

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

-----X
In the Matter of the Proceeding Pursuant to
Section 44, Subdivision 4, of the Judiciary Law
in Relation to

**VERIFIED
ANSWER**

MICHAEL F. McGUIRE

a Judge of the County and Surrogate's Courts,
an Acting Judge of the Family Court and an
Acting Justice of the Supreme Court, Sullivan
County.
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THE RESPONDENT, MICHAEL F. McGUIRE (hereinafter the "Respondent"),
by and through his attorney, J. SCOTT BONACIC, ESQ., as and for his Answer to the
Formal Written Complaint of the Petitioner, respectfully shows and alleges, upon
information and belief, as follows:

1. Admits the allegations set forth in Paragraph 1 of the Formal Written Complaint.
2. Lacks information sufficient to form a belief with respect to the allegations set forth under Paragraph 2 of the Formal Written Complaint; however, admits that the Respondent is a Judge of the County and Surrogate's Courts, an Acting Judge of the Family Court and an Acting Justice of the Supreme Court, Sullivan County.
3. Lacks information sufficient to form a belief with respect to the allegations set forth under Paragraph 3 of the Formal Written Complaint.
4. Admits the allegations set forth in Paragraph 4 of the Formal Written Complaint.

AS AND IN RESPONSE TO CHARGE I

5. The Respondent repeats, reiterates, and realleges each and every response contained in paragraphs "1" through "4" above.

6. Denies the allegations set forth in Paragraph 5 of the Formal Written Complaint.

7. Admits the allegations set forth in Paragraph 6 of the Formal Written Complaint.

8. Admits the allegations set forth in Paragraph 7 of the Formal Written Complaint.

9. In response to the allegations set forth in Paragraph 8 of the Formal Written Complaint, the Respondent admits that he held Mr. R [REDACTED] in Summary Judicial Contempt, for demonstrating disorderly, contemptuous or insolent behavior during the sitting of the court, in the immediate view and presence of the court and directly tending to impair the respect due to its authority, by making the court feel threatened by the comments directed toward a member of the Respondent Judge's family, only after the litigant's case had been dismissed.

10. Denies information sufficient to form a belief with respect to the allegations set forth in Paragraph 9 of the Formal Written Complaint.

11. Denies the allegations set forth in Paragraph 10 of the Formal Written Complaint.

12. Denies the allegations set forth in Paragraph 11 of the Formal Written Complaint.

AS AND IN RESPONSE TO CHARGE II

13. The Respondent repeats, reiterates, and realleges each and every response contained in Paragraphs "1" through "12" above.

14. Denies the allegations set forth in Paragraph 12 of the Formal Written Complaint.

15. Admits that on or about August 28, 2013, he presided in County Court over *People v. M [REDACTED] G [REDACTED]*, but denies information sufficient to form a belief with respect to the remaining allegations set forth in Paragraph 13 of the Formal Written Complaint.

16. Admits the allegations set forth in Paragraphs 14, 15 and 16 of the Formal Written Complaint.

17. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 17 of the Formal Written Complaint.

18. In response to the allegations set forth in Paragraph 18 of the Formal Written Complaint, the Respondent admits that he made a summary finding of contempt against Ms. G [REDACTED] for demonstrating disorderly, contemptuous or insolent behavior during the sitting of the court, in the immediate view and presence of the court, at a time when she was represented by counsel, and when her behavior directly tended to impair the respect due to its authority.

19. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 19 of the Formal Written Complaint.

20. In response to the allegations set forth in Paragraph 20 of the Formal Written Complaint, the Respondent admits that Ms. G [REDACTED] was incarcerated from August 28,

2013 through September 24, 2013. However, the Respondent denies that Ms. G [REDACTED] was held because of a finding of Judicial Contempt and also denies knowledge and information sufficient to form a belief with respect to the remaining allegations set forth in Paragraph 20 of the Formal Written Complaint.

21. Denies the allegations set forth in Paragraph 21 of the Formal Written Complaint.

AS AND IN RESPONSE TO CHARGE III

22. The Respondent repeats, reiterates, and realleges each and every response contained in Paragraphs "1" through "21" above.

23. In response to the allegations set forth in Paragraph 22 of the Formal Written Complaint, the Respondent admits that on or about October 3, 2012, he presided in Family Court over the matter of Z [REDACTED] v. P [REDACTED]. The Respondent further admits that one of the litigants, during the course of the proceedings, demonstrated disorderly, contemptuous or insolent behavior, during the sitting of the court, in the immediate view and presence of the court directly tending to impair the respect due to the court's authority, but denies the remaining allegations set forth under Paragraph 22 of the Formal Written Complaint.

24. Denies information and knowledge sufficient to form a belief with respect to the allegations set forth in Paragraph 23 of the Formal Written Complaint.

25. Denies information and knowledge sufficient to form a belief with respect to the allegations set forth in Paragraph 24 of the Formal Written Complaint, which calls for the Respondent to speculate as to matters involving the operation of a litigant's mind.

26. In response to the allegations set forth in Paragraph 25 of the Formal Written Complaint, the Respondent admits that such colloquy occurred in which the litigant demonstrated disorderly, contemptuous or insolent behavior, during the sitting of the court, in the immediate view and presence of the court directly tending to impair the respect due to the court's authority.

27. Denies the allegations set forth in Paragraph 26 of the Formal Written Complaint, as no formal finding of contempt was entered.

28. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 27 of the Formal Written Complaint.

29. In response to the allegations set forth in Paragraph 28 of the Formal Written Complaint, the Respondent admits that such colloquy occurred on or about that time that Ms. F [REDACTED] returned to the courtroom.

30. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 29 of the Formal Written Complaint.

31. Denies the allegations set forth in Paragraph 30 of the Formal Written Complaint.

AS AND IN RESPONSE TO CHARGE IV

32. The Respondent repeats, reiterates, and realleges each and every response contained in Paragraphs "1" through "31" above.

33. In response to the allegations set forth in Paragraph 31 of the Formal Written Complaint, the Respondent admits that on or about June 14, 2013 he presided in Family Court over the matter of L [REDACTED] v. C [REDACTED] and B [REDACTED]. The Respondent further admits that one of the litigants, during the course of the proceedings, demonstrated

disorderly, contemptuous or insolent behavior, during the sitting of the court, in the immediate view and presence of the court directly tending to impair the respect due to the court's authority, but denies the remaining allegations set forth in Paragraph 31 of the Formal Written Complaint.

34. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 32 of the Formal Written Complaint.

35. In response to the allegations set forth in Paragraph 33 of the Formal Written Complaint, the Respondent admits that such colloquy occurred in which the litigant demonstrated disorderly, contemptuous or insolent behavior, during the sitting of the court, in the immediate view and presence of the court directly tending to impair the respect due to the court's authority.

36. Admits the allegations set forth in Paragraph 34 of the Formal Written Complaint as to establish that the court responded to the litigant having demonstrated disorderly, contemptuous or insolent behavior, during the sitting of the court, in the immediate view and presence of the court directly tending to impair the respect due to the court's authority.

37. In response to the allegations set forth in Paragraph 35 of the Formal Written Complaint, the Respondent denies that the Court directed that the litigant be placed into handcuffs. The Respondent further denies knowledge or information sufficient to form a belief with respect to the remaining allegations set forth in Paragraph 35 of the Formal Written Complaint, but likewise has no basis upon which to dispute the content of the colloquy set forth under Paragraph 33 of the Formal Written Complaint.

38. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 36 of the Formal Written Complaint.

39. Admits the allegations set forth in Paragraph 37 of the Formal Written Complaint.

40. In response to the allegations set forth in Paragraph 38 of the Formal Written Complaint, the Respondent denies that there was a finding of contempt. The Respondent further denies knowledge or information sufficient to form a belief with respect to the remaining allegations set forth in Paragraph 38 of the Formal Written Complaint.

41. Denies the allegations set forth in Paragraph 39 of the Formal Written Complaint.

AS AND IN RESPONSE TO CHARGE V

42. The Respondent repeats, reiterates, and realleges each and every response contained in Paragraphs "1" through "41" above.

43. In response to the allegations set forth in Paragraph 40 of the Formal Written Complaint, the Respondent admits that on or about January 17, 2014, he presided in Family Court over the matter of G [REDACTED] v. C [REDACTED]. The Respondent further admits that one of the litigants, during the course of the proceedings, demonstrated disorderly, contemptuous or insolent behavior, during the sitting of the court, in the immediate view and presence of the court directly tending to impair the respect due to the court's authority, but denies the remaining allegations set forth in Paragraph 40 of the Formal Written Complaint.

44. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 41 of the Formal Written Complaint.

45. In response to the allegations set forth in Paragraph 42 of the Formal Written Complaint, the Respondent admits that such colloquy occurred in which the litigant demonstrated disorderly, contemptuous or insolent behavior, during the sitting of the court, in the immediate view and presence of the court directly tending to impair the respect due to the court's authority.

46. In response to the allegations set forth in Paragraph 43 of the Formal Written Complaint, the Respondent admits so much of the allegations as to establish that the court responded to the litigant having demonstrated disorderly, contemptuous or insolent behavior, during the sitting of the court, in the immediate view and presence of the court directly tending to impair the respect due to the court's authority.

47. In response to the allegations set forth in Paragraph 44 of the Formal Written Complaint, the Respondent denies that the Court directed that the litigant be placed into handcuffs. The Respondent further denies knowledge or information sufficient to form a belief with respect to the remaining allegations set forth in Paragraph 44 of the Formal Written Complaint, but likewise has no basis upon which to dispute the content of the colloquy set forth under Paragraph 42 of the Formal Written Complaint.

48. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 45 of the Formal Written Complaint.

49. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 46 of the Formal Written Complaint.

50. In response to the allegations set forth in Paragraph 47 of the Formal Written Complaint, the Respondent denies that there was a finding of contempt. The Respondent

further denies knowledge or information sufficient to form a belief with respect to the remaining allegations set forth in Paragraph 47 of the Formal Written Complaint.

51. Denies the allegations set forth in Paragraph 48 of the Formal Written Complaint.

AS AND IN RESPONSE TO CHARGE VI

52. The Respondent repeats, reiterates, and realleges each and every response contained in Paragraphs "1" through "51" above.

53. In response to the allegations set forth in Paragraph 49 of the Formal Written Complaint, the Respondent admits that on or about December 2, 2014, he presided in Family Court over the matter of *F* [REDACTED] v. *K* [REDACTED] and *K* [REDACTED]. The Respondent further admits that one of the litigants, during the course of the proceedings, demonstrated disorderly, contemptuous or insolent behavior, during the sitting of the court, in the immediate view and presence of the court directly tending to impair the respect due to the court's authority, but denies the remaining allegations set forth in Paragraph 49 of the Formal Written Complaint.

54. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 50 of the Formal Written Complaint.

55. In response to the allegations set forth in Paragraph 51 of the Formal Written Complaint, the Respondent admits that such colloquy occurred in which the litigant demonstrated disorderly, contemptuous or insolent behavior, during the sitting of the court, in the immediate view and presence of the court directly tending to impair the respect due to the court's authority, but denies knowledge or information sufficient to

form a belief with respect to the case status as set forth in lines 1 through 8 of Paragraph 51 of the Formal Written Complaint.

56. In response to the allegations set forth in Paragraph 52 of the Formal Written Complaint, the Respondent admits so much of the allegations as to establish that the court responded to the litigant having demonstrated disorderly, contemptuous or insolent behavior, during the sitting of the court, in the immediate view and presence of the court directly tending to impair the respect due to the court's authority.

57. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 53 of the Formal Written Complaint.

58. Admits that the colloquy occurred, as set forth under Paragraph 54 of the Formal Written Complaint.

59. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 55 of the Formal Written Complaint.

60. Denies the allegations set forth in Paragraph 56 of the Formal Written Complaint.

61. In response to the allegations set forth in Paragraph 57 of the Formal Written Complaint, the Respondent denies that there was a finding of contempt. The Respondent further denies knowledge or information sufficient to form a belief with respect to the remaining allegations set forth in Paragraph 57 of the Formal Written Complaint.

AS AND IN RESPONSE TO CHARGE VII

62. The Respondent repeats, reiterates, and realleges each and every response contained in Paragraphs "1" through "61" above.

63. In response to the allegations set forth in Paragraph 58 of the Formal Written Complaint, the Respondent admits that between 2013 and 2014 he presided over cases in Family Court, but denies the remaining allegations set forth in Paragraph 58 of the Formal Written Complaint.

64. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraphs 59, 60, 61 and 62 of the Formal Written Complaint.

65. In response to the allegations set forth in Paragraph 63 of the Formal Written Complaint, the Respondent admits that on or about November 7, 2014, he presided in Family Court over the matter of *D [REDACTED] v. T [REDACTED] E [REDACTED] and A [REDACTED] F [REDACTED]*

66. In response to the allegations set forth in Paragraph 64 of the Formal Written Complaint, the Respondent admits that, during the course of the proceedings, demonstrated disorderly, contemptuous or insolent behavior, during the sitting of the court, in the immediate view and presence of the court directly tending to impair the respect due to the court's authority, for which the litigant was cautioned.

67. In response to the allegations set forth in Paragraph 65 of the Formal Written Complaint, the Respondent admits that on or about August 21, 2014, he presided in Family Court over the matter of *V [REDACTED] v. G [REDACTED]*.

68. Denies the allegations set forth in Paragraph 66 of the Formal Written Complaint.

69. Denies knowledge or information sufficient to form a belief with respect to the factual allegations set forth under Subparagraphs A, B and C of Paragraph 67 of the Formal Written Complaint. With respect to the factual allegations set forth under

Subparagraph D of Paragraph 67 of the Formal Written Complaint, the Respondent admits that one of the litigants, during the course of the proceedings, demonstrated disorderly, contemptuous or insolent behavior, during the sitting of the court, in the immediate view and presence of the court directly tending to impair the respect due to the court's authority, for which the litigant was cautioned.

70. In response to the allegations set forth in Paragraph 68 of the Formal Written Complaint, the Respondent played no role in any proceeding in the Appellate Division and is unaware of which parties did participate, what issues were litigated or what information was placed before the Appellate Court. The Respondent holds the utmost respect for the Appellate process in this state and country, and is appropriately guided by precedent established through the Appellate process. The Respondent, while respecting the determination of the Appellate Division, denies that any future proceedings could not have been conducted in an impartial manner. The Respondent further denies knowledge or information sufficient to form a belief with respect to the remaining allegations set forth in Paragraph 68 of the Formal Written Complaint.

71. Denies the allegations set forth in Paragraph 69 of the Formal Written Complaint.

AS AND IN RESPONSE TO CHARGE VIII

72. The Respondent repeats, reiterates, and realleges each and every response contained in Paragraphs "1" through "71" above.

73. Denies the allegations set forth in Paragraphs 70, 71 and 72 of the Formal Written Complaint.

74. Denies the allegations set forth in Paragraph 73 of the Formal Written Complaint. The Respondent further denies knowledge or information sufficient to form a belief with respect to the allegations contained under Subparagraph D of Paragraph 73 of the Formal Written Complaint with respect to who or for what purposes Officer Diaz may have been communicating.

75. In response to the allegations set forth in Paragraph 74 of the Formal Written Complaint, the Respondent admits that on or about February 25, 2013, during a busy calendar, he requested that the supervisor speak to the Judge in chambers and outside the presence of litigants for the purpose of the Judge expressing concerns about the manner in which the calendar was being facilitated by his staff. The Respondent denies the remaining allegations set forth in Paragraph 74 of the Formal Written Complaint to the extent that it is alleged that he acted in a manner demonstrating aggression or that he demanded any specific action be taken by the supervisor with respect to how the supervisor directed or managed his own staff.

76. In response to the allegations set forth in Paragraph 75 of the Formal Written Complaint, the Respondent denies that he ever looked directly at any officer, spoke forcefully at any employee or forcefully slammed the door. The Respondent further denies knowledge or information sufficient to form a belief with respect to the remaining allegations set forth in Paragraph 75 of the Formal Written Complaint.

77. Denies the allegations set forth in Paragraphs 76 of the Formal Written Complaint. However, the Respondent admits that if he had any concerns regarding the performance of the court employees and the effect their operation may have on the ability of the Court to conduct business during business hours, the Respondent would discuss

those issues with the appropriate supervisors in an effort to increase the efficiency of court operations.

78. Denies the allegations set forth in Paragraph 77 of the Formal Written Complaint.

AS AND IN RESPONSE TO CHARGE IX

79. The Respondent repeats, reiterates, and realleges each and every response contained in Paragraphs "1" through "78" above.

80. Denies the allegations set forth in Paragraph 78 of the Formal Written Complaint.

81. Admits the allegations set forth in Paragraph 79 of the Formal Written Complaint.

82. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraphs 80, 81 and 82 of the Formal Written Complaint.

83. Denies the allegations set forth in Paragraph 83 of the Formal Written Complaint.

AS AND IN RESPONSE TO CHARGE X

84. The Respondent repeats, reiterates, and realleges each and every response contained in Paragraphs "1" through "83" above.

85. Denies the allegations set forth in Paragraph 84 of the Formal Written Complaint.

86. Admits the allegations set forth in Paragraph 85 of the Formal Written Complaint.

87. In response to the allegations set forth in Paragraph 86 of the Formal Written Complaint, the Respondent admits the allegations to the extent that for a period of time after closing his law practice, he maintained the office telephone number to facilitate former clients contacting him for the purpose of retrieving information and/or documents from files, which the law requires a former attorney to maintain and safeguard. The Respondent denies specific knowledge of the exact words contained on the answering device, but does not dispute that the sum and substance of the outgoing message advised callers that they had reached a telephone number associated with the former law office and further, that no telephone was connected to that device and that the Respondent did not personally respond to any message left on that device.

88. Admits the allegations set forth in Paragraph 87 of the Formal Written Complaint.

89. Admits so much of the allegations set forth in Paragraph 88 of the Formal Written Complaint as to establish that the Respondent asked Mr. Kelson, one time, to call and inquire generally whether or not they recognized Criminal Procedure Law §170.56 ad binding on the City Court of the City of Oneonta and thereafter learned that they do not recognize that section of the New York State Criminal Procedure Law as binding upon that court because there were two post-secondary institutions located within their jurisdiction.

90. Admits the allegations set forth in Paragraph 89 of the Formal Written Complaint, specifically, that at no time did the Respondent represent or suggest that he was a full-time judge.

91. Admits the allegations set forth in Paragraph 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 and 101 of the Formal Written Complaint, noting, specifically, that the Respondent never identified himself as a judge, presented no judicial identification, used no state facilities and/or resources to prepare or submit any document, and has previously acknowledged, under oath, that in doing so he was operating under the mistaken interpretation that he could represent members of his immediate family when indeed he is only permitted to offer legal advice to members of his family, but remains able to represent only himself.

92. Admits the allegations set forth in Paragraph 102 of the Formal Written Complaint.

93. Denies the allegations set forth in Paragraph 103 of the Formal Written Complaint to the extent that the Respondent sent a letter, as the attorney of record on the court file, to explain why he would not be able to appear. That letter set forth the date that the Respondent had appeared, such date being prior to when the Respondent became a full-time judge, and also set forth the sum and substance of the disposition entered by the Court on that date and stated that if the Court's records differed from those of the Respondent that his wife, Corrine G. McGuire, would appear on the date and time directed with any attorney of her choice, but not the Respondent.

94. Admits the allegations set forth in Paragraph 104 of the Formal Written Complaint.

95. Denies the allegations set forth in Paragraph 105 of the Formal Written Complaint.

96. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 106 of the Formal Written Complaint.

97. Denies so much of the allegations set forth in Paragraphs 107 and 108 of the Formal Written Complaint regarding the Respondent having directed his confidential secretary, Wendy Weiner, to engage in any activity whatsoever on behalf of this individual or any other individual, event, occurrence, file or client, associated with the Respondent's former law practice, and denies knowledge or information sufficient to form a belief with respect to the allegations related to any document drafted, negotiated or witnessed by Ms. Weiner. However, to the extent that Ms. Weiner may have engaged in any such activities, she did so surreptitiously and without the knowledge of the Respondent and such conduct on her behalf was done on her own and for her own personal gain.

98. Denies the allegations set forth in Paragraph 109 of the Formal Written Complaint.

99. Admits the allegations set forth in Paragraphs 110 and 111 of the Formal Written Complaint.

100. Admits so much of the allegations set forth in Paragraph 112 of the Formal Written Complaint so as to establish that the Respondent did stop by the Moores' home residence with contracts which were marked with notes directing them where to sign. The Respondent denies that he engaged in any discussion with Mr. and Mrs. Moore regarding the legal implication of the documents or provided any other legal advice to them.

101. In response to the allegations set forth in Paragraphs 113, 114 and 115 of the Formal Written Complaint, the Respondent admits that there were some communications from his e-mail to various individuals, and further admits that he authorized one or more, but not all of those communications. The Respondent's wife, Corrine G. McGuire, who had previously worked as a paralegal handling real estate transactions, was assisting the Moores with some scheduling issues. The Respondent specifically denies that he engaged in any act constituting the practice of law in that he never provided legal advice to the Moore family, never reviewed or drafted any documents, never attended a closing, never participated in the review or preparation of a closing statement, and never received any fee or in-kind remuneration for any assistance. The Respondent admits that the telephone number listed in various e-mails is his personal telephone number, but denies ever receiving a telephone call or having any conversation with anyone associated with that transaction.

102. Admits the allegations set forth in Paragraph 116 of the Formal Written Complaint.

103. In response to the allegations set forth in Paragraph 117 of the Formal Written Complaint, the Respondent admits that prior to the time at which he closed his office, he had drafted various documents necessary to complete a real estate transaction, with said transaction commencing in March of 2010, prior to the Respondent becoming a judge, and all that remained of that transaction was to mail documents out for signature. The Respondent denies the remaining allegations set forth in Paragraph 117 of the Formal Written Complaint.

104. Admits the allegations set forth in Paragraph 118 of the Formal Written Complaint to the extent that he received an unsolicited message in chambers, purportedly from Barbara Clark, regarding a notice of passed duet axes on the subject property, at some point after becoming a judge, but denies knowledge or information sufficient to form a belief with respect to whether he ever returned that telephone call. The Respondent further admits that he passed the information received in the message, to his former client, Ricky Pagan, without providing specific legal advice regarding the action to be taken.

105. In response to the allegations set forth in Paragraph 119 of the Formal Written Complaint, the Respondent denies that he took any affirmative action in or about 2013. However, the Respondent does not dispute that his wife, after being contacted by the former client who requested the documents that had been drafted and were located in the file, drafted a letter and enclosed documents, which had been drafted prior to the time at which the Respondent became a judge, and forwarded them to Ms. Clark. The Respondent admits that he was aware that Mr. Pagan had made contact requesting the documents and that the documents were mailed to Ms. Clark. The Respondent denies that any legal work or advice was provided after December 31, 2010, or that any compensation was requested, received or accepted at any time in conjunction with this transaction. The only action taken in or about 2013 was the mere ministerial act of mailing the documents to Ms. Clark with the contents of a standard form letter which speaks for itself.

106. In response to the allegations set forth in Paragraph 120 of the Formal Written Complaint, the Respondent denies that he took any affirmative action regarding the filing

of the deed on or about November 14, 2013. The Respondent does not dispute that the signed documents were received by his wife and provided to Mr. Pagan for filing.

107. Admits the allegations set forth in Paragraphs 121 and 122 of the Formal Written Complaint.

108. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 123 of the Formal Written Complaint, but does not dispute that Kenneth J. McGuire, Jr., Esq. agreed to complete the subject matter, without compensation, which had been commenced prior to the time that the Respondent assumed his role as a full-time judge.

109. Denies the allegations set forth in Paragraph 124 of the Formal Written Complaint.

110. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 125 of the Formal Written Complaint, but does not dispute that Kenneth J. McGuire, Jr., Esq. agreed to complete the subject matter, without compensation, which had been pending prior to the time that the Respondent accepted a position as a full-time judge.

111. Denies the allegations set forth in Paragraph 126 of the Formal Written Complaint.

112. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 127 of the Formal Written Complaint.

113. Denies the allegations set forth in Paragraph 128 of the Formal Written Complaint.

AS AND IN RESPONSE TO CHARGE XI

114. The Respondent repeats, reiterates, and realleges each and every response contained in Paragraphs “1” through “113” above.

115. Denies the allegations set forth in Paragraph 129 of the Formal Written Complaint.

116. In response to the allegations set forth under Subparagraph A of Paragraph 130 of the Formal Written Complaint, the Respondent admits that Mr. Kelson made a single telephone call to inquire as to the policy of the Otsego County District Attorney’s Office related to following the unequivocal mandate of Criminal Procedure Law §170.56. The Respondent denies that Mr. Kelson assisted in the Respondent’s representation of his son, W [REDACTED]. M [REDACTED].

117. In response to the allegations set forth under Subparagraph B of Paragraph 130 of the Formal Written Complaint, the Respondent denies that he played any role or had any interest with respect to any case handled by Mr. Kelson related to Ms. McTighe or that any such representation of that individual may have called into question the impartiality of the Respondent. The Respondent further denies knowledge or information sufficient to form a belief with respect to the remaining allegations set forth under Subparagraph B of Paragraph 130 of the Formal Written Complaint.

118. In response to the allegations set forth under Subparagraph C of Paragraph 130 of the Formal Written Complaint, the Respondent admits that Mr. Kelson represented Mr. Fernandez in the matter of the *County of Sullivan v. Estate of Lydia Fernandez*; however, the Respondent denies that he played any role or engaged in any substantive strategic discussions with Mr. Kelson or Mr. Fernandez about any case. The Respondent

further denies that any actions by the Respondent may have called into question the impartiality of the Respondent.

119. In response to the allegations set forth under Subparagraph D of Paragraph 130 of the Formal Written Complaint, the Respondent admits that Mr. Kelson and Mr. Fernandez had an attorney-client relationship that stretched to a time prior to the Respondent meeting Mr. Fernandez and admits that Mr. Kelson represented Mr. Fernandez on many matters unrelated to any relationship between the Respondent and Mr. Fernandez. Any communications received from Mr. Kelson were strictly gratuitous by Mr. Kelson and not provided in response to any request, interest or expectation on the part of the Respondent and would not have called into question the impartiality of the Respondent. The Respondent denies knowledge or information sufficient to form a belief with respect to the remaining allegations set forth under Subparagraph D of Paragraph 130 of the Formal Written Complaint.

120. In response to the allegations set forth under Subparagraph E of Paragraph 130 of the Formal Written Complaint, the Respondent admits that he, or people acting on his behalf, made inquiry of Mr. Kelson regarding an attorney who might practice in Dutchess County, to represent Ms. Amoroso regarding a traffic ticket. Ms. Amoroso is the individual who had entered a burning building to assist the Respondent's son, K [REDACTED] M [REDACTED], who was otherwise trapped inside the burning building. Ms. Amoroso received a speeding ticket while traveling to Westchester Medical Center to visit the Respondent's son, K [REDACTED] M [REDACTED], who was in the Intensive Care Burn Unit at that hospital. The Respondent had no expectation other than that Mr. Kelson would be

familiar with attorneys who handled such matters in that jurisdiction and nothing about that matter would have called into question the impartiality of the Respondent.

121. Denies the allegations set forth in Subparagraph F of Paragraph 130 of the Formal Written Complaint.

122. In response to the allegations set forth under Subparagraph G of Paragraph 130 of the Formal Written Complaint, the Respondent admits that he has shared lunch with Mr. Kelson; however, the Respondent denies that any such meetings were specifically planned. The Respondent admits that on rare occasions, he and Mr. Kelson would find themselves in the same restaurant at the same time and would visit informally. The Respondent denies that he and Mr. Kelson would visit in chambers, but acknowledges that Mr. Kelson would come to chambers to visit Ms. Weiner on occasion and may have exchanged pleasantries with the Respondent. The Respondent notes that court policy generally prohibits attorneys from entering chambers, therefore any such meetings would have been rare and none would have been of the sort as to call into question the impartiality of the Respondent.

123. In response to the allegations set forth under Subparagraph H of Paragraph 130 of the Formal Written Complaint regarding a potential dinner invitation made by Mr. Kelson, the Respondent refutes the characterization that Mr. Kelson invited the Respondent and his family to dinner, but acknowledges that there was a gratuitous communication Mr. Kelson suggested that the Respondent and his family should have dinner with Mr. Kelson at some non-descript future time and no such plans were ever formalized or carried out. The Respondent specifically denies that he or members of his

family have ever engaged socially with Mr. Kelson and certainly no such interaction would call into question the impartiality of the Respondent.

124. In response to the allegations set forth under Subparagraph H of Paragraph 130 of the Formal Written Complaint regarding the Bar Mitzvah of Mr. Kelson's son R█████ K█████, the Respondent admits that he attended the Bar Mitzvah of Mr. Kelson's son, who is also the grandson of the Honorable Burton Ledina, who the Respondent replaced on the bench in Sullivan County. The Respondent further admits that he and his wife made a gift of \$100.00 to R█████ K█████ on the occasion of his Bar Mitzvah, a gift certainly within the normal, and perhaps on the low end of the range for such occasions and that the Respondent's attendance at that affair was more related to his respect and admiration for Judge Ledina than it was out of any relationship with Mr. Kelson. The Respondent notes that he had known R█████ K█████ since he was born, well before the Respondent took the bench and nothing associated with the Respondent's attendance at that event, in which the Respondent spent little to no time engaged with Mr. Kelson, would call into question the impartiality of the Respondent.

125. In response to the allegations set forth under Subparagraph A of Paragraph 131 of the Formal Written Complaint, the Respondent admits that he presided over the election law case of *Rochelle Massy v. Sullivan County Board of Elections*, but denies knowledge or information sufficient to form a belief with respect to whom, if anyone, Mr. Kelson represented in that case. Respondent further sets forth that the issues in that case were limited to the location of polling places located a short distance apart.

126. In response to the allegations set forth under Subparagraph B of Paragraph 131 of the Formal Written Complaint, the Respondent admits that the matter of *FIA Card*

Services v. Sandra Fishbain was assigned to his chambers, but denies knowledge or information sufficient to form a belief with respect to Mr. Kelson's representation of any litigant in that matter. Respondent further denies that the matter ever appeared before the Respondent as, on information and belief, the matter was resolved and/or transferred in conference prior to any appearance before the Respondent.

127. In response to the allegations set forth under Subparagraph C of Paragraph 131 of the Formal Written Complaint, the Respondent admits that the matter of *Jeffrey H. Miller v. Town of Liberty Assessor* was assigned to his chambers, but denies knowledge or information sufficient to form a belief with respect to Mr. Kelson's representation of any litigant in that matter. Respondent further denies that the matter ever appeared before the Respondent as, on information and belief, the matter was resolved and/or transferred in conference prior to any appearance before the Respondent.

128. In response to the allegations set forth under Subparagraph D of Paragraph 131 of the Formal Written Complaint, the Respondent admits that a second matter of *Miller v. Town of Liberty Assessor* was assigned to his chambers, but denies knowledge or information sufficient to form a belief with respect to Mr. Kelson's representation of any litigant in that matter. Respondent further denies that the matter ever appeared before the Respondent as, on information and belief, the matter was resolved and/or transferred in conference prior to any appearance before the Respondent.

129. In response to the allegations set forth under Subparagraph E of Paragraph 131 of the Formal Written Complaint, the Respondent admits that the matter of *Two Sullivan Street Trust v. Town of Liberty Assessor* was assigned to his chambers, but denies knowledge or information sufficient to form a belief with respect to Mr. Kelson's

representation of any litigant in that matter. Respondent further denies that the matter ever appeared before the Respondent as, on information and belief, the matter was resolved and/or transferred in conference prior to any appearance before the Respondent.

130. In response to the allegations set forth under Subparagraph F of Paragraph 131 of the Formal Written Complaint, the Respondent admits that the matter of *Sam's Towing v. Town of Liberty Assessor* was assigned to his chambers, but denies knowledge or information sufficient to form a belief with respect to Mr. Kelson's representation of any litigant in that matter. Respondent further denies that the matter ever appeared before the Respondent as, on information and belief, the matter was resolved and/or transferred in conference prior to any appearance before the Respondent.

131. In response to the allegations set forth under Subparagraph G of Paragraph 131 of the Formal Written Complaint, the Respondent admits that the Family Court *Matter of M█████ P█████* was assigned to his part and that Mr. Kelson was assigned to represent the infant child in the case, but denies that anything associated with the Respondent or Mr. Kelson could have called into question the Respondent's impartiality on the case. The Respondent notes that there was no testimony in the case which involved a voluntary surrender by the parents and an ultimate clearing for adoption. The Respondent further notes that Mr. Kelson's advocacy role in such a case was limited and fully aligned with all parties, insuring that the needs of the injured child were addressed medically and emotionally.

132. In response to the allegations set forth under Subparagraph H of Paragraph 131 of the Formal Written Complaint, the Respondent admits that the Family Court *Matter of E█████ C█████* was assigned to his part and that Mr. Kelson was assigned to

represent the infant child in the case, but denies that anything associated with the Respondent or Mr. Kelson could have called into question the Respondent's impartiality on the case. The Respondent notes that there was no testimony in the case which involved a voluntary surrender by the parents and an ultimate clearing for adoption. The Respondent further notes that Mr. Kelson's advocacy role in such a case was limited and fully aligned with all parties, insuring that the needs of the injured child were addressed medically and emotionally.

133. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth under Subparagraph I of Paragraph 131 of the Formal Written Complaint.

134. In response to the allegations set forth in Paragraph 132 of the Formal Written Complaint, the Respondent admits that he presided over the matter of *Dean v. Boyes*, a Supreme Court matter. The Respondent denies knowledge or information sufficient to form a belief with respect to the chain of ownership of the specific parcel, but admits that Mary Lou Boyes did retain Michael F. McGuire, Esq. for the limited purpose of drawing a deed and transfer documents for a parcel of real property that she wished to transfer to her son. The Respondent further denies that he ever represented Sean Boyes or that the Respondent gained any knowledge through the representation of Ms. Boyes that could have called into question his impartiality in the Supreme Court matter as there was no dispute regarding the ownership of the subject parcel. As a practicing attorney, the only information that the Respondent gained through that representation, having no recollection of ever having met Sean Boyes, was that a parcel of real property held by his mother was being transferred. The Respondent further avers that he had no recollection,

while presiding over the Supreme Court matter, that the subject parcel was the same as that which had been transferred several years earlier, as ownership was not in dispute. Rather, the only issue to be determined in that matter was how to partition the subject property between the two joint-tenants. The Respondent's only knowledge of that subject parcel was that the same parcel transferred by Mary Lou Boyes was represented as such by Commission staff, as Mary Lou Boyes never appeared or played any role in the Supreme Court litigation.

135. Admits the allegations set forth in Paragraph 133 of the Formal Written Complaint, as such past relationship would have no effect, and indeed did not have any effect, on the court's ability to determine the issues fairly, impartially and free from any bias, prejudice or sympathy, regardless of whom such decision may have helped or hurt.

136. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in Paragraph 134 of the Formal Written Complaint.

137. Denies the allegations set forth in Paragraph 135 of the Formal Written Complaint.

138. In response to the allegations set forth in Paragraph 136 of the Formal Written Complaint, the Respondent denies that Ms. Conneely participated in any conference with parties in her office. The Respondent denies knowledge or information sufficient to form a belief with respect to the surveyor; however, the Respondent admits that Ms. Conneely accompanied the parties, at the specific request of the parties, for an inspection of the subject parcel further, specifically noting that all efforts were undertaken in order to understand how each side had hoped to partition the main lot and each party had implored Ms. Conneely to join them to inspect the property in order to gain greater

insights into the obstacles associated with partitioning this parcel in a manner which would maximize the benefits to each party.

139. Admits the allegations set forth in Paragraph 137 of the Formal Written Complaint.

140. Denies the allegations set forth in Paragraph 138 of the Formal Written Complaint.

AS AND IN RESPONSE TO CHARGE XII

141. The Respondent repeats, reiterates, and realleges each and every response contained in Paragraphs "1" through "140" above.

142. In response to the allegations set forth in Paragraph 139 of the Formal Written Complaint, the Respondent admits that, at the urging of his confidential secretary, Ms. Weiner, in an effort to better serve the public and foster greater confidence in the court system on behalf of the public, the Respondent arranged to conduct interviews of applicants outside the courthouse and outside of regular operating hours; however, the Respondent denies that any such interviews occurred in inappropriate settings and further denies that any such efforts were undertaken in order to promote the interests of any one or any organization other than the Unified Court System and the applicants for handgun licenses.

143. Denies the allegations set forth in Paragraph 140 of the Formal Written Complaint, specifically denying that he directed Ms. Weiner to ever work off hours or off premises.

144. In response to the allegations set forth in Paragraph 141 of the Formal Written Complaint, the Respondent admits that he conducted interviews with applicants for gun

permits on a few Saturdays at the Monticello Elks Lodge; however, the Respondent specifically denies that he required Ms. Weiner to work on these occasions or that he required her to transfer files between the courthouse and the Elks Lodge facility. Respondent notes that the interview process is a one-on-one situation, with no specific role for anyone other than the Respondent and therefore, there was no need for Ms. Weiner to be present and that the only reason for her attendance as her choice based upon her specific interest in the subject matter.

145. In response to the allegations set forth in Paragraph 142 of the Formal Written Complaint, the Respondent admits that, at the request of Ms. Weiner, he agreed to conduct interviews at the Villa Roma Resort in Callicoon; however, the Respondent specifically denies that he directed her to inform interviewees that a dinner for the National Rifle Association was occurring at the same location. The Respondent notes that he specifically directed that Ms. Weiner, who was a co-chair of the National Rifle Association dinner, not schedule any interviews contemporaneous with the dinner to avoid the appearance of a connection between the two events and that he agreed to conduct a few interviews, at the request of Ms. Weiner, only after being assured that the interviews would be completed hours before the dinner. The Respondent further notes that Ms. Weiner made the request because she claimed that there were several individuals who could not get to the courthouse for interviews during normal operating hours because of the distance, from the western point of our County, and requested that the Respondent conduct those interviews at that location.

146. In response to the allegations set forth in Paragraph 143 of the Formal Written Complaint, the Respondent admits that, at the request of Ms. Weiner and arranged by Ms.

Weiner, he conducted interviews in an area of the clubhouse removed from the area where the National Rifle Association event would take place. The room provided for such interviews was the Grille Room, which was not operational at the time of a few of the interviews. Those interviews lasted less than 30 minutes in total during the time in which the Grille Room was not operational. The Respondent specifically denies the following: (i) that there was any alcohol being served or consumed in the area in which the interviews were taking place; (ii) that there were any firearms in the area in which the interviews were taking place; (iii) that there was any promotion for the National Rifle Association event in the area in which the interviews were taking place; and (iv) that Ms. Weiner was asked to assist or that she did in any way assist with the interviews, as she was fully occupied with preparing for the National Rifle Association dinner which she was the co-chair person for. Upon information and belief, the Respondent sets forth that the National Rifle Association event was sold out and, therefore, anyone who was at the location for an interview likely could not have participated in the National Rifle Association event had they wished to.

147. Denies the allegations set forth in Paragraph 144 of the Formal Written Complaint.

AS AND IN RESPONSE TO CHARGE XIII

148. The Respondent repeats, reiterates, and realleges each and every response contained in Paragraphs "1" through "147" above.

149. In response to the allegations set forth in Paragraph 145 of the Formal Written Complaint, the Respondent admits that, for a period of time, he had access to an e-mail account named judgemcguire@ [REDACTED] and acknowledges that such e-mail account

was frequently used, for convenience by both himself and his wife. The Respondent admits that he used that account; but denies specific knowledge or information with respect to any such individuals with whom he may have communicated using that e-mail address, or whom, if anyone, his wife may have communicated using that e-mail, as that was the e-mail on the family home computer at the time. However, the Respondent does not deny that he did engage in one or more communications with respect to the Moore's real estate matter, as set forth hereinabove.

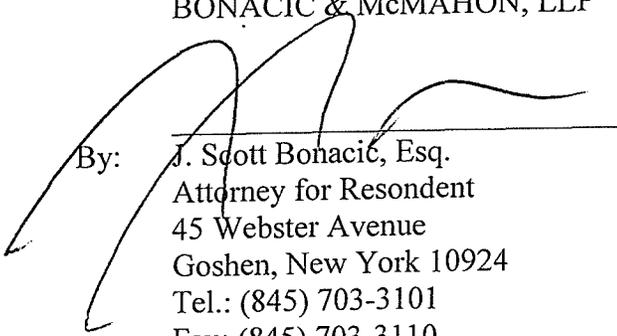
150. Denies the allegations set forth in Paragraph 146 of the Formal Written Complaint.

WHEREFORE, by reason of the foregoing, the Respondent respectfully disagrees that the relief requested by the State Commission on Judicial Conduct should be granted and further respectfully requests that no further action be taken in this matter.

Dated: October 11, 2018
Goshen, New York

Respectfully submitted,

BONACIC & McMAHON, LLP

By: 
J. Scott Bonacic, Esq.
Attorney for Resondent
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State Commission on Judicial Conduct
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STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

-----X

In the Matter of the Proceeding Pursuant to
Section 44, Subdivision 4, of the Judiciary Law
in Relation to

VERIFICATION

MICHAEL F. McGUIRE

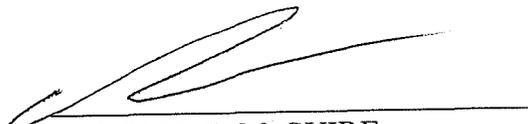
a Judge of the County and Surrogate's Courts,
an Acting Judge of the Family Court and an
Acting Justice of the Supreme Court, Sullivan
County.

-----X

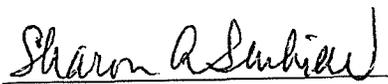
STATE OF NEW YORK)
) ss.:
COUNTY OF ORANGE)

MICHAEL F. McGUIRE, being duly sworn, deposes and says:

I am the named Respondent in the action herein; I have read the Verified Answer,
know the contents thereof, and the same are true to my knowledge, except as to those
matters therein stated to be alleged upon information and belief, and as to those matters, I
believe them to be true.


MICHAEL F. McGUIRE

Sworn to before me this
12th day of October, 2018.


NOTARY PUBLIC

SHARON A. SENKIEW
Notary Public, State of New York
ID No. 01SE6071697
Qualified in Orange County
Commission Expires March 25, 2021