

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

MARK J. GRISANTI,

a Judge of the Court of Claims and an
Acting Justice of the Supreme Court,
Erie County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

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

Dated: August 30, 2021
New York, New York

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006
(646) 386-4800

To: Terrence M. Connors, Esq.
Attorney for Respondent
Connors LLP
1000 Liberty Building
424 Main Street
Buffalo, New York 14202

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**

MARK J. GRISANTI,

a Judge of the Court of Claims and an
Acting Justice of the Supreme Court,
Erie County.

1. Article VI, Section 22, of the Constitution of the State of New York establishes a Commission on Judicial Conduct (“Commission”), and Section 44, subdivision 4, of the Judiciary Law empowers the Commission to direct that a Formal Written Complaint be drawn and served upon a judge.
2. The Commission has directed that a Formal Written Complaint be drawn and served upon Mark J. Grisanti (“Respondent”), a Judge of the Court of Claims and an Acting Justice of the Supreme Court, Erie County.
3. The factual allegations set forth in Charges I, II and III 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 1993. He has been a Judge of the Court of Claims and an Acting Justice of the Supreme Court, Erie County, since 2015. Respondent’s term expires on July 31, 2023.

CHARGE I

5. On or about June 22, 2020, Respondent engaged in a loud, public, profanity-laced and physical confrontation with two of his neighbors, after which, while shirtless, he (A) engaged in a physical confrontation with a Buffalo police officer, (B) made threats and profane comments to police personnel, (C) invoked his family ties to members of the Buffalo Police Department (“BPD”) and his relationship with the Mayor of Buffalo, and (D) was handcuffed, placed in the back of a patrol vehicle, and transported to a police station.

Specifications to Charge I

6. On or about June 22, 2020, at approximately 6:30 PM, Respondent called 911 and reported that two vehicles associated with what he described as “an idiot neighbor across the street” were blocking the driveway of his home. Respondent told the 911 dispatcher that he had “daughters, and sons, and son-in-law that are police, that are the fire department,” and he requested that one of his neighbor’s vehicles be ticketed or towed if it was not moved prior to the arrival of law enforcement.

7. Following his 911 call, Respondent crossed the street with his wife and engaged in a verbal and physical confrontation with his neighbors, Joseph and Gina Mele. Respondent repeatedly harangued and challenged Mr. Mele verbally and physically and made the following profane comments, usually in a raised voice:

- A. “Fucking asshole;”
- B. “Fucker;”
- C. “You want to go again, tough fucking guy;”

- D. "I'll fucking flatten your face again;"
- E. "Fuck you;" and
- F. "You piece of shit."

8. During the physical altercation between the Meles and Respondent and his wife, (A) Mr. Mele received a bite wound to his right forearm, an inferior orbital fracture, and head and shoulder injuries, and (B) Respondent's shirt came off, and it remained off during the ensuing events described below, including his confrontation and interactions with the police who responded to the scene.

9. After BPD Officers Ryan Gehr and Larry Muhammad arrived at the scene, Officer Gehr restrained Respondent's wife and attempted to handcuff her. Respondent pushed Officer Gehr with both of his hands and made various statements in a raised voice, including:

- A. "Dude, dude ... You better get off my fucking wife;"
- B. "If you don't get the cuffs off her right now ... you're going to have a problem;" and
- C. "You arrest my fucking wife, you're going to be sorry."

10. Officer Muhammad restrained Respondent, stating to him:

- A. "Keep your hands off a cop;"
- B. "Do not fight a police officer;" and
- C. "You are not going to fight a cop."

11. At the scene, Respondent made various statements to BPD personnel invoking his family ties to members of the BPD and his friendship with the Mayor of Buffalo, including:

- A. “And, listen, I’m good friends with Byron Brown.¹ He’s like, ‘It’s always something. Mark, just freaking ignore them’;”
- B. “Gramaglia’s my cousin;”² and
- C. “Listen, my daughter and my son-in-law are both Buffalo ... police officers ... I’ll call them right now.”

12. Respondent told Officer Gehr, “Do me a favor ... Get her [Respondent’s wife] out of the car and I’ll bring her inside.” He then stated, “And I didn’t mean to tackle you, but, I mean, you kind of threw my wife down on the ground pretty hard and I don’t appreciate that.”

13. Respondent told Officer Gehr that his action toward Respondent’s wife “was not necessary,” and stated, “So, you need to chill out about that ... just giving you a little constructive criticism, dude.” BPD Officer Richard Hy, who had also responded to the scene, seemed to conclude that Respondent was expecting special treatment and asked Respondent, “You want to make us look dirty, is that what you want to do?”

14. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article VI, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and

¹ Byron Brown was the Mayor of Buffalo at the time.

² Joseph Gramaglia was a BPD Deputy Commissioner at the time.

independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to conduct his extra-judicial activities so as to minimize the risk of conflict with judicial obligations, in that he failed to conduct his extra-judicial activities so that they do not cast reasonable doubt on his capacity to act impartially as a judge and detract from the dignity of judicial office, in violation of Sections 100.4(A)(1) and 100.4(A)(2) of the Rules.

CHARGE II

15. From in or about January 2018 through in or about December 2020, Respondent was assigned to and took judicial action in eight cases involving attorney Matthew A. Lazroe, notwithstanding and without disclosing that (A) he had an ongoing financial relationship with Mr. Lazroe while five of the matters were pending, and (B) that his financial relationship with Mr. Lazroe had ended within seven months of three of the matters.

Specifications to Charge II

16. On or about May 18, 2015, Respondent entered into an agreement to sell his law practice to Peter J. Pecoraro and Matthew A. Lazroe. The agreement provided for the transfer of the “Goodwill” of Respondent’s law practice, which entailed all files, wills, telephone number, copier/fax number, and furnishings, with two listed exceptions.

The financial terms provided for the payment of a total sum of \$50,000, with a payment of \$15,000 down and monthly payments of \$730, beginning July 1, 2015, and extending until the balance was paid in full.

17. In or about May 2015, Mr. Lazroe paid Respondent approximately \$10,000 on the agreement; he paid six additional monthly installments in or about 2015, totaling approximately \$2,190. In or about 2016, Mr. Lazroe paid Respondent 12 monthly installments, totaling approximately \$4,745; in or about 2017, he paid Respondent 11 monthly installments, totaling approximately \$4,025; in or about 2018, he paid Respondent 12 monthly installments, totaling approximately \$4,380; in or about 2019, he paid Respondent six monthly installments, totaling approximately \$2,190, including a final installment of \$365 in or about June 2019.

Bayview Loan Servicing, LLC v Mary Lee Fornes et al.

18. On or about December 1, 2017, a request for judicial intervention was filed in Supreme Court, Erie County, in the mortgage foreclosure matter of *Bayview Loan Servicing, LLC v Mary Lee Fornes et al.* Mr. Lazroe represented the defendant.

19. On or about September 7, 2018, Respondent signed a scheduling order, confirming that the matter was removed from the settlement conference part and setting dates on which counsel were to appear concerning the status on the order of reference and judgment. The order further provided that permission of the court was required for any adjournments.

20. On or about December 5, 2018, Respondent signed an order to discontinue the action and cancel a notice of pendency.

21. Respondent never disclosed his financial relationship with Mr. Lazroe to the parties while assigned the case.

Buffalo Seminary v Stephanie Satterwhite

22. On or about December 18, 2017, Mr. Lazroe filed a request for judicial intervention in Supreme Court, Erie County, in the commercial matter of *Buffalo Seminary v Stephanie Satterwhite*. Mr. Pecoraro had initiated the case by filing a summons and complaint on behalf of the plaintiff, dated January 19, 2017. Mr. Lazroe was added as attorney of record for the plaintiff on or about September 22, 2017. On or about October 26, 2017, Mr. Lazroe executed an affidavit in support of a motion for default judgment on behalf of the plaintiff.

23. On or about June 14, 2018, Respondent signed an order “Upon the Affidavit of Matthew A. Lazroe, Esq.,” and as to Mr. Lazroe’s motion, Respondent awarded judgment to the plaintiff in the amount of \$13,914.57, plus interest. A statement for judgment in the matter for \$18,552.20, including interest costs and fees, was signed and filed by the County Clerk on or about November 8, 2018.

24. Respondent never disclosed his financial relationship with Mr. Lazroe to the parties while assigned the case.

Matter of the Application of M [REDACTED] F [REDACTED]

25. On or about February 6, 2018, a request for judicial intervention was filed in Supreme Court, Erie County, in the special proceeding *Matter of the Application of M [REDACTED] F [REDACTED]*, concerning an order to show cause for the appointment of a guardian.

26. On or about February 7, 2018, Respondent signed an order appointing Mr. Lazroe as court evaluator to explain the proceeding to an alleged incapacitated person and investigate claims made in the petition.

27. On or about June 18, 2018, Respondent signed an order directing that Mr. Lazroe receive the sum of \$2,184 for his services as court evaluator.

28. Respondent never disclosed his financial relationship with Mr. Lazroe to the parties while assigned the case.

Trifera, LLC v Morrison, Unknown Heirs

29. On or about October 12, 2018, in the mortgage foreclosure matter of *Trifera, LLC v Morrison, Unknown Heirs* in Supreme Court, Erie County, Respondent signed an order designating Mr. Lazroe as guardian ad litem and military attorney on behalf of any individuals discovered to have a property interest in the subject property of the case. Respondent ordered that Mr. Lazroe be compensated by the plaintiff in the amount of \$250 for his services.

30. Respondent never disclosed his financial relationship with Mr. Lazroe to the parties while assigned the case.

Federal National Mortgage Association v Anderson et al.

31. On or about May 3, 2019, in the mortgage foreclosure matter of *Federal National Mortgage Association v Anderson et al.* in Supreme Court, Erie County, Respondent signed an order designating Mr. Lazroe as guardian ad litem and military attorney on behalf of possible unknown defendants in the case. Respondent ordered that Mr. Lazroe be compensated by the plaintiff in the amount of \$250 upon the filing of a

notice of appearance and providing for possible additional future compensation. On or about February 3, 2020, Respondent signed an order awarding Mr. Lazroe \$350 for additional services.

32. Respondent never disclosed his financial relationship with Mr. Lazroe to the parties while assigned the case.

Greater Woodlawn Federal Credit Union v Charles Pachucki et al.

33. On or about April 28, 2019, a request for judicial intervention was filed in Supreme Court, Erie County, in the mortgage foreclosure matter of *Greater Woodlawn Federal Credit Union v Charles Pachucki et al.* On or about August 22, 2019, Respondent signed an order appointing Mr. Lazroe as referee. Respondent's order provided that Mr. Lazroe be paid a statutory fee of \$50 and, in the discretion of the court, an additional \$100 fee upon the filing of his report.

34. Respondent never disclosed his financial relationship with Mr. Lazroe to the parties while assigned the case.

Matter of the Application of W [REDACTED] J. L [REDACTED]

35. On or about November 1, 2019, a request for judicial intervention was filed in Supreme Court, Erie County, in the special proceeding *Matter of W [REDACTED] J. L [REDACTED]*, concerning an order to show cause for the appointment of a guardian.

36. On or about November 4, 2019, Respondent signed an order appointing Mr. Lazroe as court evaluator to explain the proceeding to an alleged incapacitated person and investigate claims made in the petition.

37. On or about April 14, 2020, Respondent signed an order providing that Mr. Lazroe be compensated in the amount of \$5,032.50 for legal services rendered as court evaluator. On or about December 17, 2020, Respondent signed an order providing that Mr. Lazroe be compensated in the amount of \$192.50 for additional services provided as court evaluator.

38. Respondent never disclosed his financial relationship with Mr. Lazroe to the parties while assigned the case.

Rasheena Jones v Jerry Gradl Motors, Inc.

39. On or about February 6, 2019, Mr. Lazroe filed a request for judicial intervention in Supreme Court, Niagara County, on behalf of the plaintiff, in the commercial matter of *Rasheena Jones v Jerry Gradl Motors, Inc.*

40. On or about January 16, 2020, Respondent signed a trial scheduling order setting discovery time requirements and dates for jury selection, trial, and a telephonic pretrial conference. Respondent's order further provided that permission of the court would be required for any adjournments.

41. Case status conferences were held on or about March 30, 2020, May 26, 2020, June 19, 2020, August 4, 2020, September 4, 2020, and October 5, 2020. In or about December 2020, the case was reassigned to another judge.

42. Respondent never disclosed his financial relationship with Mr. Lazroe to the parties while assigned the case.

43. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article VI, Section 22, subdivision (a), of the Constitution and Section 44,

subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that 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; failed to perform the duties of judicial office impartially and diligently, in that he failed to disqualify himself in a proceeding in which his impartiality might reasonably be questioned, in violation of Section 100.3(E)(1) of the Rules; and failed to conduct his extra-judicial activities so as to minimize the risk of conflict with his judicial obligations, in that he engaged in financial and business dealings that may reasonably be perceived to exploit his judicial position, and involved himself in frequent transactions or continuing business relationships with lawyers likely to come before the court on which the judge serves, in violation of Sections 100.4(D)(1)(a) and 100.4(D)(1)(c) of the Rules.

CHARGE III

44. In or about 2016, Respondent filed a Financial Disclosure Statement with the Ethics Commission for the New York State Unified Court System in which he inaccurately reported the income he received for the purchase of his private law practice in 2015. As a Court of Claims Judge and an Acting Supreme Court Justice in 2015 until in or about 2019, Respondent failed to make timely and accurate reports of his extra-

judicial income to the clerks of the Court of Claims and Erie County Supreme Court as required.

Specifications to Charge III

45. In or about 2015, in connection with the agreement for the sale of his law practice, Respondent received approximately \$12,190 from Mr. Lazroe and approximately \$7,190 from Mr. Pecoraro. In his verified 2015 Financial Disclosure Statement filed with the Ethics Commission for the New York State Unified Court System, Respondent reported the amount of income he received from Mr. Lazroe and Mr. Pecoraro for the sale of his law practice as under \$5,000.

46. In his description of the nature of these payments, Respondent disclosed that in May 2015 he began receiving \$730 per month from Mr. Lazroe and Mr. Pecoraro toward the purchase of his law practice. Respondent did not disclose that he received a lump sum payment of \$15,000 at the time of the sale.

47. From in or about May 2015 through in or about June 2019, in connection with the agreement for the sale of his law practice, Respondent received approximately \$27,530 from Mr. Lazroe. From in or about May 2015 through in or about December 2017, Respondent received approximately \$15,950 from Mr. Pecoraro.

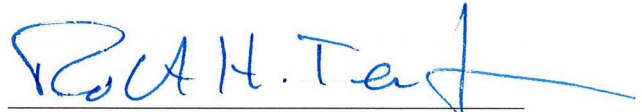
48. From in or about May 2015 through in or about June 2019, Respondent failed to file any report of the income received from the sale of his law practice with the office of the Clerk of the Court of Claims.

49. From in or about 2018 through in or about June of 2019, Respondent failed to file any report of the income received from the sale of his law practice with the office of the Clerk of the Erie County Supreme Court.

50. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article VI, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that 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; failed to perform the duties of judicial office impartially and diligently, in that he failed to diligently discharge his administrative duties, failed to maintain professional competence in judicial administration, and failed to cooperate with court officials in the administration of court business, in violation of Section 100.3(C)(1) of the Rules; and failed to conduct his extra-judicial activities so as to minimize the risk of conflict with judicial obligations, in that he failed more than once to file with the clerk of his court, or other office designated by law, annual public reports of the date, place and nature of any activity for which he received compensation in excess of \$150, the name of the payor and the amount of compensation so received, and failed to disclose income on his financial disclosure forms as required by 22 NYCRR Part 40, in violation of Sections 100.4(H)(2) and 100.4(I) 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: August 30, 2021
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

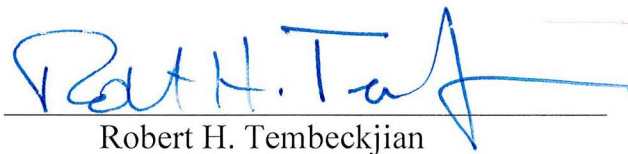
MARK J. GRISANTI,

a Judge of the Court of Claims and an
Acting Justice of the Supreme Court,
Erie County.

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

ROBERT H. TEMBECKJIAN, being duly sworn, deposes and says:

1. I am the Administrator of the State Commission on Judicial Conduct.
2. I have read the foregoing Formal Written Complaint and, upon information and belief, all matters stated therein are true.
3. The basis for said information and belief is the files and records of the State Commission on Judicial Conduct.


Robert H. Tembeckjian

Sworn to before me this
30th day of August 2021



Notary Public

CATHLEEN S. CENCI
Notary Public, State of New York
Qualified in Albany County
No. 4826529

Commission Expires November 30, 20 22