BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF THE SUPREME COURT OF OHIO

DISCIPLINARY COUNSEL,	:	
	:	
Relator	:	Case No. 2022-045
v.	:	
	:	**ANSWER OF RESPONDENT JUDGE**
HON. TIMOTHY GRENDELL,	:	**TIMOTHY GRENDELL**
	:	
Respondent	:	
	:	

In addition to the Affirmative Defenses set forth below, Respondent Judge Timothy Grendell ("Respondent" or "Judge Grendell") hereby submits his Answer to Relator's Complaint as follows:

1. Respondent admits the allegations of Paragraph 1.

2. Respondent admits the allegations of Paragraph 2.

3. Respondent admits that, at all times herein, he was the sole elected judge of the Geauga County Court of Common Pleas, Probate and Juvenile Divisions; however, further answering, the Court has likewise utilized the services of visiting judges throughout Respondent's terms in office.

   Respondent denies the remaining allegations of Paragraph 3.

4. Respondent admits he is and has been married to Diane Grendell ("Diane") at all times relevant to the Complaint.

   Further answering, Respondent denies Diane has been an Ohio State Representative for District 76 at all times relevant to the Complaint; Diane served in the Ohio House of Representatives from 1993 to 2000, and from May 29, 2019, to present. Further answering, from 2001-2019, Diane Grendell served as a well-respected Appellate Court Judge, and she served by appointment on eight occasions on the Ohio Supreme Court.

   Respondent denies the remaining allegations of Paragraph 4.

Count One
The Glasier Matter

5. Respondent admits the allegations of Paragraph 5.[1]

[1] Relator's Complaint contains confidential information throughout Count I about juveniles' names and dates of birth that should have been redacted, anonymized, or filed under seal. *See* Supreme Court of Ohio Writing Manual, p. 11, "In all cases, judges shall not allow publication of a minor's

6. Respondent admits that, in January 2010 (*i.e.,* years before her case was transferred to the Geauga County Juvenile Court), Hartman relocated with her personal belongings and the couple's three children to Pennsylvania without Glasier's knowledge. Further answering, Respondent admits that, later that year, Glasier filed for a divorce in Lee County, Florida, before the Hon. Elisabeth Adams; Judge Adams issued a dissolution of the marriage and an Order of shared parenting in September 2010.

   Respondent denies the remaining allegations of Paragraph 6.

7. Respondent admits that Hartman's relocation with the children from Pennsylvania to Geauga County, Ohio in 2013 violated the Florida Court's Order, which prohibited Hartman from moving again without Glasier's knowledge or the Court's authorization.

   Respondent admits the remaining allegations of Paragraph 7.

8. Respondent admits that Glasier moved from Florida to Geauga County in September 2015 to pursue equal (50/50) parenting time with his children; on November 5, 2015, Hartman then petitioned the Geauga County Court of Common Pleas, Domestic Relations Division ("DR Court" or "Domestic Relations Court"), to transfer the Florida dissolution there and assume jurisdiction, *Hartman v. Glasier,* 15DK000864.[2]

   Respondent denies the remaining allegations of Paragraph 8.

9. Respondent admits that the Geauga County DR Court had previously appointed Attorney Lucinda Gazley ("Gazley") to serve as the guardian *ad litem* ("GAL") over the matter. Further answering, Respondent admits that, on May 25, 2017—*i.e.,* two years before the case was transferred to the Geauga County Juvenile Court—Gazley filed an *ex parte* motion in the DR Court to suspend Glasier's parenting time due to his failure to follow her recommendations, which included an alcohol assessment, anger management, parenting classes, and counseling.

   Respondent denies the remaining allegations of Paragraph 9.

10. Respondent admits that Gazley's recommendations, which she made while the case was pending in DR Court, followed a February 26, 2017 incident in

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identity." *See also* Sup.R. 44(C)(2)(d); Juv.R. 5, 37(B); *In re: T.R.*, 52 Ohio St.3d 6, 8 (1990); *In re: CP,* 131 Ohio St.3d 513(2012); *Scripps Howard Broadcasting Co. v. Cuyahoga Cty. Court of Common Pleas, Juv. Div.,* 73 Ohio St.3d 19, 22 (1995). Respondent anticipates Relator will voluntarily move to replace the current Complaint with one that has this information redacted, anonymized, or, filed under seal upon realizing this oversight. However, in the meantime, Respondent will reference the juveniles in this count (who all have identical initials) as "CG1," "CG2," and "CG3" from oldest to youngest.

[2] The Court had received compelling evidence that Hartman violated court orders issued by three different courts in two different states, while frustrating Glasier's parental rights and alienating the children from their father.

which Hartman called the Orwell Police Department, alleging Glasier broke a door during a parenting visit with CG2 and CG3 that Hartman was not present to observe. The Orwell Police responded to Hartman's call, but they ultimately determined Hartman's allegations lacked merit, and they declined to file charges against Glasier. Further answering, Glasier was never charged with any abuse of the children, nor has he ever been tried or convicted with any such abuse. The only "documentation" of abuse arose from Hartman's allegations, which were apparently deemed sufficiently unsupported, unsubstantiated, and/or meritless that they never warranted action by law enforcement or social services.

Respondent denies the remaining allegations of Paragraph 10.

11. Respondent admits the allegations of Paragraph 11.

12. Respondent admits that, pursuant to the Domestic Relations Court's Order, the children attended counseling with assigned family counselor, Joleen Sundquist—in half of the instances, Ms. Sundquist came to the children's school, and Ms. Hartman took them to the Career Counseling Center in Geauga County for the other half. In some instances, the children refused to even enter Ms. Sundquist's office when they had an appointment there to visit Glasier. This was consistent with Dr. Afsarifard's evaluation on March 9, 2018, that the children had been subjected to Hartman's substantial efforts to alienate the children from Glasier, and this required family counseling.

Respondent denies the remaining allegations of Paragraph 12.

13. Respondent admits that, during the time the case was in the Geauga County DR Court, CG1, CG2, and CG3 attended some of the counseling sessions, but they refused to attend others—including all visits where they would be expected to meet personally with Glasier, which Respondent admits CG1, CG2, and CG3 consistently refused to do, despite the express purpose of these visits being parental reunification. This was consistent with Dr. Afsarifard's evaluation on March 9, 2018, that the children had been subjected to Hartman's substantial efforts to alienate the children from Glasier, and this required family counseling.[3]

Respondent denies the remaining allegations of Paragraph 13.

14. Respondent admits that, on March 9, 2018, Dr. Farshid Afsarifard, Ph.D., submitted a 30-page report to the Domestic Relations Court, the contents of which speak for themselves. Further answering, Respondent admits Dr. Afsarifard's report concluded, among other things, that "It is clear that[,] based on some direct experience of their own with their father, and negative

[3] Dr. Afsarifard's report determined the "children had been empowered by their mother to 'make decisions' as [to] whether or not they wanted to have a relationship with their father." This had occurred, despite the Courts' orders that Hartman support and facilitate Glasier's visitation with the children to reunify the children and their father.

influence from their mother and [her boyfriend,] Chris, the children have become seriously alienated from their father….It was also obvious that they have been empowered by their mother to 'make decisions' as [to] whether or not they wanted to have a relationship with their father."[4] Further answering, Respondent denies the remaining allegations of Paragraph 14.

15. Respondent admits that, by Agreed Entry dated August 9, 2018, Hartman was designated as the residential parent and custodian of the three children. Further answering, Hartman was represented by legal counsel when she freely entered into the Agreed Entry, which became a compulsory Court Order after executed by the DR Court.

Further answering, Respondent admits the Agreed Entry incorporated the conclusions within Dr. Afsarifard's report and its findings regarding Hartman and Kostiha's alienation of the children from Glasier and the permanent harm that would result to the children if they were permitted to make the decision to eliminate Glasier from their lives. (*See infra*.)

Further answering, the Agreed Entry reflects the parties' and the Court's incorporation of Dr. Afsarifard's recommendations and the counselor's goal to pursue the children's reunification process with Glasier as it had been recommended by the GAL and Dr. Afsarifard; the Entry allowed for the family counselor to set an initial reunification visitation schedule, which the Court held "shall be increased based on goals set by [the] family counselor," with the "ultimate goal," being the implementation of the Court's minimum standard parenting guidelines, with more to be allowed at the recommendation of the family counselor, parents, and children.

Further answering, the Court's Entry held the counselor's goal of Glasier's standard parenting should be implemented within 180 days or as soon as the family counselor determined, with the ultimate goal being reunification and standard (shared) parenting.

Respondent denies the remaining allegations of Paragraph 15.

16. Respondent denies R.C. 3109.04(E)(1)(a) applies to "any" modification of Agreed Entries—it only applies to proposed modifications to a Court-ordered allocation of parental rights and responsibilities; courts remain empowered to modify the terms of parties' court-ordered parenting plans at the request of one or both parents, or upon its own motion, at any time. *See, e.g.,* R.C. 3109.04(E)(2)(b).

Respondent denies the remaining allegations of Paragraph 16.

17. Respondent admits that, on August 16, 2019, the Geauga County Domestic Relations Division certified the case to the Geauga County Court of Common

[4] Dr. Afsarifard's report concluded evidence existed of "serious parental alienation" of Glasier by Hartman and her boyfriend, Christopher Kostiha. Dr. Afsarifard cautioned, "Allowing the children to make decisions that involve eliminating a parent out of their lives can have serious consequences and should not be a consideration."

Pleas, Juvenile Division, because of the DR Court's inability to effectively overcome the children's refusal to participate in any reunification efforts with their father.

Respondent further admits the DR Court certified the case's transfer to the Juvenile Division as to the allocation of parental rights and responsibilities under R.C. 3109.06, because the Juvenile Court had authority to require the children to meet with Glasier and work toward reunification—which resulted in the Juvenile Court having jurisdiction over the case for all purposes.[5]

Respondent denies the remaining allegations of Paragraph 17.

18. Respondent admits that, on August 27, 2019, the Juvenile Court accepted jurisdiction over the matter and opened it as *Hartman v. Glasier,* Case No. 19CU000279. Further answering, Respondent and a Magistrate presided.

Respondent denies the remaining allegations of Paragraph 18.

19. Respondent admits the allegations of Paragraph 19.

20. Respondent admits the allegations of Paragraph 20.[6]

21. Respondent admits that, on October 15, 2019, his Magistrate ordered therapeutic visitation for Glasier and the children to occur through Ohio Guidestone, with a visitation schedule to be determined by the Court's Case Management Director, and authorizing the Parenting Coordinator and GAL to attend Glasier's visitation, but Hartman interfered with the implementation of these orders.

Respondent denies the remaining allegations of Paragraph 21.

22. Respondent admits that, on October 17, 2019, Ohio Guidestone therapist, Jim Morrison, visited Glasier, Hartman, and the children separately. Further answering, Respondent admits that, at that meeting, the children each indicated they would be willing to participate in phone contact with their father, but they each refused when those interviews were set to proceed (which they attended from their home). In response, Guidestone personnel informed the GAL and respondent that it would not force the children to see their father. The children's refusal reflects Hartman's alienation efforts that Dr. Afsarifard previously observed and relayed.[7]

Respondent denies the remaining allegations of Paragraph 22.

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[5] The DR Judge relayed to Respondent, "We are out of resources and authority on his one. The fact that Dr. Afsarifard found parental alienation and dad has not been restored to any type of meaningful contact with the children is alarming and disappointing…you [Respondent, as the Juvenile Court Judge] might have the resources to reunify the father with the children in some meaningful way."

[6] Respondent appointed Gazley as GAL for the children pursuant to Sup.R. 48.

[7] The Court had received compelling evidence that Hartman was unsupportive of Guidestone's efforts.

23. Respondent admits the allegations of Paragraph 23.

24. Respondent admits the allegations of Paragraph 24.

25. Respondent admits the allegations of Paragraph 25.

26. Respondent admits the allegations of Paragraph 26.

27. Respondent denies the allegations of Paragraph 27.

28. Respondent denies the allegations of Paragraph 28.[8]

29. Respondent denies the allegations of Paragraph 29.

Further answering, Respondent admits he advised CG2 (who did not display a fear of his father) that the law did not allow a child to decide parenting time.

30. Respondent denies the allegations of Paragraph 30.

Further answering, Respondent admits he advised CG3 (who similarly did not display a fear of his father) that the law did not allow a child to decide parenting time.

31. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 31.

32. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 32.

33. Respondent admits the allegations of Paragraph 33.

Further answering, Respondent admits the GAL made certain recommendations, but he denies the Complaint's claim that Dr. Neuhaus's role was to conduct another evaluation, and he likewise denies the Court was bound to follow he GAL recommendations.

Further answering, Dr. Neuhas's role was different than Dr. Afsarifard's: Dr. Neuhaus's role was limited to providing treatment to assist in the reunification process. Had the Court followed the GAL's recommendation to delay action until Dr. Neuhaus completed his evaluations, doing so would have enabled Hartman's frustration of the reunification efforts created by her refusal to comply with Court orders to financially invest in Dr. Neuhaus's treatment process. (Dr. Neuhaus had expressed concerns that, if Hartman was not personally, financially invested in the treatment process, she would not be motivated in its success—and that she would abuse and prolong the process to punish Glasier by racking up unnecessarily expensive treatment bills.)

34. Respondent admits the allegations of Paragraph 34.[9] Further answering, Gazley's report also provided "I respectfully recognize the court is the

[8] Dr. Afsarifard had opined that Glasier's visitation should not be terminated.

ultimate trier of fact and as such will determine if there is a change in circumstances." A GAL only makes recommendations, and a court is not bound to follow a GAL's recommendations.

35. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 35.

36. Respondent admits the allegations of Paragraph 36.

37. Respondent denies the allegations of Paragraph 37. Further answering, Hartman's actions had prevented Dr. Neuhaus from doing his job.

38. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 38. Further answering, Dr. Neuhaus was not making recommendations. He was tasked with providing family reunification treatment, which he couldn't do because Hartman refused to pay her share. Dr. Neuhaus had indicated this was a critical component to Hartman taking the therapy seriously and preventing her from misusing the process to generate expensive bills for Glasier to pay.

39. Respondent admits the allegations of Paragraph 39.

Further answering, Case Management was looking for ways to facilitate reunification between the sons and their father in light of Hartman's refusal to participate in Dr. Neuhaus's reunification treatment.

40. Respondent admits that his Magistrate, Abbey King, denied Glasier's request for intensive in-home therapy in November 2019. Further answering, the Court was still trying to utilize Ohio Guidestone at that time, so there was not a need for in-home therapy through Ravenwood.

Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 40.

41. Respondent admits Glasier apprised the Court of his desire to withdraw the motions he had filed in January to modify custody and support; however, he had voiced his persistent desire to have parenting time with his children and reunification with his children.

Respondent denies the remaining allegations of Paragraph 41.

42. Respondent admits that, in response to Glasier's verbal request within the hearing, as well as the Court's own motion, he modified Glasier's motions under R.C. 3109.04(E)(2)(b) as pursuing an "order seeking to enforce your right to parenting time with the children." This was consistent with Dr.

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[9] The GAL Report is not binding upon the Court, as it is the result of a Rule of Superintendence, which are only general guidelines for the Court to follow at its discretion, especially in parental rights cases. *See In re: B.K.,* 2011-Ohio-4470, ¶ 23.

Afsarifard's recommendation as being in the best interest of the children.[10]

Respondent denies the remaining allegations of Paragraph 42.

43. Respondent denies Glasier had not been in the boys' presence for almost three years.

Respondent admits the remaining allegations of Paragraph 43.

44. Respondent admits the allegations of Paragraph 44.

45. Respondent admits that the Court's proceedings are accurately transcribed in Paragraph 45.

Respondent denies the remaining allegations of Paragraph 45.[11]

46. Respondent admits that the Court's proceedings are accurately transcribed in Paragraph 46. Hartman was not encouraging or cooperating with Glasier's visitation.

Further answering, Respondent denies the remaining allegations of Paragraph 46.[12]

47. Respondent lacks knowledge or information sufficient to admit or deny what Hartman realized or believed.

Further answering, Respondent admits Hartman asked him to speak with the GAL, but Respondent has no knowledge as to the reason she asked for this conversation.

Respondent denies the remaining allegations of Paragraph 47.

48. Respondent admits that the Court's proceedings are accurately transcribed in Paragraph 48.[13] Respondent denies the remaining allegations of Paragraph 48.

49. Respondent admits the allegations of Paragraph 49.[14]

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[10] This was consistent with Dr. Afsarifard's recommendation that the children's visitation with their father (Glasier) not be terminated.

[11] The record demonstrated that Hartman failed to comply with orders from three different courts in two different states, keeping the children from their father in the process.

[12] The Court had received compelling evidence that Hartman had been less than cooperative or candid with the Court in the past.

[13] The GAL is not binding on the Court, as it is the result of a Rule of Superintendence that only provides general guidelines for the Court to follow at its discretion, especially in parental rights cases. *See In re: B.K.,* 2011-Ohio-4470, ¶ 23.

[14] This is a standard practice in instances where parents have a demonstrated history of perpetuating parental alienation, such as Dr. Afsarifard identified in Hartman.

50. Respondent admits the allegations of Paragraph 50.

51. Respondent denies the alleged emphasis is appropriate within the quoted portions of the record—which speaks for itself. Further answering, Respondent denies that whether there was a change in circumstances remained relevant after Glasier withdrew the motion for custody. Further answering, Respondent admits that decisions regarding parenting time were required on the basis of what was in the children's best interest—not whether there was a change in circumstances. Respondent admits the remaining allegations of Paragraph 51.

Drop-off at the Geauga County Sheriff's Office

52. Respondent denies the boys hadn't seen Glasier since 2017. Respondent admits the remaining allegations of Paragraph 52.

53. Upon information and belief, Respondent believes the allegations of Paragraph 53 are mostly accurate. Further answering, upon information and belief, Constable Ralph apprised Hartman that it might be less stressful for the boys if she left before CG2 and CG3 would go with Glasier.

    Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 53.

54. Upon information and belief, Respondent does not dispute the allegations of Paragraph 54.[15]

    Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 54.

55. Respondent admits that Constable Ralph, who was present to provide reassurance to the boys and facilitate their transfer to Glasier, relayed to him that he was calling Respondent *after* CG2 and CG3 had already refused to go with Glasier (the boys' father) and *after* Hartman (the boys' mother) had repeatedly and unsuccessfully directed the boys to attend visitation. Respondent further admits that, after Ralph apprised him that the boys had continued to refuse their mother's directions, he advised Ralph to involve the Sheriff—*i.e.,* to place the boys in custody per Juv.R. 6 and 7, and R.C. 2151.022 and R.C. 2151.312. The boys were not placed in custody because they allegedly refused to go with their father during his court-ordered parenting time; but rather, for their alleged ongoing disobedience of their mother, which, if true, would constitute unruly conduct under R.C. 2151.022. The Sheriff's assistance occurred pursuant to Juv. R. 6 and 7.

    Respondent denies the remaining allegations of Paragraph 55.

[15] Relator's alleged conduct by the boys was precisely the type of decision "involving eliminating a parent" that Dr. Afsarifard had indicated "should not be a consideration."

56. Respondent denies he directed either Constable Ralph or Hartman; further answering, the boys had already allegedly been unruly when Constable Ralph called, and Constable Ralph's discussion with Respondent was limited to obtaining Respondent's authorization to place the boys in custody pursuant to Juv. R. 6, Juv. R. 7, and R.C. 2151.312.

Respondent denies the allegations of Paragraph 56.

57. Respondent denies he ordered Constable Ralph to say or do anything. Further answering, Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 57.

58. Upon information and belief, Respondent does not dispute that, despite Hartman's instructions and encouragement, CG2 allegedly refused to go with his father.[16]

Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 58.

59. Respondent denies he instructed Constable Ralph or Hartman. Further answering, Respondent did not order Constable Ralph to tell Hartman what to do, nor did he order Hartman to do anything.

Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 59.

60. Respondent admits that, when Constable Ralph contacted him, Ralph relayed that CG2 and CG3 had refused to comply with their mother's repeated directives to go with their father for his parenting time; in response, Respondent authorized Ralph to obtain the Sheriff's assistance in placing the boys in custody pursuant to Juv. R. 6 and 7, and R.C. 2151.312 in the Portage-Geauga County Juvenile Detention Center ("PGCJDC"), which is the only Juv.R. 6/7 facility available to the Court.[17]

Respondent denies the remaining allegations of Paragraph 60.

61. Upon information and belief, Respondent does not dispute that, per the Geauga County Sherriff's policy (not the Court's), officers from the Geauga County Sheriff's office handcuffed CG2 and CG3, and transported them in the back of the squad car to the PGCJDC. Further answering, Respondent denies having any influence or control over the Sherriff's policy.

[16] The juveniles' alleged refusal to follow their mother's instructions, if true, constituted "unruly" conduct as defined in R.C. 2151.022.

[17] Juveniles who allegedly commit unruly conduct may be placed in custodial detention over a weekend pursuant to R.C. 2151.311 and R.C. 2151.312(B)(3). *See In re Pueleo*, 1979 WL 208197 (11th Dist. Ct. App.).

Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 61.

62. Upon information and belief, per the Sherriff's policy, Constable Ralph and a Deputy Sheriff prepared a Green Sheet stating "unruly" conduct at the Sheriff's Office before the Deputy transported the boys to the Portage-Geauga County Juvenile Detention Center.

Respondent denies that any charge was required, and the probable cause was the boys' alleged unruly conduct (*i.e.,* their repeated refusal to obey their mother's directives).[18] Further answering, Respondent denies the remaining allegations of Paragraph 62.

63. Respondent admits that, as of May 29, 2020, much of the state of Ohio was in a lockdown due to COVID-19, but the PGCJDC was already sparsely populated and was still open and functioning for custodial placements of juveniles.

Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 63.

64. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 64.

65. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 65.

66. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 66.

67. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 67.

68. Respondent denies he instructed Hartman or Constable Ralph. Further answering, upon information and belief, Constable Ralph and Hartman discussed the potential consequences of the boys continuing to refuse to obey her instructions to go with their father—and they did so before Constable Ralph called Respondent. In response, Respondent has since learned that Constable Ralph characterized Hartman as making a concerted effort to persuade the boys to go with their father, but they continued to refuse.

Upon information and belief, Constable Ralph called Respondent for the first time *after* those discussions and after forewarning Hartman of the potential consequences of the boys' alleged unruly behavior. As a result, while Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 68, those allegations would not be consistent with or make sense in light of the information Respondent has since learned.

[18] Under Juv. R. 6 and Juv. R. 7, the Court had the authority to place the juveniles in custodial detention and their alleged failure to obey their mother constituted allegations of unruly behavior for which such placement was permitted under R.C. 2151.312(B)(3).

Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 68.

69. Respondent denies that Ralph has been the Court's Constable for 16 years; further answering, Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 69.

70. Respondent admits that, as of May 29, 2020, the PGCJDC was not allowing visitors due to COVID-19; consequently, the superintendent was typically permitting the juveniles greater access to phone calls, excepting calls to individuals they would be restricted from calling for reasons related to their detainment, such as to alleged victims or witnesses involved in the conduct of juveniles that resulted in their placement into custody.

Respondent denies the remaining allegations of Paragraph 70.

71. Respondent admits that Juv.R. 7(E)(2) requires, among other things that, after a child has been admitted to detention or shelter care, the admissions officer shall advise them of the "right to telephone parents and counsel immediately and at reasonable times thereafter," excepting calls to individuals they would be restricted from calling for reasons related to their detainment, such as to alleged victims or witnesses involved in the conduct of the juveniles that resulted in their placement into custody. Respondent allowed the boys' attorney and priest to visit them at PGCJDC and offered to release them if they would obey their mother's instructions, but the boys refused.

Respondent denies the remaining allegations of Paragraph 71.

72. Respondent admits CG2 and CG3's detention proceeded according to law and the procedures of the Portage-Geauga County Juvenile Detention Center:

a. They were prohibited from calling their mother, Hartman, because she was a material witness in their impending unruly hearing;

b. They were permitted to make phone calls to their father, Glasier, as well as their counsel;

c. They were detained apart from the other residents, both because detainees held on unruly offenses are detained separately from residents held on delinquency offenses to protect them from possible injury from other youth at the PGCJDC, and because of restrictions related to COVID-19;

d. They were detained apart from each other because they were co-defendants in the impending unruly hearing and their detainment could not permit them an opportunity to align their testimony; and,

e. They were physically observed every 15 minutes during waking hours and every 30 minutes during sleeping hours, as required by OAC 5139-37-16(E)(3) and (5).

Respondent denies the remaining allegations of Paragraph 72.

73. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 73.

74. Respondent admits the allegations of Paragraph 74.

75. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 75.

76. Respondent denies ordering "full restrictions," as he allowed the boys' priest and attorney to visit. Further answering, Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 76.

77. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 77.

78. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 78.

79. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 79.

80. Respondent admits he would not have authorized the boys (CG2 and CG3) to communicate with Hartman, CG1, or their maternal grandmother while awaiting their unruly hearing because Dr. Afsarifard and the boys' guardian *ad litem* had both relayed their negative influence in the boys' refusal to attend visitation in the first place, and because Hartman was a witness to the alleged unruly conduct. Respondent did, however, authorize the boys to speak with their priest and their attorney, and also advised that if they chose to obey their mother, he would release them from PGCJDC to their father for the remainder of his parenting time.

    Further answering, Respondent admits the Court wished to maintain an environment where the boys would reconsider attending the visitation, as instructed by their mother (which they could have consented to do and terminate their detention at any time); additionally, because Hartman was a witness in the impending unruly proceeding, it would be inappropriate for them to speak with her beforehand.

    Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 80.

81. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 81.

82. Respondent admits the allegations of Paragraph 82.

83. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 83.

84. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 84.

85. Respondent admits the allegations of Paragraph 85.

86. Respondent denies he had any knowledge that the GAL, Gazley, had allegedly sought to visit the boys. Further answering, Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 86.

87. Respondent admits the allegations of Paragraph 87, pursuant to R.C. 2151.312 and Juv. R. 6 and 7.[19]

88. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 88.

Post-Detention Proceedings

89. Respondent admits that, on Monday morning, June 1, 2020, CG2 and CG3 were transported from PGCJDC to his courtroom in handcuffs for a detention hearing, per the Sherriff's policy. Respondent ordered the handcuffs be removed as soon as the boys entered the courtroom. Respondent also moved the hearing up 5 hours from its normally scheduled afternoon time to the morning, to reduce the boys' time in custody.[20]

    Respondent denies the remaining allegations of Paragraph 89.

90. Since a prosecutor has no statutory role in an unruly case unless invited by the juvenile court judge pursuant to Juv. R. 29(E) and R.C. 2151.40, and since no pleadings by the juveniles had yet occurred, Respondent admits the Court had not invited the Prosecutor to join these proceedings pursuant to Juv. R. 29(E)(1) and R.C. 2151.40, as the case was not ripe to do so. Respondent also denies that Natalie Harper was assigned by the Juvenile Court.

    Further answering, Respondent denies the use of the term "lock-up hearing." The Court does not use that term, and it scheduled this as a "detention hearing." Respondent further lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 90.

91. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 91.[21]

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[19] Such custodial detention was permitted by R.C. 2151.312(B). *See In re: Puleo, supra.*

[20]The Court conducted a custodial detention hearing in accordance with Juv. R. 7(F). The purpose of the hearing is to determine whether detention or shelter care is required. The Court moved the hearing up 5 hours to reduce the juveniles' time in custody.

[21] Under Juv. R. 21(F) and R.C. 2151.40, the Juvenile Court has the discretion to ask the Prosecutor to assist the Court in an unruly or delinquency case. It is *not* the Prosecutor's decision or right to be involved.

92. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 92.[22]

93. Respondent admits he had not invited the Prosecutor to join these proceedings pursuant to Juv. R. 29(E)(1) and R.C. 2151.40, because the Prosecutor has no statutory role in unruly proceedings unless and until he/she (or another attorney at law) is asked by the judge to do so *after* a juvenile denies the allegations in the complaint; here, the boys had not yet pled as the hearing had not yet occurred. Lacking an invitation by the judge pursuant to Juv.R. 29(E)(1), Respondent's practice is to restrict non-parties to those proceedings from the courtroom so as to protect confidentiality of the juveniles.

Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 93.

94. Respondent admits that, pursuant to Juv. R. 29(E)(1) and R.C. 2151.40, within his sole statutory authority, Respondent declined Harper's request to participate and did not afford her access to these confidential proceedings, which she had no rights to attend as a result.

Respondent denies the use of the term "lock-up hearing" and further denies the remaining allegations of Paragraph 94.

95. Respondent admits he was neither asked to nor did he recuse himself from the *Glasier* custody case or detention hearings; further, there was no reason to recuse since Respondent was not a witness. Juv. R. 6 & 7 do *not* require recusal; Respondent's "personal involvement" was limited to only that which was permitted by Juv. R. 6 & 7, and Respondent has never been disqualified nor asked to recuse himself for a Juv. R. 6 or 7 hearing.[23] Respondent denies the use of the term "lock-up hearing."

Respondent denies the remaining allegations of Paragraph 95.

96. Respondent admits that, on the morning of the detention hearing, an attorney conference took place with Attorney Crook and Attorney Jeffrey Orndorff ("Orndorff'), whom he had appointed to represent CG3.[24]

Respondent denies the remaining allegations of Paragraph 96, including the use of the term "lock-up hearing."

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[22] A proceeding against a juvenile in Juvenile Court is *not* a criminal proceeding. R.C. 2151.23(A)(1). *See Wright v. State*, 69 Ohio App. 3d 775, 591 N.E.2d 1279 (Franklin County 1990).

[23] No party or party's attorneys asked Respondent to recuse himself and he had no reason to do so.

[24] Both attorneys Crook and Orndorf have provided sworn Affidavits that Respondent did nothing improper or ethical.

97. Respondent denies for lack of knowledge or information sufficient to form a belief how long the attorney conference lasted.

Further answering, Respondent admits the remaining allegations of Paragraph 97.[25]

98. Respondent admits that, because the diversion process requires cooperation from the juveniles, a contract is required.[26] Therefore, in order to dismiss the pending unruly charges in favor of diversion, CG2 and CG3 would have to sign a Diversion Contract; however, Hartman refused, indicating she wished to first speak with a lawyer.

Respondent denies the remaining allegations of Paragraph 98.

99. Respondent admits he released the boys to the custody of their mother. Further answering, Respondent admits the remaining allegations of Paragraph 99.

100. Respondent admits the allegations of Paragraph 100.

101. Respondent denies Sergeant Gribbons' summary amounted to an accurate summary of the law.[27] Respondent denies detention was unlawful. Further, Gribbons's summary is the product of the unauthorized practice of law by a non-lawyer, as well as being a factually and legally incorrect summary. The Geauga County Sheriff has followed the exact procedures in question regarding Juv. R. 6/7 custodial placement without a Complaint, pending filing on the next court day for delinquency and unruly cases, for over 15 years. Sergeant Gribbons' summary also ignores (or is unaware of) Juv. R. 10 as to who can prepare and file a juvenile complaint (any person with knowledge – not just law enforcement or a prosecutor).

Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 101.

102. Respondent admits his wife, Rep. Diane Grendell, sponsored Ohio HB 624, which regarded the reporting of COVID-19 statistics by the Ohio Department

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[25] Diversion pursuant to Juv.R. 9 is preferred in such cases. "Diversion is an intentional act redirecting a youth from formal juvenile justice processing… Rule 9 of the Rules of Juvenile Procedure calls for 'formal court action' to be 'avoided and other community resources utilized to ameliorate situations brought to the attention of the court.'… By creating informal alternatives to court processing, diversion interventions serve as an opportunity to reduce the criminogenic effects that entry into the juvenile justice system … have on long-term youth development such as increased recidivism, stigmatization, and increased criminal-justice costs." See Supreme Court of Ohio Juvenile Diversion Toolkit for Judicial Use.

[26] A Diversion Contract is standard practice. The attorneys for C.G.2 and C.G.3 had to approve/agree to the Diversion Contract.

[27] A Sheriff's Deputy is not an attorney and his legal opinion that the detention of two juveniles was "unlawful" is wrong as a matter of law; it reflects the deputy's lack of knowledge of the Juvenile Rules and R.C. 2151.022 and R.C. 2151.312(B)(3); and it mistakes the practice followed by Geauga Count law enforcement and the Juvenile Court for over 20 years.

of Health. He further admits he travelled to Columbus in the morning of June 2, 2020—before the Court's noon closing time that day—to provide proponent testimony in support of HB 624.

Respondent further admits that, for completely unrelated reasons, on June 1, 2020, he authorized the closure of the Geauga County Juvenile and Probate Court at noon on June 2, 2020, arising exclusively out of safety concerns for the Court's staff, which were expressed to him by the Court's Administrator:[28]

Further answering, Respondent denies he "claimed" to close the courthouse at noon due to a planned Black Lives Matter protest scheduled on Chardon Square—he admits that *was* the reason he made the decision the day beforehand, to close the Court the next day—based on the best information that was available at that time. Namely, two days earlier, a protest outside the Statehouse in Columbus had turned violent and destructive, and a similar protest was scheduled to occur the next afternoon in Chardon Square, directly between the Court's offices and the staff parking area. Respondent similarly closed the Court early on September 4, 2020, arising from similar safety concerns created by another protest on Chardon Square.

Respondent denies his decision to close the Court on June 2, 2020, had any relationship whatsoever to his plans to testify in Columbus that afternoon—his plans to testify had been in place for weeks without any corresponding plans to close the court. Further answering, Respondent does not and has not closed the Courthouse on any of the other days he is away from the Court—including sick days, vacations, days he attends or teaches at professional development programming and judicial conferences, or on the prior instances he has provided legislative testimony in Columbus at the request of the Ohio Judicial Conference.

Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 102.

103. Respondent admits the allegations of Paragraph 103.

104. Respondent admits the allegations of Paragraph 104.

105. Respondent admits that, at the hearing, he verbally appointed Leah Stevenson ("Stevenson") to represent Hartman in the Unruly matters and rescheduled the hearing for Friday, June 5, 2020.

Further answering, Respondent denies the remaining allegations of Paragraph 105.

[28] The Court closed in the afternoon for the safety of the Court's staff due to information obtained the day before from another judge that a demonstration was planned in the area between the Juvenile Court and the staff's parking area.

106. Respondent admits the allegations of Paragraph 106. Further answering, Respondent ordered Hartman to complete a financial disclosure form because she had previously hired private counsel.[29]

107. Respondent admits he apprised the lawyers that, pursuant to R.C. 2151.27(F), he would hold the pending unruly complaints (pled pursuant to R.C. 2151.022(A)) in abeyance if CG2, CG3, and Hartman agreed to participate in the informal Diversion alternative to formal court involvement by signing the diversion contract. In doing so, Respondent simply explained Juv. R. 3(B) and R.C. 2151.27(F) – *i.e.,* if there is no Diversion, the Complaint is reinstated.

Respondent denies the remaining allegations of Paragraph 107.[30]

108. Respondent admits the allegations of Paragraph 108.

109. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 109.[31]

110. Respondent admits the allegations of Paragraph 110.

111. Respondent admits the allegations of Paragraph 111.

112. Respondent admits that, on June 11, 2020, at 2:21 p.m., after Hartman had declined to sign or authorize the boys to sign the diversion contract, despite the boys' attorneys having approved of / recommended the terms of diversion, he no longer held Constable Ralph's unruly complaints in abeyance and, pursuant to R.C. 2151.27(F) and Juv. R. 3, authorized him to file the Unruly charges against CG2 and CG3 that Constable Ralph had prepared on the day of the initial events.[32] *In re [CG2],* 20JU111 and *In re [CG3],* 20JU112. Respondent further admits he set both matters for hearing on June 25, 2020, at 2:00 p.m.

Respondent denies the remaining allegations of Paragraph 112.

113. Respondent admits the allegations of Paragraph 113.

114. Respondent admits the allegations of Paragraph 114.

115. Respondent admits he approached DeLuca and advised him of Glasier's need for counsel in the impending appellate court matter (which he was guaranteed pursuant to R.C. 2151.352). Respondent further admits he asked

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[29] Throughout the proceedings in the DR and Juvenile Courts, Hartman had hired and fired multiple private attorneys, which raised the issue as to her indigency claims.

[30] Juvenile judges do not "file" Complaints, but under Juv. R. 9(B) juvenile judges have the authority "to determine whether the filing of a Complaint is in the best interest of the child and the public."

[31] The Court had received compelling evidence that Hartman repeatedly used the Neuhaus fee situation to frustrate the Court's efforts to reunify the boys with their father.

[32] Under Juv. R. 10(A) "Any person with knowledge of a child who appears to be a juvenile traffic offender, delinquent or unruly… may file a Complaint with respect to the child in juvenile court…"

DeLuca if he would represent Glasier by filing a response to Hartman's *Emergency Motion to Stay the Judgment Entry of May 28, 2020,* in the *custody* matter, Case No. 19CU000279.

Respondent denies the remaining allegations of Paragraph 115.

116. Respondent admits Glasier was entitled to counsel on the motion pursuant to R.C. 2151.352. Further answering, Respondent admits he apprised DeLuca he wished to appoint him to represent Glasier on the motion.

Respondent denies the remaining allegations of Paragraph 116.

117. Respondent admits R.C. 2151.352 expressly prohibits a juvenile court from appointing counsel where the juvenile court exercises jurisdiction under R.C. 2151.23(D).

Further answering, Respondent denies the Court exercised jurisdiction over the Hartman/Glasier matter under R.C. 2151.23(D) at this time in the proceedings: Glasier had withdrawn his motion to change custody on May 27, 2020, and the Court had proceeded with that hearing, and in its subsequent proceedings, on the exclusive question of whether the best interest of the children required a modification of the existing parenting plan's terms—not the question of custody or other parental rights and responsibilities.

Respondent denies the remaining allegations of Paragraph 117.

118. Respondent admits that, at approximately 2:42 p.m., he *sua sponte* appointed DeLuca to represent Glasier solely to respond to Crook's *Emergency Motion to Stay the Judgment Entry of May 28, 2020*, and that Glasier had not yet requested a lawyer. Further answering, Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 118.

119. Respondent admits the allegations of Paragraph 119.

120. Respondent admits the allegations of Paragraph 120.

121. Respondent admits the allegations of Paragraph 121 because, unlike Glasier, Hartman had previously retained several private attorneys throughout the proceedings.

County Prosecutor Declines to File the Unruly Charges

122. Respondent admits that, upon the filing of Constable Ralph's complaint, the Court never requested Geauga County Prosecutor Flaiz to assist the Court by presenting evidence in support of the complaint pursuant to Juv. R. 29(E) and R.C. 2151.40, such that there was never a request for Mr. Flaiz to

"decline."[33]

Respondent denies the remaining allegations of Paragraph 122.

123. Respondent admits that, on June 19, 2020, Assistant Prosecutor Harper sent a letter to the Geauga County Sheriff's Office that Relator accurately quotes, but its contents were wrong and misstated the law.

Further answering, due to the provisions of R.C. Juv. R. 29(E)(1) and R.C. 2151.40, Respondent denies the Geauga County Prosecutor ever had the prerogative to "choose" whether to prosecute or decline to prosecute the Glasier matter[34]—which the Court had never requested it to assist the court in presenting evidence in support of the complaint per Juv. R. 29(E) and R.C. 2151.40—in the first place.

Further answering, Respondent denies that the Unruly charges against the Glasier boys had related to their alleged failure to comply with the Court's order; further answering, the charges related exclusively to their alleged failure to comply with their mother's repeated directives.

Respondent denies the remaining allegations of Paragraph 123.

124. Respondent admits CG2 and CG3 were scheduled to appear before him on June 25, 2020, at 2:00 p.m. Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 124.

125. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 125.

126. Respondent admits the Court rescheduled the June 25 hearing from 2:00 p.m. to 10:00 a.m. Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 126.

127. Respondent admits the allegations of Paragraph 127.

128. Respondent admits the allegations of Paragraph 128.

129. Respondent admits the allegations of Paragraph 129.[35]

130. Respondent admits the allegations of Paragraph 130.[36]

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[33] Under R.C. 2151.40, the prosecutor can only become involved "on the request of the judge." Juv. R. 29(E)(1), the Prosecutor only becomes involved when directed by the juvenile court. In this case, Respondent gave no such direction or request to the Prosecutor.

[34] Under R.C. 2151.40, the Prosecutor had no authority to issue a "no charge" letter.

[35] Pursuant to Juv. R. 20(B), the Court served both Hartman and Glasier personally because of the short time period involved, as a courtesy.

[36] The Constable perfected service in accordance with Juv. R. 20 and Civ R. 5(B).

131. Respondent denies the allegations of Paragraph 131. Kostiha lives in Ashtabula County (not Lake County) and Hartman had told Constable Ralph that she often resided at Kostiha's house in Ashtabula County. Furthermore, Constable Ralph reportedly arrived at Kostiha's home at approximately 8:20 p.m.

132. Respondent denies for lack of knowledge or information to form a belief whether Kostiha is or was Hartman's fiancé or whether he is her husband. Upon information and belief, Kostiha and Hartman have been in a committed relationship since 2010. Further answering, Kostiha is the father of two children with Hartman, born in 2012 and 2015 (who are likewise CG1, CG2, and CG3's half-siblings); and Hartman has been a stay-at-home parent with the Glasier and Kostiha children since 2012. Upon information and belief, Hartman uses Kostiha's last name and publicly identifies as his spouse.

Further answering, in Dr. Afsarifard's Domestic Relations Court-ordered evaluation, Kostiha characterized his relationship with CG1, CG2, and CG3 as follows: "Glasier is the bio father but make no mistake I am their father. They call me Dad." (Meanwhile, Dr. Afsarifard reported CG1, CG2, and CG3 addressed Glasier by his first name.) Further answering, Dr. Afsarifard had identified Kostiha's negative influence on CG1, CG2, and CG3 as contributing to their "serious[ ] alienat[ion]" from Glasier.

Respondent denies the remaining allegations of Paragraph 132.

133. Respondent denies the allegations of Paragraph 133.

Further answering, Respondent admits he was completely unaware of all the events that transpired between Ralph and Kostiha at Kostiha's home on June 24, 2020, until afterward.

Further answering, Respondent admits he later learned that Ralph attempted to serve the Court's order to Hartman at the address she identified as her residence, but she had also advised the Court she sometimes resided at Kostiha's nearby residence.

Further answering, when Ralph visited Kostiha's residence to serve the order upon Hartman, Kostiha initially informed Ralph that Hartman *was* present inside his house, and he left Ralph at the front door so he could ask her to come outside. When Kostiha returned to the door, he was recording Ralph with his cell phone positioned toward Ralph and recording him, claiming Hartman was *not* at his house, verbally attacking Ralph, then directing Ralph to leave.

Further answering, in response, Ralph inquired again about Hartman's whereabouts, and Kostiha told Ralph that Hartman was visiting his house at that time; however, he then immediately suggested Ralph should go to Hartman's residence to serve the paperwork there—when Ralph had just

confirmed she was not there and she was at Kostiha's house.

Further answering, Ralph had a compelling reason to regard Kostiha's subsequent denial that Hartman was at his home as untruthful—and that Kostiha was deliberately endeavoring to sabotage Ralph's service of the Court's order. Having twice confirmed from Kostiha that Hartman (the intended recipient of the Court's order) was inside Kostiha's home, Ralph remained at Kostiha's residence for the period of time he reasonably required to assess whether he could successfully serve the Court's order.

Respondent admits Ralph was later charged with Trespass on Kostiha's property; however, he denies Ralph engaged in any unlawful act. Further answering, while the charges against Ralph were dismissed, Respondent denies Ralph was acquitted after a jury trial; rather, the Court dismissed all charges against Ralph pursuant to Crim.R. 29 (*i.e.,* for the State's failure to produce sufficient evidence in support of the allegations) at the conclusion of the State's case in chief—before Ralph was ever required to present a defense, and before the case was ever provided to a jury for consideration.

Respondent denies for lack of knowledge or information sufficient to form a belief the remaining allegations of Paragraph 133.

134. Respondent admits he was completely unaware of all the events that transpired between Ralph and Kostiha at Kostiha's home on June 24, 2020, until afterward.

Further answering, Respondent admits he later learned that the recorded encounter between them was heated and intense, exclusively as the result of Kostiha's misrepresentations and escalations.

Further answering, Respondent admits that, as the Court's Constable, R.C. 2701.07 afforded Ralph the same powers as sheriffs[37]; pursuant to R.C. 311.07, this included preserving the public peace, committing persons to jail, executing service of process, to protect persons and property; and he therefore maintains an OPOTA Certification and wears a firearm on his person in the scope of his employment.

Respondent admits the remaining allegations of Paragraph 134.

135. Respondent admits he was completely unaware of all the events that transpired between Ralph and Kostiha at Kostiha's home on June 24, 2020, until afterward.

Further answering, Respondent admits he later learned that Ralph successfully served process of the Court's order upon Hartman at her other

[37] The Constable is a *bona fide* law enforcement officer with full legal authority to carry a firearm for his protection while performing Court duties.

home (at which Constable Ralph had first attempted to serve Hartman before his attempt at Kostiha's house), but she was not present.

Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 135.[38]

The June 25, 2022 Hearing

136. Respondent denies that Respondent filed the Glasier boys' unruly charges—these were filed by Constable Ralph.

Further answering, Respondent denies that Prosecutor Flaiz "declined" to pursue prosecuting these charges; further answering, upon the filing of Ralph's complaint, the Court never invited Geauga County Prosecutor Flaiz to prosecute the matter, such that there was never a prosecution for Mr. Flaiz to "decline." Due to the provisions of R.C. Juv. R. 29(E)(1) and R.C. 2151.40, the Geauga County Prosecutor never had a choice as to whether to prosecute or decline to prosecute a matter the Court had never invited it to prosecute in the first place.

Further answering, Respondent admits that the Supreme Court of Ohio had previously declined to accept Flaiz's argument to the contrary in *In re: Disqualification of Grendell,* 155 Ohio St.3d 1277, 2018-Ohio-5419 (Apr. 2, 2018), declining to disqualify Respondent from cases where he had invited other attorneys to prosecute two unruly matters over Flaiz's objections. The Supreme Court declined to resolve their debate over whether the Prosecutor can insinuate himself into those matters without the Court's invitation, and indicated he could pursue a determination of that question elsewhere if he chose; however, he never did.

In the years following the Supreme Court's decision in April 2018, the Prosecutor continued to question the Juvenile Court's authority to invite other attorneys to prosecute unruly charges in the Court without ever pursuing any of the remedies suggested by the Supreme Court. Therefore, Respondent admits he later adopted a local rule to expressly adopt the language of Juv. R. 29(E)(1) and R.C. 2151.40—which merely reflected what the law had always provided.[39]

Respondent admits the remaining allegations of Paragraph 136.

137. Respondent admits the allegations of Paragraph 137.

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[38] The facts in paragraphs 134 and 135 are inaccurate and were ruled as such when the trial judge dismissed Kostiha's meritless criminal trespass Complaint against the Constable pursuant to Crim. R. 29.

[39] Pursuant to Juv. R. 29IE)(1) Weiss was appointed to assist the Court.

138. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 138.[40]

139. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 139.

140. Respondent admits that, on the morning of June 25, 2020, Hartman appeared in court with CG2 and CG3 at 10:00 a.m.

Further answering, Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 140.

141. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 141.

142. Respondent admits the allegations of Paragraph 142.

143. Respondent admits no representative from the elected County Prosecutor's Office attended the hearing because Respondent never requested the Prosecutor's assistance in presenting evidence in support of the complaint pursuant to R.C. 2151.40 and Juv. R. 29(E).

Respondent denies the remaining allegations of Paragraph 143.

144. Respondent admits he ultimately dismissed the Unruly charges without prejudice in an Entry of June 30, 2020, which he advised the parties in the hearing of June 25, 2020, that he intended to do. Further answering, the citation to the record of that hearing is accurately quoted.

Respondent denies the remaining allegations of Paragraph 144.

145. Respondent admits that, on the same day, he *sua sponte* added Kostiha as a party to case number 19CU000279, and that his entry stated, "The Court finds it to be in the children's best interest and hereby joins mother's paramour, Chris Kostiha, as a party to these proceedings pursuant to Juv. R. 2(Y)."

Further answering, Respondent denies the matter was a custody case.

Respondent denies the remaining allegations of Paragraph 145.

146. Respondent admits he had been presiding over case number 19CU000279 for approximately 10 months and that he had not yet added Kostiha as a party by that time. Further answering, Respondent admits he added Kostiha as a party on June 25, 2020, which was the day after Kostiha had attempted to obstruct an officer of the Court's efforts to serve the Court's order upon Hartman because Kostiha's behavior–as threatening as it was–raised a concern about the children's safety and it confirmed Kostiha's involvement which Dr. Afsarifard said contributed to the ongoing alienation of the children from

[40] Any such filing by Flaiz would be meritless and contrary to Juv. R. 29(E)(1).

their father.

Respondent denies this was the first instance elevating Kostiha's role as a necessary party to the case (which was not a custody matter). Respondent denies the remaining allegations of Paragraph 146.

147. Respondent admits he executed a Judgment Entry in Case No. 20 JU 000112 on June 30, 2020, in which he dismissed the Unruly charges "without prejudice," and referred the matter back to diversion pursuant to Juv. R. 9, ordering Hartman, Glasier, and all assigned counselors to fully participate in and facilitate in the diversion process; indicating that participating in reunification proceedings as recommended by Drs. Afsarifard and Neuhaus may be included in that diversion process; and retaining jurisdiction for purposes of Juv.R. 9 and diversion.

Respondent denies the remaining allegations of Paragraph 147.

148. Respondent admits he executed a six-page Judgment Entry in Case No. 20 JU 000112 on June 30, 2020, discussing without prejudice the Unruly charges filed by Constable Ralph. Respondent further admits the excerpted portion of the Entry is accurately quoted.

Respondent denies the remaining allegations of Paragraph 148.

149. Respondent admits he executed a Judgment Entry in Case No. 20 JU 000112, where the excerpted portion was accurately quoted.

Respondent denies the remaining allegations of Paragraph 149.

150. Respondent admits that, according to DR Court records, in May 2017, the GAL had filed an *ex parte* motion to suspend Glasier's parenting time, pending a full hearing, based in part on allegations Hartman made to Orwell Police about Glasier's purportedly violent behavior toward CG2 and CG3 during a visit where she was not present, and which was ultimately never substantiated nor resulted in any action by law enforcement or children's services. Further answering, Glasier was never arrested, although Hartman's allegations of his abuse toward CG2 and CG3 on February 26, 2017 was documented[41]—although never substantiated. The only "documentation" in existence is Hartman's unsubstantiated allegation of abuse, misrelied upon by the GAL, and for which no charges were ever filed and no evidence was ever presented.

Respondent denies the remaining allegations of Paragraph 150.

151. Respondent admits that, according to DR court records, Magistrate Heffter took proactive measures but she had no evidence and made no finding of any actual abuse by Glasier. Subsequently in August, 2018, Hartman (Glasier's

[41] The only thing that was documented was Hartman's accusation that was relied upon by the GAL, but that accusation was later found to be baseless and without merit by law enforcement.

accuser) signed an Agreed Entry providing for Glasier's visitation with the children. *Hartman v. Glasier,* Case No. 15DK000864, Geauga County Court of Common Pleas, Domestic Relations Division.

Respondent denies the remaining allegations of Paragraph 151.

152. Respondent admits Dr. Afsarifard's March 2018 report repeated allegations which were unsubstantiated and for which no abuse charges were filed.[42]

Respondent denies the remaining allegations of Paragraph 152.

Remand from the 11th District Court of Appeals

153. Respondent admits that, on June 3, 2020—two days after CG2 and CG3 were held pursuant to R.C. 2151.312(B)(3) in anticipation of their pre-detention hearing on June 1, 2020, Glasier filed a *pro se* document captioned "*Motion to Vacate May 28, 2020 Order*." Further answering, this Motion actually sought only to *modify* the Court's May 28, 2020, Order, seeking a new order that, instead of providing him with the two weekends of visitation per month that he had initially asked for and received from the Court at the parties' hearing on May 27, 2020, Glasier now proposed that he and the boys begin intensive in-home therapy immediately, with a plan to allow standard parenting time to begin by September 4, 2020. His motion additionally sought six additional conditions as part of that proposal.

Respondent denies the remaining allegations of Paragraph 153.

154. Respondent denies the allegations of Paragraph 154.

Further answering, Respondent admits that, on June 1, 2020, on behalf of CG2 and CG3, Crook appealed the Court's May 28, 2020, Judgment Entry (*i.e.,* that required the boys' visitation), and he filed a motion *in the Juvenile Court* that day to stay the Entry's enforcement while that appeal was appending.

Further answering, Respondent admits that he denied Crook's motion on June 3, 2020, indicating the Court's Entry of May 28, 2020, was interlocutory; capable of modification at any time; and therefore neither final nor appealable.

Further answering, later that same day—June 3, 2020—Glasier *then* filed his *pro se* motion to "Vacate" the Court's Entry of May 28, 2020 (which was ultimately a motion to modify that Entry).

Further answering, it wasn't until June 5, 2020—two days after Glasier's motion to "vacate" (modify) the Juvenile Court's Entry of May 28—that Crook

[42] Hartman entered into the August 2018 Agreed Entry which provided for Glasier's restored visitation with his children, despite the alleged February 26, 2017 incident.

filed an Emergency Motion to Stay the Juvenile Court's Entry of May 28 in the 11th District Court of Appeals.

155. Respondent admits the allegations of Paragraph 155.

156. Respondent admits that, after remand, he held a hearing on July 23, 2020 to consider Glasier's Motion to "Vacate" (which was actually a motion to modify) the Court's Entry of May 28, 2020. Following the hearing, Respondent issued a Judgment Entry on July 29, 2020, that fully complied with the Court of Appeals' remand, ruling only upon Glasier's express requests within his Motion.

Respondent denies the remaining allegations of Paragraph 156.

157. Respondent admits that, in the parties' hearing on July 28, Crook, the lawyer for CG2 and CG3, and Annette Trivelli ("Trivelli"), the lawyer for Hartman, objected to Respondent addressing any matters beyond the issue of whether to vacate the May 28, 2020, order; however, as the excerpted quotation accurately reflected, Respondent denied that the motion had been limited only to the question to vacate—and it had, in reality, sought a series of modifications to that Entry.

Respondent denies the remaining allegations of Paragraph 157.

158. Respondent denies the allegations of Paragraph 158. Further answering, Respondent admits that, on or before the July 23, 2020 hearing on remand, he had learned from someone associated with the case (*e.g.,* guardian *ad litem,* Case Management/Resource Center staff, etc.) about a GoFundMe webpage (an online fundraising platform) that was being published on Hartman's behalf to help with legal fees. The GoFundMe page was entitled, "Honor roll students incarcerated by Judge Grendell," with a picture of CG2 and CG3 with Hartman.

159. Respondent denies that no party to the litigation had brought the matter to his attention. Further answering, paragraph 159 accurately summarizes Respondent's statements on the record. Respondent denies the remaining allegations of Paragraph 159.

160. Respondent admits the parties had discussion during the hearing about whether the Court staff would need to locate the person who started the GoFundMe fundraiser. However, after discussion with the parties at the hearing (which included, but was not limited to, the quoted portion from the record in paragraph 160—which was quoted accurately), Hartman had indicated she would reach out to the page's creator and resolve it so that Court would not need to remedy the concern directly.

Respondent denies the remaining allegations of Paragraph 160.

161. Respondent admits he appointed Leah Stevenson as court-appointed counsel for Hartman, additional counsel for CG2 and CG3, and additional counsel for Grant Glasier. Respondent denies the remaining allegations of Paragraph 161.

162. Respondent admits that, pursuant to the Court's *sua sponte* appointment on June 11, 2020, he authorized the Geauga County Juvenile Court to pay $1,980 to DeLuca for the reply brief he filed on behalf of Glasier. Respondent denies Glasier was ineligible for appointed counsel or that he opposed the appointment of a lawyer. Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 162.

163. Respondent admits that, on July 28, 2020, made a permissible *ex parte* call to Hartman's lawyer, Trivelli, which was administrative in nature to inquire about the status of non-party Nancy Tichener *correcting* the portions of her GoFundMe page that violated Juv.R.37. Merits of the case were *not* discussed.

Further answering, the parties had already discussed and decided the substance of this issue at length in their hearing on July 23, ending in Hartman agreeing to contact Tichenor to facilitate Tichenor making the needed changes to that page (so the Court would not need to address it within its Order). Respondent's call to Trivelli was limited to following up on the status of that already-decided issue to assess when and whether it could issue the Order (which had not addressed that issue).

Respondent admits Trivelli advised him that she was waiting for his order, since Trivelli did not take notes at the hearing. Respondent further admits he advised Trivelli that he would issue the order the following day.

Respondent denies the remaining allegations of Paragraph 163.

164. Respondent admits that, the following day at 7:14 a.m., his Judgment Entry of July 29, 2020, was file stamped, and it memorialized the Court's holdings on remand in response to Glasier's Motion to "Vacate."

Respondent denies the Entry exceeded the scope of the Court of Appeals' mandate on remand.

Respondent admits that, among other holdings, the Entry:

- Set the matter for an evidentiary hearing on October 12, 2020 to address "whether visitation between Glasier and [CG2 and CG3] is in the children's best interests."
- Ruled that the April 22, 2020 visitation order (which incorporated the February 20, 2020 entry) was in effect, but subject to its stay of December 10, 2019;
- Ordered that Hartman and Glasier agree to not use or publicly disseminate or display the likeness or image of CG2 and CG3 in regard to this and any

related proceedings—and that if an entity, associate, or person associated with either parent did the same, the parent shall instruct them to remove the image and likeness.

Respondent denies the remaining allegations of Paragraph 164.

165. Respondent admits that the Court of Appeals denied Hartman's request for appointed counsel, but denies the accuracy of Judge Trapp's concurring opinion. Further answering, Respondent admits the remaining allegations of Paragraph 165.

The ABC News 5 Cleveland Story

166. Respondent admits the allegations of Paragraph 166.[43]

167. Respondent admits that, on September 16, 2020, he transferred 19 CU 000279 (which was not a custody case), back to the Geauga County Court of Common Pleas, Domestic Relations Division, because the issue of Show Cause involved compliance with the DR Court's August 18, 2018 Agreed Entry.

Further answering, Respondent denies this determination had any relationship to the media inquiry about the case.

Respondent denies the remaining allegations of Paragraph 167.

168. Respondent admits his Entry of September 16, 2020 (which transferred 19 CU 000279 back to the Domestic Relations Division) cited Dr. Afsarifard's 30-page report from March 2018. Further answering, Respondent denies Dr. Afsarifard's report was "outdated"; it remained the most applicable and thorough account of the issues before the Court, as evidenced in part by Hartman's reference to it in a 2020 conversation with the Court's Case Manager.

Further answering, Dr. Afsarifard's report was an evaluation, explanation, and analysis of the issues before the Court; Dr. Neuhaus's three paragraph letter of July 14, 2020 was merely his plan for treating those issues. Dr. Afsarifard's report was the basis for the August 2018 Agreed Entry; the case was being sent back to the DR Court for that Agreed Entry to be assessed.

Further answering, Respondent's Entry speaks for itself; he admits its excerpts were accurately quoted but disputes the portions emphasized. Respondent denies the remaining allegations of Paragraph 168.

169. Respondent admits that no party or counsel objected to returning the case to DR Court.[44]

[43] Respondent properly declined to speak with a reporter about this pending or impending proceeding.

Respondent admits he had presided over 19 CU 000279 (which was not a custody matter) for almost 13 months, and he properly set Glasier's motion to vacate (modify) the parties' visitation for a full evidentiary hearing to occur on October 12.

However, Glasier had additionally filed a motion for contempt, alleging Hartman interfered with his parenting time and the DR Court's August 2018 parenting order. Additionally, by this time, Respondent had learned that Hartman had filed a grievance against him (which was confidential), and he anticipated that recusing himself at that time was in the parties' best interest. Further answering, Respondent admits he indicated in his entry of September 16, 2020, that the Domestic Relations Division should decide this dispute. Further answering, the Complaint accurately cites the excerpt from that entry. Respondent denies the remaining allegations of Paragraph 169.

170. Respondent denies the allegations of Paragraph 170.[45]

Count Two
The Kimberly Page Matter

171. Respondent admits the allegations of Paragraph 171.

172. Respondent admits the allegations of Paragraph 172.

173. Respondent admits the allegations of Paragraph 173.

174. Respondent denies Page had always had custody of JS and SS; further answering, Page and Sherrick had lived together with JS and SS from the time preceding their births in New York State, and the parents had maintained shared, joint custody of the boys until August 2017.

Further answering, Respondent denies Sherrick had never established paternity: As Relator accurately alleges in the Complaint, Sherrick was listed on the children's birth certificates as their father. This only occurs in New York after *both* unmarried parents have executed an Acknowledgement of Paternity. This document has the same legal force and effect as a court order establishing paternity; it is irrevocable after 60 days, absent a demonstration of fraud, duress, or mistake of material fact.

Respondent denies the remaining allegations of Paragraph 174.

175. Respondent admits the allegations of Paragraph 175. Further answering, on August 25, 2017, Page sent Sherrick to retrieve their remaining belongings in

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[44] Since Hartman filed a Show Cause Motion based on the DR Court's entry, the DR Court was the appropriate forum. No party or party's attorney disagreed.

[45] "In general," a court that considers child custody or visitation issues should be guided by the child's best interests, not a technical requirement that has the potential to actively negatively impact a child's best interests." *Kelm v. Kelm*, 92 Ohio St.3d 223, 749 N.E.2d 299 (2001).

New York after they had moved to Ohio in May 2016. He returned home from that weekend to discover Page had absconded with their children to Sugar Land, Texas—a suburb of Houston—at the precise moment a Category 4 hurricane (Hurricane Harvey) was making landfall there. Page gave Sherrick no indication she planned to return.

176. Respondent admits that, on September 5, 2017, Sherrick filed *a Petition to Establish Jurisdiction Over Minor Children and to Determine Rights and Responsibilities* in the Geauga County Juvenile Court, *Sherrick v. Page,* Case No. 17CU000241.

Respondent denies the remaining allegations of Paragraph 176.

177. Respondent admits the allegations of Paragraph 177.

178. Respondent admits the allegations of Paragraph 178.

179. Respondent admits that, on September 15, 2017, Sherrick appeared with counsel for the hearing, but Page—who had absconded from Ohio to Texas and who had still not returned—did not.

Respondent denies the remaining allegations of Paragraph 179. Further answering, Page had actively *refused* service of notice of the hearing, although she had been expressly apprised of it. Respondent called Page on the phone during the hearing in open court, and she claimed (inaccurately) that Geauga County did not have jurisdiction.

180. Respondent denies the allegations of Paragraph 180. Further answering, when Page had declined to attend the hearing, Respondent had the option to proceed *ex parte* with Sherrick alone; however, he prefers to include opposing parties whenever possible, even in matters that may proceed *ex parte*. Therefore, with Sherrick present, Respondent telephoned Page on her cell phone, in the presence of all the parties. Page did *not* initially advise the Court she was represented by counsel—further, the fact she had not apprised the Court she had counsel was the only reason the Court proceeded with having any discussion with her at all.

Further answering, upon answering the phone, Page advised the Court she would not return to Ohio; she erroneously claimed the Court had no jurisdiction to force her to return.

Respondent advised Page that this was inaccurate and it would be proceeding. (*See* R.C. Chapter 3127; Texas Family Code 152; 28 USC § 1738A.)

Then, for the first time, Page advised the Court she was represented by Attorney Melanie GiaMaria ("GiaMaria"); she only shared this information *after* the Court advised her of the consequences of ignoring the Court's orders.

Further answering, as soon as Page apprised the Court that she had counsel, Respondent immediately postponed that day's hearing after learning Page had counsel and did not wish to attend that day's hearing *pro se*. He apprised the parties at the hearing that he would not proceed without Page's counsel present, but he would be proceeding at a later date. He continued the hearing, setting it for an attorney-only conference to occur on September 29, 2018, and said the attorney needed to file an appearance.

181. Respondent denies the Court set the matter for an attorney-only conference on September **1**9, 2017. Further answering, the Court apprised the parties and memorialized in its Entry of September 1**8**, 2017, that this follow-up hearing would occur on September **2**9, 2017 (emphasis added).

Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 181.

182. Respondent admits the allegations of Paragraph 182.

183. Respondent admits that, on October 18, 2017, Respondent temporarily stayed its emergency custody order in response to Page's motion, and set the matter for a hearing on October 24, 2017. Respondent denies the remaining allegations of Paragraph 183.

184. Respondent admits the allegations of Paragraph 184.

Further answering, Sherrick's October 20, 2017, response to Page's motion likewise indicated he and his counsel had no objection to keeping the children out of the courtroom for the impending hearing, although they objected to continuing to exclude them from seeing Sherrick any longer—as Page's conduct had precluded him from having any physical contact with his children since August 26, 201, and that Page had retaliated against him after filing his Petition, refusing even Skype or Facetime contact with the boys since September 11, 2017, although he had been their primary caregiver up until the time she left with them.

185. Respondent denies the remaining allegations of Paragraph 185. Further answering, Respondent did not require Page to provide the Court with the children's exact location—it afforded her the alternative to either provide the Court with their location as of October 23, 2017, *or* to bring them to Court on October 24, 2017, as previously ordered.

186. Respondent admits the allegations of Paragraph 186.

187. Respondent admits the allegations of Paragraph 187.

Further answering, Constable Ralph was set to verify that Page had brought the children back to Geauga County since she had initially indicated she was not going to do so.

188. Respondent admits the allegations of Paragraph 188. Further answering, Respondent admits temporary custody was in the children's best interest: Page had accused the children's father, Sherrick, of abuse; the accusation turned out to be false, but after she made the allegation, it had to be investigated. Since Page had recently removed the children from the state, there was a risk that she might do it again if she was given custody.

189. Respondent admits Ralph was at the hotel at the time of the order and that he transported the children (ages three and one) from Page's caretaker to GCJFS upon learning of the Court's order. Further answering, Respondent denies the remaining allegations of Paragraph 189.

190. Respondent admits Ralph delivered the children to GCJFS[46], who then delivered the children to Sherrick's mother, Bonnie Sherrick ("Bonnie"). Further answering, Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 190.

191. Respondent admits GiaMaria withdrew from representing Page on October 31, 2017, and John Ramsey appeared for her a week later on November 9, 2017. Further answering, Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 191.

192. Respondent admits the allegations of Paragraph 192. Further answering, there were no problems during that time.

193. Respondent admits the allegations of Paragraph 193. Further answering, going forward, there was no need to preclude parental involvement.

194. Respondent admits the allegations of Paragraph 194.

195. Respondent admits the allegations of Paragraph 195.

196. Respondent admits the allegations of Paragraph 196.

197. Respondent admits the allegations of Paragraph 197.

198. Respondent admits the allegations of Paragraph 198.

199. Respondent admits the allegations of Paragraph 199.

200. Respondent admits the allegations of Paragraph 200.[47]

201. Respondent denies the allegations of Paragraph 201.[48] Further answering, Respondent does not recall contacting Page instead of her counsel, nor would

[46] The children were placed with GCJFS for their own safety because Page alleged that Sherrick was abusive and Page had already taken the children out of Ohio raising concerns that she would do so again.

[47] The Court had received compelling evidence that Page had a history of trying to keep the children away from Sherrick: First, she had repeatedly raised unsupported allegations of abuse against him; later, she misused claims of COVID precautions as an excuse, even though the children and parents never tested positive for COVID.

[48] The Court's clerks had not yet placed Ramsey's recent Notice of Appearance in the matter's file.

this be his practice if he knew she was represented. The emergency motion listed Sherrick and Page's numbers only, so this may be the only circumstance in which the Court may have contacted Page, inadvertently presuming her to be unrepresented. However, Respondent has no recollection of this, nor would he have proceeded once aware she was represented. Further, the record is clear the Court held a hearing that day in which Sherrick, Page, and Page's counsel attended.

202. Respondent denies the allegations of Paragraph 202. Further answering, the Court held a hearing that Sherrick attended in person and Page and Ramsey attended by telephone.

203. Respondent lacks knowledge or information sufficient to admit or deny whether Ramsey called Page and instructed her to return the children to Sherrick.

Further answering, Respondent denies the remaining allegations of Paragraph 203. Further answering, After that hearing, the Court granted Sherrick's motion, ordering Sherrick's visitation to begin that evening. Page's compliance was neither voluntary, nor did it occur in response to her counsel's instruction; it only occurred following the Court's order.

204. Respondent admits the allegations of Paragraph 204.

205. Respondent admits the allegations of Paragraph 205.[49]

206. Respondent admits that he referred to parties engaging in "a" COVID-19 "panic-ademic," in the context of these parties using COVID-19(and often *misusing* it) as a basis to deprive the other parent of necessary time with their children. Respondent was neither denying the reality of COVID, nor the legitimate potential for families to face exposure risks when sharing custody. However, his point was that this reality was not so significant as to ignore or deprive children of having regular time with both parents—or ignoring the requirements of the Court-ordered parenting schedule or the Governor's Statewide Public Health Orders.

Further answering, Respondent denies that he downplayed or disregarded the very real risks COVID created, particularly for the elderly and immunocompromised, and particularly preceding the availability of vaccines. Respondent's extensive track record in employing robust safety measures to protect the health and welfare of the Court's staff and the public they serve speak for themselves. Further answering, Respondent denies any impartiality throughout these proceedings.

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[49] The Court had received compelling evidence that Page traumatized the children by instilling COVID-related fears and perpetuating repetitive and unsupported COVID testing; that she had improperly withheld the children from their father and alienated the children from their father by misusing COVID protocols or making unfounded claims of COVID infection, despite failing to produce a single positive COVID test.

Further answering, no counsel or party ever challenged Respondent's partiality based upon his COVID-related comments.

Respondent denies the remaining allegations of Paragraph 206.

207. Respondent admits the allegations of Paragraph 207.

208. Respondent admits the allegations of Paragraph 208.

209. Respondent denies the remaining allegations of Paragraph 209.

Further answering, the Court's parenting plan entailed Sherrick having custody of the boys throughout September, through the evening of October 2, except for the weekends of September 4-6 and 18-20 (which was Page's time).

Further answering, on Wednesday, September 23, 2020, while JS had been with Sherrick for the previous three days pursuant to the shared parenting agreement, Page contacted Sherrick, indicating that JS's pediatrician recommended he be evaluated for his asthma, and asking to pick him up during Sherrick's parenting time so she could take him to be seen.

Further answering, Page advised Sherrick that JS's pediatrician recommended that he be brought to the emergency room or an urgent care facility. Therefore, with Sherrick's consent, Page picked JS up from Sherrick's Chardon home (where he continued to have parenting time for the next two days), and took him to the emergency room at Akron Children's Hospital (ACH).

Further answering, Page took JS to ACH, rather than going to a Cleveland Clinic facility, which the Court's Order required—in part so that Sherrick would have immediate access to JS's records and be aware of his treatment.

Further answering, Page took JS to ACH, rather than at least five Cleveland Clinic urgent cares and a pediatric emergency room that was open; within 15-30 minutes from Sherrick's home; and where JS's doctors practiced (as opposed to ACH, which was not a Cleveland Clinic facility and also one hour away).

While at ACH with Page, hospital personnel administered a COVID test for JS. Further answering, Page failed to return JS to Sherrick that evening or to school the next day (notwithstanding the requirements of the Court's Order). JS' school contacted the Court Resource Center, expressing concerns about Page removing JS from school; taking him for COVID testing, despite his lack of symptoms; and after the school nurse had evaluated him the day before and relayed no concerns. The School Principal likewise relayed Page had taken JS for COVID testing on three occasions by this time, all without Sherrick's knowledge or consent, in violation of the Court order.

Respondent denies the remaining allegations of Paragraph 209.

210. Respondent admits the allegations of Paragraph 210.[50]

211. Respondent admits the allegations of Paragraph 211.

212. Respondent admits that, while Sherrick was physically filing the motion in the court, he began by approaching Respondent *ex parte*, which Respondent was entitled to exclusively do in an Emergency Motion under Juv. Rs. 6 and 13.

Further answering, because it is Respondent's practice to always include the other parent, even in *ex parte* Motions, when possible, Respondent admits placing a telephone call to Page on her cell phone to include her in Sherrick's *ex parte* Emergency Motion Hearing.

Further answering, Respondent denies awareness that Page was represented by Attorney Kyleigh Weinfurtner ("Weinfurtner"). The Court had granted her second attorney, John Ramsey's, withdrawal the previous week, on September 17, and Respondent had not seen Weinfurtner's newly filed appearance of counsel.

Further answering, Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 212. However, further answering, Respondent does not dispute the likely accuracy of the transcribed voicemail.

213. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 213. Further answering, upon information and belief, Respondent does not dispute the accuracy of the allegations of Paragraph 213, as they align with the information memorialized by the Court's Resource Center staff.[51]

214. Respondent denies the remaining allegations of Paragraph 214; *see* paragraph 213.

Respondent Precludes COVID-19 Testing Without Court Approval

215. Respondent denies the remaining allegations of Paragraph 215. Further answering, Respondent entered a Judgment Entry on October 2, 2020, in response to Sherrick's *ex parte* Motion for Sole Custody and the *ex parte* hearing in which Sherrick relayed that Page had engaged in a pattern of

[50] The Eleventh District Court of Appeals subsequently ruled that a custodial parent could *not* unilaterally withhold court-ordered parenting time based on COVID concerns. *Lindsey v. Lindsey*, 2021-Ohio-2060.

[51] The Court had received compelling evidence that Page failed to comply with court orders on numerous occasions.

behavior that violated their Shared Parenting Agreement, which was also a Court Order, including failing to return the children during the pandemic; making unilateral decisions about their medical care; taking them for treatment to prohibited locations where Sherrick would not be informed (including three separate COVID tests without his knowledge); and using claims of illness and COVID testing to withhold JS from school.

Further answering, Respondent issued this Entry on October 2, in anticipation of Page resuming physical custody of the children that evening—for the first time since the events of September 23-24.

Further answering, Respondent denies the allegations of paragraph 215, footnote 17. Further answering. Even assuming Relator's allegations were true (which Respondent had not held a hearing to determine yet), Page demonstrated knowledge the testing occurred on at least one instance—she cited JS's testing as a justification to avoid returning him to school on September 23, as well as to avoid returning him to Sherrick—violating the Court's order in both respects. Further, Garrett relayed this instance immediately followed the school nurse examining JS and indicating he had no symptoms warranting testing. Additionally, two of the three instances occurred without Sherrick's knowledge because Page had taken JS to ACH for treatment, which was prohibited by the parties' Agreement and Court's Order, largely because Sherrick lacked access to the records and would not be informed of the visit or any testing performed.

Respondent admits the excerpted portion of the Court's Judgment Entry is accurately quoted. Respondent denies the remaining allegations of Paragraph 215.

216. Respondent admits the allegations of Paragraph 216.

217. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 217. Further answering, Sherrick filed another Emergency *ex parte* motion on November 2, 2020, indicating that he reported to their exchange location on November 1, 2020, to pick up the children and Page failed to show up. Even assuming Relator's allegations are accurate (which Respondent does not know is the case, and which is undermined by the sworn statement Sherrick made to the Court), the parties' Agreement and the Court's Order did not authorize Page to unilaterally maintain custody of the children without Sherrick's consent or Court's Order—neither of which had been provided.

218. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 218. Attorney Weinfurtner never filed any objection or raised any ethical concerns Respondent and his rulings.

219. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 219. Further answering, *see* Respondent's response to paragraph 218, which is incorporated by reference.

220. Respondent denies the allegations of Paragraph 220.

Further answering, on November 2, 2020, Sherrick filed another Emergency *Ex Parte* Motion—this time, seeking temporary *exclusive* custody and asking for Page to only have *supervised* visitation until further Order—indicating he had neither awareness of Page and the children's whereabouts, nor had he consented to Page maintaining custody of the children or taking them to ACH for treatment.

Further answering, Sherrick's affidavit in support indicated Page's justification for failing to appear with the children for their exchange on November 1 related to "[JS being] afraid of his father," which Sherrick testified was untrue. He further testified "Affiant believes [Page] is suffering from an illness anxiety disorder and has had the children over treated and tested, including over COVID-19 fears and other maladies."

Further answering, notwithstanding Respondent's ability to issue an emergency ruling without contacting Page at all, Respondent did so—with Sherrick and Sherrick's attorney present—to allow Page the opportunity to participate in the determination of Sherrick's emergency *ex parte* motion, if she wished.

Page's recently appearing counsel (who had succeeded John Ramsey) had moved to withdraw several days earlier, so Respondent first inquired whether Page preferred to proceed that day with counsel or if she preferred to participate *pro* se—Page indicated the latter.

Respondent explained to Page that Sherrick and his attorney were present in the Court to seek the children's return for his Court-ordered parenting time. **In response, Page refused**. She claimed incorrectly that "the Court Order" allowed her to keep the children for as long as they were receiving medical attention (at the same time, she simultaneously failed to provide any information supporting the children's need for any type of medical attention that had developed over her weekend with them).

Respondent was well aware Page's assertion was grossly inaccurate; he asked Page to identify or otherwise produce the order she was referencing, but she did not, nor could she—no order to this effect existed. Respondent perceived Page's explanation as another example of her bad faith efforts to deprive Sherrick of parenting time, especially given the earlier explanation she provided about JS's alleged fear of Sherrick being the basis for her refusal to transfer custody.

At the time of this hearing on November 2, neither the Court nor Sherrick knew Page's location or the location of the children, ***and Page refused to provide this information to the Court during the hearing, even after Respondent specifically asked for it***. Especially given her earlier

history of disappearing with the children and initially refusing to return to the state, this was of particular concern to Respondent.

221. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 221.

222. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 222.

223. Respondent admits the allegations of Paragraph 223.

224. Respondent admits the allegations of Paragraph 224.[52]

225. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 225.

226. Respondent denies the allegations of Paragraph 226.

Further answering, Respondent admits that, on November 2, 2:12 p.m., he issued a writ of *habeas corpus* to the *Stark* County Sheriff and all local Stark County Local Police Departments (where Page lived), which he later re-issued to the *Summit* County Sheriff and Police Departments (where Page had taken JS to ACH). Further answering, Respondent's Writs of *Habeas Corpus* directed "The Sheriff …and all local …Police Departments" to assist his constable, John Ralph, in delivering JS and SS to Sherrick "who has been awarded custody of said children, *pending further order from Geuga County Juvenile Court*."

227. Respondent admits the allegations of Paragraph 227.

228. Respondent admits that, on that same day, November 3, 2020, he directed Ralph to serve the Court's writ, and to Page's home would be the most obvious location for Ralph to begin those efforts.

Further answering, Respondent admits that, as the Court's Constable, R.C. 2701.07 afforded Ralph the same powers as sheriffs; pursuant to R.C. 311.07, this included preserving the public peace, committing persons to jail, executing service of process, to protect persons and property; and he therefore maintains an OPOTA Certification and wears a firearm on his person in the scope of his employment.

Further answering, Ralph reported to Respondent that he went to Page's home, where her housekeeper *answered the door* and advised him Page wasn't home, and she offered to contact Page's husband, Mr. Hannan, at a cell phone number she also provided.

Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 228.

[52] The principal of the school indicated Page was uncooperative, and that Page would not provide any medical letter confirming the child had COVID; she stated Page "is on a different planet."

229. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 229.

230. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 230.

Further answering, Ralph apprised Respondent that he spoke with Mr. Hannan—and that Mr. Hannan was who apprised him that Page and the children were at ACH.

231. Upon information and belief, Respondent does not dispute the allegations of Paragraph 231.

Further answering, Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 231.

232. Respondent admits the allegations of Paragraph 232.

233. Respondent denies the allegations of Paragraph 233.[53]

Further answering, the language of the Court's writs of *habeas corpus* relayed the extent of the Court's directions—for Ralph, with the assistance of law enforcement, to deliver JS and SS to Sherrick—whose physical custody of the boys was supposed to resume on November 1.

Upon information and belief, Ralph transported JS and SS from ACH and Sherrick's mother's home, respectively, to Sherrick.

234. Respondent denies the allegations of Paragraph 234.

Further answering, on November 2, 2020, Respondent issued an Order, finding Sherrick's Emergency Motion was well-taken and granting Sherrick custody of the children and suspending Page's custodial rights and parenting time until further order of the court. The Order indicated the matter would come on for a full hearing on Sherrick's motion at a date and time to be determined.

Further answering, the next day, November 3, 2020, the Court issued a Judgment Entry that largely repeated these terms of the Order, but additionally setting the full hearing for November 6, 2020, at 12:00 pm.

235. Respondent admits the allegations of Paragraph 235.[54]

[53] The Court had never received evidence that either of the children ever tested positive for COVID.
[54] The Court had received compelling evidence that Page violated the Agreed Court Orders concerning where the children were to receive medical services. In addition to the fact she previously agreed to these conditions, they had since been ordered by the Court and were binding upon her.

236. Respondent admits the allegations of Paragraph 236.

Further answering, since Page's case began in September 2017, her fourth set of counsel entered an appearance on November 5, 2020—and he requested extensions of time before the upcoming hearings pending on Sherrick's motions, which the Court also granted.

Further answering, the parties had each levied a series of additional allegations against the other, asserting the other made negative contributions to the children's health and welfare. Respondent issued this Order to obtain added time to gather information needed to assess these claims, including conducting home studies and obtaining an independent physician's medical assessment and records review.

237. Respondent admits the allegations of Paragraph 237.

238. Respondent admits that he arranged for a visiting judge due to his impending vacation.

Further answering, despite Respondent lacking any bias, prejudice, or requirement to recuse himself, Respondent admits he issued an order, continuing to defer the administration of the case to the Visiting Judge after his return from vacation.[55]

Further answering, Respondent lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 238.

239. Respondent denies the allegations of Paragraph 239.

Count Three
Dispute at the County Auditor's Office

240. Respondent admits the allegations of Paragraph 240.[56]

241. Respondent admits that, almost immediately, Walder displayed an obviously antagonistic objective against Respondent and/or the Court that hindered the Court's operations. However, this clash did not exclusively arise from the auditor's bad faith refusal to approve vouchers for court vendors. Walder likewise raised specious allegations of fraud against multiple Court officials and employees; he imposed added conditions to release Court funds that monopolized the Court's resources and threatened its access to services; and

[55] Respondent recused himself because Page and her husband had filed a lengthy, baseless grievance, and it was clear that she would not accept or comply with Respondent's rulings going forward, By this time, Page had filed baseless ethics charges against a series of people connected to her case, including, but not necessarily limited to, a pediatrician, a mental health expert (Dr. Afsarifard), and a member of the Court's Case Management staff.

[56] Walder's refusal to pay numerous legitimate Court expenses resulted in a *mandamus* action in which the Ohio Supreme Court ruled unanimously (7-0) in favor of Respondent, rejecting *all* of Walder's excuses for nonpayment. *See State ex rel. Grendell v. Walder*, Slip Opinion No. 2022-Ohio-204.

he and his staff engaged in other similar examples of gamesmanship.

Further answering, Respondent admits the dispute worsened over time, as Walder and his staff continued to find new and creative ways to impede the Court's financial processes, which continuously compromised the integrity and independence of the court and improperly created an impediment to the proper discharge of the Court's judicial functions.[57]

Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 241.

242. Respondent admits that, on June 27, 2019, Kimberly Laurie ("Laurie"), Respondent's Court Administrator, and Seth Miller ("Miller"), Respondent's Fiscal Compliance Officer, entered the Geauga County Auditor's Fiscal Office to attend to other Court-related business; however, while they were there, an employee of the Auditor's office provided them with a stack of the Court's previously-executed payment vouchers, which Miller was to sign (as was standard practice).

Further answering, the Auditor's Fiscal Office is located on first floor of the Courthouse Annex. The Probate/Juvenile Court is located on the second floor of the Courthouse Annex.

Respondent denies the remaining allegations of Paragraph 242.

243. Respondent denies the remaining allegations of Paragraph 243.

Further answering, Walder previously advised Respondent in writing that his office would "only accept from the Court documents and materials delivered through interoffice mail and communications through email or letter."

Further answering, Respondent denies—and timely denied to Walder—that court staff had engaged in any disrespectful behavior toward Walder's staff, and Respondent likewise apprised Walder that the "Court and its staff will continue to interact with your office in its regular course of business in the same manner as it had before you handed down your unlawful and unconstitutional edict."

Further answering, Respondent's employees treated Walder's staff professionally and respectfully.

Respondent denies the remaining allegations of Paragraph 243.

244. Respondent denies the allegations of Paragraph 244.

Further answering, upon information and belief, McMahan came to the

[57] Walder's efforts are ongoing and continue to this day. Most prolific is his practice of unnecessarily protesting every single Court expenditure to the Auditor of State, for reasons not statutorily permitted.

public counter of the Fiscal Office and asked Laurie and Miller to leave, both without the information they were there to obtain *and* before Miller had finished signing vouchers. Miller therefore asked McMahan if he could sign the documents in his office—one floor away—and bring them back afterwards, and McMahan agreed.

245. Respondent denies the remaining allegations of Paragraph 245.

Further answering, upon information and belief, Respondent admits Miller removed approximately 16 vouchers from the Auditor's Office, but he did so with McMahan's express approval to leave the office with the vouchers.

246. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 246. Further answering, upon information and belief, Respondent does not dispute that Walder's compliance officer, Attorney Katherine Jacob ("Jacob"), called the Chardon Police Department ("CPD") to report a theft of the auditor's records.

Further answering, Jacob's call deliberately characterized the complaint in a manner that would encourage the CPD to respond to the purported scene of a crime when one had not occurred.

Further answering, the CPD report indicated the caller indicated "[Auditor] Fiscal office called, they had a male in the office looking at records and he took them and ran off. They know who it is."

Further answering, Jacob's call actively misled police to sound as though random people misappropriated documents from their public counter without any intention to return them, when:

A) it had been abundantly clear that the "male in the office looking at records" had been a member of Court staff who was well-known to those in the Auditor's office; Miller had previously worked in the Auditor's Office;

B) Auditor staff knew Miller had taken *the Court's documents* to the Court, one floor away;

C) Auditor staff knew Miller had express authorization to take the documents to the Court, and that he would be returning them shortly thereafter, after completing the legitimate business purpose of signing the documents.

247. Upon information and belief, Respondent admits the allegations of Paragraph 247.

248. Upon information and belief, Respondent admits the allegations of Paragraph 248.

249. Respondent admits that, while upstairs, Officer Bernakis spoke to respondent and advised him of the situation; that Bernakis told him that Walder wanted the vouchers returned; and that Respondent instructed Miller to return the vouchers to Walder with Officer Bernakis' assistance *after* he finished signing them (which had always been the agreed-upon plan—and the one authorized by McMahan). Respondent denies the remaining allegations of Paragraph 249.

250. Respondent admits Miller and Laurie returned the vouchers in Officer Bernakis' presence.

Respondent denies the remaining allegations of Paragraph 250.

Further answering, upon information and belief, Miller and Laurie briefly returned to the Auditor's Fiscal Office later that afternoon to deliver new purchase orders on behalf of the Court, which were time-sensitive; they waited quietly for a short time (approximately 20-60 seconds) for someone to approach the counter to accept the documents from them, but when no employee of the Auditor's Office approached the counter to assist them (despite seeing them waiting at the counter), Miller and Laurie placed the documents on the counter and left.

Further answering, upon information and belief, upon leaving the Fiscal Office, Miller and Laurie encountered Lieutenant Duncan, who apprised them that the Auditor's staff had called the police *again* upon their return and accused them of trespassing.

251. Respondent admits that, upon information and belief, Lieutenant Troy Duncan asked Laurie and Miller to step outside.

Further answering, Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 251.

252. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 252. Further answering, upon information and belief, there was no "investigation" occurring at this time.

253. Upon information and belief, Respondent admits that, earlier in the day, Officer Bernakis, Lieutenant Duncan, and Sheriff Hildenbrand had all relayed that they had not regarded Miller's transport of the Court vouchers to the Court for signature amounted to theft—indicating they were all county employees arguing about county property (i.e., the vouchers). Respondent denies the remaining allegations of Paragraph 253.

254. Respondent denies the remaining allegations of Paragraph 254.

255. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 255.

256. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 256.

Further answering, Respondent admits the Geauga County Prosecutor, James Flaiz, has an office that is two floors above the Auditor's Office.

Further answering, Respondent admits that Lt. Duncan stated that Prosecutor Flaiz had advised the Auditor that he had the right to prohibit Laurie and Miller from even the public space within the Auditor's Fiscal Office[58], but denies that the Auditor *actually* had the right to instruct Laurie and Miller that they were not allowed in the Auditor's Fiscal Office.

257. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 257.

258. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 258.

259. Respondent denies the allegations of Paragraph 259.

Further answering, upon information and belief, Lt. Duncan encountered Laurie and Miller as they were exiting the Auditor's Office after dropping off the Court's purchase orders, and he asked Laurie and Miller to step outside.

260. Upon information and belief, Respondent admits that, once outside, Lt. Duncan relayed to Laurie and Miller that Walder had issued instructions that they were not allowed in the Auditor's Office or there would be prospective trespassing charges filed against them. Lt. Duncan advised Laurie and Miller to not return to the Auditor's Office, as it would put the CPD in a difficult position.

Upon information and belief, Respondent denies the remaining allegations of Paragraph 260.

Respondent Confronts Lt. Duncan Outside the Auditor's Office

261. Respondent admits that, while Lt. Duncan was speaking with Laurie and Miller, he walked outside, looking for them. As a result, he was still dressed in his black judicial robe. Further answering, Respondent admits he found Laurie and Miller while they were outside, speaking with Lt. Duncan. [59]

[58] Prosecutor Flaiz was prohibited by Prof. Cond.R. 1.7 from advising one statutory client (the Auditor) against the interest of another (the Probate/Juvenile Court).

[59] When Respondent went to find his two staff members so they could return to the Court to do their jobs, a Chardon Police Officer informed the Judge, in the presence of those staff, that Chardon PD would arrest the staff if they went into the public area of the Auditor's Fiscal Office to conduct the Court's business. Respondent informed the officer that arresting Court Staff for going into the public area of a public office to perform the Court's legitimate and necessary fiscal business would negatively impact the Court's ability to function, and he would have to address the issue with an Administrative Order.

Further answering, Respondent denies the remaining allegations of Paragraph 261.

262. Respondent denies the allegations of Paragraph 262. Further answering, Respondent admits that, when he first saw Lt. Duncan outside, he extended his hand to shake the Lieutenant's hand, and he listened while the Lieutenant and his staff relayed their previous conversation.

Further answering, Respondent was understandably frustrated to learn the Auditor and Prosecutor had given the CPD inaccurate and unlawful directives that would further hinder Court operations. He explained that, contrary to Walder and Flaiz's directives to the Lieutenant, everyone (not just the Auditor) would be obligated to comply with a Court Order he would be entering to authorize Laurie and Miller to conduct official Court business in the public space within the Auditor's Fiscal Office.

Near the end of Respondent's one-minute conversation with Lt. Duncan, as Respondent was walking away, he gestured by pointing to the Lieutenant once, when explaining that, contrary to Flaiz and Walder's representations, everyone—including law enforcement ("You")—would be obligated to comply with this Order. Respondent's discussion endeavored to clarify and explain that the Court's Order took precedence over the Auditor or Prosecutor's informal instruction or policy, and anyone violating the Order by banning or interfering with the Court staff's ongoing access to the Auditor's Office to conduct Court business was at risk of a show cause order.

Respondent denies the remaining allegations of Paragraph 262.

263. Respondent admits that Laurie said that Lt. Duncan had just advised her and Miller that they were not permitted in the public space within the Auditor's Fiscal Office. Further answering, Respondent admits that he explained to Lt. Duncan that the Court's Order to authorize Laurie and Miller's presence in the Fiscal Office applied to everyone, including law enforcement, and violating it could result in a show cause order.[60]

Respondent denies the remaining allegations of Paragraph 263.

264. Respondent admits paragraph 264 includes a mostly accurate summary of the statement provided to law enforcement by Rebecca Kotula.

Respondent denies the accuracy of Ms. Kotula's statement and remaining allegations of Paragraph 264, as the same staff who claimed Respondent was "yelling" or "screaming" also claimed that his voice was muffled so they could not decipher what was said, and the Square Bistro is located a few doors down on the same side of the street as the conversation, and the employee was on the outdoor patio on the same sidewalk. Similar to the false claim

[60] At no time did Respondent threaten the officer; he merely explained to the officer about the nature of the dispute with the Auditor's office and the potential consequences for violating Court orders.

made by the Auditor's staff, the restaurant employee who was this time *outside* the building in close proximity to the conversation on the sidewalk, also couldn't decipher what was said, despite her claim that Respondent was "yelling."

265. Respondent denies the allegations of Paragraph 265.

266. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 266. Further answering, Respondent denies he threatened Duncan with contempt and an arrest warrant—or threatened him at all.

267. Respondent admits security cameras captured video of some of these events, inside and outside of the Auditor's Office; however, there was no audio. Respondent denies the remaining allegations of Paragraph 267.

Respondent Confronts CPD Chief Scott Niehus

268. Respondent denies that, immediately following the incident at the Auditor's Office, he appeared unannounced at the CPD and spoke to CPD Police Chief Scott Niehus ("Niehus"). Further answering, Respondent admits that, shortly after his discussion with Lieutenant Duncan, he visited the CPD to relay his discussion with the Lieutenant.

Respondent denies the remaining allegations of Paragraph 268.

269. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 269..

270. Respondent denies the allegations of Paragraph 270.

Further answering, Respondent admits that, during the conversation, Respondent advised Niehus that his staff's *improper* arrest, detention, or prosecution in violation of a Court Order placed the CPD at risk of a variety of concerns, including exposure under 42 U.S.C. § 1983 which could be filed by the Court's affected employees, *not* by Respondent.

Respondent denies the remaining allegations of Paragraph 270.

271. Respondent admits that, on the same day, in the early afternoon, he called Law Director Gillette to relay the same discussion he had completed with Lieutenant Duncan and Chief Niehus. Further answering, Gillette had no knowledge that an incident had occurred earlier in the day at the Auditor's Office.

Further answering, Respondent denies either he or Gillette had contemplated that any criminal charges would be considered against Laurie or Miller.

Respondent denies the remaining allegations of Paragraph 271.

272. Respondent admits that, on the call, he apprised Gillette that, as he had explained to Lt. Duncan and Chief Niehus, the Court would be issuing an Order that authorized Miller and Laurie to conduct Court business in the appropriate public area of the Auditor's Fiscal Office, and any efforts to hinder their efforts in violation of that order subjected someone violating it to an order to show cause.

Respondent denies the remaining allegations of Paragraph 272, *never* saying that he would issue a warrant for Lt. Duncan's arrest.

273. Respondent denies the allegations of Paragraph 273, *never* threatening to file a Section 1983 action against Niehus or anyone.

274. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 274. Further answering, Respondent denies he ever advised Lt. Duncan or Gillette that he would issue a warrant for anyone's arrest.

275. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 275. Further answering, Respondent admits that, during their phone call, Gillette characterized the matters between the Auditor and Court as a work-related dispute.

276. Respondent admits that, on June 27, 2019, Walder sent him a letter that indicated Laurie and Miller were not permitted in the Auditor's Office, and which provided "We have turned this entire matter over to local law enforcement for disposition."

Respondent denies the remaining allegations of Paragraph 276.

277. Respondent admits he sent a response to Walder on July 1, 2019 that copied Gillette, Niehus, Hildenbrand, the Commissioners, the County Administrator, Miller, and Laurie.

Further answering, Respondent denies that he regarded Gillette or anyone else as considering possible criminal charges against Laurie and Miller.

Respondent denies the remaining allegations of Paragraph 277.

278. Respondent admits that the excerpts from the letter quoted in Paragraph 278 are mostly accurate, and are fully in accordance with Ohio Law.

Respondent denies the remaining allegations of Paragraph 278. Further answering, in his letter to Walder, Respondent stated, in part, "The order will clearly provide that anyone who attempts to impede upon Court staff's ability to perform their official duties on behalf of the Court, would face potential contempt proceedings and sanctions."

279. Respondent admits that the excerpts from the Administrative Orders quoted in Paragraph 279 are mostly accurate and are fully in accordance with Ohio

Law.

Respondent denies the remaining allegations of Paragraph 279. Further answering, on July 1, 2019, Respondent issued Administrative Order 2019-183 (Juvenile) and 2019-83 (Probate), stating, in part, "Any person who unlawfully attempts to interfere with or impede upon Court staff's ability to perform their official duties on behalf of this Court, will be subject to the Court's authority to enforce its orders."

280. Respondent admits that the excerpts from his letter, quoted in Paragraph 280, are relayed accurately or mostly accurately.

281. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 281.

282. Respondent admits that the excerpts from the Geauga Maple Leaf article quoted in Paragraph 282 are mostly accurate.[61]

Further answering, Respondent denies he had contemporaneous knowledge of the allegations in Paragraph 282, and further denies the accuracy of speculations alleged in the article. Respondent was *never* advised that any Special Prosecutor as appointed, and when the Special Prosecutor was later appointed, it was done so under seal. Respondent and his staff did *not* learn of the appointment until the Complaint was served upon his accused staff members, approximately 10 months *after* this article was published.

283. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 283.

284. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 284.

Respondent's Speech to the Geauga County Tea Party

285. Respondent denies the allegations of Paragraph 285. Further answering, Respondent did not believe that CPD was actively investigating the events of June 27, 2019, or that Gillette was in the process of deciding on whether to pursue criminal charges. In fact, Lieutenant Duncan had already stated during his conversation with Respondent's staff that he did not believe any crime had been committed, and Gillette led Respondent to believe that Chardon was not pursuing the matter. And aside from some vague rumor reported as coming from an unknown source in a newspaper article, Respondent was completely unaware of Flaiz's actions.

Respondent admits that he accepted an invitation from the Geauga County Tea Party to address the false media claims of alleged criminal conduct by

[61] Subsequently, the local newspaper published an article discussing the event and repeated the false allegations coming from the Auditor's and Prosecutor's offices that court personnel engaged in criminal conduct. Kate Jacob from the Auditor's office was prominently quoted in the article, and Auditor Walder was quoted in multiple newspaper articles.

Court staff that were jeopardizing the public's confidence in the Court, and to protect the public's confidence in the Court. On July 23, 2019, Respondent appeared at a Tea Party event with a prepared PowerPoint presentation entitled, "Just the Facts," along with the video of the June 27, 2019 incident that was captured by security cameras.[62]

Respondent denies the remaining allegations of Paragraph 285.

286. Respondent admits he made explained to the audience the Court's experiences with Walder, Flaiz, and the media, and his remarks were appropriately critical, accurate, and speak for themselves. He likewise admits he factually discussed the appropriate and professional conduct of Court staff and addressed public questions about allegations that those in attendance were hearing in the media about the June 27, 2019 incident.

Respondent denies his comments were untruthful or that he had any idea his staff members were under investigation for potential criminal charges. It was not until May 2020 (10 months *after* the Tea Party meeting) that a Special Prosecutor had in fact been appointed *under seal*, which, despite efforts to confirm the rumors reported in the newspaper, were not made public until the criminal charges were filed against the Court's staff members.

Respondent admits that he first learned that a Special Prosecutor was appointed upon the filing of the criminal charges in May 2020, 10 months after the Tea Party meeting, and 11 months after the incident at the Auditor's Office.

Respondent denies the remaining allegations of Paragraph 286.

287. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his remarks were accurately transcribed, but he does not dispute that the transcriptions were accurate or mostly accurate.

Further answering, Respondent denies that, during his speech, he acknowledged that there was an ongoing criminal investigation or that he cast false aspersions on the County Prosecutor and the County Auditor. Respondent further denies he suggested that Auditor Walder had committed a crime but would not face prosecution due to his relationship with Prosecutor Flaiz. To the contrary Respondent's comments demonstrated he had perceived Walder as having indicated there were criminal proceedings being considered *against Walder,* which Respondent voiced as unlikely.

[62] Geauga County citizens from the local Tea Party called Respondent and expressed concerns about the Court's operations based on the article in the local newspaper. These citizens asked Respondent to attend a meeting to address their concerns about the Court. The Tea Party also called Auditor Walder and asked him to speak at the meeting, but he did not attend. To protect public confidence in the Geauga County Probate/Juvenile Court, Respondent attended the meeting and addressed the issues professionally, honestly, and accurately, and he provided documentation to support his statements.

Further answering, it is undisputed that Walder and Flaiz are political allies.

Further answering, Respondent indicated truthfully that he did not believe there was an ongoing criminal investigation. Officer Bernakis, Lt. Duncan, Sherriff Hildebrand, and Law Director Gillette had all relayed comments on June 27, 2019, to indicate they had not regarded the events as theft, trespassing, or anything more than a "workplace dispute."

Respondent denies the remaining allegations of Paragraph 287.

288. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his speech were accurately transcribed, but he does not dispute that the transcriptions were accurate or mostly accurate.

Further answering, Respondent denies he attempted or engaged in any effort to mislead the audience into thinking that the Auditor and his Compliance Officer were making unfounded criminal allegations against Respondent and his staff.

To the contrary, Walder and Jacob ultimately *did* make unfounded criminal allegations against Court staff which, after Court staff were personally and professionally maligned in the media and forced to undergo a criminal trial, were ultimately dismissed by Judge Burt pursuant to Crim. R. 29 (Laurie), and by the jury in lightning speed (Miller) – resulting in the exact waste of taxpayer money that Respondent discussed. However, it was unthinkable to Respondent to anticipate at the time he addressed the Tea Party that those matters were under review—and no one would ultimately learn they would be prosecuted for nearly one year later.

Respondent denies the remaining allegations of Paragraph 288.

289. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his speech were accurately transcribed, but he does not dispute that the transcriptions were accurate or mostly accurate. Further answering, Walder's repeated use of false criminal claims is the definition of intimidation within R.C. 2921.03.

Further answering, Respondent denies the remaining allegations of Paragraph 289.

290. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his speech were accurately transcribed, but he does not dispute that the transcriptions were accurate or mostly accurate.

Respondent admits asking Prosecutor Flaiz, his statutory legal counsel pursuant to R.C. 309.09, for a legal opinion in the hopes that having such would convince Walder to appropriately pay the Court's bills.

Respondent denies the remaining allegations of Paragraph 290, as his statements were not biased or misleading. Respondent had no feud with Walder. Walder was and remains to this day the sole antagonist perpetuating his own feud with Respondent, which Respondent and his staff continuously have to defend against in order to successfully conduct the Court's official financial business and fulfill the Court's responsibility to effectively administer justice in Geauga County.[63]

Respondent denies the remaining allegations of Paragraph 290.

291. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his speech were accurately transcribed, but he does not dispute that the transcriptions were accurate or mostly accurate.

Respondent denies he maligned the Geauga Maple Leaf. He accurately described the Maple Leaf's actions, albeit sarcastically.[64]

Respondent denies the remaining allegations of Paragraph 291.

292. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his speech were accurately transcribed, but he does not dispute that the transcriptions were accurate or mostly accurate.

Respondent denies the remaining allegations of Paragraph 292.

Further answering, Respondent's comments were all truthful:

- Walder provided myriad statements to the press, including, but not limited to those on June 28, 2019; and those appearing in the Geauga County Maple Leaf on June 30, 2019 and July 11, 2019; Chagrin Valley Times on July 12, 2019; ;
- Walder delayed Shaefer's payment for three weeks after the state auditor closed its investigation—and it took 9 additional days *beyond that* for the check to be issued after the Auditor requested and received a Then-and-Now purchase order. Further answering, Respondent denies the Auditor was restricted from issuing payment by R.C. 5705.41(D).

- Walder has denied over 100 legitimate court expenditures that were either not been paid or payment was substantially delayed. When the Court asked why, they were often not provided any explanation or given information to cure the alleged defect.

[63] Rather than provide a legal opinion himself, Flaiz opted to request an Opinion from the Ohio Attorney General, which Walder misused and misquoted in an attempt to support his continued efforts to impede the Court's financial processes. Eventually, Respondent filed a *mandamus* action in the Ohio Supreme Court; it ultimately ruled unanimously (7-0) against Walder and in Respondent's favor. *See State ex rel. Grendell v. Walder*, Slip Opinion No. 2022-Ohio-204.

[64] The Professional Conduct Rules do not prohibit judges from expressing personal opinions about the media.

- It is absolutely false that, with every returned voucher, the Auditor provided a cover sheet explaining the reason for the denial along with a recommended solution.

  First, this procedure only began in March 2019. More than 30 of the 105 invoices that had been delayed or unpaid by July 12, 2019, were from before this timeframe.

  Further, may of the delays without explanation occurred after a check was printed—the Auditor only used cover sheets in those instances where they returned an invoice prior to printing a check.

  Further, some cover sheets were provided after a long delay had already passed.

  Additionally, some cover sheets were too general to be understood or provide any information to aid the Court in correcting the submission. When the Court sought clarification, it obtained no response.

  Some delays prevented the Court from even being able to submit an invoice for payment—such as when it would delay adding new vendors to the County's accounting system, a required step before any payment can be processed for that vendor.

  These examples are not an exhaustive list of the problems the Auditor's processing methods created for Court operations.

- Respondent *had* sought assistance from the Prosecutor to no avail. Further, the Auditor alleged the Prosecutor had advised them to file criminal charges against the Court's staff and pursue special prosecutors. Further answering, Respondent had not actually believed this had or would result in criminal charges or a prosecution—although such an endeavor would be a waste of taxpayers' time and money, as evidenced by the outcome of those matters that were ultimately pursued.[65]

  - On June 27, 2019, law enforcement advised the Court that Prosecutor Flaiz had advised them to arrest and Charge Court staff with trespassing if they returned to the public space of the Auditor's Office. Upon information and belief, Flaiz advised those in the Auditor's Office to refer the presence of Court staff in his office to law enforcement and/or pursue criminal charges, and during the debriefing conversation with Laurie,

[65] Chardon Municipal Court sitting Judge Forrest Burt acquitted Laurie pursuant to Crim. R. 29 after the prosecution rested, and the jury acquitted Miller in lightning speed after the defense rested.

Miller, and Respondent, Lt. Duncan informed them that Flaiz advised him to arrest Laurie and/or Miller if they ever stepped foot in the public space within the Auditor's Fiscal Office to conduct official Court business ever in the future. Further, on the day of the events, Gillette had indicated to Respondent that he regarded this as a "workplace dispute," which Respondent had regarded as an indication of what he believed to be obvious—that there would be no pursuit of criminal charges. However, Flaiz pursued the appointment of a Special Prosecutor under seal—which, although purporting to pursued jointly with Law Director Gillette, Flaiz was the only individual to sign the pursuit.

- The video embedded in the Maple Leaf article was produced from the Auditor's security footage, and it had been modified in several ways—the time was edited to make it appear Miller and Laurie stood in the office longer than they had; there were at least 11 pauses in the recording that averaged 20 seconds; and the video was altered to add subtitles that mischaracterized what occurred. As no member of the press was present for these events, it was a reasonable presumption that these revisions were prepared from within the Auditor's Office.

Respondent denies the remaining allegations of Paragraph 292.

293. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his speech were accurately transcribed, but he does not dispute that the transcriptions were accurate or mostly accurate.

Respondent denies the remaining allegations of Paragraph 293.

Further answering, Respondent's remarks were accurate. Respondent didn't pursue mandamus relief regarding his staff's access, although he ultimately had no choice but to do so to compel the payment of the Court's bills. The Supreme Court issued a 7-0 decision, rejecting each of the bad faith justifications the Auditor relayed to justify his nonpayment.

294. Respondent lacks knowledge or information sufficient to admit or deny whether the audience member's question was accurately transcribed, but he does not dispute that it is accurate or mostly accurate.

Further answering, Respondent denies the audience member's question amounted to one he or any other judge or lawyer would be prohibited from answering. In fact, Chief Justice O'Connor encouraged judges to educate citizens on the law and procedures.

Respondent denies the remaining allegations of Paragraph 294.

295. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his speech were accurately transcribed, but he does not dispute that the transcriptions were accurate or mostly accurate.

Respondent denies the remaining allegations of Paragraph 295.

Further answering, Respondent's answer was neither legal advice nor inaccurate—it was permissible, general commentary on the requirements of the procedural rules to bring suit, and in keeping with the Chief Justice's encouragement of judges to educate citizens on the law and procedures.

296. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his speech were accurately transcribed, but he does not dispute that the transcriptions were accurate or mostly accurate. Further answering, Respondent's comments were truthful.

Respondent admits the remaining allegations of Paragraph 296.[66]

Respondent's Second Attempt to Contact the Police Prosecutor, Jim Gillette

297. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 297. Further answering, Flaiz's *Application for Appointment of Special Prosecuting Attorney* that he filed in the Geauga County Court of Common Pleas relative to Chardon Police Report No. T19-4402 (i.e., the June 27, 2019 incident), was filed under seal. Neither Respondent nor his staff knew about this pursuit for months thereafter.

298. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 298.

299. Respondent denies the allegations of Paragraph 299.

Further answering, in November 2019—*four months* after the Tea Party Meeting *and* after Flaiz's confidential pursuit of a special prosecutor (that occurred unbeknownst to Respondent)—Respondent asked Joseph Weiss (who is neither an attorney for the Court nor Law Department) if he could determine whether the status of the City's review was available so his employees could obtain some confirmation for or against the rumors in the media.

Further answering, neither Respondent nor his staff knew a special prosecutor had been appointed until the day the charges were actually filed—on May 27, 2020, nearly one year after the events, one week prior to scheduled depositions were to take place in the federal civil rights suit Laurie

[66] Respondent had a duty to protect and maintain public confidence in the court in the face of the many false accusations published by the local newspaper.

and Miller had filed against Walder several months after the June 27, 2019 incident, and only one (1) business day after Respondent's re-election was certified by the Geauga County Board of Elections.

300. Respondent denies he "directed" Weiss to do anything. Further answering, upon information and belief, Respondent admits Weiss called Gillette to inquire as to the status, but denies knowing if Weiss described it as an "investigation."

Respondent denies the remaining allegations of Paragraph 300.

301. Respondent admits receiving the voicemail quoted in Paragraph 301, but denies that the accuracy of Gillette's statements could be confirmed. Further answering, any attempts to verify Gillette's allegations of a Special Prosecutor appointment were and would have been unsuccessful because there were no public court records to confirm the appointment. Respondent denies the remaining allegations of Paragraph 301.

302. Respondent admits the suspicious timing of the on May 27, 2020 filing of misdemeanor complaints filed by Special Prosecutor David Grant against Laurie and Miller for Criminal Mischief, a third-degree misdemeanor (such filing was a total surprise to Respondent): The filing arrived *11 months* after a falsely alleged misdemeanor; *one week* before scheduled depositions in Laurie and Miller's federal civil rights case against Walder, 1:19-cv-02480-JG; and one business day after certification of Respondent's re-election. *State v. Laurie,* Chardon M.C. Case No. 2020 CRB 00390, *State v. Miller,* Chardon M.C. Case No. 2020 CRB 00389.

Respondent denies the remaining allegations of Paragraph 302. Further answering, the Municipal Court preemptively dismissed all charges against Laurie pursuant to Crim.R. 29. A jury unanimously acquitted Miller in 17 minutes, which included the time required to elect a foreperson.

303. Respondent denies the allegations of Paragraph 303.

Count Four

Testimony Before a Government Body and Abuse of Prestige of Judicial Office

304. Respondent admits the allegations of Paragraph 304.

305. Respondent admits the allegations of Paragraph 305.

306. Respondent admits the allegations of Paragraph 306.

307. Respondent admits that, at the onset of Ohio's state of emergency, Governor DeWine's Office, typically featuring the Governor and/or Dr. Amy Acton ("Acton"), then the Director of the Ohio Department of Health ("ODH"), held near-daily briefings to provide information to Ohioans on the spread of COVID-19. Respondent denies the remaining allegations of Paragraph 307.

Further answering, these briefings remained regular for several months, but Saturday, April 4, 2020, was the last weekend daily briefing, and the briefings were not occurring every weekday by the beginning of May.

308. Respondent admits that, in May 2020, Rep. Diane Grendell introduced HB 624, which Respondent characterized as the "COVID Reporting Transparency Bill." Respondent admits that Rep. Diane Grendell alleged publicly that the State's reporting of cumulative state-wide COVID-19 statistics failed to include granular local data in its possession that should likewise be shared with the public.

Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 308.

309. Respondent admits that, when his elected State Representative asked him if he would speak in support of the bill, he agreed to do so.

Further answering, Respondent denies that HB 624 was "Rep. Diane Grendell's bill." Rep. Diane Grendell was only one of thirty-two co-sponsors of the bill.

Respondent denies the remaining allegations of Paragraph 309.

310. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his statements were accurately transcribed, but he does not dispute that the transcriptions were accurate or mostly accurate.

Respondent admits the allegations of Paragraph 310. Further answering, Respondent's commentary was an obvious and apparent use of humor.

311. Respondent admits he traveled to Columbus on the morning of June 2, 2020, to testify as a proponent of HB 624 before the Ohio House State and Local Government Committee, of which he was previously a member.

Further answering, Respondent admits he made the decision the prior day, on June 1, 2020, to close the Geauga County Juvenile and Probate Court at noon on June 2, 2020 (well before he left for Columbus earlier that morning). Further answering, Respondent admits he made this decision, after confirming that no hearings were scheduled that afternoon, and after his Court Administrator suggested this proposal to him, due to staff security and safety concerns arising from a scheduled protest to occur in Chardon Square during the afternoon of June 2, 2020.

Respondent denies his decision to close the Court had any relationship to his absence from the office—just as it has no bearing when he teaches or attends judicial conferences or seminars, testifies for the Ohio Judicial Conference on other legislation, or takes sick/vacation/personal days.

Respondent denies the remaining allegations of Paragraph 311.

312. Respondent denies the allegations of Paragraph 312.

Further answering, at the time of Respondent's testimony, Diane had already won a contested primary earlier that year. While she was technically opposed in the general election, her opponent was a first-time candidate with little name recognition or funding; she ultimately won the general election 61% to 39%. Throughout the general election season (which had not begun in earnest at that time), her campaign efforts were modest, at best. Furthermore, success of the bill did not rely upon Respondent's testimony: Respondent was among a total of 28 proponents who testified, and 0 opponents testified.

313. Respondent admits the allegations of Paragraph 313, but denies having any control over the Chairman's introduction. Respondent had submitted his testimony to the committee as Timothy Grendell, not "Judge" Timothy Grendell. The committee chair's decision to address Respondent utilizing his formal title is a customary display of respect for a fellow elected official, but in no way describes Respondent's efforts to abuse the prestige of his position as he provided testimony.

314. Respondent denies the emphasis added in Paragraph 314, but otherwise admits the allegations of Paragraph 314, as Respondent's was merely one of 28 proponent testimonies.[67]

315. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his speech were accurately transcribed, but he does not dispute that the transcriptions were accurate or mostly accurate.

Respondent admits the allegations of Paragraph 315.

316. Respondent admits he testified in support of HB 624. Respondent denies that HB624 was "Diane's bill," as the bill had 32 co-sponsors. Further answering, Respondent denies the remaining allegations of Paragraph 316.

317. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his speech were accurately transcribed, but he does not dispute that the transcriptions were accurate or mostly accurate. Respondent denies the remaining allegations of Paragraph 317.

[67] The Complaint categorically ignores Jud. Cond. R. 3.2 (A), (B), and (C), and Comment [3] in general, which provides specific exceptions for judicial speech including: (A) in connection with matters concerning the law, the legal system, or the administration of justice; (B) in connection with matters about which the judge acquired knowledge or expertise in matters of law, the legal system, and the administration of justice and may properly share the expertise with governmental bodies and executive or legislative branch officials; (C) when the judge is acting in a fiduciary capacity (as Probate Judge, Respondent has a fiduciary responsibility over wards of the Court). Per Comment [3] in general, it would additionally impose an unnecessary and unfair burden to prohibit judges from appearing before governmental bodies or consulting with government officials on matters that are likely to affect them as private citizens as well.

318. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his speech were accurately transcribed, but he does not dispute that the transcriptions were accurate or mostly accurate. Respondent denies the remaining allegations of Paragraph 318, as it is now known that the statistical reports did not initially provide all the information that was available (and which was shared, later in the pandemic). Furthermore, Respondent denies accusing ODH of misreporting data—but, instead, selectively reporting and underreporting all the available and relevant data.[68]

319. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his speech were accurately transcribed, but he does not dispute that the transcriptions were accurately or mostly accurately transcribed.

Respondent denies he maligned ODH; Respondent simply discussed accurate information about ODH's reporting processes.

Respondent denies the remaining allegations of Paragraph 319.

320. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his speech were accurately transcribed, but he admits his statements accurately or mostly accurately transcribed.

Further answering, Respondent admits his statements were 100% accurate[69], and Respondent admits the remaining allegations of Paragraph 320.

321. Respondent denies the allegations of Paragraph 321. Further answering, ODH did not launch its COVID-Dashboard—which provided individual *and* cumulative data through an online interactive tool that allowed users to access the information using a variety of indicators including, but not limited to, daily individual data or cumulative data—until July 2020 (arguably in response to HB 624). This was not the case on June 2, 2020, when Respondent testified. Respondent further admits that his testimony was both the result of firsthand observation in discussing the impact on the Court's administration of justice, and involved knowledge obtained in the course of judicial duties and Respondent's responsibility to attempt to keep the Court open and functioning during the COVID pandemic, which heavily required accurate data reporting.

322. Respondent denies the allegations of Paragraph 322. *See* response to paragraph 321.

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[68] The House State and Local Government Committee Chairman, Rep. Scott Wiggam, described the Judge's testimony as professional and of assistance to the Committee. See Affidavit of State Representative Scott Wiggam.

[69] Respondent's testimony was honest and accurate.

323. Respondent denies the allegations of Paragraph 323, as his testimony was based on both firsthand observations and expertise as a Juvenile and Probate judge.[70]

324. Respondent denies the allegations of Paragraph 324.

325. Respondent lacks knowledge or information sufficient to admit or deny whether the excerpted portions of his speech were accurately transcribed, but he does not dispute that the transcriptions were accurate or mostly accurately transcribed. Respondent denies the remaining allegations of Paragraph 325, as he offered testimony based on both firsthand observations and expertise as a Juvenile and Probate judge.[71]

326. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 326. Further answering, Respondent took no efforts to promote, circulate, or forward his testimony to any organization, including Health Freedom Ohio, nor is Respondent responsible for the actions of Health Freedom Ohio.

327. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 327. Further answering, Respondent denies Relator's repeated use of the phrase "Diane's bill" to describe BH 624, which was a massive joint effort by a large number of legislators, as evidenced by the bill's 32 co-sponsors.

Further answering, Marcia Winfield is not a personal friend of Respondent's, nor does he know who she is. Respondent did not share a post of Marcia Winfield on his Facebook page. Rather, Ms. Winfield created a post on *her own* Facebook page, where she "tagged" Respondent's personal, non-judicial Facebook account in her post—*i.e.,* Respondent has both a judicial account (Judge Grendell) and a personal, non-judicial account (Tim Grendell). Ms. Winfield tagged the latter, which created a post that created a copy that appeared on Respondent's personal Facebook page—exclusively arising from Ms. Winfield's actions.

Respondent did not post Ms. Winfield's remarks, nor did he approve or endorse them—nor was he even aware of them prior to Relator's inquiry.

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[70] Justice (Ret.) Paul Pfeiffer, Executive Director of The Ohio Judicial Conference, agreed that Respondent's testimony did not violate any disciplinary rules and expressed the following statements relating to the propriety of his testimony: "I have just viewed that testimony and cannot comprehend that your testimony or work on either proposal would in any respect violate Rule 3.2 of the Code of Judicial Conduct. As Juvenile and Probate Judge for Geauga County, you hold unique responsibilities for the well-being of both children and the elderly. If anything, your expressed concerns regarding COVID reporting policy was ahead of many so-called health experts and looking now in the rear-view mirror, critical mistakes were made to the long-term detriment of childhood education and the mental health of all."

[71] Under Article I, § 11 of the Ohio Constitution and the First Amendment to the U.S. Constitution, Respondent additionally had the absolute right to redress to the Ohio House Committee on an issue that directly impacted him and his family.

Respondent denies the remaining allegations of Paragraph 327, and he has no control over third party posts on social media.

328. Respondent lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 328. Respondent was unaware of Ms. Winfield's post—as well as all comments below it. Further answering, Respondent took no efforts to promote, circulate, or forward Ms. Winfield's post, or his testimony to any organization, or even on his own social media page.

329. Respondent denies the allegations of Paragraph 329.

Conclusion

For the foregoing reasons, Respondent respectfully requests this Board determine his conduct did not amount to sanctionable violations of the Ohio Code of Judicial Conduct or Ohio Rules of Professional Conduct and dismiss this matter accordingly.

Affirmative Defenses

1. The Complaint fails to state a claim upon which relief may be granted.
2. The Complaint contains a series of factually and legally inaccurate allegations that likewise inaccurately characterize the application of Ohio juvenile law and procedures.
3. The Complaint fails to plead or allege any causal connection between the allegations and the alleged professional conduct rule violations.
4. Respondent admits he followed the law, protected children, spoke truthfully, exercised his constitutionally protected rights of free speech—particularly as they pertained to protecting the public's confidence in the Court.
5. Respondent complied with the professional conduct rules, and his conduct was both proper and ethically appropriate.
6. Relator's unreasonable delay in prosecuting this Complaint unduly prejudiced Respondent and deprived him of a fair hearing, thereby warranting its dismissal pursuant to Gov. Bar V, Sec. 9(D)(2).
7. Relator's claims in Counts III and IV seek relief that is unconstitutional under Ohio Const. Art. I, § 11, as well as the First Amendment of the U.S. Constitution.
8. Jud. Cond. R. 3.2(A) is void for vagueness and unconstitutional.
9. Counts I and II amount to the substitution of Relator's judgment for that of a judge who complied with Ohio statutory and case law—a responsibility only authorized by an appellate court, and therefore violative of process and exceeding Relator's authority.
10. The Complaint violates Ohio Constitution Art. II, § 38.

11. Relator's prosecution of this action violates the Due Process and Equal Protection clauses of the United States Constitution and the Ohio Constitution.

Respectfully submitted,

/s/Kimberly Vanover Riley
MONTGOMERY JONSON LLP
KIMBERLY VANOVER RILEY (0068187)
14701 Detroit Ave., Suite 555
Cincinnati, Ohio 44107
Tel: (440) 779-7978
Fax: (513) 768-9224
kriley@mojolaw.com

MONTGOMERY JONSON LLP
GEORGE D. JONSON (0027124)
600 Vine Street, Suite 2650
Cincinnati, Ohio 45202
Tel: (513) 768-5220
Fax: (513) 768-9224
gjonson@mojolaw.com

ROETZEL & ANDRESS, LPA
STEPHEN W. FUNK (0058506)
222 S. Main Street, Suite 400
Akron, Ohio 44308
Tel: (330) 376-2700
Fax: (330) 376-4577
sfunk@ralaw.com

Counsel for Respondent Hon. Timothy J. Grendell

Certificate of Service

Pursuant to Civ.R. 5(B)(2)(f), I served a copy of the foregoing via e-mail upon the following on this 30th day of November, 2022:

Joseph M. Caligiuri, Disciplinary Counsel
Office of Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215
joseph.caligiuri@sc.ohio.gov
Relator

/s/Kimberly Vanover Riley
KIMBERLY VANOVER RILEY (0068187)