

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

JAMES J. PIAMPIANO,

a Justice of the Supreme Court,
Monroe County.

**AGREED
STATEMENT OF FACTS**

Subject to the approval of the Commission on Judicial Conduct

("Commission"):

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission, and Honorable James J. Piampiano ("Respondent"), who is represented in this proceeding by John F. Speranza, Esq., that further proceedings are waived and that the Commission shall make its determination upon the following facts, which shall constitute the entire record in lieu of a hearing.

1. Respondent was admitted to the practice of law in New York in 1978. He has been a Justice of the Supreme Court, Monroe County, since January 1, 2016. His term expires on December 31, 2029. Respondent served previously as a Judge of the County Court, Monroe County, from January 1, 2011, to December 31, 2015, and a Justice of the Henrietta Town Court, Monroe County, from January 1, 2008, to December 31, 2010.

2. Respondent was served with a Formal Written Complaint dated November 2, 2016, a copy of which is appended, without the attached exhibits, as Exhibit A. He enters into this Agreed Statement of Facts in lieu of filing an Answer.

As to Charge I

3. On or about October 8, 2015, at a time when he was a candidate for election to the Supreme Court, Respondent gave three separate media interviews during which he made prohibited public comments about *People v Charles J. Tan*, a pending murder case over which he was presiding in Monroe County Court.

As to the Specifications to Charge I

4. In or about March 2015, Respondent began presiding over *People v Charles J. Tan* in Monroe County Court, a case in which the defendant was charged with one count of murder in the second degree (Penal Law §125.25[1]) for allegedly shooting his father at their family home in Pittsford, New York.

5. In September 2015, Respondent was nominated to be a candidate for election to the New York State Supreme Court.

6. On or about October 8, 2015, after approximately eight days of jury deliberation in *People v Tan*, the following occurred:

- A. Monroe County Assistant District Attorney William T. Gargan and Mr. Tan's lead counsel, James L. Nobles, consented to a mistrial in the matter.
- B. Prior to ruling on the mistrial, Respondent clarified with counsel and Mr. Tan that double jeopardy would not attach and that Mr. Tan would be subject to retrial upon the indictment.
- C. Mr. Gargan stated that it was the People's intention to retry Mr. Tan.

D. Respondent granted the mistrial.

E. Respondent ordered the parties to appear before him on November 5, 2015.

7. On or about October 8, 2015, after the mistrial was declared, Respondent was contacted by personnel from three media outlets: WHEC-TV, Channel 10, the NBC-affiliated television station in Rochester; WHAM-TV, Channel 13, the ABC-affiliated television station in Rochester; and the *Democrat & Chronicle*, a daily newspaper in Rochester. Respondent agreed to engage in one-on-one interviews about *People v Tan* in his chambers with reporters from each of the three media outlets.

8. On or about October 8, 2015, at approximately 4:00 PM, Respondent met in his chambers with a reporter from WHEC-TV, Channel 10. The resulting interview was recorded and portions of it were broadcast on October 8, 2015, and subsequently available on the television station's website at <http://www.whec.com>. A transcript of the interview is appended as Exhibit B.

9. During the WHEC interview, Respondent made public comments about the *Tan* case, including:

RESPONDENT: And, I told this jury, historically, this may be the longest serving jury that deliberated over that period of time here in Monroe County.

REPORTER: *Why not sequester [the jury] earlier ... or make them stay late the first week?*

RESPONDENT: It just didn't seem that along those first three, four, five, seven days, that they were in a position to perhaps reach a verdict ... if they did stay into the

early evening hours. And I think by virtue of not having reached a verdict, even into the eighth day, that bore that out.

REPORTER: Anything in hindsight that you can reflect upon that you may have done differently?

RESPONDENT: You know each case turns on its own facts and the law that's applicable to that case. The one thing that I think that, that's important is that I had a chance to talk to the jury at the conclusion of the case. And I tried to stress that they shouldn't feel bad about not having reached a verdict because what was expected of them was to follow all the rules of the court, listen to the evidence, apply the law, and work hard to try to come to a verdict. Nothing more could be asked of this jury.

10. On or about October 8, 2015, at approximately 4:30 PM, Respondent met in his chambers with a reporter from WHAM-TV, Channel 13. The resulting interview was recorded and portions of it were broadcast on October 8, 2015, and subsequently available on the television station's website at <http://13wham.com/>. A transcript of the interview is appended as Exhibit C.

11. During the WHAM interview, Respondent made public comments about the *Tan* case, including:

RESPONDENT: They probably got close to a verdict but, in the end, it just wasn't to be.

REPORTER: Judge Piampiano says both sides agreed to throw in the towel, and for that matter, dismiss the jury.

RESPONDENT: But after eight days, how far do you go? Do you go another two days, a week, a month?

REPORTER: Prosecutors already say they plan to retry Charlie Tan, but Piampiano is in "wait-and-see" mode.

RESPONDENT: I've asked the prosecutor to think through it, advise me on the 5th, and if there's to be a retrial, it would likely be in February or March of next year, not before.

REPORTER: *The judge says the jury worked longer than any jury he's seen, but added the evidence presented left them with more questions than answers.*

RESPONDENT: Jurors don't get the evidence they want, they get the evidence they get. And then they have to sort through that and figure it out. (Unintelligible)...

REPORTER: *This jury didn't quite figure it out, but a new jury might get that chance. And the judge is optimistic that finding one without too much bias will be easy.*

RESPONDENT: Sometimes journalists, and judges, and lawyers think that the whole world revolves around this courthouse. I've met many people in the jury selection process, who are not "news junkies," if you will, and who have only peripherally heard about this matter, or other matters.

REPORTER: *As for Charlie Tan, Piampiano did not rule out the possible impact of his supporters or his side of the story.*

RESPONDENT: I'm not sure, Cody, that I can recall, in recent times, somebody being that sympathetic a figure.

12. On or about October 8, 2015, Respondent met in his chambers with a reporter from the *Democrat & Chronicle*. The resulting interview was recorded and portions of it were posted on October 8, 2015, on the newspaper's website at <http://www.democratandchronicle.com/>. The audio portion of the interview was posted at the website <https://soundcloud.com/democrat-and-chronicle/judge-james-piampiano-interview-oct-8-2015> and a transcript of the interview is appended as Exhibit D.

13. During the *Democrat & Chronicle* interview, Respondent made public comments about the *Tan* case, including:

REPORTER: Did any of [the jury] share any concerns with you regarding the trial?

RESPONDENT: You know, I have a practice, and I think most judges do, not to discuss the merits of the case or particular issues of the trial, and in particular, in this type of case where it is still possibly ongoing.

REPORTER: Hearing that, do you, do you have any second thoughts about letting [the jury] go?

RESPONDENT: The only way a trial can conclude, if not by verdict, is for the judge to evaluate the circumstances in the judge's discretion, and it's called "manifest necessity," where the judge looks at the number of issues in the case, the time the jury has spent deliberating, perhaps the nature of the notes that have come out, any Allen charges that were read, and then the judge making a determination that perhaps enough is enough, and this is a group that's not likely to reach a verdict unanimously. That did not occur in this case. The second alternative or way that the matter can conclude by mistrial, by law, is that the court, the defense, and the prosecution all consent that a mistrial should be granted. That was a matter that was discussed extensively with the lawyers, and I was advised, extensively with Mr. Tan as well. And there was complete agreement between the lawyers that we had reached a point that it appeared that we were now at a point of diminishing returns, and I think that evaluation was based on the notes that had come out, the time--

REPORTER: One other question I have for you is about "accomplice liability," that charge.

RESPONDENT: Yes.

REPORTER: *The prosecution has said-- I don't think I'm breaking any confidences saying this, he said this publicly-- that it was, you know, the, the one decision that the court made that he disagreed with. The accomplice liability was in his, the, the prosecution's bill of particulars, and it, but it wasn't allowed. I know why you made that decision; I was there that day. You said that the prosecution didn't provide enough evidence to suggest that there was a connection between the mother and son. Could you elaborate on your decision to, to do that, to make that decision, and, and any second thoughts on that front. Some jurors have indicated that had that been an option, there would have been a verdict.*

RESPONDENT: Certainly. I, I'm not at liberty to discuss the prosecutor's remarks or this case in particular, but I can share with you that with respect to accomplice liability, for the court to charge that, in any case where it's requested, there has to be a reasonable view of the evidence that two or more people are acting in concert to accomplish the same goal, that they're acting with the same state of mind, and that there's some conduct, behavior or otherwise, from the evidence, that suggests that they're acting together and in concert. So, in any trial where a judge is asked to charge that, what the judge is going to be doing, as I did in this trial, is reflect on the evidence that was presented. Typically, I'll review my notes, take one last look at the law, and then listen to the arguments of both sides, and then reflect on whether or not there can be such a charge based on the evidence in that particular case.

RESPONDENT: So, that, that would give you an overview of some background about that issue.

REPORTER: *And in this case you felt that there just wasn't, the evidence wasn't there?*

RESPONDENT: Based on my ruling, I think it's fair to say, and I think I can say, that after listening to both sides, I felt that, as a matter of law, I was not permitted or entitled to charge the jury to consider that relative to their deliberations.

RESPONDENT: So, the protocol here is that likely that trial would stay with me, and my intention on November 5th, when the parties return, is to likely reschedule that trial for some time in February or March--

REPORTER: *So, there's a possibility, anyway, that as of November 5th, there could be a dismissal of the charges? I, I, I, I--*

RESPONDENT: --By way of the defense application, that is the relief they are looking for. So, the answer would be yes.

14. 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 made public comments about a pending or impending proceeding in

a court within the United States or its territories, in violation of Section 100.3(B)(8) of the Rules.

As to Charge II

15. On or about November 5, 2015, while presiding over a post-trial proceeding in *People v Charles J. Tan*, during which Respondent granted the defense motion for a trial order of dismissal, Respondent failed to be patient, dignified and courteous when he denied Monroe County Assistant District Attorney William T. Gargan's attempt to be heard and threatened to have Mr. Gargan arrested if he spoke.

As to the Specifications to Charge II

16. On or about October 8, 2015, after the parties in *People v Charles J. Tan* had consented to a mistrial following approximately eight days of jury deliberation on a single count of murder in the second degree (Penal Law §125.25[1]), Respondent stated that he would adjourn the case for the prosecutor to consider whether the case would be retried. When defense counsel James L. Nobles moved for a trial order of dismissal, Monroe County Assistant District Attorney William T. Gargan opposed the motion and requested that Respondent deny it. Respondent stated that he would reserve decision on the motion and would consider all prior arguments, and he scheduled the next appearance in the matter for November 5, 2015. Respondent directed that counsel "[p]lease come prepared with your schedule[s]," and stated that "the Court will also address the trial order of dismissal at that time."

17. On or about November 5, 2015, Mr. Gargan confirmed that the People intended to retry Mr. Tan for murder. Respondent thereafter asked both Mr. Nobles and

Mr. Gargan whether they wished to “supplement ... or offer any further ... information” as to their positions concerning the defense motion for a trial order of dismissal. Both attorneys declined Respondent’s offer.

18. Respondent then spoke uninterrupted for several minutes, explaining the function of a trial order of dismissal, the legal standard of review, and when a court may grant or deny a trial order of dismissal motion. Respondent stated that there were deficiencies in the People’s proof, and he said: “The Court, therefore, is bound to conclude that the proof offered upon the trial of the matter failed to establish a prima facie case.”

19. When Respondent commented on the jury’s inability to reach a verdict when “evaluating whether the evidence demonstrated beyond a reasonable doubt that the crime had been proven,” the following exchange occurred:

MR. GARGAN: Judge, may I briefly speak?

RESPONDENT: No, you may not. If you speak I’m going to put you in handcuffs and put you in jail.

20. Respondent continued to read his decision but did not order Mr. Gargan held in handcuffs, incarcerate him or hold him in 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 patient, dignified and courteous to all with whom he deals in an official capacity, in violation of Section 100.3(B)(3) of the Rules.

Additional Factors

22. Respondent has been cooperative with the Commission throughout its inquiry.

23. Respondent has familiarized himself with numerous Commission determinations in which judges were reprimanded for making prohibited public comments about pending or impending cases, such as *Matter of Douglas E. McKeon*¹, in which a Supreme Court Justice was censured for *inter alia* commenting on pending cases in television interviews, and *Matter of Patrick J. McGrath*², in which a County Court Judge was admonished for commenting on a pending case in a television interview. Respondent now more fully appreciates his obligation to refrain from commenting publicly about any pending or impending proceeding, and he pledges to abide faithfully to this obligation in the future.

24. Respondent has familiarized himself with numerous Commission determinations in which judges were reprimanded for displays of discourtesy in the

¹ 1999 Annual Report 117 (Com on Jud Conduct 1998)

² 2005 Annual Report 181 (Com on Jud Conduct 2004)

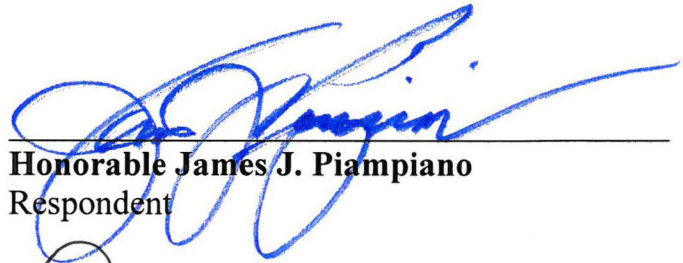
courtroom. He now more fully appreciates his obligation to be patient and courteous to all with whom he deals in an official capacity, and he pledges to abide faithfully to this obligation in the future.

25. In his nine years on the bench, Respondent has not been previously disciplined for judicial misconduct. He regrets his failure to abide by the Rules in these matters and pledges to conduct himself in accordance with the Rules for the remainder of his tenure as a judge.

IT IS FURTHER STIPULATED AND AGREED that the parties to this Agreed Statement of Facts respectfully recommend to the Commission that the appropriate sanction is public Censure based upon the judicial misconduct set forth above.

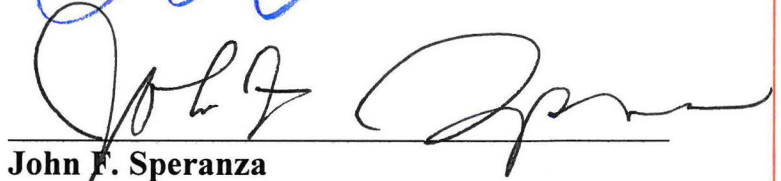
IT IS FURTHER STIPULATED AND AGREED that if the Commission accepts this Agreed Statement of Facts, the parties waive oral argument and waive further submissions to the Commission as to the issues of misconduct and sanction, and that the Commission shall thereupon impose a public Censure without further submission of the parties, based solely upon this Agreed Statement. If the Commission rejects this Agreed Statement of Facts, the matter shall proceed to a hearing and the statements made herein shall not be used by the Commission, the Respondent or the Administrator and Counsel to the Commission.

Dated: FEB 14, 2017



Honorable James J. Piampiano
Respondent

Dated: February 14, 2017



John F. Speranza
Attorney for Respondent

Dated: February 15, 2017



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

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

JAMES J. PIAMPIANO,

a Justice of the Supreme Court,
Monroe County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to Respondent, James J. Piampiano, a Justice of the Supreme Court, Monroe 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: November 2, 2016
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: John F. Speranza, Esq.
Attorney for Respondent
1800 First Federal Plaza
28 East Main Street
Rochester, New York 14614

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**

JAMES J. PIAMPIANO,

a Justice of the Supreme Court,
Monroe 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 James J. Piampiano (“Respondent”), a Justice of the Supreme Court, Monroe County.

3. The factual allegations set forth in Charges I and II state acts of judicial misconduct by Respondent in violation of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct (“Rules”).

4. Respondent was admitted to the practice of law in New York in 1978. He has been a Justice of the Supreme Court, Monroe County, since January 1, 2016. His term expires on December 31, 2029. Respondent served previously as a Judge of the County Court, Monroe County, from January 1, 2011, to December 31, 2015, and a Justice of the Henrietta Town Court, Monroe County, from January 1, 2008, to December 31, 2010.

CHARGE I

5. On or about October 8, 2015, at a time when he was a candidate for election to the Supreme Court, Respondent gave three separate media interviews during which he made prohibited public comments about *People v Charles J. Tan*, a pending murder case over which he was presiding in Monroe County Court.

Specifications to Charge I

6. In or about March 2015, Respondent began presiding over *People v Charles J. Tan* in Monroe County Court, a case in which the defendant was charged with one count of murder in the second degree (Penal Law §125.25[1]) for allegedly shooting his father at their family home in Pittsford, New York.

7. In September 2015, Respondent was nominated to be a candidate for election to the New York State Supreme Court.

8. On or about October 8, 2015, after approximately eight days of jury deliberation in *People v Tan*, the following occurred:

- A. Monroe County Assistant District Attorney William T. Gargan and Mr. Tan's lead counsel, James L. Nobles, consented to a mistrial in the matter.
- B. Prior to ruling on the mistrial, Respondent clarified with counsel and Mr. Tan that double jeopardy would not attach and that Mr. Tan would be subject to retrial upon the indictment.
- C. Mr. Gargan stated that it was the People's intention to retry Mr. Tan.
- D. Respondent granted the mistrial.
- E. Respondent ordered the parties to appear before him on November 5, 2015.

9. On or about October 8, 2015, after the mistrial was declared, Respondent was contacted by personnel from three media outlets: WHEC-TV, Channel 10, the NBC-affiliated television station in Rochester; WHAM-TV, Channel 13, the ABC-affiliated television station in Rochester; and the *Democrat & Chronicle*, a daily newspaper in Rochester. Respondent agreed to engage in one-on-one interviews about *People v Tan* in his chambers with reporters from each of the three media outlets.

10. On or about October 8, 2015, at approximately 4:00 PM, Respondent met in his chambers with a reporter from WHEC-TV, Channel 10. The resulting interview was recorded and portions of it were broadcast on October 8, 2015, and subsequently available on the television station's website at <http://www.whec.com>. A transcript of the interview is appended as Exhibit 1.

11. During the WHEC interview, Respondent made public comments about the *Tan* case, including:

RESPONDENT: And, I told this jury, historically, this may be the longest serving jury that deliberated over that period of time here in Monroe County.

REPORTER: *Why not sequester [the jury] earlier ... or make them stay late the first week?*

RESPONDENT: It just didn't seem that along those first three, four, five, seven days, that they were in a position to perhaps reach a verdict ... if they did stay into the early evening hours. And I think by virtue of not having reached a verdict, even into the eighth day, that bore that out.

REPORTER: Anything in hindsight that you can reflect upon that you may have done differently?

RESPONDENT: You know each case turns on its own facts and the law that's applicable to that case. The one thing that I think that, that's important is that I had a chance to talk to the jury at the conclusion of the case. And I tried to stress that they shouldn't feel bad about not having reached a verdict because what was expected of them was to follow all the rules of the court, listen to the evidence, apply the law, and work hard to try to come to a verdict. Nothing more could be asked of this jury.

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13. During the WHAM interview, Respondent made public comments about the *Tan* case, including:

RESPONDENT: They probably got close to a verdict but, in the end, it just wasn't to be.

REPORTER: Judge Piampiano says both sides agreed to throw in the towel, and for that matter, dismiss the jury.

RESPONDENT: But after eight days, how far do you go? Do you go another two days, a week, a month?

REPORTER: Prosecutors already say they plan to retry Charlie Tan, but Piampiano is in "wait-and-see" mode.

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15. During the *Democrat & Chronicle* interview, Respondent made public comments about the *Tan* case, including:

REPORTER: Did any of [the jury] share any concerns with you regarding the trial?

RESPONDENT: You know, I have a practice, and I think most judges do, not to discuss the merits of the case or particular issues of the trial, and in particular, in this type of case where it is still possibly ongoing.

REPORTER: Hearing that, do you, do you have any second thoughts about letting [the jury] go?

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RESPONDENT: Yes.

REPORTER: *The prosecution has said-- I don't think I'm breaking any confidences saying this, he said this publicly-- that it was, you know, the, the one decision that the court made that he disagreed with. The accomplice liability was in his, the, the prosecution's bill of particulars, and it, but it wasn't allowed. I know why you made that decision; I was there that day. You said that the prosecution didn't provide enough evidence to suggest that there was a connection between the mother and son. Could you elaborate on your decision to, to do that, to make that decision, and, and any second thoughts on that front. Some jurors have indicated that had that been an option, there would have been a verdict.*

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RESPONDENT: So, that, that would give you an overview of some background about that issue.

REPORTER: *And in this case you felt that there just wasn't, the evidence wasn't there?*

RESPONDENT: Based on my ruling, I think it's fair to say, and I think I can say, that after listening to both sides, I felt that, as a matter of law, I was not permitted or entitled to charge the jury to consider that relative to their deliberations.

RESPONDENT: So, the protocol here is that likely that trial would stay with me, and my intention on November 5th, when the parties return, is to likely reschedule that trial for some time in February or March--

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CHARGE II

17. On or about November 5, 2015, while presiding over a post-trial proceeding in *People v Charles J. Tan*, during which Respondent granted the defense motion for a trial order of dismissal, Respondent failed to be patient, dignified and courteous when he denied Monroe County Assistant District Attorney William T. Gargan's attempt to be heard and threatened to have Mr. Gargan arrested if he spoke.

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18. On or about October 8, 2015, after the parties in *People v Charles J. Tan* had consented to a mistrial following approximately eight days of jury deliberation on a single count of murder in the second degree (Penal Law §125.25[1]), Respondent stated that he would adjourn the case for the prosecutor to consider whether the case would be retried. When defense counsel James L. Nobles moved for a trial order of dismissal, Monroe County Assistant District Attorney William T. Gargan opposed the motion and requested that Respondent deny it. Respondent stated that he would reserve decision on the motion and would consider all prior arguments, and he scheduled the next appearance in the matter for November 5, 2015. Respondent directed that counsel "[p]lease come prepared with your schedule[s]," and stated that "the Court will also address the trial order of dismissal at that time."

19. On or about November 5, 2015, Mr. Gargan confirmed that the People intended to retry Mr. Tan for murder. Respondent thereafter asked both Mr. Nobles and

Mr. Gargan whether they wished to “supplement ... or offer any further ... information” as to their positions concerning the defense motion for a trial order of dismissal. Both attorneys declined Respondent’s offer.

20. Respondent then spoke uninterrupted for several minutes, explaining the function of a trial order of dismissal, the legal standard of review, and when a court may grant or deny a trial order of dismissal motion. Respondent stated that there were deficiencies in the People’s proof, and he said: “The Court, therefore, is bound to conclude that the proof offered upon the trial of the matter failed to establish a prima facie case.”

21. When Respondent commented on the jury’s inability to reach a verdict when “evaluating whether the evidence demonstrated beyond a reasonable doubt that the crime had been proven,” the following exchange occurred:

MR. GARGAN: Judge, may I briefly speak?

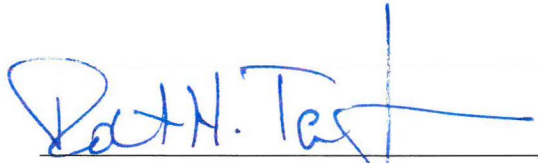
RESPONDENT: No, you may not. If you speak I’m going to put you in handcuffs and put you in jail.

22. 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 all with whom he deals in an official capacity, in violation of Section 100.3(B)(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: November 2, 2016
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

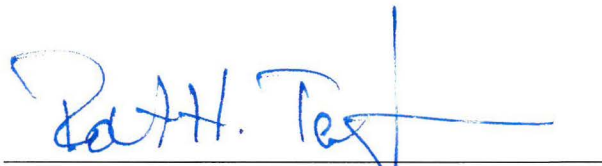
JAMES J. PIAMPIANO,

a Justice of the Supreme Court,
Monroe 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
2nd day of November 2016



Notary Public

MARY C. FARRINGTON
Notary Public, State of New York
No. 02FA6241341
Qualified in Kings County
Commission Expires May 16, 2019

Transcript of Media Interview, Televised
October 8, 2015
4:00 PM

Interviewee:
Honorable James J. Piampiano,
a Judge of the Monroe County Court

Interviewer:
Scott Kilbury
Channel 10/WHEC

1	MR. KILBURY:	Judge James Piampiano presided over this
2		case, and he was the man who ultimately
3		decided to declare a mistrial. I sat down with
4		him shortly after he made the decision.
5	JUDGE PIAMPIANO:	And, I told this jury, historically, this may be
6		the longest serving jury that deliberated over
7		that period of time here in Monroe County.
8	MR. KILBURY:	But after 52 hours, Judge Piampiano decided
9		the panel of ten women and two men had
10		deliberated long enough.
11	JUDGE PIAMPIANO:	It had been eight days. And we had been
12		through 24 jury notes. We had been through
13		numerous read backs, recitation of the law
14		again, and there was really no indication that
15		this was probably going to be a circumstance
16		that could result in a verdict beyond today.
17	MR. KILBURY:	Why not sequester them earlier? Or I mean
18		sequester, or make them stay late the first
19		week?
20	JUDGE PIAMPIANO:	It just didn't seem that along those first three,
21		four, five, seven days, that they were in a
22		position to perhaps reach a verdict if we, if
23		they did stay into the early evening hours.
24		And I think by virtue of not having reached a
25		verdict, even into the eighth day, that bore

1 that out.

2 MR. KILBURY: Anything in hindsight that you can reflect
3 upon that you may have done differently?

4 JUDGE PIAMPIANPO: You know each case turns on its own facts
5 and the law that's applicable to that case. The
6 one thing I think that, that's important is that I
7 had a chance to talk to the jury at the
8 conclusion of the case. And I tried to stress
9 that they shouldn't feel bad about not having
10 reached a verdict because what was expected
11 of them was to follow all the rules of the
12 court, listen to the evidence, apply the law,
13 and work hard to try to come to a verdict.
14 Nothing more could be asked of this jury.

15 MR. KILBURY: Judge Piampiano will meet with the attorneys
16 on November 5th to discuss a re-trial, which
17 will likely be in February or March.

18 (END INTERVIEW)

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Dated: September 1, 2016

STATE COMMISSION ON JUDICIAL CONDUCT
400 Andrews Street, Suite 700
Rochester, NY 14604

Transcript of Media Interview, Televised
October 8, 2015
4:30 PM

Interviewee:
Honorable James J. Piampiano,
a Judge of the Monroe County Court

Interviewer:
Cody Combs
Channel 13/WHAM

(Hon. James J. Piampiano, Media Interview, Channel 13/WHAM, Oct. 8, 2015)

1 MS. RYAN: *A second trial could be less than a year away,*
2 *and very likely will have the same judge. He*
3 *spoke with 13 WHAM's Cody Combs tonight.*

4 (SEGUE - BEGIN REPORT)

5 JUDGE PIAMPIANO: They probably got close to a verdict but, in
6 the end, it just wasn't to be.

7 MR. COMBS: *Judge Piampiano says both sides agreed to*
8 *throw in the towel, and for that matter,*
9 *dismiss the jury.*

10 JUDGE PIAMPIANO: But after eight days, how far do you go? Do
11 you go another two days, a week, a month?

12 MR. COMBS: *Prosecutors already say they plan to retry*
13 *Charlie Tan, but Piampiano is in "wait-and-*
14 *see" mode.*

15 JUDGE PIAMPIANO: I've asked the prosecutor to think through it,
16 advise me on the 5th, and if there's to be a
17 retrial, it would likely be in February or
18 March of next year, not before.

19 (SEGUE - BACKGROUND CONVERSATION)

20 JUDGE PIAMPIANO: *Oh yeah, and I--*

21 MR. COMBS: *--(Unintelligible)--*

22 JUDGE PIAMPIANO: *--had a lightbulb going to the jury with*
23 *that--*

24 MR. COMBS: *--(Unintelligible)...*

25 (SEGUE - BACK TO REPORT)

(Hon. James J. Piampiano, Media Interview, Channel 13/WHAM, Oct. 8, 2015)

1 MR. COMBS: *The judge says the jury worked longer than*
2 *any jury he's seen, but added the evidence*
3 *presented left them with more questions than*
4 *answers.*

5 JUDGE PIAMPIANO: Jurors don't get the evidence they want, they
6 get the evidence they get. And then they have
7 to sort through that and figure it out.
8 (Unintelligible)...

9 MR. COMBS: *This jury didn't quite figure it out, but a new*
10 *jury might get that chance. And the judge is*
11 *optimistic that finding one without too much*
12 *bias will be easy.*

13 JUDGE PIAMPIANO: Sometimes journalists, and judges, and
14 lawyers think that the whole world revolves
15 around this courthouse. I've met many people
16 in the jury selection process, who are not
17 "news junkies," if you will, and who have
18 only peripherally heard about this matter, or
19 other matters.

20 MR. COMBS: *As for Charlie Tan, Piampiano did not rule*
21 *out the possible impact of his supporters or*
22 *his side of the story.*

23 JUDGE PIAMPIANO: I'm not sure, Cody, that I can recall, in recent
24 times, somebody being that sympathetic a
25 figure.

(Hon. James J. Piampiano, Media Interview, Channel 13/WHAM, Oct. 8, 2015)

1 MR. COMBS: Cody Combs, 13/WHAM News at 10:00 on
2 Fox Rochester.


3 (END INTERVIEW)

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CERTIFICATION

I, Kathryn Trapani, an Assistant Administrative Officer of the State Commission on Judicial Conduct, do hereby certify that the foregoing is a true and accurate transcript of the audio recording described herein to the best of my knowledge and belief.

Dated: February 3, 2016


Kathryn Trapani

Transcript of Media Interview
October 8, 2015

Interviewee:
Honorable James J. Piampiano,
a Judge of the Monroe County Court

Interviewer:
David Andreatta
Rochester Democrat & Chronicle

(Hon. James J. Piampiano, Media Interview, Democrat & Chronicle, Oct. 8, 2015)

1	MR. ANDREATTA:	So, there are a couple of, sort of, pressing
2		questions that you may not be able to answer.
3		We'll, but we'll get to those--
4	JUDGE PIAMPIANO:	--Right--
5	MR. ANDREATTA:	--in a moment. I think that the ones that you
6		probably can answer are the ones, questions
7		about what you said to the jury afterwards.
8		You discharged the jury, the courtroom was
9		closed, the jury got in the jury box, and, you
10		know, looking through the window-- We
11		couldn't take pictures, of course, but you
12		could see it-- You seemed to be very
13		animated, the jury was laughing. There
14		seemed to be a good rapport between the, the
15		two sides. And the reason I'm asking that
16		question is because in speaking with the
17		jurors afterwards, some of them said, you
18		know, had, had indicated signs of stress
19		throughout the trial--
20	JUDGE PIAMPIANO:	--Sure--
21	MR. ANDREATTA:	--One woman talked about having dreams of
22		guilty, not guilty. Another, one woman said--
23		One other woman said she couldn't sleep.
24		And I know that federal courts have taken
25		jury stress quite seriously. They've

1 implemented programs and services to help
2 with that sort of thing in high-profile trials. I
3 don't think we have anything like that here in
4 New York, but probably being mindful of
5 that, I'm, I'm assuming you took your own
6 steps to, sort of, address some of those issues
7 and that, with that 15 minutes of what
8 appeared to be levity. What did you say to
9 them and, you know, were you concerned
10 about their welfare?

11 JUDGE PIAMPIANO: Well, among other things, what I wanted to
12 stress was that, in the days ahead, they may
13 hear things about their performance, their
14 conduct, their participation in the trial, and
15 they need to understand that they should be
16 proud of their effort. This is a jury that
17 worked very hard. This is a jury that followed
18 all of the rules and admonitions of the court,
19 did not engage in any juror misconduct, who
20 came to work every day, on time, and
21 prepared to do that work. They deliberated
22 between 52 and 54 hours. That's almost
23 unheard of in the Hall of Justice. I don't
24 know, historically, if another jury has labored
25 that long, over parts of eight days, but every

1 day they did. They were working. They were
2 asking for exhibits. They were having read-
3 backs. They sent out meaningful notes that
4 showed that they were still trying very hard
5 not to be a deadlocked jury, but rather come
6 to a verdict. So, I shared with them the fact
7 that they need to be proud of that, that they
8 need to understand that what was expected of
9 them was not necessarily having to come to a
10 verdict, but rather making the effort that is
11 reasonable, and necessary, and required of
12 them by law. They all fulfilled their oath and
13 promise to the court and to the parties.

14 MR. ANDREATTA: Did any of them share any concerns with you
15 regarding the trial?

16 JUDGE PIAMPIANO: You know, I have a practice, and I think most
17 judges do, not to discuss the merits of the case
18 or particular issues of the trial, and in
19 particular, in this type of case where it is still
20 possibly ongoing. And so really my focus is
21 on thanking them and addressing any
22 concerns they had about their service, and
23 sharing with them some lighter moments
24 about circumstances that don't effect the
25 merits of the case, but maybe effect things

1 that went on around the courtroom that they
2 may or may not have been aware of. So, you
3 know, I, I was able to have some discussion
4 with them on more of a lighter level, you
5 know, more of a humanistic level--
6 MR. ANDREATTA: --Right--
7 JUDGE PIAMPIANO: --about the things that go on in a courtroom,
8 rather than the actual work they had to do.
9 MR. ANDREATTA: Well, on that note, again, I saw a lot of
10 laughter on both sides. What, what did you
11 say? Because it all looked like-- You know,
12 there were-- We were making jokes out in the
13 lobby that it was a comedy club going, so,
14 there-- Yeah-- You were -- It was a comedy
15 routine that you were offering, because they
16 seemed to be--
17 JUDGE PIAMPIANO: --Well--
18 MR. ANDREATTA: --laughing so much.
19 JUDGE PIAMPIANO: You know, jurors sit there and they observe
20 everything. I mean, they watch the lawyers,
21 and they watch the judge, and they watch
22 people that come in and out of the courtroom.
23 And they were a little enamored with the
24 different personalities of the lawyers, which I
25 think were in stark contrast. They found me

1 to be a task master. I hope that's a good
2 thing. They were kind of impressed, actually,
3 with the level of professionalism of all the
4 support staff in the room, from the clerks, to
5 the reporters, to the security, court personnel.
6 Not sure what their expectation was, but I
7 think it was exceeded in terms of their
8 remarks about the jobs that people were doing
9 to make sure that the proceedings flowed
10 efficiently, and that a fair trial was had by all.
11 MR. ANDREATTA: Jury stress. Is it something that you've
12 encountered before, you've seen, encountered
13 before, by, felt by, by juries?
14 JUDGE PIAMPIANO: Yeah, you know, every jury is under stress. It,
15 it's difficult in any case for a jury to evaluate
16 the evidence, apply the law, and come to the
17 right verdict. One thing I've learned a long
18 time ago about jurors is that they want to do
19 the right thing, and each lawyer on each side
20 has to give them the tools to do that. They
21 have to make the most of compelling
22 arguments, persuasive arguments, but they
23 also have to focus in on the evidence, and so,
24 the jurors in the first instance usually come to
25 the courtroom with a sense of wanting to do

1 the right thing. And this jury worked very
2 hard to try to evaluate the evidence and come
3 to the verdict that would be appropriate in this
4 matter. Now, you deliberate over eight days,
5 that's the same 11 other people, for over 50
6 hours. That's quite, quite a task. I mean, you
7 talk about stress by jurors, there's stress in a
8 six-hour deliberation. There can be stress in a
9 10, 20. But imagine, you know, in this case,
10 between 50 and 60 hours. It was quite
11 overwhelming. Along the way, we tried to
12 provide as many breaks as possible, and
13 lunch, and then ultimately dinner, time that
14 we could. Stretch their legs; they could leave
15 the courthouse with the proper security and
16 supervision. But it was hard, it was hard.
17 And they are to be commended, because I saw
18 nothing but a full and committed effort to
19 comply with their oath and promise to the
20 both the court and the parties in the matter.
21 MR. ANDREATTA: Some of the jurors expressed some surprise to
22 us. I don't know if you've read any, or seen
23 any footage, or anything that's already out
24 there. I mean, the media is covering this from
25 every possible angle, right down to jury

1 stress--

2 JUDGE PIAMPIANO: --And interviewing the judge--

3 MR. ANDREATTA: --and interviewing the judge. I mean, it's

4 just-- Yeah, it's, it's crazy. But-- So, there

5 have been some reports already. I know

6 we've reported-- I know, some of the jurors I

7 talked to, after they were dismissed, indicated

8 that they were surprised that they were to be

9 let go. Some of them indicated that they felt

10 like they could have come to a unanimous

11 decision later in the day. Some of them said

12 that they weren't sure that that was a

13 possibility. But either, either way, both--

14 Whether they had the notion that they were

15 going to come to a verdict or not, everyone

16 said the same thing, that they were working

17 diligently and working hard, and that they

18 were surprised that you had let them go.

19 Hearing that, do you, do you have any second

20 thoughts about letting them go?

21 JUDGE PIAMPIANO: The only way a trial can conclude, if not by

22 verdict, is for the judge to evaluate the

23 circumstances in the judge's discretion, and

24 it's called "manifest necessity," where the

25 judge looks at the number of issues in the

(Hon. James J. Piampiano, Media Interview, Democrat & Chronicle, Oct. 8, 2015)

1 case, the time the jury has spent deliberating,
2 perhaps the nature of the notes that have come
3 out, any Allen charges that were read, and
4 then the judge making a determination that
5 perhaps enough is enough, and this is a group
6 that's not likely to reach a verdict
7 unanimously. That did not occur in this case.
8 The second alternative or way that the matter
9 can conclude by mistrial, by law, is that the
10 court, the defense, and the prosecution all
11 consent that a mistrial should be granted.
12 That was a matter that was discussed
13 extensively with the lawyers, and I was
14 advised, extensively with Mr. Tan as well.
15 And there was complete agreement between
16 the lawyers that we had reached a point that it
17 appeared that we were now at a point of
18 diminishing returns, and I think that
19 evaluation was based on the notes that had
20 come out, the time--
21 MR. ANDREATTA: --Mm-hmm--
22 JUDGE PIAMPIANO: --that had been spent. We had been there the
23 night before until nine o'clock at night
24 without any real indication that this was
25 moving in the direction of a verdict, and so, I

1 can't speak for the lawyers in terms of their
2 thought process, but they did share with me
3 that collectively they felt that this had been
4 now into an eighth day, it did not appear that
5 it was moving in the direction of a verdict,
6 and to be fair, I concurred with that. I didn't
7 see anything that suggested that in an hour, or
8 six hours, or that night, or otherwise, it would
9 have concluded with a verdict.

10 MR. ANDREATTA: Judge, Judge, who broached the subject first?
11 JUDGE PIAMPIANO: Well, the subject is always kind of looked at
12 when you get into a third, fourth, fifth, and
13 eighth day. I mean, it was starting to move in
14 that direction where the attorneys, and, and I,
15 and this is very typical, were concerned that
16 the jury might indicate to us there's no way
17 they can reach a decision and it might result in
18 a mistrial. So, with that said, the jury did
19 reach a point, at one, at one point in time, I
20 think you recall, where they indicated,
21 "We're, we're deadlocked and we don't think
22 that we can reach a unanimous verdict."

23 MR. ANDREATTA: Mm-hmm.
24 JUDGE PIAMPIANO: So, we called them out and we read them the
25 Allen charge, but then we had considerable

1 deliberation after that, including eight read-
2 backs yesterday, when the jury deliberated for
3 almost 12 hours in between those read-backs,
4 and even after the last read-back, late in the
5 afternoon, they still stayed 'til nine o'clock at
6 night without the ability to reach a verdict.
7 So, there was some sense that this was not
8 moving in the direction of a verdict. We were
9 starting to move towards a three-day
10 weekend, jury had deliberated into its eighth
11 day, a long, almost four-week trial, and they
12 were exhausted.

13 MR. ANDREATTA: Hindsight, of course, is, is 20/20, and I, I do--
14 JUDGE PIAMPIANO: --Sure--
15 MR. ANDREATTA: --understand that, and I understood, even in
16 the courtroom earlier today, that it was a
17 consensual decision from all parties--
18 JUDGE PIAMPIANO: --Yes--
19 MR. ANDREATTA: --defense, prosecution, as well as the court,
20 but having heard now that jurors said, "We
21 were still working and we were surprised and
22 there might have been something, a
23 unanimous verdict"--
24 JUDGE PIAMPIANO: --Well, I--
25 MR. ANDREATTA: --Do, do you, again, with the benefit of

1		hindsight, do you, do you regret letting them
2		go?
3	JUDGE PIAMPIANO:	Oh no, not at all, not at all. If this was the
4		first day, or two, or three, you know, one
5		might question that. We were eight days into
6		deliberations. The deliberations were longer
7		than the entire trial itself; they were longer
8		than jury selection. Let me just say, I'm not
9		surprised that the jurors said that they were
10		surprised or caught off-guard. We did not
11		give them any indication that that was going
12		to be happening when I, before I called them
13		out, because they were continuing to
14		deliberate. Now, we may have had some
15		discussion in the courtroom where I may have
16		received a note that they had reached a verdict
17		because they were in the process of
18		deliberations, but once the parties all
19		consented, at that point we simply brought
20		them out, and I am sure it caught them by
21		surprise, to be fair to them. That they may
22		have remarked that, "We think we might have
23		reached a verdict," I, I think, in good faith,
24		they, they probably do think that--
25	MR. ANDREATTA:	--Mm-hmm--

(Hon. James J. Piampiano, Media Interview, Democrat & Chronicle, Oct. 8, 2015)

1 JUDGE PIAMPIANO: --and we'll never know if that's the case. But
2 would that verdict have been two days down
3 the road, a week, a month, or whenever, the
4 important thing is not to look forward and
5 speculate, but rather to look backwards and to
6 see what work has been done, what effort was
7 made, and where are we now. And again, it
8 was the parties who had asked to speak with
9 me, and who both discussed it among
10 themselves, that they felt that they could and
11 needed to consent to a mistrial.

12 MR. ANDREATTA: One other question I have for you is about
13 "accomplice liability," that charge.

14 JUDGE PIAMPIANO: Yes.

15 MR. ANDREATTA: The prosecution has said-- I don't think I'm
16 breaking any confidences saying this, he said
17 this publicly-- that it was, you know, the, the
18 one decision that the court made that he
19 disagreed with. The accomplice liability was
20 in his, the, the prosecution's bill of
21 particulars, and it, but it wasn't allowed. I
22 know why you made that decision; I was there
23 that day. You said that the prosecution didn't
24 provide enough evidence to suggest that there
25 was a connection between the mother and son.

(Hon. James J. Piampiano, Media Interview, Democrat & Chronicle, Oct. 8, 2015)

1 Could you elaborate on your decision to, to do
2 that, to make that decision, and, and any
3 second thoughts on that front. Some jurors
4 have indicated that had that been an option,
5 there would have been a verdict.

6 JUDGE PIAMPIANO: Certainly. I, I'm not at liberty to discuss the
7 prosecutor's remarks or this case in particular,
8 but I can share with you that with respect to
9 accomplice liability, for the court to charge
10 that, in any case where it's requested, there
11 has to be a reasonable view of the evidence
12 that two or more people are acting in concert
13 to accomplish the same goal, that they're
14 acting with the same state of mind, and that
15 there's some conduct, behavior or otherwise,
16 from the evidence, that suggests that they're
17 acting together and in concert. So, in any trial
18 where a judge is asked to charge that, what
19 the judge is going to be doing, as I did in this
20 trial, is reflect on the evidence that was
21 presented. Typically, I'll review my notes,
22 take one last look at the law, and then listen to
23 the arguments of both sides, and then reflect
24 on whether or not there can be such a charge
25 based on the evidence in that particular case.

(Hon. James J. Piampiano, Media Interview, Democrat & Chronicle, Oct. 8, 2015)

1	MR. ANDREATTA:	Mm-hmm.
2	JUDGE PIAMPIANO:	So, that, that would give you an overview of
3		some background about that issue.
4	MR. ANDREATTA:	And in this case you felt that there just wasn't,
5		the evidence wasn't there?
6	JUDGE PIAMPIANO:	Based on my ruling, I think it's fair to say,
7		and I think I can say, that after listening to
8		both sides, I felt that, as a matter of law, I was
9		not permitted or entitled to charge the jury to
10		consider that relative to their deliberations.
11	MR. ANDREATTA:	Judge, the prosecution has indicated that they
12		would like to retry this case. You set a court
13		date for November 5 th , I think, for, just for
14		scheduling, is from what I gather--
15	JUDGE PIAMPIANO:	--Correct--
16	MR. ANDREATTA:	--today. Is it guaranteed that you will be the
17		judge for the next trial?
18	JUDGE PIAMPIANO:	I'm, I'm not sure I'd use the word
19		"guarantee," but the protocol in the
20		courthouse--
21	MR. ANDREATTA:	--Okay--
22	JUDGE PIAMPIANO:	--is when a case is assigned to you, it stays
23		with you through its conclusion, and actually,
24		if you're still a sitting judge, if there are post-
25		trial applications, by way of appeal or

1 otherwise, or post-trial applications or
2 motions for relief going forward, they stay
3 with the same judge.
4 MR. ANDREATTA: Okay.
5 JUDGE PIAMPIANO: So, the protocol here is that likely that trial
6 would stay with me, and my intention on
7 November 5th, when the parties return, is to
8 likely reschedule that trial for some time in
9 February or March--
10 MR. ANDREATTA: --Okay--
11 JUDGE PIAMPIANO: --but not before. I'll discuss that with the
12 attorneys and see what their availability is at
13 that time. And I would also just share with
14 you, and I did state for the record, that I
15 would address the trial order of dismissal that
16 the defense lawyers had brought, at the
17 conclusion of the People's case, and then
18 renewed at the, at the conclusion of the trial,
19 where they were asking this court, as a matter
20 of law, to dismiss the murder charges against
21 their client, based on the failure of the People
22 to present sufficient or adequate evidence.
23 That matter is still yet to be decided by this
24 court. I did reserve, and I will be deciding
25 that on November 5th, as well.

(Hon. James J. Piampiano, Media Interview, Democrat & Chronicle, Oct. 8, 2015)

1 MR. ANDREATTA: So, there's a possibility, anyway, that as of
2 November 5th, there could be a dismissal of
3 the charges? I, I, I, I--

4 JUDGE PIAMPIANO: --By way of the defense application, that is
5 the relief they are looking for. So, the answer
6 would be yes.

7 MR. ANDREATTA: Okay.

8 (END RECORDING)

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CERTIFICATION

I, Kathryn Trapani, an Assistant Administrative Officer of the State Commission on Judicial Conduct, do hereby certify that the foregoing is a true and accurate transcript of the audio recording described herein to the best of my knowledge and belief.

Dated: February 3, 2016


Kathryn Trapani