can be found to justify Judge Astacio’s combativeness and evasiveness preceding and following her arrest on February 13, 2016.

Findings of Fact as to Charge II:

44. After Judge Astacio got into Trooper Kowalski’s car, he asked her where she was headed (Tr 20-21; Ex 10). In response to Trooper Kowalski’s inquiry, Judge Astacio stated, “I’m going to City Court to do the arraignments at 9:30 this morning” (Tr

21, 62- 64, 67, 248, 328; Ex 10). In fact, Judge Astacio was scheduled to preside at arraignments at 9:30 AM on the morning of February 13, 2016 in Rochester City Court (Tr 63).

45. Although Judge Astacio initially planned to go to an 8 AM work out class at the YMCA before going to court, in light of the condition of her car and by the time of the exchange with Trooper Kowalski about where she was heading it was already too late for the work out class and Judge Astacio had abandoned her plan to go to the YMCA (Tr 248-49).

46. At the barracks, Lt. Lupo observed that Judge Astacio said that she had arraignments later in the morning and that nobody at the court was aware that she was not going to be showing up (Tr 119).

47. Lt. Lupo's notes from the morning of Judge Astacio's arrest reflect some of the statements she uttered: "Please don't do this;" "I have to go to work;" "I have arraignments;" and "I have court right now" (Tr 120, 137; Ex 83). Lt. Lupo understood Judge Astacio's remarks to mean that she did not want to be arrested or to proceed with the arrest process (Tr 145).

48. Judge Astacio's request to telephone the court to advise the court that she would not be there at 9:30 AM was honored (Tr 137).

49. Judge Astacio conceded that it was not necessary for her to mention her court in order to convey that she had business to attend to and that she could have just said that she was going to work (Tr 334). Respondent acknowledged that she could have indicated to Lt. Lupo at the barracks that she had an urgent appointment (Tr 334).

50. Judge Astacio denied that by telling Kowalski that she was heading to City Court to do the arraignments at 9:30 AM this morning that she was attempting to use her judicial office to influence him in any way (Tr 249-250).

51. I do not find by a preponderance of the evidence that Judge Astacio's comments to Trooper Kowalski amounted to an attempt to assert her judicial office to advance her private interests in connection with her arrest for driving while intoxicated. Her comments were an accurate response to Trooper Kowalski's question about where she was going.

52. However, I do find by a preponderance of the evidence that Judge Astacio's later comments to Lt. Lupo when she asked him to "please don't do this" because "I have arraignments" and "I have court right now" were an attempt to advance her private interests in connection with her arrest for driving while intoxicated.

Findings of Fact as to Charge III:

53. On August 22, 2016, Judge Aronson sentenced Judge Astacio to a one-year conditional discharge for her conviction for driving while intoxicated (Exs 26, 27; Ex P).

54. At sentencing, Judge Astacio was provided a copy of her "Conditions of Conditional Discharge," which she signed and dated, and which clearly stated that Judge Astacio was required to "Abstain from Alcoholic Beverages and All Products That Contain Alcohol" during the one-year period of discharge (Ex 27; Ex P).

55. As a condition of her sentence, Judge Astacio was required to install an ignition interlock device on her vehicle (Exs 26, 27; Ex P). The form that Judge Astacio signed stated that a device indication of a "failed test or re-test where the BAC was .05%

or higher” would amount to a violation of the ignition interlock device conditional discharge (Ex 27; Ex P).

56. On or about September 30, 2016, the Monroe County Office of Probation notified Judge Aronson and the District Attorney that there was reasonable cause to believe that Judge Astacio had violated the terms of her conditional discharge by failing an ignition interlock device start-up test on September 12, 2016, at 7:32 AM, with a BAC of .067% (Ex 32).

57. On October 11, 2016, Judge Aronson signed a Declaration of Delinquency and arraigned Judge Astacio on the alleged violation (Exs 31, 33, 34). With the consent of all parties, the matter was adjourned until November 16, 2016 to allow Judge Astacio to engage in appropriate alcohol treatment (Ex 34).

58. On or about October 31, 2016, the Monroe County Office of Probation again notified Judge Aronson and the District Attorney that there was reasonable cause to believe that Judge Astacio had violated the terms of her conditional discharge by attempting to start and operate her vehicle while testing positive for alcohol on October 3, 2016 (.078%) (Ex 36). The October 3, 2016 violation had not yet been reported by the time Judge Astacio appeared in court on October 11, 2016.

59. On November 3, 2016, Judge Aronson signed a second Declaration of Delinquency that alleged Judge Astacio had violated her conditional discharge by failing an ignition interlock device start-up test on October 3, 2016, at 9:37 AM, with a BAC of .078% (Ex 37).

60. On November 16, 2016, Judge Astacio appeared before Judge Aronson and pleaded guilty to violating her conditional discharge by attempting to start and operate her vehicle on October 3, 2016, while testing positive for alcohol with a .078% BAC and thereafter failing to perform an ignition interlock device start-up re-test (Exs 35, 38). Judge Astacio's guilty plea satisfied all outstanding delinquency charges (Exs 31, 35, 38).

61. Judge Aronson amended the conditional discharge by requiring that the condition requiring an ignition interlock device be extended for an additional period of six months and that Judge Astacio comply with any treatment recommendations made by her therapist (Ex 38).

62. Judge Astacio acknowledged signing and dating each of the three pages of the conditional discharge form at sentencing and taking a copy home with her (Tr 273, 276).

63. Judge Astacio testified that she consumed alcohol "more than once" between her conviction on August 22, 2016 for driving while intoxicated and sometime in October 2016 (Tr 277, 380).

64. Judge Astacio testified to knowing, prior to providing an ignition interlock device breath sample on October 3, 2016, that she had consumed four glasses of wine and three shots of tequila, and that she "was drunk" and asked her aunt to drive because she knew that she should not have been driving (Tr 368-369).

65. Judge Astacio admits that she violated the terms of her conditional discharge and the Rules as alleged in Charge III of the Formal Written Complaint (Judge

Astacio's Proposed Findings of Fact and Conclusions of Law at 27; Judge Astacio's Reply Brief at 13.

Findings of Fact as to Charge IV:

66. On January 21, 2015, Judge Astacio was presiding in Part I of Rochester City Court when defendant James Thomas was brought into the courtroom to be arraigned on a petit larceny charge (Penal Law §155.25) (Exs 56, 57, 58; Tr 279; FWC ¶37, Ans ¶2).

67. Judge Astacio had represented Mr. Thomas as his defense attorney approximately three years earlier on a felony charge related to a highly-publicized jail escape involving a number of co-defendants. Judge Astacio represented Mr. Thomas for approximately one year and had visited him approximately two dozen times at the county jail during that period. Mr. Thomas was on parole supervision in connection with the felony when he appeared before Judge Astacio on January 21, 2015 (Exs 56, 58; FWC ¶38 , Ans ¶2).

68. When Mr. Thomas was brought by Sheriff's Department personnel into Judge Astacio's courtroom, he smiled and waved at Judge Astacio who was on the bench. Judge Astacio laughed and disclosed to counsel that Mr. Thomas was a former client, that she "like[d] him" and that she was going to transfer his case (Exs 56, 57, 58; FWC ¶39, Ans ¶2).

69. Judge Astacio asked her court clerk, "Can it not go to [Judge Teresa] Johnson, please?" She then commented from the bench about Mr. Thomas, stating:

"When ... you said the name I'm like, ' Aw, come on.'"

“He freaking just got out. I represented him ... He just, just got out.”

“Aww, I'm so sad about this.”

“I wish, I wish ... I could make him approach.”

(Ex 58; FWC ¶42, Ans ¶2). Judge Astacio acknowledges that requesting Thomas's case not go to Judge Johnson was inappropriate (Respondent's Proposed Findings of Fact and Conclusions of Law, 28).

70. After learning from her court clerk that Mr. Thomas' case would be transferred to a judge other than Rochester City Court Judge Teresa Johnson, Judge Astacio read Mr. Thomas the charge, and appointed counsel who entered a plea of not guilty on his behalf. Judge Astacio advised Mr. Thomas, “It's not appropriate for me to preside over your case” (Ex 58; FWC ¶43, Ans ¶2). When Mr. Thomas asked why Judge Astacio could not preside over his case, she replied, “I would love to preside over your case, but I don't ... want any conflicts” (Ex 58; FWC ¶44, Ans ¶2).

71. Judge Astacio initially indicated that she would defer to the succeeding judge with respect to setting bail, but she then set bail at \$50 (Ex 58; FWC ¶45, Ans ¶2). In setting bail, Judge Astacio stated:

“Oh. Since, since he's being held, it really doesn't matter. I'll hold you \$50 cash or bond, concurrent to the, the parole hold”

“But I'll hold you, so you're getting time on these charges.”

(Tr 281; Ex 58; FWC ¶45, Ans ¶2).

72. Mr. Thomas told Judge Astacio that the Public Defender “was good, but you were the best,” and Judge Astacio stated, “I appreciate that, Mr. Thomas,” and “I totally love him. I'm so sad that he's in jail right now” (Ex 58; FWC ¶46, Ans ¶2).

73. Judge Astacio acknowledged having warm feelings for Mr. Thomas and feeling sympathetic towards him (Tr 274, 279, 400; FWC ¶38, Ans ¶2).

74. Judge Astacio understood that presiding over Mr. Thomas' case, based upon the nature of their relationship and his conduct in her court, would create the appearance of impropriety which was prohibited by the Rules Governing Judicial Conduct (Tr 280-82, 401-402).

75. Judge Astacio testified that, typically, Mr. Thomas' case would have been transferred to Judge Johnson (Tr 281, 402-403). She did not want Mr. Thomas' case transferred to Judge Johnson because she believed that Judge Johnson was not very “nice to anyone” and that Mr. Thomas would get harsher treatment and a less favorable case result from Judge Johnson (Tr 404-405).

76. Judge Astacio understood that setting bail on Mr. Thomas was an act of judicial discretion and that Mr. Thomas derived a benefit by getting credit for jail time on his petit larceny charge as a result of her conduct (Tr 406-407).

77. As of January 21, 2015, Judge Astacio had been on the bench for barely three weeks and testified that “I was still pretty new and didn't know the procedure for transferring cases” (Tr 280).

78. On or about January 21, 2015, Judge Astacio failed to disqualify herself from presiding over the arraignment of *People v. James Thomas*, notwithstanding that her

impartiality might reasonably be questioned because of her prior attorney-client relationship with the defendant.

Findings of Fact as to Charge V:

A. *People v. T* [REDACTED] *L* [REDACTED]

79. On January 27, 2015, Judge Astacio was scheduled to arraign T [REDACTED] L [REDACTED], who was in custody on the misdemeanor charge of criminal trespass in the third degree (Penal Law §140.10(a)) (Exs 59, 60, 63, 67; FWC ¶49, Ans ¶2).

80. Prior to calling Ms. L [REDACTED]'s case, Judge Astacio learned from her clerk that Ms. L [REDACTED] was allegedly biting and spitting on people and may have been cursing, kicking and punching sheriff's deputies and using racial slurs in connection with transporting her to the courtroom (Tr 284, 408; Exs 59, 60, 63, 67; FWC ¶50 , Ans ¶2).

81. Judge Astacio spoke from the bench with a Monroe County Sheriff's Department Deputy about Ms. L [REDACTED], stating, "I heard she's going crazy" (Ex 67).

Respondent commented further to the deputy, remarking:

"Well, tase her."

"Shoot her?"

"What do you do, billy-club people?"

"Well, punch her in the face and bring her out here. You can't take a 16-year-old?"

"What do you want me to do, leave her? I don't like her attitude."

"She needs a whoopin' ."

"Is she crazy or is she bad?"

(Tr 283-286; Ex 67).

82. Judge Astacio did not arraign Ms. L [REDACTED] on January 27, 2015, and held her without bail (Exs 59, 64; FWC ¶52, Ans ¶2).

B. *People v. X [REDACTED] V [REDACTED]*

83. On January 28, 2015, Judge Astacio arraigned X [REDACTED] V [REDACTED], a 16-year-old high school student, who was charged with the misdemeanor of criminal diversion of prescription medications and prescriptions in the fourth degree (Penal Law §178.10), and a violation for unlawful possession of marihuana (Penal Law §221.05) (Exs 68-74; FWC ¶55, Ans ¶2).

84. Mr. V [REDACTED]'s charged conduct allegedly occurred on the grounds of the School [REDACTED], a Rochester public high school (Exs 69, 71).

85. Judge Astacio read Mr. V [REDACTED] the charges against him, said "I'm going to lecture you now," noted that her daughter attended the School [REDACTED], and then said, "[I]t's one of the best schools in the city." Judge Astacio asked Mr. V [REDACTED], "I don't think you went there to peddle prescription drugs, right?" (Ex 74; FWC ¶56, Ans ¶2).

86. Judge Astacio identified Mr. V [REDACTED]'s mother in the courtroom and thanked her for being present, commenting to Mr. V [REDACTED]: "I'm sure your mom is mortified to be here with you today, and embarrassed. I would probably be beating my daughter currently, right now, while she was getting arraigned if I was her. Don't embarrass your mother, okay?" Judge Astacio also said to Mr. V [REDACTED]: "I'm not saying you did anything, but these accusations are horrible, and you're wasting your time in school doing stupid stuff like this if it is true" (Exs 74; FWC ¶57, Ans ¶2). Judge

Astacio acknowledged that her statements “could have given Mr. V [REDACTED] the impression that he was being denied the presumption of innocence” (Tr 289).

C. *People v. D [REDACTED] Y [REDACTED]*

87. On January 15, 2015, Judge Astacio arraigned D [REDACTED] Y [REDACTED], who was in custody having been charged with a violation for disorderly conduct when he blocked traffic by walking in the middle of the right lane of traffic (Penal Law §240.20(5)) (Exs 75-77; FWC ¶59, Ans ¶2).

88. Judge Astacio read Mr. Y [REDACTED] the charge against him and advised counsel that Mr. Y [REDACTED] had other charges pending in Rochester City Court and was scheduled for a mental health examination pursuant to Criminal Procedure Law Article 730 (Exs 75-77; FWC ¶60, Ans ¶2).

89. Judge Astacio told Mr. Y [REDACTED] that she would sentence him to time served if he pleaded guilty to the charge (Ex 77). Mr. Y [REDACTED] s attorney, after conferring with him, advised Judge Astacio that Mr. Y [REDACTED] would plead guilty (Exs 75, 77; FWC ¶61, Ans ¶2).

90. Prior to accepting Mr. Y [REDACTED] s plea, Judge Astacio stated: “Mr. Y [REDACTED], stay out of the street. It’s super annoying. I hate when people walk in front of my car. If there was [sic] no rules, I would totally run them over because it’s disrespectful.” (Ex 77; FWC ¶62, Ans ¶2).

D. *People v. D [REDACTED] W [REDACTED]*

91. On August 15, 2015, Judge Astacio arraigned D■■■■ W■■■■, who was charged with the misdemeanor of sexual misconduct (Penal Law §130.20(1)) (Exs 78, 79, 82; FWC ¶64, Ans ¶2).

92. Judge Astacio read the charge to Mr. W■■■■, explained that she was issuing an order of protection in favor of the alleged victim, and advised Mr. W■■■■ that he was to have no contact with the alleged victim. Judge Astacio had previously signed an arrest warrant for Mr. W■■■■ in the matter and knew that Mr. W■■■■ and the alleged victim were classmates, so she clarified that Mr. W■■■■ could not interact with the alleged victim at school (Exs 78-82; FWC ¶65, Ans ¶2).

93. Mr. W■■■■'s attorney referred to the alleged victim's delay in signing a statement against Mr. W■■■■ for digitally penetrating her vagina without her consent as, "buyer's remorse" (Ex 82). Judge Astacio laughed at the "buyer's remorse" comment and told the Assistant District Attorney, "That was funny. You didn't think that was funny[?]" (Exs 79, 82; FWC ¶66, Ans ¶2).

94. Following Mr. W■■■■'s arraignment, Judge Astacio continued commenting about the "buyer's remorse" remark, stating: "Oh, man. I don't mean to be so inappropriate. I thought that was freakin' hilarious ... she said that she didn't sign it 'til three weeks later; it was a case of buyer's remorse." "Yeah, I thought it was funny. She didn't think it was funny." "She was offended, I thought it was hilarious." (Ex 82; FWC, ¶67, Ans ¶2).

95. Judge Astacio understood from her professional experience in the Domestic Violence Bureau of the District Attorney's Office that sexual assault victims are typically

very hesitant to go forward out of embarrassment , or shame, or fear of becoming further victimized (Tr 291, 429).

96. Mr. W■■■■ s case was at the end of the docket and Judge Astacio testified that if the purported victim or her family were there, she “would have been mortified at them having the impression that I ... took the situation lightly or that I ... didn't care about what was alleged to have happened to her” (Tr 293-294, 430).

97. From on or about January 27, 2015 to on or about August 15, 10'5, Judge Astacio made discourteous, insensitive, and undignified comments from the bench in *People v. T■■■■ L■■■*, *People v. X■■■■ V■■■■*, *People v. D■■■■ Y■■■* and *People v. D■■■ W■■■*.

Findings of Fact as to Charge VI:

98. On August 22, 2016, after being convicted of driving while intoxicated by Judge Aronson and sentenced to a one-year-conditional discharge, Judge Astacio signed and received a copy of her “ Conditions of Conditional Discharge” that provided, inter alia, that she was to “submit to any recognized tests that are available to determine the use of alcohol or drugs” and required her to install and maintain a functioning ignition interlock device in her vehicle (Exs 26, 27; FWC ¶20, Ans ¶2; SFWC ¶¶8-9 , SFWC Ans ¶¶3, 5).

99. On or about May 10, 2017, Assistant District Attorney V. Christopher Eaggleston forwarded Judge Aronson a notification from the Monroe County Office of Probation that the ignition interlock device in Judge Astacio's vehicle had registered a

failed start-up test on April 29, 2017, with a .061% BAC that was provided by an individual who could not be seen on the camera in Judge Astacio's vehicle (Exs 42, 43).

100. Judge Aronson sent a letter dated May 15, 2017, to ADA Eaggleston and Judge Astacio's attorney, stating that he would not issue a Declaration of Delinquency concerning the failed start-up test on April 29, 2017, but that he "intend[ed] to enforce the provision of the conditional discharge requiring the defendant to submit to tests for alcohol use" and that Judge Astacio was "require[d] ... to submit to an Et[G] lab analysis of her urine sample" (Ex 44). Judge Aronson directed in his letter that the test "be done immediately" (emphasis in original) and that the lab report be provided to the court by her counsel (Ex 44).

101. In accordance with Judge Aronson's requirement, Rochester City Court Clerk Jody Carmel drafted a document for the Monroe County Office of Probation on May 15, 2017, confirming the ordered EtG test (Tr 152, 155-156; Ex 45).

102. On May 23, 2017, at the direction of Judge Aronson, Ms. Carmel drafted a notice of Judge Aronson's May 15, 2017 order that Judge Astacio "must" immediately submit to an EtG lab analysis of her urine to be provided to the court and that "If defendant has not submitted to the ordered E[t]G test, her presence with her attorney is required in Rochester City Court on Tuesday, May 30 at 12:00 p.m." (Tr 156; Ex 46). On Wednesday, May 24, 2017, Ms. Carmel mailed the notice to Judge Astacio, her attorney, and ADA Eaggleston (Tr 158-160; 162-163, Exs 41, 46).

103. On May 30, 2017, Judge Astacio did not appear in court (Tr 160; Ex 47). Her attorney read into the record an email that he had sent to Judge Astacio on May 26,

2017, which read: "Over the last several weeks, I notified you by telephone that Judge Aronson has ordered you to submit to an immediate EtG test to determine whether or not you are consuming alcohol. ... I also sent you text messages to that effect. Today, I received a letter from Rochester City Court requesting that I appear with the results of the EtG test on Wednesday, May 30th, or in the alternative that being such results are not available, that you appear personally" (Ex 47).

104. Judge Aronson signed a Declaration of Delinquency on May 30, 2017, finding reasonable cause to believe that Judge Astacio had violated the terms and conditions of her conditional discharge by failing to comply with his directives to submit to an EtG test or to appear in Rochester City Court on May 30, 2017 (Exs 47, 48).

105. On May 30, 2017, Judge Aronson issued a bench warrant for Judge Astacio's arrest for her failure to appear in Rochester City Court as directed (Exs 47, 49; SFWC ¶12; Ans SFWC ¶6).

106. On June 5, 2017, Judge Astacio was taken into custody by Monroe County Sheriff's Office personnel pursuant to the bench warrant and was brought before Judge Aronson who ordered her committed to jail pending a hearing (Ex 51; SFWC ¶13; Ans SFWC ¶1).

107. During the proceedings on June 5, 2017, Judge Astacio's attorney advised the court that at the time Judge Aronson ordered the EtG test, Judge Astacio was in Thailand on vacation (Ex 51 at 7-8). Judge Aronson observed that Judge Astacio "exile[d herself] from the jurisdiction of the Court without advance notice to a place halfway around the world knowing that [her] C[onditional] D[ischarge] requires random

alcohol testing.” He asked her, “How could you possibly not have considered what would happen if I ordered you to take a random alcohol screen if you were halfway around the world not just for a two-week vacation, but for three months?” (Ex 51 at 10-11). Judge Aronson stated, “I don't know when you got back into the country or to this city, but you did not turn yourself in when you returned” (Ex 51, pp 10-11).

108. On June 8, 2017, following a hearing at which Judge Astacio testified, Judge Aronson found that she had violated the terms and conditions of the conditional discharge imposed in connection with her conviction for driving while intoxicated, and he remanded her pending sentencing (Exs 41, 52; SFWC ¶14; Ans SFWC ¶7).

109. On July 6, 2017, Judge Aronson revoked the sentence of conditional discharge previously imposed upon Judge Astacio for her conviction of driving while intoxicated and sentenced her a 60 day term of incarceration and a three-year term of probation, which included the condition that Judge Astacio wear a SCRAM alcohol-monitoring device for six months (Exs 53, 54; SFWC ¶15; Ans SFWC ¶8). The attorneys for the parties have stipulated that this finding was affirmed on appeal by the Monroe County Court on December 8, 2017.

110. Judge Astacio purchased a one-way ticket and left for Thailand on May 2, 2017; she intended to stay for several months until sometime in August 2017 (Tr 387; Ex 52).

111. Judge Astacio understood prior to traveling that she was subject to being required to submit to alcohol testing as a condition of her conditional discharge (Tr 315-316). She also understood before she left that there had been a “positive blow” into the

ignition interlock device on April 9, 2017, that resulted in a vehicle lock-out and shut-down that required servicing to make the vehicle operational (Tr 306-307).

112. Prior to leaving the country, Judge Astacio did not notify her Administrative Judge, Craig Doran, or her attorney, that she planned on traveling to Southeast Asia for 3 - 4 months (Tr 387-388).

113. Although there is no provision in the Conditional Discharge prohibiting travel out of the United States, Judge Astacio was required to notify the probation office "prior to any change in address." Judge Astacio failed to notify the Monroe County Office of Probation of her planned extended absence (Tr 390-392; Ex 27; Ex P).

114. On May 7, 2017, Judge Astacio called her attorney in response to his email advising her of a "bad blow" on her ignition interlock device (Tr 309). She informed her attorney that she did not plan to return home until August (Tr 309).

115. Judge Astacio testified that, from Thailand on May 27, 2017, at approximately 3:30 AM (4:30 PM Eastern Standard Time on May 26, 2017, in Rochester), she responded by email to an email from her attorney (Tr 309-310, 392). Her attorney had informed her that she had to appear in court in four days or get an EtG test in Thailand (Tr 311, 392).

116. Judge Astacio told her attorney that she believed there was a jurisdictional defect with her conditional discharge and that it was "all moot anyway" with respect to the judge's requirements (Tr 311).

117. Judge Astacio learned that Judge Aronson had issued a bench warrant on May 30, 2017, when she had failed to appear in court (Tr 393; Exs 47, 49).

118. Judge Astacio did not begin investigating a return flight from Thailand until May 30, 2017, four days after being advised of Judge Aronson's order to appear in court on May 30th (Tr 396-97; Ex 52 at 20). Judge Astacio left Thailand on June 3, 2017, and arrived in Rochester, New York, on June 4, 2017 (Tr 396, 463). She failed to surrender herself on her known outstanding bench warrant upon arriving (Tr 463).

119. On or about May 30, 2017, Judge Astacio violated the terms of the conditional discharge imposed in connection with her conviction of driving while intoxicated in August 2016.

CONCLUSIONS OF LAW

Conclusions of Law as to Charge I:

120. Judge Astacio failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules Governing Judicial Conduct (the "Rules").

121. Judge Astacio failed to avoid impropriety and the appearance of impropriety in that she failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules.

122. Judge Astacio failed to so conduct her extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that she failed to conduct her

extra-judicial activities so that they do not detract from the dignity of judicial office, in violation of Section 100.4(A)(2) of the Rules.

123. Judge Astacio should be disciplined for cause pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law.

Conclusions of Law as to Charge II:

124. With respect to Judge Astacio's comments in response to Trooper Kowalski's question about where she was going that "I'm going to City Court to do the arraignments at 9:30 this morning," I conclude that Judge Astacio did not violate any of the Rules.

125. With respect to Judge Astacio's comments in the barracks "Please don't do this;" "I have to go to work;" "I have arraignments;" and "I have court right now" I conclude as follows:

a. Judge Astacio failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules.

b. Judge Astacio failed to avoid impropriety and the appearance of impropriety in that she failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules.

c. Judge Astacio failed to avoid impropriety and the appearance of impropriety in that she lent the prestige of judicial office to advance her own private interests, in violation of Section 100.2(C) of the Rules.

d. Judge Astacio failed to so conduct her extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that she failed to conduct her extra-judicial activities so that they do not detract from the dignity of judicial office, in violation of Section 100.4(A)(2) of the Rules.

e. Judge Astacio should be disciplined for cause pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law.

Conclusions of Law as to Charge III:

126. Judge Astacio failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules.

127. Judge Astacio failed to avoid impropriety and the appearance of impropriety in that she failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules.

128. Judge Astacio failed to so conduct her extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that she failed to conduct her

extra-judicial activities so that they do not detract from the dignity of judicial office, in violation of Section 100.4(A)(2) of the Rules.

129. Judge Astacio should be disciplined for cause pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law.

Conclusions of Law as to Charge IV:

130. Judge Astacio failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules.

131. Judge Astacio failed to avoid impropriety and the appearance of impropriety in that she failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules.

132. Judge Astacio failed to perform the duties of judicial office impartially and diligently, in that she failed to disqualify herself in a proceeding in which her impartiality might reasonably be questioned due to a personal bias or prejudice concerning a defendant, in violation of Section 100.3(E)(1)(a)(i) of the Rules.

133. Judge Astacio should be disciplined for cause pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law.

Conclusions of Law as to Charge V:

134. Judge Astacio failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules.

135. Judge Astacio failed to avoid impropriety and the appearance of impropriety in that she failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules.

136. Judge Astacio failed to perform the duties of judicial office impartially and diligently, in that she failed to be patient, dignified and courteous to litigants , lawyers and others with whom she dealt in an official capacity, in violation of Section 100.3(B)(3) of the Rules.

137. Judge Astacio should be disciplined for cause pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law.

Conclusions of Law as to Charge VI:

138. Judge Astacio failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules.

139. Judge Astacio failed to avoid impropriety and the appearance of impropriety in that she failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules.

140. Judge Astacio failed to so conduct her extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that she failed to conduct her extra- judicial activities so that they do not detract from the dignity of judicial office, in violation of Section 100.4(A)(2) of the Rules.

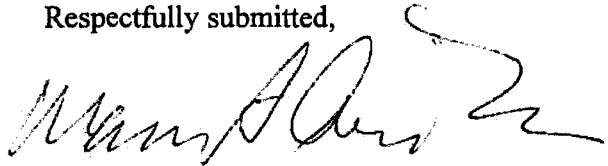
141. Judge Astacio should be disciplined for cause pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law.

CONCLUSION

The evidence adduced at the hearing establishes by a preponderance of the evidence that Judge Astacio has engaged in conduct amounting to violations of the Rules Governing Judicial Conduct. Charges I, II (in part), III, IV, V, and VI are sustained.

Dated: March 5, 2018

Respectfully submitted,



Mark S. Arisohn, Referee