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Honorable Douglas H. Hurd, P.J.Cv.*

**FILED**  
**MAR 07 2024**  
**A.C.J.C.**

IN THE MATTER OF

DOUGLAS H. HURD,  
JUDGE OF THE SUPERIOR COURT

SUPREME COURT OF NEW JERSEY  
ADVISORY COMMITTEE ON JUDICIAL  
CONDUCT  
DOCKET NO.: ACJC 2023-140

Disciplinary Action

**AMENDED VERIFIED ANSWER TO  
COMPLAINT, AFFIRMATIVE  
DEFENSES, MITIGATING FACTORS,  
DEMAND FOR DISCOVERY, AND  
DESIGNATION OF TRIAL COUNSEL**

Respondent, Honorable Douglas H. Hurd, P.J.Cv. ("Respondent"), by way of Answer to the Formal Complaint, hereby state as follows:

**RESPONSE TO PARAGRAPHS ENTITLED "FACTS"**

1. Respondent admits to the allegations in Paragraph 1.
2. Respondent admits to the allegations in Paragraph 2.
3. Respondent admits to the allegations in Paragraph 3.
4. As to the allegations in Paragraph 4, Respondent admits there was a Remote Work Policy ("Policy") and Broadcast Message to all Judiciary staff.
5. As to the allegations in Paragraph 5, Respondent acknowledges the Policy.
6. As to the allegations in Paragraph 6, Respondent acknowledges the Policy.
7. Respondent admits to the allegations in Paragraph 7.

8. As to the allegations in Paragraph 8, Respondent admits that is a correct quote from the Bench Book. Respondent worked on site at the courthouse as required by the Bench Book.

9. As to the allegations in Paragraph 9, Respondent admits that is a correct quote from the updated policy.

10. As to the allegations in Paragraph 10, Respondent admits that is a correct quote.

11. Respondent admits to the allegations in Paragraph 11.

**RESPONSE TO PARAGRAPHS ENTITLED "COUNT I"**

12. Respondent repeats the Answers above for Paragraphs 1 through 11.

13. Respondent admits to the allegations in Paragraph 13.

14. Respondent admits to the allegations in Paragraph 14.

15. Respondent admits to the allegations in Paragraph 15, and emphasizes that at all times L.C. worked hard, was professional and was an exemplary secretary. She was an asset to all judges and staff; trained other secretaries, and patiently assisted self-represented litigants and lawyers with use of virtual proceedings.

16. As to the allegations in Paragraph 16, Respondent admits that he should have known about the prohibition of working remotely subsequent to the effective date of the Remote Work Policy, but respectfully notes that he believed he had the discretion as her manager to allow for periodic remote work in light of L.C.'s incredible work-ethic; the trust Respondent has for L.C. and because the periodic remote work did not negatively impact her work or the operations of the court.

17. As to the allegations in Paragraph 17, Respondent does not recall the exact interview, but believed he had discretion to allow periodic remote work as L.C.'s manager. Respondent does not recall the dates of remote work by L.C., but notes it was periodic,

approximately 3 to 6 days throughout the course of a month. The phrase in the allegation “for a period of approximately five to six months in 2022” is unclear and thus Respondent is not sure how to respond, except to state that L.C.’s remote work was not for the entirety of a five to six month period, but rather was periodic as noted above.

18. Respondent denies the allegations in Paragraph 18.

19. Respondent denies the allegations in Paragraph 19.

**WHEREFORE**, Respondent denies violating any and all Canons of the Code of Judicial Conduct, and specifically denies violating the following Canons of the Code of Judicial Conduct: Canon 1, Rule 1.1; Canon 2, Rule 2.1; and Canon 2, Rule 2.3(A).

**ACCORDINGLY**, Respondent respectfully requests that the Formal Complaint be **DISMISSED**.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE TO ALL COUNTS**

The Complaint fails to state a cause for action under the New Jersey Code of Judicial Conduct (“CJC”) against Respondent and Respondent reserves the right to move at or before the hearing in this matter to dismiss same.

#### **SECOND AFFIRMATIVE DEFENSE TO ALL COUNTS**

Respondent’s conduct did not violate Canon 1, Rule 1.1; Canon 2, Rule 2.1; and Canon 2, Rule 2.3(A) of the CJC.

#### **THIRD AFFIRMATIVE DEFENSE TO ALL COUNTS**

At all times relevant hereto, Respondent personally observed the highest standards of conduct.

**FOURTH AFFIRMATIVE DEFENSE TO ALL COUNTS**

At all times relevant hereto, Respondent acted in a manner that promoted public confidence in the independence, integrity, and impartiality of the judiciary and took reasonable efforts to avoid impropriety and the appearance of impropriety.

**FIFTH AFFIRMATIVE DEFENSE TO ALL COUNTS**

At all times relevant hereto, Respondent did not in any way use or attempt to use his position to gain personal advantage or deferential treatment of any kind.

**SIXTH AFFIRMATIVE DEFENSE TO ALL COUNTS**

While denying that any misconduct occurred, and to the extent that any misconduct may be found, any such misconduct is only minor misconduct.

**SEVENTH AFFIRMATIVE DEFENSE TO ALL COUNTS**

Complainant cannot prove the allegations set forth in the Complaint by clear and convincing evidence.

**EIGHTH AFFIRMATIVE DEFENSE TO ALL COUNTS**

Respondent undertook reasonable efforts to ensure his actions conformed to the CJC.

**NINTH AFFIRMATIVE DEFENSE TO ALL COUNTS**

Respondent never acted contrary to the CJC.

**TENTH AFFIRMATIVE DEFENSE TO ALL COUNTS**

Respondent never acted contrary to the CJC with knowledge of the specific misconduct.

**ELEVENTH AFFIRMATIVE DEFENSE TO ALL COUNTS**

If any misconduct is found it is, at best, an honest mistake as to the scope of Respondent's discretion as a manager running his Chambers.

**TWELFTH AFFIRMATIVE DEFENSE TO ALL COUNTS**

Respondent is not aware of any prior Formal Complaints against Judges in this jurisdiction or any other jurisdictions of a similar nature. Respectfully, the principles of In the Matter of Ernest L. Alvino, 100 N.J. 92 (1985) and In the Matter of Phillip N. Boggia, 203 N.J. 1 (2010) should be applied and the matter dismissed.

**THIRTEENTH AFFIRMATIVE DEFENSE TO ALL COUNTS**

Respondent reserves the right to amend his Verified Answer to assert additional affirmative defenses prior to or at the hearing of this matter.

**MITIGATING FACTORS**

**FIRST MITIGATING FACTOR**

Respondent has the highest respect for the work of the Committee and its members and staff and acknowledges that the work of the Committee and its members and staff is of an immense value to the administration of justice.

**SECOND MITIGATING FACTOR**

Respondent has great respect for the work of the Administrative Office of the Courts and respects its Policies and Directives.

**THIRD MITIGATING FACTOR**

Respondent was completely forthcoming about the periodic remote work when asked about it by the Assignment Judge and Trial Court Administrator and during the ACJC interview and has been cooperative at all times.

**FOURTH MITIGATING FACTOR**

Respondent ended the remote work for L.C. immediately when he was advised by the Assignment Judge and Trial Court administrator that he did not have such discretion.

**FIFTH MITIGATING FACTOR**

Respondent has displayed openness, candor, truthfulness, and contrition in this process.

**SIXTH MITIGATING FACTOR**

There is no risk that Respondent will engage in similar misconduct in the future and the circumstances likewise show no likelihood of repeat offenses.

**SEVENTH MITIGATING FACTOR**

Respondent has been a Judge for twenty-two years (2002-2009 as an Administrative Law Judge and 2009 to the present as a Superior Court Judge) and has had no prior complaints or discipline.

**EIGHTH MITIGATING FACTOR**

Respondent was selected by the Chief Justice to become Presiding Judge of the Civil Division in 2012, after which the backlog was reduced by well over fifty percent just prior to the pandemic, despite high judicial vacancies.

**NINTH MITIGATING FACTOR**

Respondent is the designated Acting Assignment Judge in the event the Assignment Judge is not available. Respondent is further the designated Complex Business Litigation Judge and designated Environmental Judge.

**TENTH MITIGATING FACTOR**

Respondent handles one of the most complex, intense, and large caseloads in the State. Despite this type of caseload, Respondent handles all matters in a timely, professional, and thorough manner.

**ELEVENTH MITIGATING FACTOR**

Respondent has had and continues to retain an excellent reputation as a Judge.

### **TWELFTH MITIGATING FACTOR**

The New Jersey Law Journal Judicial Survey ranked Respondent as follows: in 2012 as the highest ranked Judge (No. 1) and in 2015 as the third highest ranked Judge in Mercer County. No surveys have been conducted since 2015.

### **THIRTEENTH MITIGATING FACTOR**

Respondent is perceived and recognized by his peers, the legal profession and litigants as a Judge who works hard and displays excellent character and behavior.

### **FOURTEENTH MITIGATING FACTOR**

Respondent is very proud of the frequent comments he receives from jurors following trials about the professional, respectful, and efficient manner in which he presides over trials.

### **FIFTEENTH MITIGATING FACTOR**

Respondent considers it an honor to be a Judge and takes this position and its responsibilities very seriously. Respondent works hard every day, including nights and weekends, to further the mission of the Judiciary. Respondent always acts in a manner to promote public confidence in the independence, integrity, and impartiality of the Judiciary and would never lend the prestige of the office to advance the private interests of anyone.

### **SIXTEENTH MITIGATING FACTOR**

Respondent (a) has served and continues to serve on Supreme Court Committees (currently as the Vice-Chair of the CDR Committee), (b) is active in the County and State Bar Association, (c) teaches numerous times each year for the ICLE, State Bar, County Bar and/or for Judges at Judicial College, new Judges training and at Judicial Civil Retreats, (d) volunteers to teach at local schools, (e) served as a Judge many times for the County and State mock trial competitions, and (f) in 2014 started an annual Veterans Day program at the courthouse that honors employees and

their family members that have served our country; (g) will continue to engage in such “extra-judicial” activities in the future.

### **SEVENTEENTH MITIGATING FACTOR**

Respondent has been working with L.C. since 2009 and considers her an exemplary employee and a person of the highest character. L.C. was chosen to be head secretary for the Vicinage by Assignment Judge Mary Jacobson. L.C. is highly respected by her fellow Judiciary employees, Judges and members of the legal profession. L.C. observes the highest standards of conduct and is a model employee, and is frequently tasked with training new secretaries. L.C. was working during the periodic remote work and Respondent is specifically aware of this fact because Respondent was in constant contact with L.C. throughout the day. During her periodic remote work, L.C. also provided Court services to anyone who called or otherwise contacted her, including attorneys, litigants, administration, and members of the public. L.C.’s periodic remote work never interfered with the Judiciary’s operational needs. L.C. has never had any discipline or complaints prior to this matter.

### **DEMAND FOR HEARING**

Respondent, Douglas H. Hurd, P.J.Cv., hereby requests a hearing on all issues raised in the Complaint.

### **DESIGNATION OF COUNSEL**

Respondent, Douglas H. Hurd, P.J.Cv., hereby designates Thomas P. Scrivo, Esq. as counsel of record in this matter.

### **DEMAND FOR DISCOVERY**

Consistent with Rule 2:15-13(a), Respondent hereby requests the following discovery:

1. All writings as defined by N.J.R.E. 801(e) or other tangible objects including audiotapes, transcripts or those obtained from or



- belonging to Respondent, including but not limited to any interviews conducted by the ACJC prior to the ACJC's filing of the Formal Complaint;
2. All transcripts of the interviews conducted by the ACJC prior to the ACJC'S filing of the Formal Complaint, including but not limited to Respondent, his legal secretary, or any other witness interviewed by the ACJC;
  3. Written statements including any memoranda, reporting, or summarizing oral statements made by any witness, including Respondent, his legal secretary, or any other witness interviewed by the ACJC;
  4. Identity and contact information for fact witnesses and list of all persons who will be called as witnesses;
  5. Investigation reports;
  6. Identity of expert witnesses and opinions;
  7. Any and all documents Complainant intends to rely on at the hearing in this matter or that relate in any way to the allegations of the Formal Complaint;
  8. All writings as defined by N.J.R.E. 801(e) or other tangible objects including audiotapes, transcripts, or those obtained from any person who was interviewed by the ACJC or has knowledge of Complainant's allegations against Respondent; and
  9. All other information in the ACJC's file pertaining to Respondent or related to the Complaint in accordance with Rule 2:15-13.

**O'TOOLE SCRIVO, LLC**  
Attorneys for Respondent,  
Douglas H. Hurd, P.J.Cv.

By: /s/ Thomas P. Scrivo  
Thomas P. Scrivo

Dated: March 7, 2024

VERIFICATION

Honorable Douglas H. Herz, P.J.Cv., the Respondent in the within disciplinary action and hereby certifies:

- 1) I have read every paragraph of the foregoing Verified Answer to the Complaint and verify that the statements herein are true and based on my personal knowledge.
- 2) I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

  
Hon. Douglas H. Herz, P.J.Cv.

Dated: March 7, 2024