

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

MARY BRIGANTTI-HUGHES,

A Justice of the Supreme Court, 12th District
(Bronx 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, Esq., Administrator and Counsel to the Commission, and Honorable Mary Brigantti-Hughes (“Respondent”), who is represented in this proceeding by Ben B. Rubinowitz, Esq., of Gair, Gair, Conason, Steigman, Mackauf, Bloom & Rubinowitz, 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 1987. She has been a Justice of the Supreme Court, 12th District (Bronx County), since 2005, having previously served as a Judge of the New York City Civil Court from 1998 to 2004. During a portion of her term as a Judge of the New York City Civil Court, Respondent also served as a Judge of the New York City Criminal Court. Respondent’s current term expires on December 31, 2018.

2. Respondent was served with a Formal Written Complaint dated June 13, 2013, a copy of which is appended as Exhibit 1. She enters into this Agreed Statement of Facts in lieu of filing an Answer.

As to Charge I

3. From in or about 2006 to in or about 2011, Respondent lent the prestige of judicial office to advance her own and others' private interests and/or failed to conduct her extra-judicial activities so as to minimize the risk of conflict with judicial obligations, in that, during regular business hours, she asked and/or caused court staff (A) to perform non-work-related personal tasks for her and (B) to participate in religious and secular activities associated with her religion or church, as indicated in the succeeding paragraphs.

4. From in or about 2006 through in or about 2009, on approximately five occasions, Respondent asked her secretary, Maria Figueroa, to pick up Respondent's younger daughter from school. On those occasions, Ms. Figueroa left work early, drove her personal car to the school, picked up the child and then looked after the child at either her own home or Respondent's home until the end of the day when someone relieved her.

5. From in or about 2006 through in or about 2011, on multiple occasions during regular business hours in the months of July and August, Respondent brought her child to court during the day. In these years Respondent's child was between the ages of six and eleven. There is evidence sufficient to establish that on approximately five such occasions, Respondent's court staff supervised the child when Respondent was on the bench.

6. From in or about January 2010 to in or about February 2011, on approximately four occasions during regular business hours, Respondent had her court attorney, Marguerite Wells, pick up Respondent's younger daughter from school. Ms. Wells would leave work, drive Respondent's car to the school, park nearby and then go into the school to get the child. She would then bring the child to the courthouse. If Respondent was not in chambers, Ms. Wells would watch the child until Respondent returned.

7. From in or about 2006 through in or about 2009, on about three occasions, Respondent had her secretary, Maria Figueroa, drive her to a hair salon, wait and then drive Respondent home or to the courthouse.

8. From in or about 2006 to in or about 2009, on at least one occasion during regular business hours, Respondent had her secretary, Maria Figueroa, drive her to New Jersey so Respondent could go shopping.

9. From in or about 2006 through in or about 2011, on as many as nine occasions during regular business hours, Respondent had or permitted court staff, such as her secretary Maria Figueroa, her court attorney Marguerite Wells and assistant Supreme Court librarian Yesenia Santiago, do personal typing, printing and/or copying of religious material, for Respondent's personal use.

10. In or about 2010 or early 2011, Respondent had her court attorney, Marguerite Wells, accompany her to a Home Depot during regular business hours to help Respondent purchase soil and plants for a function at Respondent's church. When they returned to chambers, Respondent had Ms. Wells assist her in repotting the plants.

11. In or about 2003, Respondent obtained permission from the Office of Court Administration for a Bible study/prayer group to meet in the courthouse during the lunch hour. However, from in or about 2006 to in or about 2011, during regular business hours other than the lunch hour, Respondent often asked court staff to join her in prayer in chambers.

A. From in or about 2006 to in or about 2009, on about six occasions, Respondent asked Maria Figueroa and/or Respondent's court attorney, Brenda Torres, to pray with her in chambers. Respondent and her court staff often joined hands during the prayers.

B. From in or about 2010 to in or about 2011, on about seven occasions, Respondent asked Marguerite Wells and/or her other court attorney, Yvonne Baez, to pray with her in chambers. Respondent and her court staff often joined hands during the prayers.

12. From in or about 2006 to in or about 2011, in the courthouse during regular business hours, Respondent occasionally invited members of her court staff, including Maria Figueroa, Marguerite Wells, Yvonne Baez, and Brenda Torres, to attend church and religious events after regular business hours. As a result of Respondent's invitations:

A. Ms. Figueroa attended a Friday church service and a Saturday church event;

B. Ms. Torres attended a church fund-raiser at her own expense, one or two church services, a Saturday religion class and an evening prayer group; and

C. Ms. Wells attended a church service, a church event for women and, at her own expense, a weekend retreat in Pennsylvania sponsored by Respondent's church.

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 she failed to respect and comply with the law and to act at all times 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, allowed a family relationship to influence the judge's judicial conduct, in violation of Section 100.2(B) of the Rules, and lent the prestige of judicial office to advance her own private interest and the private interest of another, in violation of Section 100.2(C) of the Rules; failed to perform the duties of judicial office impartially and diligently, in that she failed to require her court staff to observe the standards of fidelity and diligence that apply to the judge, in violation of Section 100.3(C)(2) of the Rules; and failed to conduct her extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that she failed to conduct her extra-judicial activities so they do not detract from the dignity of judicial office, in violation of Section 100.4(A)(2) of the Rules, and so that they do not interfere with the proper performance of judicial duties, in violation of Section 100.4(A)(3) of the Rules, and

personally participated in fund-raising activities using the prestige of judicial office for fund-raising, in violation of Section 100.4(C)(3)(b)(i), (iv) of the Rules.

Additional Factors

14. With regard to Respondent's requests that her court staff assist her in some personal tasks not related to their official duties, such as photocopying religious material and assisting with care for Respondent's child:

A. Most of the conduct engaged in by Respondent predated *Matter of Ruhlman*, in which the Commission censured a judge for having her secretary perform various personal services, such as typing for her husband and child care for her children. 2010 Ann Rep 213 (Comm'n on Judicial Conduct, Feb 9, 2009). Respondent asserts that while she was not previously familiar with the Commission's determination in *Ruhlman*, she promises to abide by it and acknowledges that it was improper for her to ask her staff to perform non-work-related personal tasks for her, especially during work hours. Respondent asserts that, in making some of these requests of her staff, she was motivated by the belief that she was maximizing her time in the courtroom. While Respondent did not believe at the time that her requests took substantial time away from her staff's discharge of their official duties, she now realizes that she created at least the appearance of using public resources for her personal benefit and promises not to do so in the future. As to personal tasks performed during non-working hours, Respondent now recognizes that she created the appearance of impropriety, placed her own interests above those of her staff and failed to consider whether her requests were implicitly coercive given her role as judge and employer.

B. The Administrator notes that, as stated in the Preamble to the Rules Governing Judicial Conduct, these are “rules of reason,” and it is “not intended...that every transgression will result in disciplinary action.” It is not the Administrator’s position that, absent aggravating circumstances, occasional acts of personal assistance by a court employee toward a judge should result in discipline. For example, ordinary professional courtesies and emergencies sometimes result in extra-curricular assistance being provided by subordinates to supervisors and vice versa. In this case, however, Respondent called upon her subordinates to perform personal tasks more than occasionally in non-emergency circumstances, requiring public discipline.

C. There is evidence sufficient to establish that Respondent requested her staff to assist her with personal tasks on average fewer than five times a year. The Administrator is not aware of any case in which similar conduct of this type and limited number was found to comprise a “scheme constituting a systemic ongoing course of conduct with intent to [] defraud the state” in violation of Penal Law Section 195.20 (punctuation omitted), or otherwise found to be a crime.

15. With regard to Respondent’s invitations to court staff to pray with her in the courthouse and to attend or participate in various meetings or events of a religious nature:

A. The Administrator notes that in 2003, in interpreting applicable First Amendment law, the Office of Court Administration opined that Respondent may use “available court facilities during the lunch hour” “to hold bible study and other religiously oriented meetings” so long as “they [did] not interfere with the performance

of duties in the workplace” and were not “otherwise ... disturbing to others, including the potential to coerce or intimidate others to join.” The Administrator does not suggest any impropriety in Respondent’s privately and discreetly engaging in personal prayer, at or in the workplace, alone or with others who voluntarily join her.

B. The Administrator and Respondent agree, however, that in the workplace, Respondent's right to the free exercise of her religious beliefs must be balanced with the right of her subordinates to freely exercise their own religious beliefs and to be free of coercion to engage in the religious practices of others. Federal courts have struggled with this delicate balance. *See e.g. Venters v. City of Delphi*, 123 F3d 956 (7th Cir 1997), *Brown v. Polk County, Iowa*, 61 F3d 650 (8th Cir 1995).

C. Respondent asserts that she did not intend to coerce any employee into engaging in religious activity and never suggested explicitly or implicitly that any employee would suffer adverse consequences for declining her invitations to pray or to attend religious events. The Commission’s investigation did not reveal any evidence to the contrary. Respondent now recognizes, however, that such requests are inherently coercive when made by a judge to her personal appointees or other court employees, and she understands that some staff did feel pressure to participate in prayer or to attend events sponsored by Respondent’s church.

D. Respondent acknowledges that the Rules prohibit judges from participating in fund-raising activities, even for a religious purpose, and that it was improper for her to invite employees to events requiring them to expend funds for the benefit of her church. She promises not to extend such invitations in the future.

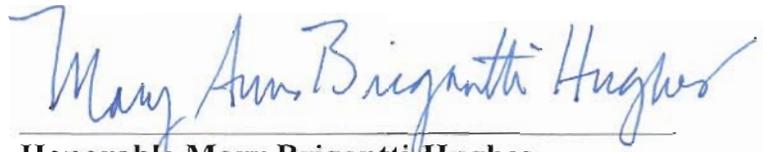
E. Respondent also acknowledges that she should not have invited her staff to attend various religious functions sponsored by her church. While Respondent extended these invitations out of her sincere devotion to her religious principles, she now recognizes that she failed to consider the rights and interests of her staff, including whether her invitations were implicitly coercive given her role as judge and employer. She promises not to extend such invitations in the future.

16. The Administrator notes that suspension from office is not a sanction available to the Commission under the Constitution.

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.

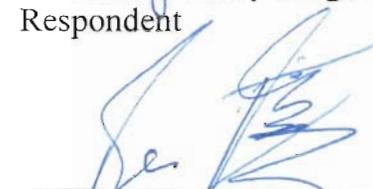
IT IS FURTHER STIPULATED AND AGREED that if the Commission accepts this Agreed Statement of Facts, the parties waive oral argument and waive further submissions to the Commission as to the issues of misconduct and sanction, and that the Commission shall thereupon impose a public Censure without further 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:



Honorable Mary Brigantti Hughes
Respondent

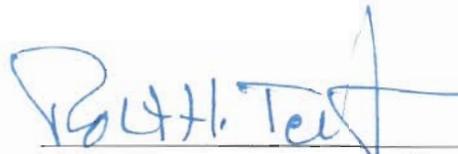
Dated:



Ben B. Rubinowitz, Esq.
Gair, Gair, Conason, Steigman, Mackauf,
Bloom & Rubinowitz
Attorney for Respondent

Dated:

Nov. 8, 2013



Robert H. Tembeckjian, Esq.
Administrator & Counsel to the Commission
(**Pamela Tishman**, 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

MARY BRIGANTTI-HUGHES,

a Justice of the Supreme Court, 12th District
(Bronx County).

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to Respondent, Mary Brigantti-Hughes, a Justice of the Supreme Court, Bronx 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 New York City office, 61 Broadway, Suite 1200, New York, New York 10006, with her verified Answer to the specific paragraphs of the Complaint.

Dated: June 13, 2013
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: Ben B. Rubinowitz, Esq.
Gair, Gair, Conason, Steigman,
Mackauf, Bloom & Rubinowitz
80 Pine Street, Floor 34
New York, New York 10005

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**

MARY BRIGANTTI-HUGHES,

a Justice of the Supreme Court, 12th District
(Bronx 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 Mary Brigantti-Hughes (“Respondent”), a Justice of the Supreme Court, Bronx 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 1987. She has been a Justice of the Supreme Court, Bronx County, since 2005, having previously served as a Judge of the New York City Civil Court from 1998 to 2004. During a portion of her term as a Judge of the New York City Civil Court, Respondent also served as a

Judge of the New York City Criminal Court. Respondent's current term expires on December 31, 2018.

CHARGE I

5. From in or about 2006 to in or about 2011, Respondent lent the prestige of judicial office to advance her own and others' private interests and/or failed to conduct her extra-judicial activities so as to minimize the risk of conflict with judicial obligations, in that, on numerous occasions, often at the court during regular business hours, she asked and/or caused court staff (A) to perform non-work-related personal tasks for her and (B) to participate in religious and secular activities associated with her religion or church.

Specifications to Charge I

6. In or about 2006 through in or about 2009, on at least five occasions, Respondent asked her secretary, Maria Figueroa, to pick up Respondent's younger daughter from school. On those occasions, Ms. Figueroa left work early, drove her personal car to the school, picked up the child and then looked after the child at either her own home or Respondent's home until the end of the day when someone relieved her.

7. From in or about 2006 through in or about 2011, on multiple occasions during regular business hours, Respondent had her court staff supervise her younger daughter on those occasions when Respondent brought the child to court during the day.

8. From in or about January 2010 to in or about February 2011, on multiple occasions during regular business hours, Respondent had her court attorney, Marguerite Wells, pick up Respondent's younger daughter from school. Ms. Wells would leave

work, drive Respondent's car to the school, park nearby and then go into the school to get the child. She would then bring the child to the courthouse. If Respondent was not in chambers, Ms. Wells would watch the child until Respondent returned.

9. From in or about 2006 through in or about 2009, on a few occasions, Respondent had her secretary, Maria Figueroa, drive her to a hair salon, wait and then drive Respondent home or to the courthouse.

10. From in or about 2006 to in or about 2009, on at least one occasion during regular business hours, Respondent had her secretary, Maria Figueroa, drive her to New Jersey so Respondent could go shopping.

11. From in or about 2006 through in or about 2009, on numerous occasions during regular business hours, Respondent had her secretary, Maria Figueroa, do personal typing, printing and/or copying of religious material. The amount of such personal work that Respondent assigned to Ms. Figueroa was at times so great that it impeded Ms. Figueroa's ability to complete her court-related responsibilities in a timely manner.

12. In or about 2010 or early 2011, on at least two occasions during regular business hours, Respondent had or permitted assistant Supreme Court librarian Yesenia Santiago to make numerous copies of a religious flier and numerous copies of a chapter of a religious book on the library's photocopy machine, for Respondent's personal use.

13. From in or about 2010 until in or about early 2011, on numerous occasions during regular business hours, Respondent had her court attorney, Marguerite Wells, make photocopies of religious materials on a courthouse photocopy machine, for Respondent's personal use.

14. In or about 2010 or early 2011, Respondent had her court attorney, Marguerite Wells, accompany her to a Home Depot during regular business hours to help Respondent purchase soil and plants for a function at Respondent's church. When they returned to chambers, Respondent had Ms. Wells assist her in repotting the plants.

15. In or about 2003, Respondent obtained permission from the Office of Court Administration for a Bible study/prayer group to meet in the courthouse during the lunch hour. However, from in or about 2006 to in or about 2011, during regular business hours other than the lunch hour, Respondent often asked court staff to join her in prayer in chambers.

A. From in or about 2006 to in or about 2009, on about six occasions, Respondent asked Maria Figueroa and/or Brenda Torres¹ to pray with her in chambers. Respondent and her court staff often joined hands during the prayers.

B. From in or about 2010 to in or about 2011, on about seven occasions, Respondent asked Marguerite Wells and/or Respondent's law clerk Yvonne Baez to pray with her in chambers. Respondent and her court staff often joined hands during the prayers.

16. From in or about 2006 to in or about 2011, on numerous occasions in the courthouse during regular business hours, respondent invited members of her court staff, including Maria Figueroa, Marguerite Wells, Yvonne Baez, and Brenda Torres, to attend

¹ Brenda Torres worked as Respondent's court attorney from January 2006 until about the end of 2009. Although she now uses the name Brenda Rivera, she is referred to as Brenda Torres, as she was known at the relevant time.

church and religious events after regular business hours. As a result of Respondent's invitations:

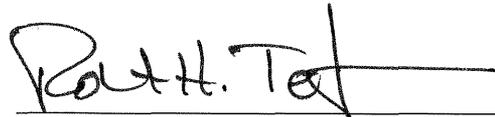
- A. Ms. Figueroa attended a Friday church service and a Saturday church event;
- B. Ms. Torres attended a church fund-raiser at her own expense, one or two church services, a Saturday religion class and an evening prayer group; and
- C. Ms. Wells attended a church service, a church event for women and, at her own expense, a weekend retreat in Pennsylvania sponsored by Respondent's church.

17. 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 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, allowed a family relationship to influence the judge's judicial conduct, in violation of Section 100.2(B) of the Rules, and lent the prestige of judicial office to advance her own private interest and the private interest of another, in violation of Section 100.2(C) of the Rules; failed to perform the duties of judicial office impartially and diligently, in that she failed to require her court staff to observe the standards of fidelity and diligence that apply to the judge, in violation of Section 100.3(C)(2) of the

Rules; and failed to conduct her extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that she failed to conduct her extra-judicial activities so they do not detract from the dignity of judicial office, in violation of Section 100.4(A)(2) of the Rules, and so that they do not interfere with the proper performance of judicial duties, in violation of Section 100.4(A)(3) of the Rules, and personally participated in fund-raising activities using the prestige of judicial office for fund-raising, in violation of Section 100.4(C)(3)(b)(i), (iv) 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: June 13, 2013
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

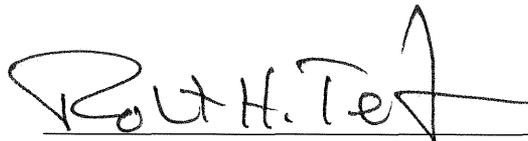
MARY BRIGANTTI-HUGHES,

a Justice of the Supreme Court, 12th District
(Bronx 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
13th day of June 2013



Notary Public

LATASHA Y. JOHNSON
Notary Public, State of New York
No. 01JO6235579
Qualified in New York County
Commission Expires Feb. 14, 2015