

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.

MEMORANDUM IN SUPPORT OF
PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW

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INTRODUCTION

Mark Grisanti is a judge who inspires confidence in the judiciary. The lawyers, judicial colleagues, and community members who testified spoke of his diligence, inherent fairness and unyielding courtesy while carrying out his judicial duties. The widely-held perception, backed by statistics from the administrative offices, is that Judge Grisanti is among the hardest working and most effective judges in the Eighth Judicial District. He has had an unblemished record as a judge, and as an attorney and public servant before that. In every way, Judge Grisanti was a model of what we want judges to be.

On June 22, 2020, Judge Grisanti proved himself to be an ordinary human as well. Pushed beyond endurance by years of provocation from rogue neighbors, and taunted with personal insults and brutish challenges to him and his wife, Judge Grisanti allowed himself to be pulled into an embarrassing public confrontation. Judge Grisanti's participation was brief, and focused primarily on defending his wife, yet was still regrettable. When the police arrived, Judge Grisanti was initially glad, as he was the one who had earlier called the police in an effort to avoid confrontation. But when one of the officers

overreacted to the situation, and employed unjustified force in throwing Mark's wife to the ground and handcuffing her, Judge Grisanti reacted reflexively, again in defense of his wife. His actions, though understandable, were regrettable and not befitting of his judicial status.

The video of Judge Grisanti's actions and words on June 22, 2020 bear no resemblance to the holistic portrait of him that emerged during the hearing. His actions during the brief encounter with the neighbors, and the subsequent arrival of the police, provide an inaccurate snapshot of Judge Grisanti. His conduct was clearly aberrational. He had never before engaged in any conduct even remotely similar. Indeed, the undisputed evidence at the hearing is that Judge Grisanti's character and reputation are completely the opposite: he is considered a paragon of judicial temperament by lawyer, judges, neighbors and others.

It is not an excuse to point out – as the evidence fully demonstrated – that Judge Grisanti's actions came at a time of tremendous stressors in his personal life, and that the confrontation with the neighbors followed literally years of provocation of Judge Grisanti and his wife. But those undisputed facts are relevant in this judicial disciplinary setting. And they point out the fallacy of

considering the images of Judge Grisanti's conduct on June 22, 2020 to be an accurate portrait of the man and the judge. A snapshot of anyone's worse moment does not define who they are.

ARGUMENT

I. EXCEPT AS TO THOSE VIOLATIONS JUDGE GRISANTI ADMITTED, THE COMMISSION FAILED TO SUSTAIN ITS BURDEN UNDER CHARGE I.

Charge I accuses Judge Grisanti of violating various judicial conduct rules during and following his dispute with his neighbors on June 22, 2020. Charge I, which involves no judicial conduct, alleges that Judge Grisanti engaged in judicial misconduct through his extra-judicial conduct in four specified ways: 1) engaging in a public, verbal and physical confrontation with the Meles (Complaint ¶ 7 and 8); 2) engaging in a physical confrontation with a Buffalo Police officer (Complaint ¶ 9); 3) making threats and profane comments to police personnel (Complaint ¶ 9); and, 4) invoking his family ties to members of the Buffalo Police Department and his acquaintance with the Mayor of Buffalo (Complaint ¶ 11).¹

¹ As part of Charge I, the Complaint also alleges that Judge Grisanti was handcuffed and transported to a police station. That is true, but that cannot form the basis of a charge of judicial misconduct. It is something that happened to Judge Grisanti, not something he did. By its very nature a charge of judicial misconduct must be based on conduct by the judge. The conduct of Judge Grisanti before and after he was handcuffed is addressed herein, but we do not address the claim that his handcuffing constitutes misconduct on his part.

After placing the events of June 22, 2020 in some context, each of these specifications will be discussed separately.

A. As to Charge I, the Facts Demonstrate That There Was Both Significant Provocation of Judge Grisanti, as Well as Pre-existing Stressors in His Life.

1. The Meles had History of Instigating Conflicts in the Neighborhood.

Judge Grisanti and his wife Maria moved to 21 [REDACTED] Avenue, Buffalo, New York on March 1, 2004. Hearing Transcript (“Tr.”) 962, 1105. Joseph and Gina Mele lived across the street at 16 [REDACTED] Tr. 39. Over the years, the Meles have instigated various altercations with neighbors on the street, including the Grisantis, the Chwalinskis, the Continos, the Riccios and the Vertinos. Tr. 367-69, 403, 433, 438-39, 476, 489-91, 483, 492-94, 517, 966-81, 1164-65, 1169-79. The Meles were well-known to have had criminal records and significant encounters with the police. Tr. 1176. They were known as aggressive and violent people. Tr. 1178-79.

On one occasion, Gina Mele physically attacked and threatened to kill Linda Chwalinski, Mele’s neighbor at 15 [REDACTED] Avenue. Tr. 483, 486. Gina Mele verbally harassed and screamed profanities at the Chwalinski’s youngest daughter, and her friend. Tr. 486. Joseph Mele

threatened the Chwalinski's daughter. Tr. 1170. Ms. Chwalinski's husband, Gerald, filed an order of protection against Gina and Joseph Mele as they continued to harass the Chwalinski family. Tr. 486.

For many years, Gerald Chwalinski served as the City Clerk for the City of Buffalo. Tr. 1174, 1223. He worked closely with Mayor Byron Brown. Tr. 1223. From both Chwalinski and Judge Grisanti, Mayor Brown was familiar with the Mele family and their history of harassing and threatening behavior toward neighbors on [REDACTED] Avenue. Tr. 1223.

Over the years, the Meles continued to harass neighbors on the street. Many neighbors, including the Grisantis, attempted to distance themselves from the neighborhood bullying. However, in approximately 2014, the Meles became extremely irate when the Grisantis spoke with the police about the Meles' harassment of the Chwalinskis. Tr. 1170.

Tensions grew in the summer of 2014. Judge Grisanti obtained a permit for an expansion of his driveway parking pad and completed the work. Tr. 1170. The Meles began to park their vehicles as close as possible to the Grisanti's driveways in apparent retribution for the driveway expansion. Tr. 1165, 1169. The Meles made several complaints to the City of Buffalo regarding the expansion, which they

claimed was done without a permit. Tr. 1170-71. They made written complaints to the City of Buffalo in this regard for years. *Id.*

Later that summer, the Chwalinskis filed harassment charges against Gina Mele and obtained an order of protection, because Gina Mele again threatened to kill Ms. Chwalinski. Tr. 483, 486. On August 28, 2014, Joseph Mele was arrested for threatening the Chwalinski's daughter, Victoria Chwalinski. Tr. 486. An order of protection against him was granted. Tr. 486. According to Ms. Chwalinski, Joseph Mele also attempted to run Ms. Chwalinski over in her driveway. *Id.*

The Mele family frequently emptied their garbage on other neighbor's sidewalks/property before moving their cars, would spit at neighbors, and spewed profanities. Tr. 973-74. In other instances, the Mele family would dump leaves/snow over their back yard fence into neighbors' yards, or would cut branches and throw the debris over the fence into their neighbors' yards. Tr. 1175.

2. Judge Grisanti was Facing Several Significant Stressors in his Life at the Time of the Events.

Judge Grisanti was dealing with many events in his life which required a significant amount of his attention. Tr. 1228-1230. In addition to continuing to preside over civil matters during the pendency

of COVID-19, Judge Grisanti was dealing with the serious illness of both his mother and mother-in-law.

Beginning in September of 2019, Judge Grisanti's mother was in and out of the hospital with various kidney and congestive heart failure. Tr. 988. In addition to maintaining a full civil calendar, Judge Grisanti assisted his mother with her various medical conditions. Tr. 1230-31. He spoke with her physicians, monitored her condition, and took her to each of her medical appointments. *Id.* Judge Grisanti is the youngest of six children, and his parents divorced when he was eight (8) years old. He would visit his mother both in the morning and in the evening every day prior to the pandemic. Tr. 988. With COVID-19, he was unable to visit his mother, an added stressor. Ultimately, Justice Grisanti's mother passed away on July 13, 2020, just a few short weeks after the events of June 22, 2020. Tr. 1230.

Judge Grisanti's mother-in-law, Maria's mother, was also experiencing severe health issues in early 2020. Tr. 986-87. She underwent surgery in March 2020, and was hospitalized for more than two months. *Id.* Following discharge, Maria's mother required 24-hour care, which Maria and her sister provided. *Id.* This kept Maria and Judge Grisanti apart often, an added stressor for both. Tr. 1229.

In addition, the Grisantis' dog of 16 years, Fredo, was ailing with kidney failure, to the point where Justice Grisanti was performing home dialysis on him three times per week. Tr. 986. The dog's failing health caused him to pass on June 27, 2020, just a few days after the events of June 22. Tr. 1230. It was against this backdrop that those events unfolded.

B. The Evidence at the Hearing Supports Only Those Specifications of Misconduct Admitted by Judge Grisanti.

1. While Judge Grisanti Failed to Maintain High Standards of Conduct in the Confrontation with the Meles, the Confrontation Was Provoked by the Meles.

As discussed above, the Meles had long engaged in a pattern of deliberately provoking conflicts with most of their neighbors on [REDACTED]. The Grisantis were no exception. The Meles had repeatedly harassed the Grisantis, insulted them, and threatened them. An annoying and consistent part of this campaign was the Meles' deliberate parking of vehicles close to the Grisanti's driveway to impede their access. While that alone seems like a minor matter, the repeated and deliberate discourtesy, combined with more blatant attempts to antagonize and harass the Grisantis, put them on edge perpetually. The Meles were undoubtedly aware that Mark Grisanti is a judge who could not do

anything about the accumulating provocations without making his own life more complicated and difficult, so they escalated their provocations accordingly.

As testified to by the Judge and Mrs. Grisanti, the Meles were more than mere annoyances. Both Meles have reputations for unlawful acts, including violence. Tr. 438-39, 966-69, 1176-79. Gina Mele, who admitted to a history of theft, was seen physically assaulting her own daughter. Tr. 433. Joseph Mele was known to threaten violence and challenge people to fights, including Mark Grisanti. Joe Mele frequently asked Judge Grisanti if he “wanted a shot at the title,” a challenge Judge Grisanti ignored. Tr. 1172. As a result, both Grisantis had reasonable fears that the Meles could be violent.

On June 22, 2020, Judge Grisanti and his wife again experienced one of the Meles’ provocations. Returning from dinner and errands, the Grisantis found it difficult to pull into their driveway because a truck belonging to one of the Mele family members was parked crowding the Grisanti driveway. Tr. 994. Rather than confront or engage with the Meles, Judge Grisanti called the police. *Id.*

Thereafter, the evidence at the hearing established that the Meles instigated the verbal and physical confrontation. While the Grisantis were looking at the Mele truck and waiting for the police, the Meles began yelling at them. Judge Grisanti tried to explain his complaint regarding the location of the truck, and advised the Meles that he had called the police. Almost immediately Gina Mele began swearing at and insulting Maria Grisanti. Exhibit 2-A at 1. As Judge Grisanti continued to try to explain his issue with the parking, Maria Grisanti responded in kind to Gina Mele, and their verbal interaction predictably escalated. *Id.* at 2-3.

As is clear from the testimony and video, Judge Grisanti did not instigate any verbal confrontation with Joe or Gina Mele, but rather persisted in an effort to explain the parking problem. Joe Mele responded by telling Judge Grisanti to “shut up,” and asking “Don’t you’s [sic] have anything better to do.” *Id.* at 1-2. Judge Grisanti pointed out that there was plenty of room for the Meles to park in a way that did not block the Grisantis’ access to the driveway, but Mele responded “I’m going to park on top of yours, asshole.” *Id.* at 2-3. Without provocation, Joe Mele then began challenging Judge Grisanti,

repeatedly saying in an aggressive tone, “Come on, Mark.” *Id.* at 3. When Judge Grisanti ignored the challenge, Mrs. Mele joined in, taunting Judge Grisanti by repeatedly calling him a “chicken shit.” *Id.*

A physical confrontation followed. Both the Judge and Maria Grisanti testified that it was Joe and Gina Mele who instigated the physical confrontation. Tr. 998-1000, 1194. Gina Mele claimed that it was Maria Grisanti who initiated the physical confrontation.² Every witness on both sides agrees that Mark Grisanti did not instigate the physical confrontation. Judge Grisanti eventually engaged physically with Joseph Mele, but it was only after the Meles engaged physically with Maria Grisanti. Tr. 1198. His actions were in self-defense and in defense of his wife Maria, who was being assaulted and choked by the Meles and Gina Mele’s sister.

² The two other participants in the confrontation, Joe Mele and Theresa D’Antonio (Gina Mele’s sister) were not called as witnesses by the Commission, despite the fact that both appeared on the Commission’s potential witness list. No evidence was submitted as to the unavailability of either witness. Given that both witnesses were available to the Commission and would be expected to support the testimony of their relative, Gina Mele, Respondent respectfully requests that the Referee apply the principles of the Missing Witness Doctrine and infer that the testimony of these two witnesses would not be supportive of the Commission’s case. *See* New York Pattern Jury Instruction § 1.75; New York Criminal Jury Instructions § 8:53; *see also, People v. Smith*, 33 N.Y.3d 454 (2019).

Though the Complaint makes mention of purported wounds suffered by Mr. Mele (*see* Complaint at ¶ 8), Mr. Mele did not testify, and no evidence was offered that any action by Judge Grisanti caused any injury to either Joseph or Gina Mele.

The Complaint further alleges that Judge Grisanti's "shirt came off" in the confrontation and "it remained off during the ensuing events." Complaint at ¶ 8. Numerous witnesses testified that Judge Grisanti's shirt was ripped by Joe Mele. Tr. 365-66, 417-19, 464-65. Judge Grisanti and his wife also testified that Judge Grisanti, who had taken their dog for a walk, was holding a bag of the dog's excrement during the encounter with the Meles. The excrement got on Judge Grisanti's ripped shirt, and thus he could not put it back on. Tr. 1011, 1207. It is not clear whether the Commission is alleging that the fact that Judge Grisanti's shirt was ripped off him by Joseph Mele constitutes judicial misconduct on Judge Grisanti's part, but any such suggestion would lack merit.

Throughout the investigation of this matter, and at the hearing, Judge Grisanti acknowledged that his public use of profane language during the confrontation with the Meles was inappropriate. He

recognizes that this extra-judicial conduct could tend to “detract from the dignity of judicial office.” Thus, Judge Grisanti acknowledges that his language violated Rule 100.4(A)(2).

Respondent submits that several factors should be considered in assessing his conduct, however, and respectfully asks the Referee to make specific findings regarding these factors. First, as previously argued, it should be noted that Judge Grisanti did not initiate the verbal or physical confrontation, but rather was responding to significant provocation. In past cases, the Commission has considered whether the misconduct was provoked or in response to a personal attack. *See e.g., Matter of Mahon* (CJC August 8, 1996) (1997 Ann. Rept. 104) (Judge’s inappropriate verbal outburst was “[w]ithout provocation”); *Matter of Cerbone*, (CJC August 5, 1983) (1984 Ann. Rpt. 76) (noting that Judge’s misconduct was not in the heat of passion or “in response to a personal attack”).

Second, Judge Grisanti’s profane language during the confrontation was not racial, ethnic or gender-based (unlike the language used by Gina Mele, *see e.g.,* Tr. 81, 93, 1176). The Court of Appeals and the Commission rightly take a much different view of

language that exposes any bigotry or intolerant views. *See, e.g., Matter of Senzer*, 35 N.Y.3d 216 (2020) (Judge’s extra-judicial misconduct include use of vile, gender-based insult); *Matter of Kuehnel*, 49 N.Y.2d 465 (1980) (Judge’s extra-judicial misconduct included outburst involving “outrageous verbal abuse and virulent racism”); *Matter of Cerbone, supra*. That aggravating factor is not present here; it is undisputed that Judge Grisanti acted once his wife was under physical attack, and not because of some inappropriate animus.

Finally, Judge Grisanti has been contrite and cooperative with the Commission throughout this inquiry and at the hearing. The length of the proceedings proves the sincerity of his contrition. Such factors weigh in favor of a judge whose extra-judicial conduct is being examined. *See e.g., Matter of Horton*, (CJC December 10, 2012) (2013 Ann. Rpt. 224); *Matter of Roepe*, (CJC June 27, 2001) (2002 Ann. Rpt. 153); *Matter of Allman*, (CJC October 7, 2005) (2006 Ann. Rpt. 83).

Thus, though Judge Grisanti admits that his conduct during the confrontation with the Meles violated Rule § 100.4(A)(2) of the Rules Governing Judicial Conduct (hereinafter “Rules”), it is requested that the Referee consider the full context of his violation and make the

above-noted findings that weigh against the severity of the violation, and that mitigate against the potential sanction to be considered by the Commission.

2. Judge Grisanti's Physical Contact with Officer Gehr Was Inappropriate, But Was Not Unlawful.

Judge Grisanti acknowledges that after Officer Gehr ran across the street to confront his wife Maria, and thereupon threw her to the ground, he pushed Officer Gehr's shoulder. Judge Grisanti acknowledges that this extra-judicial act detracted from the dignity of his judicial office, and thus violated Rule 100.4(A)(2).

Judge Grisanti is remorseful for this conduct. He apologized that evening to Officer Gehr, Lt. Muhammad and other officers present. Tr. 223, 275-76, 1228. As he testified at the hearing, Judge Grisanti's conduct was an instinctive reaction to seeing his wife assailed by Officer Gehr, thrown down and handcuffed, all while she was standing on the Grisantis' own property and engaging in no illegal activity. Tr. 1216-17. *See, Matter of Canary*, (CJC December 26, 2002) (2003 Ann. Rpt. 77) (Commission took into consideration that judge who pushed a police officer arresting the judge's son, was "prompted by concern" for his son and guided by "paternal instincts," thus judge was only censured.).

Nonetheless, Judge Grisanti recognizes that as a judge, his conduct, including his extra-judicial conduct, is held to a higher standard, and physically contacting a police officer in these circumstances was inappropriate.

The Complaint further alleges that Judge Grisanti's conduct towards Officer Gehr was unlawful. Complaint at ¶ 14. At the hearing, the Commission attempted to establish that Judge Grisanti may have violated the law by obstructing Officer Gehr in the performance in his duties. Judge Grisanti respectfully submits that his actions were not unlawful for two reasons: 1) Judge Grisanti did not obstruct the officer; and 2) Judge Grisanti's actions were legally justified because Officer Gehr used excessive force.

First, Judge Grisanti's brief physical contact with Officer Gehr's shoulder was hardly consequential. Based on the video and descriptions from eyewitnesses, it was brief and non-impactful. Tr. 372, 472, 530. Indeed, Officer Gehr told the Commission he did not even notice that Judge Grisanti made contact with his shoulder. Tr. 206. Judge Grisanti made no further contact with Officer Gehr, who was able to complete handcuffing Maria Grisanti without interference. Judge Grisanti testified that his act was reflexive. Tr. 1217. Thus,

there are no grounds to conclude that he intended to obstruct Gehr's performance of his duties by his physical act. Intent to obstruct is an element of the crime of obstructing governmental administration. *See* Penal Law § 195.95; *People v. Case*, 42 N.Y.2d 98 (1977). Thus, the evidence of Judge Grisanti's brief contact with Officer Gehr's shoulder does not establish, by a preponderance of the evidence, that Judge Grisanti violated any law.

Second, Judge Grisanti's brief, reflexive contact with Officer Gehr cannot be viewed as unlawful since it was legally justified. Under New York Penal Law § 35.15, "[a] person may . . . use physical force upon another person when and to the extent he or she reasonably believes such to be necessary to defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by such other person." N.Y. Penal Law § 35.15 (1). The Penal Law also provides, however, that "[a] person may not use physical force to resist an arrest, whether authorized or unauthorized, which is being effected or attempted by a police officer or peace officer when it would reasonably appear that the latter is a police officer or peace officer." *Id.* § 35.27.

Notwithstanding § 35.27, the New York State Court of Appeals has held that “there can be no cavil with the proposition that a citizen may use reasonable force in self-defense where the force exerted by the police in effecting an arrest is excessive.” *People v. Stevenson*, 31 N.Y.2d 108, 111–12 (1972); *see also People v. Sanza*, 37 A.D.2d 632, 633 (2d Dep’t 1971) (“The purpose of [section 35.27] is merely to prevent combat arising out of a dispute over the validity of an arrest and does not prevent an individual from protecting himself from an unjustified beating.”). Thus, New York courts have found that a defendant has a valid justification defense where a police officer was using excessive force on the defendant. *See, e.g., People v. Alston*, 104 A.D.2d 653, 654 (2d Dep’t 1984) (“Our cases hold, contrary to the trial court’s ruling, that section 35.27 of the Penal Law does not interdict a justification defense, if some reasonable view of the evidence shows that the defendant was the victim of an unprovoked police attack, or excessive force.”); *People v. Carneglia*, 63 A.D.2d 734, 735, 405 N.Y.S.2d 298 (1st Dep’t 1978) (explaining that where defendant was “the victim of . . . [a police officer’s] use of excessive physical force in effectuating an arrest, [the defendant] is entitled to a charge that reasonable acts of self-defense are justifiable”).

Although these cases deal with *self*-defense, the same logic applies to the defense of another. Section 35.15 permits an individual to use the force “he or she reasonably believes . . . to be necessary to defend himself, herself *or a third person*.” N.Y. Penal Law § 35.15(1) (emphasis added). The case law makes clear that a person may use the force authorized by § 35.15 against a police officer who uses excessive force during an arrest notwithstanding § 35.27. Thus, there is no reason that the justification defense would not apply where a police officer uses excessive force on a third person.

In sum, a person may use the force authorized by § 35.15 against a police officer who uses excessive force during an arrest notwithstanding § 35.27. Here, because Officer Gehr’s actions towards Maria Grisanti were excessive, Judge Grisanti was justified in making contact with Officer Gehr on the shoulder to get his attention.

To repeat, Judge Grisanti admits that his contact with Officer Gehr was improper, and violated Rule 100.4(A)(2), because judges are held to higher standards of conduct. Justice Grisanti admits that what he did was wrong, and that he should not have made contact with Officer Gehr. Our defense of the allegation that Judge Grisanti’s action was also illegal does not lessen Judge Grisanti’s acceptance of

responsibility for acting contrary to the Rule. But not all misconduct also constitutes criminal conduct. Judge Grisanti was never charged with nor prosecuted for a criminal charge, and there is no support in the evidence adduced at the hearing to find that he violated any criminal statute.

3. Judge Grisanti Used Profanity While Addressing Police Personnel, But He Did Not Make Any Threats.

Similar to the first specification above, Judge Grisanti admits that his use of profane language during his interaction with the police was inappropriate. Unfortunately, this language could tend to “detract from the dignity” of Judge Grisanti’s office and thus violated Rule 100.4(A)(2).

The Complaint goes on to allege that Judge Grisanti “made threats” to the police. Complaint at ¶ 5. The evidence at hearing, however, belies this allegation. In the immediate aftermath of Officer Gehr throwing Maria Grisanti to the ground and handcuffing her, Judge Grisanti said “If you don’t get the cuffs off her right now . . . you’re going to have a problem” and “You arrest my fucking wife, you’re going to be sorry.” Complaint ¶ 9. But neither statement was intended as a threat nor taken as such.

Judge Grisanti testified that in the heat of a tumultuous moment, he was trying to express to Officer Gehr that there was no justification to handcuff Maria or charge her with any crime. Tr. 1217-19. Officer Gehr, who had arrived at the scene mere minutes before, had spoken only to the Meles.³ Tr. 208. He had heard nothing from the Grisantis or the independent witnesses who would have advised that the Meles were the instigators, and that Maria had been violently assaulted and choked around the neck to the point of passing out. Officer Gehr also hadn't heard that Maria and Mark Grisanti had retreated to their property, and it was the Meles who came onto the Grisanti's property multiple times, despite direction from the Grisantis to leave their property. Knowing none of this information, Officer Gehr decided to

³ It is worth noting that Gehr testified that it was significant to him that the Meles identified purported items belonging to the Grisantis left on the Meles property. Tr. 174. Gehr testified that the Meles pointed out where the items were, and that they were evidence of trespass. *Id.* The video from the Meles security system (Exh. 2) and still photos from that video (Exh. KKK 1-12) demonstrate that the Meles tampered with that evidence though, and lied about it to Officer Gehr. The Meles told Gehr that a scarf and a cigar sitting on their driveway belonged to the Grisantis. *See* Exh. Aa-A at 13; Tr. 1010-11. Maria Grisanti testified that she was not wearing a scarf that night and Judge Grisanti was not smoking a cigar. Tr. 1006, 1011. And though the Meles told Officer Gehr that the items were on their property, not on the sidewalk, the video and photographic evidence clearly shows the Meles moving the items from the sidewalk to their driveway before Gehr arrives. *See* Exh. 2; Exh. KKK 1-12; Tr. 1007-1011. The deliberate tampering with "evidence" and misrepresentation to the police about it by the Meles should weigh heavily against their credibility.

abruptly stop his interview of the Meles, run across the street shouting profanities and confront, tackle and handcuff a 5 foot 1, 110 lb. woman standing on her own property. He did this despite his partner, Lt. Muhammad saying repeatedly “She’s good” to indicate that he had her under control. Tr. 209-210, 262-64. Officer Gehr employed none of the de-escalation techniques required by the Buffalo Police policy manual. Tr. 210-12. Under all of these circumstances, there was certainly a reasonable basis to believe that Officer Gehr’s actions were not justified, contrary to his department’s policies and in violation of Maria Grisanti’s rights.

In this context it was not a threat for Judge Grisanti to say to Officer Gehr that his actions were inappropriate, and that he might later regret them or have to answer for them. Tr. 480. Indeed, Judge Grisanti later expanded on his comments to offer Officer Gehr “constructive criticism” about his actions. Tr. 215. Officer Gehr expressed to Judge Grisanti that he understood why he was upset about what the officer did to Maria. *Id.* This confirms that Judge Grisanti’s comments were not meant to threaten Officer Gehr, but to educate him on Judge Grisanti’s view of the inappropriateness of the officer’s actions. Judge Grisanti’s comments did not threaten violence,

retaliation or any exertion of influence by Judge Grisanti, whom the officer did not even know was a judge. Thus, the evidence does not support a finding that Judge Grisanti's comments were a "threat."

4. **Judge Grisanti Did Not Engage in Judicial Misconduct in Mentioning his Family Members, or Advice He Received from the Mayor.**

The Complaint alleges that Judge Grisanti violated rules of judicial conduct by stating that he had relatives involved in law enforcement and/or mentioning Buffalo Mayor Byron Brown.

Complaint ¶ 5. But there is no basis to conclude that these few innocuous statements – all of which are true – violated any of the cited rules.

None of the statements referred to Judge Grisanti's judicial status. Indeed, it is clear that Judge Grisanti never referred to his judicial position at any time during the events of June 22, 2020.⁴ Tr. 207-208, 268, 438, 466, 1021. This is noteworthy since identification of

⁴ Gina Mele lied in her testimony and in numerous statements to the Commission and the media when she claimed that Mark Grisanti repeatedly shouted that he was a judge before and after the police arrived. All other witnesses denied he said any such thing, and the tapes and transcripts of the various videos record no such statement. The Commission did not allege in the Complaint that Judge Grisanti made any reference to being a judge. Gina Mele persisted in her false claim despite knowing that none of the recordings supported her, and, being publicly accused of lying about the claim by the Erie County District Attorney. Under the doctrine of *falsus in uno*, the Referee would be justified in disregarding all of her testimony. See N.Y. Criminal Jury Instructions § 7.06; N.Y. Pattern Jury Instructions § 1:22.

oneself as a judge to curry special treatment is routinely found to violate the Judicial Conduct Rules. See e.g., *Matter of D'Amanda*, (CJC April 16, 1989) (1990 Ann. Rpt. 91).

Judge Grisanti's references to his daughter and son-in-law being in law enforcement were made after he saw his wife, their mother, taken into custody. He wanted to contact his family so they would hear this upsetting news from him directly. He did call his daughter, with the permission of the police. Further statements about where his children worked were in response to Officer Hy's questions about them. Tr. 1226.

Other statements reflect that Judge Grisanti was trying to communicate that due to his family, he was empathetic about the difficulties faced by police, including situations like those on [REDACTED] Avenue on June 22, 2020. Tr. 219, 1225. As the testimony at the hearing confirmed, June of 2020 was a difficult time for police nationally, and particularly in Buffalo. A series of publicized incidents of police brutality, cumulating with the death of George Floyd, had galvanized public attention and sparked a series of often tense public protests. Tr. 989. At one such protest in downtown Buffalo on June 4, 2020, Buffalo police officers pushed 75-year-old Martin Gugino, causing

him to fall, hit his head and sustain significant brain injuries. *Id.* The incident prompted public condemnation of the police. *Id.*

In the midst of this historic anti-police sentiment in the community, Judge Grisanti wanted to communicate that he understood and was sympathetic to the police as a result of his family. Tr. 216, 219. It is hard to see how making such statements in an extra-judicial context violates any rule of conduct. If his intention had been to curry favorable treatment, Judge Grisanti presumably would have mentioned his status as a judge rather than advising the officers that he has family in law enforcement and is therefore sympathetic to their plight.

Judge Grisanti did not explicitly or implicitly link his family's law enforcement connections to any request for different or special treatment. And he received none. Both Lt. Muhammad and Officer Gehr testified that they were completely unaffected by the statements. Tr. 227, 255, 270-71, 272-73. Both testified that they commonly deal with citizens who mention law enforcement connections, and that never impacts the performance of their duties. *Id.*

Similarly, Judge Grisanti's single mention of Buffalo Mayor Byron Brown was innocuous, unconnected to any request for special treatment and had no impact on how Judge Grisanti was treated. In context,

Judge Grisanti mentioned Mayor Byron Brown because he had previously discussed the Meles with the Mayor. Tr. 1223-24. Joe Mele was an employee of the City of Buffalo, and often used a city-owned vehicle on the street as part of the pattern of crowding the Grisanti's driveway. Tr. 1223. Judge Grisanti spoke to his acquaintance, the Mayor, who gave him the good advice to ignore Joe Mele. Others on the street had also spoken to Mayor Brown about the Meles. *Id.* Judge Grisanti recounted this to the police officer by way of explaining how long-standing the problems with the Meles were, and how many different ways he had tried to avoid conflict with them. Tr. 475, 1223. It was not a threat or invocation of judicial or other status. If that had been Judge Grisanti's intention, he would have advised the officers that he is a sitting judge. References to advice from the Mayor could not be expected to garner any favorable treatment from the officers, and they did not. There was nothing improper about mentioning the Mayor's advice, and it did not violate the rules of judicial conduct.

II. THE DISCRETIONARY DISQUALIFICATION DECISIONS IN MATTERS INVOLVING ATTORNEY MATTHEW LAZROE DO NOT WARRANT DISCIPLINE UNDER CHARGE II.

Charge II of the Complaint alleges that Judge Grisanti “was assigned to and took judicial action” in eight cases involving attorney Matthew A. Lazroe without disclosing a financial relationship with Mr. Lazroe and/or disqualifying himself. No statute or rule mandated disqualification, however, and Judge Grisanti’s judgment that disqualification was not necessary was a reasonable exercise of discretion. Judicial discipline is therefore not warranted.

After being appointed to the bench, but before taking his oath of office, Judge Grisanti sold his private law practice to attorneys Peter Pecoraro and Matt Lazroe. Tr. 1233. The agreement, dated May 18, 2015, required a down payment and monthly payments of \$730. Tr. 1234; Exh. 14. Lazroe paid a portion of the down payment in 2015, and thereafter made monthly payments to Judge Grisanti of \$365 per month from July 2015 until June 2019 when the last payment was made. Tr. 293-95, 1234-35; Exh. 15.

Judge Grisanti supervised eight cases in which Mr. Lazroe was involved in some way. The cases were as follows:

1. Bayview Loan Servicing, LLC v. Mary Lee Fornes (“Fornes”) (Exh. 16)
2. Buffalo Seminary v. Stephanie Satterwhite (“Buffalo Seminary”) (Exh. 29)
3. Matter of the Application of M ██████ F ██████ (“F ██████”) (Exh. 17)
4. Trifera, LLC v. Morrison, Unknown Heirs (“Trifera”) (Exh. 18)
5. Federal National Mortgage Association v. Anderson et al. (“Anderson”) (Exh. 19)
6. Greater Woodlawn Federal Credit Union v. Charles Pachucki et al. (“Pachucki”) (Exh. 20)
7. Matter of the Application of W ██████ ████. L ██████ (“L ██████”) (Exh. 21)
8. Rasheena Jones v, Jerry Gradl Motors, Inc. (“Jones”) (Exh. 22)

In three of the cases, attorney Lazroe represented one of the parties.

Fornes was a foreclosure action in which Lazroe represented the debtor.

Exh. 16. Judge Grisanti’s only involvement was issuing a scheduling order, and then issuing an order to discontinue the action at the request of the creditor bank. *Id.* Lazroe never appeared before Judge Grisanti on the case. Tr. 329.

Another of the three cases, Buffalo Seminary, was an unopposed motion for a default judgment in an action to collect a tuition debt.

Exh. 29; Tr. 297-98. There was a written confession of judgment by the debtor in that case. *Id.* Again, there was never an appearance by Lazroe before Grisanti. *Id.*; Tr. 332.

The third case, Jones, was a Lemon Law case in which Lazroe represented the plaintiff. This case was originally assigned to a different judge, the Hon. Daniel Furlong. Tr. 333. In January 2020, Judge Grisanti was asked to temporarily assume responsibility for approximately 30 of Justice Furlong's cases, and the Jones case was one of them. Tr. 334. Judge Grisanti issued a scheduling order. There were several pretrial conferences scheduled with the court, which may have been with Judge Grisanti or his law clerk. Tr. 335. The case was eventually transferred to a different judge for handling. Tr. 336.

In the other five cases, Lazroe was appointed to some role in the case by an order ultimately signed by Judge Grisanti. Though Judge Grisanti signed the orders, the selection of Lazroe was actually made by Judge Grisanti's law clerk, Doug Curella, Jr., without Judge Grisanti's input. Tr. 555-56, 1236. Curella testified that he picked Lazroe for these appointments because of Lazroe's knowledge, experience and expertise in the relevant matters. Tr. 553. In addition, Lazroe was eligible for these appointments under applicable court rules. Tr. 318-

19. It was undisputed that there was absolutely no agreement, understanding, or quid pro quo between Judge Grisanti and Lazroe tying either the assignments or Judge Grisanti's actions in any of the cases to the payments Lazroe was making pursuant to the sale agreement. Tr. 344-45, 1245. The fees paid to Lazroe on the appointments were modest – usually a few hundred dollars – and set by statute. Tr. 337, 339. In addition, they were approved by all parties to the matters without objection. Tr. 341.

Disqualification of a judge is required under certain provisions of the law. Under the New York Judiciary Law, “legal disqualification” is mandatory in certain circumstances. Judiciary Law § 14. None of these circumstances are present here. For example, the statute requires disqualification if the case is one “in which [the judge] is interested.” That provision is not applicable here.

According to the Court of Appeals, “[a]bsent a legal disqualification . . . (see, e.g., Judiciary Law § 14), a judge is generally the sole arbiter of recusal.” *Matter of Murphy*, 82 N.Y.2d 491, 495 (1993), citing *People v. Moreno*, 70 N.Y.2d 403, 406 (1987); see also,

People v. Smith, 63 N.Y.2d 41, 68 (1984) (recusal is generally “a matter of personal conscience”). As further stated by the Court of Appeals:

[T]his Court has noted that it may be the better practice in some situations for a court to disqualify itself in a special effort to maintain the appearance of impartiality Even then, however, when recusal is sought based upon impropriety as distinguished from legal disqualification, the judge . . . is the sole arbiter.

Moreno, 70 N.Y.2d at 406 (citations omitted).

In the judicial discipline context, the Court of Appeals has gone further, declaring that “while Judges should strive to avoid even the appearance of partiality, and the ‘better practice’ would be to err on the side of recusal in close cases . . . , *formal charges of misconduct are inappropriate* when the circumstances fall within that vast discretionary area over which reasonable Judges can differ.” *Murphy*, 82 N.Y.2d at 495 (citations omitted) (emphasis added).

Essentially the Complaint charges Judge Grisanti with misconduct for failing to disqualify in precisely that “vast discretionary area” which the Court of Appeals says is inappropriate for misconduct charges. Specifically, the Complaint cites to provisions of the Rules supporting disqualification, without citing to a specific provision

mandating disqualification under the factual situation faced by Judge Grisanti.

The Rules do have broad provisions governing disqualification. None explicitly apply to a situation where an attorney makes installment payments to a judge pursuant to a prior business transaction. The Rules do require a judge to disqualify himself or herself if the judge “has an economic interest in the subject matter in controversy or in a party to the proceeding.” Rule 100.3(E)(1)(c). While the definition of an “economic interest” can include a debt owed to the judge, the explicit language of the Rule applies only to situations where the debt is owed by an attorney rather than a party. Rules 100.0(D); 100.3(E)(1)(c). Thus, neither the Judiciary Law nor the Rules explicitly mandate disqualification of a judge if an attorney for one of the parties owes the judge money. In other words, there is no “legal disqualification” as articulated by the Court of Appeals.

The Rules do make clear that the circumstances justifying disqualification set forth explicitly are not an exhaustive list, however. There is a catch-all provision indicating that a judge “shall disqualify himself or herself in a proceeding in which the judge’s impartiality

might reasonably be questioned.” Rule 100.3(E). The application of such a rule necessarily requires a judge to use his or her discretion to determine what might “reasonably be questioned.” This discretionary provision involves the gray area that the Court of Appeals has indicated should not be the basis of a finding of judicial misconduct. See, *Murphy, supra*.

Another provision of the Rules prohibits a judge from “engag[ing] in financial and business dealings that . . . involve the judge in frequent transactions or continuing business relationships with those lawyers . . . likely to come before the court on which the judge serves.” Rule 100.4(D)(1)(c). This Rule applies to conduct by a judge. Because Judge Grisanti’s sale of his practice and his entry into the sale agreement with Lazroe predated taking judicial office, these acts cannot constitute a violation of Rule 100.4(D)(1)(c).

While Judge Grisanti’s prior business arrangement with Lazroe cannot be a violation of Rule 100.4(D)(1)(c), it may have provided grounds for Judge Grisanti, in his discretion, to consider whether disclosure of the arrangement and disqualification in cases involving Lazroe was appropriate. Indeed, Respondent acknowledges that the

New York Advisory Committee on Judicial Ethics (“Advisory Committee”) has opined on this general topic. The Advisory Committee was created pursuant to Judiciary Law § 212(1) to issue advisory opinions to judges concerning issues related to ethical conduct. The opinions of the Advisory Committee, issued in response to requests submitted by judges, are not binding⁵ on judges, the Commission or the courts. The Advisory Committee has answered inquiries from judges asking about payments received from a lawyer pursuant to a concluded business relationship that existed prior to the judge’s ascending the bench.

Several times the Advisory Committee has opined that it “is of the view” that under these circumstances, the judge should disclose the payments and recuse himself from any lawsuit in which the attorney appears, subject to remittal under Rule 100.3(F). *See* N.Y. Jud. Adv. Op 97-44 (1997); *see also*, N.Y. Jud. Adv. Op 06-62 (2006); N.Y. Jud. Adv. Op 14-13 (2014); and N.Y. Jud. Adv. Op 18-31 (2018). The Advisory

⁵ By statute, the actions of a judge taken in accordance with recommendations in an Advisory Committee Opinion shall be presumed proper for the purpose of any Commission investigation. Jud. Law § 212(2)(1)(iv). If a judge does not follow the recommendations of an opinion, however, the statute provides no similar presumption that the actions are improper.

Committee did not find that these circumstances presented a “legal disqualification” mandated by statute. Similarly, it did not find that the payments violated Rule 100.4(D)(1)(c). Rather, the Advisory Committee offered its “view” or opinion of how a judge should exercise his or her discretion under the Rules arguably applicable to these situations.

While the Advisory Committee’s view is reasonable, and may be the better practice, its opinions do not carry the weight of law. Following the Court of Appeal’s directive in *Murphy* and other cases, formal charges of misconduct are not justified simply because the Advisory Committee has expressed an opinion on its view of how a judge’s discretion should be exercised. *See Murphy, supra*.

Here, the facts adduced at the hearing demonstrate that it was not unreasonable, much less unlawful or improper, for Judge Grisanti to believe that his disqualification was not required. Lazroe was not a friend or close associate of Judge Grisanti. Tr. 306. The two were never partners, nor ever shared space. Tr. 1233. In the three cases where attorney Lazroe represented a party in the case, Judge Grisanti’s involvement was limited. In two of the cases (Fornes and Jones) Judge

Grisanti's involvement was essentially limited to issuing a scheduling order. In Fornes, he also discontinued the action at the request of plaintiff/creditor bank. In Buffalo Seminary, Judge Grisanti granted an unopposed motion for default judgment in a case where there had been a written confession of judgment signed by the debtor. In light of Judge Grisanti's limited involvement in the three cases, Judge Grisanti's belief that his impartiality would not "reasonably be questioned" might be second-guessed, but his exercise of discretion should not form the bases of misconduct charges.

In the other five cases, Judge Grisanti's Part appointed Lazroe to some role. As noted, Lazroe was eligible under court rules to receive these appointments, and was known to Judge Grisanti's law clerk as a capable and experienced lawyer in the type of matters in which he received the appointments. Importantly, both Judge Grisanti and his law clerk Doug Curella testified that it was Curella who actually selected Lazroe for appointment. Tr. 555-56, 1236. Judge Grisanti acknowledges that he signed the orders making the assignments, and is therefore responsible for them. Tr. 1244. Nevertheless, the manner in which the assignments were made demonstrates that they were not

made for any improper purposes, such as a *quid pro quo* for the prior business transaction. Again, the facts and circumstances of the assignments do not demonstrate that they are improper for any reason, much less that there is a preponderance of evidence that Judge Grisanti violated any of the applicable Rules in relation to them.

Judge Grisanti testified that he did not believe that disclosure to the parties or disqualification was either mandatory or appropriate. Tr. 1321-22. He was not aware of the opinions of the Advisory Committee in this regard. *Id.* His training at judge's school taught him that disqualification was required if the attorney was his former partner, or shared space with him. Tr. 1310. These situations did not apply to Lazroe.

As for the financial transactions with Lazroe, it is noteworthy that those were disclosed by Judge Grisanti on his Annual Financial Disclosure Statement. Tr. 1251-52, 1255-56. These disclosures included Lazroe's name, and the details regarding the payments. *Id.* The "information provided on a judge's disclosure form is available to the public and, among other things, enables lawyers and litigants to determine whether to request a judge's recusal." *Matter of Eannace*,

(CJC September 28, 2020) (2021 Ann. Rpt. 93). Given that Grisanti had publicly filed the information regarding Lazroe's ongoing debt, there is even less reason to conclude that Grisanti's decision not to disqualify himself was a violation of the rules.

If the Referee concludes that Judge Grisanti's failure to disclose the financial arrangement with Lazroe and/or to recuse himself in any of the matters violated the Rules, it is respectfully requested that the Referee find that: Judge Grisanti operated under a good faith belief that such disclosure and disqualification was not required; Judge Grisanti had no venal or otherwise improper intent; and, after Judge Grisanti learned of the opinions of the New York Advisory Committee on Judicial Ethics as recommending disqualification in similar circumstances, Judge Grisanti had the sole remaining case involving Mr. Lazroe transferred and amended his recusal list to recuse himself on all future cases involving Mr. Lazroe. Exh. 20; Tr. 1242-44.

III. THE COMMISSION DID NOT PROVE WILLFUL VIOLATIONS OF FINANCIAL REPORTING REQUIREMENTS AS ALLEGED IN CHARGE III.

Charge III of the Complaint alleges two contentions relating to the income Judge Grisanti received from the sale of his law practice. The

first is that he inaccurately reported this income on a single Annual Financial Disclosure Statement with the Ethics Commission for the New York State Unified Court System (“Annual Statement”). The second is that he failed to report this income to the clerk of either the Court of Claims or the Erie County Supreme Court, as purportedly required by former Section 100.4(H)(2) of the Judicial Conduct Rules.⁶ The Commission did not prove by a preponderance of the evidence at the hearing that Judge Grisanti willfully failed to report income in his Annual Statement or under Rule 100(H)(2).

Judge Grisanti spent many years in private practice. After his appointment to the bench was announced, but before taking the oath of office, Judge Grisanti sold his law practice to two lawyers, Peter Pecoraro and Matthew Lazroe. Tr. 1233. The agreement, dated May 18, 2015, required a down payment of \$15,000 and subsequent monthly payments of \$730, beginning July 1, 2015 and continuing until the balance was paid. Exh. 14. Judge Grisanti received the down payment at the time the agreement was entered into. Tr. 293-95. Thereafter,

⁶ By Administrative Order dated December 30, 2022, the Acting Chief Administrative Judge of New York amended the Rules to delete, in its entirety, Rule 100.4(H)(2). See Administrative Order 347/22.

Pecoraro and Lazroe each began making monthly payments of \$365 (one half of \$730) per month. *Id.* Pecoraro, who was a personal friend of Judge Grisanti, was diagnosed with cancer in 2017 and shortly thereafter stopped making payments. Tr. 1234-35. Judge Grisanti never made any efforts to collect any additional payments from Pecoraro. *Id.* Pecoraro passed in 2018. Lazroe continued making payments of \$365 until a last payment in June 2019. Tr. 293-95, 1234-35.

A. Judge Grisanti's 2016 Annual Statement was Not Willfully False or Incomplete.

In 2016, Judge Grisanti filled out the required Annual Statement. Tr. 1250; Exh. 23. The form, which is done online, refers to financial transactions that occurred in the year 2015. Exh. 23. In this 2016 disclosure (and in every subsequent applicable year), Judge Grisanti disclosed the fact that he received monthly payments for the sale of his private practice and listed the amount of the monthly payments called for by the agreement and the source of the payments. *Id.*

Indeed, Judge Grisanti disclosed information about the income from the sale of his law practice in response to four different questions on the Annual Statement. *Id.* For example, in response to question

12(a), which asks the applicant to “Describe the terms of, and the parties to, any contract, promise or other agreement between the reporting individual and any person, firm, or corporation with respect to the employment of such individual after leaving office or position (other than a leave of absence),” Judge Grisanti provided the following information: “I sold the phone number and goodwill of the firm to individuals I was sharing space with for \$730.00 a month for 4 years.” *Id.* Similarly, in responding to question 13, which asks to the applicant to list the nature and amount of any income in excess of \$1,000.00 received from any source, Judge Grisanti indicated that he received income, the source of which was Peter Pecoraro, Esq. and Matthew Lazroe, Esq., and the nature of which was “sale of law office. Started May 2015. \$730 a month for four years.” *Id.* Question 13 also required the Judge Grisanti to select a “Category of Amount” of the income. *Id.* This question is answered by selecting among a drop-down menu of pre-selected categories. Tr. 1250. Justice Grisanti answered the question “Category of Amount” with category A “under \$5,000.” Exh. 23; Tr. 1256-58.

Justice Grisanti provided similar information regarding the income from the sale of his law practice in response to two additional questions, 12(b) and 18 of the Annual Statement. Exh. 23.

Judge Grisanti continued to disclose the income received from the sale of his law practice in Annual Statements filed in 2017, 2018, and 2019. Exh. 24, 25, 26, 27. The Complaint does not allege that any of the disclosures for these years was in any way inaccurate.

Judge Grisanti testified that he did not intentionally fail to disclose the down payment. Tr. 1254. He did not explicitly mention the down payment because it was received while he was still a lawyer, and not yet a judge, so he included it under the category of income received from his law practice. *Id.* Under question 13 of the 2016 Annual Statement, Judge Grisanti disclosed that he received between \$20,000 and \$60,000, the source of which was “law office closed May of 2015.” Tr. 1254-58. He believes that when he filled out the Annual Statement, he included the down payment in this category. Tr. 1256, 1258. It was not Judge Grisanti’s intent to conceal the down payment. Tr. 1256-59. He disclosed the fact of the sale of his practice, the parties involved, the monthly payments and the period those payments would be made. Exh.

23. He made these disclosures in several different answers on each Annual Statement over five years. Exh. 24, 25, 26, 27. If any information was omitted, it was inadvertent.

The Complaint alleges that Judge Grisanti's 2016 Annual Statement is inaccurate in that it did not disclose that he received a lump sum payment of \$15,000 and thus inaccurately categorized the "Category of Amount" of income in question 13 as "under \$5,000." Including the down payment would increase the "Category of Amount" to between \$5,000 and \$20,000.

Once the purported inaccuracy of the 2016 Annual Statement was pointed out to Judge Grisanti, he amended the form to reflect the correct "Category of Amount" under question 13. Tr. 1254-55, 1259-61; Exh. R, S, T, 4, 7.

As noted by the Court of Appeals, "Judges must complete their financial disclosure forms with diligence, making every effort to provide complete and accurate information." *Matter of Alessandro*, 13 N.Y.3d 238, 249 (2009). But in cases where the Commission seeks to discipline a judge for an issue relating to financial disclosure, the Court and the

Commission have considered the circumstances surrounding the disclosure, including the judge's scienter.

For example, in *Alessandro*, the Court considered appeals by two judicial siblings. The Commission determined that both siblings should be removed for, among other things, filing false financial disclosure statements. The Court found that the evidence supported the conclusion that one of the siblings intentionally lied on the forms, and thus affirmed the determination to remove that sibling. As to the other sibling, however, the Court found “[t]here is no evidence in the record that [the judge] intentionally failed to disclose accurate information.” *Alessandro* at 249. The Court also noted that the evidence did not indicate any “apparent motive for the judge to omit the information at issue.” *Id.* Because the Court was “unable to conclude by a preponderance of the evidence that any of the omissions was intentional,” the Court rejected the sanction of removal and imposed the lesser sanction of admonition. *Id.*; see also, *Matter of Jamieson* (CJC Feb. 11, 2022) (available at: <https://cjc.ny.gov/Determinations>) (censure was appropriate sanction for judge who, among other misconduct, “intentionally” failed to report a debt on financial disclosure forms filed

for 13 straight years); *Matter of Eannace*, (CJC September 28, 2020) (2002 Ann. Rpt. 93) (Censure for judge who ignored several warnings to file disclosure form). Indeed, the Commission itself indicated in its 2019 Annual Report that discipline is not imposed for failing to file Annual Statements when there is a “valid excuse,” and that even in the absence of a persuasive excuse, first-time oversights promptly corrected may receive a Confidential Letter of Dismissal and Caution. *See*, 2019 Ann. Rpt. 22. Because the Court of Appeals and Commission find the issue of scienter to be relevant, we ask the Referee to find that Judge Grisanti’s failure to report the down payment on the sale of the law practice, and the corresponding inaccurate classification of the “Category of Amount,” were unintentional.

In considering similar charges of incomplete financial disclosures, the Commission also takes note of the extent of the omission, including the number of years the incomplete information is uncorrected. For example, in *Matter of Russell*, (CJC October 31, 2000) (2001 Ann. Rept. 121), a judge failed to file disclosure forms for seven years, despite receiving multiple notices and warnings. Judge Russell received an admonition. In *Matter of Jamieson, supra*, the judge filed incomplete

financial disclosure forms in 13 continuous years. Judge Jamieson was censured. Because the time period is a relevant consideration, we ask that if the Referee finds there was any omission on the Annual Statement, it should be noted that the omission was only in one year's filing (2016), and it was corrected by Judge Grisanti promptly upon receiving notice.

B. Judge Grisanti Was Not Required to Make a Disclosure under Rule 100.4(H)(2).

As to the Rule 100.4(H)(2) disclosure, that Rule, which was recently rescinded by OCA, required judges to report to the Clerk of the court “the date, the place and nature of any activity for which the judge received compensation in excess of \$150.” The Complaint alleges that Judge Grisanti violated this Rule by not making a disclosure of the income from the sale of his law practice for any of the years from 2015 to 2019.

The payments in question were for the sale of Judge Grisanti's law practice pursuant to a contract entered into before he became a judge. Since Rule 100.4(H)(2) requires disclosure of compensation for any “activity” by the judge during the year, this Rule is not applicable to the income related to the sale of Judge Grisanti's law practice. The

payments compensate Judge Grisanti for the value of his law practice, which was built as a result of his activities as a lawyer before taking the bench. The payments are not compensation for any extra-judicial activity performed during the years in which he has been a judge.

Multiple opinions from the Advisory Committee on Judicial Ethics support this view. See e.g., N.Y. Jud. Adv. Op 89-67; N.Y. Jud. Adv. Op 97-148; N.Y. Jud. Adv. Op 14-67; and N.Y. Jud. Adv. Op 22-07. For example, in Opinion 89-67, the Advisory Committee addressed an inquiry from a judge asking whether compensation received from the judge's former law firm "for work performed prior to assuming judicial office" needed to be reported to the clerk of the court pursuant to a prior version of Rule 100.4(H)(2). The Advisory Committee found that it was "clear that the provision speaks only to compensation for permissible extra-judicial activities performed by the judge while serving on the bench" and that consequently "compensation received for activities completed prior to assuming judicial office need not be reported under" the Rule. N.Y. Jud. Adv. Op 89-67. The Advisory Committee made the same findings once the Rule was renumbered to § 100.4(H). *See* N.Y.

Jud. Adv. Op 97-148; N.Y. Jud. Adv. Op 14-67; and N.Y. Jud. Adv. Op 22-07.

Pursuant to Judiciary Law § 212(2)(1)(iv), the actions of a judge “taken in accordance with findings or recommendations contained in an advisory opinion issued by the [Advisory Committee] shall be presumed proper for the purposes of any subsequent investigation by the state commission on judicial conduct.” Because the Advisory Committee has determined that Rule 100.4(H)(2) does not apply to compensation received for legal services rendered prior to taking the bench, Judge Grisanti’s conduct in not reporting the income from the sale of his law practice must be presumed proper in this matter. Thus, Rule 100.4(H)(2) did not require Judge Grisanti to report to the clerk of his court the income from the sale of his law practice, and he did not violate any of the Rules of Judicial Conduct by failing to do so.

IV. **THE REFEREE SHOULD MAKE FINDINGS OF FACT RELEVANT TO MITIGATION OF SANCTION.**

Pursuant to the Operating Procedures and Rules of the Commission, the Referee shall submit a report with proposed findings of fact and conclusions of law, but no recommendation with respect to a sanction. 22 N.Y.C.R.R. 7000.6(l). But because the Commission will

consider sanction, and matters that may mitigate such sanction, Respondent submits that the Referee should make specific findings of fact relevant to mitigation. Respondent has included a separate section entitled “Proposed Findings of Fact as to Mitigation” in the accompanying “Proposed Findings of Fact and Conclusions of Law.”

The facts proposed by Respondent in this regard have been found by the Court of Appeals to be relevant on the issue of sanction.

Among these factors are: a record of exemplary service on the bench without prior discipline (*see, Matter of Skinner*, 91 N.Y.2d 142, 144 (1997)); the judge’s acknowledgement of the inappropriate nature of the conduct (*see, Matter of Watson*, 100 N.Y.2d 290, 204 (2003)); the judge’s remorse and contrition for the conduct (*see, Matter of LaBelle*, 79 N.Y.2d 350, 363 (1992)); evidence that the misconduct was an aberration (*see, Matter of Edward*, 67 N.Y.2d 153, 155 (1986)); no indication that the judge’s conduct was motivated by personal profit, vindictiveness or ill will (*see, Matter of Skinner*, 91 N.Y.2d at 144); evidence that the judge’s conduct was caused by depression or other psychological factors (*see, Matter of Kelso*, 61 N.Y.2d 82, 88 (1984)); and, evidence upon which it can be safely concluded that the

misconduct will not recur. *Id.* All of these factors are amply established here.

CONCLUSION

Judge Grisanti admits to certain specifications of Charge I, and thus accepts that he violated Rules of Judicial Conduct with respect to his conduct on June 22, 2020. Based on the legal arguments contained herein, we submit that the other specifications were not proven by a preponderance of the hearing evidence. The evidence did establish that Judge Grisanti: was experiencing significant stressors; was provoked by years of abuse from the Meles; was contrite and apologetic; and, has voluntarily taken steps to seek counseling and treatment to ensure that no future such incidents occur.

As to Charges II and III, based on the legal argument raised herein, we submit that these charges were not proven by a preponderance of the evidence. If the Referee concludes otherwise, it is nevertheless clear that Judge Grisanti acted in good faith with regard to his conduct as to each charge, and that any rule violations were inadvertent and not intentional.

DATED: January 31, 2023
Buffalo, New York



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STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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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.

RESPONDENT'S
PROPOSED
FINDINGS OF FACT
AND CONCLUSIONS OF
LAW

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Respondent, Hon. Mark J. Grisanti, by and through his attorneys,

CONNORS LLP, submits the following proposed findings of fact:

TESTIMONY OF GINA ANN MELE

1. Gina Mele resides at 16 [REDACTED] Avenue.

Source: Hearing Transcript ("Tr.") 39

2. She has lived at that address since 2000.

Source: Tr. 39

3. She lives at 16 [REDACTED] Avenue with her husband Joseph Mele.

Source: Tr. 39

4. She first met Mark Grisanti when he moved onto [REDACTED] in 2004-2005.

Source: Tr. 41

5. Ms. Mele was friends of the ex-husband of Maria Grisanti, who is currently married to Mark Grisanti.

Source: Tr. 41

6. Ms. Mele recalls having an interaction with Mark Grisanti on June 22, 2020, in the evening around 7 o'clock.

Source: Tr. 41-42

7. Ms. Mele's sister was in town from New Jersey and had parked her truck in front of Mark Grisanti's home. The back bumper of her sister's truck was a couple feet away from Mark Grisanti's driveway.

Source: Tr. 43

8. Ms. Mele's own vehicle was parked on the other side of Mark Grisanti's driveway.

Source: Tr. 44

9. Mark Grisanti and his wife Maria were upset about Ms. Mele's sister's truck.

Source: Tr. 46

10. Words were exchanged back and forth.

Source: Tr. 46

11. Ms. Mele claimed that Mark and Maria Grisanti crossed the street and came onto the Mele's property.

Source: Tr. 46

12. Ms. Mele claimed that Mark and Maria Grisanti came up the Mele's driveway, past the sidewalk, onto the Mele's property.

Source: Tr. 47

13. Joseph Mele came off the Mele's porch onto the driveway.

Source: Tr. 47

14. According to Ms. Mele, the first physical interaction was Maria Grisanti pushing Joseph Mele.

Source: Tr. 48

15. After Maria Grisanti pushed Joseph Mele, Maria then hit Joseph in the eye.

Source: Tr. 48

16. After Maria Grisanti pushed Joseph Mele, Ms. Mele came off the porch.

Source: Tr. 48

17. Maria Grisanti bit Joseph Mele's arm.

Source: Tr. 48

18. Gina Mele's sister, Theresa, became involved.

Source: Tr. 48

19. Joseph Mele was trying to separate Maria and Gina and that is when Maria bit his arm.

Source: Tr. 49

20. Exhibit 6 is a photograph of the bite mark on Joseph Mele's arm.

Source: Tr. 50; Exhibit 6

21. Exhibit 9 is another picture of the bite mark.

Source: Tr. 51; Exhibit 6

22. Maria Grisanti hit Joseph in the eye with a clenched fist.

Source: Tr. 51-52

23. Exhibit 8 is a photograph of Joseph Mele's face that fairly and accurately represented the condition of his face after the incident on June 22, 2020.

Source: Tr. 53-54, 55; Exhibit 8

24. As a result of the encounters, Gina Mele had a fat lip and some swelling on the side of her face.

Source: Tr. 55; Exhibit 5

25. After the incident, Gina Mele had a bruise on her arm.

Source: Tr. 60

26. Gina Mele does not recall how the bruise to her arm occurred, specifically who caused it.

Source: Tr. 60

27. The injuries to Gina Mele's face were caused by Maria Grisanti.

Source: Tr. 63-64

28. Exhibit 2 is a copy of footage captured by the Mele's security system.

Source: Tr. 60-61; Exhibit 2

29. Exhibit 2 is a fair and accurate depiction of what she saw on June 22, 2020.

Source: Tr. 66

30. In June 2020, Ms. Mele lived directly across from the Chwalinski family.

Source: Tr. 72

31. Gina Mele lived with two of her three daughters and her husband, Joseph Mele.

Source: Tr. 72

32. The Meles had four total vehicles.

Source: Tr. 72

33. On June 22, 2020, the Meles had a fifth vehicle because Gina's sister had come from New Jersey.

Source: Tr. 72

34. The video, Exhibit 2, shows a date stamp of June 23, 2020, which is not correct.

Source: Tr. 73

35. In June 2020, Gina Mele had four cameras at her home.

Source: Tr. 74

36. Since the incident, the Meles have added another camera in their upstairs bedroom window.

Source: Tr. 74

37. In June 2020, there were four functioning cameras at her home.

Source: Tr. 74

38. Gina Mele does not have recordings on all four of the cameras.

Source: Tr. 74

39. All four cameras are working and, as far as Gina Mele knows, all of them recorded the contact between the Grisanti family and her family.

Source: Tr. 75

40. Not all of the recordings were preserved.

Source: Tr. 75

41. With respect to Exhibit 2, the audio does not match the video.

Source: Tr. 76

42. Exhibit DD fairly and accurately represents the [REDACTED] Avenue homes with the names of the individuals living in each home as for June 22, 2020.

Source: Tr. 76; Exhibit DD

43. Exhibit 2-A is the transcript of the home security camera footage.

Source: Tr. 79; Exhibit 2-A

44. Just a few seconds into the conversation that has been captured on the tape Gina Mele says “fuck you, Maria” to Mark and Maria Grisanti.

Source: Tr. 80

45. Gina’s second comment to Maria Grisanti is to call her a “fucking cunt.”

Source: Tr. 81

46. Joseph Mele says “come on, Mark” to Mark Grisanti.

Source: Tr. 84

47. Gina Mele does not know if Joseph Mele is inviting Mark Grisanti to fight.

Source: Tr. 84

48. Gina Mele says in response “he’s a chicken shit.”

Source: Tr. 84

49. Joseph Mele then says “Come on, mother fucker.”

Source: Tr. 85

50. Gina Mele repeats “he’s a chicken shit.”

Source: Tr. 85

51. Joseph Mele then says “come on, you cock sucker.”

Source: Tr. 86

52. Joseph Mele says to Mark Grisanti “come on” calls him a “cock sucker” and Gina Mele says he is a “chicken shit” but Gina Mele does not know what those statements mean.

Source: Tr. 86-87

53. Joseph Mele then says “I’ll fucking knock you out.”

Source: Tr. 87; Exhibit 2-A

54. Gina Mele says “come on you bitch” to Maria Grisanti.

Source: Tr. 88

55. Gina Mele says “Choke her. Choke her” and “Give her a choke hold, Theresa.”

Source: Tr. 89

56. Gina Mele then says “Fucking choke her.”

Source: Tr. 89-90

57. Gina Mele was encouraging her sister Theresa to choke Maria Grisanti.

Source: Tr. 90

58. Gina Mele referring to her neighbor, Linda Chwalinski, said “You polish dumb – you’re a Polack dumb fuck.”

Source: Tr. 93

59. Gina Mele claimed that things were missing from the audio because the audio is choppy.

Source: Tr. 94

60. Gina Mele called Maria Grisanti a “fucking piece of shit dumb bitch.”

Source: Tr. 95

61. There is no evidence in the security camera footage, Exhibit 2, showing Gina Mele either spitting on Theresa’s truck or kicking Theresa’s truck.

Source: Tr. 98

62. In the statement to the police sworn to under penalties of perjury, Gina Mele claimed that Mark Grisanti said “I am a judge. If you don’t move it, I will get it towed.”

Source: Tr. 100-02

63. The statement “I am a judge” does not appear on the video.

Source: Tr. 102

64. Gina Mele claims that Mark Grisanti said he was a judge once before the police arrived and once after the police arrived.

Source: Tr. 103

65. Gina Mele told two reporters that Mark was shouting “I’m a judge.”

Source: Tr. 104-05

66. In a written statement to the New York State Commission on Judicial Conduct, dated June 29, 2020, Gina Mele told the Commission that when the Buffalo Police arrived at the scene that day, Mark immediately shouted “I’m a judge. Do you know who I am?”

Source: Tr. 106-09

67. The District Attorney of Erie County, John Flynn, said that Gina Mele could have been prosecuted for a false statement for claiming that Mark Grisanti said he was a judge at any point during the incident.

Source: Tr. 102, 111

68. Gina Mele told the Commission that her husband fell and tripped over the Grisanti’s curb.

Source: Tr. 128

69. Gina Mele told the State Commission that she thought the Grisantis were keying the truck, but it turned out that that did not happen.

Source: Tr. 132

70. Gina Mele has been caught shoplifting in the City of Buffalo four times.

Source: Tr. 132

71. Gina Mele clarifies that she is not sure how many of these prior times were in Buffalo.

Source: Tr. 137

72. Gina Mele was caught stealing once in Cheektowaga.

Source: Tr. 138

73. Gina Mele was caught stealing in Amherst once.

Source: Tr. 138

74. Gina Mele does not deny telling police officers, when she was once apprehended, that “When I was younger, I used to steal all the time; it looked so easy.”

Source: Tr. 139

75. In 2014, an order of protection was placed against Gina Mele to stay away from Linda Chwalinski.

Source: Tr. 140

76. Gina Mele does not get along with the Riccios, the Continos, the Chwalinskis, or the Grisantis, all of whom are neighbors.

Source: Tr. 143

77. On June 22, 2020, Gina Mele was upset when she saw Maria touch her husband and she reacted out of concern and alarm that her husband was in danger.

Source: Tr. 144

78. Gina Mele acted out of protection for her husband and out of anger. She did that because she was concerned spouse worried that some danger might occur to her husband.

Source: Tr. 144-45

TESTIMONY OF OFFICER RYAN GEHR

79. Officer Gehr has been employed by the Buffalo Police Department for approximately 5 and a half years.

Source: Tr. 161

80. On June 22, 2020, he was working the night shift.

Source: Tr. 161

81. Officer Gehr was working from 8:00 p.m. until 6:00 a.m. the following day.

Source: Tr. 162

82. Officer Gehr received a call from dispatch to go to the 20 block of [REDACTED] Avenue for a fight.

Source: Tr. 162

83. Officer Gehr was partnered with Officer Larry Muhammad on June 22, 2020.

Source: Tr. 162-63

84. When Officer Gehr arrived, there were five people in the street clustered together. Officer Gehr was wearing a body-worn camera on June 22, 2020.

Source: Tr. 163

85. Exhibit 11 is a copy of Officer Gehr's body cam footage from June 22, 2020.

Source: Tr. 164

86. Exhibit 11-A is a transcript of Exhibit 11.

Source: Tr. 165; Exhibit 11-A

87. Maria Grisanti was taken into custody at some point.

Source: Tr. 167

88. During attempt at de-escalation, Maria Grisanti continued from across the street to de-escalate the situation and was detained, and then later arrested.

Source: Tr. 167

89. There was an attempt at handcuffing. Maria Grisanti did pull away, and kind of had one arm free and was gesturing, became a little bit difficult. So she was taken to the ground and then handcuffed from there.

Source: Tr. 167

90. Officer Gehr said “Stop pushing me mother fucker” to Mark Grisanti because he felt a blow on his shoulders, and it allowed Maria Grisanti to stand up and didn’t allow Officer Gehr to complete the handcuffing.

Source: Tr. 170

91. The video shows Officer Richard Hy, who arrived at the scene at some point.

Source: Tr. 172

92. Officer Gehr believed that there were viable charges. The blood on Joseph Mele’s arm and shirt would be grounds for an assault charge. The evidence that was on the Mele’s driveway would be grounds for a trespassing charge.

Source: Tr. 174

93. The evidence in the driveway was a shirt and something else— items belonging to the Grisantis indicating that they had gone onto the property of the Meles.

Source: Tr. 174

94. Based upon what the Meles said to him, it sounded as though Maria Grisanti was more the aggressor than Mark Grisanti.

Source: Tr. 180

95. Mark Grisanti was taken into custody because of the interference and the possible trespass charge.

Source: Tr. 180

96. By interference, Officer Gehr means any act that prevents a police officer from carrying out a lawful duty.

Source: Tr. 181

97. At the time of the incident, Officer Gehr had been in B District two and half to three years.

Source: Tr. 183

98. Officer Gehr arrived at the scene at approximately 8:45 p.m. Officer Gehr does not recall, but does not deny that he made a statement on the tape that he was “mad coming in today.”

Source: Tr. 187

99. Given the time, Officer Gehr would probably have been mad about something female-related.

Source: Tr. 187

100. After the incident, Officer Gehr learned that there was a history of ongoing problems on that street, but he did not know that at the time he arrived.

Source: Tr. 188

101. When Officer Gehr arrived at the scene, he approached the Meles.

Source: Tr. 190

102. Officer Gehr spoke to Mr. and Mrs. Mele and Mrs. Mele's sister on the apron of the Mele's driveway.

Source: Tr. 192

103. At that point, the police had successfully separated the Meles and the Grisantis, who were on the other side of the street.

Source: Tr. 193

104. Officer Gehr listened to the Meles, while Officer Muhammad was stationed across the street.

Source: Tr. 193

105. There was some yelling going on between the parties.

Source: Tr. 194

106. Maria Grisanti was on her property in her driveway.

Source: Tr. 194

107. Maria Grisanti was excited, emotional and yelling things back at the Meles.

Source: Tr. 194

108. Mark Grisanti was not doing any yelling at that point.

Source: Tr. 194

109. Officer Gehr anticipated that after he spoke to the Meles, he would cross the street and speak to the Grisantis.

Source: Tr. 195

110. Officer Gehr did not know what the Grisantis would say.

Source: Tr. 196

111. From viewing the video, Exhibit 11, Officer Gehr could see that the truck parked in front of the Grisanti home blocks the view of the entrance to the Grisanti driveway.

Source: Tr. 199

112. The truck blocks more of the view because it is a high truck and it is parked about two feet away from the curb.

Source: Tr. 199

113. The context of Mark Grisanti mentioning Mayor Byron Brown was that Mayor Brown was aware of the problem on [REDACTED] and gave Mark Grisanti some assistance and help in telling him to ignore the Meles.

Source: Tr. 201-02

114. Mark Grisanti told Officer Gehr that he did ignore the Meles and called 9-1-1 to report that the truck was blocking the driveway.

Source: Tr. 202

115. Officer Gehr had training at the academy on techniques to de-escalate situations.

Source: Tr. 203

116. When Officer Gehr was interviewed by the Commission about the incident, he told the Commission that he did not initially notice Mark Grisanti making physical contact with him at any time.

Source: Tr. 206

117. Officer Muhammad probably would not have charged Mark Grisanti regardless of his judicial position.

Source: Tr. 207

118. There was no favoritism shown to Mark Grisanti on that evening.

Source: Tr. 207

119. Officer Gehr does not recall Mark Grisanti ever mentioning in his presence that he was a judge.

Source: Tr. 207

120. Officer Gehr did not learn that Mark Grisanti was a judge for about two hours after the incident when another officer, Lieutenant Karen Turello, mentioned it.

Source: Tr. 208

121. While Officer Gehr was talking to the Meles on one side of the street, Maria Grisanti was on the other side of the street excited, emotional and yelling.

Source: Tr. 208

122. Officer Gehr called over to Maria Grisanti and told her to stop yelling, and said that if she did not stop yelling it is going to be a problem.

Source: Tr. 208

123. Maria Grisanti responded that she didn't care.

Source: Tr. 208

124. Officer Gehr began to approach Maria Grisanti and she said
"You are not going to arrest me."

Source: Tr. 209

125. Officer Gehr responded "I sure fucking am."

Source: Tr. 209

126. As Officer Gehr approached Maria Grisanti, Officer
Muhammad said "She's good" three times.

Source: Tr. 209

127. When a fellow officer says "she's good" the implication is that
that officer has her under control.

Source: Tr. 210

128. The police are taught de-escalation techniques that are
contained within the document known as the Manual of
Procedure.

Source: Tr. 210

129. De-escalation techniques are designed to eliminate the need for
use of force.

Source: Tr. 211

130. De-escalation techniques include talking to a person.

Source: Tr. 211-12

131. The only thing Officer Gehr said to Maria Grisanti before he took her down and handcuffed her was “Cool. I fucking can arrest you.”

Source: Tr. 212

132. De-escalation techniques include talking to a person in a tone that is not aggressive or confrontational.

Source: Tr. 212

133. De-escalation techniques include creating a space or barrier between the officer and the person, using distance to de-escalate.

Source: Tr. 212

134. De-escalation techniques include waiting the person out, given them time to calm down.

Source: Tr. 212-13

135. De-escalation techniques include permitting a person to make statements and ask questions.

Source: Tr. 213

136. The three guiding principles in the manual and as Officer Gehr was trained are (1) patience, (2) flexibility and (3) resolve it peacefully.

Source: Tr. 213

137. Officer Gehr's training and the policies of the police department require officers to be courteous and considerate to the public, not use harsh, profane or insulate language and exercise the utmost patience and discretion even under the most trying circumstances.

Source: Tr. 213-14

138. The way he took Maria Grisanti to the ground, it is possible he used a variant of a sweep technique.

Source: Tr. 214

139. After he handcuffed Maria Grisanti, Officer Gehr had a conversation with Mark Grisanti and Officer Gehr communicated to Mark that he understood why he might have been upset seeing his wife taken to the ground with a sweep tactic and handcuffed.

Source: Tr. 215

140. In June 2020, there had been a series of incidents that had been publicized where officers had been criticized for excessive force.

Source: Tr. 215

141. There had been incidents the year before and the year before that that were generally in the public view.

Source: Tr. 215-16

142. Officer Gehr remembers learning from witnesses that Maria Grisanti had been choked by the neighbors prior to the time he put handcuffs on her.

Source: Tr. 216

143. In Officer Gehr's experience, it is not unusual for someone who is having an interaction with the police to mention if they know other people on the force. It happens routinely.

Source: Tr. 216

144. At the scene, Mark Grisanti was on a phone trying to reach family members to let them know what was going on.

Source: Tr. 217-18

145. Mark Grisanti being on the phone did not pose any problem from a law enforcement standpoint.

Source: Tr. 218

146. At some point in time, Officer Hy came to the scene.

Source: Tr. 218

147. On the video, Exhibit 11, an interaction between Officer Gehr, Officer Hy and Mark Grisanti is detected.

Source: Tr. 218-19

148. During this conversation, Mark Grisanti said “I know what you are going through right now” which was a reference to some adverse publicity and allegations of brutality the Buffalo Police Department was going through.

Source: Tr. 219

149. In that context, Mark Grisanti mentioned that he had children who are on the force.

Source: Tr. 219

150. Officer Hy was having a conversation with Mark Grisanti, who was explaining what he thought was constructive criticism with regard to the take down of his wife.

Source: Tr. 220

151. During this conversation, Officer Hy comes on the scene. Officer Hy does not apply any de-escalation techniques.

Source: Tr. 220-21

152. Officer Hy tells Mark Grisanti to “Shut the fuck up.”

Source: Tr. 221

153. Officer Hy violated the policies in the Manual of Procedures for the Buffalo Police.

Source: Tr. 221

154. Officer Hy was not courteous, and he used harsh and profane language, including calling Mark Grisanti an “old geezer.”

Source: Tr. 221

155. At that point, Officer Hy put handcuffs on Mark Grisanti.

Source: Tr. 221

156. Officer Gehr had not planned to arrest Mark Grisanti for assaulting a police officer.

Source: Tr. 221

157. Before Officer Hy put handcuffs on Mark Grisanti, Mark Grisanti seemed composed to Officer Gehr.

Source: Tr. 222

158. At the scene, Mark Grisanti apologized to Officer Gehr for any contact between the two of them.

Source: Tr. 223

159. After the incident, Officer Gehr had a conversation with Lieutenant Turello and Detective Moretti and the essence of the conversation was that Officer Gehr was concerned that he might have some exposure for an excessive force charge.

Source: Tr. 223

160. When Officer Gehr was interviewed by the Commission, he testified that he was told that if he pursued a charge against Mark Grisanti, he could be reviewed for excessive use of force.

Source: Tr. 224

161. At that point in the interview with the Commission, Officer Gehr refused to answer any more questions on the advice of counsel.

Source: Tr. 224

162. Gina Mele brought up the fact that Mark Grisanti's daughter and son-in-law were police officers.

Source: Tr. 226-27

163. Officer Gehr's response to Gina Mele was "That doesn't matter to me at all."

Source: Tr. 227

164. If someone mentions that they have a son or daughter on the police force, it does not influence Officer Gehr in any way.

Source: Tr. 227

LIUETENTANT LARRY MUHAMMAD

165. Lieutenant Muhammad has been employed by the Buffalo Police Department for over 9 years.

Source: Tr. 248

166. His current title is Lieutenant. He earned that rank approximately 7 months ago.

Source: Tr. 248

167. On June 22, 2020, he was working the 8:00 p.m. to 6:00 a.m. shift.

Source: Tr. 248-49

168. Lt. Muhammad was wearing a body camera at the time.

Source: Tr. 249

169. Exhibit 12 is the video from Lt. Muhammad's body cam.

Source: Tr. 249-51

170. Exhibit 12-A is a transcript of Lt. Muhammad's body cam footage.

Source: Tr. 251

171. When Lt. Muhammad and Officer Gehr arrived at 21 [REDACTED] Avenue, they separated the two groups to try to ascertain a story.

Source: Tr. 252

172. Lt. Muhammad started a conversation with Mark and Maria Grisanti.

Source: Tr. 252

173. Mark Grisanti had pushed Officer Gehr and Lt. Muhammad wanted to calm him down.

Source: Tr. 253

174. At one point, Lt. Muhammad wrapped his arms around Mark Grisanti.

Source: Tr. 254

175. After Maria Grisanti was handcuffed and placed in the vehicle, Mark Grisanti was upset and angry. Mark Grisanti's demeanor did not influence what the officers were doing.

Source: Tr. 255

176. At one point Mark Grisanti said “If you don’t take her out of cuffs, there is going to be a problem.” Lt. Muhammed did not have any reaction to that.

Source: Tr. 255

177. When they arrived at the scene, Lt. Muhammad took the Grisantis to their side of the street.

Source: Tr. 260

178. Officer Gehr took the Meles to their side of the street.

Source: Tr. 260

179. The officers’ plan was to uncover the facts and de-escalate the situation.

Source: Tr. 260-61

180. Lt. Muhammad was speaking with Mark Grisanti about what happened and Mark Grisanti was not yelling or swearing.

Source: Tr. 261

181. Maria Grisanti continued to yell, and Mark Grisanti told her to stop.

Source: Tr. 261-62

182. Maria Grisanti continued to yell towards the other side of the street and, at that point, Officer Gehr ran across the street.

Source: Tr. 262

183. At that point, Lt. Muhammad said “She’s good” three times.

Source: Tr. 262

184. Lt. Muhammad’s comments to Officer Gehr were intended to communicate that he could handle the Grisantis and bring Mrs. Grisanti under control.

Source: Tr. 263-64

185. Officer Gehr went past Lt. Muhammad and Mark Grisanti to approach Maria Grisanti. At that point, it was difficult for Lt. Muhammad and Mark Grisanti to see exactly what was happening because Officer Gehr’s back was in front of them.

Source: Tr. 264-65

186. Mark Grisanti never made any mention of being a judge to Lt. Muhammad.

Source: Tr. 268

187. While Lt. Muhammad was holding Mark Grisanti’s arms, Mark Grisanti was not trying to break free of the hold.

Source: Tr. 272

188. Lt. Muhammad told Officer Hy that the way the Meles parked was annoying.

Source: Tr. 274

189. Lt. Muhammad agreed with Officer Hy's comment that the way the Meles parked was probably done to annoy the Grisantis.

Source: Tr. 274

190. While at the scene, Mark Grisanti said that he was wrong and that he respects law enforcement officers.

Source: Tr. 275-76

191. While at the scene, Mark Grisanti said that he should not have pushed Officer Gehr.

Source: Tr. 276

192. Mark Grisanti was never physically combative nor aggressive towards Lt. Muhammad and was respectful to him.

Source: Tr. 276

193. Officer Hy walked briskly across the street toward Maria Grisanti.

Source: Tr. 277

MATTHEW ALLEN LAZROE

194. Lazroe is self-employed as an attorney.

Source: Tr. 290

195. He has been admitted since 2006.

Source: Tr. 290

196. Lazroe is a general practice attorney.

Source: Tr. 291

197. Lazroe met Mark Grisanti through attorney Peter Pecoraro.

Source: Tr. 291

198. He entered into a contract with Mark Grisanti in May 2015.

Source: Tr. 292

199. Exhibit 14 is a contract between himself, Mr. Pecoraro and Mark Grisanti.

Source: Tr. 293; Exhibit 14

200. The contract, Exhibit 14, was signed on May 15 or 17, 2015.

Source: Tr. 293

201. The financial terms of the agreement were that Pecoraro and Lazroe would pay Mark Grisanti \$50,000. Lazroe paid \$10,000 up front and then \$365 per month.

Source: Tr. 294

202. Lazroe continued his payments until June 2019. Lazroe did not know what Pecoraro paid on the agreement.

Source: Tr. 294-95

203. Exhibit 15 is a breakdown detailing the dates and amounts of money Lazroe paid to Mark Grisanti.

Source: Tr. 295; Exhibit 15

204. Lazroe is familiar with the case of *Bayview Loan Servicing LLC v. Mary Lee Fornes*.

Source: Tr. 296

205. *Bayview* was a foreclosure case in which he represented the defendant.

Source: Tr. 296

206. Lazroe is familiar with the case of *Buffalo Seminary v. Stephanie Satterwhite*.

Source: Tr. 297

207. *Buffalo Seminary* was a collection case in which Lazroe represented Buffalo Seminary trying to collect tuition funds that were not paid.

Source: Tr. 297

208. In *Buffalo Seminary*, the defendant signed a confession of judgment for the money and Lazroe subsequently submitted a motion for a default judgment.

Source: Tr. 298

209. Mark Grisanti granted the judgment.

Source: Tr. 298

210. In *Buffalo Seminary*, there was no appearance by the defendant.

Source: Tr. 298

211. Lazroe is familiar with the *Matter of* ██████████ ██████████


Source: Tr. 298

212. ██████████ was a guardianship case in which Lazroe was appointed as a court evaluator.

Source: Tr. 298-99

213. As court evaluator, Lazroe's job was to meet with the alleged incapacitated person and write a report with an evaluation and recommendations regarding whether the person is incapacitated.

Source: Tr. 299

214. Mark Grisanti signed the order providing compensation to Lazroe for his services in 

Source: Tr. 300

215. Lazroe recalls the matter of *Trifera, LLC v. Morrison*.

Source: Tr. 300

216. *Trifera* was another foreclosure action.

Source: Tr. 300

217. Lazroe received an email from Part 36 appointing him to be guardian ad litem to the defendant in *Trifera*.

Source: Tr. 300

218. Lazroe was compensated for his work in *Trifera* by an order signed by Mark Grisanti.

Source: Tr. 300

219. Lazroe is familiar with the matter of *Federal National Mortgage Association v. Anderson*.

Source: Tr. 300

220. *Anderson* was also a foreclosure matter in which Lazroe was appointed guardian ad litem.

Source: Tr. 301

221. Lazroe recalls the case of *Greater Woodlawn v. Charles Pachucki*.

Source: Tr. 301

222. *Pachucki* was a foreclosure action in which Lazroe was appointed as a referee to conduct the foreclosure sale.

Source: Tr. 302

223. Mark Grisanti signed the order appointing Lazroe as referee.

Source: Tr. 302

224. Lazroe recalls the case of the *Matter of the Application of*

██████ / ██████

Source: Tr. 303

225. ██████ was a guardianship case and Lazroe was appointed as court evaluator.

Source: Tr. 303

226. Lazroe received an email from Part 36 stating that he was appointed by Mark Grisanti to be the court evaluator in [REDACTED]

Source: Tr. 303

227. Lazroe submitted a billing sheet for compensation in the [REDACTED] case that was reviewed by all of the attorneys and then approved by the judge. None of the attorneys objected to the request for compensation.

Source: Tr. 304

228. Lazroe recalls the case of *Rasheena Jones v. Jerry Gradl Motors, Inc.*

Source: Tr. 304

229. *Jones* is a lemon law case in which Lazroe represented a client who purchased an automobile.

Source: Tr. 305

230. *Jones* was transferred between several different judges and at some point, in the middle of the case, Mark Grisanti presided over it.

Source: Tr. 305

231. Lazroe and Mark Grisanti have never been personal friends or socialized.

Source: Tr. 306

232. Lazroe never donates to any campaign by Mark Grisanti either as a politician or a judge.

Source: Tr. 306-07

233. The contract with Mark Grisanti, Lazroe and Pecoraro was to purchase the assets of Grisanti's law practice, including the phone number, the goodwill, and the client files.

Source: Tr. 307

234. The financial arrangements had nothing to do with Mark Grisanti's activities as judge.

Source: Tr. 308

235. The contract was signed and notarized on May 18, 2015.

Source: Tr. 308

236. His last payment to Mark Grisanti was on June 11, 2019.

Source: Tr. 310

237. In total, Lazroe paid Mark Grisanti \$27,530.00.

Source: Tr. 311

238. Lazroe practices in the area of foreclosure defense, among other areas.

Source: Tr. 311

239. Foreclosure defense was one of Lazroe's primary areas of practice.

Source: Tr. 311

240. Lazroe spoke at a Continuing Legal Education course on foreclosure defense.

Source: Tr. 312

241. Lazroe in the past has advertised his services as a foreclosure defense attorney.

Source: Tr. 312

242. In 2017 in Erie County, there was a Foreclosure Settlement Part.

Source: Tr. 313

243. All foreclosure cases filed were initially assigned to the Foreclosure Settlement Part before they were assigned to a specific judge.

Source: Tr. 313

244. In the Foreclosure Settlement Part, the law clerks for various judges would come down to help facilitate settlement discussion.

Source: Tr. 313-14

245. One of the law clerks who frequently came to the Foreclosure Settlement Part was Doug Curella, who was at one point Mark Grisanti's law clerk.

Source: Tr. 315

246. As a result of working in the Foreclosure Settlement Part, Lazroe came to know Curella.

Source: Tr. 315

247. In order to be appointed in a foreclosure matter as a guardian ad litem, an attorney has to do Continuing Legal Education training and submit an application under Part 36 of the court rules to be approved and put on a list of attorneys eligible to receive such appointment.

Source: Tr. 317-18

248. Part 36 refers to Part 36 of the court rules that deal with these types of appointments.

Source: Tr. 318

249. In 2017 and 2018, Lazroe was on the approved Part 36 list to receive appointments as a guardian ad litem in foreclosure matters as well as appointments as a court evaluator in guardianship proceedings.

Source: Tr. 318

250. Lazroe completed all of the training and other requirements to be approved for assignments under Part 36 for both foreclosure and guardianship matters.

Source: Tr. 318-19

251. Exhibit 16 are court records from the *Bayview* case.

Source: Tr. 319-20; Exhibit 16

252. Within the court records is a request for judicial intervention (“RJI”).

Source: Tr. 320; Exhibit 16

253. According to the RJI, the homeowner defendant, Ms. Fornes, was representing herself.

Source: Tr. 321-22; Exhibit 16

254. In this case, Mark Grisanti issued a scheduling order dated September 7, 2018.

Source: Tr. 326-27; Exhibit 16

255. The scheduling order does not list Mr. Lazroe as an attorney for Ms. Fornes.

Source: Tr. 327; Exhibit 16

256. Mark Grisanti also signed an order to discontinue the action upon the request of the lender.

Source: Tr. 328

257. Lazroe's name is not mentioned in the order discontinuing the action.

Source: Tr. 328

258. Lazroe does not recall having any type of contact with Mark Grisanti on the *Bayview* case.

Source: Tr. 329

259. Lazroe did not receive any type of favorable treatment from Mark Grisanti on the *Bayview* case.

Source: Tr. 329

260. Exhibit 29 are court records from the *Buffalo Seminary* case.

Source: Tr. 329; Exhibit 29

261. Within the records is an application for default judgment, meaning that the debtor/defendant never answered the complaint.

Source: Tr. 330; Exhibit 29

262. In the *Buffalo Seminary* case, the defendant signed a confession of judgment admitting to the amount of money that is due.

Source: Tr. 330; Exhibit 29

263. The debtor never opposed the motion for a default judgment.

Source: Tr. 331

264. In addition to the motion papers, there is also a handwritten letter from the debtor admitting that she owes the debt.

Source: Tr. 331; Exhibit 29

265. The application for default in the *Buffalo Seminary* case was decided on the paper without an appearance in front of Mark Grisanti.

Source: Tr. 332

266. Lazroe never had any discussion about the *Buffalo Seminary* case with Mark Grisanti.

Source: Tr. 332

267. Lazroe does not believe he received any favorable treatment from Mark Grisanti in the *Buffalo Seminary* case.

Source: Tr. 332-33

268. Exhibit 22 are the court records in the *Jones* case.

Source: Tr. 333; Exhibit 22

269. The Jones case was eventually resolved when it was assigned to the Hon. Frank Sedita.

Source: Tr. 333

270. At one point, the *Jones* case was assigned to the Hon. Daniel Furlong.

Source: Tr. 334

271. Lazroe does not recall Mark Grisanti making any decisions on the Jones case.

Source: Tr. 335

272. Lazroe believes there may have been one phone call with Mark Grisanti for a scheduled conference on the case, but the other attorney was not available so the conference did not occur.

Source: Tr. 335

273. Exhibit 19 are the court records in the *Anderson* foreclosure matter.

Source: Tr. 336; Exhibit 19

274. Lazroe learned that he had been appointed guardian ad litem from an email from Part 36.

Source: Tr. 337

275. Lazroe never received a phone call on *Anderson* or any other case regarding receiving an appointment.

Source: Tr. 337

276. In *Anderson*, Lazroe received a fee of \$250.

Source: Tr. 337

277. Guardian appointments in foreclosure cases are not lucrative appointments.

Source: Tr. 337-38

278. Exhibit 20 are court records in the *Pachucki* foreclosure case in which Lazroe was appointed referee.

Source: Tr. 338; Exhibit 20

279. Lazroe received a fee of \$150 in the *Pachucki* matter.

Source: Tr. 339

280. Lazroe had no conversations with Mark Grisanti about his appointment in *Pachucki*.

Source: Tr. 339

281. Before he carried out his duties in the *Pachucki* matter, the case was transferred to another judge who did not rescind or revoke Lazroe's appointment.

Source: Tr. 339-40

282. In the █████ case, Lazroe's application for fees was reviewed by all of the attorneys in the case, none of whom had objection.

Source: Tr. 340-41

283. Similarly, Lazroe's request for fees in the █████ case was reviewed by all of the attorneys without objection.

Source: Tr. 341

284. Exhibit 21 are the court records in the █████ case.

Source: Tr. 342; Exhibit 21

285. Lazroe recalls that after signing the agreement with Mark Grisanti in May 2015, neither he nor Peter were allowed to receive any appointments from Mark Grisanti nor have any cases in front of him.

Source: Tr. 343-44

286. Lazroe did not have any conversation with Mark Grisanti tying the payments on the 2015 agreement to receiving any appointments, receiving any type of treatment in any case or tying any judicial act of Mark Grisanti to any of the payments.

Source: Tr. 344

287. Lazroe is familiar with the phrase *quid pro quo*, and he had no *quid pro quo* agreement with Mark Grisanti regarding Mark Grisanti's judicial activities toward Lazroe or any of his clients.

Source: Tr. 344-45

288. Lazroe does not believe that he or his clients received any favorable treatment from Mark Grisanti in any of the eight cases discussed or any other case.

Source: Tr. 345

TESTIMONY OF JOSEPH CONTINO

289. Joseph Contino is a licensed stock broker with licenses from both the Securities and Exchange Commission and New York State.

Source: Tr. 358

290. Contino works as a wealth manager at Dopkins Wealth Management in Williamsville.

Source: Tr. 359

291. Contino's father is a retired lawyer, and he has other lawyers in the family.

Source: Tr. 359

292. Contino is married to Jeanne Contino.

Source: Tr. 359

293. Contino lived at 22 [REDACTED] Avenue for 30 years.

Source: Tr. 360

294. When Contino lived on [REDACTED] Avenue, he lived immediately next door to the Mele home.

Source: Tr. 360; Exhibit DD

295. Contino lived on [REDACTED] Avenue on June 22, 2020.

Source: Tr. 361

296. Contino saw and heard an interaction between the Mele family and the Grisanti family on that day.

Source: Tr. 361

297. While Contino was in his back yard reading the paper, he heard a lot of yelling, so he came around to the front of his house.

Source: Tr. 361

298. Contino stood in his driveway and saw what happened.

Source: Tr. 361-62

299. Contino's wife was also present at 22 [REDACTED] on June 22, 2020.

Source: Tr. 362

300. When Contino came around to the front of his house, he saw the Meles and their sister arguing with Mark and Maria Grisanti in the street.

Source: Tr. 363

301. The next thing Contino knew, there was a confrontation when Gina Mele and her sister went at Maria.

Source: Tr. 363

302. Gina Mele and her sister had Maria Grisanti in a chokehold and dragged her, while pulling on Maria's hair.

Source: Tr. 363

303. When Gina Mele and her sister grabbed Maria, Mark Grisanti tried to break it up.

Source: Tr. 363

304. Contino saw Mark try to get Gina Mele and her sister off of Maria.

Source: Tr. 364

305. At that point, Joe Mele grabbed Mark and was yelling "You want a piece of me?"

Source: Tr. 364

306. Contino never saw Grisanti throw a punch at Joe Mele.

Source: Tr. 364

307. Contino never saw Mark Grisanti throw a punch or have any physical contact with Gina Mele or her sister.

Source: Tr. 364

308. Contino saw Mark try to get his wife away from the other women and trying to defuse the situation.

Source: Tr. 365

309. Contino never heard Mark Grisanti say he was a judge and never heard him try to use his position as a judge to influence anyone that evening.

Source: Tr. 365

310. The argument between the families moved from the Mele's side of the street toward the Grisanti driveway.

Source: Tr. 365

311. Contino saw Joe Mele and Mark Grisanti grappling and then saw Joe Mele tumble and fall on Mark driveway.

Source: Tr. 365-66

312. At that point, Mark stepped away from Joe Mele.

Source: Tr. 366

313. Contino saw Joe Mele trip and fall lunging at Mark Grisanti.

Source: Tr. 366

314. While Joe Mele was on the ground, Mark Grisanti did not do anything to him or advance on him at all. Mark Grisanti just stepped away.

Source: Tr. 366

315. That was the end of the physical confrontation.

Source: Tr. 366

316. Within five minutes, a patrol car with two officers in it arrived.

Source: Tr. 366

317. Contino did not do anything to stop the interaction between the Meles and the Grisantis because he has been afraid of the Meles for years.

Source: Tr. 367-68

318. Contino was afraid of the Meles because of years of verbal abuse, throwing garbage in their yard, harassment, swearing, and threatening the Continos.

Source: Tr. 368

319. Contino has not only seen these actions, but has seen incidents in the past between the Meles and other neighbors. Contino and his wife were both afraid of the Meles.

Source: Tr. 368

320. Contino discussed his fears of the Meles with the Grisantis prior to June 22, 2020.

Source: Tr. 369

321. When the police arrived, one officer went to the Meles on their side of the street, and the other went with the Grisantis to their side of the street.

Source: Tr. 370

322. Contino then saw the officer talking to the Meles turn and run across the street towards Maria Grisanti.

Source: Tr. 371

323. That officer yelled at Maria, grabbed her by the shoulders and threw her to the ground, put her on her stomach and cuffed her.

Source: Tr. 371

324. At the time, Mark Grisanti had been talking to the other officer trying to defuse the situation.

Source: Tr. 371

325. After the officer threw Maria down and cuffed her, Mark was visibly upset and said to the officer “What are you doing? Take the handcuffs off my wife.”

Source: Tr. 371-72

326. Contino saw Mark put his hand on the officer but did not believe it was a shove or a push.

Source: Tr. 372

327. Contino eventually saw Mark Grisanti cuffed as well.

Source: Tr. 372

328. Mark Grisanti was compliant with the officer who handcuffed him.

Source: Tr. 373

329. In the years that Contino has known Mark Grisanti, he had never seen him as upset as he was on that day.

Source: Tr. 374

330. In the years that Contino has known Mark Grisanti, he had never heard him use vulgar language before.

Source: Tr. 374-75

331. Contino is aware of Mark Grisanti's reputation within the community.

Source: Tr. 377

332. Grisanti has a reputation as a hard worker, an extremely nice person and a great neighbor.

Source: Tr. 377-78

333. Contino believes that Mark promotes confidence, integrity and impartiality in the judiciary.

Source: Tr. 377

334. The Continos moved off of [REDACTED] because of the Meles, and their acts of harassment against the Continos and others.

Source: Tr. 379-80

335. The Continos called the police about the Meles approximately four times over the years prior to June 22, 2020.

Source: Tr. 403

TESTIMONY OF AZAT QUADIR

336. Quadir lives at 7 [REDACTED] Avenue in Buffalo.

Source: Tr. 408

337. Quadir has lived on [REDACTED] since 2012.

Source: Tr. 408

338. Quadir knows Mark Grisanti.

Source: Tr. 409

339. Quadir is not personal friends with the Grisantis.

Source: Tr. 411

340. Quadir witnessed the fight between the Meles and the
Grisantis.

Source: Tr. 412

341. Quadir saw Gina Mele and her sister trying to beat Mark's
wife.

Source: Tr. 416

342. Quadir saw Joseph Mele fall down while he was ripping Mark
Grisanti's shirt.

Source: Tr. 416

343. Quadir saw Mark Grisanti trying to separate the women from
his wife.

Source: Tr. 418

344. Quadir saw the Meles go over to their side of the street, and cross back to the Grisanti's side of the street three times.

Source: Tr. 421-22

TESTIMONY OF JEANNE S. CONTINO

345. Jeanne Contino lived with her husband, Joseph, at 22 [REDACTED] Avenue for 30 years.

Source: Tr. 426

346. Jeanne Contino lived on [REDACTED] on June 22, 2020.

Source: Tr. 426

347. Jeanne was inside her home watching TV at about 9:00 p.m. when her husband told her to come outside.

Source: Tr. 427

348. When Jeanne came outside, the police officers were just arriving.

Source: Tr. 427

349. Jeanne saw one police officer go to the Mele's house and another go to the Grisanti's house.

Source: Tr. 427

350. While one of the police officers was talking to the Grisantis, trying to calm Maria down, Jeanne saw the other police officer race across the street, grab Maria and aggressively throw her to the ground where she hit her face.

Source: Tr. 427-28

351. Jeanne Contino believed that the officer's actions towards Maria were violent and aggressive.

Source: Tr. 428

352. The Meles always park their cars close to or in the apron of the driveways on the street.

Source: Tr. 430

353. Jeanne Contino saw the Meles parking their vehicles to encroach on the driveways of the Grisantis and others on the street for years.

Source: Tr. 431

354. Jeanne Contino is afraid of the Meles because they are so aggressive.

Source: Tr. 433

355. Over the years, Gina Mele has sworn at the Continos and is very aggressive and inappropriate.

Source: Tr. 433

356. Jeanne Contino saw Gina Mele choking her own daughter in the driveway of their house in 2016.

Source: Tr. 433

357. Jeanne Contino called the police as result of that incident.

Source: Tr. 433

358. Jeanne Contino relayed her concerns about the Meles conduct to the Grisantis over the years.

Source: Tr. 433-34

359. Prior to June 22, 2020, Jeanne Contino had never heard Mark Grisanti use inappropriate language.

Source: Tr. 436

360. Jeanne Contino never heard Mark Grisanti say that he was a judge on June 22, 2020 and never heard him ask for any consideration from the police officers because he is a judge.

Source: Tr. 438

361. The Continos moved off [REDACTED] because Jeanne Contino was afraid of them.

Source: Tr. 438

362. Jeanne Contino was afraid of the Meles because she saw them engage in aggressive acts.

Source: Tr. 438-39

TESTIMONY OF LINDA M. CHWALINSKI

363. Linda Chwalinski currently lives at 15 [REDACTED] Avenue, Buffalo, New York.

Source: Tr. 456

364. Linda Chwalinski has lived at 15 [REDACTED] Avenue for 32 years.

Source: Tr. 456

365. Linda Chwalinski was living at 15 [REDACTED] Avenue on June 22, 2020.

Source: Tr. 456

366. Linda Chwalinski's home at 15 [REDACTED] Avenue is directly next door to Mark Grisanti's home on [REDACTED] Avenue.

Source: Tr. 461

367. Linda Chwalinski knew Mark Grisanti and Maria Grisanti prior to June 22, 2020.

Source: Tr. 456

368. Linda Chwalinski knew Joseph Mele, Gina Mele, and Gina's sister, Theresa Dantonio, prior to June 22, 2020.

Source: Tr. 456

369. Linda Chwalinski saw Joseph Mele, Gina Mele, and Gina's sister, Theresa Dantonio, on the evening of June 22, 2020.

Source: Tr. 456

370. During the altercation, Linda Chwalinski was standing on the grass between the sidewalk and the curb on Mark Grisanti's side of the driveway. Linda Chwalinski marked Exhibit DD.

Source: Tr. 456; Exhibit DD-1.

371. Linda Chwalinski was standing approximately ten (10) feet away from the altercation with a clear vantage point.

Source: Tr. 457

372. Linda Chwalinski was able to see the altercation clearly.

Source: Tr. 457

373. Linda Chwalinski heard yelling and screaming, which caused her and her husband, Gerald Chwalinski, to walk down their driveway towards the street.

Source: Tr. 457

374. Linda and Gerald Chwalinski walked down their driveway within a minute of hearing the yelling and screaming.

Source: Tr. 457

375. After walking down her driveway, Linda Chwalinski observed Gina Mele and Theresa Dantonio choking Maria Grisanti.

Source: Tr. 457

376. Linda Chwalinski observed Joseph Mele holding his arm across Maria Grisanti's face and neck while Gina Mele and Theresa Dantonio choked Maria.

Source: Tr. 457

377. Linda Chwalinski observed Joseph Mele, Gina Mele, and Theresa Dantonio assaulting Maria Grisanti and violently shaking her by the neck.

Source: Tr. 457

378. While witnessing the assault, Linda Chwalinski instructed her husband to go inside their home and call 9-1-1 because she feared for Maria Grisanti's life.

Source: Tr. 459

379. Gerald Chwalinski called 9-1-1 from inside the Chwalinski's home.

Source: Tr. 459

380. Linda Chwalinski witnessed Gine Mele, Joseph Mele, and Theresa Dantonio violently attacking Maria Grisanti.

Source: Tr. 462

381. Linda Chwalinski heard Gina Mele instruct Theresa Dantonio to choke Maria Grisanti.

Source: Tr. 462

382. While Maria Grisanti was being attacked, Linda Chwalinski observed Mark Grisanti attempt to pull Maria Grisanti away from Joseph Mele, Gina Mele, and Theresa Dantonio.

Source: Tr. 462; 468

383. Linda Chwalinski observed Mark Grisanti free Maria Grisanti from Joseph Mele, Gina Mele, and Theresa Dantonio.

Source: Tr. 463

384. After Mark Grisanti returned to his driveway, Joseph Mele began goading Mark Grisanti into a physical altercation. In response, Mark Grisanti told Joseph Mele that the police have been called.

Source: Tr. 463

385. Linda Chwalinski observed Joseph Mele walk towards Mark Grisanti's side of the street.

Source: Tr. 464

386. Linda Chwalinski observed Joseph Mele rip Mark Grisanti's shirt off his body.

Source: Tr. 464

387. Linda Chwalinski observed Joseph Mele lunge at Mark Grisanti and grab his chain necklace.

Source: Tr. 464

388. When Joseph Mele ripped Mark Grisanti's chain necklace off his body, Linda Chwalinski observed Joseph Mele lose control and "face-plant" on the street at Mark Grisanti's feet.

Source: Tr. 464

389. When Joseph Mele fell to the ground, he did not have the opportunity to break his fall, and thus fell face-first, breaking his glasses in the process.

Source: Tr. 464-65

390. Joseph Mele did not have any injuries to his face prior to "face-planting" on the ground.

Source: Tr. 465

391. While Joseph Mele was laying on the ground at Mark Grisanti's feet, Mark Grisanti did not attack, assault, or strike Joseph Mele.

Source: Tr. 466

392. Linda Chwalinski did not observe Mark Grisanti throw a punch at any point on June 22, 2020.

Source: Tr. 468

393. The physical altercation lasted approximately ten to fifteen minutes.

Source: Tr. 467

394. When the police arrived, Mark and Maria Grisanti walked towards their side of the street.

Source: Tr. 467

395. Linda Chwalinski heard Maria Grisanti shouting and cursing at the police officers.

Source: Tr. 470

396. Maria Grisanti was very upset when the police arrived.

Source: Tr. 470

397. Linda Chwalinski observed Officer Ryan Gehr run across the street towards Maria Grisanti.

Source: Tr. 471

398. Linda Chwalinski heard Officer Ryan Gehr yelling at Maria Grisanti as he ran across the street.

Source: Tr. 471

399. Linda Chwalinski observed Officer Ryan Gehr slam Maria Grisanti to the ground “so hard.”

Source: Tr. 471

400. After Maria Grisanti was slammed to the ground, Linda Chwalinski observed Officer Ryan Gehr attempting to handcuff Maria Grisanti.

Source: Tr. 471

401. While standing in the grass at the edge of Mark Grisanti’s driveway, Linda Chwalinski observed Mark Grisanti put his hand on Officer Ryan Gehr.

Source: Tr. 472

402. Linda Chwalinski did not consider Mark Grisanti’s contact with Officer Ryan Gehr to be a shove.

Source: Tr. 530

403. Linda Chwalinski heard Mark Grisanti say Mayor Byron Brown’s name.

Source: Tr. 475

404. Linda Chwalinski heard Mark Grisanti attempt to explain that Mayor Byron Brown was well aware of the history of violence on [REDACTED] Avenue with respect to Joseph and Gina Mele.

Source: Tr. 475

405. Linda Chwalinski and her family constantly experienced issues with the Mele family prior to June 22, 2020.

Source: Tr. 476; 491

406. Prior to June 22, 2020, Linda Chwalinski and her family were constantly harassed by the Mele family.

Source: Tr. 489

407. Prior to June 22, 2020, Linda Chwalinski had personal knowledge that the Mele family had similar incidents with other neighbors on [REDACTED] Avenue.

Source: Tr. 491

408. Prior to June 22, 2020, Linda Chwalinski communicated with Mark and Maria Grisanti about the harassment her family and other neighbors experienced.

Source: Tr. 480

409. Prior to June 22, 2020, Linda Chwalinski told Mark and Maria Grisanti that she was physically assaulted by Gina Mele.

Source: Tr. 483

410. Prior to June 22, 2020, Linda Chwalinski told Mark and Maria Grisanti that Gina Mele threatened to kill her.

Source: Tr. 483; 486

411. Prior to June 22, 2020, Linda Chwalinski told Mark and Maria Grisanti that the Meles were harassing one of their neighbor's children.

Source: Tr. 483' Exhibit FFF

412. Prior to June 22, 2020, Linda Chwalinski told Mark and Maria Grisanti that Gerald Chwalinski was granted an order or protection from Joseph Mele because Joseph Mele threatened him.

Source: Tr. 484; Exhibit BB

413. Prior to June 22, 2020, Linda Chwalinski told Mark and Maria Grisanti that Victoria Chwalinski (Linda Chwalinski's daughter) was given an order of protection from Joseph Mele because he threatened Victoria Chwalinski and attempted to run Linda Chwalinski over with his car.

Source: Tr. 486; Exhibit CC

414. The previous owners of Mark Grisanti's [REDACTED] Avenue home were forced to sell their house because of repeated incidents of abuse by the Mele family.

Source: Tr. 492-94

415. Shortly prior to June 22, 2020, Joseph Mele spit at Linda Chwalinski and she communicated this incident to Mark Grisanti.

Source: Tr. 494

416. The Mele family continuously parked on top of the Chwalinski's driveway prior to June 22, 2020.

Source: Tr. 497-99

417. The police were called to [REDACTED] Avenue numerous times prior to June 22, 2020, because of disputes involving the Mele family.

Source: Tr. 517

418. Linda Chwalinski heard Mark Grisanti use vulgar language on the evening of June 22, 2020.

Source: Tr. 477

419. Linda Chwalinski has known Mark Grisanti for many years.

Source: Tr. 477

420. Linda Chwalinski had never heard Mark Grisanti use the language that he used on the evening of June 22, 2020.

Source: Tr. 480

421. Linda Chwalinski observed that Mark Grisanti was agitated, upset, and very emotional on the evening of June 22, 2020.

Source: Tr. 478-79

422. Linda Chwalinski did not hear Mark Grisanti make any statements that she would characterize as a threat on June 22, 2020.

Source: Tr. 480

423. Linda Chwalinski did not hear Mark Grisanti mention that he was a judge at any point on June 22, 2020.

Source: Tr. 466

TESTIMONY OF DOUG CURELLA, JR., ESQ.

424. Doug Curella, Jr., Esq. is an attorney admitted to practice law in the State of New York.

Source: Tr. 544

425. Doug Curella, Jr. has known Mark Grisanti for approximately ten years.

Source: Tr. 544

426. Doug Curella, Jr. was Mark Grisanti's campaign manager for his first Senate run in the New York State 60th Senate District.

Source: Tr. 544

427. After Mark Grisanti was elected to the New York State Senate, Doug Curella, Jr. worked for Mark Grisanti as his Chief of Staff and Legal Counsel from 2011 through 2014.

Source: Tr. 545

428. While serving as Mark Grisanti's Chief of Staff and Legal Counsel, Doug Curella, Jr. practiced law, providing legal services to clients in the Western New York area.

Source: Tr. 546

429. Doug Curella, Jr. was offered the position of Confidential Law Clerk to Mark Grisanti once Mark Grisanti learned that he was going to be appointed as a New York State Court of Claims Judge.

Source: Tr. 546

430. Doug Curella, Jr. served as Mark Grisanti's Confidential Law Clerk from May 2015 until December 31, 2021.

Source: Tr. 546-47

431. Among the many duties and responsibilities that Doug Curella, Jr. had as Mark Grisanti's Confidential Law Clerk, Doug Curella, Jr. handled foreclosures, settlement conferences, and appointments off the Part 36 list.

Source: Tr. 548

432. Mark Grisanti gave Doug Curella, Jr. a lot of freedom and leeway to handle his caseload.

Source: Tr. 548

433. As Mark Grisanti's Confidential Law Clerk, Doug Curella, Jr. was very familiar with how foreclosure cases were handled in the Eighth Judicial District because he was appointed by Mark Grisanti to the "Foreclose Part," which covered foreclosure cases.

Source: Tr. 550-51

434. Only a few Confidential Law Clerks, including Doug Curella, Jr., would handle foreclosure cases in the Eighth Judicial District.

Source: Tr. 551

435. Between 2017 and 2019, foreclosure cases were randomly assigned to certain judges in the Eight Judicial District, including to Mark Grisanti.

Source: Tr. 552; 558

436. Foreclosure cases were randomly assigned to certain judges by an electronic “wheel.”

Source: Tr. 552; 558

437. After a foreclosure case was randomly assigned to Mark Grisanti, his court clerk would receive the paperwork, and then give the paperwork to Doug Curella, Jr.

Source: Tr. 552

438. Doug Curella, Jr. would then review all the information and determine the next steps for the paperwork based on what the attorneys asked for on the paperwork.

Source: Tr. 552

439. Doug Curella, Jr. would conduct settlement conferences that had no judge assignment.

Source: Tr. 552-53

440. Doug Curella, Jr. conducted settlement conferences for foreclosure cases.

Source: Tr. 553

441. Doug Curella, Jr. knows Matthew Lazroe, Esq. through their work in the Foreclosure Part.

Source: Tr. 553

442. Matthew Lazroe was one of the regular attorneys in the Foreclosure Part.

Source: Tr. 553

443. Doug Curella, Jr. would see Matthew Lazroe in the Foreclosure Part probably every single time he was there.

Source: Tr. 553

444. Doug Curella, Jr. had many foreclosure settlement conferences with Matthew Lazroe as an assigned attorney.

Source: Tr. 553

445. Doug Curella, Jr. described Matthew Lazroe as being really good with foreclosures.

Source: Tr. 553

446. While Doug Curella, Jr. was Mark Grisanti's Confidential Law Clerk, Matthew Lazroe was one of the few foreclosure attorneys in Erie County in the Foreclosure Part.

Source: Tr. 553-54

447. Between 2017 and 2019, Doug Curella, Jr. was not aware that Matthew Lazroe had purchased Mark Grisanti's law practice.

Source: Tr. 554

448. Doug Curella, Jr. first learned that Matthew Lazroe had purchased Mark Grisanti's law practice when he read a news article about the Commission on Judicial Conduct's investigation of Mark Grisanti.

Source: Tr. 554

449. There are situations where a court must appoint or assign eligible attorneys to certain cases. These eligible attorneys are selected from a "Part 36 list." There are many different lists of attorneys for different types of cases.

Source: Tr. 554-55

450. Doug Curella, Jr. handled all of the assignments for Mark Grisanti.

Source: Tr. 555

451. If a case needed an assignment, Doug Curella, Jr. would look at a list of eligible attorneys, find an attorney that would fit that particular case, and appoint the attorney to the case. After Doug Curella, Jr. would write the name of an attorney on the paperwork, Mark Grisanti would then sign the order of appointment after his review.

Source: Tr. 555

452. Doug Curella, Jr. would select the name or recommend the attorney, fill in the blank on the assignment sheet, and put it in Mark Grisanti's basket to be signed with other orders.

Source: Tr. 556

453. With respect to assigning or selecting attorneys for Part 36 cases, including foreclosure cases, the only instruction given by Mark Grisanti to Doug Curella, Jr. was to spread it around and try to give it to people who don't have a lot of appointments.

Source: Tr. 556

454. As Mark Grisanti's Confidential Law Clerk, Doug Curella, Jr. would assign over fifty cases to attorneys from the Part 36 list, depending on the year. Some cases require assigning multiple attorneys to one case.

Source: Tr. 556

455. Mark Grisanti never gave Doug Curella, Jr. any instructions about selecting Matthew Lazroe for any type of appointments from Mark Grisanti's Part.

Source: Tr. 556

456. Mark Grisanti never gave Doug Curella, Jr. any instructions to appoint somebody or to not appoint somebody.

Source: Tr. 556

457. Mark Grisanti gave Doug Curella, Jr. free rein on selecting Part 36 attorney appointments.

Source: Tr. 556

458. Foreclosure cases would stay in the Foreclosure Part for settlement conferences. Sometimes the case would settle in the basement. If the case did not settle, the case would then be assigned to a judge.

Source: Tr. 558

459. When foreclosure cases were assigned to Mark Grisanti, his office would receive a Request for Judicial Intervention (RJI), which would state the case name and the defendant.

Source: Tr. 557

460. Once a foreclosure case gets assigned to a judge, the defendant can no longer receive free counsel and must pay for an attorney.

Source: Tr. 559

461. Doug Curella, Jr. did not have any conversation with Mark Grisanti about his selection of Matthew Lazroe for appointment with respect to the *Trifera* case.

Source: Tr. 562-63

462. There was no connection between Matthew Lazroe being selected for appointment and his purchase of Mark Grisanti's legal practice.

Source: Tr. 563

463. When Doug Curella, Jr. wrote Matthew Lazroe's name to appoint him as guardian ad litem and military attorney in the *Trifera* case, Doug Curella, Jr. was not aware that Matthew Lazroe had purchased Mark Grisanti's law practice or that he was making continuing payments to Mark Grisanti on that purchase.

Source: Tr. 563-64

464. *Fannie Mae v. Anderson* was a foreclosure case.

Sources: Tr. 564; Exhibit 19

465. The front page is an ex parte order directing service.

Sources: Tr. 564; Exhibit 19

466. Doug Curella, Jr. handwrote Matthew Lazroe's name selecting him for appointment as guardian ad litem and military attorney in *Fannie Mae v. Anderson*.

Sources: Tr. 564; Exhibit 19

467. Doug Curella, Jr. did not have any conversation with Mark Grisanti about his selection of Matthew Lazroe for appointment with respect to the *Fannie Mae v. Anderson* case.

Source: Tr. 565

468. *Greater Woodlawn v. Pachucki* was a foreclosure case.

Source: Tr. 565

469. An Order of Reference for Appointment of Referee is an order to double check the numbers from the bank, perform calculations to confirm that they are accurate, and – if the case proceeds to a foreclosure action – the referee will conduct the auction.

Source: Tr. 565

470. Doug Curella, Jr. handwrote Matthew Lazroe's name selecting him for appointment as referee in *Greater Woodlawn v. Pachucki*.

Sources: Tr. 564-65; Exhibit 20

471. Doug Curella, Jr. did not have any conversation with Mark Grisanti about his selection of Matthew Lazroe for appointment with respect to the *Greater Woodlawn v. Pachucki* case.

Source: Tr. 566

472. There were two cases where Matthew Lazroe was appointed as a court evaluator in guardianship proceedings.

Source: Tr. 567

473. A court evaluator in a guardianship proceeding helps gather information from both sides, and make a recommendation to the Court.

Source: Tr. 567

474. Doug Curella, Jr. appointed Matthew Lazroe for appointment as court evaluator in those two cases.

Source: Tr. 567

475. A lawyer must qualify to be placed on the Part 36 list.

Source: Tr. 567

476. Matthew Lazroe was qualified for his placements on the Part 36 list.

Source: Tr. 567

477. Doug Curella, Jr. selected Matthew Lazroe in the two guardianship cases because he “always did good work with the foreclosure” cases and Doug Curella, Jr. saw Matthew Lazroe had not received any appointments and wanted to “spread it around.”

Source: Tr. 567-68

478. Doug Curella, Jr. did not have any conversation with Mark Grisanti about his selection of Matthew Lazroe for appointment with respect to the two guardianship cases.

Source: Tr. 568

479. Mark Grisanti never told Doug Curella, Jr. who to appoint or who not to appoint.

Source: Tr. 568

480. There was no opposition and no appearance by the defendant in *Buffalo Seminary v. Stephanie Satterwhite*.

Sources: Tr. 571-74; Exhibit 29

481. Doug Curella, Jr. did not have any conversation with Mark Grisanti about his selection of Matthew Lazroe for appointment with respect to *Buffalo Seminary v. Stephanie Satterwhite*.

Source: Tr. 572

482. Regarding any case, while Doug Curella, Jr. was Mark Grisanti's Confidential Law Clerk, Mark Grisanti never gave Doug Curella, Jr. any instructions as to how any case involving Matthew Lazroe should be handled.

Source: Tr. 572

483. On January 1, 2022, Doug Curella, Jr. became a Confidential Law Clerk for Judge Cianfrini.

Source: Tr. 547

484. Doug Curella, Jr. is currently employed as the Confidential Law Clerk for Judge Melissa Lightcap Cianfrini in Genesee County.

Source: Tr. 544

485. According to Doug Curella, Jr., Mark Grisanti has a very strong work ethic.

Source: Tr. 548

486. According to Doug Curella, Jr., Mark Grisanti achieved exemplary “standards and goals” numbers for the Eighth Judicial District because of his initiative and work ethic.

Source: Tr. 548

487. According to Doug Curella, Jr., Mark Grisanti “gets along with everybody.”

Source: Tr. 550

488. According to Doug Curella, Jr., Mark Grisanti is very calm, well thought out, patient, and relaxed.

Source: Tr. 550

489. When presented with difficult, complex, and even emotional cases, Mark Grisanti would handle them with patience and emotional understanding.

Source: Tr. 550

TESTIMONY OF JAKOB SMIDT, L.C.S.W.

490. Jakob Smidt is a licensed clinical social worker.

Source: Tr. 579

491. Jakob Smidt received his Bachelor's Degree in Social Education in Denmark.

Source: Tr. 581

492. Jakob Smidt obtained his Master's Degree in Social Work from the University at Buffalo in 2015.

Source: Tr. 582

493. Jakob Smidt has acquired more than 20 years of experience working in the field evaluating patients and working with them to improve their insight.

Source: Tr. 582

494. Jakob Smidt is permitted by New York State to assess, diagnose, and treat individuals for either mental health and/or substance use.

Source: Tr. 579-80

495. Jakob Smidt currently has his own private practice.

Source: Tr. 580

496. Jakob Smidt first began his therapy sessions with Mark Grisanti on July 6, 2021.

Source: Tr. 583

497. Prior to July 6, 2021, Mark Grisanti was seeing another counselor, Zachary Shaiman.

Source: Tr. 583

498. During their first therapy session, Jakob Smidt took a history of Mark Grisanti's problems.

Source: Tr. 584

499. Mark Grisanti explained the events of June 22, 2020 and the surrounding circumstances in his life in and around that time to Jakob Smidt during their first therapy session.

Source: Tr. 584-85

500. Jakob Smidt utilized Cognitive Behavioral Therapy (CBT) during his sessions with Mark Grisanti.

Source: Tr. 580

501. Jakob Smidt utilized Mindfulness during his sessions with Mark Grisanti.

Source: Tr. 580

502. As part of his care and treatment of his clients, Jakob Smidt recommends ways for clients to improve their ability to control emotions.

Source: Tr. 581

503. It is important for individuals to have insight with respect to their behavior because it allows them to acknowledge and express their feelings in healthy ways.

Source: Tr. 582

504. Mark Grisanti came to Jakob Smidt with a desire to better understand his emotions at the time of the incident on June 22, 2020, and the best way to avoid engaging in those behaviors in the future.

Source: Tr. 585

505. The stressors in Mark Grisanti's life at the time of the incident were contributing factors in his behavior.

Source: Tr. 585

506. Mark Grisanti grew up in a family that rarely shared their emotions.

Source: Tr. 586

507. Through discussions with Jakob Smidt, Mark Grisanti met the diagnosis of adjustment disorder with anxiety and depressed mood.

Source: Tr. 586

508. Mark Grisanti did not meet the criteria for general anxiety disorder or major depressive disorder because this was the first time that he experienced an event like June 22, 2020.

Source: Tr. 586

509. Mark Grisanti was motivated to learn how to manage his anxiety so he could be a better person.

Source: Tr. 587

510. Jakob Smidt recommended additional emotional regulation for Mark Grisanti to establish a better set of coping tools.

Source: Tr. 587-88

511. Mark Grisanti had therapy sessions with Jakob Smidt every two weeks.

Source: Tr. 588

512. Mark Grisanti was continuing to see Jakob Smidt at the time when Jakob testified.

Source: Tr. 588

513. Jakob Smidt noted that Mark Grisanti already possessed adaptive coping skills, but thought that he could benefit from individual therapy to improve his skills.

Source: Tr. 588-89

514. In his evaluation of Mark Grisanti, Jakob Smidt found that there was no suicidality risk, no homicidality risk, no psychosis of any kind, and he did not meet criteria for any kind of substance abuse disorder.

Source: Tr. 590

515. Jakob Smidt's mental status exam of Mark Grisanti was done at each visit.

Source: Tr. 591

516. Mindfulness was introduced into Mark Grisanti's therapy session, which helps an individual manage stressors.

Source: Tr. 592

517. One of Jakob Smidt's goals for Mark Grisanti was to recognize we all have different types of emotions and feelings without judgment or fear.

Source: Tr. 593

518. Jakob Smidt determined that there was no clinical indication for anger management for Mark Grisanti.

Source: Tr. 595-96

519. Jakob Smidt observed that Mark Grisanti has been sincere, and that he now possesses a better understanding of himself.

Source: Tr. 597

520. Jakob Smidt believes that Mark Grisanti was embarrassed, shameful, and did not understand what caused him to escalate to that place on June 22, 2020.

Source: Tr. 597

521. Jakob Smidt believes that Mark Grisanti felt regret and remorse about the events on June 22, 2020. Jakob Smidt observed that Mark was sincere in every session.

Source: Tr. 597, 599

522. Jakob Smidt made a clinical finding that Mark Grisanti's ability to handle future stressors had improved significantly, and that Mark has learned the value of not having to engage.

Source: Tr. 602

523. Mark Grisanti is now able to work through things in a much healthier way by utilizing the tools talked about in therapy.

Source: Tr. 603

524. Jakob Smidt believes that this bodes well for Mark Grisanti's future.

Source: Tr. 603

525. Jakob Smidt made a clinical observation that Mark Grisanti is absolutely working towards a healthy balance that allows him to be both rational and emotional at the same time.

Source: Tr. 606

526. Jakob Smidt's clinical evaluation was that Mark Grisanti does not have any clinical abnormalities that would prevent him from acting with the impartiality of a judge, nor prevent him from observing the high standards of conduct required of a judge.

Source: Tr. 609

527. Jakob Smidt did not detect any personality defects over the course of care and treatment of Mark Grisanti.

Source: Tr. 609

528. Jakob Smidt testified that Mark Grisanti can continue to be an impartial judge to the best of his ability.

Source: Tr. 609

529. Jakob Smidt's opinion of Mark Grisanti's progress in therapy did not change after viewing the videos from the events of June 22, 2020.

Source: Tr. 610

530. Jakob Smidt's opinions provided were made with a reasonable degree of professional certainty.

Source: Tr. 611

TESTIMONY OF HON. PAULA L. FEROLETO

531. Hon. Paula Feroletto is a graduate of Georgetown University.

Source: Tr. 675

532. Judge Feroletto earned her Juris Doctorate from University at Buffalo School of Law in 1982.

Source: Tr. 685

533. Judge Feroletto's husband, John, and their three children are practicing attorneys.

Source: Tr. 689

534. After graduating law school, Judge Feroletto became an admitted attorney in New York State.

Source: Tr. 685

535. Judge Feroletto is an active member of the Bar Association of Erie County, the Women Lawyers, the Western New York Trial Lawyers, and the New York State Trial Lawyers.

Source: Tr. 688

536. Judge Feroletto was the President of the Western New York Trial Lawyers.

Source: Tr. 688

537. Judge Feroletto was the Treasurer with the Bar Association of Erie County.

Source: Tr. 688

538. Judge Feroletto became the first female partner at the law firm Brown & Kelly.

Source: Tr. 685-86

539. Judge Feroletto was elected to the New York State Supreme Court in the Eighth District in 2004.

Source: Tr. 686

540. Judge Feroletto was reelected in 2018.

Source: Tr. 686

541. Judge Feroletto currently serves as a Supreme Court Judge in the Eight District.

Source: Tr. 686

542. At the end of August 2009, Judge Feroletto became the Administrative Judge for the Eighth Judicial District, which involves approximately 22 court buildings, 850 staff members, and between 85 to 94 judges.

Source: Tr. 686-87

543. Judge Feroletto served as the Administrative Judge for the Eighth Judicial District until July 2021.

Source: Tr. 688

544. Some Court of Claims judges were under her supervision as Administrative Judge for the Eighth Judicial District.

Source: Tr. 687

545. Judge Feroletto is generally in charge of all Court of Claims judges' assignments in the Eighth Judicial District.

Source: Tr. 687

546. Judge Feroletto works closely with the judges that she supervises.

Source: Tr. 688

547. Judge Feroletto supervised Mark Grisanti.

Source: Tr. 688

548. Judge Feroletto's son, Joel, worked part-time as a Senate Staffer for Mark Grisanti.

Source: Tr. 689

549. Judge Feroletto does not have a personal friendship with Mark Grisanti.

Source: Tr. 689

550. In her role as Administrative Judge, Judge Feroletto always had positive experiences with Mark Grisanti. Mark Grisanti never complained about the location of his assignment in Genesee County. Mark Grisanti was always willing to take on additional work.

Source: Tr. 690

551. Mark Grisanti was always willing to take on additional work throughout her tenure as Administrative Judge.

Source: Tr. 690

552. Judge Feroletto describes her interactions with Mark Grisanti as pleasant.

Source: Tr. 690

553. In her role as Administrative Judge, Judge Feroletto made assignments of cases and groups of cases to Mark Grisanti.

Source: Tr. 690

554. According to Judge Feroletto, Mark Grisanti was “very good at case management,” and was “quickly able to dispose of cases.”

Source: Tr. 690, 691

555. When Mark Grisanti came back to Erie County, he received many old cases from judges who had been on the bench, and Mark Grisanti was very good at clearing old cases.

Source: Tr. 691

556. In her role as Administrative Judge, Judge Feroletto asked Mark Grisanti if he would accept a group of cases originating in Niagara Falls. Mark Grisanti agreed to do so.

Source: Tr. 691

557. Mark Grisanti disposed of all of those cases, except for a few that were not trial-ready that were sent back to the judges who were staying in Niagara Falls.

Source: Tr. 692

558. Judge Feroletto asked Mark Grisanti to take these cases because she knew he would not get flustered with the extra addition to his trial calendar, and she knew that he would get them disposed of instead of adjourning them.

Source: Tr. 692

559. Judge Feroletto assigned Child Victim Act cases to Mark Grisanti because they are supposed to be handled in a quick manner.

Source: Tr. 692

560. Judge Feroletto assigned a Multi-District Litigation matter to Mark Grisanti because she knew that he would give deadlines, “get it taken care of.”

Source: Tr. 692-93

561. Judge Feroletto made assignments to Mark Grisanti because she “knew he would get them done.”

Source: Tr. 694

562. Case Disposition Reports would be produced every term. The Eighth District has thirteen terms. Case Disposition Reports would show the Administration Judge, among other things: how many cases a particular judge has disposed of, how many cases were assigned to a particular judge, and what percentage of those cases were over standards and goals (which depends on the type of case assigned).

Source: Tr. 694

563. Case Disposition Reports are produced by the Office of Court Administration.

Source: Tr. 694

564. The Administrative Judge receives the Case Disposition Reports.

Source: Tr. 694

565. The Administrative Judges usually requests their chief clerks to send the Case Disposition Reports to judges so they can see how they are doing.

Source: Tr. 694

566. Over the course of 12 terms in 2017, Mark Grisanti had 358 civil dispositions, which was the most for any judge in the Eighth District during that period.

Source: Tr. 696; Exhibit M

567. In 2018, Mark Grisanti had 482 dispositions, which was in the top two for any judge in the Eighth District during that period.

Source: Tr. 698-99; Exhibit L

568. “Percentage over standards and goals” is a metric used to evaluate judges based on the number of dispositions for their cases. The benchmark for judges is to have a “standards and goals” percentage under 10 percent.

Source: Tr. 695

569. Mark Grisanti’s “standards and goals” percentage was consistently under 10 percent.

Source: Tr. 699

570. Mark Grisanti is consistently one of the most efficient judges in terms of “standards and goals.”

Source: Tr. 703

571. Mark Grisanti was one of the few judges that was able to do a civil trial during the pandemic.

Source: Tr. 703

572. As an Administrative Judge, Judge Feroletto was required to assess the performance of Mark Grisanti.

Source: Tr. 704

573. As an Administrative Judge, Judge Feroletto made an assessment of Mark Grisanti during the six years he was a judge under her supervision.

Source: Tr. 704

574. Judge Feroletto's administrative assessment of Mark Grisanti was that he was a pleasure to work with, he did not complain about assignments or what types of cases he received, and if other judges were overbooked or overscheduled he would be willing to help. So, administratively, he was an easy judge to work.

Source: Tr. 704-05

575. As an Administrative Judge, Judge Feroletto had the responsibility to deal with complaints that were made about judges by other judges, lawyers, litigants, and court personnel. Generally speaking, these complaints would sometimes involve a judge's temperament.

Source: Tr. 705

576. During the time that Judge Feroletto was the Administrative Judge for the Eighth District, she never received any complaints from anyone about Mark Grisanti's temperament.

Source: Tr. 705

577. Judge Feroletto received a complaint about Mark Grisanti from Gina Mele related to the incident on June 22, 2020.

Source: Tr. 705

578. The only other complaint about Mark Grisanti during Judge Feroletto's tenure as Administrative Judge was when her law clerk received a call about a trial scheduling issue, which was resolved.

Source: Tr. 705

579. Unprompted, Mark Grisanti called Judge Feroletto to notify her about the incident on June 22, 2020.

Source: Tr. 706

580. During that phone call with Judge Feroletto, Mark Grisanti was very upset, and kept saying, "I wish I could take this back. I just can't believe this happened."

Source: Tr. 706

581. Judge Feroletto first learned about the incident during that phone call with Mark Grisanti.

Source: Tr. 706

582. As Administrative Judge, Judge Feroletto observed that Mark Grisanti was effective as a judge.

Source: Tr. 721

TESTIMONY OF HON. EUGENE PIGOTT

583. Hon. Eugene Pigott is an attorney admitted to practice law in the State of New York.

Source: Tr. 724

584. Judge Pigott was admitted to practice law in the State of New York in 1974.

Source: Tr. 724

585. Judge Pigott earned his Juris Doctorate degree from University at Buffalo School of Law in 1973.

Source: Tr. 725-26

586. Judge Pigott was drafted into the U.S. Army and spent a year in Vietnam as an interpreter.

Source: Tr. 726

587. Judge Pigott was appointed to the New York State Supreme Court in 1997 by Governor George Pataki.

Source: Tr. 728

588. Judge Pigott was appointed to the Appellate Division, Fourth Department by Governor Pataki as an Associate Justice. Eventually, Judge Pigott became the Presiding Justice for the Appellate Division, Fourth Department.

Source: Tr. 729

589. As an Associate Justice of the Appellate Division and as the Presiding Justice, Judge Pigott became familiar with the Attorney Grievance Process.

Source: Tr. 731

590. Through his experience with the Attorney Grievance Process as a judge, Judge Pigott became very familiar with the criteria for attorney discipline in the State of New York.

Source: Tr. 732-33

591. Judge Pigott was appointed to the Court of Appeals in 2006. He served on the Court of Appeals for ten years, until he reached the age of mandatory retirement.

Source: Tr. 733

592. Judge Pigott rose to Senior Associate Justice of the Court of Appeals.

Source: Tr. 733

593. For a period of time, Judge Pigott served as Acting Chief Judge of the State of New York.

Source: Tr. 733

594. As a sitting judge on the Court of Appeals, Judge Pigott heard cases brought by the State Commission on Judicial Conduct. Based on this experience, Judge Pigott became familiar with the criteria in connection with evaluating the fitness of a judge to remain on the bench in the State of New York.

Source: Tr. 734-35

595. As a sitting judge on the Court of Appeals, Judge Pigott participated in the analysis of the fitness to be a judge under the criteria of the State of New York.

Source: Tr. 734

596. Judge Pigott knows Mark Grisanti.

Source: Tr. 735

597. Judge Pigott came to know Mark Grisanti through the course of practicing law in the Western New York legal community.

Source: Tr. 735

598. Judge Pigott became familiar with Mark Grisanti's career as a lawyer, as an elected official, and as a judge.

Source: Tr. 736

599. Judge Pigott is not social friends with Mark Grisanti.

Source: Tr. 736

600. Judge Pigott is familiar with Mark Grisanti's work as a judge.

Source: Tr. 736

601. As a result of his familiarity with Mark Grisanti and from following of his career, Judge Pigott has formed certain opinions regarding his fitness to be a member of our judiciary.

Source: Tr. 737

602. Based upon Judge Pigott's more than 40 years of experience as an attorney, his experience as a judge, including the Presiding Judge of the Appellate Division, Fourth Department, and as an Associate Judge and Senior Associate Judge from the Court of Appeals, as well as his knowledge of and his interactions with Mark Grisanti, Judge Pigott formed an opinion with respect to Mark Grisanti's integrity to be a member of our judiciary and found it to be outstanding.

Source: Tr. 737-38

603. Under the same criteria set forth above, Judge Pigott formed an opinion that Mark Grisanti's judicial independence is "beyond reproach."

Source: Tr. 739

604. Under the same criteria set forth above, Judge Pigott noted that he has handled his cases with aplomb, independence, and integrity.

Source: Tr. 739

605. Under the same criteria set forth above, Judge Pigott formed an opinion regarding Mark Grisanti's ability to maintain the high standards of conduct required to be a judge in the State of New York. Judge Pigott formed the opinion that Mark Grisanti has the ability to maintain the highest standards of conduct required to be a judge and will continue to have it going forward.

Source: Tr. 740

606. Under the same criteria set forth above, Judge Pigott has formed the opinion that Mark Grisanti "absolutely" has the ability to promote confidence in the judiciary.

Source: Tr. 740

607. In addition to his own knowledge, Judge Pigott has had discussions with other people in the legal community, including judges, attorneys, and court personnel, about Mark Grisanti. As a result of those conversations, Judge Pigott has become aware of Mark Grisanti's reputation in the community.

Source: Tr. 741

608. Based on what he has learned about Mark Grisanti in the community, Judge Pigott described Mark Grisanti as "a pillar" with respect to his fitness to be a judge in the State of New York.

Source: Tr. 742

609. Judge Pigott was aware of the incident involving Mark Grisanti on June 22, 2020, through reviewing news articles, and testified after watching the video of the incident.

Source: Tr. 742

610. Having seen the video of the incident on June 22, 2020, and having known about the incident, Judge Pigott's opinion of Mark Grisanti did not change in any way.

Source: Tr. 743

611. Judge Pigott postulated that if he was placed in similar circumstances as Mark Grisanti during the incident on June 22, 2020, he “couldn’t promise that [his] conduct would be much different” than Mark Grisanti’s conduct.

Source: Tr. 743

612. Judge Pigott described the incident as a “very, very tough situation.”

Source: Tr. 743

613. Having seen the video of the incident on June 22, 2020, and having known about the incident, Judge Pigott’s opinion of Mark Grisanti’s integrity, independence, and high standards of conduct of a judge did not change. In fact, Mark Grisanti’s conduct reinforced Judge Pigott’s opinions about him.

Source: Tr. 743-44

614. Judge Pigott noted that at the time of the incident, Mark Grisanti was not acting as a judge, which is partly why his opinion of Mark Grisanti did not change.

615. **Source:** Tr. 745

TESTIMONY OF NELSON SCHULE

616. Nelson Schule, Esq. is an attorney admitted to practice in New York State.

Source: Tr. 750

617. Nelson Schule became admitted to practice law in New York State in February 1990.

Source: Tr. 750

618. Nelson Schule is currently a Senior Trial Attorney Partner at Kenney Shelton Liptak and Nowak, a law firm based in Buffalo, New York.

Source: Tr. 75

619. Nelson Schule practices civil litigation.

Source: Tr. 75

620. Nelson Schule has completed at least 100 jury trials in his career.

Source: Tr. 751-52

621. Nelson Schule is the past President of the Defense Trial Lawyers of Western New York. He is also the past President of the Western New York Trial Lawyers Association.

Source: Tr. 752

622. Nelson Schule knows Mark Grisanti on a professional basis.

Source: Tr. 753

623. Nelson Schule is not social friends with Mark Grisanti.

Source: Tr. 753

624. Nelson Schule has known Mark Grisanti since 2015.

Source: Tr. 753

625. Nelson Schule has had dozens of cases in front of Mark Grisanti, including at least two trials.

Source: Tr. 753

626. Nelson Schule has talked to other attorneys at his firm about their experiences with Mark Grisanti.

Source: Tr. 754

627. Nelson Schule has become aware of Mark Grisanti's reputation in the legal community of Western New York.

Source: Tr. 756-57

628. Nelson Schule explained that Mark Grisanti has the "highest, best reputation in our legal community of all the judges" he deals with.

Source: Tr. 757

629. Nelson Schule described Mark Grisanti's reputation in the Western New York legal community as "very fair," "fair to the attorneys and the people that come in his room," and "prepared beyond preparation."

Source: Tr. 761

630. Nelson Schule explained that Mark Grisanti's reputation for judicial temperament "is at the very highest of our profession in this jurisdiction."

Source: Tr. 761

631. Based on Nelson Schule's personal experiences with Mark Grisanti, he has formed the opinion that Mark Grisanti "has the very highest integrity in our jurisdiction."

Source: Tr. 761

632. Nelson Schule was aware of the incident involving Mark Grisanti on June 22, 2020 and the subsequent investigation by the Commission on Judicial Conduct when he gave his testimony.

Source: Tr. 762

633. Nelson Schule watched portions of the incident on the news.

Source: Tr. 762

634. The conversations that formed the basis of Nelson Schule's testimony regarding Mark Grisanti's reputation occurred before and after the incident on June 22, 2020. The incident did not change Mark Grisanti's reputation in the Western New York legal community.

Source: Tr. 762

TESTIMONY OF JOHN ELMORE, ESQ.

635. John Elmore is an attorney admitted to practice in the State of New York.

Source: Tr. 766

636. John Elmore was admitted to practice law in New York in 1985.

Source: Tr. 766

637. John Elmore graduated from Mansfield State College in Pennsylvania in 1979.

Source: Tr. 767

638. John Elmore was a New York State Trooper for three years before entering law school.

Source: Tr. 767

639. John Elmore was the first African American State Trooper ever assigned to Onondaga County in Syracuse, New York.

Source: Tr. 767

640. John Elmore earned his Juris Doctorate degree from Syracuse Law School in 1984.

Source: Tr. 768

641. John Elmore served as an Assistant District Attorney in Manhattan for three years.

Source: Tr. 768

642. When he returned to Buffalo in 1987, John Elmore served as an Assistant New York State Attorney General for approximately two and a half years. He then entered private practice at a law firm in Buffalo.

Source: Tr. 769-70

643. John Elmore is currently in private practice with his daughter, who is also an attorney.

Source: Tr. 771

644. John Elmore's practice is the only multi-generational African American owned law firm in the State of New York.

Source: Tr. 771

645. John Elmore is the former President of the Minority Bar Association of Western New York, former board member and Treasurer of the Erie County Bar Association, current member of the New York State Trial Lawyers Association, and current member of the Trial Lawyers Academy.

Source: Tr. 771

646. John Elmore served as Chairperson of the Fourth Department Attorney Grievance Committee for the Eighth Judicial District. He served on the Grievance Committee for seven years.

Source: Tr. 772

647. John Elmore reviewed complaints regarding attorney misconduct, and then determined how to proceed with the complaints.

Source: Tr. 772

648. During his tenure with the Attorney Grievance Committee for the Eighth Judicial District, John Elmore familiarized himself with the criteria to evaluate lawyers and their fitness to practice in New York State.

Source: Tr. 773

649. During his tenure with the Attorney Grievance Committee for the Eighth Judicial District, John Elmore familiarized himself with the sanctions that would be appropriate for violations of the Rules of Professional Conduct.

Source: Tr. 773

650. John Elmore has served on several selection committees for Federal Court positions. He currently serves on the Magistrate Selection Committee.

Source: Tr. 773

651. John Elmore received the Erie County Lawyer of the Year Award in 2020.

Source: Tr. 773

652. John Elmore served on the Judicial Redress Committee of the NAACP.

Source: Tr. 774

653. John Elmore was awarded Citizen of the Year by the Buffalo News in 1994.

Source: Tr. 774

654. John Elmore was awarded the Medgar Evers Civil Rights Award by the NAACP, which is the highest honor given by the NAACP.

Source: Tr. 776

655. John Elmore was appointed to the Fourth Department Judicial Screening Committee.

Source: Tr. 777

656. John Elmore later served as the Chairperson of the Statewide Judicial Screening Committee.

Source: Tr. 777

657. John Elmore screened Mark Grisanti with respect to his appointment to the Court of Claims.

Source: Tr. 777

658. As part of the screening process, Mark Grisanti submitted an application to be appointed to the Court of Claims. John Elmore reviewed his application, interviewed each of his references, and then did an “off investigation,” which included interviewing people that were not on Mark Grisanti’s application. At the time of John Elmore’s review of Mark Grisanti, Mark Grisanti was a State Senator.

Source: Tr. 778

659. As part of John Elmore's investigation, he interviewed every lawyer that Mark Grisanti had any interaction with, any judge Mark Grisanti appeared in front of, and people in the community that would know about Mark Grisanti. In total, John Elmore interviewed between 30 and 40 people. John Elmore interviewed Mark Grisanti's opponents in litigation and people from different political parties.

Source: Tr. 778

660. Based on the totality of the screening process, John Elmore determined that Mark Grisanti was "highly qualified."

Source: Tr. 779

661. John Elmore is the current Chair of the Fourth Department Screening Committee and has served as Chair for a long period of time.

Source: Tr. 779-80

662. In connection with his role evaluating judicial candidates from both the statewide perspective and the Fourth Department perspective, John Elmore has gained familiarity with the standards required of a judge in the State of New York to be fit to serve on the bench.

Source: Tr. 780

663. When assessing the qualifications for a judge, for either the statewide committees or the Fourth Department, John Elmore evaluates candidates based on their level of intellect, temperament, judgment, and work habits. To assess judicial candidates, John Elmore reviews writing samples, and interviews people that are familiar with the candidate.

Source: Tr. 780

664. John Elmore has known Mark Grisanti since 1994.

Source: Tr. 781

665. John Elmore is not social friends with Mark Grisanti.

Source: Tr. 781

666. John Elmore has appeared before Mark Grisanti in his capacity as an acting Supreme Court Justice very often.

Source: Tr. 781-82

667. John Elmore believes that Mark Grisanti most likely has the most settlements of any judge in Western New York.

Source: Tr. 782

668. As a minority attorney, John Elmore is particularly concerned about the integrity of the judiciary in the sense that judges are good, qualified, and fair. With that backdrop, John Elmore ranks Mark Grisanti as one of the hardest working, most competent judges that he has appeared in front of.

Source: Tr. 782

669. Based on his more than 40 years as a practicing attorney, his involvement in judicial screening committees (both at the state and local level), his involvement in legal organizations, and his experience in Mark Grisanti's courtroom, John Elmore has formed an opinion that Mark Grisanti has the highest degree of judicial temperament.

Source: Tr. 784-85

670. Based on his more than 40 years as a practicing attorney, his involvement in judicial screening committees (both at the state and local level), his involvement in legal organizations, and his experience in Mark Grisanti's courtroom, John Elmore has formed an opinion that Mark Grisanti is "very independent" and "honest."

Source: Tr. 785

671. As a member of the Judicial Screening Committee evaluating Mark Grisanti's application, John Elmore noted Mark Grisanti's independence as a State Senator. He also noted that Mark Grisanti passed legislation to do what is right for society at the expense of his political career, which he described as "as high in the integrity that you can get."

Source: Tr. 786

672. Based on his more than 40 years as a practicing attorney, his involvement in judicial screening committees (both at the state and local level), his involvement in legal organizations, and his experience in Mark Grisanti's courtroom, John Elmore has formed an opinion that Mark Grisanti is a very hard-working judge.

Source: Tr. 787

673. Based on his more than 40 years as a practicing attorney, his involvement in judicial screening committees (both at the state and local level), and his involvement in local legal organizations, John Elmore has learned Mark Grisanti's reputation in the Western New York legal community. Under this same criteria, John Elmore has learned that Mark Grisanti has the reputation for being hard working, and has the reputation for having the highest degree of integrity and independence.

Source: Tr. 787

674. Based on his more than 40 years as a practicing attorney, his involvement in judicial screening committees (both at the state and local level), and his involvement in local legal organizations, John Elmore understands Mark Grisanti's reputation for the high standards of conduct required of a judge to be "High. High. Really high."

Source: Tr. 788

675. Prior to testifying, John Elmore watched the video of the events of June 22, 2020 involving Mark Grisanti. He also reviewed copies of the charges against Mark Grisanti brought by the Commission on Judicial Conduct. After reviewing the foregoing, John Elmore's opinion about Mark Grisanti did not change. John Elmore was disappointed with Mark Grisanti's behavior, but not to the point where he believed that Mark Grisanti was not fit to be a judge. John Elmore described Mark Grisanti as a "fine judge" and "a fine human being." He went on to testify that, as Chairperson of the Attorney Grievance Committee, he recognized that "people are entitled to mistakes," and Mark Grisanti "strongly should be on the bench." John Elmore has the "highest opinion of [Mark Grisanti]."

Source: Tr. 789-90

676. Even though he observed conduct that disappointed him, John Elmore's opinion about Mark Grisanti's fitness to be a judge did not change. In John Elmore's opinion, the incident on June 22, 2020, did not affect Mark Grisanti's ability to run a courtroom.

Source: Tr. 790

TESTIMONY OF CHRISTOPHER FRIGON, L.C.S.W.

677. Christopher Frigon is a licensed clinical social worker.

Source: Tr. 800

678. A licensed clinical social worker is an individual with a two-year Master's Degree in social work from an accredited university, followed by the passing of a licensure exam and the completion of approximately three years of supervised direct clinical experience.

Source: Tr. 801

679. Mr. Frigon earned his Bachelor's Degree in Psychology *magna cum laude* from University at Buffalo in 1999. He earned his Master's Degree in Social Work from University at Buffalo in 2001

Source: Tr. 807-08

680. Mr. Frigon served in the United States Air Force from 1992 until 1996. He received an honorable discharge.

Source: Tr. 810

681. As a licensed clinical social worker, Mr. Frigon provides individual counseling, family counseling, and couples counseling.

Source: Tr. 801-02

682. Mr. Frigon works for Horizon Health Services.

Source: Tr. 801

683. Horizon Health Services is a community mental health organization that serves the Western New York area.

Source: Tr. 8017

684. Prior to working at Horizon Health Services in 2020, Mr. Frigon maintained his own private practice for 15 years.

Source: Tr. 803

685. As part of his regular practice as a licensed clinical social worker, Mr. Frigon performs Comprehensive Behavioral Health Assessments (CBHA).

Source: Tr. 805

686. Over the course of his career, Mr. Frigon has conducted hundreds of CBHAs.

Source: Tr. 810

687. A CBHA is a multi-part assessment tool that allows a licensed clinical social worker to evaluate patients.

Source: Tr. 805

688. When performing a CBHA, Mr. Frigon looks for psychosocial stressors that could exacerbate a patient's symptoms and the strength of their symptoms.

Source: Tr. 805

689. A CBHA provides Mr. Frigon with insight as to a patient's behavioral health.

Source: Tr. 805

690. Mr. Frigon performed a CBHA of Mark Grisanti.

Source: Tr. 807

691. Prior to meeting with Mark Grisanti, Mr. Frigon did not review the video footage of the June 22, 2020, incident because he did not want to prejudice his independent CBHA. Mr. Frigon wanted to assess Mark Grisanti with a "clean slate."

Source: Tr. 812

692. The first time Mr. Frigon watched the video of the incident on June 22, 2020, was the night prior to testifying.

Source: Tr. 812

693. Mr. Frigon's first clinical contact with Mark Grisanti was on August 6, 2021, for their initial CBHA session.

Source: Tr. 814

694. Mark Grisanti presented to Mr. Frigon with no lethality risk to himself or others.

Source: Tr. 814-15

695. Mark Grisanti was suffering from "complex grief and loss" around the time of the incident on June 22, 2020.

Source: Tr. 817

696. During their initial CBHA session, Mark Grisanti talked about his grief and medical complications.

Source: Tr. 817

697. Grief and loss events complicate a person's day-to-day experiences.

Source: Tr. 818

698. Mark Grisanti was experiencing multiple states of loss concurrently on and around June 22, 2020.

Source: Tr. 818

699. During their initial CBHA session, Mark Grisanti told Mr. Frigon about the incident on June 22, 2020.

Source: Tr. 819

700. Mr. Frigon's observed that Mark Grisanti was being forthright during his CBHA session.

Source: Tr. 819-20

701. Mr. Frigon made a clinical assessment that Mark Grisanti could not "go home and feel safe" because of a "pattern of events" with the Mele family.

Source: Tr. 820-21

702. Mr. Frigon has an extensive clinical history of assessing anger management.

Source: Tr. 824

703. Mr. Frigon evaluated Mark Grisanti for anger management and could not find evidence that would suggest Mark Grisanti would benefit from, or that he would recommend, any type of anger management intervention for Mark Grisanti.

Source: Tr. 824-25

704. During their initial CBHA session, Mark Grisanti's tone and demeanor was within normal limits.

Source: Tr. 821

705. During the incident on June 22, 2020, Mark Grisanti experienced a triggering event which caused him to protect his wife.

Source: Tr. 825

706. During the incident on June 22, 2020, Mark Grisanti felt obligated to intervene and protect his wife.

Source: Tr. 825

707. It would have been unreasonable to expect a person to not act in a way to protect his wife when she is being physically threatened.

Source: Tr. 825-26

708. Mark Grisanti did not initiate, instigate, or intentionally escalate the altercation.

Source: Tr. 826

709. During his initial CBHA session with Mr. Frigon, Mark Grisanti verbalized healthy coping skills to prevent escalation and manage conflicts.

Source: Tr. 827

710. It is relevant for Mr. Frigon's analysis if an individual has a series of increased stressors because it affects their behavioral abilities.

Source: Tr. 829

711. Mr. Frigon testified that when a person is under great stress and duress, fight or flight kicks in, and does not have the direct ability to reason through certain situations.

Source: Tr. 830

712. Coping skills can be developed through behavioral therapy.

Source: Tr. 831

713. During his session with Mr. Frigon, Mark Grisanti talked about learning de-escalation skills.

Source: Tr. 832

714. Mr. Frigon testified that Mark Grisanti was "fluent enough" in managing conflict scenarios and he was already employing those conflict management skills.

Source: Tr. 833

715. Mr. Frigon testified that he believed Mark Grisanti attempted to use conflict management skills during the incident on June 22, 2020, but Mr. Frigon believes that Mark felt compelled to intervene because his wife's safety being threatened on multiple occasions.

Source: Tr. 832

716. The history of issues with the Mele family was clinically significant because the assumption of safety could not fully be established when there was a random potential of an untoward event happening right at Mark Grisanti's home.

Source: Tr. 835

717. Mr. Frigon conducted a mental status examination on Mark Grisanti.

Source: Tr. 837

718. Outside of the expected mild anxious mood at the beginning of the session, Mr. Frigon found Mark Grisanti to be all within normal limits.

Source: Tr. 838

719. At the conclusion of Mr. Frigon's initial contact with Mark Grisanti, Mr. Frigon established that there was no identified risk for Mark.

Source: Tr. 842

720. During their second session, Mr. Frigon and Mark Grisanti discussed coping skills and continued the assessment.

Source: Tr. 844

721. During their second session, Mr. Frigon noted that Mark Grisanti was motivated for treatment and that he had insight into his problems.

Source: Tr. 845

722. Mr. Frigon noted that Mark Grisanti has a strong family belief.

Source: Tr. 845

723. Mark Grisanti was not avoidant about the events on June 22, 2020, he accepted the reality of it and was motivated for treatment.

Source: Tr. 846

724. After their third session, Mr. Frigon concluded that Mark Grisanti would not require any kind of intervention for managing anger.

Source: Tr. 852

725. Mark Grisanti did not meet any of the criteria as outline by the Diagnostic and Statistical Menu regarding substance use.

Source: Tr. 852

TESTIMONY OF HON. RUSSELL P. BUSCAGLIA

726. Hon. Russell P. Buscaglia is an attorney admitted to practice in the State of New York.

Source: Tr. 879

727. Judge Buscaglia earned his Juris Doctorate degree from University at Buffalo School of Law in 1975.

Source: Tr. 880

728. After graduating from law school, Judge Buscaglia worked in private practice, the Erie County District Attorney's Office, and then worked in the United States Attorney's Office for the Western District of New York.

Source: Tr. 880

729. Judge Buscaglia was appointed to the New York Court of Claims by Governor George Pataki in 1999. He was reappointed by Governor Pataki in 2006, and reappointed again by Governor Andrew Cuomo in 2015.

Source: Tr. 881

730. Judge Buscaglia was designated as an acting Supreme Court Judge for the Eighth Judicial District.

Source: Tr. 881

731. Judge Buscaglia retired from the bench in 2020.

Source: Tr. 879; 881

732. Judge Buscaglia knows Mark Grisanti.

Source: Tr. 881

733. Judge Buscaglia knew Mark Grisanti prior to the time Mark Grisanti was appointed as a judge, and had contact with him after he became an acting Supreme Court Judge in 2015.

Source: Tr. 881

734. Through his interactions with Mark Grisanti, Judge Buscaglia learned that the most important thing in Mark Grisanti's life is his family.

Source: Tr. 883

735. Judge Buscaglia has come into contact with others who know and are familiar with Mark Grisanti and, based on conversations with those people, has learned about Mark Grisanti's reputation in the Western New York legal community.

Source: Tr. 884

736. Based on the criteria set forth above, Judge Buscaglia has developed an understanding that Mark Grisanti has the reputation as one of the hardest workers in the courthouse, as having integrity, and has the temperament expected of any judge in the New York State Court System.

Source: Tr. 884-85

737. With respect to judicial temperament, Mark Grisanti always displays calmness and straightforwardness.

Source: Tr. 886-87

738. Judge Buscaglia gave his testimony having seen the video involving Mark Grisanti on June 22, 2020, and having read new stories about the incident. However, the Mark Grisanti's actions on June 22, 2020, did not change Judge Buscaglia's opinions of Mark Grisanti. Judge Buscaglia noted that "everything [he] knows and have heard [about Mark Grisanti] is inconsistent with anything [he] saw" on the video of the incident of June 22, 2020.

Source: Tr. 887-88

JOSEPH M. SHUR, ESQ.

739. Joseph M. Shur is an attorney at law licensed to practice in the State of New York.

Source: Exhibit HHH ¶ 1

740. Mr. Shur's affidavit was accepted in lieu of live testimony.

Source: Exhibit HHH ¶ 12

741. Mr. Shur has had a number of cases assigned to Mark Grisanti.

Source: Exhibit HHH ¶ 5

742. As a result of his experiences with Mark Grisanti, Mr. Shur has the opinion that Mark Grisanti has excellent judicial temperament.

Source: Exhibit HHH ¶ 7

743. As a result of his experiences with Mark Grisanti, Mr. Shur has the opinion that Mark Grisanti is always very fair to all parties, very professional in his dealings with attorneys and litigants, and has a terrific demeanor on the bench and in other settings.

Source: Exhibit HHH ¶ 7

744. As a result of his experiences with Mark Grisanti, Mr. Shur has the opinion that Mark Grisanti has a very good work ethic as a judge.

Source: Exhibit HHH ¶ 8

745. Mark Grisanti is one of the hardest working judges that Mr. Shur has encountered in his more than 30 years of experience as a lawyer.

Source: Exhibit HHH ¶ 7

746. Mr. Shur and Mark Grisanti are not personal friends, and they have not socialized.

Source: Exhibit HHH ¶ 9

747. Mr. Shur reviewed news articles and video footage of the incident that occurred with Mark Grisanti on June 22, 2020.

Source: Exhibit HHH ¶ 10

748. The events of June 22, 2020 did not change Mr. Shur's opinions about Mark Grisanti's qualities as a judge.

Source: Exhibit HHH ¶ 11

TESTIMONY OF JOSHUA MORRA, M.D.

749. Joshua Morra, M.D. is a psychiatrist at Horizon Health Services.

Source: Tr. 891

750. Dr. Morra is also Horizon Health's Medical Director of Psychiatry.

Source: Tr. 891

751. Dr. Morra earned a Medical Degree and a Ph.D. in Neuroscience from Albany Medical College.

Source: Tr. 894

752. Dr. Morra is a board-certified physician in psychology and neurology.

Source: Tr. 895

753. Dr. Morra is licensed to practice medicine in the State of New York.

Source: Tr. 896

754. In addition to seeing patients, Dr. Morra supervises all of Horizon Health's psychiatric medical professionals.

Source: Tr. 892

755. Dr. Morra performs psychiatric evaluations.

Source: Tr. 892

756. A psychiatric evaluation allows a psychiatrist to meet with a patient, collect a medical and psychiatric history, determine if there is a psychiatric diagnosis that might pertain to that patient, and then make recommendations for medical treatment, if applicable.

Source: Tr. 892

757. Dr. Morra performed an independent psychiatric evaluation of Mark Grisanti over the course of three separate appointments.

Source: Tr. 892-94; 917

758. Dr. Morra had never met Mark Grisanti prior to his initial psychiatric evaluation.

Source: Tr. 893

759. Dr. Morra first met Mark Grisanti on September 14, 2021, when he conducted a mental status examination.

Source: Tr. 897-98; Exhibit HH

760. When conducting his mental status examination, Dr. Morra made a number of observations with respect to various attributes of Mark Grisanti.

Source: Tr. 899

761. Dr. Morra found that Mark Grisanti had been feeling anxious and that his mood had been low. Otherwise, Mark Grisanti was “within normal limits.”

Source: Tr. 900

762. The term “within normal limits” means that nothing on the mental status examination was outside of the ordinary or would necessarily point to any kind of diagnosis.

Source: Tr. 900-01

763. During his mental status examination, Dr. Morra noted that Mark Grisanti was suffering from “complex grief and loss.” Dr. Morra used the word “complex” to indicate that Mark Grisanti was grieving multiple losses at the same time, including the loss of his mother, the loss of his family dog, and other family members who were seriously ill.

Source: Tr. 903

764. “Complex grief and loss” can cause many negative emotions and significant affective output.

Source: Tr. 904

765. During his mental status examination, Mark Grisanti mentioned the incident with the Mele family on June 22, 2020.

Source: Tr. 904

766. There was a cumulative effect from Mark Grisanti's "complex grief and loss" stressors, and the stressors related to incidents with the Mele family, which caused Mark Grisanti to move outside his "window of tolerance," according to Dr. Morra.

Source: Tr. 904

767. According to Dr. Morra, if conditions become too stressful for a person's coping mechanisms, it can move someone outside of their "window of tolerance" and impact a person's behavior.

Source: Tr. 904-05

768. A theme in Mark Grisanti's conversations with Dr. Morra was "feelings of shame and embarrassment," particularly stemming from the incident with the Mele family on June 22, 2020. The expressions of shame and embarrassment were consistent with remorse.

Source: Tr. 905

769. Dr. Morra found that Mark Grisanti was nonetheless very motivated to work and continued to perform work at a very high level professionally.

Source: Tr. 906

770. Dr. Morra also performed a mental status examination of Mark Grisanti on October 11, 2021. Dr. Morra's findings on October 11, 2021, were consistent with his findings on September 14, 2021.

Source: Tr. 910-11

771. During his visit on September 14, 2021, Mark Grisanti felt fixated on the embarrassment he felt with respect to the incident on June 22, 2020.

Source: Tr. 911-12

772. Mark Grisanti expressed interest to Dr. Morra in working on anger management.

Source: Tr. 913

773. Dr. Morra noted during Mark Grisanti's October 11, 2021 visit that Mark Grisanti remained very motivated to work and continues to perform at a very high level.

Source: Tr. 914

774. Dr. Morra considered Mark Grisanti to be a sincere and reliable historian during both mental status examinations.

Source: Tr. 914

775. Dr. Morra evaluated Mark Grisanti for the third and final time on November 17, 2021. At that visit, Mark Grisanti and Dr. Morra determined that Mark Grisanti would continue to pursue behavioral and counseling strategies to help with the symptoms he was experiencing.

Source: Tr. 918

776. If someone wants to improve their ability to manage anger, it is very common practice for someone to ask to be evaluated for anger management.

Source: Tr. 919-20

777. Dr. Morra noted some improvement in Mark Grisanti's anxious distress.

Source: Tr. 920

778. Dr. Morra expected Mark Grisanti to have a good prognosis because his symptoms resulted from a single episode, and he had a high level of intelligence and social functioning prior to the onset of his symptoms.

Source: Tr. 924-25

TESTIMONY OF MARIA GRISANTI

779. Maria Grisanti is married to Mark Grisanti.

Source: Tr. 955

780. On June 22, 2020, Maria Grisanti, Mark Grisanti, and their family dog, Fredo, lived at 21 [REDACTED] Avenue.

Source: Tr. 991

781. Maria and Mark Grisanti were married on July 21, 1996.

Source: Tr. 961

782. Maria Grisanti was born on [REDACTED].

Source: Tr. 955

783. On June 22, 2020, Maria Grisanti was 60 years old.

Source: Tr. 955

784. Maria Grisanti's daughter, Ashlee Amoia, is a Buffalo Police Officer.

Source: Tr. 958

785. Maria Grisanti's son, John Amoia, Jr., is a Buffalo Firefighter.

Source: Tr. 959

786. In 2004, Mark and Maria Grisanti purchased their home located at 21 [REDACTED] Avenue.

Source: Tr. 962

787. Mark and Maria Grisanti considered moving out of Buffalo, but they decided to stay in the area because Mark wanted to become a judge.

Source: Tr. 963-64

788. Mark Grisanti aspired to become a judge because he loved working with the public, and the community.

Source: Tr. 964

789. Mark Grisanti aspired to become a judge at a young age.

Source: Tr. 964

790. Maria Grisanti earned her Associate's Degree in Paralegal Studies from Bryant & Stratton College.

Source: Tr. 964

791. Mark and Maria Grisanti get along well with all their neighbors, other than the Mele family. The Grisantis often help their fellow neighbors.

Source: Tr. 965

792. Since moving onto [REDACTED] Avenue in 2004, Mark and Maria Grisanti have never had a dispute with any of their neighbors, other than the Mele family.

Source: Tr. 966

793. In 2014, Maria Grisanti witnessed Gina Mele tell Linda Chwalinski that she was going to kill her.

Source: Tr. 966

794. Maria Grisanti was standing in front of her house with her seven-year-old niece when she witnessed Gina Mele threaten to kill Linda Chwalinski.

Source: Tr. 966

795. The police were called when Gina Mele threatened to kill Linda Chwalinski.

Source: Tr. 968

796. Maria Grisanti encouraged Linda Chwalinski to ignore Gina Mele after Gina threatened Linda.

Source: Tr. 968

797. That same day, Maria Grisanti witnessed Joseph Mele attempt to run Linda Chwalinski over with his car.

Source: Tr. 968

798. The police were called again about the incident, and Maria Grisanti gave a statement to the police about what she witnessed.

Source: Tr. 968-69

799. For several years, the Mele family would park directly on top of the Grisanti driveway on both sides of the driveway so that the Grisanti family would have difficulty pulling into their driveway.

Source: Tr. 970; 971; Exhibit LLL

800. The Mele family would perform the same parking technique with respect to the Chwalinski driveway. Maria Grisanti would watch Gina get out of her car to move it closer to the edge of the driveway.

Source: Tr. 970

801. Maria Grisanti witnessed the Mele family perform this parking technique for several years.

Source: Tr. 970

802. The Mele family would park in this manner despite having several feet to pull their automobiles forward.

Source: Tr. 973

803. Prior to June 22, 2020, Maria Grisanti witnessed Gina Mele dump garbage out of her car and between the curb and sidewalk in front of the Grisanti's home on several occasions.

Source: Tr. 973-74

804. In 2015, Maria Grisanti witnessed Gina Mele kicked garbage onto the Grisanti property.

Source: Tr. 975

805. As a result, a conversation between Maria Grisanti and Gina Mele occurred in the street on [REDACTED] Avenue.

Source: Tr. 975

806. When Gina Mele and Maria Grisanti were exchanging words in the street, Joseph Mele came outside and said, "Girl fight. Girl fight."

Source: Tr. 975.

807. Maria Grisanti told Mark Grisanti about that incident.

Source: Tr. 976

808. Maria and Mark Grisanti would frequently discuss incidents with the Mele family prior to June 22, 2020.

Source: Tr. 976

809. Prior to June 22, 2020, Joseph Mele spit in the direction of Maria Grisanti.

Source: Tr. 976

810. Prior to June 22, 2020, Joseph Mele routinely made comments about Maria Grisanti taking steroids.

Source: Tr. 979

811. Prior to June 22, 2020, Maria Grisanti largely ignored Gina Mele.

Source: Tr. 980

812. In 2019, Gina Mele squirted water from a house at Maria Grisanti when she was visiting with Joseph and Jeanne Contino in their backyard.

Source: Tr. 980

813. Maria Grisanti would talk with the neighbors who also had incidents and disputes with the Mele family.

Source: Tr. 980-81

814. On July 4, 2016, Maria Grisanti observed Joseph Mele say to Mark Grisanti, "Come on tough guy. I'll turn the cameras off. Show me what you got. Want a shot at the title?"

Source: Tr. 981

815. Mark Grisanti did not respond to Joseph Mele's provocation.

Source: Tr. 982

816. In 2019, Maria Grisanti's son asked Joseph Mele to leave Mark and Maria Grisanti alone.

Source: Tr. 983

817. In June 2020, Maria and Mark Grisanti's longtime family dog, Fredo, was suffering from kidney failure and congestive heart failure.

Source: Tr. 986

818. In June 2020, Fredo was receiving dialysis every other day.

Source: Tr. 986

819. Mark and Maria Grisanti took turns bringing Fredo to his dialysis appointments for over two months.

Source: Tr. 986

820. As of June 22, 2020, Fredo's health was not good.

Source: Tr. 986

821. Maria Grisanti's mother experienced health issues in 2020.

Source: Tr. 986

822. Maria Grisanti's mother had surgery on March 9, 2020, for [REDACTED] and was kept in the hospital until the end of May 2020.

Source: Tr. 986-87

823. Maria Grisanti visited her mother in the hospital every day.

Source: Tr. 987

824. Maria Grisanti's mother was discharged from the hospital at the end of May 2020, with 24-hour care seven days per week.

Source: Tr. 987

825. Maria Grisanti and her sister provided care to their mother.

Source: Tr. 987

826. Caring for her mother was a stressful situation for Maria Grisanti.

Source: Tr. 987

827. In June 2020, Mark Grisanti's mother was suffering from [REDACTED]

Source: Tr. 988

828. Mark Grisanti's mother was in and out of the hospital in May and June 2020.

Source: Tr. 988

829. Mark Grisanti provided care for his ill mother in June 2020.

Source: Tr. 988

830. Mark Grisanti visited his mother in the hospital every day.

Source: Tr. 988

831. In June 2020, Maria Grisanti was concerned about her family members who were involved in police work because of the protesting in Buffalo, New York regarding George Floyd and Martin Gugino.

Source: Tr. 989

832. In Buffalo, a police officer pushed and injured Martin Gugino to the ground while he was protesting.

Source: Tr. 989

833. In June 2020, protestors in Buffalo were throwing Molotov cocktails into buildings, which caused Maria Grisanti to fear for her children who were police officers.

Source: Tr. 989

834. In June 2020, Maria Grisanti was suffering from cervical spine and lumbar spine issues.

Source: Tr. 990

835. Maria Grisanti received injections for her spine issues.

Source: Tr. 990

836. Maria Grisanti also had a history of knee issues prior to June 22, 2020.

Source: Tr. 990

837. On June 22, 2020, Maria Grisanti weighed approximately 110 pounds and her height was five feet and one inch.

Source: Tr. 990

838. On the morning of June 22, 2020, Maria Grisanti visited her ill mother.

Source: Tr. 990

839. Maria Grisanti returned home around 5:00 p.m.

Source: Tr. 991

840. On June 22, 2020, Mark Grisanti was working in his office in Downtown Buffalo.

Source: Tr. 991

841. Mark Grisanti returned home around 5:00 p.m.

Source: Tr. 991

842. After Mark and Maria Grisanti returned home around 5:00 p.m., they went to get supplies for their lawn at Aldi Grocery Store in North Buffalo.

Source: Tr. 991; Exhibit EE

843. After they left Aldi Grocery Store, Mark and Maria Grisanti went to North End, a restaurant in Kenmore, New York.

Source: Tr. 992; Exhibit EE

844. Mark and Maria Grisanti ate dinner at North End.

Source: Tr. 992-93; Exhibit EE

845. At dinner, Maria Grisanti consumed two glasses of wine, one glass while they waited to be seated, and another during dinner.

Source: Tr. 993; Exhibit EE

846. Mark and Maria Grisanti finished their meal at North End and then went to Dairy Queen in Kenmore, New York for ice cream.

Source: Tr. 993; Exhibit EE

847. Maria Grisanti purchased an ice cream cup, and Mark Grisanti purchased an ice cream sundae. They also purchased a “pup cup” for their dog, Fredo.

Source: Tr. 993-94; Exhibit EE

848. After leaving Dairy Queen, Mark and Maria Grisanti returned home.

Source: Tr. 994

849. As they approached their driveway, Mark and Maria Grisanti saw a truck parked in front of their house that was sticking out and hindering their entrance to their driveway.

Source: Tr. 994; Exhibit UU

850. The truck parked in front of their house was not parked directly next to the curb, and Mark and Maria Grisanti had difficulty turning into their driveway.

Source: Tr. 994; Exhibit uu

851. The way they had to turn into their driveway aggravated Maria Grisanti.

Source: Tr. 994

852. When Mark and Maria Grisanti returned home, they let the dog out to go on a walk.

Source: Tr. 994

853. After entering their home, Mark Grisanti called D-District, who then told him to call 9-1-1.

Source: Tr. 994

854. D-District is affiliated with the police department, but it is for non-emergency calls.

Source: Tr. 1030

855. Maria Grisanti's daughter works for B-District.

Source: Tr. 1030-031

856. Mark Grisanti then called 9-1-1 but told the police that it was not an urgent matter.

Source: Tr. 994

857. At the beginning of the altercation with the Mele family, Mark Grisanti was holding a plastic bag of Fredo's excrement.

Source: Tr. 995

858. While she was in front of her house, Maria Grisanti heard Gina Mele yell from across the street, "What's your effing problem? Yeah, what's your problem? What's your problem? Fuck you, Maria. You're a fucking cunt."

Source: Tr. 995-96

859. After Gina Mele shouted at Maria Grisanti, Maria heard Joseph Mele yell from across the street at Mark Grisanti.

Source: Tr. 996

860. Joseph Mele yelled “Come on, Mark. Come on, you cocksucker.”

Source: Tr. 996

861. While Joseph Mele was yelling at Mark Grisanti, Gina Mele was cackling and making chicken noises.

Source: Tr. 996

862. Before the Joseph and Gina Mele began yelling at Mark and Maria Grisanti, Maria was standing outside near the truck parked in front of their driveway.

Source: Tr. 996

863. Maria Grisanti was measuring with her feet to determine how far the truck was in front of their driveway.

Source: Tr. 996

864. Maria Grisanti did not kick the truck.

Source: Tr. 996-97

865. Maria Grisanti did not spit on the truck.

Source: Tr. 997

866. Maria Grisanti did not touch the truck in any way.

Source: Tr. 997

867. Maria Grisanti wanted to have the truck ticketed for how it was parked.

Source: Tr. 998

868. Mark and Maria Grisanti did not call the police on the Mele family prior to June 22, 2020.

Source: Tr. 998

869. Maria Grisanti walked towards the Mele house with Mark Grisanti by her side.

Source: Tr. 998

870. Maria Grisanti was assaulted by Gina Mele and Theresa Dantonio after walking towards the Mele house.

Source: Tr. 998-99

871. Maria Grisanti was being choked, beat up, and choked again by Gina Mele and Theresa Dantonio.

Source: Tr. 999

872. Theresa Dantonio had her forearm around Maria Grisanti's neck with her elbow at the base of her throat, and, at the same time, Gina Mele was hitting Maria Grisanti, pulling her hair, and punching her.

Source: Tr. 999

873. While Maria Grisanti was being choked, Joseph Mele had his arm in front of Maria's face so that she could not move.

Source: Tr. 1000

874. As a result, Maria Grisanti could not breathe and was fearing for her life.

Source: Tr. 1000

875. Maria Grisanti heard Linda Chwalinski yell that the cops were coming, and at that point the Mele family let Maria go.

Source: Tr. 1001

876. Once the police arrived, Maria Grisanti felt safe.

Source: Tr. 1001

877. Maria Grisanti did not punch or strike Joe Mele in the face.

Source: Tr. 1002

878. Maria Grisanti did not see Mark Grisanti throw any type of punch at Joseph Mele.

Source: Tr. 1002

879. Maria Grisanti did not see Mark Grisanti kick Joseph Mele.

Source: Tr. 1002

880. Maria Grisanti was not wearing a scarf on June 22, 2020.

Source: Tr. 1006

881. Maria and Mark Grisanti did not physically go past the sidewalk into the Mele driveway during the incident on June 22, 2020.

Source: Tr. 1010

882. Mark Grisanti was not smoking a cigar on June 22, 2020.

Source: Tr. 1011

883. Mark Grisanti was holding a plastic bag of Fredo's excrement during the incident on June 22, 2020.

Source: Tr. 1011

884. When the police arrived, Maria Grisanti was still upset, but felt safe and wanted to tell the police what happened.

Source: Tr. 1013

885. Maria Grisanti was concerned that the Mele family would try to “play the victim” when recounting the incident to the police officers.

Source: Tr. 1013-014

886. When Officer Gehr was speaking to the Mele family, Maria Grisanti was very upset because she was just choked.

Source: Tr. 1014

887. Maria Grisanti was relieved that the police arrived because she wanted the incident to stop.

Source: Tr. 1014

888. When the police arrived, Maria Grisanti was hysterical, nervous, and scared.

Source: Tr. 1014

889. Maria Grisanti yelled across the street to Joseph Mele about her son because of the agreement Joseph Mele and Maria’s son made regarding leaving Mark and Maria alone.

Source: Tr. 1015

890. Maria Grisanti was standing on her side of the street when she began yelling across the street towards Joseph Mele.

Source: Tr. 1015

891. Joseph Mele was standing on the other side of the street with Officer Gehr.

Source: Tr. 1015

892. After Maria Grisanti began yelling, Officer Gehr yelled from the other side of the street at Maria to get her to stop talking.

Source: Tr. 1015-016

893. Maria Grisanti did not believe she could get arrested for yelling.

Source: Tr. 1016

894. Maria Grisanti told Officer Gehr, "You're not going to arrest me."

Source: Tr. 1016

895. Officer Gehr responded to Maria Grisanti, "The Fuck I won't."

Source: Tr. 1016

896. Officer Gehr ran across the street at Maria Grisanti.

Source: Tr. 1016

897. Maria Grisanti was thrown to the ground by Officer Gehr.

Source: Tr. 1017

898. Mark Grisanti watched Maria Grisanti get thrown to the ground by Officer Gehr.

Source: Tr. 1017

899. Maria Grisanti was handcuffed by Officer Gehr.

Source: Tr. 1017

900. After Maria Grisanti was handcuffed, she was placed in a police vehicle.

Source: Tr. 1017

901. Maria Grisanti suffered bruising to her arm.

Source: Tr. 1019; Exhibit FF

902. Maria Grisanti was taken to the police station.

Source: Tr. 1019

903. Maria Grisanti was interviewed by the police.

Source: Tr. 1019

904. Maria Grisanti suffered injury to her lip.

Source: Tr. 1020; Exhibit FF

905. During the incident the Mele family on June 22, 2020, both before and after the police arrived, Maria Grisanti did not hear Mark Grisanti refer to himself as a judge or tell anyone that he was a judge.

Source: Tr. 1021

906. Maria Grisanti did not observe Mark Grisanti throw any punches during the incident on June 22, 2020.

Source: Tr. 1021

907. During the incident on June 22, 2020, Maria Grisanti was not under the influence of alcohol.

Source: Tr. 1023

908. On previous occasions and during the incident on June 22, 2020, Gina Mele falsely insinuated that Mark Grisanti was cheating on her, and that Maria's deceased ex-husband also cheated on her.

Source: Tr. 1026

909. Maria Grisanti apologized to Officer Gehr while she was in the police car.

Source: Tr. 1102-103

910. Maria Grisanti was embarrassed about the incident on June 22, 2020.

Source: Tr. 1103

TESTIMONY OF MARK J. GRISANTI

911. Mark Grisanti currently lives at 21 [REDACTED] Avenue in Buffalo, New York.

Source: Tr. 1105

912. On June 22, 2020, he was living at 21 [REDACTED] Avenue with his wife, Maria.

Source: Tr. 1105-106

913. On June 22, 2020, Mark and Maria Grisanti was involved in an incident with Gina Mele, Joseph Mele, and Gina's sister, Theresa.

Source: Tr. 1107

914. As a Judge of the New York State Court of Claims, and Acting Justice of the Supreme Court, Mark Grisanti admitted that his behavior was not appropriate on June 22, 2020.

Source: Tr. 1107

915. As a Judge of the New York State Court of Claims, and Acting Justice of the Supreme Court, Mark Grisanti admitted that he did not act in a manner that promotes public confidence in the judiciary on June 22, 2020.

Source: Tr. 1107

916. As a Judge of the New York State Court of Claims, and Acting Justice of the Supreme Court, Mark Grisanti admitted that he did not maintain the high standard of conduct required of a Judge of the Court of Claims, or an Acting Justice of the Supreme Court on June 22, 2020.

Source: Tr. 1107

917. Mark Grisanti did not offer an excuse for his conduct on June 22, 2020.

Source: Tr. 1108

918. Mark Grisanti grew up on the Lower West Side of Buffalo.

Source: Tr. 1108

919. The Lower West Side of Buffalo was a lower to middle class neighborhood when Mark Grisanti grew up there.

Source: Tr. 1108

920. Mark Grisanti worked for his stepfather's construction company while attending high school.

Source: Tr. 1109-110

921. After graduating from high school, Mark Grisanti continued to work construction for two years.

Source: Tr. 1110

922. Mark Grisanti attended Canisius College.

Source: Tr. 1110

923. While attending Canisius College, Mark Grisanti worked construction to pay his way through college.

Source: Tr. 1110-111

924. Mark Grisanti also worked in his father's law office while attending college.

Source: Tr. 1111

925. Mark Grisanti earned a Bachelor of Art's in English, with a Minor in Philosophy, from Canisius College.

Source: Tr. 1111

926. Mark Grisanti's father was an attorney.

Source: Tr. 1112

927. Mark Grisanti's father had a law practice located in the Lower West Side of Buffalo.

Source: Tr. 1111-112

928. After graduating from Canisius College, Mark Grisanti continued to work construction and help out his father with his law practice for one year.

Source: Tr. 1113

929. Mark Grisanti decided to attend law school because it was one of his dreams as a child.

Source: Tr. 1114

930. Mark Grisanti earned his Juris Doctorate from Thomas Cooley Law School in 1992.

Source: Tr. 1114

931. Mark Grisanti was admitted to the practice of law in 1993.

Source: Tr. 1115

932. Mark Grisanti began his career practicing criminal and civil law on the Lower West Side of Buffalo.

Source: Tr. 1115

933. The Lower West Side of Buffalo was a poor community when he was there practicing law.

Source: Tr. 1115

934. Mark Grisanti handled assigned counsel cases.

Source: Tr. 1116

935. Mark Grisanti practiced law on the Lower West Side of Buffalo for 23 years.

Source: Tr. 1117

936. In 2008, Mark Grisanti ran for a position in the New York State Senate.

Source: Tr. 1117

937. When mark ran for the New York State Senate, he was a registered Democrat but was offered to run on the Republican line.

Source: Tr. 1118

938. Mark Grisanti accepted the Republican party endorsement.

Source: Tr. 1118

939. In 2010, Mark Grisanti ran for a position in the New York State Senate.

Source: Tr. 1118

940. Mark Grisanti developed allies in both the Democratic Party and the Republican Party when he ran for Senate in 2010.

Source: Tr. 1119

941. In 2010, Mark Grisanti was elected to become a New York State Senator for the 60th District, which was in the heart of the City of Buffalo.

Source: Tr. 1120

942. In January 2011, Mark Grisanti was sworn in as a New York State Senator for the 60th District.

Source: Tr. 1120

943. Mark Grisanti continued his law practice while he was a New York State Senator.

Source: Tr. 1120

944. Mark Grisanti served as a New York State Senator from 2011 until 2015.

Source: Tr. 1120

945. While serving as a Senator, Mark Grisanti personally sponsored 150-200 pieces of legislation, 30 of which were signed into law by the governor.

Source: Tr. 1121

946. Some of those pieces of legislation dealt with improving poverty, education, community development, expansion of the SUNY school system, and environmental issues.

Source: Tr. 1121

947. While serving as a Senator, Mark Grisanti worked with Democrats and Republicans.

Source: Tr. 1121-122

948. While serving as a Senator, Mark Grisanti was never disciplined by the Attorney Grievance Committee of New York State.

Source: Tr. 1124

949. While serving as a Senator, Mark Grisanti was not the subject of any disciplinary proceedings.

Source: Tr. 1124

950. While serving as a Senator, no complaints were ever filed against Mark Grisanti that attacked his integrity.

Source: Tr. 1124

951. Mark Grisanti voted in favor of the marriage equality bill in New York State.

Source: Tr. 1125

952. Mark Grisanti voted in favor of the marriage equality bill because he believed same-sex couples deserved the same rights as opposite-sex couples.

Source: Tr. 1125

953. Mark Grisanti knew that voting in favor of the marriage equality bill would effectively end his political career.

Source: Tr. 1125-126

954. As a result of voting in favor of New York State's marriage equality bill, Mark Grisanti lost the Conservative line.

Source: Tr. 1127

955. Mark Grisanti voted in favor of New York's marriage equality bill because he believed it was the right thing to do.

Source: Tr. 1132

956. Mark Grisanti maintains the same type of independence as he approaches his judicial duties on a regular basis.

Source: Tr. 1132

957. As a Senator, Mark Grisanti sponsored and supported New York's SAFE Act.

Source: Tr. 1128

958. As a Senator, Mark Grisanti also served as the Chair of the Environmental Conservation Committee.

Source: Tr. 1128-129

959. After running as an Independent in the next Senate election and losing, Mark Grisanti returned to the practice of law.

Source: Tr. 1133-134

960. Mark Grisanti served on the Judiciary Committee in the New York State Senate.

Source: Tr. 1135

961. Mark Grisanti applied for a position as a Court of Claims Judge because it was his aspiration to not only be a lawyer, but also a judge.

Source: Tr. 1135

962. Mark Grisanti went through the Judicial Screening Committee and evaluation process when he applied to become a Court of Claims Judge.

Source: Tr. 1136-137

963. Mark Grisanti submitted writing samples and was interviewed by the Judicial Screening Panel.

Source: Tr. 1137

964. John Elmore was on that panel.

Source: Tr. 1137

965. The panel rated Mark Grisanti as highly qualified to become a Court of Claims Judge.

Source: Tr. 1137

966. Mark Grisanti became a Court of Claims Judge on June 5, 2015.

Source: Tr. 1138; Exhibit G

967. Mark Grisanti also serves as an Acting Supreme Court Justice.

Source: Tr. 1138

968. Mark Grisanti's integrity has never been challenged as an Acting Supreme Court Justice.

Source: Tr. 1142

969. Mark Grisanti's integrity has never been challenged as a Court of Claims Justice.

Source: Tr. 1142

970. Mark Grisanti has never been the subject of a complaint to the State Commission on Judicial Conduct, other than the one regarding the incident on June 22, 2020.

Source: Tr. 1142

971. Mark Grisanti was appointed to the Commercial Division Rules Committee, an ADR Committee, and a Child Victim Act committee.

Source: Tr. 1143-144

972. In 2014, Mark Grisanti received the Humane Leadership Award from the ASPCA.

Source: Tr. 1147; Exhibit E

973. Mark Grisanti created the Veteran of the Month recognition program.

Source: Tr. 1148; Exhibit E

974. Mark Grisanti received the Liberty Bell Award from the Erie County Bar Association.

Source: Tr. 1149; Exhibit E

975. In 2013, Mark Grisanti received an award from the New York Coalition for Recreational Fishing.

Source: Tr. 1150; Exhibit E

976. Even though Mark Grisanti is a Roman Catholic, he received an award from the Calvary Christian Methodist Episcopal Church.

Source: Tr. 1150; Exhibit E

977. Mark Grisanti received an award from the Western New York Veterinary Medical Association for his legislation which helped strengthen laws to protect abused animals.

Source: Tr. 1151-152; Exhibit E

978. Mark Grisanti received the William Hoyt Excellence Award from the Audubon Society in New York.

Source: Tr. 1152; Exhibit E

979. In 2011, Mark Grisanti received an award from the New York Farm Bureau.

Source: Tr. 1153; Exhibit E

980. In 2010, Mark Grisanti received the Buffalo Naval and Military Park Award.

Source: Tr. 1154; Exhibit E

On the morning of June 22, 2020, Mark Grisanti went to work.

Source: Tr. 1159

981. Although it was at the outset of the COVID-19 pandemic, Mark Grisanti worked from his chambers that day.

Source: Tr. 1159

982. Mark Grisanti workday ended around 4:00 p.m.

Source: Tr. 1159

983. After work, Mark Grisanti went home and took care of some things around the house.

Source: Tr. 1159

984. Mark and Maria Grisanti went to Aldi Grocery Store.

Source: Tr. 1159

985. After leaving Aldi Grocery Store, Mark and Maria Grisanti went to North End restaurant in Kenmore, New York to eat dinner.

Source: Tr. 1159; Exhibit EE

986. North End is approximately two and a half miles from Mark and Maria Grisanti's home.

Source: Tr. 1159

987. After leaving North End, Mark and Maria Grisanti got ice cream at Dairy Queen.

Source: Tr. 1160-161

988. When Mark Grisanti left Dairy Queen, he was not intoxicated.

Source: Tr. 1161; Exhibit EE

989. When Mark Grisanti turned onto [REDACTED] Avenue on his way home, he was heading in a southerly direction.

Source: Tr. 1162

990. When Mark Grisanti approached his driveway, there was a large, four-door extended truck parked in front of his driveway.

Source: Tr. 1163; Exhibit UU; Exhibit LLL

991. Mark Grisanti could not see his driveway as he approached it because of where the truck was parked.

Source: Tr. 1163; Exhibit UU

992. The truck was parked a couple feet from the curb itself.

Source: Tr. 1163; Exhibit UU

993. Mark Grisanti knew the truck was operated by a Mele family member because it had a New Jersey license plate.

Source: Tr. 1163

994. When Mark Grisanti attempted to turn into his driveway, he had to apply the brakes and adjust his vehicle in order to get into his driveway.

Source: Tr. 1163

995. The truck was parked on top of the apron of Mark Grisanti's driveway.

Source: Tr. 1163; Exhibit LLL

996. The truck was parked somewhat away from the curb towards the middle of the road.

Source: Tr. 1164; Exhibit UU

997. The manner in which the truck was parked was significant to Mark Grisanti because it would happen frequently with vehicles operated by the Mele family.

Source: Tr. 1164

998. The Meles Parking technique was an ongoing issue beginning in 2014 and continuing until July 2020.

Source: Tr. 1165; 1169

999. The Mele family would take their vehicles and back them up to the apron on one side, and pull up to the apron on the other side of the Grisanti driveway consistently for years.

Source: Tr. 1165

1000. This manner of parking was frustrating to Mark Grisanti.

Source: Tr. 1165

1001. On June 22, 2020, it was particularly frustrating to Mark Grisanti because of the way that the vehicle was sticking out away from the curb.

Source: Tr. 1165

1002. On June 22, 2020, the truck had eight to ten feet to pull forward on [REDACTED] Avenue.

Source: Tr. 1165

1003. On June 22, 2020, no other vehicle was parked in front of the truck.

Source: Tr. 1165

1004. The parking method used by the Mele family affected other neighbors on [REDACTED] Avenue, including the Chwalinski family.

Source: Tr. 1166

1005. On June 22, 2020, the Chwalinski family lived directly next door to Mark and Maria Grisanti.

Source: Tr. 1167

1006. On June 22, 2020, the Riccio family and the Contino family lived directly next door to the Mele family.

Source: Tr. 1167

1007. When Mark Grisanti would confront the Meles about their parking habits, the Meles would respond by spitting in his direction or giving him the middle finger.

Source: Tr. 1169

1008. This type of response would occur any time Mark Grisanti would physically observe them engage in their parking habits.

Source: Tr. 1169

1009. Prior to 2014, the Grisanti family was cordial to the Mele family.

Source: Tr. 1170

1010. In 2014, Maria Grisanti witnessed Gina Mele making a threat to Linda Chwalinski.

Source: Tr. 1170

1011. In 2014, Maria Grisanti also witnessed Joseph Mele making a threat to Victoria Chwalinski, Linda Chwalinski's daughter.

Source: Tr. 1170

1012. Maria Grisanti made a statement to the police regarding those events.

Source: Tr. 1170

1013. Mark Grisanti attributes the Mele family animosity towards the Grisanti family to be a result of Maria Grisanti making a statement to the police regarding the events with the Chwalinski family.

Source: Tr. 1170

1014. In 2014, Mark Grisanti obtained a permit to expand his driveway.

Source: Tr. 1170

1015. For the next three years, Gina Mele would contact City Hall because she did not want the Grisanti family to expand their driveway.

Source: Tr. 1171

1016. Prior to June 22, 2020, Joseph Mele would consistently spit in the direction of Mark Grisanti when the two were outside of their homes.

Source: Tr. 1171

1017. Prior to June 22, 2020, Joseph Mele would consistently come outside of his home when he would see Mark Grisanti outside of his home.

Source: Tr. 1171

1018. Prior to June 22, 2020, Joseph Mele would consistently make comments to Mark Grisanti like, “Do you want a shot at the title?” Mark interpreted those comments as invitations to engage in a physical altercation. Mark did not engage him.

Source: Tr. 1172

1019. Prior to June 22, 2020, Mark Grisanti was concerned that his children would hit a Mele family vehicle with their cars because of the Mele parking habits.

Source: Tr. 1172

1020. Prior to June 22, 2020, Joseph Mele would consistently make demeaning comments about Maria Grisanti’s appearance in front of Mark Grisanti.

Source: Tr. 1173

1021. Prior to June 22, 2020, Joseph Mele was the driver of the street sanitation truck.

Source: Tr. 1173

1022. On numerous occasions, Joseph Mele would not pick up the Grisanti family garbage.

Source: Tr. 1173

1023. Prior to June 22, 2020, Mark Grisanti became aware of violence that Joseph and Gina Mele had done in the neighborhood.

Source: Tr. 1174

1024. In 2004, Mark and Maria Grisanti noticed a lot of friction between various neighbors.

Source: Tr. 1174

1025. Mark and Maria Grisanti tried to stay neutral.

Source: Tr. 1174

1026. Neighbors would tell Mark and Maria Grisanti about their problems with the Mele family.

Source: Tr. 1174

1027. The Mele family would taunt the Chwalinski family with their parking habits to try and goad Gerald Chwalinski into a physical altercation to get him fired from his job.

Source: Tr. 1174-175

1028. At the time when the Mele family would taunt the Chwalinski family, Gerald Chwalinski was the Chief Clerk of the City of Buffalo.

Source: Tr. 1174

1029. Prior to June 22, 2020, the Mele family taunted the children of Linda and Gerald Chwalinski.

Source: Tr. 1175

1030. The Riccio family lived next door to the Mele family. Joseph Mele would challenge Tony Riccio to a fight all the time.

Source: Tr. 1175

1031. The Contino family lived next door to the Mele family.

Source: Tr. 1175

1032. The Mele family would routinely throw branches and piles of leaves over their fence and into the Contino family's backyard.

Source: Tr. 1175

1033. The Mele family would routinely spit in the direction of the Riccios and the Continos.

Source: Tr. 1175

1034. The Meles would call Jeanne Contino a "retard," because she had a brother who was mentally handicapped.

Source: Tr. 1176

1035. The Mele family parking habits occurred every Monday through Thursday until 5:00 p.m. when the alternate parking would change from the Grisanti family side of the street to the Mele family side of the street.

Source: Tr. 1176

1036. When Mark Grisanti became a judge, he became aware that Joseph Mele had cocaine convictions for dealing drugs.

Source: Tr. 1176; Exhibit A

1037. When Mark Grisanti became a judge, he became aware that Gina Mele numerous criminal charges.

Source: Tr. 1176

1038. Prior to June 22, 2020, Mark Grisanti observed Gina Mele chase her daughter out of the house and hit her.

Source: Tr. 1178-79

1039. Prior to June 22, 2020, Mark Grisanti became aware that Gina Mele was strangling her daughter in the Mele family driveway.

Source: Tr. 1179

1040. Mark Grisanti learned that Jeanne Contino called the police with respect to that incident.

Source: Tr. 1179

1041. Other than the Mele family, Mark Grisanti had good relationships with all the other neighbors.

Source: Tr. 1179

1042. After pulling into his driveway on June 22, 2020, Mark Grisanti called D-District to report the truck parked in front of his home. He wanted the truck to be ticketed.

Source: Tr. 1180

1043. D-District instructed him to call 9-1-1.

Source: Tr. 1180

1044. Prior to June 22, 2020, Mark Grisanti had never called the police regarding the Mele family.

Source: Tr. 1180

1045. Mark Grisanti did not attempt to obtain special treatment when he called 9-1-1.

Source: Tr. 1181

1046. After calling 9-1-1, Mark Grisanti took his dog Fredo for a walk with Maria Grisanti.

Source: Tr. 1182

1047. The audio recording of Exhibit 2 was not synced with the video recording.

Source: Tr. 1183

1048. Mark Grisanti did not observe Maria Grisanti kick, spit on, or circle the Mele vehicle parked in front of the Grisanti family home.

Source: Tr. 1184

1049. When Joseph and Gina Mele began yelling at Mark and Maria Grisanti on June 22, 2020, they were standing in the walkway outside their home.

Source: Tr. 1185-186

1050. Mark Grisanti never said he was a judge on the evening of June 22, 2020.

Source: Tr. 1186

1051. Joseph and Gina Mele said, “What’s the problem?”

Source: Tr. 1186

1052. After Joseph and Gina Mele began yelling at Mark and Maria Grisanti, Mark Grisanti identified that he had a problem with their parking.

Source: Tr. 1186

1053. When he identified the problem with their parking, Mark Grisanti did not curse or swear.

Source: Tr. 1186

1054. Mark Grisanti told the Mele family that he called the police. The Mele family responded to Mark by saying, “Shut up.”

Source: Tr. 1187

1055. Gina Mele was standing in her walkway when she said, “Fuck you, Maria.”

Source: Tr. 1188

1056. Without cursing or swearing, Mark Grisanti tried to explain that to the Mele family that they had eight feet in front of their truck, and they could have pulled it forward.

Source: Tr. 1189-1190

1057. Mark Grisanti began walking across the street because he wanted to have a conversation with Joseph Mele about the truck and it was difficult to have that conversation because Gina Mele and Maria Grisanti were arguing.

Source: Tr. 1191

1058. After Mark Grisanti began to walk across the street, Joseph Mele said, “Come on, Mark. Come on, Mark.”

Source: Tr. 1191

1059. Mark Grisanti was holding a plastic bag containing Fredo's excrement when he walked across the street.

Source: Tr. 1201

1060. Mark Grisanti interpreted those "Come on" comments from Joseph Mele as him saying that Mark was "Full of it" before walking across the street.

Source: Tr. 1191

1061. After Mark Grisanti began walking towards Joseph Mele, Joseph Mele started saying, "Come on, motherfucker." Mark Grisanti interpreted that comment to mean that Joseph Mele wanted to fight.

Source: Tr. 1191

1062. Mark Grisanti did not cross [REDACTED] Avenue with the intention to start a physical altercation.

Source: Tr. 1192

1063. Mark Grisanti was not planning to start a physical altercation with a plastic bag filled with dog excrement.

Source: Tr. 1201

1064. Mark Grisanti thought Joseph Mele would go back into his house.

Source: Tr. 1192

1065. When Mark Grisanti reached the front of the Mele family driveway, Gina Mele shouted, “He’s a chickenshit.”

Source: Tr. 1192

1066. When Mark Grisanti reached the front of the Mele family driveway, Joseph Mele called Mark Grisanti a “cocksucker.”

Source: Tr. 1192

1067. Prior to June 22, 2020, Mark Grisanti witnessed Joseph Mele return to his home when Tony Riccio confronted Joseph Mele.

Source: Tr. 1193

1068. Mark Grisanti did not believe that Joseph Mele would actually start a fight.

Source: Tr. 1193

1069. Joseph Mele said to Mark Grisanti, “What have you got, tough guy?”

Source: Tr. 1193

1070. Prior to June 22, 2020, Joseph Mele made similar challenges to Mark Grisanti that did not lead to a physical altercation.

Source: Tr. 1193

1071. Joseph Mele walked down the sidewalk towards Mark Grisanti like a train.

Source: Tr. 1194

1072. Maria Grisanti put her arm out to stop Joseph Mele, but he grabbed her arm and pushed it to the side.

Source: Tr. 1194

1073. When Joseph Mele grabbed Maria Grisanti's arm, she shouted, "Let go."

Source: Tr. 1194

1074. When Joseph Mele approached Mark Grisanti, Mark Grisanti went backwards.

Source: Tr. 1194

1075. Maria Grisanti bit Joseph Mele's arm because she was being choked by Gina Mele and Theresa Dantonio and Joseph Mele was holding his arm across Maria's face to prevent Mark Grisanti from pulling her away.

Source: Tr. 1196-197

1076. Mark Grisanti heard Gina Mele shouting, "Choke her, choke her. Give her a chokehold, Theresa. Fucking choke her."

Source: Tr. 1197

1077. Mark Grisanti witnessed his wife being choked.

Source: Tr. 1198

1078. When Mark Grisanti witnessed his wife being choked, he was extremely concerned for her.

Source: Tr. 1198

1079. When Mark Grisanti witnessed his wife being choked, he was afraid that she would be seriously injured.

Source: Tr. 1198

1080. When Mark Grisanti witnessed his wife being choked, he attempted to break free from Joseph Mele to grab Maria Grisanti and pull her away, but Joseph Mele was grabbing Mark's shirt and put it over his head.

Source: Tr. 1198

1081. Eventually, Mark Grisanti was able to break free and get Maria away from Gina Mele and Theresa Dantonio.

Source: Tr. 1198-199

1082. While Joseph Mele was pulling Mark Grisanti's shirt off, Joseph Mele punched Mark Grisanti underneath his shirt.

Source: Tr. 1200

1083. Mark Grisanti flared his arms to try and get out of his shirt when Joseph Mele was pulling it over his head.

Source: Tr. 1202

1084. Joseph Mele attempted to throw a punch at Mark Grisanti, and Mark backed up so that the punch missed.

Source: Tr. 1202

1085. When Joseph Mele missed his punch, he grabbed Mark Grisanti's chain necklace, the necklace broke, and Joseph Mele hit the ground face-first.

Source: Tr. 1202

1086. After Joseph Mele missed his punch and while he was laying on the ground, Mark Grisanti was standing over him, but Mark did not touch him at all.

Source: Tr. 1202

1087. After Mark and Maria Grisanti were standing in their driveway, Mark Grisanti told the Mele family to stop and go home. The Meles kept walking back to the Grisanti's driveway.

Source: Tr. 1203; 1206.

1088. Mark Grisanti never threw a punch at Joseph Mele.

Source: Tr. 1201

1089. Mark Grisanti did not hit anyone on the night of June 22, 2020.

Source: Tr. 1201

1090. Mark Grisanti did not cause any injuries to Joseph Mele.

Source: Tr. 1202

1091. Joseph Mele injured his eye when he fell flat on his face.

Source: Tr. 1204

1092. After the physical altercation ended, Joseph and Gina Mele walked towards the Grisanti driveway again. Mark Grisanti pulled Maria Grisanti back because he did not want it to result in another physical altercation.

Source: Tr. 1206

1093. After the physical altercation ended, Mark Grisanti's shirt was ripped and covered in dog excrement, so he took it off.

Source: Tr. 1207

1094. After the physical altercation ended, Mark Grisanti told the Mele family, "Go inside, go inside, go inside."

Source: Tr. 1209

1095. When the police arrived, Mark Grisanti and Lt. Muhammad talked on their side of the street.

Source: Tr. 1210

1096. Mark Grisanti attempted to explain what happened to Lt. Muhammad.

Source: Tr. 1210-211

1097. When Mark Grisanti was speaking with Lt. Muhammad, he was extremely upset because he was concerned for Maria Grisanti.

Source: Tr. 1211

1098. When Officer Gehr went towards Maria Grisanti, Mark Grisanti heard Lt. Muhammad say, “She’s good. She’s good. She’s good.”

Source: Tr. 1212-213

1099. Mark Grisanti was standing next to Lt. Muhammad when he said that.

Source: Tr. 1213

1100. Mark Grisanti observed Officer Gehr run at Maria Grisanti and take her to the ground.

Source: Tr. 1213

1101. Mark Grisanti believed the take down maneuver was violent and excessive.

Source: Tr. 1214

1102. Mark Grisanti was concerned for Maria's safety because of the actions of Officer Gehr.

Source: Tr. 1214

1103. Mark Grisanti was also concerned for Maria's safety because of her history of back and neck problems.

Source: Tr. 1214

1104. Immediately prior to June 22, 2020, Mark Grisanti had been aware of a series of episodes involving police and use of force in the Buffalo community, and the national protests regarding George Floyd.

Source: Tr. 1215

1105. When Officer Gehr threw Maria Grisanti to the ground, Mark Grisanti told Officer Gehr to get off his wife because he thought the use of force was excessive and improper, and he did not know if Maria was hurt.

Source: Tr. 1216

1106. Mark Grisanti mentioned that he had family who were law enforcement members to assure Lt. Muhammad that he was not going to fight a police officer.

Source: Tr. 1216

1107. Mark Grisanti's actions on the night of June 22, 2020, were reflexive actions as a husband.

Source: Tr. 1217

1108. Mark Grisanti told Officer Gehr that if he arrested Maria Grisanti, he would be sorry because once Officer Gehr found out the truth, he would realize that he was in the wrong for how he treated Maria Grisanti.

Source: Tr. 1218-219

1109. Mark Grisanti did not file a complaint against Officer Gehr because he did not want to keep reliving the events of June 22, 2020.

Source: Tr. 1219

1110. Mark Grisanti was very emotional and very upset when he told Officer Gehr that if he does not get the cuffs off Maria Grisanti, he is going to have a problem.

Source: Tr. 1220

1111. Mark Grisanti said this because Officer Gehr did not get the full version of events regarding the incident with the Mele family and Officer Gehr was in the wrong.

Source: Tr. 1220-221

1112. Lt. Muhammad allowed Mark Grisanti to call his daughter, Ashlee, to explain what happened.

Source: Tr. 1221

1113. Ashlee was a Buffalo police officer.

Source: Tr. 1221

1114. Mark Grisanti explained to Ashlee that her mother was in handcuffs in the back of a patrol car.

Source: Tr. 1221

1115. Mark Grisanti did not ask her to intervene in any way on his behalf.

Source: Tr. 1221-222

1116. On the night of June 22, 2020, Mark Grisanti mentioned Mayor Byron Brown's name.

Source: Tr. 1223

1117. Mark Grisanti mentioned Mayor Brown's name to provide the police officers with context about the long-standing issues on [REDACTED] Avenue with the Mele family and other neighbors.

Source: Tr. 1223

1118. Mark Grisanti's next door neighbor, Gerald Chwalinski, was the Chief Clerk of the City of Buffalo.

Source: Tr. 1223

1119. Gina Mele would constantly write to City Hall in an attempt to get Gerald Chwalinski fired.

Source: Tr. 1223

1120. Mayor Brown first knew about the constant issues with the Mele family on [REDACTED] Avenue because of Gerald Chwalinski.

Source: Tr. 1223

1121. Mark Grisanti and Mayor Brown also discussed the issues with the Mele family on [REDACTED] Avenue on multiple occasions prior to June 22, 2020.

Source: Tr. 1223

1122. Mayor Brown was aware of the garbage and snowplow issues on [REDACTED] Avenue concerning Joseph Mele because Joe was a City of Buffalo employee.

Source: Tr. 1223

1123. Mark Grisanti did not mention Mayor Brown's name in an effort to persuade the officers to give him any special treatment.

Source: Tr. 1224

1124. Mark Grisanti accidentally mentioned Joe Gramaglia's name because he was on the phone with his daughter, who mentioned Lt. Gramaglia, while Officer Hy and Officer Gehr were talking to him. He convoluted the two conversations.

Source: Tr. 1225

1125. Mark Grisanti did not mention that his daughter and son-in-law were police officers in an attempt to persuade the officers to give him preferential treatment.

Source: Tr. 1225

1126. Mark Grisanti mentioned that his daughter and son-in-law were police officers to Officer Gehr and Officer Hy to assure them that he understood what police officers were going through at that time with the police protests in Buffalo.

Source: Tr. 1225

1127. Mark Grisanti told Officer Gehr and Officer Hy that he believed Officer Gehr's actions were excessive.

Source: Tr. 1226

1128. Officer Hy asked Mark Grisanti multiple questions about his police officer children.

Source: Tr. 1226

1129. Mark Grisanti mentioned his children's names because Officer Hy was asking questions about Mark's children.

Source: Tr. 1226

1130. When Officer Hy approached Mark Grisanti, he had just arrived at the scene.

Source: Tr. 1227

1131. As a figure of speech, Mark Grisanti used the phrase, "Do me a favor. Get the cuffs off my wife." He was not asking for a favor.

Source: Tr. 1227

1132. Mark Grisanti wanted Maria Grisanti to go inside the house because she had calmed down, and he did not know if she was hurt.

Source: Tr. 1227

1133. Eventually, Mark Grisanti went to the D-District precinct.

Source: Tr. 1227

1134. On the evening of June 22, 2020, Mark Grisanti apologized to Officer Gehr for his actions.

Source: Tr. 1228

1135. On the evening of June 22, 2020, Mark Grisanti apologized to Lt. Muhammad for his actions.

Source: Tr. 1228

1136. On the evening of June 22, 2020, Mark Grisanti apologized to Det. Moretti for his actions.

Source: Tr. 1228

1137. On June 23, 2020, Mark Grisanti apologized to Lt. Turello for his actions when he went to pick up his watch.

Source: Tr. 1228

1138. Mark Grisanti was experiencing significant life stressors in June 2020.

Source: Tr. 1228

1139. The pandemic was a stressor in Mark Grisanti's life in June 2020.

Source: Tr. 1228

1140. Mark Grisanti was taking care of his ill mother during the month of June 2020, including bathing her, bringing her food, making sure she took the correct medications, and spending a great deal of time with her.

Source: Tr. 1230-231

1141. Maria Grisanti was taking care of her ill mother during the month of June 2020.

Source: Tr. 1229

1142. Mark and Maria Grisanti were unable to see each other much during the month of June 2020.

Source: Tr. 1229

1143. Mark Grisanti's father-in-law passed away six months prior to June 2020.

Source: Tr. 1229-230

1144. Mark Grisanti's aunt passed away just prior to June 2020.

Source: Tr. 1230

1145. Multiple other family and friends of Mark Grisanti passed away just prior to June 2020.

Source: Tr. 1230

1146. Mark Grisanti was giving his elderly dog Fredo dialysis during June 2020.

Source: Tr. 1230

1147. Fredo passed away on June 27, 2020.

Source: Tr. 1230

1148. Mark Grisanti's mother passed away on July 13, 2020.

Source: Tr. 1230

1149. Mark Grisanti met Matthew Lazroe through Peter Pecoraro.

Source: Tr. 1233

1150. Peter Pecoraro was an attorney that Mark Grisanti knew for 45 years.

Source: Tr. 1233

1151. Mark Grisanti and Peter Pecoraro shared office space.

Source: Tr. 1233

1152. In 2015, Mark Grisanti entered into an agreement to sell his law practice to Peter Pecorero and Matthew Lazroe.

Source: Tr. 1233

1153. Mark Grisanti sold his law practice because he was becoming a Court of Claims Judge.

Source: Tr. 1233

1154. Peter Pecoraro told Mark Grisanti that he would purchase Mark's law practice with somebody else.

Source: Tr. 1233

1155. Mark Grisanti did not know who Matthew Lazroe was prior to selling his law practice to him and Peter Pecoraro.

Source: Tr. 1233

1156. Mark Grisanti sold his law practice to Peter Pecoraro and Matthew Lazroe for a \$15,000 down payment and payments of \$730 per month starting in July 2015 and continuing until June 2019.

Source: Tr. 1234

1157. The down payment was made on May 18, 2015.

Source: Tr. 1234

1158. Peter Pecoraro split the monthly payments with Matthew Lazroe and each paid \$365 per month.

Source: Tr. 1234

1159. Peter Pecoraro passed away in 2018 after a battle with a lengthy illness.

Source: Tr. 1235

1160. Peter Pecoraro stopped making payments to Mark Grisanti at the beginning of 2018.

Source: Tr. 1235

1161. Mark Grisanti did not request any additional payments from Peter Pecoraro.

Source: Tr. 1235

1162. Mark Grisanti did not request that Matthew Lazroe pay for Peter Pecoraro's share of payments.

Source: Tr. 1235

1163. Matthew Lazroe continued to make payments to Mark Grisanti until June 2019.

Source: Tr. 1235

1164. Matthew Lazroe played some role as an attorney in eight cases that were assigned to Mark Grisanti.

Source: Tr. 1236

1165. Mark Grisanti did not know that Matthew Lazroe was the attorney in some of those eight cases because Matthew Lazroe was appointed by somebody else in the Foreclosure Part, and Mark Grisanti would simply sign the order at the end.

Source: Tr. 1236

1166. Matthew Lazroe did not appear before Mark Grisanti in those cases.

Source: Tr. 1236

1167. Mark Grisanti first learned that Matthew Lazroe was assigned to those cases when the State Commission on Judicial Conduct brought it to his attention.

Source: Tr. 1236

1168. Attorney assignments in the Foreclosure Part took place without Mark Grisanti's conscious involvement.

Source: Tr. 1237

1169. Mark Grisanti disclosed the sale of his law practice to Matthew Lazroe and Peter Pecoraro on his Office of Court Administration annual disclosure, which is a public document.

Source: Tr. 1238

1170. Mark Grisanti disclosed the fact that he was receiving ongoing payments from Matthew Lazroe on his yearly annual disclosure form.

Source: Tr. 1238

1171. Mark Grisanti never shared office space with Matthew Lazroe.

Source: Tr. 1240

1172. Matthew Lazroe was not a social friend of Mark Grisanti.

Source: Tr. 1241

1173. Five of the cases involving Matthew Lazroe were cases in which Mark Grisanti appointed him either guardian, court evaluator, or referee.

Source: Tr. 1243

1174. In each of those five cases, Doug Curella, Jr. selected Matthew Lazroe for the appointment.

Source: Tr. 1244

1175. Between 2018 and 2020, Mark Grisanti made approximately 150 to 300 appointments.

Source: Tr. 1245

1176. Mark Grisanti did not have any specific conversations with Doug Curella, Jr. about Matthew Lazroe for any of his appointments.

Source: Tr. 1245

1177. Mark Grisanti did not have any conversation with Matthew Lazroe about any of his appointments.

Source: Tr. 1245

1178. There was absolutely no connection between the appointments Matthew Lazroe received and the sale of Mark Grisanti's law practice in 2015.

Source: Tr. 1245

1179. Matthew Lazroe did not make an appearance in *Buffalo Seminary*.

Source: Tr. 1247

1180. The motion in for default judgment in *Buffalo Seminary* was not opposed by anyone.

Source: Tr. 1247

1181. The motion for default judgment in *Buffalo Seminary* was an *ex parte* motion.

Source: Tr. 1247

1182. Mark Grisanti ruled against Matthew Lazroe on a summary judgment motion.

Source: Tr. 1248

1183. Exhibit 23 is the Annual Statement of Financial Disclosure that Mark Grisanti completed for the year 2015.

Source: Tr. 1250; Exhibit 23

1184. The Annual Statement of Financial Disclosure for the year 2015 was completed by Mark Grisanti in 2016.

Source: Tr. 1250; Exhibit 23

1185. The Annual Statement form is filled out online.

Source: Tr. 1250

1186. In his 2016 Annual Statement, Mark Grisanti disclosed the fact that he received monthly payments for the sale of his law practice.

Source: Tr. 1251

1187. In his 2016 Annual Statement, Mark Grisanti listed the amount of the monthly payments called for by the agreement.

Source: Tr. 1251

1188. In his 2016 Annual Statement, Mark Grisanti disclosed the source of the payments.

Source: Tr. 1251

1189. Under Question 12(a), Mark Grisanti was required to answer the following prompt: “Describe the terms of, and the parties to, any contract, promise, or other agreement between the reporting individual and any person, firm, or corporation, with respect to the employment of such individual after leaving office or a position. Do you have any information to enter on this question?”

Source: Tr. 1250; Exhibit 23

1190. Under Question 12(a), Mark checked the box, “Yes.”

Source: Tr. 1250; Exhibit 23

1191. Under Question 12(a), Mark Grisanti also wrote, "I sold the phone number and goodwill of the firm to individuals I was sharing space with for 730 a month for four years. I closed my Federal I.D. number all State numbers and all tax numbers in my name."

Source: Tr. 1251; Exhibit 23

1192. Mark Grisanti was not sharing space with Matthew Lazroe, but clarified that mistake under Question 12(b).

Source: Tr. 1251, 1254; Exhibit 23

1193. Under Question 12(b), Mark Grisanti was required to answer the following prompt: "Describe the parties to, and the terms of any agreement providing for a continuation of payments or benefits to the reporting individual in excess of \$1,000 from a prior employer. Other than the State, this includes interest or contributions and pension fund, et cetera. Do you have any information, enter in this question?"

Source: Tr. 1252; Exhibit 23

1194. Under Question 12(b), Mark Grisanti checked, "Yes."

Source: Tr. 1252; Exhibit 23

1195. Under Question 12(b), Mark Grisanti also wrote, “I sold my law practice to two attorneys, one attorney I shared space with, the other attorney, he had moved into my vacant space. Terms are 730 a month for four years. It will end June of '19.”

Source: Tr. 1252; Exhibit 23

1196. The monthly payment amounts began in July 2015, when Mark Grisanti was a judge, so he believed that those amounts should be included in Question 12(a) and (b).

Source: Tr. 1252-253

1197. Mark Grisanti did not disclose the amount of the down payment under Question 12(a) and (b) because he received the down payment prior to becoming a judge.

Source: Tr. 1254

1198. Mark Grisanti did not mention the down payment in either Questions 12(a) or 12(b) because he thought the down payment amount should be included elsewhere on the form.

Source: Tr. 1252-253

1199. When filling out Question 12(b), Mark Grisanti considered the fact that the lump sum payment was already disclosed elsewhere on the questionnaire in his income from his law practice.

Source: Tr. 1254

1200. Mark Grisanti spoke with the Executive Director who explained that the down payment should have been disclosed on his 2016 Annual Statement.

Source: Tr. 1254-255

1201. When Mark Grisanti became aware of his error, he amended the form to reflect the correct “Category of Amount” under question 13.

Source: Tr. 1255

1202. For the source of income from his law office, Mark Grisanti chose the range of \$20,000 to \$60,000, and that resulted in category C.

Source: Tr. 1256

1203. Mark Grisanti included the down payment from the sale of his law practice in that amount.

Source: Tr. 1257-258

1204. When filling out his 2016 Annual Statement, Mark Grisanti made a distinction between money received prior to being a judge and money received after he became a judge.

Source: Tr. 1258

1205. Mark Grisanti was not attempting to conceal anything about the sale of his law practice in filling out his OCA Annual Statement form.

Source: Tr. 1259

1206. When Mark Grisanti received an informal complaint from the Commission on Judicial Conduct, he understood that there was an error that needed to be corrected.

Source: Tr. 1259

1207. After calling many different numbers to try and determine how to correct his error, he eventually talked to Elizabeth Hooks who was the Administrative Director.

Source: Tr. 1259-60

1208. Elizabeth Hooks advised Mark Grisanti on how to correct his Annual Statements.

Source: Tr. 1260

1209. All errors were immediately corrected by Mark Grisanti once he became aware of them.

Source: Tr. 1261; Exhibits R, S, T, U, V, W, X, Y, Z

1210. Immediately after June 22, 2020, Mark Grisanti contacted Dan Lukasik who is the Judicial Wellness Coordinator.

Source: Tr. 1267

1211. The Judicial Wellness Coordinator is someone that judges can talk to when they are dealing with physical or mental health issues.

Source: Tr. 1267-268

1212. Mark Grisanti voluntarily contacted Dan Lukasik on his own accord.

Source: Tr. 1268

1213. The Judicial Wellness Coordinator is a member of the staff of the Office of Court Administration.

Source: Tr. 1268

1214. Mark Grisanti sat with Dan Lukasik and explained to him the incident with the Mele family on June 22, 2020.

Source: Tr. 1268

1215. Mark Grisanti spoke with Dan Lukasik because he was having a difficult time understanding why he reacted the way he did on June 22, 2020.

Source: Tr. 1268

1216. Mark Grisanti told Dan Lukasik that he was dealing with a lot of grief and personal issues in and around June 2020.

Source: Tr. 1268

1217. Mark Grisanti spoke with Dan Lukasik once or twice a month beginning in July 2020 until February 2021.

Source: Tr. 1268-269

1218. Dan Lukasik referred Mark Grisanti to Corporate Counseling Associates (CCA).

Source: Tr. 1269

1219. CCA and the court system are linked together.

Source: Tr. 1270

1220. Mark Grisanti met with Zachary Shaiman at CCA.

Source: Tr. 1269

1221. Zachary Shaiman is a licensed clinical social worker.

Source: Tr. 1269

1222. Zachary Shaiman is affiliated with the Office of Court Administration.

Source: Tr. 1270

1223. Mark Grisanti first met with Zachary Shaiman in March 2021.

Source: Tr. 1270

1224. Mark Grisanti worked with Zachary Shaiman on the issues he experienced with extreme grief and loss.

Source: Tr. 1270

1225. Mark Grisanti worked with Zachary Shaiman to understand why he acted the way he did on June 22, 2020.

Source: Tr. 1270

1226. Mark Grisanti wanted to learn the tools to ensure that a similar situation would never happen again.

Source: Tr. 1270

1227. Mark Grisanti met with Zachary Shaiman on a voluntary basis.

Source: Tr. 1270

1228. There was no court order requiring Mark Grisanti to pursue counseling with CCA.

Source: Tr. 1270

1229. Because the CCA only allows a certain amount of sessions between a judge and a counselor, Zachary Shaiman told Mark Grisanti that he had to be sent somewhere else for counseling.

Source: Tr. 1273

1230. Zachary Shaiman suggested that Mark Grisanti seek therapy.

Source: Tr. 1273

1231. Zachary Shaiman referred Mark Grisanti to Jakob Smidt.

Source: Tr. 1273

1232. Mark Grisanti did not know Jakob Smidt when Zachary Shaiman referred Mark to Jakob.

Source: Tr. 1273

1233. Mark Grisanti sought counseling from Jakob Smidt voluntarily.

Source: Tr. 1273

1234. Mark Grisanti met with Jakob Smidt for counseling twice per month.

Source: Tr. 1275-276

1235. Jakob Smidt is a licensed clinical social worker.

Source: Tr. 1273

1236. Mark Grisanti worked with Jakob Smidt on coping skills, anger management, and other issues to help Mark get a better understanding as to why he was feeling anxious, depressed, and internally mad at himself.

Source: Tr. 1274

1237. Jakob Smidt helped Mark Grisanti gain a better understanding of the stressors he was experiencing in June 2020, and how those stressors impacted his decisions.

Source: Tr. 1274

1238. Mark Grisanti learned how to process his emotions in a healthy way working with Jakob Smidt.

Source: Tr. 1275

1239. As a result of his counseling sessions, Mark Grisanti became more open discussing his feelings.

Source: Tr. 1275

1240. Through his counseling sessions, Mark Grisanti learned tools to help him better express his emotions.

Source: Tr. 1276

1241. Mark Grisanti testified that he is a better and stronger person as a result of his counseling sessions.

Source: Tr. 1276

1242. As a result of his counseling sessions, Mark Grisanti gained insight as to his behavior in June 2020.

Source: Tr. 1276

1243. Mark Grisanti understands that there were better ways he could have handled the incident on June 22, 2020.

Source: Tr. 1277

1244. Jakob Smidt taught Mark Grisanti how to express himself in a positive manner.

Source: Tr. 1277

1245. Mark Grisanti's work with Jakob Smidt has helped him in connection with his role as a Judge.

Source: Tr. 1277

1246. Mark Grisanti has never had a problem with judicial temperament on the bench.

Source: Tr. 1277

1247. Mark Grisanti continues to work with Jakob Smidt.

Source: Tr. 1278

1248. Mark Grisanti met with Christopher Frigon and Dr. Joshua Morra because he was experiencing internal issues and wanted help.

Source: Tr. 1283

1249. Mark Grisanti acted reflexively as a husband when Officer Gehr was threw Maria Grisanti to the ground.

Source: Tr. 1285

1250. When Officer Gehr threw Maria Grisanti to the ground, Mark Grisanti was not thinking of himself as a judge, but as a husband.

Source: Tr. 1286

1251. Mark Grisanti perceived Officer Gehr's conduct to be unlawful.

Source: Tr. 1286

1252. It was difficult for Mark Grisanti to remove Maria Grisanti from the altercation.

Source: Tr. 1441

1253. Mark Grisanti could have walked away from the altercation, but he was not going to leave Maria Grisanti in the street while she was being assaulted by the Mele family.

Source: Tr. 1442

1254. Mark Grisanti has learned tools through his counseling sessions to ensure that an incident like the one that occurred on June 22, 2020, never occurs again.

Source: Tr. 1442

1255. As a husband, Mark Grisanti was attempting to protect his wife.

Source: Tr. 1442

1256. Mark Grisanti is a judge, but he is also a father, a husband, and a human being.

Source: Tr. 1442

1257. Mark Grisanti acknowledged that he could have made smarter decisions on June 22, 2020.

Source: Tr. 1443

1258. After Mark Grisanti made physical contact with Officer Gehr to get his attention, he did not tackle him or continue to engage with him physically.

Source: Tr. 1444-445

1259. The incidents involving George Floyd and Martin Gugino had some influence over Mark Grisanti's reaction to Officer Gehr throwing his wife to the ground.

Source: Tr. 1445

1260. With this backdrop, Mark Grisanti wanted to let the police officers know that Officer Gehr's actions were excessive.

Source: Tr. 1445

1261. Mark Grisanti did not fight with Lt. Muhammad.

Source: Tr. 1445

1262. Mark Grisanti testified that he was embarrassed by his use of language on June 22, 2020.

Source: Tr. 1446-447

1263. Mark Grisanti apologized to Officer Gehr, Lt. Muhammad, Lt. Turello, and Det. Moretti numerous times within a 24-hour period after the incident on June 22, 2020.

Source: Tr. 1449

1264. Mark Grisanti was not attempting to curry any favors by mentioning his family members who were Buffalo Police Officers.

Source: Tr. 1450

1265. Mark Grisanti called his daughter because he wanted her to know what was going on with her mother.

Source: Tr. 1450

1266. Officer Hy was asking Mark Grisanti questions about where Mark's daughter and son-in-law work.

Source: Tr. 1450

1267. Maria Grisanti suffered injuries on June 22, 2020.

Source: Tr. 1450

1268. Nothing happened from the time Mark Grisanti was talking to Officer Gehr not in handcuffs, until the time Officer Hy placed Mark in handcuffs.

Source: Tr. 1451

1269. Mark Grisanti testified that his attempt to call Joseph Mele's bluff was the worst mistake of his life.

Source: Tr. 1360

PROPOSED FINDINGS AS TO MITGATION

Judge Grisanti has a record of exemplary service on the bench without prior discipline.

Judge Grisanti has a reputation in the community of good character.

Judge Grisanti was cooperative throughout the investigation by the Commission.

As to Charge I

Judge Grisanti acknowledges the inappropriate nature of his conduct.

Judge Grisanti's conduct was in response to significant provocation.

Judge Grisanti has expressed sincere remorse and contrition.

Judge Grisanti's conduct was an aberration, and there is no pattern of any similar conduct.

Judge Grisanti was under the effects of significant stressors in his personal life at the time of the events of June 22, 2020.

Since June 22, 2020, Judge Grisanti has taken steps to seek counseling and treatment to help him manage stress and prevent future incidents.

Based upon the evidence, there is no reason to believe that Judge Grisanti will engage in similar misconduct.

As to Charge II

Judge Grisanti believed in good faith that neither disqualification nor notice of the prior financial arrangement with attorney Lazroe were required or recommended.

There is no indication that Judge Grisanti's conduct was motivated by personal profit.

As to Charge III

Judge Grisanti did not knowingly violate any financial disclosure requirement.

PROPOSED CONCLUSIONS OF LAW

Charge I

Respondent Mark J. Grisanti violated Rule 100.4(A)(2) by failing to conduct his extra-judicial activities so that they do not detract from the dignity of judicial office by:

- 1) Using profane language during a loud, public confrontation with his neighbors on June 22, 2020;
- 2) Making brief physical contact with a Buffalo police officer who was engaged in the performance of duties on June 22, 2020; and
- 3) Using profane language in his subsequent interaction with police on June 22, 2020.

The other specifications and alleged violations of Charge I are not found by a preponderance of the evidence.

Charge II

Charge II is not found by a preponderance of the evidence.

Charge III

Charge III is not found by a preponderance of the evidence.

DATED: Buffalo, New York
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