

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

ERIN P. GALL,

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

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to Respondent, Erin P. Gall, a Justice of the Supreme Court, Fifth Judicial District, Oneida 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 her to serve the Commission at its Albany office, Corning Tower, Suite 2301, Albany, New York 12223, with her verified Answer to the specific paragraphs of the Complaint.

Dated: May 23, 2023
Albany, 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: Robert F. Julian, Esq.
Attorney for Respondent
2037 Genesee Street, Ste 2
Utica, New York 13501

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**

ERIN P. GALL,

a Justice of the Supreme Court,
Fifth Judicial District, Oneida 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 Erin P. Gall (“Respondent”), a Justice of the Supreme Court, Fifth Judicial District, Oneida County.
3. The factual allegations set forth in Charge I 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 1997. She has been a Justice of the Supreme Court, Fifth Judicial District, Oneida

County, since January 1, 2012. Respondent's term expires on December 31, 2025.

CHARGE I

5. On or about July 2, 2022, after a fight broke out at a party she was attending as a guest at a home in New Hartford, New York, Respondent engaged in a loud, public, prolonged and profanity-laced confrontation with responding police officers and others at the scene.¹ During the confrontation, Respondent, *inter alia*:

- A. invoked her judicial office by introducing herself to the police as a Supreme Court justice and then repeatedly referenced her judicial status to the police and others at the scene;
- B. demanded that the responding police officers arrest four Black male teenagers who were stranded at the scene of the party after losing their car key, notwithstanding the officers' insistence that there was no legal basis to do so;
- C. threatened to call the chief of police after the officers refused to make arrests, asserted to police that they were in her "jurisdiction," and asked for an officer's name when he expressed incredulity at that remark so she could report him;
- D. hindered police personnel's efforts to de-escalate the scene by making inflammatory, demeaning, and profane comments to and about the stranded Black teenagers including, *inter alia*, that they did not look "that smart" and, unlike her own son, would not be going to business school;

¹ Officers at the scene wore operational body cameras, the videos from which have been preserved. Respondent was aware officers were wearing body cameras.

- E. told the police that if the Black teenagers returned to the property to look for their car key they would “be shot on the property. Because when they trespass you can shoot them on the property. I’ll shoot them on the property;”
- F. expressed annoyance that an officer called her “lady” instead of “judge”;
- G. told police personnel that she was “always on [their] side” and would “take anyone down” for them, after an officer expressed concern that his department could face a civil rights lawsuit in Respondent’s court if the Black teenagers were arrested at Respondent’s behest;
- H. loudly expressed satisfaction that her teenage son had “kick[ed] the shit out of” and “put a smack down” on another person at the party; and
- I. made disparaging comments about being on call to hear applications for an Extreme Risk Protection Order (“ERPO”)²;

6. On or about July 14, 2022, Respondent complained to three members of the Oneida County Sheriff’s Department about how the New Hartford Police Department officers handled the response to the party on or about July 2, 2022.

Specifications to Charge I

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

² An ERPO is an order of protection prohibiting a person from possessing a firearm where there is credible information the individual is likely to engage in conduct that would result in serious harm to himself, herself or others.

8. Respondent, her husband Bill Gall, and their three teenage children were among the approximately 60 invited guests who attended the party.

9. In addition to the guests invited by Stephen and Gina Pearce, their son Jackson separately invited a number of others. Stephen and Gina Pearce did not limit the number of friends Jackson could invite, nor were they aware of the number and identities of those he invited.

10. The Pearces hired a bartender to serve alcoholic beverages to guests at the party from about 6:30 PM to 10:00 PM. The Pearces also provided a keg of beer from which guests could serve themselves, and which remained accessible to guests after 10:00 PM, when the bartender left for the evening.

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

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

13. At approximately 11:50 PM on or about July 1, 2022, William Carter, Jahshiem Valladeres, and two other young men – all four of them Black and all under the age of 20 – were socializing in Utica when they learned about the Pearces' party via social media from a friend in attendance. That friend gave Mr. Carter and Mr. Valladeres the address. A few minutes later, Mr. Carter drove Mr.

Valladeres and their two other friends to the party, using his mother's SUV. The drive took approximately 20 minutes.

14. Mr. Carter's group arrived at the Pearces' address after midnight. Mr. Carter parked his mother's vehicle on the shoulder of the road, across the street from the Pearces' driveway and not on the Pearces' property. Upon their arrival, Mr. Carter and Mr. Valladeres observed a large number of individuals, including teenagers and adults, congregating in or near the end of the Pearces' driveway.

15. Shortly after exiting his mother's vehicle, Mr. Carter heard raised voices and arguing outside the Pearces' residence. He quickly decided that he and his friends should leave. As Mr. Carter and his friends were attempting to leave, they became involved in a physical altercation with people who were at or near the Pearces' property. During the fight, Mr. Valladeres suffered a laceration under one of his eyes, which bled profusely and later required stitches; Mr. Carter sustained a small facial abrasion.

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

17. At approximately 12:22 AM on or about July 2, 2022, New Hartford Police Department Officers Robert Cornish and Eric Cappelli arrived at the Pearce residence in response to multiple reports of a large party with numerous fights.

Contemporaneously or soon thereafter, police personnel from four other law enforcement agencies – the Oneida County Sheriff’s Department, the Kirkland Police Department, the Whitestown Police Department and the New York Mills Police Department – arrived at the scene. Given the location of the Pearce residence in the Town of New Hartford, the New Hartford Police Department assumed jurisdiction over the matter, and the personnel from the other law enforcement agencies at the scene assisted the New Hartford Police officers.

18. Upon arriving, Officers Cornish and Cappelli broke up numerous fights and directed the partygoers to leave the area immediately. It appeared to police personnel that many of the teenagers at the scene had been drinking alcohol and/or were intoxicated. Police personnel also observed numerous alcoholic beverage containers littering the ground on or around the Pearces’ property and along the road.

19. Shortly thereafter, Respondent approached Officer Cappelli, and volunteered, “I’m Erin Gall, I’m a Supreme Court judge.” She told him, in sum or substance, that the Pearces’ graduation party had gotten out of control.

20. Soon thereafter, Stephen Pearce – who appeared to be intoxicated – ran toward Mr. Carter’s group and screamed obscenities at them as they looked for the lost car key. As other adults physically restrained Mr. Pearce, Respondent yelled, in sum or substance, “What are you looking for? What are you looking

for?” Despite having no ownership interest in the Pearces’ property nor even living in the neighborhood, Respondent screamed:

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

21. When Officer Cornish asked Respondent if anyone needed medical attention, Respondent replied in a more moderate voice, in sum or substance, “No, Jesus, no. No, honestly, I’m a Supreme Court judge.”

22. Respondent then resumed yelling, in sum or substance, “They’re not going to find keys...And you know what, this is just a stall tactic. They got to go. They got to go. There’s no keys. There’s absolutely no keys. You know what you’re not going to find your mom’s keys. You gotta ask her for a second set, bro!”

23. When Mr. Carter or one of his friends told Respondent, in sum or substance, “It’s not going to work like that,” Respondent replied, in sum or substance:

Yeah, that’s how it’s going to work. I’m telling you, that’s how it’s working. Well, you’re going to get in an Uber, buddy,

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

24. Stephen Pearce yelled at the officers that Mr. Carter's group should be arrested, and Respondent added, in sum or substance:

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

25. Several minutes later, when Respondent resumed screaming that everyone should stop looking for the lost car key, the following exchange occurred, in sum or substance, between Respondent and Officer Cappelli:

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

Ofc. Cappelli: I do. So relax.

Respondent: I don't.

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

Respondent: It's my jurisdiction though.

Ofc. Cappelli: Okay.

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

Ofc. Cappelli: I'm not.

Respondent: What's your name.

Ofc. Cappelli: Cappelli.

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

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

Respondent: What was that?

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

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

Respondent then told Officer Cappelli to tow the vehicle belonging to the driver who lost the key or to issue a ticket.

26. When Respondent said, “Cappelli. Okay. I’ll make sure I tell them,” she was referring to her intention to call a lieutenant she knew in Officer Cappelli’s department to complain about his actions that night.

27. While arguing with Deputy Steven Eilers about whether Mr. Carter’s group had committed a trespass offense, Respondent stated, in sum or substance, “If you’re not invited by a homeowner, it’s still trespassing. I’ve done this for a million years. I’m a lawyer. I’m a judge. I know this.”

28. Respondent then told Officer Cornish to tow Mr. Carter’s mother’s vehicle or to issue Mr. Carter a ticket. Officer Cornish explained to Respondent that they could not do either because the vehicle was not illegally parked. Respondent then stated to Officer Cornish, in sum or substance, “Well, put him in the back of a cop car and let him wait there.”

29. At approximately 12:50 AM on or about July 2, 2022, Mr. Valladeres’s sister, Mahkay-lah Mezza, arrived at the Pearce residence in response to Mr. Valladeres’ call for assistance.³ Upon arrival, Ms. Mezza waited with Mr. Carter’s group in or around his mother’s vehicle for a relative to arrive with a car key.⁴

³ Ms. Mezza, who was pregnant at the time, brought with her a 14-year-old girl over whom she had guardianship and did not want to leave home alone.

⁴ Ms. Mezza could not fit everyone in Mr. Carter’s group into her vehicle, and therefore chose to wait with them until they all could leave at the same time.

30. Shortly before approximately 1:00 AM on or about July 2, 2022, Stephen Pearce screamed obscenities at the officers and deputies to remove Mr. Carter's group from the scene. Standing next to Mr. Pearce, Respondent yelled, in sum or substance:

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

31. Stephen Pearce argued with the deputies and officers about whether Mr. Carter could legally park on the shoulder of the road. Mr. Pearce told the deputies, in sum or substance, to "police the area. Police the fucking area." Respondent added, in sum or substance, "Police it, police it. Oh, my god, you're not doing much. They're obstructing a public road. That's not a crime?"

32. When Respondent mentioned that she heard that Mr. Carter's group wanted to press charges, Deputy Norman Lyke stated, in sum or substance, "But how about this? How about we end up in front of your court for a civil rights violation because we violated all their civil rights. That's what I'm getting at. My point is this, with social media--." Respondent interjected and stated to Deputy Lyke, in sum or substance, "Listen, but guess what, the good part is – the good

part is I'm always on your side. You know I'd take anyone down for you guys. You know that. You know that. You know I am on your side."

33. Shortly after approximately 1:00 AM on or about July 2, 2022, as Stephen Pearce continued to scream obscenities at police personnel and/or Mr. Carter's group, Respondent approached the officers and deputies and stated, in sum or substance, "Okay, Steve, Steve, I've got it. Look, you know, I know he's upset because, guess what, his whole party was ruined because all these people converged." As Mr. Pearce continued to complain that the police had made no arrests or issued any tickets, Respondent interjected and asked if Mr. Carter's group had been charged with anything. Officer Cornish stated that Mr. Carter's group wanted to press charges for assault and underage drinking. Respondent replied, in sum or substance:

Wait a minute. Wait, wait, wait, wait. They – they trespassed. So wait then, ok, do we know, wait, wait, hold on, hold on wait, wait, wait, stop, stop, stop, stop. Wait. So we need to press – so you need to get their names because you don't have their names yet. We're pressing charges against them for trespassing. Wait, hang on, Steve, Steve, we want, listen, wait, wait, wait, wait . . . they trespassed. You were looking for their keys on – You were looking for their keys on our property.

34. When the police disputed whether Mr. Carter's group had been trespassing, Respondent stated, in sum or substance, "It's a private property . . . wait, they were looking – you were looking. My point is he's saying they want to press charges so I'm saying if they're pressing charges we're pressing trespassing. . . . Well, can I say this, if they're pressing charges, we're pressing trespassing charges and assault." When a deputy advised Respondent that a charge of assault required physical injuries or substantial pain, Respondent laughed and stated, "Okay, I know the law. I'm a judge."

35. Respondent disputed a statement by Officer Cornish that Mr. Carter's group got the worst end of the fight and had her then 18-year-old son – William Gall whom Respondent claimed was involved in the fighting – show his face to the officers. After an officer commented that Respondent's son "look[ed] like a million bucks," Respondent said, in sum or substance, "So, just so you know, it's not one sided. You're saying one side – he definitely . . . hopefully, hopefully I taught my son well. He put a smack down once he got hit . . . he put a smack down." Respondent repeatedly hit her fist into the palm of her hand and continued, in sum or substance, "Hopefully he did get the worst end of it because I taught my son to kick the shit out of anyone who hits him first." About a minute later, Respondent stated, in sum or substance, "My husband and son got hit first . . . but they finished. Like I taught 'em."

36. A short while later, Deputy Eilers – while speaking to other police personnel – mentioned, in sum or substance, “not taking anything off [his] belt” because it would create too much paperwork. Respondent stated, in sum or substance, “Do you want to talk way too much paperwork? Guess what we have to do now? We’re all on call for ERPOs.” Respondent asked, in sum or substance, “Do ERPOs make you guys crazy?”⁵ A deputy replied, in sum and substance, “No, we’re not going to pay attention.” Respondent said, in sum or substance, “Don’t! Don’t! Because I get called in the middle of night, too, for those.”

37. Respondent then argued to Deputy Eilers that Mr. Carter’s group committed Criminal Trespass and/or Assault. Although Deputy Eilers explained to Respondent that the New Hartford Police Department had jurisdiction over the matter, Respondent stated, in sum or substance, that she wanted to press charges and asserted that she could call Sergeant Grant Langheinrich to file charges through the sheriff’s department. Sergeant Langheinrich is personal friend of

⁵ Pursuant to Section 6340(1) of the CPLR, an Extreme Risk Protection Order (“ERPO”) is a “court-issued order of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun.” While anyone may file an application for an ERPO, all law enforcement officers are required by Section 6341 of the CPLR to file an application for an ERPO “upon the receipt of credible information that an individual is likely to engage in conduct that would result in serious harm to himself, herself or others.” Pursuant to CPLR §6341, such applications are to be filed in the supreme court in the county where the individual against whom the order is sought resides. As a supreme court justice, Respondent is required to review applications for ERPOs filed in her court.

Respondent and was, at the time, in charge of security at Respondent's courthouse.

38. At approximately 1:27 AM on or about July 2, 2022, as Mr. Carter and his friends sat in his mother's SUV waiting for someone to arrive with a spare key, Respondent said to Deputy Eilers, "Watch, I bet if they push the button, the keys are in the car." Then laughing, she added, in sum or substance, "They don't look like they're that smart. They're not going to business school, that's for sure." A few minutes earlier, Respondent had told Deputy Eilers that her son, William Gall, would be attending business school in the fall.

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

40. As Mr. Valladares and Ms. Mezza were getting into Ms. Mezza's car to leave, Stephen Pearce said, sarcastically, "Thanks for coming out guys." Ms. Mezza said, "You're welcome." Stephen Pearce then said, in sum or substance, "Go fuck yourselves." Ms. Mezza responded, "Whoa, is that acceptable?" Respondent laughed and yelled, "Yes, it is!" Ms. Mezza said, "I just came to get my brother, though." Stephen Pearce said, again sarcastically, "Thank you, thanks for coming." Ms. Mezza replied, in sum or substance, "Man, you look like a

fucking cokehead.” Respondent remarked, in sum or substance, “You look like a cokehead, okay. We might be able to afford the coke, but we don’t do it.”

41. At approximately 1:37 AM on or about July 2, 2022, Mr. Carter drove away in his mother’s vehicle with two of the friends with whom he had arrived, leaving Mr. Valladeres with Ms. Mezza at the scene.

42. Ms. Mezza and Mr. Valladeres were sitting in Ms. Mezza’s car with the windows open, trying to establish a GPS route. Officer Cornish approached Respondent and Stephen Pearce as Mr. Pearce continued to yell. Officer Cornish noted that Mr. Carter’s mother’s car key might turn up in the morning, and Respondent interrupted him to proclaim, in sum or substance, “We’re absolutely going to throw it in the toilet . . . You’re welcome. If you think we’re gonna – if you think we’re gonna turn over – we’re not looking for any keys.” Apparently overhearing those comments, Ms. Mezza said, in sum or substance, that she wanted to file something if Respondent was going to keep the key. Respondent yelled at Ms. Mezza, in sum or substance, “I’m not looking for the key is what I said. I’m not looking for the key. Move along. I’m not – yeah, but we’re not looking for any key. We’re looking for keys, are you kidding me?”

43. Officer Cornish continued to attempt to tell Respondent what to do if the key was found and stated, in sum or substance, that the best outcome would be if someone found the key and turned it in to the police, in which case no one from

Mr. Carter's group would need to return to look for it. Respondent loudly responded, in sum or substance:

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

From the passenger seat of Ms. Mezza's vehicle, Mr. Valladeres heard Respondent's threat about shooting them and reported it to Deputy Eilers.

44. At that point, Kirkland Police Department Officer Joseph McCormick confronted Respondent about her comment regarding shooting trespassers, telling her, in sum or substance, "This isn't Texas. You can't shoot somebody for simply going on your property. . . . Do you hear what you're saying? You're all white, privileged people with high-power jobs." Respondent said, in sum or substance, "Don't call me 'Lady.' 'Judge.' It's 'Judge.'" Respondent added, in sum or substance, "You guys didn't really do much." After Officer McCormick left the scene, Respondent referred to him while speaking with her husband and said, in sum or substance, "He called me 'lady.' Yeah, he's really a sharp guy."

45. Sometime after approximately 1:40 AM on or about July 2, 2022, all police personnel left the scene.

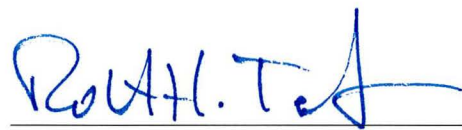
46. On or about July 14, 2022, at the Oneida County Courthouse, Respondent had a conversation or conversations with Sergeant Langheinrich, Deputy Edmund Wiatr and Deputy Michael Baker, during which she expressed, *inter alia*, her dissatisfaction with how the officers from New Hartford Police Department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

47. 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 she failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules, and lent the prestige of judicial office to advance her own private interest and/or the private interests of another, in violation of Section 100.2(C) of the Rules; and failed to conduct her extra-judicial activities so as to minimize the risk of conflict with judicial obligations, in that she failed to conduct her extra-judicial activities so that they do not cast reasonable doubt on her capacity to act impartially as a judge, do not detract from the dignity of judicial office, and are

not incompatible with judicial office, in violation of Sections 100.4(A)(1), (2) and (3) 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 23, 2023
Albany, 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

ERIN P. GALL,

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

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

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
23rd day of May 2023



Notary Public

DAVID P. STROMES
Notary Public, State of New York
No. 02ST6439243
Qualified in Albany County
Commission Expires August 22, 2024