

**STATE OF MICHIGAN
BEFORE THE JUDICIAL TENURE COMMISSION**

COMPLAINT AGAINST

Hon. Debra Nance
46th District Court
Southfield, MI

FC 106

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COMPLAINT

The Judicial Tenure Commission (“Commission”) has authorized this complaint against Honorable Debra Nance, judge of the 46th District Court, County of Oakland, State of Michigan, and directed that it be filed. This action is taken pursuant to Article 6, Section 30 of the Michigan Constitution of 1963, as amended, and MCR 9.200 *et seq.*

BACKGROUND

1. Respondent Nance has been a licensed lawyer and a member of the State Bar of Michigan since 2000.
2. Respondent Nance is, and since 2012 has been, a judge of the 46th District Court, County of Oakland, State of Michigan.
3. As a judge, respondent has been and is currently subject to the duties and responsibilities imposed by the Michigan Supreme Court and is subject to the standards for discipline set forth in MCR 9.104 and 9.202.

4. Respondent Nance and a colleague attended a judicial conference at Mackinac Island on August 20, 2019. Respondent Nance's colleague rented bicycles from the Mackinac Island Bike Shop on Main Street for herself and respondent Nance.
5. When respondent Nance and her colleague returned their bicycles to the shop, respondent Nance explained to the bicycle shop staff that she had a problem operating the bicycle. Respondent Nance and her colleague requested an accommodation on the cost.
6. One of the employees summoned Ira Green, the proprietor of the bike shop. A discussion lasting about 20 minutes ensued primarily between Mr. Green and respondent Nance's colleague while respondent Nance looked on and sometimes participated.
7. While Mr. Green had the bike rental paperwork in his hand and as respondent Nance watched, respondent Nance's colleague reached over the cash register and forcibly attempted to take the paper out of Mr. Green's hand.
8. Respondent Nance's colleague then said to Mr. Green words to the following effect:

You assaulted me. Did you just assault me? You took my receipt and tore it up. I want the police. Now we need the police. I am going to call them. Because you just assaulted an elected official who is here . . . who came here by invitation for a conference. You assaulted me. I asked you for my receipt back. You snatched my receipt back from me. You snatched my

receipt and threw it away and grabbed my hand and you hurt me. You touched my hand with force and violence. I am a female. I am a judge. I am here for a conference and you --- . . . --- I am an African America female. That was racist, and it was disrespectful and it was violent.

* * * *

No, you settle down. You touched me. I am afraid, I'm shaken. I'm in fear of my safety. --- With violence.”

9. After this exchange, police officer Kenneth Hardy arrived at the bicycle rental business. Officer Hardy spoke with respondent Nance and her colleague for more than ten minutes immediately upon arriving.
10. Mr. Green took Officer Hardy and another Mackinac Island police officer, Officer Smyth, to his office to view security video that captured Mr. Green's interaction with respondent Nance and her colleague.
11. Neither Mr. Green nor anyone associated with law enforcement told respondent Nance or her colleague where they should wait during this review. In particular, no one told them to stand by the curb or in the street, or words to that effect.
12. While Mr. Green and the police officers reviewed the security video, respondent Nance and her colleague waited in a place of their own choosing. That place was mostly or entirely the sidewalk near Mr. Green's business office, and not the curb or the street.

13. While Mr. Green and Officers Hardy and Smyth reviewed the security video, Michigan State Police Trooper Bergsma arrived and spoke with respondent Nance and her colleague.

COUNT ONE – FALSE STATEMENTS ON JULY 28, 2020

14. Paragraphs 1-13 are incorporated in this count.
15. Respondent Nance testified on July 28, 2020, that during the August 20, 2019 interaction with Mr. Green her colleague did not say any words to the effect that she was in fear for her life after allegedly being assaulted.
16. Respondent Nance’s statement was false and she knew it was false, in that while respondent Nance looked on, on August 20, 2019 her colleague had told Mr. Green words to the effect that she feared for her safety or for her life in the course of alleging that he assaulted her.
17. Respondent Nance testified on July 28, 2020, that during the August 20, 2019 interaction with Mr. Green her colleague did not make any sort of reference to the fact that Mr. Green had attacked an African American female or an African American judge.
18. Respondent Nance’s statement was false and she knew it was false, in that while respondent Nance looked on, on August 20, 2019 her colleague did inform Mr. Green words to the effect that he had assaulted an African American woman or judge.

19. Respondent Nance testified at least nine separate times on July 28, 2020 that she and her colleague did not have the opportunity to talk with Officer Hardy after their interaction with Mr. Green on August 20, 2019 because Officer Hardy did not give them the opportunity to speak with him. Collectively, these statements communicated that Officer Hardy completely disregarded respondent Nance and her colleague upon his arrival at the bike shop despite their efforts to speak with him, and that this disregard was an aspect of respondent Nance and her colleague being treated poorly during their interactions with Mr. Green and law enforcement because they were African American.
20. Respondent Nance's statements that she and her colleague did not have the opportunity to speak with Officer Hardy upon his arrival were false and respondent Nance knew they were false because Officer Hardy spoke with respondents for more than 10 minutes while respondent Nance was present when he first arrived at the bike shop, immediately after respondent Nance and her colleague interacted with Mr. Green on August 20, 2019.
21. Respondent Nance testified on July 28, 2020 that on August 20, 2019, when Officer Hardy went with Mr. Green to review the security video, Officer Hardy told her and her colleague to wait by the curb, which respondent Nance

characterized as demeaning and comparable to the inappropriate way African Americans have been mistreated in the United States.

22. This testimony was false and respondent Nance knew it was false because no one told respondent Nance or her colleague to wait by the curb.

23. Respondent Nance's knowingly false and misleading statements as described above in paragraphs 15-22 violated the following court rule, canons, and

Rules of Professional Conduct:

- a. Canon 2(A), which requires a judge to avoid all impropriety and appearance of impropriety;
- b. Canon 2(B), which prohibits conduct that tends to erode confidence in the integrity of the judiciary;
- c. Michigan Rule of Professional Conduct 8.4(b), which forbids a lawyer to engage in conduct involving dishonesty, deceit, or misrepresentation, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer.
- d. Michigan Rule of Professional Conduct 8.4(c), which prohibits a lawyer from engaging in conduct that is prejudicial to the administration of justice.
- e. Michigan Court Rule 9.104(6), which prohibits knowing representation of facts or circumstances surrounding a request for investigation or complaint.

COUNT TWO – FALSE STATEMENTS ON SEPTEMBER 10, 2021

24. Paragraphs 1-13 and 14-22 are incorporated in this count.
25. The Commission requested respondent Nance's comments on August 11, 2021. Respondent Nance provided an answer to the request on September 10, 2021.
26. Answers ## 10, 13, 20, 32, and 34 of respondent Nance's answer to the Commission's request for comments claimed that on August 20, 2019 Officer Hardy told respondent Nance and her colleague to wait by the curb while he reviewed the video recording of the interaction between Mr. Green, respondent Nance's colleague, and respondent Nance. Collectively, respondent Nance's answers characterized this instruction as demeaning and comparable to the inappropriate way African Americans have been mistreated in the United States.
27. Respondent Nance's answers described in paragraph 26 were false and respondent Nance knew they were false, because neither Officer Hardy nor any other person in authority told respondents to wait by the curb on August 20, 2019 while Officer Hardy reviewed the video of the interaction between Mr. Green, respondent Nance's colleague, and respondent Nance.

28. Respondent Nance's knowingly false and misleading statements as described above in paragraphs 26-27 violated the following court rule, canons, and

Rules of Professional Conduct:

- a. Canon 2(A), which requires a judge to avoid all impropriety and appearance of impropriety;
- b. Canon 2(B), which prohibits conduct that tends to erode confidence in the integrity of the judiciary;
- c. Michigan Rule of Professional Conduct 8.4(b), which forbids a lawyer to engage in conduct involving dishonesty, deceit, or misrepresentation, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer.
- d. Michigan Rule of Professional Conduct 8.4(c), which prohibits a lawyer from engaging in conduct that is prejudicial to the administration of justice.
- e. Michigan Court Rule 9.104(6), which prohibits knowing representation of facts or circumstances surrounding a request for investigation or complaint.

Pursuant to MCR 9.230(B), an original verified answer to the foregoing complaint, and nine copies thereof, must be filed with the Commission within 14 days after service of the complaint upon respondent. Such answer must contain a full and fair disclosure of all facts and circumstances pertaining to the allegations. Willful concealment, misrepresentation, or failure to file an answer and disclosure are additional grounds for disciplinary action.

JUDICIAL TENURE COMMISSION
OF THE STATE OF MICHIGAN

/s/ Lynn Helland
Lynn Helland (P32192)
Disciplinary Counsel

/s/ Lora Weingarden
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/s/ Nichollette Hoard
Nichollette Hoard
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December 14, 2022