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

TIMOTHY J. COOPER,

STIPULATION

A Justice of the Evans Town Court,
Erie County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission, and the Honorable Timothy J. Cooper ("Respondent"), who is represented in these proceedings by Terrence M. Connors, Connors LLP, as follows:

1. Respondent served as Justice of the Evans Town Court, Erie County, from January 1, 1986 until February 5, 2016, when he tendered his resignation in order to effect his retirement on March 4, 2016, for reasons that he avers are unrelated to this proceeding.

2. Respondent was served with a Formal Written Complaint dated July 17, 2015, containing one charge alleging that on or about April 23, 2014, Respondent operated his automobile while under the influence of alcohol and caused a motor vehicle accident in the Town of Lewiston, New York. On or about June 16, 2014, Respondent was convicted of driving while ability impaired (VTL §1192[1]) and moving from lane unsafely (VTL §1128[a]).

3. The Formal Written Complaint is appended as Exhibit 1.

4. Respondent filed an Answer dated August 14, 2015, which is appended as Exhibit 2.

5. Respondent tendered his resignation on February 5, 2016, for reasons that he avers are unrelated to this proceeding. A copy is appended as Exhibit 3. Respondent affirms that he retired and vacated his judicial office as of March 4, 2016.

6. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from the date of a judge's resignation to complete proceedings, and if the Commission determines that the judge should be removed from office, file a determination with the Court of Appeals.

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

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

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

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

Dated: 5-2-16

Honorable Timothy J. Cooper
Respondent

Dated: 5-2-16

Terrence M. Connors
Connors LLP
Attorney for Respondent

Dated: May 10, 2016

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

EXHIBIT 1

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

TIMOTHY J. COOPER,

a Justice of the Evans Town Court,
Erie County.

NOTICE OF FORMAL
WRITTEN COMPLAINT

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

Dated: July 17, 2015
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: Terrence M. Connors, Esq.
Attorney for Respondent
Connors & Vilardo, LLP
1000 Liberty Building
424 Main Street
Buffalo, New York 14202-3510

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

TIMOTHY J. COOPER,

a Justice of the Evans Town Court,
Erie County.

FORMAL
WRITTEN COMPLAINT

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 Timothy J. Cooper ("Respondent"), a Justice of the Evans Town Court, Erie 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 1981. He has been a Justice of the Evans Town Court, Erie County, since January 1, 1986. Respondent's current term expires on December 31, 2017. Respondent also serves by appointment as a Family Court Support Magistrate in Niagara County. His current term expires on January 20, 2020.

CHARGE I

5. On or about April 23, 2014, Respondent operated his automobile while under the influence of alcohol and caused a motor vehicle accident in the Town of Lewiston, New York.

Specifications to Charge I

6. On or about April 23, 2014, between approximately 5:15 PM and 9:45 PM, Respondent voluntarily consumed approximately four twelve-ounce beers and a one-and-a-half-ounce "shot" of whiskey.

7. Between approximately 9:55 PM and 10:10 PM, Respondent drove, alone in his automobile, northbound on a two-lane section of the Robert Moses Parkway in the Town of Lewiston, New York. Under the influence of alcohol, Respondent failed to maintain his lane, and his automobile partially crossed the center lane. Respondent's vehicle struck the front left area of an oncoming vehicle causing that vehicle to spin, flip on its side, and come to rest blocking the northbound lane of the roadway. Respondent's vehicle, as a result of the collision, spun and came to rest in the northbound lane of the roadway facing southbound.

8. At approximately 10:20 PM, New York State Police Trooper Derek Ljiljanich responded to the scene of Respondent's accident. The trooper first went to the overturned car and saw that the sole occupant had sustained a cut on the side of his head, but was conscious and coherent. Within approximately five minutes, emergency medical technicians and other responders from the local fire department arrived to extricate the driver from the car, treat him at the scene and transport him to a hospital.

9. Trooper Ljiljanich also approached Respondent's car and determined that Respondent did not appear to be injured.

10. When Trooper Ljiljanich spoke with Respondent at the scene of the accident, he observed that Respondent's speech was slurred, his eyes were glassy and that he smelled of alcohol. The trooper asked if Respondent had been drinking, and Respondent admitted that he had consumed alcohol. At the trooper's request, Respondent submitted to five field tests, which he failed, and a breath screening test. At approximately 11:08 PM, Respondent was placed under arrest by Trooper Ljiljanich. At the police station, Respondent refused to take a breathalyzer test.

11. Respondent was charged with three Vehicle & Traffic Law ("VTL") offenses: driving while intoxicated (VTL §1192[3]); refusing to take breath test (VTL §1194[1][b]); and moving from lane unsafely (VTL §1128[a]). In or about May 2014, Respondent's case was transferred to the North Tonawanda City Court following the recusal of both justices of the Lewiston Town Court.

12. On or about June 16, 2014, following a non-jury trial, Respondent was convicted of driving while ability impaired (VTL §1192[1]) and moving from lane unsafely (VTL §1128[a]). The charge of refusing to take a breath test (VTL §1194[1][b]) was dismissed. Respondent was sentenced to a one-year conditional discharge, fines and surcharges totaling approximately $703, and had his driver's license suspended for 90 days.

13. 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 conduct his extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that he failed to conduct his extra-judicial activities so as not to 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: July 17, 2015
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

TIMOTHY J. COOPER,

a Justice of the Evans Town Court,
Erie 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
17th day of July 2015

Latasha Johnson
Notary Public

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

EXHIBIT 2

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

TIMOTHY J. COOPER,

VERIFIED ANSWER TO FORMAL WRITTEN COMPLAINT

a Justice of the Evans Town Court,
Erie County.

Respondent, Honorable Timothy J. Cooper, by his attorneys Connors & Vilardo, LLP, for his Verified Answer to the Formal Written Complaint, respectfully states as follows:

1. Admit.

2. Admit.

3. Deny.

4. Admit.

CHARGE 1

5. Admit.

Specifications to Charge 1

6. Admit.

7. Admit.

8. Deny knowledge or information sufficient to form a belief as to the allegations contained in this paragraph.

9. Deny knowledge or information sufficient to form a belief as to the allegations contained in this paragraph.

10. Deny knowledge or information sufficient to form a belief as to the allegations contained in this paragraph.

11. Admit.

12. Admit.

13. Deny.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE, AND AS MITIGATION OF THE CHARGES, RESPONDENT ALLEGES UPON INFORMATION AND BELIEF:

The conduct alleged did not violate the Rules of the Chief Administrator of the Courts Governing Judicial Conduct.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE, AND AS MITIGATION OF THE CHARGES, RESPONDENT ALLEGES UPON INFORMATION AND BELIEF:

The Respondent wishes to submit evidence in mitigation of the charges and the discipline, if any, that the Court may impose.

DATED: Buffalo, New York
August 14, 2015

Terrence M. Connors, Esq.
CONNORS & VILARDO, LLP
Attorneys for Respondent
1000 Liberty Building
424 Main Street
Buffalo, New York 14202
(716) 852-5533

TO: John J. Postel, Esq.
Deputy Administrator
New York State Commission
on Judicial Conduct
400 Andrews Street, Suite 700
Rochester, New York 14604

AFFIRMATION OF SERVICE

Terrence M. Connors, Esq., affirms under penalty of perjury that a copy of the within Verified Answer to Formal Written Complaint was served on John J. Postel, Esq., by Federal Express at 400 Andrews Street, Suite 700, Rochester, New York 14604 on this 14th day of August, 2015.

Terrence M. Connors

Terrence M. Connors, Esq.

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

TIMOTHY J. COOPER, being duly sworn, deposes and says that he is the respondent in the within action, that he has read the foregoing Verified Answer to Formal Written Complaint and knows the contents thereof; that the same is true to his knowledge except as to those matters therein alleged upon information and belief, and as to those matters, he believes them to be true.

Timothy J. Cooper

Sworn to before me this
14TH day of August, 2015.

Robin L Dudek
Notary Public

ROBIN L. DUDEK
Notary Public, State of New York
01DU6101214
Qualified in Erie County
My Commission Expires November 10, 2015

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

TIMOTHY J. COOPER,

a Justice of the Evans Town Court, Erie County.

VERIFIED ANSWER TO FORMAL WRITTEN COMPLAINT

COPY

CONNORS & VILARDO, LLP

ATTORNEYS FOR

1000 LIBERTY BUILDING

424 MAIN STREET

BUFFALO, NEW YORK 14202

(716) 852-5533

FAX (716) 852-5649

SIR: — YOU WILL PLEASE TAKE NOTICE THAT AN

OF WHICH THE

WITHIN IS A COPY, WAS THIS DAY DULY ENTERED IN THE

OFFICE OF THE CLERK OF THE COUNTY OF

DATED

DUE AND PERSONAL SERVICE OF A COPY OF THE WITHIN

IS HEREBY ADMITTED

EXHIBIT 3

Phone (716) 549-3707

TOWN OF EVANS JUSTICE COURT

8787 Erie Road • Angola, NY 14006-9600

Hon. Anthony J. Barone, Jr.
Town Justice

Hon. Timothy J. Cooper
Town Justice

February 5, 2016

Dear Supervisor Hosler and Members of the Board,

After over 30 years in service to the Evans Justice Court, I have decided to retire effective March 4, 2016 or as soon thereafter as you require to select a successor. I want to concentrate my energies on my full time position with Family Court and to prepare for ultimate retirement from that position.

I leave knowing that the Court is in good hands. Judge Anthony Barone—who has been a wonderful colleague to me in the best sense of that word—is one of the longest serving and most highly regarded Judges in Western New York. Our Court Clerks are dedicated professionals who demonstrate every day the true spirit of public service. The Town Prosecutors you have chosen are both first rate Attorneys.

I want to take to the opportunity to thank members of the Board, past and present, for the many courtesies shown to me over these many years. I wish you well in your efforts going forward to serve the community we love.

Very truly yours,

Hon. Timothy J. Cooper

Cc: Hon. Paula Feroleto
Hon. Anthony J. Barone
Hon. M. William Boller
Lynn Krajacic

TJC/mk

RECEIVED

APR 05 2016

NYS COMMISSION ON
JUDICIAL CONDUCT - ROC