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July 18, 2023

VIA FEDERAL EXPRESS

New York State Commission on Judicial Conduct
Corning Tower, Suite 2301
Empire State Plaza
Albany, New York 12223

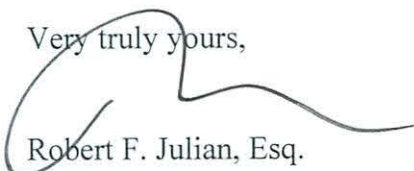
RE: Matter of Hon. Erin P. Gall
File No. 2022/A-0251

Dear Counsel:

Enclosed please find a Verified Answer on behalf of Erin P. Gall regarding the above-referenced matter.

Thank you.

Very truly yours,


Robert F. Julian, Esq.
RFJ/rmg

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NYS COMMISSION ON
JUDICIAL CONDUCT
ALBANY

Office Hours by Appointment only
5760 Commons Park, Suite 300, East Syracuse, NY 13057
Fayetteville, NY 13066

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

ANSWER
FILE NO.:2022/A-0251

ERIN P. GALL,

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

The Respondent, Erin P. Gall, J.S.C. pursuant to the rules of the Commission on Judicial Conduct does answer the formal written complaint in a verified manner as follows:

1. As to allegation No. 1, ADMIT.
2. As to allegation No. 2, ADMIT.
3. As to allegation No. 3, ADMIT that these claims are made but a more detailed response is set forth below.
4. As to allegation No. 4, ADMIT.
5. As to allegation No. 5, DENY the preamble as to the characterization of the facts but ADMIT the following: On or about July 2, 2022, the Respondent attended a graduation party that she and her family were formally invited to at a home in New Hartford, New York. At approximately 11:50pm, the Respondent's son, William Gall, IV, and her husband, William Gall, III, were involved in a physical altercation with unknown individuals who were not invited to the graduation party. The Respondent's son was slapped, hit, knocked to the ground, kicked in the head and body and beaten by four or more of the uninvited individuals. Her husband, in an attempt to rescue their son and stop the fight, began pulling teenagers off of the pile and was

assaulted himself in the process. He sustained bruising and swelling to both ears and his shirt was torn. Law enforcement was called and upon arrival at the scene, the Respondent invoked her judicial office and conducted herself in a manner contrary to the integrity of her position as a Supreme Court Justice. As to allegation No. 5A, ADMIT. As to allegation No. 5B, DENY as to the characterization of the facts but ADMIT the following: Respondent requested that the responding police officers direct the unknown individuals to leave the property based on her belief that they were trespassing and committed an assault on the property; when the officers were looking for the lost key and insisted there was no legal basis to do so, the Respondent disagreed. As to allegation No. 5C, DENY as to the characterization of the facts but ADMIT the following: Respondent stated that she would contact the Chief of Police after the officers refused to clear the property and/or make any arrests with regards to the alleged trespass and assault and asserted that they were in her “jurisdiction” and asked for an officer’s name when he expressed incredulity at that remark. As to allegation No. 5D, DENY but ADMIT that the words “that smart” and “business school” were referenced and Respondent acknowledges the remarks were inappropriate. As to allegation No. 5E, DENY as to the characterization of the facts but ADMIT the following: Upon hearing the police tell the unknown individuals that they could return to the property the following day without police assistance to search for their lost key, Respondent stated while in a state of fear, dismay, frustration and exhaustion, that if they trespassed they could be “shot on the property. Because when they trespass you can shoot them on the property.” See the full and accurate quote at Allegation #35. As to allegation No. 5F, ADMIT. As to allegation No. 5G, DENY as to the characterization of the facts and the context of this paragraph as framed in the Complaint but ADMIT that the respondent stated the words “always on their side” and “take anyone down”. As to allegation No. 5H, DENY as to the

characterization of the facts but ADMIT the following: Respondent remarked that, in self-defense, her son had “kicked the shit out of anyone who hits him first” and “put a smack down once he got hit” on one of the unknown individuals who struck him several times during the altercation. As to allegation No. 5I, ADMIT that ERPOs were discussed but Respondent DENIES that the comments were disparaging.

6. As to allegation No. 6, Respondent ADMITS to having discussed this event with members of the Oneida County Sheriff’s Department but DENIES that this was a formal complaint.

7. As to allegation No. 7, ADMIT.

8. As to allegation No. 8, ADMIT.

9. As to allegation No. 9, DENY KNOWLEDGE OR INFORMATION (DKI) based on having insufficient knowledge and belief.

10. As to allegation No. 10, ADMIT to the extent that this was what the Respondent observed although Respondent was not part of making these arrangements but at the event as a guest.

11. As to allegation No. 11, ADMIT.

12. As to allegation No. 12, ADMIT.

13. As to allegation No. 13, DKI.

14. As to allegation No. 14, DKI.

15. As to allegation No. 15, DKI.

16. As to allegation No. 16, DKI.

17. As to allegation No. 17, DKI.

18. As to allegation No. 18, DENY.

19. As to allegation No. 19, ADMIT.
20. As to allegation No. 20, DKI as to Pearce's intoxication but ADMIT the remainder of the allegation.
21. As to allegation No. 21, ADMIT.
22. As to allegation No. 22, ADMIT.
23. As to allegation No. 23, ADMIT.
24. As to allegation No. 24, DKI as to Stephen Pearce. ADMIT the remainder of the allegation.
25. As to allegation No. 25, ADMIT.
26. As to allegation No. 26, DENY.
27. As to allegation No. 27, ADMIT.
28. As to allegation No. 28, ADMIT.
29. As to allegation No. 29, DKI.
30. As to allegation No. 30, DKI as to Stephen Pearce. ADMIT the remainder of the allegation.
31. As to allegation No. 31, DKI as to Stephen Pearce comments. ADMIT the remainder of the allegation.
32. As to allegation No. 32, ADMIT.
33. As to allegation No. 33, DKI as to Stephen Pearce's actions but ADMIT the remainder of the allegation.
34. As to allegation No. 34, ADMIT.
35. As to allegation No. 35, ADMIT.
36. As to allegation No. 36, ADMIT.

37. As to allegation No. 37. DENY as phrased in the Complaint but ADMIT that the Respondent referenced Sgt. Langheinrich.

38. As to allegation No. 38, ADMIT.

39. As to allegation No. 39, DKI.

40. As to allegation No. 40 DKI as to Stephen Pearce's comments and the Respondent Denies the exact words said as she does recall having an exchange but not recall the substance and cannot determine the words alleged in review of various body cam tapes.

41. As to allegation No. 41, DKI but acknowledges that a male individual with a female individual were left at the scene as well as other unknown individuals.

42. As to allegation No. 42, DKI as to Ms. Mezza and Mr. Valladeres' conduct but ADMIT the remainder of the allegation.

43. As to allegation No. 43, ADMIT Respondent's statement but DKI as to what Mr. Valladeres heard.

44. As to allegation No. 44, ADMIT.

45. As to allegation No. 45, DKI.

46. As to allegation No. 46, ADMIT.

47. As to allegation No. 47, ADMIT that components of the Respondent's conduct were in violation of these sections but offers in mitigation the allegations set forth affirmatively below as well as the nature of the event and that the Respondent was acting as a mother, concerned that there would be a further outbreak of violence.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE IN MITIGATION

48. That Respondent's actions on July 2, 2022 were as a mother first and in response to witnessing a brutal attack upon her son and husband. Respondent has taken full responsibility

for her actions and has been forthright, cooperative and contrite with the Commission throughout this inquiry. Respondent admits wrongdoing and agrees that she failed to uphold the integrity and independence of the judiciary by announcing her judicial office repeatedly during the incident. Respondent asserts for purposes of mitigation, the following additional facts:

- a. Respondent and her family were attending a graduation party of a family friend on July 1, 2022 for whom they were invited by written invitation;
- b. Respondent and her family were about to leave the party some time after 11:30pm when several unknown individuals arrived who were not invited;
- c. Shortly thereafter, one of the uninvited individuals threw over a tray of food under the tent on the front lawn;
- d. Within minutes, fighting broke out at which time the Respondent witnessed her son, William, get slapped on the right side of his head;
- e. When her son attempted to walk away, he was attacked by several of the uninvited individuals;
- f. Respondent witnessed her son fall to the ground and get brutally attacked, kicked, punched, stomped on and beaten by a group of uninvited unknown individuals;
- g. Respondent's son sustained bruising to his ribs, bruising and cuts on his face;
- h. Respondent's husband as well as two other adult males—Michael Martyniuk and Dennis Philipkoski—attempted to break up the fights;
- i. Respondent's husband sustained injuries to his ears from being punched repeatedly and had his shirt torn from his body;

- j. Respondent witnessed the attacks from approximately 8 to 10 feet away and observed her son and husband being beaten;
- k. The situation escalated very quickly and became chaotic and scary; the exigency of the situation caused Respondent to react out of character;
- l. Acting as a mother and wife first and foremost and out of fear and desperation and based on her prior traumatic experience, Respondent responded in a hysterical, irrational manner;
- m. Respondent was emotionally distraught due to the unexpected, unanticipated violence that she witnessed and due to her prior life experience with violence;
- n. At no other time has Respondent witnessed an assault upon her family members;
- o. Respondent immediately approached law enforcement upon their arrival and announced her judicial position, attempting to establish her credibility to recite to them the facts of what had occurred;
- p. Out of desperation, Respondent became increasingly frustrated with the lack of police involvement and assistance and continued to plead with law enforcement for assistance after a prolonged period of time had passed;
- q. Respondent respectfully requests the Commission consider that she was acting as a mother and wife in distress in a traumatic situation in the context of her prior trauma and [REDACTED];
- r. Respondent offers this context as an explanation for her conduct and not as an excuse.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE IN MITIGATION

49. Respondent has been a Supreme Court Justice for 11 ½ years and has conducted herself in a manner consistent with upholding the integrity and independence of the judiciary.

50. Throughout the entirety of her career, Respondent consistently treats all attorneys and litigants with respect and impartiality. Respondent is fair, honest, passionate, conscientious and dedicated to her role on the bench.

51. Respondent's unblemished tenure has demonstrated her ability to think clearly, with a level head, calmly and compassionately as she presides over cases and works directly with the parties on both sides.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE IN MITIGATION

52. That the traumatic event that occurred on July 2, 2022 in which the Respondent saw her son and husband attacked and engaged in a physical altercation caused the Respondent based on her traumatic history to overreact and react inappropriately including her language and conduct which was outside of her normal, usual and customary behavior and her history of [REDACTED].

53. Respondent was the victim of a [REDACTED] assault on April 29, 1990 while a freshman attending Boston College in Chestnut Hill, Massachusetts.

54. The [REDACTED] occurred on campus in the evening as the Respondent was walking to her dormitory.

55. Respondent promptly reported the crime to law enforcement and sought immediate medical attention. [REDACTED]

[REDACTED].

56. The Respondent was 18 years old at the time of the [REDACTED]

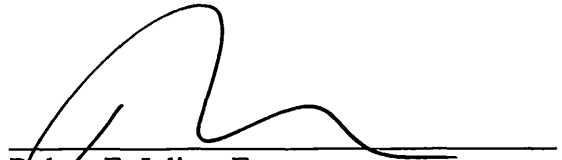
57. The Respondent thereafter in 1990 received therapeutic treatment from Dr. Joanne Joseph in Utica, New York as well as other professionals associated with Boston College.

58. That the Respondent will produce expert testimony to explain in mitigation of her conduct Dr. Joanne Joseph and Dr. Norman Lesswing, each of whom have examined the Respondent as well as her two sisters, one of whom is a physician assistant and the other of whom is a physician with whom the Respondent has discussed both the initial 1990 event over the years and who have counseled her subsequent to the July 2, 2022 event.

59. The exigent circumstances surrounding the assaults upon her son and husband on July 2, 2022 triggered the Respondent's prior assault and brought about extreme emotional distress.

WHEREFORE, Respondent prays that she be disciplined but not removed as a consequence of the foregoing as pled.

Dated: July 18, 2023



Robert F. Julian, Esq.
ROBERT F. JULIAN, P.C.
Attorneys for Respondent
2037 Genesee Street
Utica, NY 13501
315-797-5610

VERIFICATION

State of New York)

County of Oneida)

ERIN P. GALL, being duly sworn, deposes and says that deponent is the Respondent in the within action and has read the foregoing ANSWER and knows the contents thereof; that the same is true to the deponent's own knowledge and belief, except as to those matters therein stated to be alleged on information and belief, and that as to those matters, deponent believes it to be true.

Erin P. Gall
ERIN P. GALL

Sworn to before me on this
18th day of July , 2023.

Rose M. Grimaldi

Notary Public
ROSE M. GRIMALDI
Notary Public, State of New York
Reg. No. 01GR6030881
Qualified in Oneida County
My Commission Expires 09/20/20 *25*