

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

MICHAEL F. MCGUIRE,

a Judge of the County and Surrogate's Courts, an
Acting Judge of the Family Court and an Acting
Justice of the Supreme Court, Sullivan County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to Respondent, Michael F. McGuire, a Judge of the County and Surrogate's Courts, an Acting Judge of the Family Court and an Acting Justice of the Supreme Court, Sullivan 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 New York office, 61 Broadway, Suite 1200, New York, New York 10006, with his verified Answer to the specific paragraphs of the Complaint.

Dated: August 27, 2018
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: J. Scott Bonacic, Esq.
Attorney for Respondent
Bonacic & McMahon, LLP
45 Webster Avenue
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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

MICHAEL F. MCGUIRE,

**FORMAL
WRITTEN COMPLAINT**

a Judge of the County and Surrogate's Courts, an
Acting Judge of the Family Court and an Acting
Justice of the Supreme Court, Sullivan County.

1. Article 6, 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 Michael F. McGuire ("Respondent"), a Judge of the County and Surrogate's Courts, an Acting Judge of the Family Court and an Acting Justice of the Supreme Court, Sullivan County.
3. The factual allegations set forth in Charges I through XIII 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 was admitted to the practice of law in New York in 2002. He has been a Judge of the County and Surrogate's Courts, and an Acting Judge of the Family Court, Sullivan County, since 2011, and an Acting Justice of the Supreme Court since January 2013. Respondent's term expires on December 31, 2020.

CHARGE I

5. On or about December 18, 2013, while presiding in Family Court over R [REDACTED] v I [REDACTED] O [REDACTED], a child custody and visitation matter, Respondent was discourteous toward the plaintiff, R [REDACTED] R [REDACTED], improperly held Mr. R [REDACTED] in summary contempt and sentenced him to 30 days in jail without (A) providing appropriate warnings, (B) affording Mr. [REDACTED] opportunity to make a statement on his own behalf, (C) affording Mr. R [REDACTED] the opportunity to purge the contempt and (D) preparing a written order setting forth the nature of the offense, the steps taken by the court, and the punishment imposed.

Specifications to Charge I

6. On or about December 18, 2013, Respondent presided in Family Court over R [REDACTED] v I [REDACTED] O [REDACTED], a child custody and visitation matter. Mr. R [REDACTED] and Ms. O [REDACTED] are, respectively, the father and mother of the child at issue, who was approximately one and a half years old at the time. Mr. R [REDACTED], who was incarcerated on a criminal matter, appeared without counsel before Respondent. Ms. O [REDACTED] was not present.

7. After Respondent dismissed Mr. R [REDACTED]'s petition for visitation without prejudice due to improper service, Mr. R [REDACTED] said that he knew Respondent's son and asked for his recusal. The following colloquy occurred:

MR. R [REDACTED]: I-- I know your son, so can you recuse yourself from my case, please, and assign me another judge.

JUDGE MCGUIRE: Come here. Bring him back here.

MR. R [REDACTED]: I just need another judge.

JUDGE MCGUIRE: Bring him back here. You got 30 days judicial contempt--

MR. R [REDACTED]: How is that contempt?

JUDGE MCGUIRE: --Jacked on top of whatever you got.

MR. R [REDACTED]: How is that contempt?

JUDGE MCGUIRE: Open your mouth again.

COURT OFFICER: You're disrespecting the judge right now.

JUDGE MCGUIRE: Thirty Days. You-- Ay, come here a minute. You making a threat against my son?

MR. R [REDACTED]: I just asked you to recuse--

JUDGE MCGUIRE: Are you threatening my son?

MR. R [REDACTED]: No, I'm not.

JUDGE MCGUIRE: Officer, this gentlemen just threatened my son.

MR. R [REDACTED]: I just asked him to recuse himself (unintelligible). I need a record.

JUDGE MCGUIRE: Try that again. You got 30 days judicial contempt. Try that again.

8. Respondent sentenced Mr. R [REDACTED] to 30 days' incarceration for judicial contempt. Respondent did not warn Mr. R [REDACTED] that his behavior was contemptuous, nor did he give him an opportunity to be heard or an opportunity to purge the contempt before sentencing him to 30 days in jail.

9. Respondent did not prepare a mandate of commitment or any other documentation memorializing the particular circumstances of the offense or the specific punishment imposed.

10. As a result of Respondent's actions, Mr. R [REDACTED] was incarcerated.

11. By reason of the foregoing, Respondent 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, 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 perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, failed to be patient, dignified and courteous to a litigant, in violation of Section 100.3(B)(3) of the Rules, and failed to accord every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard, in violation of Section 100.3(B)(6) of the Rules.

CHARGE II

12. On or about August 28, 2013, while presiding in County Court over *People v M [REDACTED] G [REDACTED]*, Respondent was discourteous toward the defendant, N [REDACTED] G [REDACTED], and improperly held Ms. G [REDACTED] in summary contempt and sentenced her to 30 days in jail without (A) providing appropriate warnings, (B) affording Ms. G [REDACTED] the opportunity to make a statement on her own behalf, (C) affording Ms. G [REDACTED] the opportunity to purge the contempt and (D) preparing a written order

setting forth the nature of the offense, the steps taken by the court, and the punishment imposed.

Specifications to Charge II

13. On or about August 28, 2013, Respondent presided in County Court over *People v N [REDACTED] G [REDACTED]*. Ms. G [REDACTED], who had been charged with Grand Larceny in the Fourth Degree, a felony, and other crimes, agreed to participate in a drug program with the understanding that, upon successful completion of the program, she would be sentenced to Petit Larceny, a misdemeanor, and a three-year term of probation. If she failed the program, however, she agreed to be sentenced to a state prison term of one and one-third years. Ms. G [REDACTED] failed to successfully complete the drug program and was scheduled to be sentenced by Respondent on August 28, 2013. Ms. G [REDACTED] was represented by attorney Jared K. Hart.

14. During the sentencing proceeding, after advising Ms. G [REDACTED] that she had not succeeded in the drug program and would be sentenced to prison, Respondent remarked on Ms. G [REDACTED]'s parenting ability. The following colloquy occurred:

| | |
|-------------------|--------------------------------------------------------------|
| JUDGE MCGUIRE: | Think how your children feel, if they even know who you are. |
| MS. G [REDACTED]: | They absolutely do. I was a good mother to my daughter. |
| JUDGE MCGUIRE: | What's that? |
| MS. G [REDACTED]: | My children know who I am. |
| JUDGE MCGUIRE: | Really? |
| MS. G [REDACTED]: | Absolutely. |

JUDGE MCGUIRE: Do they know what a mother is?

MS. [REDACTED]: Absolutely.

JUDGE MCGUIRE: How do they know that, from your mother?

MS. G [REDACTED]: 'Cause I was a good mom until I relapsed.

15. Respondent continued to question Ms. G [REDACTED] about why she believed she was a good mother and stated *inter alia*:

You know, this may be one of the saddest cases there are -- not for you, 'cause you've chosen to throw your life away, that's your decision to do. Frankly it would be my desire to sentence you to life without parole because you really have demonstrated you have no desire or intention to ever be a productive member of society, to ever be a parent, to ever be anything that resembles a mother. You merely gave birth to the children but then you -- you have emotionally abandoned them. And I understand the addiction and the disease that is addiction. I do understand it, and I do have compassion. But I have no tolerance for people who have no interest in taking the more difficult route to success. I just have no tolerance for that. You know, it's been said that opportunities look a lot like hard work. And at every opportunity that's been presented to you, you have chosen the easier way out. I'll go sit in state prison, hang out, meet some people, enjoy myself, won't be there for my children for another four years, another couple of years anyway with parole, then I'll come out and I won't have to worry about being answerable to anyone.

16. Respondent made further remarks about Ms. G [REDACTED]'s parenting ability and her "rather extensive criminal history." The following colloquy then occurred.

MS. G [REDACTED]: Can we just get this over with? I'm not going to sit here and listen to this man shoot me down. I do this to myself every day and I don't need you --

JUDGE MCGUIRE: Yes, you are.

MS. G [REDACTED]: -- to tell me anything but sentence me so I can get out of this fucking courtroom.

MR. HART: Don't do that.

MS. G [REDACTED]: I don't care. He's not going to sit here and tell me nothing. My kids --

JUDGE MCGUIRE: I tell you what I'm going to do. I'm going to sentence you to 30 days for judicial contempt and we'll come back here in about three weeks and we'll continue with sentencing. Okay. 30 days judicial contempt.

Take her. Let's get another date for sentencing.

17. Respondent then rescheduled the sentencing date for the felony conviction to September 24, 2013.

18. Respondent did not warn Ms. G [REDACTED] that her behavior was contemptuous, nor did he give her an opportunity to be heard or an opportunity to purge the contempt before directing that she be taken into custody.

19. Respondent did not prepare a mandate of commitment or any other documentation memorializing the particular circumstances of the offense or the specific punishment imposed.

20. As a result of Respondent's action, Ms. G [REDACTED] was incarcerated from August 28, 2013, to September 24, 2013, when she was returned to court, at which time Respondent commenced the proceeding with the following statement:

All right. We had Miss G [REDACTED] here on August the 28th, at that time she wasn't pleased with what the Court had to say and made some very inappropriate comments and served the last 30 days on a judicial contempt.

21. By reason of the foregoing, Respondent 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, 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 perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, failed to be patient, dignified and courteous to a litigant, in violation of Section 100.3(B)(3) of the Rules, and failed to accord every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard, in violation of Section 100.3(B)(6) of the Rules.

CHARGE III

22. On or about October 3, 2012, while presiding in Family Court over **R** **Z** **v T** **F** a child custody and visitation matter, Respondent was discourteous toward the defendant, **T** **F** improperly directed that Ms. **F** be handcuffed and removed from the courtroom for approximately one hour and held Ms. **F** in summary contempt without (A) providing appropriate warnings, (B) affording Ms. **F** the opportunity to make a statement on her own behalf, (C) affording Ms. **F** the opportunity to purge the contempt and (D) preparing a written order setting forth the nature of the offense, the steps taken by the court, and the punishment imposed.

Specifications to Charge III

23. On or about October 3, 2012, Respondent presided in Family Court over R [REDACTED] Z [REDACTED] v T [REDACTED] F [REDACTED], a child custody and visitation matter. Mr. Z [REDACTED] and Ms. F [REDACTED] are, respectively, the father and mother of the child at issue, who was approximately five years old at the time. Neither of the litigants was represented by counsel.

24. During the proceeding, Respondent changed the visitation schedule and expanded the amount of time that Mr. Z [REDACTED] would be permitted to visit with the child. Ms. F [REDACTED] was concerned by Respondent's ruling and expressed that the child would not want to go with Mr. Z [REDACTED].

25. As Ms. F [REDACTED] and Respondent were discussing the matter, the following occurred:

| | |
|-------------------|--------------------------------------------------------------------------------------|
| MS. F [REDACTED] | What if my daughter don't want to go with her father? |
| JUDGE MCGUIRE: | What if your daughter don't want to go to school? What do you do? |
| MS. [REDACTED]: | My daughter loves to go to school every day. |
| JUDGE MCGUIRE: | What if she didn't want to go to school? |
| MS. F [REDACTED]: | My daughter ain't going to want to go with him. |
| JUDGE MCGUIRE: | What if she didn't-- |
| MS. F [REDACTED]: | My daughter ain't going to want to want it. |
| JUDGE MCGUIRE: | All right. Here's the deal, Ms. F [REDACTED], if I learn that your daughter is not-- |

MS. F [REDACTED]: He's going to go to the school, or pick her up, and she's going to hear, "R [REDACTED] Z [REDACTED] here to"--

JUDGE MCGUIRE: Take her into custody.

MS. F [REDACTED]: --"Is here to pick up E [REDACTED] Z [REDACTED]"--

JUDGE MCGUIRE: Take her into custody. Take her into custody.

MS. F [REDACTED]: Okay. I'm sorry. I'll try--

JUDGE MCGUIRE: Judicial contempt.

MS. F [REDACTED]: I'm sorry. I--

JUDGE MCGUIRE: Judicial contempt. Take her into custody. You're disrupting the proceedings repeatedly.

(SOUND OF HANDCUFFS)

MS. F [REDACTED]: Can you pick up my glasses, please?

JUDGE MCGUIRE: Get her out of here.

26. Respondent did not warn Ms. F [REDACTED] that her behavior was contemptuous, nor did he give her an opportunity to be heard or an opportunity to purge the contempt before directing that she be taken into custody.

27. Ms. F [REDACTED] was placed into handcuffs, removed from the courtroom and detained for over an hour in a room outside of the courtroom.

28. When Ms. F [REDACTED] returned to the courtroom, Respondent and Ms. F [REDACTED] engaged in the following colloquy:

JUDGE MCGUIRE: All right, Ms. F [REDACTED], how's handcuffs feeling?

MS. F [REDACTED]: They hurt my wrist. I'm sorry.

JUDGE MCGUIRE: You're not going to come into this courtroom or any other courtroom in this county and behave like this.

MS. F [REDACTED]: I know. I apologize.

JUDGE MCGUIRE: This is not *The Jerry Springer Show*.

MS. F [REDACTED]: I know. I'm sorry.

29. Respondent did not prepare a mandate of commitment or any other documentation memorializing that Ms. F [REDACTED] had been held in custody, the particular circumstances of the offense or the specific punishment imposed.

30. By reason of the foregoing, Respondent 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, 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 perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, failed to be patient, dignified and courteous to a litigant, in violation of Section 100.3(B)(3) of the Rules, and failed to accord every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard, in violation of Section 100.3(B)(6) of the Rules.

CHARGE IV

31. On or about June 14, 2013, while presiding in Family Court over *T [REDACTED] L [REDACTED] v G [REDACTED] C [REDACTED] and H [REDACTED] B [REDACTED]*, a child custody and visitation matter, Respondent was discourteous toward the plaintiff, *T [REDACTED] L [REDACTED]*, improperly directed that Ms. *L [REDACTED]* be handcuffed and removed from the courtroom for approximately one hour and held Ms. *L [REDACTED]* in summary contempt without (A) providing appropriate warnings, (B) affording Ms. *L [REDACTED]* the opportunity to make a statement on her own behalf, (C) affording Ms. *L [REDACTED]* the opportunity to purge the contempt and (D) preparing a written order setting forth the nature of the offense, the steps taken by the court, and the punishment imposed.

Specifications to Charge IV

32. On or about June 14, 2013, Respondent presided in Family Court over *T [REDACTED] L [REDACTED] v G [REDACTED] C [REDACTED] and H [REDACTED] B [REDACTED]*, a child custody and visitation matter. Ms. *L [REDACTED]* and Mr. *C [REDACTED]* are, respectively, the mother and father of the child at issue, who was approximately 16 years old at the time. Mr. *C [REDACTED]* was represented by attorney K. C. Garn. Ms. *L [REDACTED]* was not represented by counsel.

33. During the proceeding, in which the child's difficulty with a math class was discussed, Respondent lectured Ms. *L [REDACTED]* in a loud voice. The following colloquy occurred:

JUDGE MCGUIRE:

All right. Ms. *L [REDACTED]*, parenting is not a spectator sport. You don't buy a ticket and watch your child grow up. Your child fails a class, you're responsible for seeing to it that she gets the services she needs to learn that subject.

You don't just sit back and say, "It's not my responsibility. I gave birth to her"--

MS. L [REDACTED]:

Well, excuse me--

JUDGE MCGUIRE:

--It's now up to the government to raise her. No, I'm not excusing anything. Your child's failing math, you should be in contact with the guidance counselor and find out what needs to be done. Does she have a tutor?

MS. L [REDACTED]:

She has extra classes. She (unintelligible)

JUDGE MCGUIRE:

Does she have a tutor?

MS. L [REDACTED]:

She has an IEP.

JUDGE MCGUIRE:

Does she have a tutor?

MS. L [REDACTED]:

She-- no, they have not given her a tutor, and I don't have the money to pay for one. Do you?

JUDGE MCGUIRE:

That's not my question.

MS. L [REDACTED]:

No, she doesn't have a tutor. It cost money.

JUDGE MCGUIRE:

Have you spoken to the school about a tutor?

MS. LY [REDACTED]:

No. We had an IEP meeting recently.

JUDGE MCGUIRE:

Did you go to it?

MS. L [REDACTED]:

I was conferenced over the phone. Yes, I did.

JUDGE MCGUIRE:

Was there a transportation issue that prevented you from being present at the IEP meeting?

MS. LY [REDACTED]:

Yes, there is. I do not have a vehicle.

JUDGE MCGUIRE:

Did you speak to Mr. Jones about that[?]

MS. LY [REDACTED]:

We set up a conference meeting with the school, so I could have the conference phone.

JUDGE MCGUIRE:

Mr. Jones did?

MS. L [REDACTED]:

Mr. Jones, myself, the school district.

JUDGE MCGUIRE: Did you speak to Mr. Jones about assisting you with transportation to get you to that meeting?

MS. L [REDACTED]: I don't believe transportation was available at that time to go to that meeting.

JUDGE MCGUIRE: Did you speak to Mr.--

MS. L [REDACTED]: I do not remember, sir.

JUDGE MCGUIRE: You know what? Take her into custody.

COURT OFFICER: Stand up, place your hands behind your back, please.

JUDGE MCGUIRE: Second call.

(SOUND OF HANDCUFFS)

JUDGE MCGUIRE: Second call. Get these people out of my courtroom.

34. Respondent did not warn Ms. L [REDACTED] that her behavior was contemptuous, nor did he give her an opportunity to be heard or an opportunity to purge the contempt before directing that she be taken into custody.

35. Ms. L [REDACTED] was placed in handcuffs, removed from the courtroom and detained for over an hour in a room outside of the courtroom.

36. While she was in custody, mobile medical attendants were summoned to assist Ms. L [REDACTED], who complained of chest pains and shortness of breath. After receiving such assistance, she declined to be transferred to a hospital.

37. When Ms. L [REDACTED] returned to the courtroom, Respondent lectured her about respecting the court, stating *inter alia*:

Ms. L [REDACTED], I have the authority summarily to put you in the Sullivan County Jail for 30 days, based on judicial contempt. I'm not going to do that, but I'm going to say this to you: that it's never a concern

of mine what the economic status of anybody in this courtroom is. I don't care if you are the wealthiest person in the world or are down on your luck. The court, not me as a person, the court deserves and will always be respected by everybody that's in the court because this is fundamental to our way of life in this country. Men and women spill blood every day for the freedoms that we enjoy in this court. There are countries in this world where people don't have that opportunity and have an opportunity to go before a judge. They just take your children away and you disappear in some countries in the world. These courts are provided to people so that there can be an orderly disposition of issues. And what goes along with enjoying these freedoms is a respect of the court. That's the building-- go ahead-- the judges, the staff, the officers, they will be treated with respect at all times. So, I don't need to be draconian, there's no reason to put you into the Sullivan County Jail for 30 days, but you need to think carefully before you address the court with disrespect.

38. Respondent did not prepare a mandate of commitment or any other documentation memorializing that Ms. L [REDACTED] had been held in custody, the particular circumstances of the offense or the specific punishment imposed.

39. By reason of the foregoing, Respondent 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, 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 perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence

in it, in violation of Section 100.3(B)(1) of the Rules, failed to be patient, dignified and courteous to a litigant, in violation of Section 100.3(B)(3) of the Rules, and failed to accord every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard, in violation of Section 100.3(B)(6) of the Rules.

CHARGE V

40. On or about January 17, 2014, while presiding in Family Court over [REDACTED] W [REDACTED] G [REDACTED] v C [REDACTED] C [REDACTED], a child custody and visitation matter, Respondent was discourteous toward the defendant, C [REDACTED] C [REDACTED], improperly directed that Ms. C [REDACTED] be handcuffed and removed from the courtroom for approximately 15 minutes and held Ms. C [REDACTED] in summary contempt without (A) providing appropriate warnings, (B) affording Ms. C [REDACTED] the opportunity to make a statement on her own behalf, (C) affording Ms. C [REDACTED] the opportunity to purge the contempt and (D) preparing a written order setting forth the nature of the offense, the steps taken by the court, and the punishment imposed.

Specifications to Charge V

41. On or about January 17, 2014, Respondent presided in Family Court over L [REDACTED] G [REDACTED] v C [REDACTED] C [REDACTED], a child visitation and custody matter. Mr. G [REDACTED] and Ms. C [REDACTED] are, respectively, the father and mother of the child at issue, who was approximately six months old at the time. Mr. G [REDACTED] was represented by attorney John Ferrara and Ms. C [REDACTED] was represented by attorney K. C. Garn.

42. During the proceeding, there was a discussion about where the child would sleep when visiting Ms. C [REDACTED], and whether a "Pack 'n Play" portable crib, purchased

by Ms. C [REDACTED] but in Mr. G [REDACTED]'s possession, would be available. The following colloquy occurred:

JUDGE MCGUIRE: Okay. You're way ahead of the game. All right, so, here's your option, Ms. C [REDACTED]. You can have a 24-hour period with your daughter, which will require that you buy or obtain a Pack 'n Play--

MS. C [REDACTED]: That's--

JUDGE MCGUIRE: --or a crib or someplace appropriate for her to sleep, or you can continue to have day visits.

MS. C [REDACTED]: --That's a crock of shit to me, honestly.

JUDGE MCGUIRE: I'll tell you what, take her into custody now.

COURT OFFICER: Miss, stand up, please.

JUDGE MCGUIRE: I told you this was not going well for you.

COURT OFFICER: Miss, Miss, stand up.

MS. C [REDACTED]: Well, this isn't fair, you know what I'm saying? All-- her stroller, everything is mine, I paid for all that stuff, so why should I have to go out and shovel--

JUDGE MCGUIRE: --You need to put your hands behind your back.

MS. C [REDACTED]: Oh my God, this is so crazy right now.
(SOUND OF HANDCUFFS)

COURT OFFICER: I'm going to grab your coat. Follow me.

COURT OFFICER: Part II post-- one-- one second.

MS. C [REDACTED]: This is bullshit. You know, I'm having another baby--

COURT OFFICER: Go to your right, please.

MS. C [REDACTED]: -- And I have to sit here and fight for this shit. Like, this is crazy, real fucking crazy.

COURT OFFICER: One second. Slow down, slow down.

(DOOR CLOSSES)

43. Respondent did not warn Ms. C [REDACTED] that her behavior was contemptuous, nor did he give her an opportunity to be heard or an opportunity to purge the contempt before directing that she be taken into custody.

44. Ms. C [REDACTED] was placed in handcuffs, removed from the courtroom and detained for approximately 15 minutes in a room outside of the courtroom.

45. While Ms. C [REDACTED] was in custody, Mr. G [REDACTED]'s attorney, Mr. Ferrara, asked Respondent how long she had to remain in custody. Respondent stated, "Yeah we'll let her cool-- calm down a little bit."

46. When Ms. C [REDACTED] returned to the courtroom, her attorney Mr. Garn informed Respondent that Ms. C [REDACTED] was pregnant. Addressing Ms. C [REDACTED], Respondent stated that she was deciding to bring a child into the world "at a time where you don't have a home, don't have any money, don't have a job, but that's your decision."

47. Respondent did not prepare a mandate of commitment or any other documentation memorializing that Ms. C [REDACTED] had been held in custody, the particular circumstances of the offense or the specific punishment imposed.

48. By reason of the foregoing, Respondent 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, 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 perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, failed to be patient, dignified and courteous to a litigant, in violation of Section 100.3(B)(3) of the Rules, and failed to accord every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard, in violation of Section 100.3(B)(6) of the Rules.

CHARGE VI

49. On or about December 2, 2014, while presiding in Family Court over *A [REDACTED] F [REDACTED] v J [REDACTED] K [REDACTED] and N [REDACTED] K [REDACTED]*, a child custody and visitation matter, Respondent was discourteous toward Mr. K [REDACTED]'s wife, R [REDACTED] K [REDACTED], improperly directed that Mrs. K [REDACTED] be handcuffed and removed from the courtroom for approximately one hour and held Mrs. K [REDACTED] in summary contempt without (A) providing appropriate warnings, (B) affording Mrs. K [REDACTED] the opportunity to make a statement on her own behalf, (C) affording Mrs. K [REDACTED] the opportunity to purge the contempt and (D) preparing a written order setting forth the nature of the offense, the steps taken by the court, and the punishment imposed.

Specifications to Charge VI

50. On or about December 2, 2014, Respondent presided in Family Court over *A [REDACTED] F [REDACTED] v J [REDACTED] K [REDACTED] and N [REDACTED] K [REDACTED]* a child custody and visitation matter. A [REDACTED] F [REDACTED] and N [REDACTED] K [REDACTED] are, respectively, the father and mother of the child at issue, who was approximately 13 months old at the time. J [REDACTED] K [REDACTED] is the child's maternal grandfather. R [REDACTED] K [REDACTED], the child's maternal grandmother, and M [REDACTED] F [REDACTED] and K [REDACTED] F [REDACTED], the child's paternal aunts, were also present before Respondent. Mr. F [REDACTED] was represented by attorney John Ferrara and N [REDACTED] K [REDACTED] was represented by attorney K. C. Garn. The child was represented by attorney Isabelle Rawich. J [REDACTED] and R [REDACTED] K [REDACTED] were not represented by counsel.

51. The child had been living for the past year with the maternal grandparents, and Mr. F [REDACTED] had been granted visitation privileges two days a week, on which occasions the child was to be delivered to his home by Mr. K [REDACTED] and returned by Mr. F [REDACTED] aunts. During the proceeding, there was discussion regarding Mr. F [REDACTED]'s paternity as to the child, and recent occasions as to which Mr. K [REDACTED] indicated he did not deliver the child to Mr. F [REDACTED] because the child was ill, or because there was a disagreement as to the visitation date. After Respondent set a trial date for January 15, 2015, the following colloquy occurred:

MR. K [REDACTED] Your Honor, may I ask a question?

JUDGE MCGUIRE: Sure.

MR. K [REDACTED]: Is there any way, like, as far as me delivering the baby, is there any way that I cannot do that or am I forced?

JUDGE MCGUIRE: Yeah, I'm going to take care of that right now.

MR. K [REDACTED]: Thank you, sir.

JUDGE MCGUIRE: Okay--

MR. K [REDACTED]: --Because it's--

JUDGE MCGUIRE: --I want the child turned over to the father today. The father will have temporary custody of the child pending trial.

MRS. K [REDACTED]: Are you kidding me?

MR. K [REDACTED]: How could-- what about all these documents about him abusing-- abuse, beating her up?

UNKNOWN FEMALE: No, that's because of you--

MR. K [REDACTED]: --And everything else?

UNKNOWN FEMALE: That's because of you.

MR. K [REDACTED]: How's it because of me? He-- I have documents from Sullivan County, sir, that he left the dog in the bathroom, that he beat her up and everything. How are you going to turn the baby over?

JUDGE MCGUIRE: See you January 15th. Turn the child over to the father right now.

MR. K [REDACTED]: How are you going to turn the baby over to him right now, sir? Look at the paperwork.

JUDGE MCGUIRE: Turn the child over to the father right now.

MR. K [REDACTED]: Oh, my God.

MRS. K [REDACTED]: If anything happens to my son-- my grandson, Your Honor, I will sue the county, and I will sue you.

MR. K [REDACTED]: That's for sure.

JUDGE MCGUIRE: Take her into custody. You want to threaten the judge? Take her into custody.

MRS. K [REDACTED]: I'm just-- I'm not threatening you.

JUDGE MCGUIRE: Take her into custody. You want to threaten the judge? Take her into custody.

MR. K [REDACTED]: Sir, is there anything you can do with this, about the-- the threats that he did to her?

MRS. K [REDACTED]: Take a look, the abuse, what he did. He kicked her--

JUDGE MCGUIRE: Get her out of here.

MRS. K [REDACTED]: --He kicked--

JUDGE MCGUIRE: Get her out of here.

MR. K [REDACTED]: Ma'am, Ma'am?

MRS. K [REDACTED]: Pray God, pray God, my grandson's life.

(SOUND OF HANDCUFFS)

MR. K [REDACTED]: Ma'am?

MRS. K [REDACTED]: You're not God, Your Honor.

MR. K [REDACTED]: Ma'am, is there anything you can do with her?

MRS. K [REDACTED]: You-- you know the law, you're not God.

MR. K [REDACTED]: Sir, please, sir. Come on, sir.

JUDGE MCGUIRE: Goodbye.

MR. K [REDACTED]: For real, sir, he has documents of abusing my daughter while she was pregnant. I have them right here, sir. Sir, please don't do that, sir. Please don't.

JUDGE MCGUIRE: Next case.

MR. K [REDACTED]: Put him somewhere else if you have to.

JUDGE MCGUIRE: Get him out.

MR. K [REDACTED]: Please, sir.

COURT OFFICER: Parties step out.

MR. K [REDACTED]: Sir. Wow, wow.

52. Respondent did not warn Mrs. K [REDACTED] that her behavior was contemptuous, nor did he give her an opportunity to be heard or an opportunity to purge the contempt before directing that she be taken into custody.

53. Mrs. K [REDACTED] was placed in handcuffs, removed from the courtroom and detained for approximately one hour in a room outside of the courtroom.

54. When Mrs. K [REDACTED] returned to the courtroom, she indicated she had retained an attorney, and both she and Mr. K [REDACTED] apologized repeatedly to Respondent. After Respondent remarked that he could incarcerate Mrs. K [REDACTED] for 30 days for disrupting the proceeding, the following colloquy occurred:

MR. K [REDACTED]: Please don't do that, sir. I'm sorry.

JUDGE MCGUIRE: You want me to put you in for 30 days?

MR. K [REDACTED]: No. I'm sorry.

COURT OFFICER: Don't, don't, don't talk. No outbursts.

MRS. K [REDACTED]: I'm sorry, Your Honor. That baby is my life.

JUDGE MCGUIRE: Yeah, but he's not your child.

MRS. K [REDACTED]: I understand.

JUDGE MCGUIRE: Belongs to the father and the mother.

MRS. K [REDACTED]: I understand.

JUDGE MCGUIRE: That's whose baby it is.

MRS. K [REDACTED]: I-- I apologize.

JUDGE MCGUIRE: All right.

MRS. K [REDACTED]: It's like-- like a piece of me was took away from me--

JUDGE MCGUIRE: All right--

MRS. K [REDACTED]: --I'm sorry.

JUDGE MCGUIRE: --Well, no one's taking anybody away from anybody, but the child has a right to a relationship with the mother and the father. And when I believe that people are trying to stand between the relationship that the child is entitled to with the mother and the father, it upsets me.

MRS. K [REDACTED]: But--

JUDGE MCGUIRE: --All right? So, what I'm going to do, Ms. K [REDACTED] is I'm going to release you this time. I'm not going to pursue judicial contempt against you, I'm not going to put you in jail, all right?

MRS. K [REDACTED]: Thank you.

55. Respondent thereafter terminated visitation rights for Mr. and Mrs. K [REDACTED], advised them that they could file a petition for visitation and adjourned the proceeding.

56. Respondent did not prepare a mandate of commitment or any other documentation memorializing that Mrs. K [REDACTED] had been held in custody, the particular circumstances of the offense or the specific punishment imposed.

57. By reason of the foregoing, Respondent 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, 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 perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, failed to be patient, dignified and courteous to litigants, in violation of Section 100.3(B)(3) of the Rules, and failed to accord every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard, in violation of Section 100.3(B)(6) of the Rules.

CHARGE VII

58. From in or about 2013 through in or about 2014, while presiding over three Family Court cases, Respondent threatened litigants with contempt of court without basis or authority in law and otherwise failed to treat the litigants in a patient, dignified and courteous manner.

Specifications to Charge VII

P [REDACTED] *v* *R* [REDACTED] *and* *Re* [REDACTED]

59. On or about January 28, 2013, Respondent presided in Family Court over *M. P. v S. R. and S. R.*, a child custody and visitation matter. Mr. P. is the father of the child who was the subject of the proceeding. Ms. R., now known as S. P., is the child's mother. Ms. R. is the child's maternal grandmother. Mr. P. was represented by John Ferrara, Ms. R./P. was represented by Marcia Heller, Ms. R. was represented by K. C. Garn, and the child, who was approximately eleven years old at the time, was present in court and was represented by Alexandra Bourne.

60. Respondent set the matter down for trial on March 5, 2013, issued a temporary order granting Mr. P. visitation every other weekend, and adjourned the proceeding.

61. As the parties and attorneys were leaving the courtroom, Ms. R. said something to her granddaughter, whereupon Respondent yelled at Ms. R. and either ordered or threatened to have her taken into custody.

62. Ms. R. thereupon started to shake and have difficulty breathing. Respondent nevertheless continued to yell at her. Court staff called for an ambulance but Ms. R. declined treatment.

Department of Family Services v E. and F.

63. On or about November 7, 2014, Respondent presided in Family Court over *[REDACTED] v T. and A. F.*, a child custody and visitation matter.

64. While a witness was on the stand testifying, Respondent yelled at Ms. E [REDACTED]: “Ms. E [REDACTED], you are about three seconds from getting yourself put in handcuffs and taken out of here,” notwithstanding that Ms. E [REDACTED] was not disrupting the proceeding and/or otherwise engaging in any inappropriate conduct. Respondent did not indicate what alleged behavior of Ms. E [REDACTED]’s he found to be objectionable.

W [REDACTED] v G [REDACTED]

65. On or about August 21, 2014, the judge presided in Family Court over C [REDACTED] W [REDACTED] v A [REDACTED] G [REDACTED] a child custody and visitation matter. Mr. V [REDACTED] and Ms. G [REDACTED] are the parents of the two children at issue in this matter.

66. In 2013 the parties agreed to move to California with the understanding that Ms. G [REDACTED] would first move with the children and that Mr. V [REDACTED] would later follow. Before Mr. V [REDACTED] joined them in California there was a breakdown in the relationship, which led Mr. V [REDACTED] to file a custody petition in New York. The matter was heard in the Sullivan County Family Court before Respondent.

67. During the proceeding on or about August 21, 2014, Respondent made the following statements:

- A. Commenting on the home of the relative with whom Ms. G [REDACTED] and the children were residing in California, Respondent said: “Because all of a sudden, while there was a plan for them to go out and stay with the aunt and get settled and then get their own place, all of a sudden, the aunt’s house shrunk once the mother got there. It was a six-bedroom home, now it’s a two-bedroom home, and there’s no

room for the father. No mangers in the area, there's no room at the inn, the Dad's not allowed to come."

- B. Notwithstanding the absence of any evidence that Ms. G [REDACTED] had a boyfriend, Respondent said, "I mean, you're sure her boyfriend isn't here to testify?"
- C. Without any evidentiary basis, Respondent said: "Clearly, the mother went out there [California] because she wanted out of this marriage. Clearly, she want-- she's out there and she gets involved in another relationship, and clearly, that's her interest."
- D. Immediately thereafter, without indicating what Ms. G [REDACTED] had done to provoke him or allowing her to explain or apologize, Respondent said to Ms. G [REDACTED]: "I'm going to throw you out and put you in handcuffs in about 30 seconds, all right? So you can either walk out or get thrown out if I have to look at another outrageous expression from you. Clear? Because if I have to tell you again, I'm just going to ask the officer to put you in handcuffs, and then you'll-- you'll experience the Sullivan County Jail."

68. As subsequently found by the Appellate Division in *V [REDACTED] v G [REDACTED]*, 130 AD3d 1215 (3d Dept 2015):

- A. After hearing only from Ms. G [REDACTED] on direct testimony, and on a record that was "patently insufficient" to support such action,

Respondent granted full custody to Mr. V [REDACTED] and made no provision for Ms. G [REDACTED] to have contact with the children.

- B. Respondent “treated the mother [Ms. G [REDACTED]] with apparent disdain, such that [the Court] cannot be assured that further proceedings will be conducted in an impartial manner.” Therefore the court “direct[ed] that future proceedings between these parties be presided over by a different judge.”

69. By reason of the foregoing, Respondent 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, 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 perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, failed to be patient, dignified and courteous to a litigant, in violation of Section 100.3(B)(3) of the Rules, and failed to accord every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard, in violation of Section 100.3(B)(6) of the Rules.

CHARGE VIII

70. From in or about 2011 through in or about 2015, Respondent repeatedly and inappropriately yelled at, demeaned and/or otherwise failed to be patient, dignified and courteous toward court staff, including his confidential secretary Wendy Weiner, court clerk Andrea Rogers, and court officers Miguel A. Diaz, Brenda Downs, Sergeant Guillermo Olivieri and Lieutenant Kevin C. McCabe.

Specifications to Charge VIII

71. Respondent (A) yelled at his confidential secretary Wendy Weiner and otherwise addressed her frequently in a loud, angry and condescending manner between 2011 and 2015, (B) called her “stupid” on one occasion in 2013 while he was examining pistol permits, (C) screamed at Ms. Weiner and threw a flash drive across a desk in her direction on or about January 14, 2015, and on the same occasion threw court files that were on his desk and kicked some of the files around his chambers area, apparently after encountering a problem with his office computer and (D) stopped talking to her after the incident on or about January 14, 2015.

72. Respondent (A) yelled at his court clerk Andrea Rogers and otherwise addressed her frequently in a loud, angry and condescending manner between January 2011 and December 2013 and (B) on numerous occasions, in the presence of litigants and attorneys in the courtroom, rolled his eyes and gestured with his hands for her to stop while discussing court business with her.

73. Respondent (A) yelled at Court Officer Miguel A. Diaz and otherwise addressed him frequently in a loud and angry manner between January 2011 and

February 2013 when Officer Diaz was assigned to his court, and (B) loudly and angrily told him on at least two occasions, in the presence of litigants and attorneys, to stop using his court-issued radio at a time Officer Diaz was communicating by radio with officers posted at the magnetometer located outside of Respondent's courtroom, regarding individuals who wished to enter the courtroom during proceedings in *D [REDACTED] [REDACTED] v T [REDACTED] M [REDACTED]* in June 2012 and *M [REDACTED] H [REDACTED] v R [REDACTED] E [REDACTED]* in February 2013.

74. On or about February 25, 2013, after the above-described incident in *M [REDACTED] H [REDACTED] v R [REDACTED] E [REDACTED]*, Respondent summoned supervising court officer Sergeant Guillermo Olivieri and, on seeing Sergeant Olivieri while walking near his chambers, Respondent walked quickly toward him, aggressively pointed his finger and yelled at Sergeant Olivieri that he wanted a court officer other than Miguel A. Diaz assigned to his courtroom.

75. In or about late 2014 or early 2015, at a time when Brenda Downs, the court officer assigned to his courtroom, was standing within several inches of a door near Wendy Weiner's desk, Respondent walked from his own desk in chambers to the area where Officer Downs was standing and, while looking directly at Officer Downs but not speaking, forcefully slammed the door.

76. On one occasion in 2012, Respondent pounded his desk with his forefinger and loudly and angrily told Lieutenant Kevin C. McCabe that he wanted his cases called at 9:00 AM, "not 9:01, not 9:02, 9 o'clock."

77. By reason of the foregoing, Respondent 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, 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 perform the duties of judicial office impartially and diligently, in that he failed to be patient, dignified and courteous to court staff, in violation of Section 100.3(B)(3) of the Rules.

CHARGE IX

78. On or about March 10, 2014, while presiding in Family Court over M [REDACTED] [REDACTED] v R [REDACTED] H [REDACTED] Respondent failed to be patient, dignified and courteous toward the parties.

Specifications to Charge IX

79. On or about March 10, 2014, Respondent presided in Family Court over M [REDACTED] M [REDACTED] v R [REDACTED] H [REDACTED], a child custody and visitation matter.

80. The parties were before Respondent for court approval of an informal agreement that they had reached regarding custody and visitation as to their child, who was approximately two years old at the time. Neither party was represented by counsel.

81. Respondent questioned the parties under oath regarding the custody and visitation agreement and said *inter alia* that the litigants were “being civil to one another” and that the parties should use “good judgment” before introducing their daughter to someone that they were dating.

82. Respondent then said it would be problematic were either of the parties to date or introduce their child to a “drug addict,” a “slut” or a “child abuser,” notwithstanding the absence of any facts or allegations that either party had a history of dating such individuals, had introduced their child to such individuals, or was dating anyone at all.

83. By reason of the foregoing, Respondent 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, 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 perform the duties of judicial office impartially and diligently, in that he failed to be patient, dignified and courteous to litigants, in violation of Section 100.3(B)(3) of the Rules.

CHARGE X

84. From on or about January 1, 2011 through in or about December 2015, Respondent repeatedly engaged in the unauthorized practice of law notwithstanding that, as a full-time judge, he was prohibited from doing so.

Specifications to Charge X

85. Prior to assuming judicial office in January 2011, Respondent practiced law and, *inter alia*, had an office at the Liberty Professional Plaza on Sullivan Avenue in Ferndale, New York; maintained a telephone and answering machine for law office business purposes; and routinely used his private law office letterhead for business correspondence.

86. From on or about January 1, 2011 through in or about 2015, notwithstanding that he was a full-time judge, Respondent utilized the same telephone number that he had used prior to January 2011 in connection with his private law practice. The answering machine announcement associated with the phone number stated as follows: "Hi. You've reached the Office of Mike McGuire. I'm not available to take your call right now, but your call is very important to me. Leave your name, number and a message at the tone and I'll get back to you just as soon as possible."

People v W [REDACTED] I. M [REDACTED]

87. On or about September 20, 2012, Respondent's son W [REDACTED] M [REDACTED], was arrested in Oneonta, New York (Otsego County), for Unlawful Possession of Marihuana.

88. Between September and December 2012, Respondent asked attorney Zachary D. Kelson to contact the Otsego County District Attorney's office to ascertain if it would offer Mr. M [REDACTED] an Adjournment in Contemplation of Dismissal (ACD). Mr. Kelson thereafter advised Respondent, via email, that the District Attorney's office would not offer an ACD to Mr. M [REDACTED].

89. On or about December 2, 2012, notwithstanding that he was a full-time judge, Respondent sent two letters on behalf of his son, on the letterhead of his former law office, to Chief Clerk Catherine Tisenchek of the Oneonta City Court.

90. In the first December 2nd letter, Respondent requested production of the lab report generated in connection with his son's arrest, "setting forth the nature of quality of the substance alleged to have been possessed by Mr. McGuire." He also enclosed his Notice of Appearance on behalf of his son, and an Affirmation of Actual Engagement, stating *inter alia* that "I represent Defendant herein, W [REDACTED] M [REDACTED]."

91. In the second December 2nd letter, Respondent *inter alia* discussed dates on which he would or would not be available to appear in court on behalf of his son.

92. Respondent identified himself at the signature line of both letters, the Notice of Appearance and the Affirmation of Actual Engagement, as "MICHAEL F. McGUIRE, ESQ."

93. Although the letterhead on both December 2nd letters list Respondent's former law office address as his location, both the Notice of Appearance and the Affirmation of Actual Engagement list Respondent's home address as his location. In addition, the Notice of Appearance states that the "undersigned appears as counsel for the

defendant named herein and respectfully requests that all motions, notices and other papers be served upon him at the address listed below,” *i.e.* Respondent’s home address.

94. On or about December 8, 2012, notwithstanding that he was a full-time judge prohibited from practicing law, Respondent sent a letter on behalf of his son, on the letterhead of his former law office, to Chief Clerk Tisenchek, regarding the dates on which he would be available to appear in court on behalf of his son. The letter was sent by facsimile and contained a facsimile stamp reading “MCGUIRE LAW.” Respondent identified himself on the signature line of the letter as “MICHAEL F. MCGUIRE, ESQ.”

95. On or about February 26, 2013, notwithstanding that he was a full-time judge prohibited from practicing law, Respondent conferenced his son’s case with Otsego County Assistant District Attorney Michael F. Getman and Oneonta City Court Judge Richard W. McVinney, in the Oneonta City Courthouse.

96. On or about April 8, 2013, notwithstanding that he was a full-time judge prohibited from practicing law, Respondent, sent a letter on behalf of his son, on the letterhead of his former law office, to Judge McVinney, regarding his son’s case. The text of the letter stated as follows:

Enclosed herewith please find a Notice and Omnibus Motion in regard to the above captioned matter. By separate cover, a copy of these papers have been simultaneously provided to the Assistant District Attorney handling the matter, Mr. Getman. Thank you, in advance, for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Respondent identified himself on the signature line as “Michael F. McGuire, Esq.”

97. Respondent identified himself on the signature line of the Notice and Omnibus Motion, which is dated April 6, 2013, as “MICHAEL F. McGUIRE, ESQ Attorney for W [REDACTED] M [REDACTED].” In the submission, Respondent moves *inter alia* that the matter be dismissed for various reasons and that a hearing be held to determine the admissibility of statements that the defendant made to the police.

98. Respondent identified himself on the signature line of the accompanying “Affirmation in Support” as “MICHAEL F. McGUIRE, ESQ.” The affirmation, which is 26 pages long, sets forth detailed legal arguments in support of Respondent’s application on behalf of his son.

99. On or about August 4, 2013, notwithstanding that he was a full-time judge prohibited from practicing law, Respondent sent a letter on behalf of his son to Judge McVinney. The letterhead identifies Respondent as “MICHAEL F. McGUIRE Attorney and Counselor at Law” and lists his home address as his location. The letter states that Respondent was enclosing a Reply Affirmation and it requests that the judge accept the papers even though they had not been timely filed. Respondent is identified on the signature line of the Reply Affirmation as “MICHAEL F. McGUIRE, ESQ.”

100. The Reply Affirmation, which is six pages in length, sets forth detailed legal arguments in response to the opposition papers filed by the District Attorney’s office.

101. On or about August 6, 2013, Judge McVinney issued a written Decision and Order in *People v W [REDACTED] M [REDACTED]*, listing Respondent as the attorney of record

for the defendant. Judge McVinney dismissed the charges against Mr. M [REDACTED] in the interest of justice pursuant to Criminal Procedure Law §170.40.

People v Corinne G. McGuire

102. On or about May 17, 2010, Respondent's wife, Corinne G. McGuire, received a speeding ticket in Wawarsing, New York. Respondent, who was not a judge at the time, represented his wife in connection with this matter.

103. On or about July 25, 2011, notwithstanding that he was now a full-time judge prohibited from practicing law, Respondent sent a letter on behalf of his wife, on the letterhead of his former law office, to Wawarsing Town Court Justice Charles J. Dechon. Respondent's letter stated *inter alia* that he was now a County Court Judge and was "not permitted to represent this or any other client," but nevertheless was asking the court to "accept the previously submitted plea" that Respondent had discussed with the prosecutor.

George Matisko

104. Prior to becoming a full-time judge, Respondent provided legal representation to George Matisko in connection with a personal injury matter.

105. On or about January 20, 2011, notwithstanding that he was a full-time judge prohibited from practicing law, Respondent spoke by telephone with a claims representative for the Progressive Casualty Insurance Company ("Progressive") on behalf of Mr. Matisko. Respondent thereafter sent a letter on behalf of Mr. Matisko, on the letterhead of his former law office, to Progressive, regarding the telephone call.

Respondent identified himself on the signature line as “Michael F. McGuire, Esq.”

Enclosed with the letter was a signed HIPAA form from Mr. Matisko.

106. From in or about January 2011 through in or about October 2011, notwithstanding that he was a full-time judge prohibited from practicing law, Respondent received correspondence regarding Mr. Matisko’s claim from Progressive, addressing him as Mr. Matisko’s attorney.

107. From in or about January 2011 through in or about February 2012, notwithstanding that he was a full-time judge prohibited from practicing law, Respondent directed that his confidential court secretary, Wendy Weiner, contact and speak to representatives of Progressive, to negotiate a settlement in the *Matisko* matter.

Accordingly, Ms. Weiner contacted Progressive on several occasions during this time period in order to negotiate a settlement. Among other things, on or about December 23, 2011, Ms. Weiner drafted a release in the *Matisko* matter, witnessed Mr. Matisko sign it in Respondent’s chambers, then notarized and sent the release to Progressive.

108. On or about January 25, 2012, notwithstanding that he was a full-time judge prohibited from practicing law, Respondent directed Ms. Weiner to send a letter to Progressive in Respondent’s name, regarding the settlement of Mr. Matisko’s case. The letter, which identifies Respondent Michael F. McGuire, Esq., stated *inter alia* as follows:

As per your conversation with my secretary, this letter is to confirm that I received the settlement check in the above matter approximately a week ago and have since misplaced the check. Could you kindly stop payment on the check and re-issue a new check in the amount of \$1,000?

109. In or about January or February 2012, Respondent received a check for \$1000 from Progressive in connection with the *Matisko* matter. The check was identified as “In Payment Of FULL & FINAL BODILY INJURY SETTLEMENT” and was made out as “Pay To The Order Of GEORGE MATISKO ADULT MALE & MICHAEL MCGUIRE, ESQS., AS ATTORNEY.” Respondent endorsed the check.

Eileen and Phillip Moore

110. In or about 2014, Eileen and Phillip Moore, in connection with a foreclosure sale, contracted to purchase a home in Napanoch, New York. Respondent was acquainted with Chris Depew, the Moores’ son-in-law.

111. In or about 2014, Respondent’s brother, Kenneth J. McGuire, was retained by the Moores to provide them with legal representation in connection with the purchase.

112. In or about 2014, notwithstanding that he was a full-time judge prohibited from practicing law, Respondent brought documents pertaining to the purchase to the Moores’ home, showed and explained the documents to the Moores, instructed the Moores where to sign the documents and stayed at the house while the Moores signed the documents.

113. On or about August 25, 2014, an email from Respondent’s account named “judgemcguire@[REDACTED]” was sent to Mary Ann Schultz of Frenkel Lambert Weiss Weisman & Gordon, LLP, the law firm representing the foreclosure company. The email concerned an inspection of the subject property, provided Respondent’s personal cellular telephone number and advised the recipient to call if there were any “questions, concerns or comments.”

114. On or about August 26, 2014, notwithstanding that he was a full-time judge prohibited from practicing law, an email from Respondent's account named "judgemcguire@[REDACTED]" was sent to Ms. Schultz, regarding the Moores' home inspection and closing dates. The email provided Respondent's personal cellular telephone number and stated that "since I am often unable to check e-mail during the business day it is most efficient that you contact me by phone or text message."

115. On or about August 25 and August 26, 2014, notwithstanding that he was a full-time judge prohibited from practicing law, Respondent engaged in email exchanges with real estate broker Jeff Dolfinger and Ms. Schultz, using his email address judgemcguire@[REDACTED]. In an email transmitted at or about 3:47 AM on or about August 26, 2014, Respondent said the following:

It is quite simple, get the house ready for an inspection and stay out of the legal end of this transaction that will be accomplished by the attorneys, I am directing that you cease and desist from making any of your crude comments to my clients, if they persist I will have not [sic] option but to take action against you.

Ricky Pagan

116. In or about 2010, Respondent, who was not a judge at the time, represented Ricky Pagan.

117. In or about 2012 or 2013, notwithstanding that he was now a full-time judge prohibited from the practice of law, Respondent represented Ricky Pagan in connection with the purchase of real property in Sullivan County.

118. In or about 2012 or 2013, Barbara Clark, an owner of the real property at issue, called Respondent's chambers and left a message. Respondent returned her call

and was informed that the property was going into foreclosure. Respondent then notified Mr. Pagan about the foreclosure and told him that he needed to deliver a check to the Sullivan County Treasurer. Mr. Pagan thereafter brought such a check to Respondent.

119. In or about 2013, notwithstanding that he was a full-time judge prohibited from practicing law, Respondent drafted and sent a letter, enclosing documents, on Mr. Pagan's behalf to Ms. Clark, explaining how she should complete the paperwork and directing her to return the documents to himself. Respondent thereafter caused the documents to be recorded with the Sullivan County Clerk.

120. On or about November 14, 2013, Respondent caused the deed to be filed with the Sullivan County Clerk, transferring property from Ms. Clark to Mr. Pagan.

Christopher Lockwood

121. In or about 2010, Respondent, who was not a judge at the time, represented Christopher Lockwood in connection with a speeding ticket issued to Mr. Lockwood in Liberty, New York, on or about June 6, 2010.

122. On or about January 4, 2011, a letter was sent from the Town of Liberty Court to Respondent, who was now a full-time judge prohibited from practicing law, at the address of his former law office, informing him of the "Appearance/Pre-Trial Conference" date with respect to the *Lockwood* matter.

123. Between in or about January 2011 and in or about March 2011, Connie Van Keuren, Deputy Court Clerk of the Liberty Town Court, telephoned Respondent's chambers and left a message for him to call her about the *Lockwood* matter. Respondent

returned the call and told Ms. Van Keuren his brother, Kenneth J. McGuire, would be handling the *Lockwood* matter.

124. In or about January 2011, Respondent asked his confidential court secretary, Wendy Weiner, to fill out Section I of Mr. Lockwood's Application to Amend Traffic Infraction in connection with his pending speeding case in the Liberty Town Court.

125. On or about February 1, 2011, a letter signed by Kenneth J. McGuire on behalf of Mr. Lockwood was sent on the letterhead of Respondent's former law office to prosecutor Kenneth C. Klein. The letter included the completed Application to Amend Traffic Infraction and Mr. Lockwood's driving record abstract.

126. On or about August 5, 2011, notwithstanding that he was a full-time judge prohibited from practicing law, Respondent directed Ms. Weiner to draft a letter on behalf of Mr. Lockwood to Ms. Van Keuren, the Liberty Town Court Deputy Court Clerk. The letterhead identifies Respondent as "MICHAEL F. MCGUIRE, ESQ.," and his address as [REDACTED]. The letter states that, as requested, Respondent was enclosing "the properly executed Application to Amend Traffic Infraction," and it invites Ms. Van Keuren to call if required. Respondent is identified on the signature line as "Michael F. McGuire, Esq."

127. On or about September 12, 2011, the Liberty Town Court sent a letter with the disposition of the *Lockwood* case to Respondent at the address of his former law office: [REDACTED]. The letter stated that Mr. Lockwood's guilty plea to Parking on Pavement had been accepted.

128. By reason of the foregoing, Respondent 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, 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; lent the prestige of judicial office to advance his own private interests and the private interests of others, in violation of Section 100.2(C) of the Rules; failed to perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules; and failed to conduct his extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that he engaged in the prohibited practice of law, in violation of Section 100.4(G) of the Rules.

CHARGE XI

129. On or about January 2011 through in or about 2014, Respondent presided over cases in which his impartiality might reasonably be questioned.

Specifications to Charge XI

Matters Involving Attorney Zachary D. Kelson

130. From in or about January 2011 through in or about December 2016, Respondent had the following associations with attorney Zachary D. Kelson.

- A. From in or about September 2012 through in or about December 2012, at Respondent's request, Mr. Kelson assisted Respondent in the latter's representation of his son, W██████████ M██████████, in connection with *People v W██████████. M██████████*, in which Respondent's son was arrested and charged for Unlawful Possession of Marihuana in Otsego County.
- B. From in or about July 2012 through in or about October 2012, Mr. Kelson (i) represented Tina P. McTighe, a friend of Respondent's wife, in connection with a speeding ticket Ms. McTighe had received in Schoharie County and (ii) engaged Respondent's assistance in having Ms. McTighe sign a document entitled "Waiver of Right to be Present During Pre-Trial and Trial Proceedings and Attorney Authorization" and discussed with Respondent the details of a plea agreement he was seeking on Ms. McTighe's behalf.
- C. From in or about January 2014 through in or about October 2014, Respondent (i) asked Mr. Kelson to represent his friend Jerry Fernandez in *County of Sullivan v Estate of Lydia Fernandez*, and (ii) Respondent engaged in substantive and/or strategic communications with Mr. Kelson regarding the matter, including review of a letter drafted by Mr. Kelson on Mr. Fernandez's behalf, speaking on one or more occasions to Mr. Fernandez about the case and communicating

information from Mr. Fernandez to Mr. Kelson, and advising Mr. Kelson what to tell a creditor of Mr. Fernandez's.

- D. In or about October 2014, Respondent (i) asked Mr. Kelson to represent his friend Gerardo ("Jerry") Fernandez in *Eye Physicians of Orange County v Gerardo Fernandez*, (ii) had the summons and complaint sent to his court system email address, then forwarded it to Mr. Kelson (iii) advised Mr. Kelson that Mr. Fernandez wished to effectuate a payment plan to repay his debt to the plaintiff, (iv) received from Mr. Kelson a copy of a letter Kelson sent to the judge presiding over *Eye Physicians of Orange County v Gerardo Fernandez* dated October 28, 2014, in which Kelson requests an adjournment due to his being "actually engaged" before Respondent in "*DFS v 'C'*" and (v) discussed the details of the settlement in the case.
- E. From in or about July 2011 through in or about April 2012, Respondent (i) asked Mr. Kelson to represent Lindsay M. Amoroso, an acquaintance of his son K██████ M██████, in connection with a speeding ticket Ms. Amoroso had received in Plattekill, New York, (ii) communicated with Mr. Kelson about the status of the case, (iii) drafted a waiver that Ms. Amoroso signed in or about September 2011 authorizing Mr. Kelson to appear on her behalf and (iv) reviewed and approved a letter drafted by Mr. Kelson to Ms. Amoroso.

- F. Respondent referred other clients to Mr. Kelson.
- G. On various occasions Respondent and Mr. Kelson had lunch together and met in chambers for social and personal conversations.
- H. On at least one occasion, Mr. Kelson invited Respondent and his family to dinner, and in or about October 2015, Respondent attended a party in honor of the Bar Mitzvah of Mr. Kelson's son and made a gift of \$100 to the son.

131. Notwithstanding the foregoing, from in or about January 2011 through in or about December 2016, Respondent presided over numerous cases in which attorney Zachary D. Kelson appeared, as noted below.

- A. In or about January 2014, Respondent presided over *Rochelle Massey v Sullivan County Board of Elections*. Mr. Kelson represented one of the defendants in the case. Respondent did not disqualify himself or make a record of his association with Mr. Kelson so the parties might have the opportunity to remit a disqualification.
- B. From on or about April 22, 2014, to on or about August 1, 2016, Respondent was assigned to preside over *FIA Card Services v Sandra Fishbain*. Mr. Kelson represented the defendant. Respondent did not disqualify himself or make a record of his association with Mr. Kelson so the parties might have the opportunity to remit a disqualification.

- C. On or about July 31, 2013, Respondent presided in Supreme Court over *Jeffrey H. Miller v Town of Liberty Assessor*. Mr. Kelson represented the plaintiff. Respondent did not disqualify himself or make a record of his association with Mr. Kelson so the parties might have the opportunity to remit a disqualification.
- D. On or about July 30, 2014, Respondent presided in Supreme Court over a second *Miller v Town of Liberty Assessor* matter. Mr. Kelson represented the plaintiff. Respondent did not disqualify himself or make a record of his association with Mr. Kelson so the parties might have the opportunity to remit a disqualification.
- E. On or about July 31, 2013, Respondent presided in Supreme Court over *Two Sullivan Street Trust v Town of Liberty Assessor*. Mr. Kelson represented the plaintiff. Respondent did not disqualify himself or make a record of his association with Mr. Kelson so the parties might have the opportunity to remit a disqualification.
- F. On or about July 31, 2013, Respondent presided in Supreme Court over *Sam's Towing & Recovery, Inc. v Town of Liberty Assessor*. Mr. Kelson represented the plaintiff. Respondent did not disqualify himself or make a record of his association with Mr. Kelson so the parties might have the opportunity to remit a disqualification.
- G. From in or about December 2013 through in or about May 2016, Respondent presided in Family Court over *Matter of M█████ F█████*.

Mr. Kelson was the Law Guardian in the matter. Respondent did not disqualify himself or make a record of his association with Mr. Kelson so the parties might have the opportunity to remit a disqualification.

H. In or about June 2011 through October 2015, Respondent presided in Family Court over *Matter of E [REDACTED] C [REDACTED]*. Mr. Kelson was the Law Guardian in the matter. Respondent did not disqualify himself or make a record of his association with Mr. Kelson so the parties might have the opportunity to remit a disqualification.

I. From in or about January 2011 through in or about December 2016, Mr. Kelson appeared periodically in Surrogate's Court on matters before Respondent as to which Respondent did not disqualify himself or make a record of his association with Mr. Kelson so the parties might have the opportunity to remit a disqualification.

Dean v Boyes

132. From in or about January 2013 through in or about October 2014, Respondent presided in Supreme Court over *Michael and Joann Dean v Sean and Dawn Boyes*, a real property matter involving a particular parcel of land jointly owned by the Deans and Sean Boyes. Respondent presided notwithstanding that previously, as an attorney before becoming a judge, he had represented Mary Lou Boyes in the transfer of her interest in the same parcel to her son, Sean Boyes.

133. On or about February 13, 2013, Respondent denied an application by the plaintiffs that he disqualify himself from the matter. In doing so, Respondent noted *inter alia* that defendant Sean Boyes owns a construction company that had “done some work” for his law clerk, Mary Grace Conneely, “in her home” about a year before.

134. On or about July 13, 2013, and August 20, 2013, while *Michael and Joann Dean v Sean and Dawn Boyes* was still pending before Respondent, Ms. Conneely received proposals from Mr. Boyes’s construction company, Boyes & Torrens Construction Inc., regarding work to be completed at her home. Thereafter, from in or about mid-2013 through 2014, Ms. Conneely and her husband issued checks to Boyes & Torrens Construction for work on the Conneely’s home.

135. Notwithstanding that Ms. Conneely told Respondent on several occasions from in or about January 2013 through in or about October 2014 that Mr. Boyes’s construction company was presently conducting work on her home, Respondent did not at any time apprise the parties, nor did he direct or otherwise insure that Ms. Conneely not participate in any aspect of *Michael and Joann Dean v Sean and Dawn Boyes*.

136. While the case was pending before Respondent, Ms. Conneely participated by *inter alia* meeting on several occasions in her office within Respondent’s chambers with the parties and a surveyor, and accompanying the parties on an inspection of the disputed property.

137. On or about August 21, 2014, the plaintiff filed a motion that, *inter alia*, again sought Respondent’s disqualification. On or about October 23, 2014, Respondent issued a decision in which, *inter alia*, he denied the plaintiff’s disqualification motion.

138. By reason of the foregoing, Respondent 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, 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 perform the duties of judicial office impartially and diligently, in that he failed to require staff subject to his direction and control to observe the standards of fidelity and diligence that apply to the judge, in violation of Section 100.3(C)(2) of the Rules, and failed to disqualify himself in a proceeding in which the judge's impartiality might reasonably be questioned, in violation of Section 100.3(E)(1) of the Rules.

CHARGE XII

139. From in or about 2013 through in or about 2014, Respondent, in exercising the duties of a County Court Judge with regard to applications for gun permits, interviewed applicants for such permits outside the courthouse, after regular court hours, at times in inappropriate settings, and in so doing at times improperly promoted the interests of the National Rifle Association.

140. Respondent improperly directed Wendy Weiner, his confidential court secretary, to work at these off-hour and off-premises interview sessions.

Specifications to Charge XII

141. From in or about 2013 through in or about 2014, Respondent conducted interviews with applicants for gun permits on various Saturdays at the Monticello Elks Lodge in Monticello, New York. Respondent required Wendy Weiner, his confidential court secretary, to work on these occasions and to transfer files between the Sullivan County courthouse and the Elks facility, without compensating her for her off-hours work.

142. In or about August and September 2014, Respondent directed Ms. Weiner to schedule gun permit interviews at the Villa Roma Resort in Callicoon, New York. Respondent also directed her to inform interviewees that a dinner for the National Rifle Association was occurring at the same location and on the same night as their interviews.

143. On or about Saturday, September 7, 2013, Respondent conducted gun permit interviews at the Villa Roma Resort prior to the commencement of a National Rifle Association dinner. Respondent conducted the interviews in the clubhouse bar of the Villa Roma Resort, in the presence of bar patrons and others. Respondent required Ms. Weiner to assist him with the interviews and did not compensate her for her off-hours work.

144. By reason of the foregoing, Respondent 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, 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 lent the prestige of judicial office to advance a private interest, in violation of Section 100.2(C) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to require order and decorum in proceedings before him, in violation of Section 100.3(B)(2) of the Rules, and failed to diligently discharge his administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, in violation of Section 100.3(C)(1) of the Rules.

CHARGE XIII

145. From on or about January 1, 2011, to in or about 2015, Respondent identified himself as a judge in his personal email account, which is named “judgemcguire@[REDACTED],” and used such account on matters unrelated to his judicial duties, including but not limited to his communications with Mary Ann Schultz, the lawyer for a foreclosure company, and Jeff Dolfinger, a real estate broker, in or about August 2014 when he was assisting Eileen and Phillip Moore in their purchase of a house in Napanoch, New York.

146. By reason of the foregoing, Respondent 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, 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 lent the prestige of judicial office to advance a private interest, in violation of Section 100.2(C) of the Rules; and failed to so conduct his extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that he failed to conduct all of his extra-judicial activities so 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: August 27, 2018
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

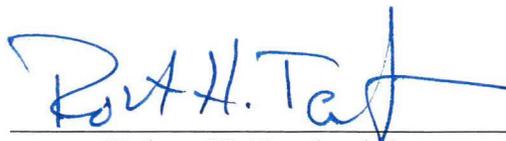
MICHAEL F. MCGUIRE,

a Judge of the County and Surrogate's Courts, an
Acting Judge of the Family Court and an Acting
Justice of the Supreme Court, Sullivan 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
27th day of August 2018



Notary Public

LATASHA Y. JOHNSON
Notary Public, State of New York
No. 01JO6235579
Qualified in New York County
Commission Expires Feb. 14, 2019