

**FILED**

**AUG 15 2019**

**A.C.J.C.**

SUPREME COURT OF NEW JERSEY  
ADVISORY COMMITTEE ON JUDICIAL CONDUCT

IN THE MATTER OF

ALBERTO RIVAS,  
ASSIGNMENT JUDGE OF  
THE SUPERIOR COURT

Docket No.: ACJC 2019-215

**ANSWER TO VERIFIED COMPLAINT**

Respondent, ALBERTO RIVAS ("Respondent"), by way of Verified Answer to the Complaint filed on behalf of the New Jersey Supreme Court Advisory Committee on Judicial Conduct (the "ACJC"), hereby states:

**FACTS:**

1. Plaintiff filed an Order to Show Cause ("OTSC") with Temporary Restraints.
2. In the OTSC, Plaintiff alleged that the Defendant had come into possession of suggestive photographs of the Plaintiff in various stages of undress. The Plaintiff also alleged that the Defendant had sent a set of these photographs to Plaintiff's place of employment. Plaintiff stated her concern in the OTSC of the Defendant further disseminating the photographs via social media or otherwise publicizing the photographs. Plaintiff sought a return of the photographs.
3. The case was initially before the court as a potential revenge porn or blackmail matter. During the hearing, however, it became apparent to the Respondent this was not the case. Plaintiff was attempting to perpetuate a fraud on the court with her filing.
4. When the court questioned Plaintiff as to how Defendant came into possession of the photographs, Plaintiff testified that a third person had been involved in the creation and alleged distribution of the photographs, which, according to the Plaintiff's testimony, were intended only for the Plaintiff and her paramour's personal and private use.
5. As the hearing proceeded, it became abundantly clear to the Respondent that the story Plaintiff was weaving was a complete fabrication. The Respondent concluded that this litigation was an

effort by Plaintiff to utilize the court system with the sole intent of causing harm and embarrassment to the Defendant.

6. Evidence during the hearing established that Plaintiff's paramour was Defendant's husband, who was also present in the courtroom throughout the entire proceeding.
7. Defendant had been married to Plaintiff's paramour for approximately eleven years and together they had a ten-year old daughter.
8. The Plaintiff and the paramour had an ongoing relationship during the entire length of Defendant's marriage. Defendant testified that the Plaintiff had harassed her during the pendency of the affair, and her marriage.
9. The testimony at the hearing revealed there was no third person involved in the distribution of the photographs. Both the Plaintiff and Defendant had a set of the photographs in question.
10. Plaintiff claimed that the Defendant mailed the photographs to Plaintiff's place of employment, ostensibly to cause her professional damage. Per Plaintiff, both sets of photographs were allegedly mailed to the parties' respective place of employment. The Respondent reviewed both envelopes that were allegedly delivered to each party at their respective place of employment.
11. The inspection of both envelopes revealed, which was noted on the record, that neither envelope had any postmarks nor any other evidence indicating that the U.S. Postal Service had handled either envelope.
12. The Plaintiff worked at a private company in which the mailroom handled the receipt and distribution of all incoming mail addressed to its employees. The Respondent found no objective evidence indicating that the envelope had gone through the company's mailroom, such as a postmark or a "received stamp."
13. The envelope sent to the Defendant, who worked at a law office, had no markings or evidence that the U.S. Postal Service had handled the envelope.
14. The Respondent, judging the credibility of the parties and the evidence presented, concluded and stated on the record, that Plaintiff had orchestrated the sending and receipt of the

photographs to Defendant in an effort to portray herself as a victim and to impugn Defendant's character, while at the same time, falsely accusing the Defendant of wrongdoing.

15. The Respondent concluded that the Plaintiff used the court system and the OTSC process to perpetuate a fraud on the court system and to enmesh the court system into the drama the Plaintiff and her paramour, Defendant's husband, had been engaging in.
16. The Respondent concluded that the Plaintiff, through the OTSC process, had dragged the Defendant into a public courtroom with the objective, if not to humiliate her, at minimum to embarrass and inconvenience her. The Respondent also concluded, on the record, that Defendant had nothing to do with the handling of the photographs and did not have anything to do with the dissemination of the photographs, and that Defendant was the victim in this case.
17. The Respondent was very troubled with the Plaintiff's and paramour's actions, especially given the efforts Plaintiff utilized to undermine the integrity of the court system by submitting a false court filing, in bad faith, taking up valuable court resources, and using the court system to humiliate and embarrass the Defendant. However, Respondent realizes its response was inappropriate. The Respondent let his feelings about what the Plaintiff had done, by placing Defendant in such a humiliating position, influence the Respondent's language, tone and demeanor; all of which were inappropriate, notwithstanding the Respondent having been manipulated into the legal charade Plaintiff had orchestrated.


#### **COUNT 1:**

18. As to Paragraphs 16 and 17, of the Complaint, the Respondent admits to violations of Canon 1, Rule 1.1, Canon 2, Rule 2.1 and Canon 3, Rule 3.5. Respondent denies any violations of Rule 2.2 and Rule 3.6 (A) and (C). With respect to Rule 2.2, Respondent states that the response was not dictated by family, social, political, financial or other relationship or interests. The response was dictated by the fact that Plaintiff's filing of the OTSC was not made in good faith. Regarding Rule 3.6(A) and (C), Respondent's comments were not motivated by bias or prejudice, but were dictated by the nature of the character of the litigation as previously described.

**COUNT 2:**

19. Respondent repeats and incorporates his answer in Paragraph 18 by way of response to Paragraph 19 of the Complaint. With respect to the allegation involving Plaintiff's paramour, F.T., he was not a litigant and Respondents comments were directed to the Defendant, advising the Defendant to withdraw from what appeared to be an intolerable situation as previously described.

Wherefore, unless requested by the ACJC, in light of the Respondent's admission to the majority of the allegations, the Respondent will waive a formal hearing before the ACJC. The Respondent's language was intemperate and not judicial in word or tone. The Respondent requests that the ACJC take into consideration the mitigating circumstances that explains the response, although it is acknowledged and recognized that it does not excuse the actions taken. The Respondent deeply regrets the actions taken resulting in these proceedings.

  
ALBERTO RIVAS

Dated: August 15, 2019