

**ROSENBERG | PERRY & ASSOCIATES, LLC**

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**FILED**

OCT 30 2023

A.C.J.C.

|                              |  |                                  |
|------------------------------|--|----------------------------------|
|                              |  | : Supreme Court of New Jersey    |
|                              |  | : Advisory Committee on Judicial |
| In the Matter of             |  | : Conduct                        |
|                              |  | :                                |
|                              |  | : Docket No: ACJC 2023-20        |
|                              |  | :                                |
|                              |  | :                                |
| Lewis J. Korngut             |  | : VERIFIED ANSWER TO THE FORMAL  |
|                              |  | : COMPLAINT                      |
| Judge of the Municipal Court |  | :                                |
|                              |  | :                                |
|                              |  | :                                |
|                              |  | :                                |

**ANSWER TO COMPLAINT**

Lewis J. Korngut, by way of Verified Answer to the Complaint states:

Facts

1. Admitted.
2. Admitted.
3. Admitted.

Count 1

4. Admitted.
5. Admitted in Part, Denied in Part. Respondent admits to learning the defendant's Blood Alcohol Content ("BAC") prior to any document reflecting same being entered into evidence. However, this was not based on a conversation with the arresting officer, as alleged in the Complaint. Rather, the

Prosecutor provided the Court with an email drafted by defense counsel requesting assistance in resolving the case. In the email, defense counsel asserted the defendant had a "high" BAC. [See Exhibit A]

6. Admitted.
7. Admitted in part, Denied in part. Respondent admits to engaging in administrative/procedural discussions with the State, such as the scheduling of matters, but denies substantive *ex parte* discussions.
8. Admitted in part, Denied in Part. Respondent admits to conferencing State v. Andre A. Hunt with the Municipal Prosecutor, Public Defender, and Private Defense Counsel. Respondent further admits to reviewing the accident report in chambers, which was part of the Court's file. Respondent reviewed the report to ensure that all the matters relating to the above-mentioned defendant were handled contemporaneously.
9. Admitted. However, Respondent asserts that a Judge of the Municipal Court is permitted to ascertain whether interested parties have been notified as to any potential resolution in a matter before the Court. The officers were victims of an assault and were consulted in their capacity as victims of an assault. Pursuant to Rule 7:6-2(a)1 "If a guilty plea is entered, the court may hear the witnesses in support of the complaint prior to judgment and sentence and after such hearing may, in its discretion, refuse to accept the plea."
10. Admitted in Part, Denied in Part. Respondent admits to speaking with the police officer but denies that the conversation related to the facts of the case. It is Respondent's recollection that the conversation was limited to ascertaining any objections to the proposed resolution by the Officer.
11. Admitted.
12. Admitted. During the pendency of the proceeding Respondent heard testimony from two (2) officers concerning the allegations included in the complaint. Respondent adjourned the matter eight (8) times at the request of defense

counsel and defendant ultimately resolved his matter by way of favorable plea agreement.

13. Respondent has no recollection of this exchange and lacks sufficient information to answer the allegation.
14. Admitted.
15. Admitted.
16. Admitted in Part, Denied in Part. The Court only spoke with the Officer in chambers regarding scheduling and administrative issues. Respondent has no recollection as to whether defense counsel or the Prosecutor was present. However, Respondent made no calls to the Lawrence Township Police Department. Respondent has no recollection as to any *ex parte* communications with the Prosecutor regarding the merits of the case.
17. Admitted in Part, Denied in Part. Respondent does not recall any substantive *ex parte* communications with the State outside of the attached Exhibit A. The communication with the law enforcement officer was simply related to scheduling.
18. Denied.

Count II

19. Admitted.
20. Admitted. However, Respondent denies any conversations with Officers pertaining to any matters before the Court. These conversations were limited to greetings and polite small talk while waiting to enter the courtroom.
21. Respondent has no independent recollection of this event. However, Respondent again reiterates that any communication with law enforcement officers were limited to simple greetings. Respondent denies engaging in any substantive *ex parte* discussions with any officer pertaining to a matter before the Court.
22. Admitted in Part, Denied in Part. Respondent admits to making the alleged Statements. However, the Officer in question played no role in the matter before the Court. The officer had been retired for years and was working as a

security officer. Moreover, the Court's passing comment was in response to the defendant praising the Officer in question with respect to another matter unrelated to the case before the Court and Respondent concurring with the litigant's comments.

23. Admitted.

24. Admitted. Respondent notes that attendance by Judiciary employees at this community event was common and at no time did he advertise himself as a member of the Judiciary. Moreover, Respondent resides in Lawrence and his attendance was intended as participation in "neighborhood camaraderie." Respondent was invited to attend the event by the previous Municipal Court Judge (who was the current Township Manager) and wasn't aware his attendance was inappropriate until issuance of this complaint.

25. Admitted in Part, Denied in Part. Respondent denies formally attending the retirement ceremony. Respondent admits to briefly observing the ceremony while present in the Municipal Building on other business. Respondent inadvertently happened upon the ceremony, observed the retiring Chief of Police giving a speech, left, and engaged in no communication with the retiring Chief of Police. The entire exchange lasted a matter of minutes.

26. Admitted in Part, Denied in Part. Respondent notes his attendance at these sporting events included only two (2) events. Respondent also notes that, upon researching the propriety of his attendance at these events, he ceased any further activities of this nature. To the best of Respondent's recollection, his last appearance at a social event of this nature was in or around 2019. However, Respondent denies frequenting the local Hooters Restaurant. Respondent attended the Hooters a single time with his court staff. Unbeknownst to Respondent, a police officer was incidentally present at the restaurant.

27. Admitted.

28. Admitted in Part, Denied in Part. Respondent can only recall one or two occasions wherein the code enforcement officer formally appeared before Respondent.

29. Respondent has no personal knowledge as to how many ordinance violations were issued, nor as to their dates of issuance.

30. Admitted.

31. Admitted in Part, Denied in Part. Although the Code Enforcement Officer has issued multiple tickets in Lawrence Township, Respondent asserts that the code enforcement officer only appeared in front of him only a couple of occasions.

32. Admitted.

### Count III

33. Admitted

34. Admitted in part, Denied in Part. Respondent admits to the factual allegations, but denies having a "propensity to use profanity."

35. Admitted in Part, Denied in Part. Respondent admits to making these comments. Respondent denies doing so while in the presence of counsel as these comments were made outside the presence of litigants or attorneys.

36. Denied. Rule 3.4 states that "A Judge shall maintain order and decorum in judicial proceedings." At no point did Respondent use profanity during a court case, nor in the presence of litigants or attorneys. Expressions of frustration directed at a computer, while crude, did not occur during a judicial proceeding. Similarly, Rule 3.5 requires a Judge to be "patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others whom the Judge deals within an official capacity." Respondent's comments were directed towards an inanimate object (a computer) and expressed his private frustration with the Zoom video format. At no point did Respondent make any inappropriate comments towards litigants, jurors, witnesses, court staff or lawyers.

37. Admitted in Part, Denied in Part. Respondent admits to violating Canon 2, Rule 2.1, Canon 1 Rule 1.1, and Canon 5, Rule 5.1 (B) (2), Respondent denies violating the remaining canons of the Code of Judicial Conduct.

### Mitigating Factors

1. The Respondent has no prior history of **any** discipline; both as a Judge and a Prosecutor.
2. Respondent has been on the bench for six (6) years with no previous complaints made and was reappointed three times in Lawrence Township and twice in North Hanover Township in 2023.
3. Respondent has been a lawyer for thirty-four (34) years and a Deputy Attorney General for twelve (12) years, with no prior history of discipline or complaints either professional or personal;
4. During the course of Respondent's legal career, he received multiple awards, including Deputy Attorney General of the year in 2005.
5. Respondent is well respected in the legal community and has treated litigants, court staff, and attorney's with patience, kindness, and respect through the entirety of his judicial career.
6. The Respondent is able and willing to learn from his mistakes. For example, upon learning that it was inappropriate to attend sporting events with law enforcement, he immediately ceased that behavior. This was years before the issuance of any complaints.
7. The Respondent is admitting to his conduct and expressing remorse.
8. There is no risk of Respondent reoffending. The gravamen of the allegations pertain to isolated incidents occurring years ago and are aberrational in nature. He will continue to abide by the Judicial Code of Conduct as he can learn from any past conduct contravening the Judicial Canons. Furthermore, although asked to apply for reappointment in Lawrence Township, Respondent is declining to do so.
9. The primary purpose of judicial discipline is "to preserve the public's confidence in the integrity and independence of the Judiciary, not to punish an offending Judge." In re

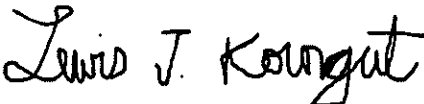
Rodriguez, 196 N.J. 450. 956 A.2d 349 (2008) (Page 13.) In Respondent's matter, a reprimand would ensure that the integrity of the office is preserved without unduly punishing Respondent for his lapses of judgement.

10. The scope of the conduct when compared with other judicial ethics decisions necessitates a reprimand as opposed to more severe discipline. In In Re McCloskey Docket No. ACJC 2010-283 (Page 11), while recommending a public reprimand, the Advisory Committee on Judicial Conduct noted that, in engaging in an *ex parte* communication with the municipal prosecutor regarding a pending DUI trial, the municipal court Judge "contravened Respondent's obligation to perform the duties of his judicial office impartially and fairly...and forced the case to be retried before a new municipal court Judge and Prosecutor." However, even against that backdrop, the Advisory Committee found that, "Respondent labeled his own conduct as 'unprofessional, improper and insensitive,' and, in so doing, demonstrated his belated understanding of its significant impropriety. We further acknowledge Respondent's long history as a municipal court judge and his solid reputation." Because of these mitigating factors, they recommended a public reprimand. In the current matter, Respondent's behavior, while admittedly inconsistent with the Canons, did not injure any litigant or prejudice any party. Respondent has a long history with no impropriety, and has a stellar reputation in the legal community.

**Verification of Answer**

I, Lewis J. Korngut, am the Respondent in the above-mentioned complaint and hereby certify as follows:

1. I have read every paragraph of the foregoing 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 are willfully false, I am subject to punishment.



Lewis J. Korngut, J.M.C.

Dated: 10/30/2023





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# EXHIBIT "A"

Steven@njdwlesq.com  
Wednesday, May 06, 2020 10:08 AM  
Alfred Vuocolo  
State v. Duke Duquay

(to)  
Subject:

Al, I hope this email finds you well. The last time we were in court in this was 11/4/2019. It was set for trial on January 29, 2020. And was adjourned, without notice to me or my client, because the officer was unavailable. My client had family come in from Massachusetts to support hi. I was on my way to the court, when my secretary called to inform the court I was running late. The court informed her, the trial was off. It was then rescheduled to May, 15, 2020 but that date is now off.

Al, this is a case we should work out. I am looking for a lower tier under the old statute. Yes, his reading was high, but the complete in-station was not provided, and I was informed that it was not preserved. As such, that should give you what you need to resolve it to a lower tier. We could do it at one of those zoom courts and have the defendant sign an affidavit. Please contact me.

BTW, your email on the letterhead is wrong. The ending should be .com and not .org.

Thanks,

Steven H.

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Certified by the New Jersey Supreme Court as a Municipal Court Trial Attorney  
Board certified in DUI Defense by the NCDD  
Instructor in SFST's  
Alcotest Operator  
Passed ACS Lawyer-Scientist Examination

Ken -  
This is a DUI that was scheduled for  
trial. We never had a pre-trial  
because you were off when it was  
scheduled for trial. I would like to  
schedule this for a PTC or phone  
w/ the atty. I'm not looking to throw  
out the reading but think a discussion  
might be helpful.  
Thanks  
AH