STATE OF MICHIGAN
BEFORE THE MICHIGAN JUDICIAL TENURE COMMISSION

COMPLAINT AGAINST

Complaint No. 101

Hon. Kahlilia Y. Davis
36th District Court

Hon. Cynthia D. Stephens
Master

_____/

INTRODUCTION AND SUMMARY

The Second Amended Complaint charges Hon. Kahlilia Davis (respondent) with seven counts of misconduct based on multiple violations of the Michigan Code of Judicial Conduct (canons), the Michigan Court Rules (MCR), and the Michigan Rules of Professional Conduct (MRPC). The alleged misconduct was outlined in a seven-count complaint:

Count I	ABUSE OF CONTEMPT OF COURT POWERS
COUNT II	FAILING TO CONDUCT REQUIRED EVIDENTIARY HEARINGS AND MAKING PREMATURE JUDGMENTS
COUNT III	OBSTRUCTION OF COURT ADMINISTRATION
COUNT IV	KNOWINGLY AND INTENTIONALLY DISCONNECTING VIDEO RECORDING EQUIPMENT AND CONDUCTING PROCEEDINGS WITHOUT AN OFFICIAL RECORD
COUNT V	MAKING UNAUTHORIZED RECORDINGS AND PUBLISHING COURT PROCEEDINGS
COUNT VI	HANDICAPPED PARKING SPACE VIOLATION AND CONDUCT
COUNT VII	MAKING MISREPRESENTATIONS PERSONALLY, AS A JUDGE, AND TO THE COMMISSION

Judge Nancy Blount (CJ Blount) was the Chief Judge throughout the relevant time period in this complaint. Judge Milton Mack was the State Court Administrator during that same period, Judge Paul Paruck was the Regional Court Administrator.

JURISDICTION

Respondent has been a judge of the 36th District Court since 2017. She is subject to the standards for discipline set forth in MCR 9.104 and MCR 9.202.

Burden of Proof

Disciplinary counsel has the burden of proving the allegations by a preponderance of the evidence. MCR 9.233(A). The standards of judicial conduct are outlined in MCR 9.202 and the Michigan Canons of Judicial Conduct. In re Ferrara, 458 Mich. 350, 359-60 (1998).

JUDICIAL TENURE COMMISSION PROCEDURAL HISTORY

Respondent was elected by the voters of Detroit in November 2016 but did not assume her judicial duties until March 2017 due to documented health issues. She attended the Pre-Bench MJI seminar but did not attend the weeklong New Judge seminar. She did attend the shorter new judge seminar in March.

On March 16, 2020, the Judicial Tenure Commission (JTC) filed a three-count complaint against Respondent.

On May 14, 2020, the JTC filed a petition for interim suspension without pay. Respondent filed answers to both filings.

On June 17, 2020, the Supreme Court entered an order suspending respondent with pay until further order of the Court.

On March 23, 2022, the JTC filed an amended complaint, a petition for appointment of master, and a second petition for interim suspension without pay.

On April 29, 2022, the Supreme Court entered an order denying the second petition for interim suspension without pay, appointing the Honorable Cynthia Diane Stephens as Master, and ordering the JTC and Master to coordinate schedules to ensure that the JTC recommendation will be submitted to the Supreme Court by September 29, 2022.

The Master held a Pre-trial Calendar conference with Counsel for the Commission, Disciplinary counsel and Respondents counsel and issued a scheduling order on May 13, 2022.

A motion to amend the complaint, along with the second amended complaint, was filed by petitioner on May 24, 2022.

A second pre-trial conference was held to discuss both the proposed amended complaint and the pre-trial statement.

The Master granted the motion to amend on June 17, 2022.

Respondent filed a motion to adjourn the commencement of the hearing from July 5, 2022, to July 7, 2022 which was granted. The respondent filed her answer to the Second Amended Complaint and her stipulation of exhibits and facts on June 28, 2022.

On June 24, 2022, respondent filed her answer to the second amended complaint and stipulations of facts and exhibits.

On June 28, 2022, the Master granted respondent's request to adjourn the hearing to July 7, 2022.

Public hearings were conducted in person on July 7, 8, 11, 13, and 15, 2022. Twelve witnesses testified. Disciplinary counsel's 134 exhibits (DC exhibits) and respondent's eight (RC exhibits) exhibits were admitted by stipulation.

Closing arguments were conducted by Zoom on July 19, 2022.

COUNT ONE: ABUSE OF CONTEMPT POWER

The Petitioner charges the respondent with abuse of the contempt power in two cases: 17-307300LT, Detroit Real Estate v Sharon Hayes and 17-321869 LT, Sanders v Nicole Thomas. This report will address each case separately.

The Master finds as follows relative to 17-307300LT Detroit Real Estate v Sharon Hayes:

1. On April 3, 2017, the parties entered a consent judgement on Detroit Real Estate Inc, v Sharon Hayes, Case 17-307300LT. The Plaintiff applied for a writ of eviction on May 4, 2017, and on that same date the registered agent of the Plaintiff placed a notice on the defendant's door which read:

   "THE COURT HAS ORDERED THE BALIFF AND THEY WILL BE OUT TO EVICT YOU "

2. On May 8, 2017, the defendant filed a Motion for Relief from Judgement and Motion for a Stay of Eviction. On that same day, the respondent initially signed the requested writ, but vacated it after a hearing on the defendant's motion's where counsel for the plaintiff and the defendant, Ms. Hayes, appeared. Counsel for the plaintiff acknowledged on the record that she had previously admonished the plaintiffs to cease the practice of posting this kind of sign when the application for a writ of eviction had not been signed.

3. On May 8, 2017, the respondent court made the statements that "somebody's going to pay" and expressed her general displeasure with the practice of prematurely posting notices on tenant's doors that a writ had been issued. The respondent inquired as to who was the owner or other person in charge of the plaintiff's company and was given the name of Joanne Eck.
4. The writ was vacated and an Order to Show Cause was entered against Ms. Eck with a hearing date of May 14, 2017. A hearing on the issuance of a writ of eviction was also scheduled for that day and time.

5. At the hearing on May 24, 2017, Ms. Eck acknowledged that the posting was improper. Ms. Eck did not contest her attorney's prior statement that counsel had previously urged cessation of the practice of premature posting.

6. The respondent levied a sanction of $3,000 (three thousand) dollars without stating the facts supporting the amount of the sanction. The respondent explicitly stated that the sanction was for punitive damages. The punitive damages were awarded to the plaintiff. The court also ordered court costs of $500 (five hundred) dollars. Both sums were to be paid immediately. Ms. Eck stated that she had come to court without her purse or any form of payment. Her counsel stated that she had advised her clients to come prepared for some monetary sanction.

7. Ms. Eck was ordered to stay in the courtroom until the "punitive damage" check was written to the benefit of the defendant. When Ms. Eck did not immediately write a check, the respondent addressed Ms. Eck stating, "I see you are not writing that check." Only then did Ms. Eck state she did not bring a purse despite being forewarned by her counsel that there would likely be a monetary penalty if she was found in civil contempt of court. Respondent directed Ms. Eck to arrange for the funds and remain in the courtroom until the money was paid. Respondent's statement about possible incarceration was a statement of the possibility that if the civil contempt was not cured with the payment of funds before the close of business, Ms. Eck was subject to confinement. Counsel acknowledged that there were funds available to pay the sums ordered. Counsel returned with payment and Ms. Eck left the building.

8. Respondent's training prior to this hearing was as follows:
    a. November 2016 Pre-Bench Seminar focused on transition to judgeship.
    b. Receipt of the written materials from the January 2017 New Judges Program in January in hard copy.
    c. Abbreviated orientation at the 36th District Court.
    d. Respondent attended the March "New Judge Training.'
    e. Delivery of a link to MJI Bench Books and a re-send of the January New Judges materials in March 2017.
    f. Attendance at a March MJI seminar, also, for new judicial officers.

9. There was no evidence that the complicated issue of contempt was a subject in any of the Pre-Bench, New Judges Seminar January and March session nor evidence that the respondent accessed the MJI Bench Book on Contempt.

The Master finds as follows relative to 17-321869 LT Sanders v Nicole Thomas:

1. The respondent presided over a Motion to Set Aside a Writ of Eviction due to lack of service in case no 17-321 869, Sanders v Thomas on October 11, 2017.

2. In that motion hearing Court Officer Jerry Johnson was the process server.

3. Ms. Thomas testified under oath that she was not served because she was at work at the time of the service. She presented several items for court review including a text exchange between herself and the plaintiff.

4. Mr. Johnson testified under oath that he made the service as reported in the return of service.

5. Additionally, there was a discussion with Ms. Sanders regarding her legally erroneous view that she could collect rent from the defendant after the service of a 30-day notice to quit.

6. The respondent first offered to adjourn to let the defendant bring in her work time sheets to support her testimony that she was at work and could not have been personally served as noted in the return of service.

7. Subsequently the respondent made a call on the record to Ms. Thomas' place of work to a person who identified herself as Ms. Moseley, the Defendant's supervisor. As she made the call the respondent admonished that whichever of the two (Thomas or Johnson) had lied had a last opportunity to recant or be found in contempt.

8. Ms. Moseley, who was never placed under oath, indicated that the defendant was at work on the date and time when service was reported by Mr. Johnson.

9. Ms. Sanders began to ask the respondent court to make further inquiry of Ms. Moseley, but respondent court did not do so.

10. The respondent also declined, without stating any reason to grant an adjournment, to allow Ms. Sanders to get some additional proofs. At one point respondent threatened the plaintiff and her spouse with jail time.

11. Mr. Johnson was found in contempt summarily without benefit of counsel or any meaningful allocution.

12. Mr. Johnson was jailed overnight and released on an order by CJ Blount, tried by Judge Baltimore and acquitted.

CONCLUSIONS OF LAW

The Petitioner charges in COUNT I that respondent violated the following:

1. Michigan Constitution Article 6, Section 30(2), and MCR 9.202(B), by engaging in misconduct in office and persistent failure to perform judicial duties.
2. MCR 9.104(1) and MCR 9.202(B), by engaging in conduct prejudicial to the administration of justice.
3. MCR 9.104(2), by engaging in conduct that exposed the legal profession or the courts to obloquy, contempt, censure, or reproach.
4. MCR 9.202(A), by demonstrating a lack of personal responsibility for her own behavior and for the proper conduct and administration of the court in which she presides.
5. MCR 9.202(B)(1)(a) and MCJC 3(A)(1), for failure to be faithful to the law, failure to maintain professional competence in the law, and for persistent incompetence in the performance of judicial duties.
6. MCR 9.202(B)(1)(c), and MCJC 3(A)(14), for failure to treat persons fairly and courteously.
7. MCR 9.202(B)(2) and MCJC 2(A), for engaging in irresponsible or improper conduct that eroded public confidence in the judiciary.
8. MCR 9.202(B)(2) and MCJC 2(B), by engaging in conduct that undermined public confidence in the integrity and impartiality of the judiciary.
9. MCR 9.202(B)(2) and MCJC 3(A)(3), for failing to be patient, dignified, and courteous to litigants, lawyers, and other persons.
10. MCR 9.202(B)(2) and MCJC 3(A)(12), for undue interference, impatience, or participation in the examination of witnesses.
11. MCR 9.202(B)(2) and MCJC 3(A)(12), for a severe attitude toward witnesses, especially those who are excited or terrified by the unusual circumstances of a trial, all of which tended to prevent the proper presentation of the cause and the ascertainment of truth.
12. MCR 9.202(B)(2) and MCJC 3(A)(12), for interrupting counsel in their arguments.
13. MCR 9.202(B)(2) and MCJC 3(A)(12), for making premature judgments.
14. MCR 9.202(B)(2) and MCJC 3(A)(13), for failing to adopt the usual and accepted methods of doing justice, imposing humiliating acts or discipline not authorized by law in sentencing, and failing to endeavor to conform to a reasonable standard of punishment.

15. MCR 9.202(B)(2) and MCJC 3(C), for failing to raise the issue of disqualification when she had cause to believe that due to her bias, grounds

THE MASTER CONCLUDES:

1. The court did not abuse its contempt power relative to Ms. Eck. FC101 asserts that the respondent pre-judged this matter, had no factual basis for the contempt finding and had no authority or basis for the award of punitive damages. The assertion of pre-judging and the allegation of no factual basis for the contempt are intertwined. The petitioner argues that there is no record evidence that Ms. Eck acted intentionally and willfully. However, Ms. Eck's counsel admitted on May 8, 2017, that this posting was improper and that she had previously admonished her client to cease the practice. Ms. Eck, who was always represented by counsel, offered no contrary information. The statement that: "somebody is going to pay" was made after plaintiff counsel's admission on May 8, 2017. This statement was not based upon a pre-judgement without evidentiary basis. It is predictable then that some civil remedy would follow wrongful conduct. The statement of counsel and the testimony of Ms. Eck both provide a factual basis for the finding of contempt. Petitioner's proofs fail as to this allegation.

2. The Respondent levied an extra judicial sanction in this case because punitive damages are not authorized by court rule or statute. Additionally, any levy of monetary compensatory damages requires factual and legal justification and there was none. This was legal error on the part of a very new judge. As noted in the MJI Bench Book on Contempt "Where compensation is intended, a fine is imposed, payable to the complainant. Such fine must of course be based upon evidence of complainant's actual loss, and his [or her] right, as a civil litigant, to the compensatory fine is dependent upon the outcome of the basic controversy. "United States v United Mine Workers, 330 US 258, 304 (1947) This level of error, however, does not rise to judicial misconduct particularly from a very new judicial officer. In sum, the petitioner has not proven that the contempt proceeding in this case although legally erroneous as to the sanctions and damages rose to the level of judicial misconduct. It is not demonstrated to arise from persistent lack of knowledge. Petitioner does not prevail in its assertion that this error constitutes persistent lack of legal knowledge, misconduct in office, or other violations of applicable judicial standards of conduct.

3. FC101 charges that Ms. Eck was treated with disrespect and derision. The respondent did sharply address the errant plaintiff practice of premature posting, and rebuked Ms. Eck for not bringing resources to pay a possible civil penalty despite forewarning by her attorney. The court required the payment of the funds that day and the immediate payment of fines and fees. The MJI materials, address immediate payment as a better, if not best, practice when there is no claim of inability to provide payment. The "threat" that Ms. Eck would not

be free to leave until she paid, and if she did not pay before the close of court she might be placed it to custody was not a misrepresentation of the court's authority. Petitioner's proofs of judicial misconduct fail as to this allegation.

4. The court made a legal error in failing to place Ms. Moseley under oath and another error in not affording Ms. Sanders the opportunity to question her. This is a simple error and oversight, not a demonstration of either ignorance of the need to place witnesses under oath nor a pattern. Petitioner's proofs of judicial misconduct fail as to this allegation.

5. The more concerning behavior is threatening the plaintiffs with incarceration as an apparent means of controlling the courtroom when Ms. Sanders asked questions and requested an adjournment. **This behavior rose to the level of violation of MCR 9.202(B)(2) and MCJC 3(A)(12), for a severe attitude toward witnesses, especially those who are excited or terrified by the unusual circumstances of a trial, all of which tended to prevent the proper presentation of the cause and the ascertainment of truth.**

6. The respondent abused its Contempt Powers regarding Mr. Johnson. At the time of Johnson hearing the respondent had received and read the MJI New Judge course books and was aware of the existence of MJI Bench Books, Respondent had not taken a course in contempt proceedings. However, Respondent had conducted the Eck civil indirect contempt proceeding May 2017, erring only in assessment of sanctions. Mr. Johnson's alleged contempt did not disrupt the court nor necessitate summary action. At the time of Johnson's hearing, the respondent had received and read the MJI New judge books and was aware of the existence of MJI Bench Books. This was not a direct contempt warranting summary action. As noted in the MJI Bench Book on Contempt, Contempt is only direct and subject to summary determination, "when all the facts necessary to find the contempt are within the personal knowledge of the judge." In re Contempt of Henry, 282 Mich. App at 675. See also In re Scott, 342 Mich. at 618 (holding that "in order to have a valid summary conviction, due process requires that the salient facts constituting the contempt be within the personal knowledge of the judge"). A judge does not have personal knowledge for purposes of summary contempt if the judge must rely on the testimony of other persons to establish the case against the contemner. Id. at 619-622." The contemptuous conduct of which Mr. Johnson was accused was to have submitted a false return of service and to have testified falsely in court about that service. The basis of the respondent's determination of falsity was the testimony of Ms. Moseley. Thus, the determination was made with information outside of the personal knowledge of the respondent.

   Mr. Johnson was denied any semblance of due process. He was not appointed counsel nor given the opportunity to hire one himself. He was not given the opportunity defend himself beyond his answer to "Do you care about due process?". The contempt proceeding against Mr. Johnson was utterly devoid of due process. **This behavior was a clear violation of**

MCR 9.202(B)(2) and MCJC 3(A)(3), for failing to be patient, dignified, and courteous to litigants, lawyers, and other persons. It was also a violation of MCR 9.202(B)(1)(a) and MCJC 3(A)(1), for failure to be faithful to the law, failure to maintain professional competence in the law..] MCR 9.104(1) and MCR 9.202(B), by engaging in conduct prejudicial to the administration of justice.

SUMMARY:

The Petitioner has proven by a preponderance of the evidence that the Respondent violated:

1. MCR 9.202(B)(2) and MCJC 3(A)(3), for failing to be patient, dignified, and courteous to litigants, lawyers, and other persons.
2. MCR 9.202(B)(2) and MCJC 3(A)(12), for a severe attitude toward witnesses, especially those who are excited or terrified by the unusual circumstances of a trial, all of which tended to prevent the proper presentation of the cause and the ascertainment of truth.
3. MCR 9.104(1) and MCR 9.202(B), by engaging in conduct prejudicial to the administration of justice.
4. MCR 9.202(B)(1)(a) and MCJC 3(A)(1), for failure to be faithful to the law, failure to maintain professional competence in the law.

Petitioner's proofs fail as to all other claimed violations.

COUNT II COURT OFFICER MYRAN BELL

The allegations in Count II arise from a purported service of process by Mr. Bell in a landlord tenant case regarding possession of 430 Frederick in the City of Detroit. After this "service," unrelated cases where Mr. Bell was the court officer and process server cases were adjourned or dismissed by the respondent. CJ Blount issued two orders and Circuit Judge Martha Snow issued a third order precluding the respondent from adjourning or dismissing cases solely on the basis of Mr. Bell having served process. Three witnesses testified at the Formal Hearing regarding allegations relating to Mr. Bell: Chief Judge Blount, Myran Bell, and the respondent. Additionally, DC exhibits 15-134 were considered.

THE MASTER FINDS AS FOLLOWS:

1. Mr. Myran Bell was court officer assigned to the 36th District Court landlord tenant division in August of 2017 as he is now.
2. He was the signatory on a proof of service alleging that he personally placed a summons and complaint addressed to Ms. Kadeji Harris on the entry door to 430 Frederick in the city of Detroit.

3. That proof of service alleged that service was accomplished by posting on August 26, 2017.
4. The posting was not done on August 26, 2017.
5. Mr. Bell did not do the posting.
6. Mr. Bell admitted that he did not place the document on the door and admitted that the document was placed on the door by a person whom he employed whose name he could not remember.
7. Mr. Bell's testimony was not credible when he testified to two facts: that he had no record or memory of the name of the person he hired to do the service, that he believed at the time that the date of service was August 26, 2017, rather than August 29, 2017. His testimony was not credible because at Mr. Bell testified that the consequences of this case on his business so severely impacted his business and reputation that he hired counsel and sought an injunction against the respondent in circuit court.
8. The respondent testified credibly that she observed a person approach the door of 430 Frederick on August 29, 2017. She testified the individual did not knock or in any way attempt to notify any person in that residence of his presence. When she retrieved the paper she noted that it was addressed to Ms. Harris who did not live at that address.
9. The respondent's aunt was the permanent resident of 430 Frederick, and the respondent was the lessee. The respondent was staying with her aunt at the time.
10. Respondent contacted the management company to make them aware of the erroneous address for Ms. Harris. The leasing agent gave her the name of the attorney who represented them in their real estate issues. Respondent contacted Mr. Abbot and informed him of the situation. Mr. Abbot promised he would dismiss the case due to the address error.
11. On August 31, the morning of scheduled hearing on the Harris matter, respondent sent an email to the judge assigned to the case and the presiding judge of the Landlord Tenant Division of the Court regarding the address error. In addition to reporting her personal observations of August 29 respondent noted, "I do not trust anything he puts on a proof of service. So I have him on video if you would like to see it. Therefore, I will grant any motion for dismissal regarding Myron(sic) Bell, I will grant"
12. Disciplinary counsel presented exhibits which depict a sign on the podium of the courtroom where respondent presided stating that no one should use Mr. Bell as a process server in her courtroom.
13. Beginning September 20, 2017, respondent presided over many cases where Mr. Bell was the process server and either dismissed them or adjourned them. For example, in 17-321677 and 17-312686 where Mr. Bell was the court officer, the respondent posed the Hobson's choice to the self-represented litigants to either or obtain service through another process server or have the case dismissed. In both cases she expressly stated that the reason she deemed service invalid was because it was made by Mr. Bell.

14. On September 25, 2017, Judge Blount entered an order which read forbade dismissal of cases solely due to Mr. Bell was the court officer who made service of process.
15. Beginning September 27,2017, respondent dismissed a series of cases where Mr. Bell was the process server based upon a failure to attach either a lease, terms of occupancy or a deed demonstrating proof of ownership by the plaintiff. Per MCR4.201 (B)(1)(b), the court rule reads as follows:

> Complaint.
> (1) In General. The complaint must
> (a) comply with the general pleading requirements.
> (b) have attached to it a copy of any written instrument on which occupancy was or is based.
> (c) have attached to it copies of any notice to quit and any demand for possession (the copies must show when and how they were served).
> (d) describe the premises or the defendant's holding if it is less than the entire premises; and
> (e) show the plaintiff's right to possession and indicate why the defendant's possession is improper or unauthorized

16. Disciplinary Counsel offered several examples to support the claim that that respondent committed judicial misconduct in the management of cases where Mr. Bell was the court officer who signed the proof of service. Among them was 17-322247LT Jordan v Finley. In that case both the plaintiff and defendant appeared, and the plaintiff acknowledged that there was a lease had not been attached to the summons and complaint. The plaintiff indicated he relied on Mr. Bell for advice as to how to proceed. After asking the defendant if she wanted to waive any right to be served with a summons and complaint with the lease attached, the respondent dismissed the case without prejudice.
17. There were no transcripts in each of the following cases which were dismissed for failure to comply with MCR2.401 :17-323129, 173323132, 17-323134, 17-323144, 17-323154, 17-323196, 17-232290.
18. In re 17-321869, Counsel for the plaintiff appeared, requested a default and was denied that relief for failure to attach a lease to the summons and complaint. Counsel asserted that “apparently there is not a lease.” Counsel did not ask for an adjournment to ascertain if in fact there was a lease.
19. On October 6, 2017, in a hearing involving several cases where Mr. Bell was the court officer, Atty Frederick Coleman appeared and requested that Default judgments be entered as to the Defendants who had not appeared as of 10:05 am for 9:00 am hearings (17-323093,17-27323095,17-323107).

20. The respondent declined citing her belief that Mr. Bell's averments on service were unreliable. She went further noting, "So no, I don't care what the chief judge or anybody else at this court says. This is my courtroom. And if you have a problem, anybody can take it to the JTC…." The cases were adjourned.
21. While the exhibits provide proof that respondent improperly dismissed cases, there are no exhibits addressing whether they were re-instated by respondent during any period when she had the ability to do so. It is a rational inference from the respondent's statements to Mr. Coleman and others regarding her defiance of the CJ Blount's orders that she did not reinstate cases while she had the capacity to do so prior to her October removal from the docket.

CONCLUSIONS OF LAW:

Petitioner asserts that the conduct charged in Count II of the FC101 violate all of the following:

a. Michigan Constitution Article 6, Section 30(2), and MCR 9.202(B), by engaging in misconduct in office and persistent failure to perform judicial duties.
b. MCR 9.104(1) and MCR 9.202(B), by engaging in conduct prejudicial to the administration of justice.
c. MCR9.104(2), by exposing the legal profession and the courts to obloquy, contempt, censure, or reproach.
d. MCR 9.202(B)(1)(a) and MCJC 3(A)(1), by failing to be faithful to the law, failing to maintain professional competence in the law, and for persistent incompetence in the performance of judicial duties.
e. MCR9.202(B)(1)(c) and MCJC3(A)(13), for failing to treat persons fairly and courteously.
f. MCR 9.202(B)(2) and MCJC 2(A), for being irresponsible and improper and eroding public confidence in the judiciary.
g. MCR 9.202(B)(2) and MCJC 2(B), for corroding confidence in the integrity and impartiality of the judiciary.
h. MCR 9.202(B)(2) and MCJC 3(A)(4) for initiating, permitting, or considering ex parte communications.
i. MCR 9.202(B)(2) and MCJC 3(A)(7), for making pledges, promises or commitments inconsistent with the impartial performance of the adjudicative duties of judicial office in connection with cases, controversies, or issues that are likely to come before her.
j. MCR 9.202(B)(2) and MCJC 3(A)(12), for making premature judgments.
k. MCR 9.202(B)(2) and MCJC 3(B)(1), for failing diligently to discharge administrative responsibilities and facilitate the performance of the administrative responsibilities of other judges and court officials.

l. MCR 9.202(B)(2) and MCJC 3(C), for failing to raise the issue of disqualification when she had cause to believe that grounds for disqualification existed under MCR 2.003(C).

THE MASTER CONCLUDES:

A. The Canon at issue reads:

4) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding, except as follows:

(a)A judge may allow ex parte communications for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits, provided:

(i) the judge reasonably believes that no party or counsel for a party will gain a procedural or tactical advantage as a result of the ex parte communication, and

(ii) the judge makes provision promptly to notify all other parties and counsel for parties of the substance of the ex parte communication and allows an opportunity to respond.

Respondent's initial conversations with the management of the complex, the management's lawyer and the court were reasonable. The respondent believed that the person who placed a summons the entry door of 430 Frederick was Myran Bell. She took reasonable steps initially to notify management, the attorney for management and the court that the service was at the wrong address and not properly made in terms of time before the hearing date and otherwise. Her communication with the judicial officers, while ex-parte, was of an administrative and emergent nature regarding a pending case in which respondent while not a party had an interest. Given the error in the original address, she had reason to be concerned that counsel might not complete the dismissal or court might not process it before a default was entered. The document was posted on the Frederick address on Tuesday and the hearing was Thursday. Neither party in this case of mistaken address was be advantaged by the communication. Petitioners proof as to misconduct based upon these facts fails.

B. The respondent dismissed cases, adjourned cases and made allegations of systemic misconduct on the part of Mr. Bell without record evidence. After the resolution of the initial case the respondent made presumptions which led to dismissals and adjournments solely based upon his name being on the proof of service. She placed signage in her courtroom admonishing people to not use Mr. Bell to serve process.

Respondent repeatedly announced from the bench that Mr. Bell was not credible regarding compliance with court rules based on her singular observation of a person whom she now knows was not Mr. Bell. Once the Chief Judge issued an order to cease dismissals due to the process server being Mr. Bell she began adjourning cases based upon his without any record support that service was not made. **The Petitioner has proven that the respondent's conduct was in violation of each of the following**:

1. **MCR 9.104(1) and MCR 9.202(B), by engaging in conduct prejudicial to the administrator justice.**
2. **MCR9.104(2), by exposing the legal profession and the courts to obloquy, contempt, censure, or reproach.**
3. **MCR 9.202(B)(1)(a) and MCJC 3(A)(1), by failing to be faithful to the law, failing to maintain professional competence in the law, and for persistent incompetence in the performance of judicial duties..**
4. **MCR 9.202(B)(2) and MCJC 2(A), for being irresponsible and improper and eroding public confidence in the judiciary.**
5. **MCR 9.202(B)(2) and MCJC 2(B), for corroding confidence in the integrity and impartiality of the judiciary.**
6. **Michigan Constitution Article 6, Section 30(2), by engaging in misconduct in office and persistent failure to perform judicial duties**
7. **9.202(B)(1)(c) and MCJC3(A)(13), for failing to treat persons fairly and courteously**

C. The respondent intentionally disregarded directives from the chief judge regarding adjournments. After the chief judge issued an order precluding adjournment based upon Mr. Bell's participation respondent embarked on a pattern of adjourning or dismissing cases for non- compliance with the requirements of MCR4.204 regarding the attachment of a lease or deed to the summons and complaint.. The respondent made a legal error as the existence requirement for a deed or other proof of ownership being required by the court rule. However, the petitioner has proven by a preponderance of the evidence that the legal error was not the basis for the dismissal and adjournments. Instead, the stated reasons were a pretext used to circumvent the orders of the chief judge and to act upon respondent's her belief that Mr. Bell had a pattern of fraudulent proofs of service. Respondent repeatedly violated the orders and acknowledged such violation on the record of open court. Over 22 cases were proven to have been affected by this pattern of conduct At no time did she approach the SCAO regarding this issue prior to the order of October 20, 2017, removing her from the docket.

The Petitioner has proven that the respondent's conduct was in violation of each of the following:

1. **MCR 9.104(1) and MCR 9.202(B), by engaging in conduct prejudicial to the administration of justice.**
2. **MCR9.104(2), by exposing the legal profession and the courts to obloquy, contempt, censure, or reproach.**
3. **MCR 9.202(B)(1)(a) and MCJC 3(A)(1), by failing to be faithful to the law, failing to maintain professional competence in the law, and for persistent incompetence in the performance of judicial duties.**
4. **MCR9.202(B)(1)(c) and MCJC3(A)(13), for failing to treat persons fairly and courteously.**
5. **MCR 9.202(B)(2) and MCJC 2(A), for being irresponsible and improper and eroding public confidence in the judiciary.**
6. **MCR 9.202(B)(2) and MCJC 2(B), for corroding confidence in the integrity and impartiality of the judiciary.**
7. **Michigan Constitution Article 6, Section 30(2), and MCR 9.202(B), by engaging in misconduct in office and persistent failure to perform judicial duties.**
8. **MCR 9.202(B)(2) and MCJC 3(A)(4) for initiating, permitting, or considering ex parte communications**

COUNT III OBSTRUCTION OF COURT ADMINISTRATION

In its Proposed Findings of facts and conclusions of law the Petitioner wrote:

> Respondent's failures impacted the court's discharge of its administrative responsibilities and are a violation of Canon 3(B), which requires a judge to diligently discharge administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials. Further, respondent's conduct toward Judge Blount and Judge Paruck is a violation of Canons 2(B) and 3(A)(14) for failing to treat people with courtesy and respect. The petitioner charges the respondent with judicial misconduct under this count for failure to follow the Orders of the chief judge regarding Myran Bell.

The evidence regarding this charge included the testimony of Judges Blount and Paruck and the respondent as well as DC Exhibits 40-72.

The Master finds as follows:

1. Respondent was removed from adjudicative responsibilities on October 20, 2017, by order of CJ Blount in consultation the State Court Administrator.
2. Prior to October 20, 2017, respondent, as noted relative to Count II, failed to follow directives of the CJ Blount regarding dismissals and adjournments of cases where Mr. Bell was the court officer.
3. The October 20, 2017, order required Respondent to report her arrival and departure from the courthouse daily. She was resistant to doing so and sent an email on November 1, 2017, expressing her disagreement and opinion that such action was unfair and unnecessary. She sent another email asking for a list of other judges who had this requirement. Nothing in those emails was vituperative.
4. Respondent sent several emails to CJ Blount, Judge Paruck and Ms. Moore (36th District Court Administrator) beginning November 2, 2017, containing Biblical passages. The emails evidenced the time of transmission and origin of the transmission and were, therefore evidence of when the respondent reported to the building. Judges Blount and Paruck found them to be threatening and baffling. CJ Blount responded in writing that each communication was "unacceptable."
5. Judge Paruk presented a performance improvement plan (PIP) to respondent and her counsel. She and her counsel disagreed with some of the asserted facts in the plan and declined to sign it. On December 1, 2017, Judge Paruk sent a letter putting the plan into effect as of December 4, 2017. Key aspects of the PIP are:

    1. Communication
        a. Respondent and SCAO were each respond to emails form the other within 24 hours.
        b. Respondent was directed to communicate with SCAO and 36th District Court administration using her court email.
    2. Attendance
        a. Respondent was to arrive at court by 8:30.
        b. Respondent was to notify Chief Judge Blount's administrative assistant of her arrival though the court's email.
        c. Once respondent was returned to adjudicative responsibility she was to arrange for coverage of her docket when she was absent from that docket
        d. Respondent was to notify the court of any absence necessitated by illness using the court email.
    3. Training
        a. A mentor judge was assigned
        b. A training program was fashioned for respondent by Judge Paruck.

6. On December 4, 2018, Judge Paruk sent an email regarding the respondent's attendance on December 4. In a tardy responsive email, the respondent noted that she arrived at 9:50 am on December 4, and 8:26 and 8:28 am. on the days following. In that communication the respondent admitted that she left the building before close of business but noted as is uncontroverted that she had neither a docket nor other administrative responsibilities.
7. Respondent included the phrase "find someone else to harass" in several emails written to Judge Paruk, expressing her opinion that she was being treated disparately.
8. The respondent was returned to full time adjudicative responsibility on or about December 2018, on recommendation from the mentor judge and with the concurrence of the State Court Administrator and the regional administrator.
9. Respondent was scheduled to adjudicate the felony arraignment docket on December 26-28, 2018. She did not work on December 26, 2018, or December 28, 2018.
10. Respondent had requested leave for that December 26, 2018 - January 4, 2019. CJ Blount denied leave for December 26, 2018, unless she could find coverage. She worked on December 27 but was absent on December 28 due to illness. She did not report back to work until January 18 with a physician's note. She did not find coverage for December 26 or December 28, 2018.
11. The PIP and other requests from Judge Paruk required respondent to communicate with the court on the court email. However, when notifying the court of illness, the respondent was doing so from outside the courthouse and with no access to court email.

CONCLUSIONS OF LAW

Petitioner argues that Respondent's conduct alleged in Count III of the Formal Complaint Reese to the level of violation of:

a. Michigan Constitution Article 6, Section 30(2), and MCR 9.202(B), by engaging in misconduct in office and persistent failure to perform judicial duties.
b. MCR9.104(2), by exposing the legal profession and the courts to obloquy, contempt, censure, or reproach.
c. MCR 9.202(B)(2) and MCJC 3(B)(1), for failing diligently to discharge administrative responsibilities and facilitate the performance of the administrative responsibilities of other judges and court officials.
d. MCR 9.202(B)(1)(c), MCJC 2(B), and MCJC 3(A)(14) for failing to treat every person fairly, with courtesy and respect.
e. MCR9.202 (B) (1) (c) and MCJC3 (A) (3) for failing to be patient, dignified, and courteous to others with whom respondent dealt in an official capacity.

THE MASTER CONCLUDES:

A. The respondent had worsening and persistent physical health problem throughout her tenure. She was using an assistive device to ambulate daily by the time she was relieved of adjudicative duties in 2019. She was frequently on Schedule 3 pain medication. A substantial portion of her absences were due to her on-going medical issues. By way of example, the December 26-28 failure to report claim arose from a medical issue which resulted in a leave through January 11, 2019. The chief judge denied the leave request for a planned medical visit on December 26, 2019, unless the respondent found coverage. The administration's denial of leave was sent in late November 2018. Respondent went to her medical appointment and, apparently, did not obtain coverage. The medical issue resulted in an extended medical absence. Even so, respondent's failure to adhere to the court policy was intentional. As to the assertion regarding her arrival and departure times from court, they were irregular and contrary to the PIP. Her response to correspondence was, also contrary to the PIP. It is noteworthy that she had no significant administrative or other duties during her first removal from adjudication and appeared to have fulfilled the shadowing and other training requirements of her PIP. It was at the recommendation of the mentor judge in cooperation with the regional administrator that she was returned to adjudicative duty. Her attendance after January 2019 was irregular with the court having to contact her mother to garner her presence for auxiliary judge duty several times. The petitioner has proven violation of MCR 9.202(B) (2) and MCJC 3(B) (1), for failing diligently to discharge administrative responsibilities and facilitate the performance of the administrative responsibilities of other judges and court officials.

B. The respondent, Judge Paruck and CJ Blount had high conflict relationships. The Petitioner argues that the series of emails containing Biblical passages, and emails including, "find someone else to harass ", prove judicial misconduct as charged. Sharp and conflicted communication is seldom effective, but these writings did not include direct threats nor from this record where they published so as to subject the judiciary to censure or reproach. They were internal communications regarding differences of opinion between court systems professional. Additionally, the petitioner has not demonstrated how the requirement that respondent uses her court email to report illness could have been met with the technology in play in 2018-2019. The petitioner's proofs fail as to these issues.

Summary

The petitioner has met its burden of proof that respondent violated MCR 9.202(B)(2) and MCJC 3(B)(1), for failing diligently to discharge administrative responsibilities and facilitate the performance of the administrative responsibilities of other judges and court officials. In all other respects the petitioner did not meet the burden of proof.

COUNT IV: KNOWINGLY CONDUCTING A COURT PROCEEDING WITHOUT AN OFFICIAL RECORD

The Respondent admitted the underlying fact for this claim: that she did not make an official record for her cases while in courtroom 340. She offers an affirmative defense. She argues that she was not properly trained on the courtroom video equipment and, therefore, absent the supply of court reporter she could not make an official record. She makes a legal argument that SCAO Michigan Trial court Standards for Courtroom Technology and MCR 8.109(B) precluded her from using the equipment.

Witnesses on this count were: CJ Blount, Judge Elizabeth Mullins, Ms. Diana Drew, Ms. Morgan Hairston, Ms. Shannon Walker, and respondent. Additionally, DC73-133 were reviewed for evidence on this Count.

THE MASTER FINDS AS FOLLOWS:

With the exception of February 27, 2019, the respondent did not use the video-graphic equipment in Courtroom 340. On that date there is video of Judge Larry Walker assisting her with the equipment. That is the only video training she received. The respondent herself admitted that she did receive training form Chief Judge Pro Tempore Larry Williams

> ``The only time that there was an attempt to train me on that video machine was, I believe, February 27th or 28th, 2019, whatever the Wednesday was. And that was by-the court reporter -- well, that was by Judge Williams. And the court reporter supervisor just kind of stood by-there, and she's not a court reporter."

1. While CJ Blount testified that the court had a habit and routine of providing training from the IT department, this practice was not applied to respondent. Her first "training" occurred weeks after she was assigned to the video courtroom. Respondent was aware that an official record was required and directed required her clerk to request one daily. In the interim, she made the decision to begin recording on her cell phone. She did not ask for training. She did not contact SCAO. Respondent testified that she informed litigants that there was no official record. This is belied by Judge Mullins' testimony regarding her discovery of the lack of taping when she noticed that the microphones were red rather green. Ms. Drew also had no memory of such a routine announcement. While respondent may have made this announcement once or twice, it was not done regularity orally nor did she place a note on the podium as she had regarding Mr. Bell in Count II.

2. A court reporter was provided to respondent only once on February 20, 2019.

3. The petitioner fails in its claim that the respondent destroyed or disabled the video-graphic equipment.

    a. Destruction: The petitioner alleges that the respondent destroyed the equipment and offers, Ms. Walker, in support of this allegation. Ms. Shannon Walker, a supervising attorney with the City of Detroit Law Department, testified that the respondent admitted removing the equipment and that she observed the equipment "in the jury box." (Respondent, Ms. Drew and Ms. Hariston deny the existence of a jury box. The exhibits offered by Disciplinary counsel do not depict a jury box.) However, assuming there was one or a small, railed seating space in the small courtroom it is hard to believe that video-graphic equipment could be removed from its place at the bench and placed in chairs in the area described without several people noticing. Judge Mullins testified that when she raised the issue of lack of official recording to administration she was told to order a transcript to prove the claim. It would have been unnecessary to order a transcript if that equipment were a destroyed and placed in a pile in the court room. Finally on February 27, there is a video of Judge Walker using video-graphic equipment to instruct respondent of its use. The record is devoid of any information regarding repair or replacement of the equipment between the date of the alleged destruction or removal and the February 27, 2022 video with Judge williams. I do not find Ms. Walker's testimony credible on either the admission or the destruction.

    b. Disabling: The petitioner fails in its claim that the respondent disabled the video-graphic equipment Judge Mullins, Ms. Drew, Ms. Hariston and Respondent testified on this claim. The testimony of Ms. Drew was that she witnessed the respondent kneel down and rapidly pull all the cords form the video machine. She described the respondent entering the court room carrying her robe and coffee, sitting on a chair kneeling down silently and pulling the cords. Ms. Hariston, a courtroom officer, also testified that she observed the respondent pull cords from a seated position from the area where the video-graphic equipment was placed. The respondent testified that she placed her phone, a charging station on her bench all in proximity to the computer monitor which was to her right facing the courtroom per the video. She also testified that she plugged and unplugged certain cords to allow the computer to re-boot.

    Both Ms. Drew and Ms. Smith were credible in their testimony they saw the respondent move and unplug cords. However, because they had a severely limited visage- the clerk seated at least one foot lower that the top of bench and the court officer six inches lower than the clerk when seated and off to far left when standing evidence does not preponderant that the video equipment was disabled. The

explanation that the respondent unplugged the monitor cords is more plausible that a physically compromised respondent kneeling, bending, and unplugging multiple cords from the video equipment. Further the testimony of Judge Mullins was that she discovered that the taping was not being done because the microphone, attached to and dependent on the central unit were red. The fact that they were red connoted that they were receiving power but not taping as opposed to completely disassembled. What is crucial is that the respondent was fully aware that she was not making an official record.

CONCLUSIONS OF LAW

Petitioner asks that the respondent be found in violation of each of the following pursuant to Count IV:

a. Michigan Constitution Article 6, Section 30(2), and MCR 9.202(B), by engaging in misconduct in office and persistent failure to perform judicial duties.
b. MCR9.202(B), MCR9.104(1), and MRPC8.4(c); by engaging in conduct prejudicial to the administration of justice.
c. MCR9.104(2), by exposing the legal profession and the courts to obloquy, contempt, censure, or reproach.
d. MCR 9.205(B)(1), by persistent incompetence in the performance of judicial duties.
e. MCJC Canon 2(A), by being irresponsible and improper.
f. MCJC Canon 2(B), by failing to promote public confidence in the integrity of the judiciary.
g. MCJC Canon3(A)(1), by failing to be faithful to the law (MCL600.8331).
h. MCR 9.202(B)(2) and MCJC 3(B)(1), for failing diligently to discharge administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court official.

THE MASTER CONCLUDES:

A. The SCAO Michigan Trial Standards for Courtroom Technology are designed for persons other than the judge. The very standards require the "operator" to play back records at the judge's direction. Unfortunately, there are no uniform published standards for training judges on the proper use of video graphic equipment.

B. The respondent's failure to make an official record of proceedings was without legal excuse. The Chief Judge Pro Tempore provide some instruction on how to use the video equipment This instruction was days before issuance of the order issued March 4, 2022. That order removed the respondent from hearing cases and barred her from the courthouse. That order

indicates that the recording of February 27, was inaudible. The respondent acknowledged training in using the "Polycom," a similar system. The respondent never requested additional training, contacted either the Region I SCAO office or other authority, apparently in hopes of ultimately getting a court reporter assigned to her.

C. **Thus, the petitioner has proven violation of**
    a. **MCR 9.202(B)(2) and MCJC 3(B)(1), for failing diligently to discharge administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court official**
    b. **MCR9.202(B), MCR9.104(1), and MRPC8.4(c); by engaging in conduct prejudicial to the administration of justice.**
    c. **MCR9.104(2), by exposing the legal profession and the courts to obloquy, contempt, censure, or reproach.**
    d. **MCR 9.205(B)(1), by persistent incompetence in the performance of judicial duties**
    e. **MCJC Canon 2(A), by being irresponsible and improper.**
    f. **MCJC Canon 2(B), by failing to promote public confidence in the integrity of the judiciary.**

Summary: The Petitioner proved that the respondent persistently failed to make a record of official proceedings without legal or factual excuse in violation of : MCR 9.202(B)(2) and MCJC 3(B)(1), for failing diligently to discharge administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officialMCR9.202(B),MCR9.104(1),dMRPC8.4(c);by engaging in conduct prejudicial to the administration of justice ,MCR9.104(2),by exposing the legal profession and the courts to obloquy, contempt, censure, or reproach, MCR 9.205(B)(1), by persistent incompetence in the performance of judicial duties, MCJC Canon 2(A), by being irresponsible and improper. MCJC Canon 2(B), by failing to promote public confidence in the integrity of the judiciary. The petitioner did not prove that the respondent disabled or destroyed the video-graphic equipment.

Count V: UNAUTHORIZED RECORDING AND PUBLICATION OF COURT PROCEEDINGS

The proofs on this matter included the testimonies of Ms. Shannon Walker, Ms. Diane Drew, the respondent, and DC 117 (media presentations including a series of recordings labeled as being from the respondent's cellphone.)

The Master finds as follows:

The petitioner admits she recorded numerous proceedings. She provided copies of several of them to the Judicial Tenure commission in response to their requests for same. The contents of the mp3 and other media are found in the exhibits. In many of the exhibits the respondent is in full view and is seen and heard calling cases and interacting with litigants. In others the respondent is addressing an audience concerning the state of her chambers. In those published media the viewer is afforded a view of a disordered chambers. The subject matter is solely the state of the chambers. Two images depict court proceedings but bear no date or time and have no identifier as where or if they were broadcast. Two images involve Judge Williams offering some instruction on the video equipment and bear time stamp and dates in February 2019. The respondent was not asked about placing any of these media on a public forum. Only Shannon Walker offered testimony that she uncovered a broadcast on Facebook where she heard both the voice of the respondent and that of her courtroom prosecutor now Judge Mullins. Judge Mullins was not asked about seeing any broadcast. Ms. Walker is the sole witness on this issue and while no doubt she earnestly recounted, her memory does not persuade this master of the accuracy of her memory tested by three years of time.

Conclusions of Law

The Petitioner asserts that Count V supports a finding that the petitioner violated by Canon 3(A)(11).
(11) A judge should prohibit broadcasting, televising, recording, or taking of photographs in or out of the courtroom during sessions of court or recesses between sessions except as authorized by the Supreme Court.

The Master Concludes:
The respondent recorded court proceedings in a manner inconsistent with MC27 the applicable rule pre-covid for recording courtroom proceeding. **This is a violation of Canon3(A)(11).**

Summary: **The petitioner has proven that respondent recorded courtroom proceedings in violation of Canon3(A)(11)**

The petitioner did not prove publishing.

COUNT VI: HANDICAP PARKING

With regard to Count Six, respondent's conduct can be summed up as:

- Knowingly parking in an illegal manner

- Misusing a Detroit Police Department "On Official Business" placard to avoid getting a parking ticket

- Although not asked to, presenting her badge and identification to avoid being given a parking ticket.

- Threatening Ms. Starkey by saying, "I'm going to get my people in court on you, you stupid bitch."

- Engaging in undignified or discourteous conduct before the court, especially when walking out during the preceding that she requested.

- Making misleading statements to Judge Krot during her testimony at the hearing.

The evidence relative to this claim came from seven live witnesses: Judge Mullins, Ms. Starkey, Ms. Walker, Ms. Jenkins, Ms. Lewis and the respondent as well as DC Exhibits 118-123. This claim arose from the respondent's parking at LA fitness at Mack and Moross and the court proceeding that followed. The review of the actual parking incident and the hearing on the ticket will be discussed separately.

The Master Finds:

<u>The Parking incident.</u>

1. Respondent improperly parked her vehicle in a handicap loading zone in front of the LA Fitness on Mack and Moross. Respondent exited her vehicle with her assistive device and engaged in rehabilitative/exercise activity leaving the vehicle in the loading and unloading space.
2. Respondent displayed a police placard in her vehicle being neither officer to whom the placed was issued nor on any governmental business.
3. The respondent's displayed her judicial badge without a direct request form Officer Gyani, the Detroit Police Department officer who responded to the LA Fitness based upon a citizen complaint.

4. Ms. Starkey's assertion that the respondent made the vulgar and threatening statements was not proven. Ms. Starkey was not credible. According to all of the testimony of Officer Gyani, Ms. Starkey, Ms. Lewis and respondent, the respondent exited LA Fitness using her assistive device and accompanied by another woman (Ms. Lewis) after Officers Gyani arrived and had researched the name of the registered owner of the vehicle. Ms. Starkey's testimony at the formal hearing as that when the respondent exited the LA fitness that she heard the respondent tell the person accompanying her to take a picture of Ms. Starkey's license plate. It was Ms. Starkey testimony that she stood outside of the vehicle to block the taking of the picture. According to Ms. Starkey's testimony at the formal complaint hearing the vulgar and threatening statements were made to her while she was sitting in the car. Ms. Starkey testified that her vehicle was not moved from its space next to respondent's car until after the officer arrived. Her car was moved with the assistance of and LA Fitness employee who crawled from the passenger side the driver's side because respondent's vehicle made driver's side entry impossible. Ms. Starkey would have to have been to be seated in the passenger side of her vehicle when the utterances were made. Her passenger side was a full car width away from even the passenger side of the respondent's vehicle. The most disinterested witness in this case, Officer Gyani, never heard the colloquy nor witnessed the slow-moving respondent with an assistive device approach Ms. Starkey. The respondent's vocal volume, in court and on the various media exhibits is very low. The respondent had to be told repeatedly to speak up during the formal complaint hearing. It is logical, therefore that either respondent was very close to Ms. Starkey when she spoke or that she bellowed from a distance. Moreover, Ms. Starkey claimed to have been blocking her front plate to prevent it from being photographed while the respondent exited the LA Fitness approaching the cars. Ms. Starkey's testimony was not credible.

The Hearing on the parking Ticket

5. The respondent did not make any false statements to the Tribunal. The transcript, which is the only official record of the proceedings, contains no misleading statements. She stated her legal positions as did her opponent and the judge ruled. She was a vigorous advocate, but both the transcript and the audio recording revealed no shouting, inappropriate language or action. The Court and she stepped over each other's words once or twice.
6. The respondent incorrectly assumed she could, as an attorney, use her phone for research purposes in the courtroom. Judge Mullins made the same assumption. Both based their assumption on the practice at 36th District court. Only the respondent's phone was taken by the Court.
7. At the close of Judge Mullins' examination of Ms. Starkey, the respondent exited the courtroom, declining to cross-examine the witness and stated she was going to appeal. She made no other statement, and the record does not reflect anything about her manner of exit upon which a finding of distraction can be made.
8. Respondent did not pay her fine in a timely manner.

Conclusions of Law

Petitioner asserts that the respondent violated each of the following relative to the issuance of the original ticket, the formal hearing on the ticket and its payment.

1. MCR 9.104(1) and MCR 9.202(B), by engaging in conduct prejudicial to the proper administration of justice.
2. MCR 9.104(2), by exposing the legal profession or the courts to obloquy, contempt, censure, or reproach.
3. MCR9.104(3), by engaging in conduct that is contrary to justice, ethics, honesty, or good morals.
4. MCR9.104(4), MCR9.202(B)(2),andMRPC3.5(d),by being undignified or discourteous toward the tribunal.
5. MCR 9.202(A), by demonstrating a lack of personal responsibility for her own behavior 9.202(B)(2).
6. Canon 1, for failing personally to observe high standards of conduct so the integrity and independence of the judiciary may be preserved.
7. MCR 9.202(B)(2) and Canon 2(B), for failing to respect and observe the law.
8. MCR 9.202(B)(1)(c) and Canon 2(B), for failing to treat persons fairly, with courtesy and respect MCR 9.202(B)(1)(e).
9. MCR 9.202(B)(1) and Canon 2(C), for misusing her judicial office, or using of the prestige of judicial office for personal gain.

THE MASTER CONCLUDES:

A. The respondent committed an ordinance violation. She was slow to pay her ticket. However, these facts alone do not support a finding that she violated Canon 3B. If Canon 3B is applied to this case every parking ticket would be a per se violation of the Canon.

B. The respondent displayed a Detroit Police Department placard and displayed her court identification to obtain special treatment in violation of:
    a. **MCR 9.104(1) and MCR 9.202(B), by engaging in conduct prejudicial to the proper administration of justice.**
    b. **MCR 9.104(2), by exposing the legal profession or the courts to obloquy, contempt, censure, or reproach.**
    c. **MCR9.104(3), by engaging in conduct that is contrary to justice, ethics, honesty, or good morals.**

d. Canon 1, for failing personally to observe high standards of conduct so the integrity and independence of the judiciary may be preserved.

C. The petitioner failed to prove that the respondent failed to accord the tribunal with respect in violation of MCR 9.202(B)(2). Her advocacy on her own behalf was aggressive and mistaken in some of her assumption as to the procedure and law. Just as her judicial position did not and should not have advantaged her in the proceedings, neither was it impediment to her ability to defend herself.

Summary:

1. **The Petitioner proved by a preponderance of the Evidence that respondent violated MCR 9.104(1) and MCR 9.202(B), by engaging in conduct prejudicial to the proper administration of justice. MCR 9.104(2), by exposing the legal profession or the courts to obloquy, contempt, censure, or reproach. MCR9.104(3), by engaging in conduct that is contrary to justice, ethics, honesty, or good morals and Canon 1, for failing personally to observe high standards of conduct so the integrity and independence of the judiciary may be preserved by placing the placard on her windshield and displaying her badge.**

2. **The Petitioner failed to prove all other aspects of Count VI**

COUNT VII MISREPRESENTATION

The Petitioner lists the following allegations of misrepresentation: Based on all this evidence, respondent has engaged in judicial misconduct by making intentional misrepresentations or misleading statements:

- Respondent has asserted that, with respect to the manner in which she held Mr. Johnson in contempt, she had not had any training.
- March 16, 2020, respondent testified under oath at a deposition that she was living at 430 Frederick in Detroit on April 6, 2018, and that she had lived at that address for a year and two months before her auto accident of April 6, 2018, meaning since February 2017. Respondent also testified that she lived alone at the Frederick address. (DC Ex 129)
- As stated under Count Six, respondent has repeatedly maintained that she was not illegally parked because she loaded and unloaded her walker in a loading and unloading zone
- Respondent has repeatedly denied disconnecting the video recording equipment.

The Master Finds:

The entire record including all exhibits were reviewed for this allegation.

1. The Respondent had the following formal judicial training as of October 2017:
    a. MJI Pre-Bench Training bench training. This training for which the Disciplinary counsel provided the entire written text, covered numerous topics including, ethics, closing a practice. It did not cover contempt procedure.
    b. March 2017 New Judges session for which the curricula was not included. Judge Paruck testified it was focused on the issues the new judges encountered in their first quarter of service. It occurred within days of respondents first active bench service.
    c. Respondent had "an abbreviated" orientation at the 36th Court prior to October 2017. The contents of that orientation included some shadowing. There is no record of her observing a contempt proceeding.
    d. The question from JTC counsel Clark to which Che responded that she had no training was: Did you give Mr. Johnson due process before sentencing him to jail, knowing what you know now?" She answered "Knowing what I know now, no. But at the time I did not know that because I didn't have training."

2. Misleading statements as to her residence. Petitioner fails in its misrepresentation claim regarding residency.

    In the case of Davis v Wasser 2019-175652 NI respondent testified that she resided alone at 430 Frederick at the time of an accident. She also says she had lived there 14 months prior to the accident date. There is no stipulation in the cord nor testimony in the portion of 2020 transcript in Davis v Wasser as to when the accident occurred. Therefore, there is no basis to find that she testified under oath that she lived alone at 430 Frederick on August 29, 2017. It is on August 29, 2017, that respondent has told this tribunal that she was temporarily residing with her aunt at premises for which she was the leaseholder.

3. The respondent has continuously averted that her vehicle was legally parked at the LA Fitness in a loading and loading handicap zone. Clearly the zone was for active loading and unloading. At formal hearing she and her counsel took the position that so long as she had a device to load and unload and a handicap sticker she was legally parked. This is a statement of an opinion, albeit one contrary to law. It is not a statement of fact. She has not misrepresented that she was not actively loading. She has admitted her vehicle was parked.

    The petitioner fails to prove that she made an intentional misrepresentation of fact as to her vehicle parking in the unloading zone.

4. The Master has previously found that the petitioner failed to establish that what respondent unplugged was the video equipment. Thus, the petitioner fails in its proofs on this allegation.

The Master concludes:

The Petitioner failed to prove the allegation in any of claimed instances of misrepresentation.

Summary: The Petitioner did not prove Count V11.

CONCLUSION:

The master concludes that the petitioner has met its burden of proof on Counts I – VI.

August 1, 2022

Cynthia Diane Stephens
Appointed Master