

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

WILLIAM H. FUTRELL,

a Justice of the Montezuma Town Court,
Cayuga County.

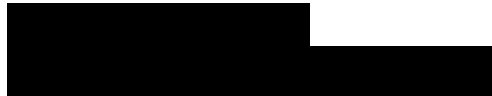
**NOTICE OF MOTION
FOR
SUMMARY
DETERMINATION**

PLEASE TAKE NOTICE that upon the annexed affirmation of John J. Postel, the annexed exhibits, and the Memorandum by Counsel to the Commission, a motion will be heard by the State Commission on Judicial Conduct at 61 Broadway, New York, New York 10006, on the 12th day of October, 2023, seeking a summary determination pursuant to 22 NYCRR 7000.6(c) that the Honorable William H. Futrell has engaged in judicial misconduct.

PLEASE TAKE FURTHER NOTICE that answering papers, if any, are required to be filed with the Commission and to be served upon the undersigned on or before October 5, 2023.

Dated: September 20, 2023
Rochester, New York

To: Hon. William H. Futrell



John J. Postel, Deputy Administrator
Commission on Judicial Conduct
400 Andrews Street, Suite 700
Rochester, New York 14604
(585) 784-4141

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

WILLIAM H. FUTRELL,

a Justice of the Montezuma Town Court,
Cayuga County.

**AFFIRMATION IN
SUPPORT OF MOTION
FOR SUMMARY
DETERMINATION**

JOHN J. POSTEL, an attorney duly admitted to practice in the courts of the State of New York, affirms under the penalties of perjury:

1. I am a Deputy Administrator for the New York State Commission on Judicial Conduct (“Commission”). I submit this affirmation in support of a motion for summary determination in the above-captioned matter.

2. By email, dated February 28, 2023, Respondent notified the Town of Montezuma Supervisor of his resignation from judicial office. On or about April 6, 2023, and August 18, 2023, in response to my inquiries, I was advised by Shannon Pero, who serves as a Court Attorney for the Office of Court Administration and as Special Counsel for Town and Village Courts of the 7th Judicial District, that Respondent had not filed a resignation notification with the Chief Administrative Judge of the Unified Court System, the Deputy Chief Administrative Judge for the Courts Outside New York City or the Administrative Judge for the 7th Judicial District. Respondent remains currently listed as a Montezuma Town Justice in the 2023 Cayuga County Directory of Officials and on the Cayuga County Board of Elections website.

3. Pursuant to Section 44, subdivision 4, of the Judiciary Law of the State of New York, the Commission directed that a Formal Written Complaint (“Complaint”) be served upon the Honorable William H. Futrell (“Respondent”), a Justice of the Montezuma Town Court, Cayuga County.

4. The Complaint, dated May 15, 2023, contains two charges alleging that Respondent (1) posted Nazi imagery to his Facebook page, and (2) “Liked” other Facebook pages that depicted images of scantily clad and/or partially naked women, many of whom were in sexually suggestive poses, and that included content that demeaned or sexually objectified women. A copy of the Complaint is annexed as Exhibit A.

5. On May 15, 2023, Commission staff mailed the Notice of Formal Written Complaint and Formal Written Complaint to Respondent at an address he – while under oath at the Commission’s Rochester Office on September 14, 2022 – confirmed as both his residence and business location. The mailing, which included a cover letter, was completed via United States Postal Service (“USPS”) certified mail. A copy of the cover letter, dated May 15, 2023, is annexed as Exhibit B, and an affidavit of service by mail is annexed as Exhibit C.

6. On or about May 18, 2023, the Notice of Formal Written Complaint and Formal Written Complaint were delivered, as set forth in a USPS proof of delivery document annexed as Exhibit D.

7. Pursuant to Section 44(4) of the Judiciary Law and Section 7000.6(b) of the Commission’s Operating Procedures and Rules, Respondent’s verified Answer was due within 20 days of service of the Complaint.

8. On June 8, 2023, Commission staff mailed a follow-up letter, along with copies of the May 15, 2023, cover letter and enclosures, to Respondent via USPS certified mail. The June 8, 2023, follow-up letter notified Respondent that his required Answer was overdue, and warned that his “failure to timely answer the Formal Written Complaint will result in a Motion for Summary Determination being filed against you followed by a recommendation for a public discipline.” The letter further requested that Respondent acknowledge receipt of the letter. A copy of the June 8, 2023, follow-up letter is annexed as Exhibit E.

9. On or about June 10, 2023, the June 8, 2023, letter was delivered, as set forth in a USPS proof of delivery document annexed as Exhibit F.¹

10. To date, Respondent has not served an Answer to the Complaint.

11. Upon information and belief, Respondent’s current term as Montezuma Town Court Justice expires on December 31, 2023.

12. Pursuant to Section 7000.6(b) of the Commission’s Operating Procedures and Rules, because Respondent failed to file an Answer to the Complaint, he is deemed to have admitted all the allegations in the Complaint. Based on Respondent’s failure to serve an Answer, there is no genuine issue as to any material fact, and summary determination is appropriate, pursuant to Section 7000.6(c) of the Commission’s Operating Procedures and Rules.

13. As set forth more fully in the accompanying Memorandum by Commission Counsel, Respondent’s misconduct as set forth in the Complaint is

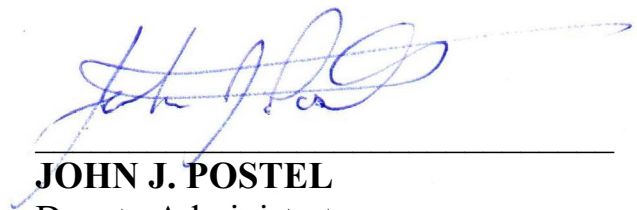
¹ There is a current postal listing for both Respondent and Futrell Firearms at the address to which the May and June 2023 letters and enclosures were mailed and confirmed received.

hereby established. Accordingly, Commission Counsel respectfully requests that the Commission grant summary determination as to Charges I and II of the Complaint.

14. Commission Counsel further requests that the Commission set a prompt schedule for briefing and argument as to sanction.²

WHEREFORE, it is respectfully submitted that no issues of fact exist, and that summary determination be entered finding that Charges I and II of the Complaint are sustained, that Respondent has engaged in judicial misconduct, and that a date be set for the memoranda to be filed and oral argument to be held on the issue of sanction.

Dated: September 20, 2023
Rochester, New York



JOHN J. POSTEL

Deputy Administrator
State Commission on Judicial Conduct
400 Andrews Street, Suite 700
Rochester, New York 14606
(585) 784-4141

² In the event that Respondent's term expires before this proceeding concludes, Commission Counsel will recommend that the present proceeding be closed, subject to being re-opened in the event that Respondent holds judicial office again.

EXHIBIT A

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

WILLIAM H. FUTRELL,

a Justice of the Montezuma Town Court,
Cayuga County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to Respondent, William H. Futrell, a Justice of the Montezuma Town Court, Cayuga County, pursuant to Section 44, subdivision 4, of the Judiciary Law, that the State Commission on Judicial Conduct has determined that cause exists to serve upon Respondent the annexed Formal Written Complaint; and that, in accordance with said statute, Respondent is requested within twenty (20) days of the service of the annexed Formal Written Complaint upon him to serve the Commission at its Rochester office, 400 Andrews Street, Suite 700, Rochester, New York 14604, with his verified Answer to the specific paragraphs of the Complaint.

Dated: May 15, 2023
New York, New York

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006
(646) 386-4800

To: Hon. William H. Futrell

[REDACTED]
[REDACTED]

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

**FORMAL
WRITTEN COMPLAINT**

WILLIAM H. FUTRELL,

a Justice of the Montezuma Town Court,
Cayuga County.

1. Article VI, Section 22, of the Constitution of the State of New York establishes a Commission on Judicial Conduct (“Commission”), and Section 44, subdivision 4, of the Judiciary Law empowers the Commission to direct that a Formal Written Complaint be drawn and served upon a judge.
2. The Commission has directed that a Formal Written Complaint be drawn and served upon William H. Futrell (“Respondent”), a Justice of the Montezuma Town Court, Cayuga County.
3. The factual allegations set forth in Charges I and II state acts of judicial misconduct by Respondent in violation of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct (“Rules”).
4. Respondent is not an attorney. He has been a Justice of the Montezuma Town Court, Cayuga County, since 2020. His current term was set to expire on December 31, 2023. On February 28, 2023, Respondent sent an email to the

Town of Montezuma Supervisor in which he resigned his judicial office effective that same day. A copy of the resignation email is annexed as Exhibit 1.

CHARGE I

5. In or about April 2022, Respondent posted Nazi imagery to his Facebook page.

Specifications to Charge I

6. Facebook is an internet social networking website and platform that *inter alia* allows users to post and share content on their own Facebook pages, and to “like” content posted by other users. 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, textual posts, and “Likes” – may be viewable online by the general public or restricted to one’s Facebook “Friends.”

7. In or around April 2022, Respondent maintained a Facebook account with approximately 500 Facebook “Friends.” Respondent’s profile listed his name as Bill Futrell.

8. In or around April 2022, Respondent posted on his Facebook page an image of a human skull that appeared identical to the Nazi SS/Totenkopf forces insignia utilized during World War II. The letters “FF” (“Futrell Firearms”) were emblazoned above the eye sockets of the skull in a style simulating the appearance

of the “SS” abbreviation of the Nazi Schutzstaffel. Respondent made this image his profile picture, a copy of which is annexed as Exhibit 2. The profile also falsely indicates that Respondent “Works at NYS Unified Court System.”

9. In or around July 2022, Respondent posted on his Facebook page a meme of Facebook Co-Founder and CEO Mark Zuckerberg dressed in Nazi military garb, including a Totenkopf medal and Schutzstaffel insignia. The meme appeared on Respondent’s Facebook page in two forms: on its own and framed with the words, “EXPOSING FRIENDS TO EXTREMIST CONTENT.” Copies of those memes are annexed as Exhibit 3 and Exhibit 4, respectively.

10. By reason of the foregoing, Respondent 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, in that Respondent 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; failed to avoid impropriety and the appearance of impropriety, in that he 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; and failed to conduct his extra-judicial activities so as to minimize the risk of conflict with judicial obligations, in that he failed to conduct his 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.

CHARGE II

11. In or about 2022, Respondent's Facebook page displayed "Likes" of other Facebook pages that depicted images of scantily clad and/or partially naked women, many of whom were in sexually suggestive poses, and that included content that demeaned or sexually objectified women.

Specifications to Charge II

12. In or about 2022, Respondent's Facebook "Likes" page displayed a "Like" for a Facebook page entitled "Only Men Lovers." That Facebook page consisted of numerous photographs of scantily clad women in sexually provocative and explicit poses. Copies of the "Only Men Lovers" Facebook page photographs are annexed as Exhibit 5.

13. In or about 2022, Respondent's Facebook "Likes" page displayed a "Like" for a Facebook page entitled "Psychopathic +21." That Facebook page consisted of numerous photographs of scantily clad and/or partially naked women in sexually provocative poses. Copies of the "Psychopathic +21" Facebook page photographs are annexed as Exhibit 6.

14. In or about 2022, Respondent's Facebook "Likes" page displayed a "Like" for a Facebook page entitled "Dirty Biker Trash." That Facebook page

consisted of numerous photographs of scantily clad women in sexually provocative poses. Copies of the “Dirty Biker Trash” Facebook page photographs are annexed as Exhibit 7.

15. In or about 2022, Respondent’s Facebook “Likes” page displayed a “Like” for a Facebook page entitled “Porngirls.” That Facebook page consisted of numerous photographs of scantily clad women in sexually provocative poses. Copies of the “Porngirls” Facebook page photographs are annexed as Exhibit 8.

16. By reason of the foregoing, Respondent 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, in that Respondent 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; failed to avoid impropriety and the appearance of impropriety, in that he 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; and failed to conduct his extra-judicial activities so as to minimize the risk of conflict with judicial obligations, in that he failed to conduct his 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.

WHEREFORE, by reason of the foregoing, the Commission should take whatever further action it deems appropriate in accordance with its powers under the Constitution and the Judiciary Law of the State of New York.

Dated: May 15, 2023
New York, New York



ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006
(646) 386-4800

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

VERIFICATION

WILLIAM H. FUTRELL,

a Justice of the Montezuma Town Court,
Cayuga County.

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

ROBERT H. TEMBECKJIAN, being duly sworn, deposes and says:

1. I am the Administrator of the State Commission on Judicial Conduct.
2. I have read the foregoing Formal Written Complaint and, upon information and belief, all matters stated therein are true.
3. The basis for said information and belief is the files and records of the State Commission on Judicial Conduct.



Robert H. Tembeckjian

Sworn to before me this
15th day of May 2023



Notary Public

SIMON P. PEDROTTY
Notary Public, State of New York
No. 02PE6243159
Qualified in Saratoga County
Commission Expires 6/13/23

Resignation

Hon William H. Futrell <[REDACTED]@[REDACTED]>

Tue 2/28/2023 12:49 PM

To: montezumasupervisor@[REDACTED] <[REDACTED]>

Good morning,

I regret to inform you that effective immediately on 2/28/2023 I am resigning from my seat as town justice in Montezuma Town Court. It's been wonderful getting to know everyone. Unfortunately unforeseen personal reasons sometimes come up as they have! I look forward to seeing everyone in the future!

Thank you!

William H. Futrell

Sent from my Verizon, Samsung Galaxy smartphone
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Intro



Owner at **Futrell Firearms**



Works at **NYS Unified Court System**



Works at **Central New York Regional
Transportation Authority - Centro**



Went to **Marcellus High School**



Lives in **Montezuma, New York**



From **Marcellus, New York**



Bill Futrell

EXHIBIT 3



Bill Futrell updated his profile picture.



Jul 3, 2021 · 🌐



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EXHIBIT 4





Only Men Lovers

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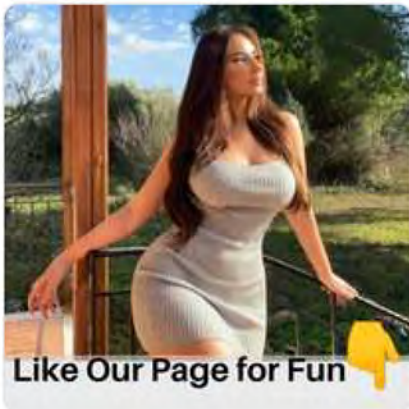
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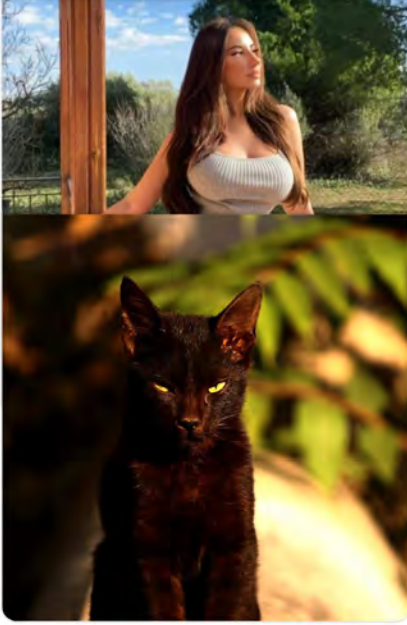
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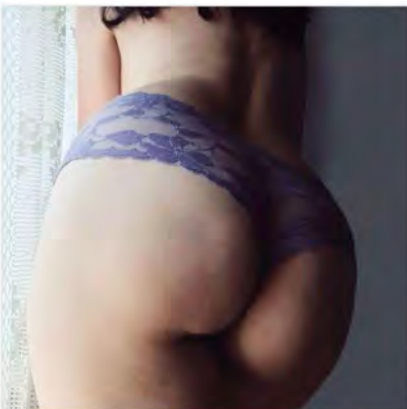
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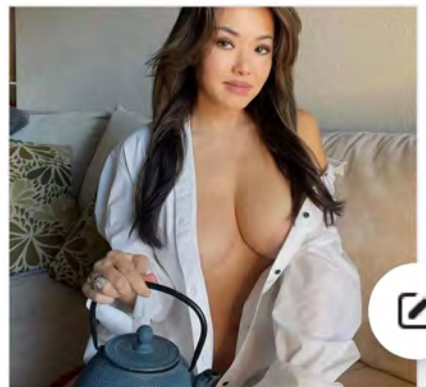
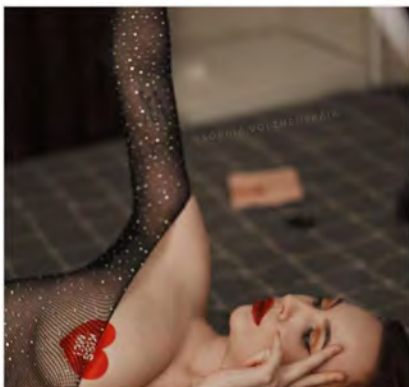
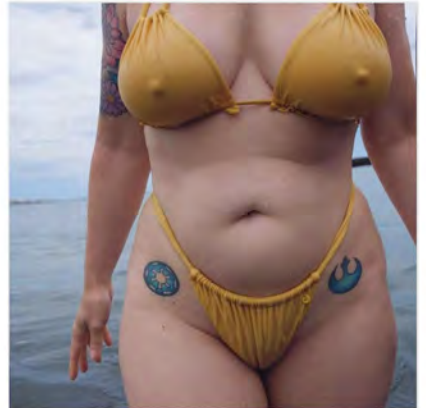
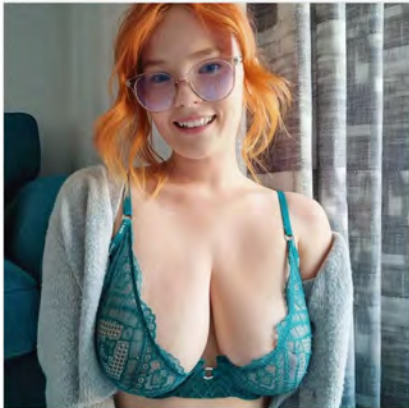
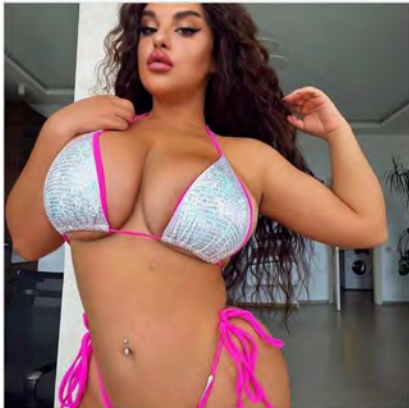


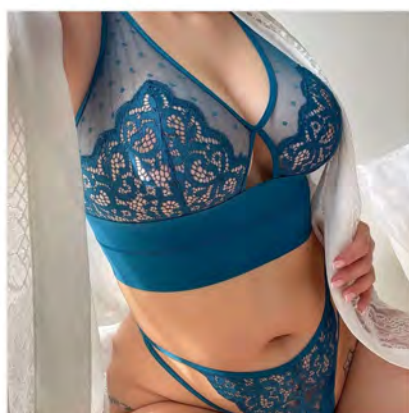
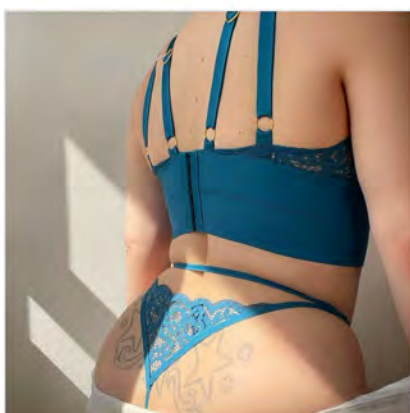
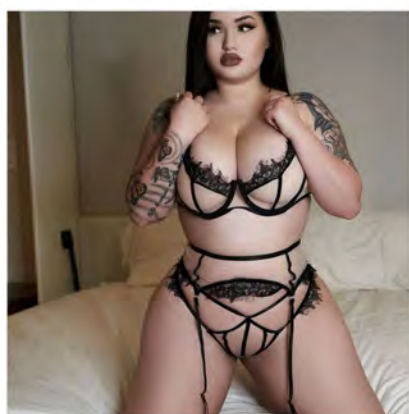
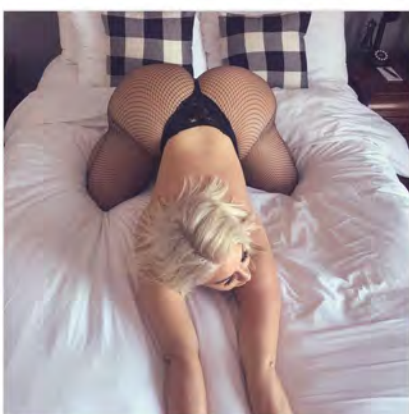
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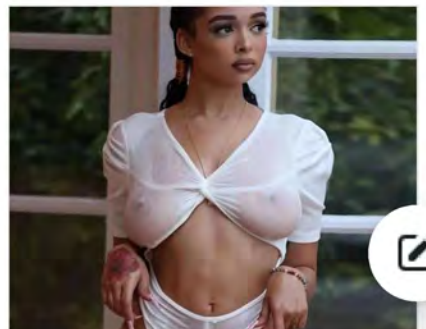
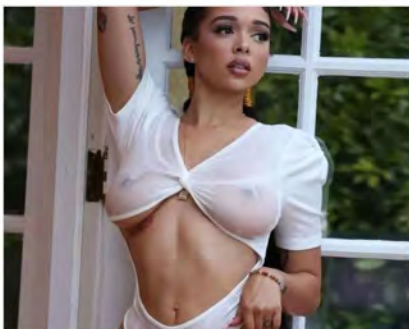
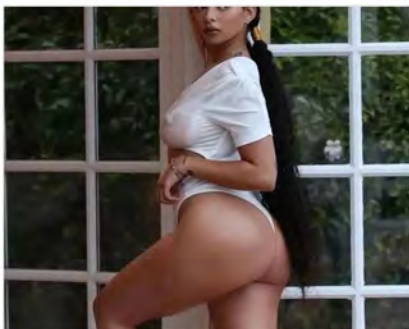
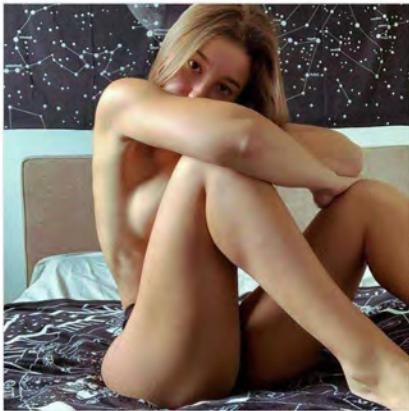
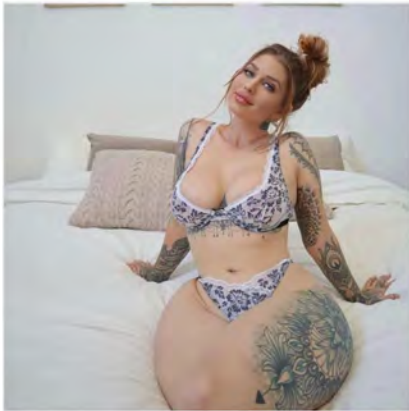
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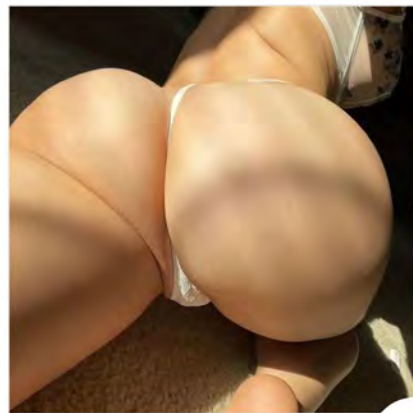
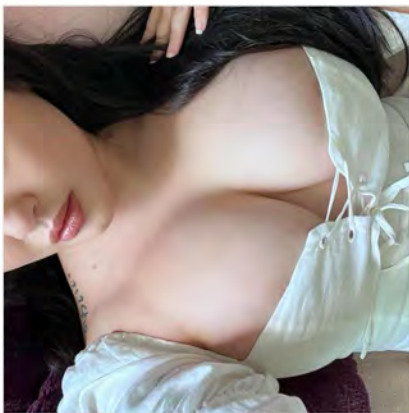
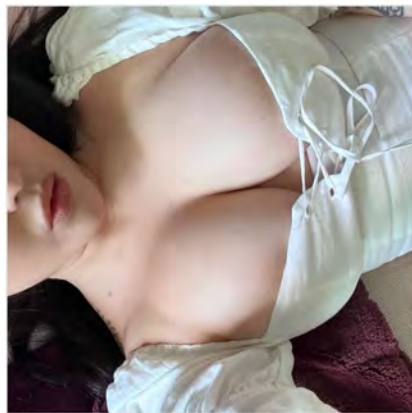
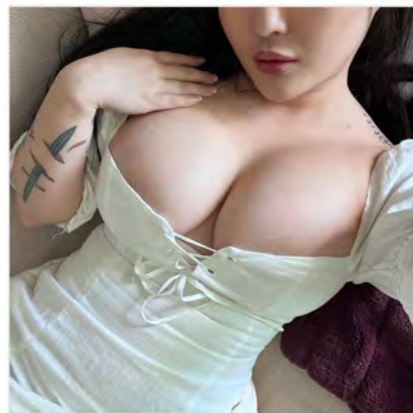
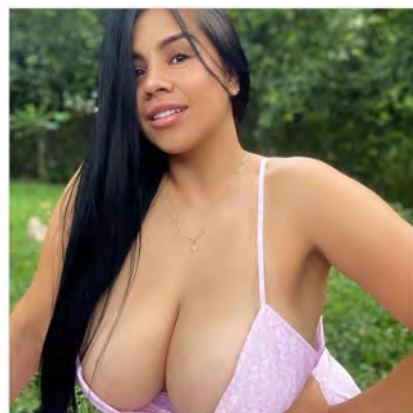
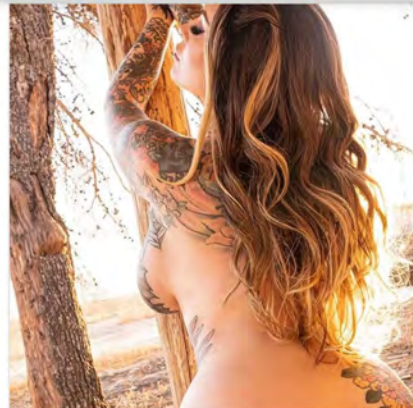
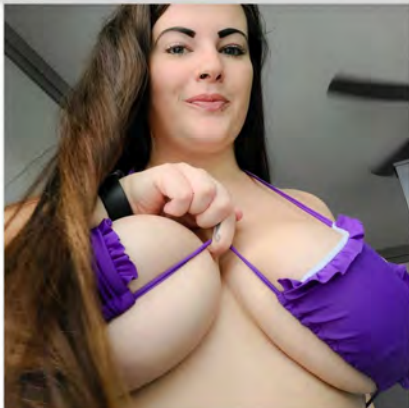


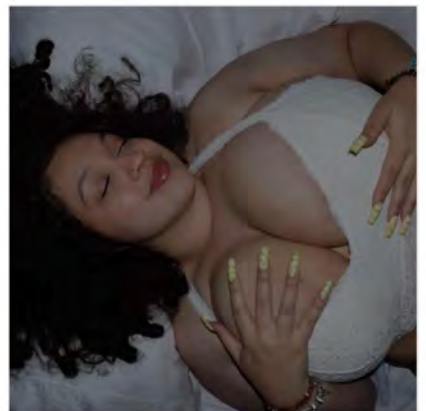
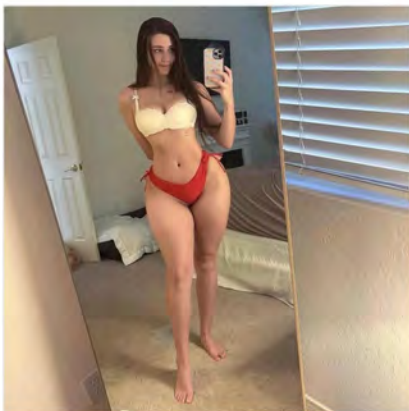


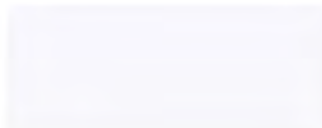
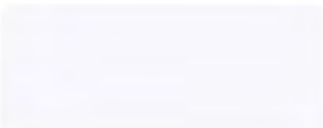
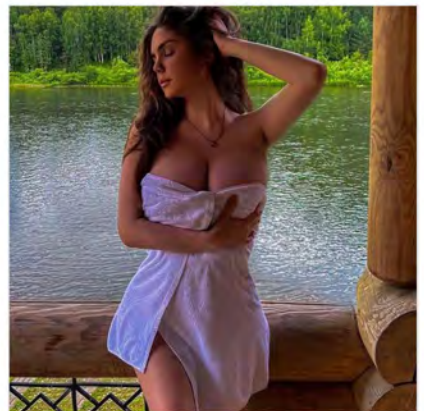
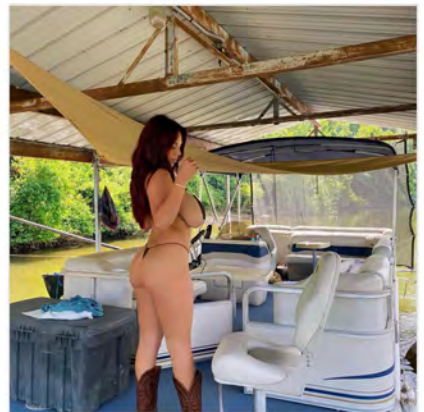
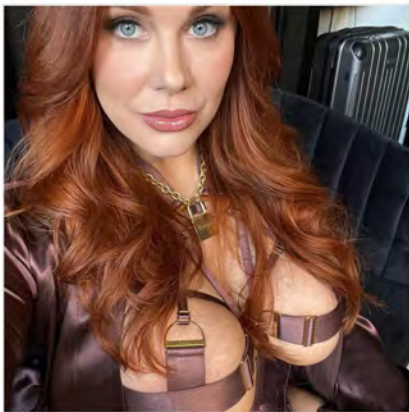
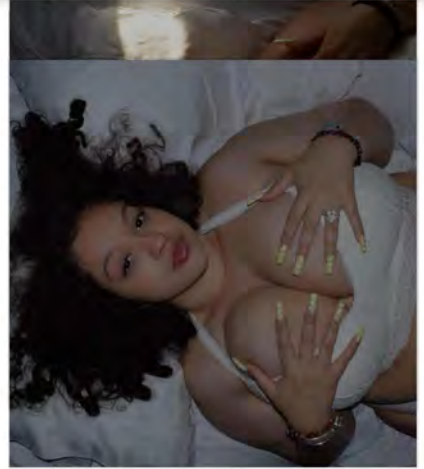
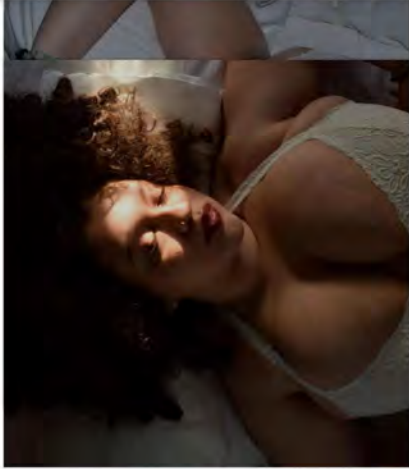
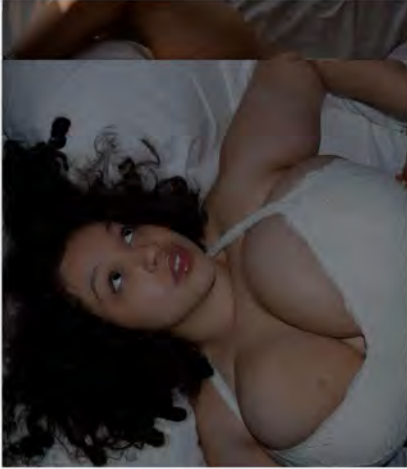
















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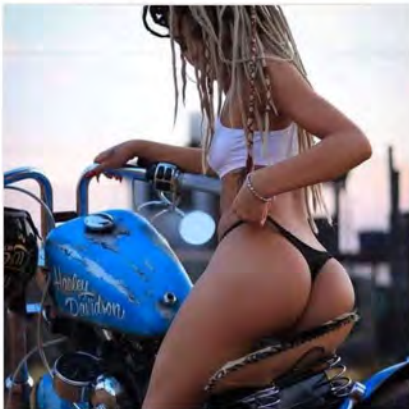
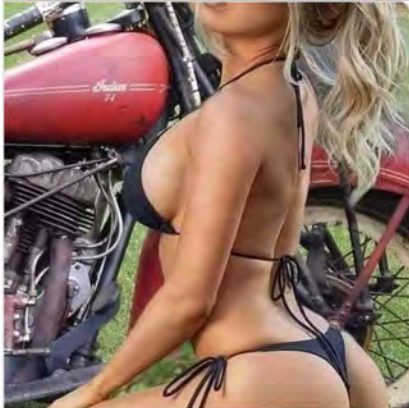


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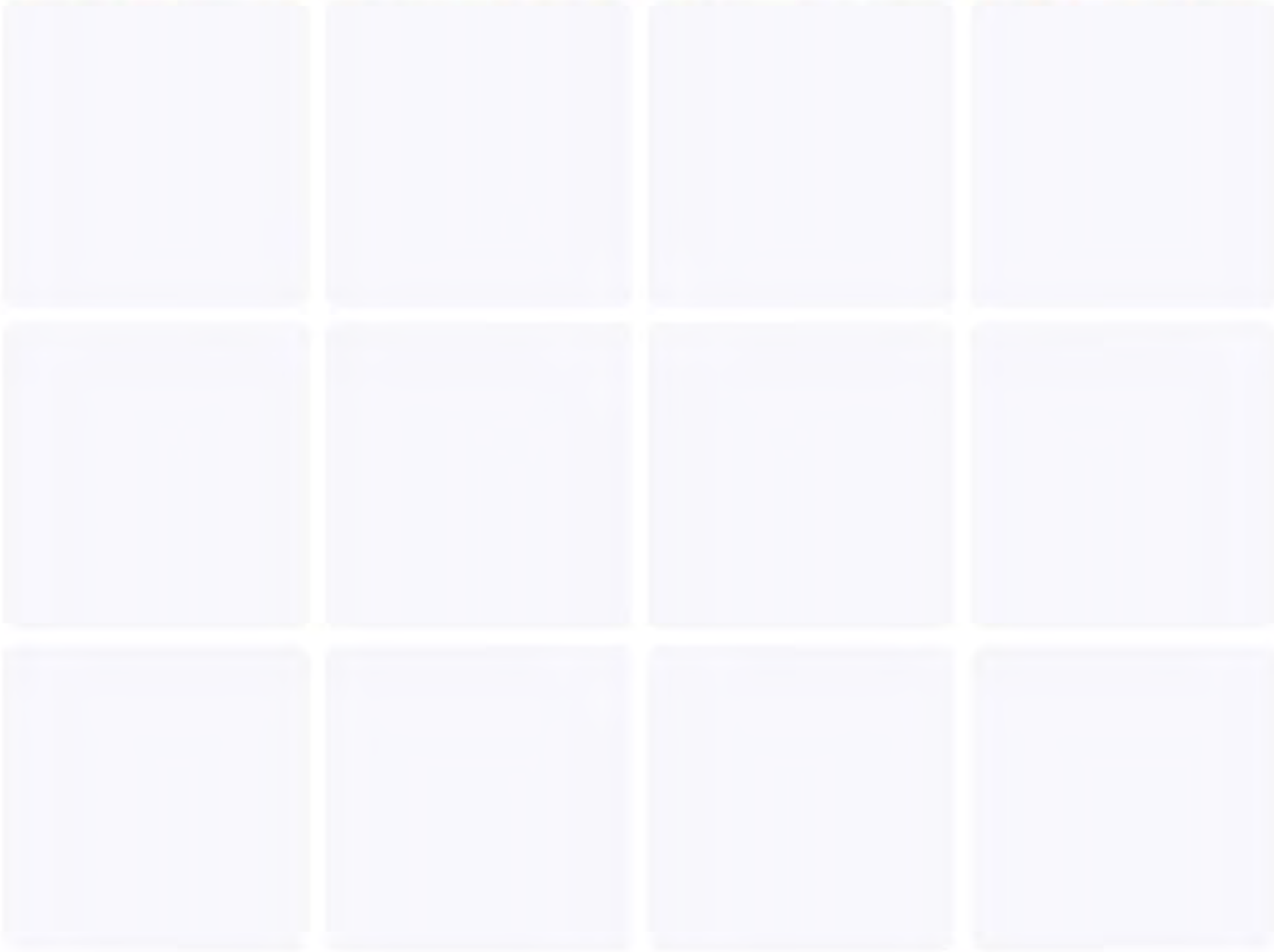


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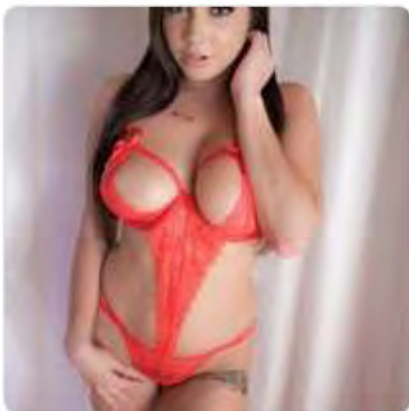
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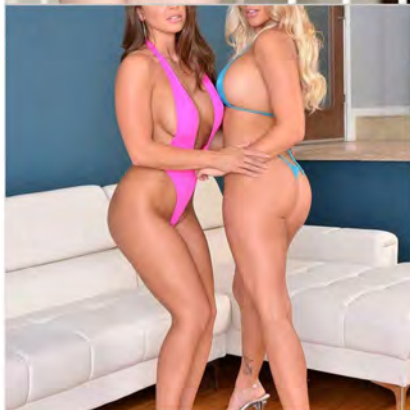
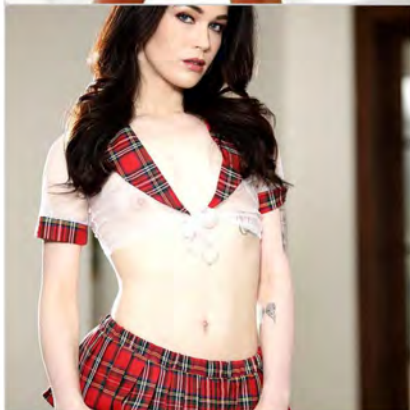
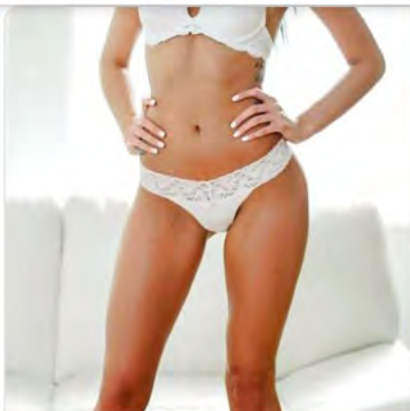
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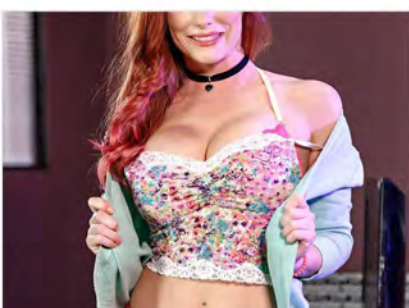
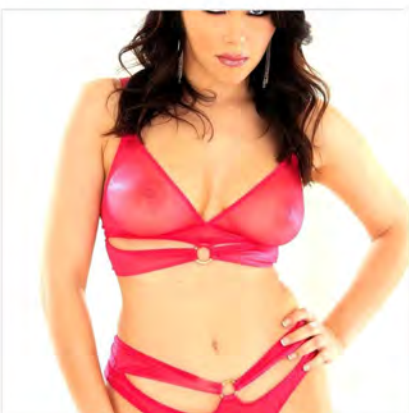
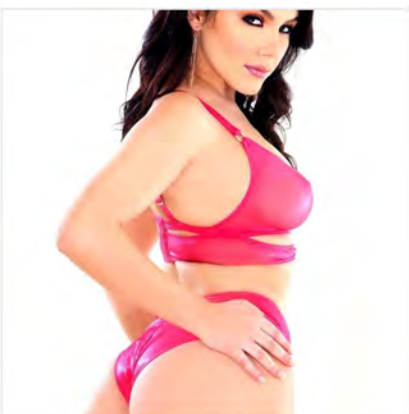


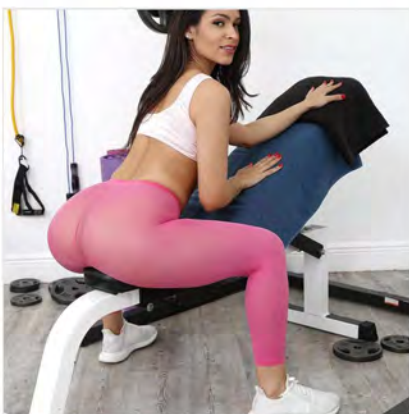
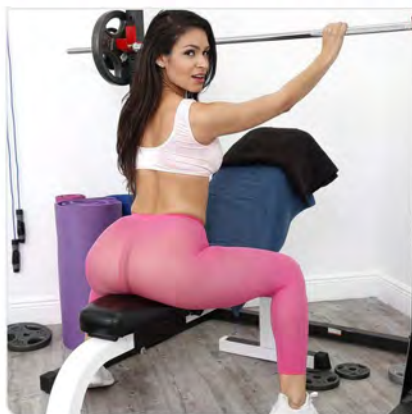
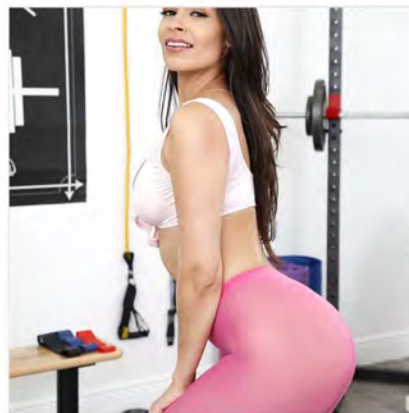
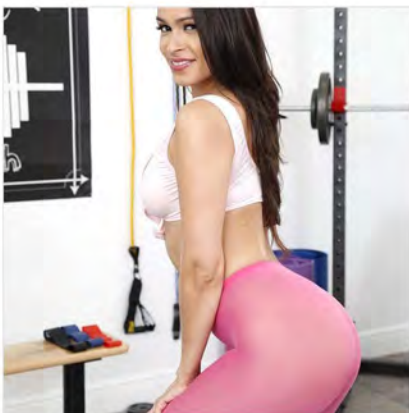
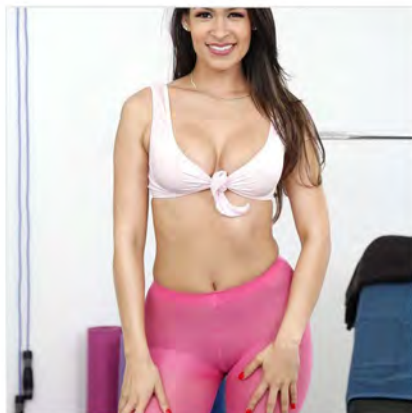
Cover photos

1 item









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

WILLIAM H. FUTRELL,

a Justice of the Montezuma Town Court,
Cayuga County.

Judge's Home Address

In the event that a determination of the Commission on Judicial Conduct is made in the above matter requiring transmittal to the Chief Judge and service upon the judge in accordance with Judiciary Law § 44, subd. 7, the Court of Appeals has asked the Commission to provide the judge's home address.

Judge's Home Address

Request and Authorization to Notify Judge's Attorney of Determination

In the event that a determination of the Commission on Judicial Conduct is made in the above matter requiring transmittal to the Chief Judge and service upon me in accordance with Judiciary Law § 44, subd. 7, the undersigned judge or justice:

(1) requests and authorizes the Chief Judge to cause a copy of my notification letter and a copy of the determination to be sent to my attorney(s) by mail:

Attorney's Name, Address, Telephone

(2) requests and authorizes the Clerk of the Commission to transmit this request to the Chief Judge together with the other required papers.

This request and authorization shall remain in force unless and until a revocation in writing by the undersigned judge or justice is received by the Commission.

Dated:

Signature of Judge or Justice

Acknowledgment:

Signature of Attorney for Judge or Justice

SEND TO: Clerk of the Commission
State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006



EXHIBIT B

NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT

ROBERT H. TEMBECKJIAN
ADMINISTRATOR & COUNSEL

400 ANDREWS STREET, SUITE 700
ROCHESTER, NEW YORK 14604

585-784-4141 518-299-1757
TELEPHONE FACSIMILE
www.cjc.ny.gov

JOHN J. POSTEL
DEPUTY ADMINISTRATOR
M. KATHLEEN MARTIN
DAVID M. DUGUAY
SENIOR ATTORNEYS
STEPHANIE A. FIX
STAFF ATTORNEY

CONFIDENTIAL

May 15, 2023

Hon. William H. Futrell



Re: Matter of William H. Futrell

Dear Judge Futrell:

The State Commission on Judicial Conduct has directed that a Formal Written Complaint be served upon you, pursuant to Section 44, subdivision 4, of the Judiciary Law. Enclosed are the Notice of Formal Written Complaint and the Formal Written Complaint in this matter. For your reference, the Rules Governing Judicial Conduct and the Commission's Operating Procedures and Rules are available on the Commission's website.¹

Kindly complete the enclosed form advising the Commission of your home address and return the form by mail to the Clerk of the Commission. This information is requested pursuant to a practice of the Court of Appeals. The information is confidential and will be transmitted by the Clerk of the Commission to the Court of Appeals in the event there is a public disciplinary determination. The remainder of the form contains a "Request and Authorization." Please note that the Request and Authorization must be

¹ <http://www.cjc.ny.gov/Legal.Authorities/legal.authorities.htm>

Hon. William H. Futrell

May 15, 2023

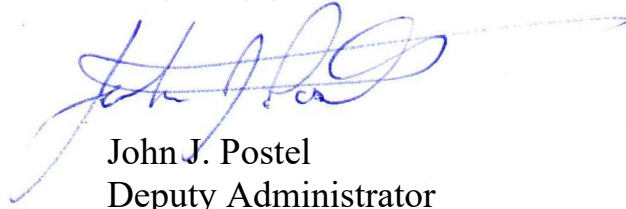
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completed in order for your attorney to be notified by the Court of Appeals of any public determination filed with the Court by the Commission.

Papers are being served upon you via certified mail addressed to your home. At your earliest convenience please acknowledge receipt of these papers.

If you have any questions concerning this matter, please contact me or David Duguay, Senior Attorney.

Very truly yours,

A handwritten signature in blue ink, appearing to read "John J. Postel", with a long horizontal flourish extending to the right.

John J. Postel
Deputy Administrator

Enclosures

CERTIFIED MAIL #9402809105156023694181
RETURN RECEIPT REQUESTED

EXHIBIT C

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK)

: ss.:

COUNTY OF MONROE)

KATHRYN TRAPANI, being duly sworn, deposes and says: deponent is not a party to the action, is over 18 years of age and works at 400 Andrews Street, Suite 700, Rochester, New York 14604.

On May 15, 2023, deponent served the within Notice of Formal Written Complaint and Formal Written Complaint upon Honorable William H. Futrell, Respondent in this action, at [REDACTED], by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, certified mail, return receipt requested, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.



Kathryn Trapani

Sworn to before me this
15th day of May, 2023.



Notary Public

Kathleen M. Martin
Notary Public, State of New York
No. 02MA6174901
Qualified in Monroe County
Commission Expires 10/01/2023

May 18, 2023

Dear Kathryn Trapani:

The following is in response to your request for proof of delivery on your item with the tracking number:
9402 8091 0515 6023 6941 81.

Item Details

Status: Delivered, Left with Individual
Status Date / Time: May 18, 2023, 10:50 am
Location: CAYUGA, NY 13034
Postal Product: Priority Mail®
Extra Services: Certified Mail™
Return Receipt Electronic
Up to \$100 insurance included
Recipient Name: Hon William H Futrell

Shipment Details

Weight: 2lb, 0.0oz

Recipient Signature

Signature of Recipient:



Address of Recipient:



Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004



EXHIBIT E

NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

ROBERT H. TEMBECKJIAN
ADMINISTRATOR & COUNSEL

400 ANDREWS STREET, SUITE 700
ROCHESTER, NEW YORK 14604

585-784-4141 518-299-1757
TELEPHONE FACSIMILE
www.cjc.ny.gov

JOHN J. POSTEL
DEPUTY ADMINISTRATOR
M. KATHLEEN MARTIN
DAVID M. DUGUAY
SENIOR ATTORNEYS
STEPHANIE A. FIX
STAFF ATTORNEY

CONFIDENTIAL

June 8, 2023

Hon. William H. Futrell


Re: Matter of William H. Futrell

Dear Judge Futrell:

On May 15, 2023, the State Commission on Judicial Conduct served a Formal Written Complaint upon you, pursuant to Section 44, subdivision 4, of the Judiciary Law. Enclosed is a copy of that letter including the Notice of Formal Written Complaint and the Formal Written Complaint in this matter. Papers were served upon you via certified mail addressed to your court.

Your response was due within 20 days of receipt of the letter. The certified mailing materials show that the documents were received on May 18, and your response was due on June 5, 2023.

Please be advised that your failure to answer the Formal Written Complaint will result in a Motion for Summary Determination being filed against you followed by a recommendation for public discipline.

Hon. William H. Futrell

June 8, 2023

Page 2

Please acknowledge receipt of this letter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "John J. Postel", with a long horizontal flourish extending to the right.

John J. Postel
Deputy Administrator

Enclosures

CERTIFIED MAIL # 9402809105156026759146
ELECTRONIC RETURN RECEIPT REQUESTED

June 12, 2023

Dear Kathryn Trapani:

The following is in response to your request for proof of delivery on your item with the tracking number:
9402 8091 0515 6026 7591 46.

Item Details

Status: Delivered, Left with Individual
Status Date / Time: June 10, 2023, 10:43 am
Location: CAYUGA, NY 13034
Postal Product: Priority Mail®
Extra Services: Certified Mail™
Return Receipt Electronic
Up to \$100 insurance included
Recipient Name: Hon William H Futrell

Shipment Details

Weight: 2lb, 0.0oz

Destination Delivery Address

Street Address: [REDACTED]
City, State ZIP Code: [REDACTED]

Recipient Signature

Signature of Recipient:



Address of Recipient:



Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

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

WILLIAM H. FUTRELL,

a Justice of the Montezuma Town Court,
Cayuga County.

**MEMORANDUM BY COUNSEL TO THE COMMISSION
IN SUPPORT OF MOTION FOR SUMMARY DETERMINATION**

ROBERT H. TEMBECKJIAN, ESQ.
Administrator and Counsel
Commission on Judicial Conduct
400 Andrews Street, Suite 700
Rochester, New York 14604
(585) 784-4141

Of Counsel:

John J. Postel, Esq.
Edward Lindner, Esq.
Denise Buckley, Esq.
David Stromes, Esq.
David M. Duguay, Esq.

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PRELIMINARY STATEMENT

This Memorandum is respectfully submitted by Counsel to the Commission on Judicial Conduct (“Commission Counsel”) in support of Counsel’s Motion for Summary Determination, pursuant to Sections 7000.6(b) and (c) of the Commission’s Operating Procedures and Rules, that the Honorable William H. Futrell (“Respondent”), a Justice of the Montezuma Town Court, Cayuga County, has committed judicial misconduct as alleged in the Formal Written Complaint. In the event that the Commission grants this motion, Commission Counsel will submit a separate memorandum on the issue of sanction, pursuant to a schedule set by the Commission.

PROCEDURAL HISTORY

A. The Formal Written Complaint

Pursuant to Judiciary Law § 44(4), the Commission authorized a Formal Written Complaint (“Complaint”), dated May 15, 2023, containing two charges. Charge I alleged that Respondent posted Nazi imagery to his Facebook page. Charge II alleged that Respondent’s Facebook page displayed “Likes” of other Facebook pages that depicted images of scantily clad and/or partially naked women, many of whom were in sexually suggestive poses, and that included content that demeaned or sexually objectified women.

Respondent was served with the Complaint via certified mail on two separate occasions: the first certified mailing, dated May 15, 2023, was confirmed delivered on May 18, 2023; and the second certified mailing, dated June 8, 2023, was confirmed delivered on June 10, 2023 (*see* Affirmation of John J. Postel [“Postel Aff”] ¶¶ 5-6, 8-9).

B. Respondent’s Answer

Pursuant to Judiciary Law §44(4) and Section 7000.6(b) of the Commission’s Operating Procedures and Rules, Respondent’s verified Answer was due within 20 days of service of the Complaint. Respondent has not filed an Answer to date (Postel Aff ¶10).

C. Facts

Pursuant to Section 7000.6(b) of the Commission’s Operating Procedures and Rules, which provides that “[f]ailure to answer the formal written complaint shall be deemed an admission of its allegations,” the following facts are deemed admitted.

As to Charge I

1. In or about April 2022, Respondent posted Nazi imagery to his Facebook page.

Specifications to Charge I

2. Facebook is an internet social networking website and platform that *inter alia* allows users to post and share content on their own Facebook pages, and to “like” content posted by other users. 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, textual posts, and “Likes” – may be viewable online by the general public or restricted to one’s Facebook “Friends.”

3. In or around April 2022, Respondent maintained a Facebook account with approximately 500 Facebook “Friends.” Respondent’s profile listed his name as Bill Futrell.

4. In or around April 2022, Respondent posted on his Facebook page an image of a human skull that appeared identical to the Nazi SS/Totenkopf forces insignia utilized during World War II. The letters “FF” (“Futrell Firearms”) were emblazoned above the eye sockets of the skull in a style simulating the appearance of the “SS” abbreviation of the Nazi Schutzstaffel. Respondent made this image his profile picture. The profile also falsely indicates that Respondent “Works at NYS Unified Court System.”

5. In or around July 2022, Respondent posted on his Facebook page a meme of Facebook Co-Founder and CEO Mark Zuckerberg dressed in Nazi

military garb, including a Totenkopf medal and Schutzstaffel insignia. The meme appeared on Respondent's Facebook page in two forms: on its own and framed with the words, "EXPOSING FRIENDS TO EXTREMIST CONTENT."

As to Charge II

6. In or about 2022, Respondent's Facebook page displayed "Likes" of other Facebook pages that depicted images of scantily clad and/or partially naked women, many of whom were in sexually suggestive poses, and that included content that demeaned or sexually objectified women.

Specifications to Charge II

7. In or about 2022, Respondent's Facebook "Likes" page displayed a "Like" for a Facebook page entitled "Only Men Lovers." That Facebook page consisted of numerous photographs of scantily clad women in sexually provocative and explicit poses.

8. In or about 2022, Respondent's Facebook "Likes" page displayed a "Like" for a Facebook page entitled "Psychopathic +21." That Facebook page consisted of numerous photographs of scantily clad and/or partially naked women in sexually provocative poses.

9. In or about 2022, Respondent's Facebook "Likes" page displayed a "Like" for a Facebook page entitled "Dirty Biker Trash." That Facebook page

consisted of numerous photographs of scantily clad women in sexually provocative poses.

10. In or about 2022, Respondent’s Facebook “Likes” page displayed a “Like” for a Facebook page entitled “Porngirls.” That Facebook page consisted of numerous photographs of scantily clad women in sexually provocative poses.

ARGUMENT

POINT I

RESPONDENT HAS ADMITTED THE FACTUAL ALLEGATIONS IN THE FORMAL WRITTEN COMPLAINT.

Section 7000.6(b) of the Commission’s Operating Rules and Procedures requires a judge who is served with a Complaint to serve a verified Answer within 20 days of receipt of the Complaint and specifies that “[f]ailure to answer the formal written complaint shall be deemed an admission of its allegations.”

Section 7000.6(c) of the Operating Procedures and Rules states that “[e]ither party may move before the commission for a summary determination . . . if the pleadings . . . show that there is no genuine issue as to any material fact and that the moving party is entitled to such decision as a matter of law.”

In *Matter of Petrie*, 54 NY2d 807 (1981), the Court of Appeals held that, reading those two provisions together, the Commission may avail itself of summary proceedings if a judge “failed to answer the complaint or raise any question of fact.” *Id.* at 808. *See also Matter of Backal*, 87 NY2d 1, 7 (1995)

(holding that a judge’s failure to respond to a Complaint is deemed an admission of the allegations in the complaint).

Here, Respondent failed to respond to the Complaint, which serves as an admission of all the allegations and leaves no disputed issues of material fact that would warrant a hearing. Accordingly, this matter is appropriate for summary determination under Section 7000.6(c) of the Operating Procedures and Rules. *Backal*, 87 NY2d at 7; *Petrie*, 54 NY2d at 808.

POINT II

RESPONDENT COMMITTED JUDICIAL MISCONDUCT BY POSTING AND LIKING CONTENT ON FACEBOOK THAT UNDERMINED THE DIGNITY AND INTEGRITY OF THE JUDICIARY.

The admitted facts establish that Respondent posted Nazi imagery on his Facebook page and used his Facebook account to “like” several pages that promoted numerous sexually proactive images of scantily clad and/or partially naked women. In doing so, Respondent committed judicial misconduct.

As the Commission has made clear, “[u]pon 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. The Court of Appeals long ago recognized that, even off the bench, judges are “cloaked figuratively” with the robes of judicial office (*Matter of Kuehnel*, 49 NY2d 465, 469 [1980]), and “[w]herever he travels, a Judge carries

the mantle of his esteemed office with him.” *Matter of Steinberg*, 51 NY2d 74, 81 (1980). The Court has thus advised that “[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.” *Matter of Lonschein*, 50 NY2d 569, 572 (1980) (citation omitted) *see Matter of Mazzei*, 81 NY2d 568, 572 (1993) (“judges . . . are held to higher standards of conduct than the public at large . . . and thus what might be acceptable behavior when measured against societal norms could constitute ‘truly egregious’ conduct in the present context”).

Those standards apply to a judge’s conduct on Facebook and other social media platforms. Although judges may join and use Internet-based social media websites, such as Facebook, they must ensure that such use complies with the Rules. *See* Advisory Committee on Judicial Ethics Op 08-176.

Thus, in *Matter of Fisher*, the Commission disciplined a judge for inappropriate Facebook posts, notwithstanding that the judge did not refer to his judicial position. The Commission held that “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, maintaining impartiality and acting at all times in a manner that promotes public confidence in the judge’s integrity.” 2019 Ann Rep of NY Commn on Jud Conduct at 126, 135; *see also, Matter of Nunnery*, 2024 Ann

Rep of NY Commn on Jud Conduct at ___ (publishing lewd, profane, and demeaning Facebook posts);¹ *Matter of Stilson*, 2023 Ann Rep of NY Commn on Jud Conduct at 290 (posting degrading and vulgar images of women on Facebook); *Matter of Elia*, 2023 Ann Rep of NY Commn on Jud Conduct at 120 (publishing LinkedIn posts that indicated a bias in favor of law enforcement); *Matter of Peck*, 2022 Ann Rep of NY Commn on Jud Conduct at 136 (Facebook posts containing photographs of judge wearing a police uniform at a rally to support the police).

A. Respondent Committed Misconduct by Publicly Posting Nazi Imagery on his Facebook Page.

Respondent committed judicial misconduct when he repurposed a Nazi SS/Totenkopf forces skull insignia for his Facebook profile picture, and repeatedly posted a meme depicting an individual in Nazi military garb, including a Totenkopf medal and Schutzstaffel insignia.

Any promotion or adoption of Nazi imagery is antithetical to the Rules. Nazis are commonly understood to harbor deep biases against various racial and ethnic groups, are particularly recognized as purveyors of anti-Semitism, and bear infamous responsibility for perpetrating acts of worldwide genocide that culminated in the systematic murder of over 11 million people.

¹ Available at: <https://cjc.ny.gov/Determinations/N/Nunnery.Jennifer.R.2023.08.09.DET.pdf>.

While non-judicial actors may be free to publicly embrace such disturbing and distasteful imagery, judges are not. Indeed, the Commission has repeatedly disciplined judges whose conduct – whether on social media or elsewhere – created an appearance of bias or detracted from the public’s confidence in the judge’s integrity. *See eg, Matter of Nunnery*, 2024 Ann Rep at __ (lewd, profane, and demeaning Facebook posts); *Matter of Elia*, 2023 Ann Rep at 120 (LinkedIn posts that indicated a bias in favor of law enforcement); *cf Matter of Putorti*, 2023 Ann Rep of NY Commn on Jud Conduct at 230 (judge told a story that unnecessarily harped on a litigant’s race), *Matter of Ellis*, 2008 Ann Rep of NY Commn on Jud Conduct at 123 (judge told defendants in an eviction case to “stop jewing other landlords”).

B. Respondent Committed Misconduct by “Liking” other Facebook Pages Depicting Images and Content that Demeaned and Sexually Objectified Women.

Respondent used his Facebook account to “like” four other Facebook pages, entitled “Porngirls,” “Dirty Biker Trash,” “Only Men Lovers,” and “Psychopathic +21.” All four pages featured and promoted sexually explicit and provocative images of women.

Matter of Stilson, 2023 Ann Rep at 290 is directly on point. There, the Commission held that the judge violated the Rules by using his Facebook account to post three memes that “objectified and denigrated women and included

degrading, vulgar and disturbing images of women that are not appropriate for a judge to be posting publicly.” *Id.* at 294. Respondent’s conduct here was similar, and perhaps worse: he “liked” four other Facebook pages that each contained a multitude of demeaning and degrading photographs, thus affixing a literal stamp of approval – a digital “thumbs up” linked to his Facebook account – to content that objectified women for the sexual gratification of others. The Commission has long condemned such conduct. *Cf. Matter of Doolittle*, 1986 Ann Rep of NY Commn on Jud Conduct at 87, 88 (“[t]he cajoling of women about their appearance or their temperament has come to signify differential treatment on the basis of sex. . . . [T]he teasing once tolerated [is] now considered demeaning and offensive”); *see also Matter of Abramson*, 2011 Ann Rep of NY Commn on Jud Conduct at 62 (judge made improper comments of a sexual nature about a litigant’s T-shirt); *Matter of Dye*, 1999 Ann Rep of NY Commn on Jud Conduct at 93 (judge made improper comments to his secretary concerning her physical appearance and that of other women).

C. Respondent’s Failure to Cooperate with the Commission Exacerbates His Misconduct.

Section 44(4) of the Judiciary Law, and Section 7000.6(b) of the Commission’s Operating Procedures and Rules, require a judge served with a formal written complaint to serve an answer to the complaint within 20 days. Notwithstanding that obligation, Respondent – despite being served twice – failed

to respond entirely. Such a lack of cooperation with a duly authorized Commission inquiry “demonstrates a lack of respect for the process created by Constitution and statute under which the Commission is empowered to investigate the conduct of judges.” *Matter of McCall*, 2004 Ann Rep of NY Commn on Jud Conduct at 135, 137; *see also Matter of McAndrews*, 2014 Ann Rep of NY Commn on Jud Conduct at 157; *Matter of Lockwood*, 2007 Ann Rep of NY Commn on Jud Conduct at 123.

Matter of Stilson is again illustrative. There, after the judge “fail[ed] to participate in the Commission’s proceedings” following a Complaint alleging improper Facebook usage, the Commission found that the judge had “exacerbated his underlying misconduct” by declining to file an Answer to the Complaint. *Matter of Stilson*, 2023 Ann Rep at 296. The Commission emphasized that “[a]ccountability for members of the judiciary is critical and all judges must be attentive to their responsibility to participate in Commission proceedings,” and that the “respondent’s decision not to participate in the Commission’s proceedings after the Complaint was issued exhibited a disdain for the Commission’s important role and undermined public confidence in the judiciary.” *Id.* at 296-97. Quoting *Matter of O’Connor*, 32 NY3d 121, 129 (2018), the Commission concluded that “willingness to cooperate with the Commission’s investigations and proceedings is

not only required,” but “essential” in order for “public trust in the judiciary . . . to be maintained.” *Stilson*, 2023 Ann Rep at 296-97.

CONCLUSION


For the foregoing reasons, Commission Counsel respectfully requests that the Commission grant this motion for summary determination, find that Respondent has engaged in judicial misconduct, and set a schedule for briefs and oral argument before the Commission on the issue of sanction.

Dated: September 20, 2023
Rochester, New York

Respectfully submitted,

ROBERT H. TEMBECKJIAN
Administrator and Counsel to the
Commission on Judicial Conduct

By:



John J. Postel
Deputy Administrator
Commission on Judicial Conduct
400 Andrews Street, Suite 700
Rochester, New York 14604
(585) 784-4141

Of Counsel:

Edward Lindner, Esq.
Denise Buckley, Esq.
David Stromes, Esq.
David M. Duguay, Esq.



September 22, 2023

Dear Kathryn Trapani:

The following is in response to your request for proof of delivery on your item with the tracking number:
9402 8091 0515 6539 1274 63.



Item Details

Status: Delivered, Left with Individual
Status Date / Time: September 22, 2023, 10:33 am
Location: CAYUGA, NY 13034
Postal Product: Priority Mail®
Extra Services: Certified Mail™
Return Receipt Electronic
Up to \$100 insurance included
Recipient Name: Hon William H Futrell

Shipment Details

Weight: 2lb, 0.0oz

Recipient Signature

Signature of Recipient:	
Address of Recipient:	

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