

STATE OF MICHIGAN
BEFORE THE JUDICIAL TENURE COMMISSION

COMPLAINT AGAINST

Hon. Kirsten Nielsen Hartig
52-4 District Court
Troy, MI

FC No. 109

HON. KIRSTEN NIELSEN HARTIG'S
RESPONSE TO FORMAL COMPLAINT

Now comes Hon. Kirsten Hartig, by and through her attorney, Collins Einhorn Farrell PC and for her answer to the complaint, states as follows:

1. Respondent has been a licensed lawyer and a member of the State Bar of Michigan since 1991.

ANSWER: Admitted as true.

2. Respondent is, and since January 2011 has been, a judge of the 52nd District Court, Division 4, County of Oakland, State of Michigan.

ANSWER: Admitted as true.

3. As a judge, respondent has been, and still is, subject to the duties and responsibilities imposed on her by the Michigan Supreme Court and is subject to the standards for discipline set forth in MCR 9.104 and 9.202.

ANSWER: Admitted as true, likewise, as the standards are imposed upon her, the defenses set forth within MRPC 3.4(c) are also available to Judge Hartig. In further response, the Commission must provide a fair and impartial determination and to conclude a just resolution of requests for investigation. See IOP 9.207(B)-13.

**COUNT ONE –REFUSAL TO PROVIDE REPORT OF
PSYCHOLOGICAL
EVALUATION TO THE COMMISSION**

4. Prior to April 2024 the Commission investigated allegations that respondent had committed certain misconduct in her capacity as a judge. The Commission investigation showed that respondent's mental health was in issue.

ANSWER: Admitted only that the Commission investigated certain allegations for the last half decade. In further response, however, the allegations related to interpersonal issues between Judge Hartig and certain court staff related to Judge Hartig's desire for accurate records, professionalism and respect showed to court-users. As to what the Commission investigation showed, Disciplinary Counsel is left to its proofs.

5. As part of its investigation, and pursuant to MCR 9.220(D), on April 15, 2024, the Commission ordered respondent to undergo a psychological evaluation at a facility called All Points North at Commission expense.

ANSWER: Denied in the form and manner as alleged as untrue because it omits material information, misrepresents the facts, and is believed to misstate the law. In further response, in October of 2023, the Commission

requested Judge Hartig submit to an evaluation under MCR 9.220(D) with the State Bar of Michigan Lawyers and Judges Assistance Program (LJAP). MCR 9.220(D) permits that “the commission may require the respondent to submit to a physical or mental examination.” MCR 9.220(D) (emphasis supplied). Further, MCR 9.221(E) requires a request from the Commission to be “reasonable.” Judge Hartig voluntarily complied with the Commission’s request. In early December 2023, she executed a waiver in favor of the Commission so it could receive the evaluation and report from LJAP. On or about December 1, 2023, Molly Ranns, the director of the LJAP met with Judge Hartig and prepared an evaluation and report. Director Ranns issued the report and it was provided to the Commission staff. After the LJAP report had been provided, on or about April 15, 2024, the Commission did issue a letter stating that it was ordering Judge Hartig to attend a facility called All Points North (APN) in Colorado. Prior to that letter, but *after* the Commission made its decision to send Judge Hartig to APN, the Commission requested Molly Ranns explain why she believed APN was the appropriate place for Judge Hartig to be evaluated:

[This section intentionally left blank.]

From: Lynn Helland <HellandL@courts.mi.gov>
Sent: Tuesday, April 9, 2024 6:33 PM
To: Molly Ranns <mranns@michbar.org>
Cc: Molly Kettler <KettlerM@courts.mi.gov>
Subject: Judge Hartig

Hi Molly

I hope you're enjoying this suddenly-beautiful spring weather!

Can I please ask two things of you?

* Over the past month I've had conversations and other contact with Judge Hartig's attorney, Dave Timmis, regarding the JTC's desire that she accept your recommendation to go to All Points North. Dave had several questions for me about various details. I suggested he contact you to get answers to his questions. When last we spoke – I believe it was a couple of weeks or more ago – neither he nor Judge Hartig had been in touch with you about that. Have they since, and if so, can you please give me a sense of those conversations?

* Due to the passage of time without hearing whether Judge Hartig accepted or did not accept your recommendation re All Points North, the Commission has decided to order Judge Hartig to attend. The Commission recognizes, though, that its file needs to reflect why it is sending a Michigan judge to an out-of-state facility when, to the uninitiated, it may appear that a Michigan psychologist or entity may be able to meet the need. I know we've spoken about this and you've been very helpful to my understanding, but can you please send me something that specifies the reasons you think All Points North is the place for Judge Hartig to be evaluated?

Thanks much, Molly!

Lynn

[Emphasis added.]

On May 7, 2024, through counsel David Timmis, Judge Hartig advised the Commission's Executive Director that she would attend the APN program and of the legal position that MCR 9.220(D) did not apply as Judge Hartig's evaluation by LJAP already complied MCR 9.220(D). On May 9, 2024, this objection was confirmed in writing to the Executive Director of the Commission. He responded (below in red – original – and underlined – added), that he would not pursue "the point [whether or not MCR 9.220(D) applied] any further."

May 9, 2024

VIA EMAIL: HellandL@courts.mi.gov
Mr. Lynn Helland

Re: JTC Matter
Our File No.: C64-200409

Dear Lynn:

It was a pleasure to speak with you on May 7, 2024. During our conversation, I related to you the fact that Judge Hartig has made arrangements to attend the All Points North program commencing on Monday, May 27, 2024. This decision was made by the Judge despite our position that MCR 9.220(D) provides that the Commission may require a respondent to submit to a (i.e., one) physical or mental examination, and MCR 9.221(C) mandates that the examination must be “reasonable”. I acknowledge that you informed me of Judge Hartig’s decision and that, in writing and perhaps briefly during the call, you have taken the position you articulate here about the court rule. Inasmuch as Judge Hartig has agreed to be evaluated by All Points North, I won’t pursue this point any further.

Despite the foregoing, my client has agreed to cooperate and attend the APN program. During our call, I asked you to identify the goal or intent of the Commission with regard to the investigation of Judge Hartig. ...

MRPC 3.4(c) authorizes a judge or lawyer to knowingly disobey an obligation under the rules when it is an open refusal based on an assertion that no valid obligation exists.¹ That is precisely what happened when Judge Hartig’s counsel advised the Executive Director of the Commission both in a conversation and in writing of the refusal to accept the requirement to attend APN as being binding or compelled by MCR 9.220(D). Later, when the Commission staff at various times demanded that the report be turned over, this objection was repeated. Unlike the LJAP examination where Judge Hartig signed a waiver, none was required related to APN. In addition, MCR 9.220(D) does not require a judge to turn over a report of an evaluation. It only requires that a judge submit to an

¹ The Commission has charged Judge Hartig with a violation of MCR 9.104 and MRPC 8.4, see Paragraphs 3 above and 26(e) below. These rules apply to lawyers. The Commission contends it also applies to judges. Obviously, if that is true then MRPCs also apply equally to judges as to lawyers.

evaluation. MCR 9.220(D) adopts by reference MCR 2.311(C) as controlling when there is a dispute over production of a report. MCR 2.311(C) requires that a court of competent jurisdiction must decide any such dispute. The Commission failed or elected to not submit the dispute raised by Judge Hartig's counsel (repeatedly) to a court – despite promising to do so in July 2024 (see Answer to paragraph 13, below). In summary, Judge Hartig did go to APN. The Commission's Executive Director conceded he would not press the point of the order if Judge Hartig agreed to go to APN. Now, they have pressed the point to the level of a misdirected and unfair charge of misconduct.

6. Respondent was evaluated at All Points North in late May 2024.
ANSWER: Admitted only that APN produced a report. As to whether or not Judge Hartig was competently and actually evaluated or assessed, that is in dispute and Disciplinary Counsel is left to its proofs.

7. All Points North completed its evaluation on June 6, 2024. All Points North provided the evaluation only to respondent.
ANSWER: Admitted that APN produced a report to Judge Hartig. In further response, it is denied that the report was produced only to Judge Hartig. Upon information and belief, the report was also produced to LJAP and the Commission staff was well aware of this as the Commission requested the report from LJAP. As to whether or not Judge Hartig was competently and actually evaluated or assessed by APN, that is in dispute and Disciplinary Counsel is left to its proofs.

8. The Commission asked respondent's counsel to provide a copy of the report on June 12, 2024.
ANSWER: Admitted as true.

9. Rather than provide the report, respondent's counsel asked to whom the report would be disseminated. The Commission informed respondent's counsel that the report would be kept confidential and dissemination would be restricted in accordance with MCR 9.261.

ANSWER: The phrase "Rather than provide the report" is denied as inaccurate and untrue. Counsel for Judge Hartig had already issued an open written refusal based on no valid obligation existing and the Commission's Executive Director had agreed to press that point no further. The remaining allegations are admitted as true.

10. On June 18, 2024, respondent objected to providing the report.

ANSWER: Admitted that the objection was made. In further response, this was a continued objection. The APN report, however, was mistakenly attached via a link within the email (that indicated the report would not be produced). Upon discovery of the inadvertent production, Counsel for Judge Hartig again asked for the names of anyone who had been shown or had access to the report. The Executive Director would later advise that he did not access the attachment.

11. On June 25, 2024, the Commission renewed its request that respondent provide the report.

ANSWER: Admitted as true.

12. In lieu of providing the report, respondent asked for more time to provide it. On June 26, 2024, the Commission gave respondent until July 9, 2024 to provide the report. At respondent's request, the Commission extended the deadline to July 12, 2024.

ANSWER: Judge Hartig lacks sufficient knowledge or information to form a belief as to the truth of the allegations and leaves Disciplinary Counsel to its proofs. In further response, Judge Hartig believes that her counsel consistently and only ever objected to production of the APN report during this timeframe. She is aware there were requests for extension of deadlines to consider the issues surrounding the production of the report and proper application of MCR 9.220(D) and MCR 2.311(C) – where no case law has been developed – and the Commission had unilaterally imposed other deadlines related to submissions required (and produced) under other court rules during this time.

13. In lieu of providing the report by July 12, 2024, respondent asked for an additional extension of time to provide it. On July 16, 2024, the Commission informed respondent that she had until July 25 to provide the report.

ANSWER: Judge Hartig lacks sufficient knowledge or information to form a belief as to the truth of the allegations and leaves Disciplinary Counsel to its proofs. In further response, Judge Hartig believes that her counsel consistently and only ever objected to production of the APN report during this timeframe. She is aware there were requests for extension of deadlines, as the Commission had unilaterally imposed other deadlines related to submissions required (and produced) under other court rules during this time. Further, the Commission initially promised it would seek relief as provided by MCR 2.311(C), by submitting the dispute to a court.²

² The Executive Director first indicated an action would be filed in mid-June in his discussions with Judge Hartig's counsel at the time. Later he committed this promise in writing. Ultimately, he wrote in an email to Judge Hartig's then counsel in late August stating without explanation, "I was incorrect when I told you earlier that we could get the Commission's demand for the APN report enforced in circuit court."

From: Lynn Helland <HellandL@courts.mi.gov>
Sent: Tuesday, July 16, 2024 9:16 AM
To: David B.Timmis <DTimmis@VGpcLAW.com>
Cc: DBT Group <DBT_Group@vgpclaw.com>; Molly Kettler <KettlerM@courts.mi.gov>
Subject: RE: JTC Matter

Hi David

I'm sorry for my slow reply. Yesterday afternoon was a bit hectic.

Judge Hartig has until July 25 at 5 to determine whether to produce the evaluation voluntarily. The Commission also made official that it will pursue the matter in circuit court if Judge Hartig elects to decline.

Thanks,

Lynn

14. In lieu of providing the report, on July 26, 2024, respondent objected to providing it.

ANSWER: Admitted as true, in further response, it was the same objections that were provided as early as June 18, 2024 and the same objection related to application of MCR 9.220(D) that had been made since April of 2024. Judge Hartig and her counsel expected the Commission to follow MCR 9.220(D) and MCR 2.311(C).

15. On October 28, 2024, the Commission sent respondent a 28-day letter pursuant to MCR 9.222(A), informing her of its intent to file a public complaint for her failure to provide the All Points North evaluation in response to the Commission's demands.

ANSWER: Admitted as true. In further response, it took this action in direct contravention of both its prior written promise to resolve the dispute before a court of competent jurisdiction and in violation of the protections afforded a judge under MCR 9.220(D) and MCR 2.311(C) by the Michigan Supreme Court.

16. Respondent did not provide the report until December 5, 2024, six months after it had been completed and four and a half months after the extended deadline the Commission set for production.

ANSWER: Admitted as true. In further response, Judge Hartig does not know whether the report was actually reviewed by the Commission when inadvertently sent by her counsel in June 2024.

17. The All Points North report showed that as of the time All Points North evaluated respondent in May 2024, [REDACTED] Respondent was aware of what the report said, and despite this finding, respondent withheld the report from the Commission from at least July 25 to December 5, 2024.

ANSWER: The allegation is objected to as immaterial, impertinent, scandalous and improperly pleaded under MCR 2.115(B). It should be stricken. In further response, the report was not provided for multiple reasons after consultation and advice of counsel including the following:

- (1) The report was not produced because Judge Hartig already participated in a (i.e., one) physical and mental examination, which is permitted under the MCR 9.220(D) during the course of this investigation with the Lawyers and Judges Assistance Program.**
- (2) The report was not produced because there was no duty under MCR 9.220(D) and the Commission has promised to follow the Michigan Court Rules to seek a judicial determination from a court of competent jurisdiction under MCR 2.311(C).**
- (3) serious concerns regarding the accuracy of the Report,**
- (4) the lack of any specialization in the evaluation or treatment of lawyers and judges,**

- (5) the clear financial motivation of All Points North in its evaluation process and report and recommendations.

In further response, see Tab A, additional redacted portion of response for further information incorporated by reference into this response based on the redacted portion of the allegation.

18. Respondent's persistent refusal to provide the report of the psychological evaluation that respondent had undergone pursuant to MCR 9.220(D), which report was part and parcel of the exam itself, violated the requirement of MCR 9.220(D) that respondent comply with the Commission's demand that she be examined.

ANSWER: Denied as untrue. In further response, the Commission fails to take account of the first evaluation done by LJAP and provided directly to them by Judge Hartig. The Commission gives no weight to the Executive Director's commitment that he would not press the point of whether MCR 9.220(D) applied to the APN evaluation, made prior to Judge Hartig's going to APN. The Commission fails to acknowledge that MCR 9.220(D) on its own terms is limited to "a" or one evaluation. There appears to be no second evaluation permitted under MCR 9.220(D). The Commission inserts into the rule a duty to provide a copy of any report for an evaluation submitted to under MCR 9.220(D), but there is no such requirement in the rule in fact. Indeed, although the Commission promised to pursue its claims under MCR 9.220(D) in July of 2024, it later failed or refused to do so, despite leading Judge Hartig to believe that would happen. MCR 9.220(D) expressly provides that "MCR 2.311(C) is applicable to the examination." This provision is for the protection of a judge. MCR 2.311(C) provides in its relevant part, "If either party refuses to deliver a report, the court on motion and notice may enter an order requiring

delivery on terms as are just....” MCR 2.311(C)(3). Although the Commission indicated it would file such a motion to resolve the issue in the Circuit Court, it did not take such action so that the proper and continuing objection by Judge Hartig’s counsel was never properly adjudicated. In the absence of a prior judicial determination on this issue, one that appears to be of a first impression, Judge Hartig’s stand on this issue is both proper and endorsed by MRPC 3.4(c).

19. The Commission’s demand that respondent provide a copy of the evaluation she had undergone at the Commission’s direction was a reasonable request within the meaning of MCR 9.202(B). Respondent’s withholding of the report from the Commission for six months from its completion and for four and a half months from the extended deadline the Commission gave for producing it was a failure to comply with a reasonable demand by the Commission, in violation of MCR 9.202(B)(1)(f).

ANSWER: Denied as untrue. By way of further answer, Judge Hartig’s reliance on MCR 9.220(D) and MCR 2.311(C) and the Commission’s written statement cannot properly be the basis for the invocation of MCR 9.202(B)(1)(f). That turns the duty of fairness in reaching a just result on its head. See IOP 9.207(B)-13.9. Further, it would make MRPC 3.4(c) nugatory. The demand for production of the report without a judicial determination was unreasonable within the meaning of MCR 9.202(B).

COUNT TWO- ALLEGED FALSE STATEMENTS TO THE COMMISSION

20. Paragraphs one through nineteen are incorporated in this count.

ANSWER: This response incorporates answers to paragraphs 1 through and including 19.

21. On December 5, 2024, respondent replied to the Commission's October 24, 2024 28-day letter.

ANSWER: Admitted as true.

22. In that reply, respondent stated to the Commission "*The Request for Investigation was filed by Ms. Dana O'Neal*, who was subsequently fired for incompetence by the Honorable Joseph Fabrizio." The italicized portion of respondent's answer is false.

ANSWER: Denied in the form and manner as alleged to be untrue. The Commission's 28-day letter failed to italicize any portion of the sentence but the Commission's attorney later stated that it intended to italicize the portion of the sentence italicized above. In further response, it is admitted that the italicized statement above was not accurate in the December 5, 2024 letter. Judge Hartig, however, did not know that the italicized statement referenced was incorrect when it was made in late 2024, nor did she intend to deceive the Commission by her response. Indeed, the Commission at all times, of course, knew who filed the request. So, there is simply no way for Judge Hartig to mislead them on that fact. Previously during the investigation, Judge Hartig had expressed in writing her belief that Ms. O'Neal was the person behind the initial request for investigation. Specifically, in a letter submitted to the Commission on August 5, 2020, Judge Hartig and her counsel, wrote that they "appreciate the opportunity to provide additional information and context with regard to the allegations made by Ms. O'Neal." In short, at the time of the response in December 2024, Judge Hartig held the mistaken but honest belief that Ms. O'Neal filed a request for investigation in 2020. Further,

the italicized statement above was neither material nor even one that was capable of misleading the Commission as the 28-day letter focused solely on the MCR 9.220(D) issue and had no allegation or question related to the 2020 request for investigation.

The information was not “false” or “intended to mislead” as those terms are understood and applied in judicial discipline matters by the Michigan Supreme Court. The Court has taught that the applicable definition of the term “misrepresent” is “to give a false or misleading representation of usu[ally] with an intent to deceive or be unfair” and that the definition of “mislead” is “to lead in a wrong direction or into a mistaken action or belief often by deliberate deceit[.]” These definitions include an actual intent to deceive. The Court added,

Even though there may be some instances in which a misrepresentation and a misleading statement are not based on an actual intent to deceive, we believe that, at a minimum, there must be some showing of wrongful intent. In this case, respondent merely speculated as to her intent, and other than the possibility that the guess was self-serving, which the Commission acknowledged and rejected[.]” See *In re Green*, 512 Mich 533 (2023), quoting *In re Gorcyca*, 500 Mich 588, 639; 902 NW2d 828 (2017), quoting Merriam-Webster’s Collegiate Dictionary (11th ed).

23. Respondent knew the statement in paragraph 22 was false because on March 28, 2024, the Commission sent respondent a request for comments that included a copy of the request for investigation that identified the two persons who initiated the investigation as the

respondent's then chief judge, the Honorable Joseph Fabrizio, and then regional administrator for the State Court Administrator's Office, Jennifer Phillips.

ANSWER: Admitted that the information was sent and that the letter attached to the request for investigation begins with the line, "Human Resources received a complaint from Dana O'Neal ...". In further response, the letter that was part of the request for investigation then goes on to discuss allegations attributed to and made by Ms. O'Neal. As noted above, Judge Hartig expressed in writing her belief that Ms. O'Neal was the person behind the initial request for investigation. Specifically, in a letter submitted to the Commission on August 5, 2020, Judge Hartig and her counsel wrote that they "appreciate the opportunity to provide additional information and context with regard to the allegations made by Ms. O'Neal." The Request for Investigation included only Ms. O'Neal's complaints as reported to Human Resources. Further, the italicized statement above was neither material nor even one that was capable of misleading the Commission as the 28-day letter focused solely on the MCR 9.220(D) issue and had no allegation or question related to the 2020 request for investigation.

24. Respondent further stated in her December 5, 2024 response to the Commission that "Judge Hartig is a well-respected 3-term member of the judiciary, who is similarly well respected by her past and present staff, *none of whom were interviewed as part of this investigation.*" The italicized portion of respondent's answer is false.

ANSWER: Denied in the form and manner as alleged to be untrue. The Commission's 28-day letter failed to italicize any portion of the sentence but the Commission's attorney later stated that it intended to italicize the portion of the sentence italicized above. In further response, the

information was not “false” or “intended to mislead” as those terms are understood and applied in judicial discipline matters by the Michigan Supreme Court. The response from paragraph 22 is incorporated here as if fully restated. It is admitted that the italicized statement above was not accurate in the December 5, 2024 letter. Judge Hartig did not intend to deceive the Commission by her response. Indeed, as the Commission at all times, of course, knew which individuals were interviewed. There is simply no way for Judge Hartig to mislead them. It should be noted that previously during the investigation Judge Hartig had acknowledged that at least one of her staff was interviewed, however briefly, by the Commission staff. Specifically, in her response to the Commission’s first request for comment, Judge Hartig, wrote, “Judge Hartig is well respected by her past and present staff, none of whom were interviewed as part of this investigation, *with the exception of Ms. Ann Costigan*” [Italics supplied]. After the filing of the response in December 2024, Judge Hartig spoke to Ms. Kliever and Ms. Sadrina, both who refreshed her recollection that they had been interviewed approximately 4 or 5 years ago. Ms. Costigan also indicated that Mr. Boudreau was interviewed, but Judge Hartig does to recall having any discussions with Mr. Boudreau about an interview with the Commission. The statement cited in this allegation, while inaccurate, was not a deliberate falsehood, nor was it intended to mislead the Commission, which knows who it interviewed. The italicized statement in the statement above was neither material nor even one that was capable of misleading the Commission.

25. Respondent knew the statement in paragraph 24 was false. When respondent answered the Commission’s request for comments on July 23, 2024, she appended as Exhibit A an affidavit signed by Ann Costigan, respondent’s assistant and court recorder, in which Ms.

Costigan described the circumstances of her interview with Commission staff.

ANSWER: Denied as untrue. In further response, it is denied that the information was “false” or “intended to mislead” as those terms are understood and applied in judicial discipline matters by the Michigan Supreme Court. The responses from paragraphs 22 and 24 are incorporated here as if fully restated. It also attached as exhibit an affidavit from Ms. Costigan explaining the contents of the “interview”.

[This section intentionally left blank.]

AFFIDAVIT OF ANN COSTIGAN

State of Michigan }
 }
County of Oakland }

Before the undersigned notary public in and for the above state and county, this day personally appeared, Ann Costigan, who being duly sworn says that:

1. Starting in 2013, I volunteered in the 52-4 District Court's drug treatment court on a part-time basis.
2. In 2015, I also started working in the probation department on a part-time basis.
3. Throughout my tenure volunteering in the drug treatment court and working in the probation department, I never saw Judge Hartig be rude to any probationer, defendant, member of the staff, or attorney.
4. In September 2018, I took a full-time position as a front desk clerk in the Probation Department of the 52-4 District Court.
5. Part of my duties as a clerk in the Probation Department was to check defendants in for their probation appointments.
6. Defendants were often made to wait long periods of time to see their probation officer without reason and were often treated as fundamentally bad people deserving of little respect and presumed guilty of violating their conditions of probation.
7. I did not like to see probationers wait excessive periods of time without reason and eventually brought my concerns to the Probation Supervisor, Ms. Patti Bates. Thereafter, Ms. Bates instituted a policy in which I would keep track of how long a probationer waited to meet their probation officer.
8. On many occasions, I felt uncomfortable reminding a probation officer that their probationer had arrived for an appointment due to the probation officers' negative responses to such reminders. On more than one occasion, a probation officer was rude to me in response to such a reminder.
9. I recall one occasion in which I reminded a probation officer that her probationer had been waiting for approximately one hour. The probation officer stepped out of her office and angrily and loudly responded "I don't give a fuck how long he's been waiting." I was concerned that the probationer heard the probation officer's comment. The probation officer then took a break and walked around the complex prior to meeting with

- the defendant. Despite my concern, I did not report this incident to Ms. Bates because I believed that Ms. Bates would not have a problem with the probation officer's conduct.
10. I informed Judge Hartig about the aforementioned incident and was thereafter ostracized by Ms. Bates and by some members of the probation department for being disloyal and not a "team player".
 11. I also recall being disciplined by Ms. Dana O'Neal for my collegial relationship with Judge Hartig. On one occasion, I was disciplined for being "late" following going to lunch with Judge Hartig. I was not "late" to return from lunch because I left ten minutes after my scheduled time for lunch as my relief person was running late and returned back to work seven minutes after my scheduled return from lunch. After being disciplined by Ms. O'Neal, Judge Hartig and I agreed not go to lunch again because my collegial relationship with Judge Hartig was placing my job in jeopardy.
 12. I resigned from my position as a secretary in the Probation Department effective December 31, 2020.
 13. In June 2022, I was hired by Judge Hartig as her court recorder and assistant.
 14. I have never seen Judge Hartig be rude to any probationer, defendant, member of the staff, or attorney.
 15. I have also never known Judge Hartig to have any prejudice against the probation department or any other staff member.
 16. I was interviewed by a representative of the Judicial Tenure Commission, whose name I cannot remember. At the beginning of the interview, I was asked if I ever saw or heard Judge Hartig being rude to or belittling others. I said no. I went on to say how many defendants have received their driver's licenses back because of Judge Hartig taking the time to advise defendants on how to navigate the Secretary of State's requirements. I also went on to say how many defendants had found sobriety because of the caring manner in which Judge Hartig handles court proceedings and the drug therapy court. The interviewer cut me off and stated words to the effect of "I know that you are friends with Judge Hartig, so all of this information just reflects that." I was not allowed to finish my statement and was promptly dismissed from the interview. My interview lasted approximately seven minutes. I felt that the information I presented was discounted and not taken into account by the interviewer.
 17. I have personal knowledge of the facts set forth in this Affidavit, and if sworn as a witness, can testify competently to these facts.
 18. The statements in this Affidavit are true and correct.

Further affiant sayeth not.

Dated: July 10, 2024

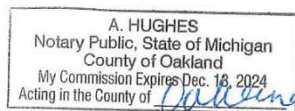
Subscribed to and sworn before me
on this 10th day of July 2024.



, Notary Public

Oakland County, Michigan

My Commission Expires: 12/13/2024



The italicized statement in the allegation above, while inaccurate, was not a deliberate falsehood, nor was it intended to mislead the Commission, which knows who it interviewed.

26. Respondent's statements that are quoted in paragraphs 22 and 24 were misconduct in violation of:

- a. MCR 9.202(B), which provides, in pertinent part, "(1) [m]isconduct in office includes, but is not limited to "failure to cooperate with a reasonable request made by the commission in its investigation of respondent."

ANSWER: Denied as untrue for the reasons stated above.

- b. MCR 9.104, which provides, in pertinent parts, "[t]he following acts or omissions by an attorney individually, or in concert with another person, are misconduct and grounds for discipline, whether or not occurring in the course of an attorney-client relationship: . . . (2) conduct that exposes the legal profession or the courts to obloquy, contempt, censure

or reproach” and (3) conduct that is contrary to justice, ethics, honesty, or good morals;”

ANSWER: Denied as untrue for the reasons stated above.

- c. Michigan Code of Judicial Conduct (MCJC) Canon 2(A), which provides, in pertinent part, “[a] judge just [*sic*] avoid all impropriety and appearance of impropriety;”

ANSWER: Denied as untrue for the reasons stated above.

- d. CJC Canon 2(B), which provides, in pertinent part, “[a] judge should respect and observe the law. At all times, the conduct and manner of a judge should promote public confidence in the integrity and impartiality of the judiciary;” and

ANSWER: Denied as untrue for the reasons stated above.

- e. Michigan Rules of Professional Conduct (MRPC) Rule 8.4(b), which provides, in pertinent part, “It is professional misconduct for a lawyer to: (b) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation...where such conduct reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer.”

ANSWER: Denied as untrue for the reasons stated above.

**COUNT THREE – RESPONDENT’S ALLEGED MISTREATMENT/ABUSE
OF COURT EMPLOYEES AND OTHERS AND OBSTRUCTING
THE ADMINISTRATION OF HER COURT**

27. Paragraphs one through twenty-six are incorporated in this count.

ANSWER: This response incorporates answers to paragraphs 1 through and including 26.

28. Within a month of taking the bench in 2011 respondent was made aware that superintending administrative control of the court was vested in the chief judge as administered by the court administrator and that she had no authority over the court's personnel. She has repeatedly been reminded of the limits of her authority since that time.

ANSWER: Denied in the form and manner as alleged as it is believed to be untrue. The alleged "aware[ness]" would have been during a conversation had more than 14 years ago. In further response, "repeatedly" is understood to mean over and over again; constantly. Judge Hartig can recall only a couple of times in the 14 years since she took the bench where this topic was discussed. In further response, Judge Hartig took the bench over 14 years ago and she does not recall a specific conversation on this topic at that time.

29. Notwithstanding her awareness of the limits of her authority, throughout her judicial tenure respondent has repeatedly attempted to assert control over departments and employees over whom she has no authority and has thereby repeatedly obstructed the administration of her court despite efforts by chief judges and court administrators to prevent her from doing so.

ANSWER: Denied as untrue. In further response, throughout her tenure, Judge Hartig has worked diligently to attempt to ensure the professional operation of her courtroom, in order to protect the interests of the litigants appearing before her. Judge Hartig strives to respect court users and their time, and does so by attempting to encourage court administration to be professional, respectful and accurate in their duties. She facilitates the

performance of the administrative responsibilities of other court officials and seeks to ensure that the court issues accurate, timely orders, timely and effective delivery of judgments of sentence to the Oakland County jail, accurate probation reports and respectful treatment of all court users by all court staff.

30. Throughout her judicial tenure, respondent has repeatedly treated court employees, court administrators, chief judges and others discourteously.

ANSWER: Denied as untrue. In further response, Judge Hartig has never knowingly treated anyone as alleged, to the extent anyone felt treated as such, she has always been willing to consider the point of view of others.

31. Incidents of the kind described in paragraphs 29 and 30 include but are not limited to the following:

- a. In early 2018 respondent insisted that court administrator Jill Palulian hire respondent's friend/neighbor, Ann Costigan, for a part-time position in the probation department.

ANSWER: Denied as untrue. In further response, on information and belief, Ann Costigan was being considered for a full-time position in 2018. Judge Hartig knew then and still knows that she did not have the authority to demand that Ms. Palulian hire anyone. At the time, Ms. Costigan was working part-time in the probation office and was a long-term volunteer on the court's drug therapy court. Judge Hartig asked Ms. Palulian to consider Ms. Costigan for the position, because she had a wealth of related experience and knowledge, and Judge Hartig had heard good things about her performance as a probation clerk. Judge Hartig denies that she "insisted" Ms.

Costigan be hired. Further, at the time, Ms. Costigan was best described by Judge Hartig as an acquaintance. While they lived near one another, they did not regularly interact and did not engage socially.

- b. In May 2018, shortly after court administrator Dana O'Neal was hired, respondent sent her a "Communication of Absence Policy" which announced that O'Neal would be required to maintain a calendar with detailed information about her schedule, and that she must be available for communication by email or cell phone during her approved absences.

ANSWER: Denied as untrue in the form and manner alleged. In further response, Judge Hartig admits that her assistant sent the referenced email attaching the policy under her direction; however, Judge Hartig does not believe that she drafted the policy. On information and belief, Judge Hartig sent the policy to Ms. O'Neal because she was the presiding judge in the court at the time. Judge Hartig does not recall the particulars of the policy drafting, but believes that it was drafted by Judge McGinnis, likely, with then Chief Judge Fabrizio's knowledge. Judge Hartig further believes that she would not have sent this email without believing Judge Fabrizio had given his permission. In further response, the contents of the email and the policy speaks for themselves:

O'Neal, Dana

From: Kliewer, Michele M
Sent: Thursday, May 24, 2018 9:27 AM
To: Hartig, Kirsten N; McGinnis, Maureen M; O'Neal, Dana
Subject: RE: Meeting
Attachments: CA Communication.docx

Good morning,

Attached is the corrected copy of the CA communication form for your records. Let me know if you need anything further.

Michele

Michele M. Kliewer
Court Recorder / Judicial Assistant
Chambers of the Hon. Kirsten Nielsen Hartig
52-4 District Court
520 W. Big Beaver
Troy, MI 48064
(248) 528-8512

Thursday, May 24, 2018

52-4 Court Administrator Communication

- It is important to have an understanding regarding communication of absences going forward.
 - You will use the calendar on Outlook to make both judges aware of meetings and personal appointments between 8:30 a.m. to 5 p.m.
 - For same day or next day changes to your schedule, you will send both of us (and Michele) an email before leaving. If it is after business hours, then you will text both judges.
 - For vacation days or 1/2 days off, you will request approval from Judge Fabrizio and communicate it to both judges by email and the Outlook as soon as it is approved.
 - You will communicate with staff via email concerning your absences and your availability to communicate by email and/or cellphone and any special instructions during your absence.

- c. In September 2018 respondent, while on the bench, berated probation supervisor Patti Bates and court administrator

Dana O'Neal, and falsely and disrespectfully accused Bates and O'Neal of financial mismanagement of drug court funds and of callous disregard for a drug treatment participant.

ANSWER: Denied as untrue. In further response, the allegation of anyone being "berated", "falsely and disrespectfully accused..." is patently untrue. As indicated in the transcript, Judge Hartig learned of the lack of funds from Ms. Crandall while on the record. It appears that Ms. Crandall was also not aware of the shortfall before speaking to Ms. Bates.

When Ms. Crandall informed Judge Hartig that all funds had been expended, Judge Hartig was concerned about the deficit of funds for the drug court program and what that meant for defendants. Judge Hartig's concern is evident throughout the transcript.

As previously mentioned, this was the first time that this situation was brought to Judge Hartig's attention, and it was done so on the record in drug court. Drug treatment court sessions are unique in that they are intended to be more therapeutic and should emphasize rehabilitation and sobriety. The defendant, young and newly sober, was nervous and upset that she was ordered to urine test but could not afford it. The court covers the testing costs from the funds at issue for impoverished defendants or when a financial emergency occurs in their lives. The court's spending of all of the funds caused undue stress and anxiety for the defendant, as a missed test is considered a positive test and a defendant with a

positive test is often incarcerated. Judge Hartig was concerned with the situation and her concern stemmed from the court's inability to budget grant funds for the full 12 months for defendants.

Judge Hartig initially intended to discuss this issue with Ms. O'Neal privately, but Ms. O'Neal came into the courtroom to speak with her while she was on the bench, and as a result, the conversation took place on the record. While Judge Hartig intended for and understands that this conversation could have been held off the record, she also believes the individuals in the courtroom deserved to know the situation and that transparency is also valuable.

- d. In October 2019 respondent criticized Dana O'Neal for not responding to three emails sent by respondent on the afternoon O'Neal attended a funeral and for "taking too much time off." Respondent told O'Neal that from that point on she would be required to get leave approval from both respondent and the chief judge, and that her leave requests must list the balance of her leave banks and attest there were no "emergent issues" unresolved at the court. Respondent also told O'Neal that she must be in contact with respondent every day, including her leave days, unless she was "unconscious."

ANSWER: Judge Hartig lacks sufficient knowledge or information to form a belief as to the truth of the allegations and leaves Disciplinary Counsel to its proofs. In further response, Judge Hartig does not recall the specific alleged

conversation from approximately 5 and 1/2 years ago and does not believe that she would have acted as alleged.

- e. In about February 2020 respondent called O'Neal to her chambers and told her she was only allowed to take her lunch break between noon and 1:00 p.m., that she must tell both judges where she was going if she left the building, and that she must tell her staff where she was going if she left her personal office. Respondent also advised O'Neal that she could never be unavailable to her and that respondent could interrupt her at any time or place.

ANSWER: Judge Hartig lacks sufficient knowledge or information to form a belief as to the truth of the allegations and leaves Disciplinary Counsel to its proofs. In further response, Judge Hartig does not recall the alleged conversation referenced and does not believe that she would have acted as alleged. Judge Hartig does recall asking Ms. O'Neal to keep other staff at the courthouse informed on her schedule so that everyone, including Judge Hartig, could anticipate her availability to answer questions and address concerns. Judge Hartig does not recall any occasions where she objected to Ms. O'Neal's schedule when Ms. O'Neal communicated that schedule.

- f. On about March 16, 2020, at the beginning of the Covid pandemic, O'Neal informed respondent that her drug court docket would be canceled because of the pandemic. Respondent instructed O'Neal not to cancel the session and warned her to "not forget who the judge is and who is not."

ANSWER: Admitted as true. In further response, the chain of correspondence speaks for itself:

Dana - call me. I understand you are under extreme pressure. Do not forget who the judge is and who is not.

From: O'Neal, Dana <oneald@oakgov.com>
Sent: Monday, March 16, 2020 1:45 PM
To: Hartig, Kirsten N <hartigk@oakgov.com>
Subject: RE: 3/18 DTC

Per the Chief Judge, a serious and concerted effort is necessary to adjourn all non-essential cases at this time, further direction will be provided by him later this afternoon, however, as such the DTC for this week is to be cancelled.

Dana O'Neal
Court Administrator
52-4 District Court
520 West Big Beaver
Troy Michigan 48064
248-528-8525
oneald@oakgov.com

From: Hartig, Kirsten N <hartigk@oakgov.com>
Sent: Monday, March 16, 2020 1:28 PM
To: O'Neal, Dana <oneald@oakgov.com>
Subject: Re: 3/18 DTC

Only I have the authority to cancel my docket. Or the Governor. I'm available to discuss.

From: O'Neal, Dana <oneald@oakgov.com>
Sent: Monday, March 16, 2020 1:26 PM
To: Hartig, Kirsten N <hartigk@oakgov.com>; Bates, Patricia <batesp@oakgov.com>; Kliever, Michele M <kliewerm@oakgov.com>
Subject: RE: 3/18 DTC

Patti was acting under my direction that only violations that needed to be addressed immediately should be brought n. Also under my direction was that we should not require the team to be present if there were decisions that could be made administratively. Based on the review of Erika's report, there has been action on these cases and/or the defendant has demonstrated compliance since the alleged violation occurred.

Dana O'Neal
Court Administrator
52-4 District Court
520 West Big Beaver
Troy Michigan 48064
248-528-8525
oneald@oakgov.com

From: Hartig, Kirsten N <hartigk@oakgov.com>
Sent: Monday, March 16, 2020 1:03 PM
To: Bates, Patricia <batesp@oakgov.com>; O'Neal, Dana <oneald@oakgov.com>; Kliever, Michele M <kliewerm@oakgov.com>
Subject: Re: 3/18 DTC

Hi Patti - Do not cancel the docket without my authorization. Fee free to contact me either by cell or work email. I am working remotely and am able to make all decisions as usual. Kirsten

From: Bates, Patricia <batesp@oakgov.com>
Sent: Monday, March 16, 2020 12:39 PM
To: Hartig, Kirsten N <hartign@oakgov.com>
Subject: FW: 3/18 DTC

Good afternoon Judge Hartig,

After reviewing the docket and the measures already in place for the participants in violation, we will be cancelling this docket and adjourning the violations until next week. We can re-evaluate 3/23 if 3/25 will be a go.

Thanks and take care, Patti

g. On about March 16, 2020, when reminded of the chief judge's order to adjourn nonessential cases due to the Covid pandemic, respondent sent a disrespectful email to Chief Judge Fabrizio.

ANSWER: Denied as untrue in the form and manner alleged. In further response, on March 18, 2020, Judge Hartig emailed Judge Fabrizio regarding the decision to adjourn nonessential cases due to the Covid pandemic. The conversation began after correspondence with both Ms. Bates and Ms. O'Neal about the adjournment, who informed Judge Hartig that Ms. Bates and then Ms. O'Neal (in successive emails) had made the decision to cancel Judge Hartig's docket without any discussion with her. Neither email informed Judge Hartig that Judge Fabrizio had made the decision. Judge Hartig's email was not intended to be disrespectful but admittedly does convey her then growing frustration with Judge Fabrizio's lack of communication:

Kliwer, Michele M

From: Hartig, Kirsten N
Sent: Wednesday, March 18, 2020 2:47 PM
To: Fabrizio, Joseph G
Cc: McGinnis, Maureen M; O'Neal, Dana; Jennifer Phillips; Kliwer, Michele M
Subject: Re: 3/18 DTC

Joe -

It is incorrect that I made a decision to hold Wednesday's DTC session. I read an email Monday around noon from the Chief of Probation informing me of Dana's decision. I had not yet had an opportunity to consider the changing landscape on Monday when I was informed that Dana had cancelled my DTC. On Monday morning, I reached out to the PO in charge of DTC to understand what violations were up and to consider how to handle the docket. Dana did not discuss with me any concerns in advance of the email I received cancelling the docket. If given the opportunity to have decided how to handle DTC on Wednesday, I would have made the decision to cancel it.

If you would answer or return my telephone calls, perhaps you would have correct information. You have not answered a telephone call from me in months. I have called you three to four times, so it's likely not due to the volume. Telephoning you is futile. I understand that is how you treat many of the other judges in the 52nd District and it makes solving issues in the courthouse significantly more difficult. It is not surprising that your information is consistently incorrect and incomplete. Your brash rudeness also makes contacting you less likely. Perhaps that is the point of your attitude and behavior.

These are extraordinary times and I am very aware that the entire court staff is under extreme pressure. You included. In these times, it is important that Dana does not over step her authority. And that you maintain appropriate objectivity.

I am certain that if your Court Administrator cancelled your docket without discussing it with you, you would have an issue with that. Your failure to deal with this issue is a continuing failure of your leadership when it comes to the culture in the 52-4 District Court.

- h. On January 7, 2021, respondent commented to John Taylor, a public defender representing several defendants, words to the effect that his argument was not his best argument and that his statements made her want to put a hatchet in his neck.

ANSWER: Judge Hartig lacks sufficient knowledge or information to form a belief as to the truth of the allegations and leaves Disciplinary Counsel to its proofs. In further response, Judge Hartig does not recall the specific conversation referenced. A review of that day's docket, that was held entirely on Zoom, does not contain the alleged comment. As Mr. Taylor was not in the building that day, all

communication between Mr. Taylor and Judge Hartig, would have had to be recorded via the Zoom technology.

- i. During a snowstorm in February 2021 respondent demanded that O'Neal provide a substitute for respondent's law clerk, whose vehicle was stuck in the snow, though respondent was aware that O'Neal was under no obligation to assign court employees to do the job of respondent's staff.

ANSWER: Denied as untrue in the form and manner alleged.

Prior to this interaction, the court administrator's staff regularly provided coverage when there was a gap in the judge's staff. There was no formal policy—but Judge Hartig's two staff members regularly volunteered to assist when they were not needed by Judge Hartig. On this particular instance, Judge Hartig believes that her judicial assistant, Ms. Kliewer, contacted Ms. O'Neal to request assistance while the other staff person was stuck in the snow. Ms. O'Neal declined to provide coverage. Judge Hartig recalls being surprised and upset by this change in procedure; however, she does not recall making any demand for staffing.

- j. In spring 2021 respondent disrupted a bench meeting by repeatedly and excessively demanding that the court administrator come up with a plan to provide substitute staff when her staff took a vacation, even though it was not the court administrator's responsibility to arrange for substitutes. Respondent's disruptive behavior interfered with completion of the agenda items for the bench meeting.

ANSWER: Denied as untrue. In further response, Judge Hartig states that she was addressing an issue that was impacting her ability to conduct dockets; the issue was on the preset agenda for the meeting. Over the course of the meeting, the full agenda was discussed. Judge Hartig disagrees that her conduct interfered with the completion of the meeting.

- k. In May 2021 respondent, who knew she did not have authority to establish the duties of magistrates, unilaterally expanded newly appointed magistrate Karen Liddle's duties by directing that she handle respondent's civil motions before respondent had to address them.

ANSWER: Denied as untrue in the form and manner alleged. In further response, Judge Hartig was under the belief that magistrates for the district courts "serve at the pleasure of the judges of the district court." MCL 600.8507(1). When Magistrate Liddle started with the court, they discussed her previous role she had performing research and discovery matters.

Judge Hartig, through her assistant, sent a proposal to Ms. O'Neal reflecting the proposed duties for Magistrate Liddle. The email states *"Here are some of the details on their thoughts. Please take a look and feel free to weigh in."* Judge Hartig believes that this was an invitation to discuss the matter, rather than a unilateral decision. Judge Hartig thereafter learned that Judge Fabrizio objected to the proposal. Judge Hartig denies having taken any action knowing that she lacked the authority to do so with relation to Magistrate Liddle.

1. During a drug court team meeting in July 2021 respondent directed pregnant probation officer Sidorella Arapi to stand up and display her belly to all Zoom participants in the meeting, without Ms. Arapi's consent.

ANSWER: Judge Hartig lacks sufficient knowledge or information to form a belief as to the truth of the allegations and leaves Disciplinary Counsel to its proofs. In further response, Judge Hartig does not recall this particular incident. To the extent that the allegation is that Judge Hartig celebrated Ms. Arapi's news, Judge Hartig admits that the drug court team regularly celebrated joyful personal and professional news, including promotions, new positions, and upcoming births of children and/or grandchildren.

- m. In late August 2023 probation officers Nichole Crandall and Ashley Powers went to respondent's chambers to determine whether respondent wanted to issue a probation violation in a particular case. Knowing that she had no authority over probation officers, respondent questioned why Crandall had seen Powers' probationer that day and repeatedly asserted that Powers should be seeing her own people. Respondent also criticized the probation supervisor's decision to have Crandall see Powers' probationer and criticized Powers for following the direction of her supervisor.

ANSWER: Denied in the form and manner alleged. In further response, Judge Hartig recalls Ms. Crandall and Ms. Powers coming to her office to discuss a probationer and to ask a question. During that conversation, Judge Hartig learned that

the probationer in question had been seen by a different probation officer during each of her last three appointments. Judge Hartig relayed that this likely led to confusion on the part of the probationer. Judge Hartig further relayed that she did not believe that a probation violation should be issued in this particular matter because the violation was months old and had gone unnoticed by the previous probation officers. The conversation was quick and was not contentious; however, Judge Hartig did perceive that Ms. Crandall was irritated.

n. When respondent was advised by the court administrator that Powers and Crandall felt bullied by her behavior described in the preceding paragraph, respondent told the court administrator that she no longer wished to communicate with Powers and Crandall and that Powers would no longer be permitted to come to her chambers.

ANSWER: Denied as untrue. Judge Hartig learned later that day that Ms. Powers was upset by the conversation. Judge Hartig explained to Ms. Phillips, the court administrator, that she did “not want to hurt any staff member in our courthouse and I understand that I did hurt Ashley and Nichole. I will apologize to both of them.” Judge Hartig did apologize to both Ms. Crandall and Ms. Powers. Judge Hartig does not believe she stated that Powers would no longer be permitted to come to her chambers, but that she preferred to communicate with both Crandall and Powers either in writing or with a neutral person present to prevent disputes over what was said.

From: Hartig, Kirsten Nielsen <hartigk@oakgov.com>
Sent: Wednesday, August 30, 2023 11:48 AM
To: Phillips, Jennifer Marie <phillipsj@oakgov.com>
Cc: Costigan, Ann-Patrice <costigana@oakgov.com>
Subject: RE: Ashley

I'm not in complete agreement with your statement below. I stated I did not want to speak with Ashley or Nichole alone to avoid accusations without the ability to dispute them. You suggested and I agreed that a neutral person be present when I spoke to Ashley or Nichole in chambers. Patti is not neutral and that would leave you to be present during in chambers discussions. I know that puts a burden on you and adds to your duties.

Let me think about whether it makes sense to communicate via email or in-person with you present. You can also think about what makes sense for you going forward.

Honorable Kirsten Nielsen Hartig
52nd District Court, 4th Division
520 W. Big Beaver
Troy, MI 48064
Chambers: 248-528-8516 and 8512 | Direct: 248-528-8500
Email: hartigk@oakgov.com

32. The conduct described in paragraph 31(a) violated Canon 2(C), which provides, in pertinent part, that “[a] judge should not use the prestige of office to advance personal business interests or those of others.”

ANSWER: Denied as untrue.

33. The conduct described in paragraphs 31(a)-(b), (d)-(f), (i)-(k), and (m) violated Canon 3(B)(1), which provides, in pertinent part, that “[a] judge should diligently discharge administrative responsibilities, maintain professional competence in judicial administration, and facilitate the administrative responsibilities of other judges and court officials.”

ANSWER: Denied as untrue.

34. The conduct described in paragraphs 31(c), (g)-(h), and (l)-(n) violated:

- a. Canon 3(A)(3), which provides, in pertinent part, that “[a] judge should be patient, dignified, and courteous to [those] with whom the judge deals in an official capacity”; and

ANSWER: Denied as untrue.

- b. Canon 3(A)(14), which provides, in pertinent part, that “a judge should treat every person fairly, with courtesy and respect.”

ANSWER: Denied as untrue.

35. The conduct described in paragraph 31(h) violated Canon 3(A)(12), which provides, in pertinent part, that “[i]n addressing counsel . . . the judge should avoid a controversial manner or tone.

ANSWER: Denied as untrue.

36. During the period 2018 through 2023 respondent exceeded her authority frequently enough, as illustrated in part by the incidents described in Paragraph 31, that she obstructed the administrative duties of other court personnel and her chief judges during this time, in violation of Canon 3(B)(1).

ANSWER: Denied as untrue.

37. During the period 2018 through 2023 respondent bullied court personnel and treated court personnel disrespectfully so frequently, as illustrated in part by the incidents described in Paragraph 31, that she created a climate of fear among court personnel that obstructed the administrative functions of the court, all in violation of Canons 3(A)(3) and 3(B)(1).

ANSWER: Denied as untrue.

**COUNT FOUR – ALLEGED IMPROPER DISMISSAL OF CRIMINAL
CASES**

38. Paragraphs one through thirty-seven are incorporated in this count.

ANSWER: This response incorporates answers to paragraphs 1 through and including 37.

39. The Oakland County Prosecutor's Office District Courts Division assigns assistant prosecutors to appear in the various district courts throughout Oakland County to prosecute "state law" dockets.

ANSWER: Admitted.

40. "State law" day is a day designated in each district court for handling criminal law matters based on state law.

ANSWER: Admitted as true. In further response, on information and belief, some district courts are afforded more than one state-law day.

41. When a district court schedules state law matters on a day other than its regularly scheduled state law day, it affects the ability of that court's prosecutor to appear in *another* district court for *its* state law docket and/or takes the prosecutor away from the out-of-court work needed to prepare for regularly scheduled state law dockets.

ANSWER: Judge Hartig lacks sufficient knowledge or information to form a belief as to the truth of the allegations and leaves Disciplinary Counsel to its proofs. In further response, cases assigned to particular units within the county prosecutor's office are regularly assigned to non-

regular state law days and the Oakland County Prosecutor's Office is staffed by approximately 100 assistant prosecutors.

42. Respondent did not confine her state law docket to state law days.

ANSWER: Denied in the form and manner alleged. Judge Hartig typically holds her state law cases on the day of the week designated as her state law day. However, there are rare times when circumstances do not permit this due to, for example, the court rules and statutes regarding timing, the length and/or complexity of a case, the availability of the court and the parties, the need to hear bench trials or evidentiary hearings that will take a significant amount of time to complete, and holidays. When this occurs, Judge Hartig did her best to accommodate all parties' schedules (not just the prosecutor's), but occasionally, state law matters must be scheduled for dates other than those identified as state law days.

43. During the pandemic it became very difficult for the Oakland County Prosecutor's Office District Courts Division to ensure that a prosecutor was available for each court as needed.

ANSWER: Judge Hartig lacks sufficient knowledge or information to form a belief as to the truth of the allegations and leaves Disciplinary Counsel to its proofs. In further response, the Oakland County Prosecutor's Office is staffed with, on information and belief, approximately 100 Assistant Prosecuting Attorneys.

44. In November 2021 Barbara Morrison was Chief of the Oakland County Prosecutor's Office District Courts Division.

ANSWER: Admitted as true.

45. Because respondent did not confine state law matters to her designated state law day, Morrison asked respondent, her bench mate (Hon. Maureen McGinnis), and the court administrator for respondent's court (Dana O'Neal), that respondent's court set "state law" cases only on regularly scheduled "state law" days. Morrison's request explained the scheduling difficulties the prosecutor's office was having as a result of the pandemic and the impact on other courts of hearing state law cases on other than the designated day.

ANSWER: Judge Hartig lacks sufficient knowledge or information as to Morrison's motivations to form a belief as to the truth of the allegations and leaves Disciplinary Counsel to its proofs. The balance of the allegation is admitted as true.

46. Respondent did not agree to Morrison's request and continued to set state law cases on non-state law days.

ANSWER: Denied as untrue in the form and manner alleged. In further response, Judge Hartig typically holds her state-law cases on her state-law day. However, there are times when scheduling does not permit this. For example, in 2024, well after Morrison's request, Christmas and New Year's Day both occurred on Tuesday, Judge Hartig's regular state-law day, requiring the state-law day to be rescheduled. In instances like this, Judge Hartig conducts her state law cases on a non-regular state-law day.

47. Respondent's answers to the Commission's request for comments mischaracterized Morrison's effort to coordinate scheduling as trying to impose "mandates" on her, with no legitimate basis for this characterization.

ANSWER: Judge Hartig lacks sufficient knowledge or information to form a belief as to the truth of the allegations and leaves Disciplinary

Counsel to its proofs. Undersigned counsel has reviewed Judge Hartig's answers to the requests for comments and have not identified any use of the word "mandates." If the Commission could provide the alleged use of the word "mandate," Judge Hartig will supplement this answer.

48. On January 7, 2022, Morrison advised respondent, her bench mate, and interim court administrator Alex Black that the prosecutor's office was requesting adjournments of all in-person district court matters through January and asked that prosecutors be permitted to appear for their hearings via Zoom. In support of the request, the prosecutor's office cited a high and rising Covid positivity rate in Oakland County and the desire to avoid putting members of the public, court staff, or its own staff at risk.

ANSWER: Denied as untrue in the form and manner alleged. Morrison's email comes after an improper adjournment request to the court from Assistant Prosecutor Hall. Morrison's email makes no request to adjourn any matters, stating only that they will be seeking stipulations to adjourn, and where stipulation is not obtained, they will be filing a motion to adjourn:

[This section intentionally left blank.]

From: Morrison, Barbara J <morrisonb@oakgov.com>
Sent: Friday, January 07, 2022 4:13 PM
To: Black, Alexandra Lynn <blacka@oakgov.com>; Hall, Jeffrey Scott
<hallj@oakgov.com>
Cc: McDonald, Karen D <mcdonaldk@oakgov.com>; McGinnis, Maureen Martha
<mcginnism@oakgov.com>; Hartig, Kirsten Nielsen <hartigk@oakgov.com>;
Williams, David <williamsda@oakgov.com>; Skrzynski, John M
<skrzynskij@oakgov.com>
Subject: RE: Docket for 1/11/22

Hi everyone,
Just a clarification to the below email from Jeff. The DC APAs are requesting adjournments of matters being handled by the District Court Division. The SPs will decide on their specific cases whether or not to seek an adjournment. There are a few reasons for this request as well as our initial request two weeks ago to allow the DC APAs to participate via ZOOM. First, our county is currently at a 25.5% positivity rate for COVID and this number is increasing. Michigan now has unchecked community spread. We do not want to be in the position of putting members of the public, the court staff, and our own staff in harm's way or potentially creating a "super-spreader" situation. Second, OCPO had a COVID outbreak two weeks ago and we are currently still experiencing staffing issues. By asking that all matters be handled by ZOOM until the end of January we are trying to prevent a disruption in court coverage. If a court has a ZOOM docket and an APA comes down with COVID, has child care issues, etc. that APA can simply handle that docket remotely. If on the other hand the docket is in-person and the APA cannot appear for the scheduled docket there is now a high probability that we will not be able to send another APA and the entire docket will then need to be cancelled. It is only the matters being handled by the DC APAs that require in-person testimony in which we are seeking adjournments. If we cannot obtain a stipulation from opposing counsel we will be filing a motion on our cases and asking the judges to exercise their discretion and find good cause to adjourn for three weeks. Any issues or concerns regarding bond can obviously be addressed at that time.

As always, please feel free to contact me with any questions or even any ideas as to a better way to navigate this latest COVID surge. I truly appreciate the feedback. Thank you.

Best,
Barb

-----Original Message-----

From: Black, Alexandra Lynn <blacka@oakgov.com>

Sent: Friday, January 07, 2022 3:36 PM
To: Hall, Jeffrey Scott <hallj@oakgov.com>
Cc: Morrison, Barbara J <morrisonb@oakgov.com>; McDonald, Karen D <mcdonaldk@oakgov.com>; McGinnis, Maureen Martha <mcginnism@oakgov.com>; Hartig, Kirston Nielsen <hartigk@oakgov.com>; Williams, David <williamsda@oakgov.com>
Subject: FW: Docket for 1/11/22

Good afternoon,

The email below was forwarded to me regarding the request for an adjournment of all in person exams and trials in January. After discussion with both judges here at 52-4 District Court, all cases requested for adjournment will be addressed on a case by case basis. Please follow the standard procedure of filing a Stip and Order with the court following your discussions with opposing counsel and the court will determine if the case will be adjourned.

The court will continue to follow CDC guidelines.

-----Original Message-----

From: Hall, Jeffrey Scott <hallj@oakgov.com>
Sent: Friday, January 7, 2022 11:28 AM
To: Kapadia, Simonne Navzer <kapadias@oakgov.com>
Subject: RE: Docket for 1/11/22

The Prosecutor's Office, specifically the District Court division has been instructed to request adjournments of all in persons exams and trials scheduled for the month of January.

The reason for the adjournments is due to the current Covid-19 positivity rate. I am in the process of reaching out to all of the attorneys that have exams or trials scheduled for next week. I thought that it was important that the Court be aware of this position before next Tuesday. I believe that the head of District Court has discussed the matter with Ms. Black who I believe is the acting Court administrator.

-----Original Message-----

From: Kapadia, Simonne Navzer <kapadias@oakgov.com>
Sent: Friday, January 7, 2022 8:58 AM
To: lawhalp@yahoo.com
Cc: Hall, Jeffrey Scott <hallj@oakgov.com>
Subject: RE: Barry trial

Good morning,

Document Submitted for Filing to MI Oakland County 6th Circuit Court.

Yes, Mr. Berry's case can be called this morning at 11am via Zoom. The Court's Zoom information is 4660385812.

Thank you.

-----Original Message-----

From: lawhalp@yahoo.com <lawhalp@yahoo.com>

Sent: Friday, January 7, 2022 8:43 AM

To: Kapadia, Simonne Navzer <kapadias@oakgov.com>

Subject: Berry trial

Good morning. Mr. Berry got back with me yesterday afternoon but it was too late for us to really do anything about it for the day. He did again indicate that he is prepared to proceed with a plea this morning and I know the judge said that she would be in after 10:30 AM.

If this is still a workable plan, I will advise Mr. Hall. Can we tentatively plan for 11 A.m, subject to the judge's discretion, of course?

R. Halprin
248-219-9278

This email chain, when read in full, also makes clear that where the parties agree to Zoom, and there is no particularized reason for the proceeding to occur in person, Judge Hartig conducted court hearings by Zoom.

49. On January 11, 2022, assistant prosecuting attorney Jeff Hall filed a motion to adjourn *People v Jessica Price*, 21-1413-FY, which was set for preliminary examination before respondent on the same day. The basis of Hall's adjournment request was the surge of the Omicron variant of Covid, the very high Covid positivity rate for Oakland County, and the fact that one of his witnesses, a police officer, had tested positive for Covid. Respondent denied the adjournment request.

ANSWER: Admitted that the motion was untimely filed on the same day that the preliminary exam was scheduled to take place but reviewed and heard by Judge Hartig. It is further admitted that the motion was denied;

the matter had been previously adjourned because the prosecution was not prepared to proceed. In further response, the defendant in the *Price* matter objected to the adjournment and the prosecution admitted that it had two witnesses that were subpoenaed and available, but the prosecutor told the witnesses, who were healthy and who did not object to appearing, not to appear, before the motion was heard and before Judge Hartig made a decision.

2 THE COURT: All right. Did you just call them off
3 or did they tell you they couldn't come?
4 MR. HALL: They were called off.
5 THE COURT: All right. Based on that, I'm citing
6 the unpublished case of People v Borowka. That is Court of
7 Appeals number 346398; I don't think I have a more traditional
8 cite. I am going to decline to nolle pros this case. I
9 believe the Prosecutor's desire to do so is ultra vires and is
10 impeding on my ability to control the court and is
11 unreasonable. I believe they have exceeded their authority.
12 I will grant a hearing on whether or not I am going to be
13 dismissing this matter with or without prejudice. I'll be
14 frank with both parties; I'm leaning towards with prejudice,
15 but I want to give both parties the opportunity to thoroughly
16 research this issue and to make an informed decision. So, at
17 this point, this matter is not dismissed. I guess it is
18 dismissed, however I haven't decided whether it will be with
19 or without prejudice.
20 MR. HALL: Thank you, your Honor.

50. Defense counsel made an oral motion to dismiss *Price* because the prosecutor did not offer the testimony of witnesses. Defense counsel's motion acknowledged that the dismissal would be without prejudice.

ANSWER: Admitted as true.

51. Respondent asked Hall whether he intended to recharge the case. When Hall informed respondent that he would recharge the case, respondent accused him of acting solely for the purpose of getting around her denial of the adjournment. Respondent had no legitimate basis for making this accusation.

ANSWER: The first two sentences of this allegation are admitted as true. The third sentence is denied as untrue. In further response, despite having a motion to adjourn pending and not decided at the time scheduled for the preliminary examination, the prosecution admitted that it had witnesses that were subpoenaed and available, but the prosecutor told them not to appear. At that time, the court, schools, libraries, and business were open and conducting business and the court was fully complying with both CDC guidelines and the recommendations of the Oakland County Health Department.

18	THE COURT: Mr. Hall, do you intend to proceed
19	today?
20	MR. HALL: With a rewrite?
21	THE COURT: No. Do you proceed -- do you intend to
22	call witnesses to the stand today?
23	MR. HALL: No, your Honor.
24	THE COURT: And if this matter is dismissed, do you
25	intend to rewrite this matter?
1	MR. HALL: Yes, your Honor.
2	THE COURT: So, would it be fair to say that your
3	dismissal of this matter would be simply for the purposes of
4	getting around the Court's determination to deny an
5	adjournment?

6 MR. HALL: No, your Honor.
7 THE COURT: Can you expound on that?
8 MR. HALL: The determination was based upon the
9 motion that was filed that it is jeopardizing the health of
10 multiple people. It is not for a tactical advantage if that's
11 what the Court is asking.
12 THE COURT: Oh, I'm not -- I'm not at all alleging a
13 tactical advantage.
14 MR. HALL: It is based upon the safety of people in
15 my office, people in my family, the witnesses I would be
16 subpoenaing to be here which is a Court Order to be here.
17 That would be the basis.

52. Respondent then *sua sponte* raised the possibility of dismissing the case *with* prejudice, which would prevent the prosecution from refileing the case.

ANSWER: Admitted as true.

53. Respondent dismissed the case without specifying whether the dismissal was with or without prejudice.

ANSWER: Denied as untrue in the form and manner alleged. Before dismissing the case, Judge Hartig explained that she would grant a hearing on whether or not the matter would be dismissed with or without prejudice. She further explained that she wanted the parties to have the opportunity to thoroughly research this issue and for her to make an informed decision.

54. Respondent set a hearing for March 15, 2022, and invited the parties to brief whether the dismissal should be with or without prejudice.

ANSWER: Admitted as true.

55. On March 15, 2022, respondent entered a second order dismissing the case, this time specifying that dismissal was with prejudice.

ANSWER: Admitted that on March 23, 2022 Judge Hartig entered an order dismissing the referenced case with prejudice.

56. Respondent lacked the jurisdiction and authority to dismiss *Price* again, this time with prejudice, after having already entered an order dismissing it.

ANSWER: Admitted as true. In further response, neither side raised this issue in argument or briefing.

57. Respondent also lacked the authority to dismiss *Price* with prejudice even if she had not already dismissed it, because MCR 6.110(F) provides that in the absence of a probable cause finding the court must discharge the defendant without prejudice.

ANSWER: Denied as untrue. Judge Hartig relied upon *People v Borowka*, unpublished *per curiam* opinion of the Court of Appeals, issued September 17, 2019 (Docket No.346398), as authority to support the decision to dismiss the *Price* matter with prejudice. The decision was made in good faith after reviewing the appellate case law.

58. It is fundamental to respondent's role as a district court judge to know the scope of her authority to dismiss a case at the preliminary examination stage.

ANSWER: Admitted as true. In further response, see response to paragraph 57.

59. It is also fundamental to respondent's role as a judge to avoid undermining the public's faith in her impartiality.

ANSWER: Admitted as true. In further response, see response to paragraph 57.

60. Respondent's ruling to dismiss *Price* with prejudice was not made in good faith and/or with due diligence and was made under circumstances that demonstrated that she was dismissing with prejudice to punish the prosecution rather than on the merits of the case.

ANSWER: Denied as untrue that the decision was not made in good faith and/or with due diligence. Judge Hartig made her decision after inviting briefing, reviewing the law, and holding a hearing. The decision was made in good faith after reviewing the appellate case law. Judge Hartig considered that by granting the dismissal with prejudice that it would sanction the prosecution for its conduct.

61. On January 11, 2022, three defendants incarcerated on felony charges in the following cases did not appear for their preliminary examinations because they were under Covid quarantine at the Oakland County Jail: *People v. Darrice Armstrong*, 21-2952-FY; *People v. Jerrick Lewis*, 21-2954-FY; and *People v. Damian Dukes*, 21-3036-FY ("*Armstrong*" cases).

ANSWER: Admitted as true.

62. Respondent set the next preliminary examination date for January 31, 2022, over the objection of prosecutor Hall. Hall's objection was on the ground that the prosecutor's office was seeking adjournments of all in-person examinations through the month of January due to the surge in the highly contagious Omicron variant of Covid. Hall also advised

that he was already scheduled to be in another court on January 31, and that it was unlikely that there would be another prosecutor available to take his place in respondent's court. He explained that the increase in Covid cases was causing staff shortages in the prosecutor's office, particularly in the district courts division.

ANSWER: Admitted. In further response, Judge Hartig adjourned this preliminary examination to January 31, 2022, to set a date for the preliminary examination for these defendants who had been in custody for a prolonged period of time. As indicated on the record, it is difficult to coordinate the schedules of four attorneys, three defendants, and multiple witnesses. Scheduling felony exams for those incarcerated must be done timely. If a party had a conflict or concern with the scheduled date, there are means set forth by the Michigan Court Rules for an attorney to seek a stipulation to adjourn, or in the alternative to file a motion for adjournment. Nothing in the court rules excuses the prosecutor from complying with the court rule or being entitled to preferential treatment on its preferences related to scheduling.

63. On January 27, 2022, Hall reminded the court via email that he could not be present for the January 31 hearing. He also filed an emergency motion to adjourn the preliminary examination.

ANSWER: Admitted as true.

64. On January 28, the last business day before the scheduled exam date, respondent denied the request for adjournment, dismissing the prosecutor's concerns regarding Covid. Respondent did not address Hall's assertion that he was scheduled to be in a different court on the scheduled preliminary exam date.

ANSWER: Admitted that Judge Hartig held a hearing on the *only* full business day between the date the Emergency Motion to Adjourn or to Proceed by Zoom was filed and the date set for the preliminary exam. Responses were filed by opposing counsel representing two of the defendants. Two of the defendants objected to proceeding by Zoom and all three defendants objected to the Prosecutor's request for an adjournment. Counsel for all three defendants appeared and the defendants themselves were made available via Zoom. Prosecutor Hall failed to appear for his own motion.

65. Counsel for the defendants moved to dismiss the *Armstrong* cases with prejudice even though no testimony had been taken.

ANSWER: Admitted as true. One defense attorney relayed on the record a discussion where Mr. Hall admitted to her the day before that the adjournment "did not have anything to do with COVID."

7	MS. QUIRINDONGO: Okay. So, your Honor, I -- well,
8	the Court already indicated there was an Emergency Motion that
9	was filed on Friday or on Thursday afternoon. We all
10	appeared, all Defense Counsel appeared with our clients on
11	Friday at the time that was scheduled by the Court. The
12	Prosecutor's Office failed to appear.
13	I did receive a phone call from the assigned
14	Prosecutor, Mr. Hall, in the afternoon. I think maybe it
15	could have been around the lunch hour, where he indicated to

16 me that they were not producing a prosecutor for today, that
17 it did not have anything to do with Covid, which is what their
18 entire Motion was based on was Covid, but rather that they
19 were not going to pull a prosecutor from Circuit Court to
20 appear for this case this morning.

21 He then told me --- and I took some notes because I
22 was a little taken aback by this conversation. I've been a
23 licensed attorney for some time now and I've never had a
24 conversation like this with a prosecutor. He told me good
25 luck in getting my client to court because they were all

1 quarantined and I said, "They're not all quarantined." You
2 know, and I reiterated that the conversation we had had
3 earlier in the court that my client would be off quarantine
4 yesterday, that Mr. Hilf's client was not quarantined at all,
5 and that Defendant Lewis would appear by Zoom by consent from
6 him and his attorney.

7 He then said, "Well, we're not appearing and, you
8 know, we'll just rewrite the case and your client will lose
9 all his jail credit."

10 I found that statement to be, I'm not going to say
11 threatening, but I just thought it was so outrageous because
12 this -- you know, we've all been here all the time. The Court
13 knows that Mr. Hilf and I had other things scheduled, we're
14 here, you know, because we're ordered to be here.

15 I feel that the Oakland County Prosecutor's Office
16 by their non-appearance today, not for any kind of health
17 concern that was made really clear by Mr. Hall on the phone on
18 Friday, but because they don't think they need to produce a
19 prosecutor on a non-state law day, I find that it's
20 contemptuous behavior. I find it outrageous. If we told the
21 Court that today was not a day that we appear in the Troy
22 District Court, I'm sure the Court would take measures against
23 Defense Counsel.

66. Respondent dismissed the cases with prejudice. Respondent's decision chastised the Oakland County Prosecutor's Office for their opposition to holding examinations in-person during the Covid pandemic. Respondent concluded, without foundation, that Hall's nonappearance at the *Armstrong* cases preliminary examinations were a deliberate move by the prosecutor to control respondent's docket.

ANSWER: Admitted that Judge Hartig dismissed the cases with prejudice. Denied as untrue in the form and manner alleged as to the remaining allegations. In further response, the transcript speaks for itself and is attached as Tab B. In further response, the conduct by the members of the county prosecutor's office was not consistent with their professional responsibilities. Judge Hartig filed grievances against the office for their conduct. Those matters recently resulted in the Michigan Attorney Grievance Commission cautioning them. See Tab C & D.³

³ The letter to Hall states, "... if he or another prosecutor cannot attend a scheduled hearing, he should ensure that proper procedures are followed to attend a scheduled hearing, he should ensure that proper procedures are followed to request adjournment of the hearing." And the letter to Prosecutor McDonald states, "... she should ensure that the office follows proper procedures to request an adjournment."

67. Respondent lacked the authority to dismiss the *Armstrong* cases with prejudice. MCR 6.110(F) provides that in the absence of a probable cause finding, the court must discharge the defendant without prejudice.

ANSWER: Denied as untrue in the form and manner alleged. In further response, MCR 6.110(F) provides a method for dismissal, but it is not the only method. For example, MCR 6.004(A) also provides a method for dismissal unrelated to probable cause.

68. Respondent's dismissal with prejudice in the *Armstrong* cases was not made in good faith and/or with due diligence.

ANSWER: Denied as untrue.

69. The circumstances under which respondent dismissed the *Armstrong* cases demonstrated that she was dismissing to punish the prosecution rather than on the merits of the cases.

ANSWER: Admitted as true. Judge Hartig believed that there was unfair and improper conduct that needed to be addressed and sanctioned the prosecutor's office for its actions.

70. Respondent's actions identified in Count Four were misconduct in violation of:

- a. MCJC Canon 2(B), which provides, in pertinent part, that "[at] all times, the conduct and manner of a judge should promote public confidence in the . . . impartiality of the judiciary" and "[a] judge should treat every person fairly"; and [sic]

ANSWER: Denied as untrue.

- b. MCJC Canon 3(A)(1), which provides, in pertinent part, that
“[a] judge should be faithful to the law and maintain
professional competence in it.”

ANSWER: Denied as untrue.

JUDGE HARTIG'S AFFIRMATIVE DEFENSES

- A. The Judicial Tenure Commission's unitary structure of investigation, prosecution, and adjudication violates Judge Hartig's right to Procedural Due Process.
- B. At all times relevant to this investigation, Judge Hartig acted in good faith with regard to the proceedings and had reasonable grounds for believing her actions were not in violation of any canon, statute, or court rule.
- C. Judge Hartig did not give any statements with a deliberate intent to mislead.
- D. Failing to recall specific facts while offering statements and/or testimony made to the best of one's recollection, cannot constitute knowingly false and intentionally misleading statements.
- E. The alleged false statements of the Respondent are immaterial and/or lack materiality.
- F. MRPC 3.4(c) authorizes a judge or lawyer to knowingly disobey an obligation under the rules when it is an open refusal based on an assertion that no valid obligation exists
- G. MCR 9.220(D) allows the Commission to request a judge to submit to only one physical or mental examination.
- H. MCR 2.311(B) provides the only method for obtaining a copy of a report generated after a physical or mental examination, unless a waiver is executed by the judge in favor of the Commission.
- I. The Commission has failed to allege conduct actually violative of Canon 2(A-C).
- J. The Commission has failed to allege conduct actually violative of Canon 3(A)(3), 3(A)(12), 3(A)(14), and 3(B)(1).
- K. An erroneous decision by a judge made in good faith and with due diligence is not judicial misconduct. MCR 9.211(B).

L. The Complaint is barred by laches and the Commission's unreasonable and inexcusable delay in proceeding with a Formal Complaint.

Respectfully Submitted.

COLLINS EINHORN FARRELL

Donald D. Campbell

DONALD D. CAMPBELL (P43088)

KATHARINE B. SMITH (P86301)

Counsel for Hon. Kirsten Hartig

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DATE: July 8, 2025

VERIFICATION

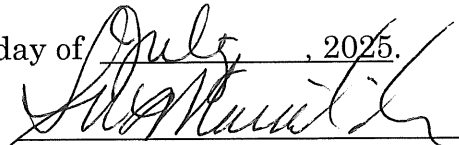
I declare under penalties of perjury verifies that this Answer to the Complaint and the Affirmative Defenses have been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Dated: 7-8-2025


KIRSTEN HARTIG

State of Michigan)
)ss
County of Oakland)

Subscribed and sworn to before me this 8th day of July, 2025.


Notary Public

