JUDICIAL QUALIFICATIONS COMMISSION
STATE OF GEORGIA

In re: Inquiry Concerning Judge Christina Peterson (Complaint Nos. 2020-280, 2020-316, 2020-317, 2020-525, 2020-017, 2021-103, 2021-104, 2021-155, 2021-339, 2022-097, 2022-275)

Supreme Court Docket 22Z0180

HEARING PANEL'S REPORT AND RECOMMENDATION

On 21 September 2021 the Director of the Judicial Qualifications Commission ("JQC") filed formal charges against Respondent Judge Christina J. Peterson. After amending the charges and withdrawing or dismissing certain allegations, the Director now asserts thirty counts of misconduct arising from Respondent's alleged violations of the Georgia Code of Judicial Conduct ("CJC"), including Rules 1.1, 1.2(A-B), 1.3, 2.2, 2.4(A) 2.5(A), 2.8(B), 2.9(A-D), 2.12(A), and 3.1(A).

These thirty counts address Respondent's behavior as both a judicial candidate and a sitting judge and involve actions on and off the bench. The charges fall into ten episodes of alleged misconduct: (1) social media posts; (2) improper contact with represented parties during litigation; (3) violating courthouse security protocols to conduct a wedding; (4) obstructing access to public court records; (5) abusive interactions with a fellow judge and other county officials; (6) holding a *pro* se litigant in contempt and imposing the maximum term of incarceration upon her; (7, 8) exhibiting judicial incompetence, administrative mismanagement, and indifference relating to a petition for year's support and letters of administration; (9) routine backdating of orders; and (10) systemic judicial incompetence.

Pursuant to JQC Rule 24(C), Respondent was afforded a full hearing on these charges, one that spanned four separate convenings: 5-6 September 2023, 14-15 September 2023, 28-29 November 2023, and 9 February 2024. The Hearing Panel, having carefully considered the evidence presented and the arguments made during the seven days of hearings, now issues the following recommendation to the Supreme Court pursuant to JQC Rules 24(D), (E).

I. Procedural History

On 21 September 2021 the Director filed the original formal charges against Respondent ("Original Formal Charges") including many claims that would later be re-asserted in the operative Amended Formal Charges. After the Director filed a motion for interim suspension on 28 September 2021, the Supreme Court denied the same on 15 October 2021. Respondent then filed an answer and motion to dismiss the Original Formal Charges on 18 October 2021 and 28 October 2021, respectively.

On 15 July 2022, the Director filed the Amended Formal Charges. The Director's second motion for interim suspension followed on 19 July 2022, which the Supreme Court again denied. Respondent filed an answer to the Amended Formal Charges on 12 August 2022.

Pursuant to the Hearing Panel's 6 September 2022 Scheduling Order, on 2 December 2022 Respondent filed a motion to dismiss or in the alternative motion for summary judgment and a motion in limine to exclude "conduct which is beyond [the JQC's] jurisdiction to regulate." Mot. at 2. The Director responded on 30 December 2022. The Hearing Panel held a hearing concerning Respondent's motion for summary judgment on 30 May 2023. There, the Director, acknowledging the Supreme Court's recent ruling in *Inquiry Concerning Coomer*, 315 Ga. 841, 850 (2023) ("*Coomer I*"), that the CJC "does not reach conduct of those who are neither judges nor judicial candidates" and thus that the JQC lacks jurisdiction over misconduct -- no matter how serious or

relevant -- that occurred prior to a person becoming either a judge or a judicial candidate, dismissed Counts 5-12 and 16-17. MSJ Hr'g Tr. at 2-7. On 4 July 2023 the Hearing Panel issued an order denying Respondent's motion as to the remaining counts.

By way of its 2 August 2023 Scheduling Order, the Hearing Panel set an evidentiary hearing concerning the Amended Formal Charges for 5-6 September 2023 and 14-15 September 2023. In anticipation of the evidentiary hearing, on 25 August 2023 the Director filed a notice of intent to introduce 404(b) evidence and Respondent filed two motions *in limine*. The first sought to exclude non-exculpatory statements of certain of Respondent's clerks who were expected to testify at the evidentiary hearing. The second moved to preclude opinion testimony about (1) whether Respondent's behavior affected the witness or the community; (2) social media material that was attached to another filing, lacked authenticity, constituted protected speech, and/or was not best evidence; and (3) the video related to Complaint 2020-017[1].

The parties, represented by vigorous and thorough counsel, were unable to conclude the presentation of their evidence in the original four days allotted. Thus, pursuant to an Order dated 10 October 2023, the Hearing Panel set aside two additional days for testimony on 28-29 November 2023. Before the hearing resumed, the Director filed a motion dismissing Counts 18, 20, 22, 23, 24, 27, 29, 36, and 45. Respondent, upon the close of the Director's evidence, moved for a directed verdict on all remaining counts on 28 November 2023. The Director filed her opposition to that motion on 18 December 2023. Pursuant to the Hearing Panel's final Scheduling Order dated 25 January 2024, the parties reconvened for argument on 9 February 2024.

[1] Respondent's motion referred to "charge 2021-017" but the correct reference was JQC Complaint 2020-017.

II. Legal Standards

Per JQC Rule 24(E), the Hearing Panel shall provide to the Supreme Court a report and recommendation setting forth "proposed findings of fact, conclusions of law, any minority opinions, and the order of dismissal or recommendation for sanction." The Director must prove charges of misconduct by "clear and convincing evidence." JQC Rule 7. Assuming the Director meets her burden, the Hearing Panel must then determine whether there are "constitutionally prescribed circumstances in which judicial discipline may be imposed." *Coomer I*, 315 Ga. at 847.[2] Those grounds include

> (1) willful misconduct in office; (2) willful and persistent failure to perform the duties of office; (3) habitual intemperance; (4) conviction of a crime involving moral turpitude; [and] (5) conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

JQC Rule 6(A). Subject to the Constitution, the JQC Rules authorize the Hearing Panel to recommend an enumerated list of sanctions, including removal, suspension[3], reprimand, censure, or other appropriate disciplinary action. JQC Rule 6(B).

III. Discussion

A. Factual Findings

The State Bar of Georgia admitted Respondent to practice law in 2013. She began her legal career at a private firm in Atlanta before becoming a prosecutor first for the Douglas County and then the Fulton County District Attorney's offices. Respondent qualified to run for the office of Probate Court Judge of Douglas County on 5 March 2020. On this date, Respondent became a

[2] Internal citations and quotations have been omitted throughout unless otherwise stated.

[3] As discussed in the concurrence below, this suspension must be paid, making it more of an extended reprimand than a true separation from the responsibilities (and benefits) of the judicial role. And it certainly affords the taxpayers no relief from a judge who has failed to meet the basics of ethical judicial performance.

"judicial candidate" and was thus subject to the CJC.[4] Respondent won the primary election on 8 June 2020. With no opposition in the general election, she won the same on 3 November 2020. Respondent was sworn in as the Probate Court Judge for Douglas County on 29 December 2020. Since becoming a judicial candidate, Respondent has engaged in the following episodes of conduct which are the subject of these disciplinary proceedings:

1. Social Media Posts (Counts 1-4)

Before being sworn in as the Probate Judge of Douglas County, Respondent made the following posts to the publicly viewable portion of her Instagram account "officialchristinaj" ("Instagram Account"). Hr'g Tr. Vol. 1 at 79, 87-88.

a. *Rosebar Post*

Respondent posted to her Instagram Account a flyer for a "Black and Educated" event at Rosebar, a commercial establishment in Atlanta. Director's Ex. 4 ("Rosebar Post").[5] The flyer featured a large photo of Respondent, her online handle "@officialchristinaj," and the name and address of the bar. Respondent added a caption on her Instagram feed with another online handle -- "#judgetobe" -- as well as a plug for her brief appearance on a reality TV show. Members of

[4] *Coomer I*, 315 Ga. at 850 ("The Code repeatedly makes clear that it governs the conduct of … 'judicial candidates,' a defined term that includes persons applying for judicial appointments, as well as elected candidates and announced appointees waiting to be sworn in.").

[5] The record is unclear about the date of the Rosebar Instagram posting. The solicitation has no date for the actual event. The Director alleges it was posted on or about 12 March 2020. Amended Formal Charges at 4. Respondent provided inconsistent testimony about the date. She initially told the JQC Investigative Panel that she made the Rosebar Post "back before COVID" when she "wasn't even a candidate." Director's Notice of Filing, Ex. B at 12. Respondent later testified that she could not remember when she made the post. Evid. Hr'g Tr. Vol. 1 at 88. Considering basic context clues such as Respondent's inclusion of "#judgetobe" and "If you coughing, stay home" (presumably a reference to the COVID pandemic that resulted in an initial emergency declaration from the Governor on 16 March 2020) in her posting, the Hearing Panel finds that Respondent *likely* made the Rosebar Post after 5 March 2020 when she qualified as a judicial candidate. However, that likelihood does not rise to the level of clear and convincing proof.

the public viewed the post after Respondent had become a judicial candidate. The post garnered at least 114 likes.

b. *Birthday Cash App Post*

On 26 August 2020 -- Respondent's birthday -- Respondent posted via her Instagram Account a picture of herself wearing a tiara that read "birthday girl." The caption of the post invited birthday donations, stating in part "If anyone feels like sharing their quarantine wealth, cashapp $cjpesq. … Thank you for all the gifts." Director's Ex. 1 ("Birthday Cash App Post"); *see also* Director's Ex. 3. CashApp is a financial services application available on cellphones that permits users to send money to other CashApp users, akin to PayPal and Venmo. "$cjpesq" is Respondent's personal CashApp account. Evid. Hr'g Tr. Vol. 1 at 101-102. When Respondent made the Birthday Cash App Post, "Judge-Elect" was a prominent part of the description of her Instagram Account. Director's Ex. 2. In response to this post, Respondent was "getting Cash App from people [she] didn't know." Director's Notice of Filing, Ex. B at 8-10.[6]

c. *Wine Bottle Wednesdays Post*

On 9 November 2020 Respondent posted on her Instagram Account a solicitation for a "Wine Bottle Wednesdays" event at Tribeca Lounge in Atlanta. Director's Notice of Filing, Ex. B at 15; Director's Ex. 51 ("Wine Bottle Wednesdays Post"). As with the Rose Bar post, the flyer featured a large image of Respondent. Respondent's post read: "See you Wednesday… Come party with me. -Judge-Elect CJ." The flyer for the event Respondent was promoting contained

[6] The Hearing Panel declines to credit Respondent's statements to the contrary at the evidentiary hearing, where her testimony evolved from not having received anything at all to *only* receiving money from two family friends and a colleague. Evid. Hr'g Tr. Vol. 1 at 102-106. The Panel finds Respondent's 19 February 2021 statements to the Investigative Panel to be more credible because Respondent provided them closer in time to the date of the Birthday CashApp Post, prior to the Director filing the Original Formal Charges, and before a motive to be dishonest (or forgetful) materialized.

prices for food and alcohol and provided a link for reserving a table at the lounge. The event was highlighted as the "#JudgeEdition." Respondent admitted that she "advertised" that she was a judge in order "to get people to come." Director's Notice of Filing, Ex. B at 15.

d. *Homeless Sexual Video*

When Respondent was a judicial candidate, she used the Twitter account "@LoveChristinaJ" ("Twitter Account"), the contents of which were viewable to the public. Evid. Hr'g Tr. Vol. 1 at 83; Director's Ex. 5. Part of Respondent's publicly available Twitter repertoire was a purportedly satirical video Respondent filmed in which she admonished another character for being duped by a philanderer named DeAndre, with whom the other character had been intimate. Director's Ex. 7 ("Homeless Sexual Video"). Donning a costume mustache and projecting a deep Southern drawl, Respondent warned that the other character needed to "get rid" of DeAndre because he was a "Homeless Sexual" who "says he's in love with you" and "wants to give you that good penis that y'all say those Black guys got . . . That man will do anything for a place to stay." *Id*. at 0:16-0:33, 0:59-1:02. This video was viewed by the public when Respondent was a judicial candidate. Evid. Hr'g Tr. Vol. 5 at 1201-02.

2. <u>March 2022 Homeowners Association Meeting</u> (Counts 13-15)

On 21 July 2021 Respondent, proceeding *pro se*, sued her homeowners association, the Silver Creek Ranch Homeowners Association ("Silver Creek HOA"), and the members of the HOA's Board of Directors, Conswellar Hall, Quinton Wiggles, and Emmanuel Saint. Among other things, Respondent's suit alleged that the defendants had breached the HOA bylaws by holding an improper election to select the Directors. Respondent sought an injunction to compel a special election conducted in accordance with the bylaws.

On 31 March 2022, while Respondent's lawsuit was pending, she attended a meeting of the Silver Creek HOA. Respondent knew at that time that the law firm of Lazega and Johanson represented the defendants in her lawsuit. Evid. Hr'g Tr. Vol. 3 at 695-96. Two of the Silver Creek HOA Board members attended the meeting: Quinton Wiggles and Derrick Houston (who had replaced Emmanuel Saint on the Board).

The Director submitted as evidence a recording made by someone standing adjacent to Respondent at the HOA meeting. Director's Ex. 50.[7] The video shows that during the public forum segment of the meeting Respondent posed questions to Wiggles and Houston -- represented opposing parties -- about "my lawsuit." Director's Ex. 50 at 1:49-1:53. Respondent urged them to "call a special election," and in exchange she offered "I will dismiss the lawsuit." *Id*. at 5:15-5:18. Respondent also attempted to solicit homeowners who "wanted to serve as a witness" and instructed them to contact her. *Id*. at 1:18-1:24. After several attendees began heckling Respondent, she engaged in hostile exchanges with them, mocked them, and casted petty and sarcastic retorts like "you wish" and "girl, you are in a low place." *Id*. at 4:38-5:01. After the HOA meeting adjourned, Respondent spoke directly with Wiggles and Houston, telling them that they were being given bad legal advice. Evid. Hr'g Tr. Vol. 5 at 1288.

3. Saturday Courthouse Wedding (Counts 19-21)

On Saturday 17 April 2021 Respondent was scheduled to perform a private wedding at the Douglas County Courthouse. Respondent believed the ceremony was to occur at 1:00 p.m. but the request for Douglas County Sheriff's deputy support listed the event time as 11:00 a.m.

[7] Because Exhibit 50 showed Respondent holding her own cellphone up toward the crowd, clearly recording the HOA meeting -- and because Respondent contested the Director's interpretation of some of what was said -- the Hearing Panel asked Respondent whether she had recorded any of the meeting. Respondent answered no. Evid. Hr'g Tr. Vol. 3 at 707-08. This answer is troublingly inconsistent with both the actual footage of Exhibit 50, which shows otherwise, and Respondent's own avowed (and demonstrated) practice of recording her volatile encounters.

Consequently, deputies were in place at 10:30 a.m. to conduct security screenings for Respondent's wedding party before they entered the courthouse. When Respondent did not arrive at the courthouse when expected, Douglas County Sheriff's Captain Trent Wilson telephoned Respondent and told her that the deputies had left and would not be returning for the day. He further explained that if Respondent's guests entered the courthouse, they (and she) would be violating security protocol because the guests would have foregone the necessary security screening before entering the building. Captain Wilson politely but plainly told Respondent that, given the departure of the deputies, having the wedding in the courthouse was no longer an option, but he added that she could either reschedule or conduct the ceremony outside on the courthouse steps. That was not the answer Respondent wanted to hear; she told Captain Wilson that she was going to let her guests in anyway. Evid. Hr'g Tr. Vol. 4 at 1080-87.

Once Respondent arrived at the courthouse, she encountered Deputy Alan Clayton, who, ironically, was improperly letting a group into the courthouse for a wedding ceremony *he* was going to conduct. Seeing this, Respondent called Douglas County Sheriff Tim Pounds and informed him that a deputy was at the courthouse performing a wedding. Respondent maintains that Sheriff Pounds, upon hearing this, told her "it's secure . . . He is security. You are fine to go in." Evid. Hr'g Tr. Vol. 1 at 196-97. Sheriff Pounds flatly disputes ever having cleared Respondent's guests' entry into the courthouse. Evid. Hr'g Tr. Vol. 4 at 1048.

After Respondent entered the courthouse, she again contacted Captain Wilson in a telephone call that she recorded.[8] Director's Ex. 67. She informed Captain Wilson that Deputy Clayton had let his wedding party in and inquired how he "bypassed the process." *Id*. at 0:16-

[8] Interestingly, Respondent was unable to produce a recording of her call to Sheriff Pounds in which he allegedly authorized the entry of Respondent's wedding party.

0:25. Captain Wilson told Respondent that he had "no idea," but nonetheless explained "he wrong, you wrong . . . He had no business doing that." *Id*. at 0:23-0:46. Deputy Clayton was subsequently disciplined for violating courthouse security protocol.

4. Obstructing Access to Public Records (Counts 25, 26)

On 22 April 2021 JQC Investigator Lance Alford and then-Deputy Director Courtney Veal visited the Douglas County Probate Court to obtain records related to the Saturday 17 April 2021 wedding that Respondent conducted inside the Douglas County courthouse. Upon approaching the customer service desk, Alford and Veal encountered Respondent's clerk DeKevion Buchanan. Alford presented his credentials and requested copies of the marriage application and marriage license related to the 17 April 2021 wedding, *i.e.*, an event that occurred only five days earlier.

Buchanan went to a back office to confer with colleagues about the request. He returned and told Veal and Alford that he could not provide the records. The evidence is mixed as to the reason(s) Buchanan provided. According to Alford's testimony, Buchanan explained that he could not process their request because it was Respondent's policy that such requests must be submitted in writing on letterhead and only then would Respondent consider whether to approve the written request -- there were no guarantees. Buchanan's testimony was that he understood that Veal and Alford could not obtain *free* paper copies of the records (which is what they had asked for) without first submitting a written request; however, they could pay for copies or merely view the documents in a public vault without a written request. *Compare* Evid. Hr'g Tr. Vol. 3 at 845 *with id*. at 864. Notably, the record is also mixed on whether Alford or Veal offered to pay (or were even told that paying was an option). *Compare id*. at 845-846 *with id*. at 865. Finally, the testimony conflicted about whether Buchanan advised Alford and Veal about the public vault as another option. *Compare id.* at 846-847 *with id*. at 866-867.

Once Veal and Alford understood that Buchanan could not process their request pursuant to Respondent's policy, they asked him to write the same down, which he did, on a Post-It note that was tendered at the hearing. Director's Ex. 10. Ultimately Veal and Alford left without receiving or viewing the records.

5. Abusive Conduct Towards County Personnel (Counts 28, 30)

a. *21 April 2021 e-mail to Judge Emerson*

Following the Saturday 17 April 2021 wedding Respondent performed in the Douglas County courthouse in contravention of Captain Wilson's directions (and courthouse security protocol), the Chief Judge of Douglas County Superior Court, David Emerson, after conferring with the Sheriff's Office, temporarily suspended Respondent's after-hours access to the courthouse. Judge Emerson sent Respondent an e-mail on 21 April 2021 expressing his concerns about the security risks inherent in Respondent's conduct that prior Saturday and acknowledging her newly restricted building access. Judge Emerson copied Sheriff Pounds and Captain Wilson on the message. In his e-mail, Judge Emerson endeavored to explain how Respondent's actions had "endangered the lives of all who work in the courthouse." As an example of what *could* have occurred, Judge Emerson provided an excerpt from a 2014 CNN report about someone who, equipped with weapons, body armor, and handcuffs planned an attack on a courthouse in Georgia. Respondent apparently did not appreciate the message. Her reply inexplicably expanded the conversation by adding a county commissioner and county administrator to the distribution list. And it lowered the level of discourse to a juvenile *ad hominem* attack in which Respondent questioned Emerson's judicial authority and competency and injected race into a situation that had not involved it in any way. Respondent concluded her very public e-mail by inveighing "Please retire as this county has outgrown your spirit." Director's Ex. 12.

b. *Requests for After-Hours Access*

On 21 April 2021, following Judge Emerson's e-mail, Respondent (through her staff) submitted three requests for after-hours access to the courthouse during odd times of the night and early morning. Specifically, Respondent requested access from 5:00 p.m. to 8:00 a.m. on 22-23 April 2021, 5:00 p.m. to 11:59 p.m. on 23 April 2021, and 12:00 a.m. to 8:00 a.m. on 25-26 April 2021. Director's Ex. 8. As Respondent knew, each request would have required at least three tax-payer funded deputies to work overtime each for a minimum of three hours, respectively. *Id*. Respondent's after-hours courthouse access was restored on 22 April 2021. Director's Ex. 11. Respondent was unable to provide any specific reason -- other than obvious spite -- for demanding deputy coverage at 3:00 a.m. at the courthouse.[9]

c. *Panic Button*

On 11 May 2021 the Sheriff's deputy scheduled to escort Respondent the short distance from her chambers to her courtroom was late. Respondent believed that the deputy's tardiness was going to cause Respondent to be late for court, which, she testified, is "one thing I don't do." Evid. Hr'g Tr. Vol. 3 at 637. So, instead of calling or e-mailing -- or braving a solo trek to her courtroom -- Respondent pushed a button hidden underneath her desk that she somehow knew would summon the deputy. What Respondent claims *not* to have known was that the button was a so-called "panic button" to be used only for emergency purposes -- which this situation certainly was not. The button did its job and Sheriff's personnel hurried to Respondent's chambers to find … no emergency; just an annoyed and impatient judge.

[9] Respondent testified that she needed access to the courthouse on those dates and times because she generally works nights and weekends, but she never put forth a particular reason why she needed to be physically present inside the courthouse on the dates and times she requested. Evid. Hr'g Tr. Vol. 1 at 215.

d. *Case Management System*

Last in this litany of intemperance is the matter of Respondent's handling of the migration of probate court files from the legacy case management system to the new one she had purchased. When Respondent directed the Douglas County Information Services Department ("DCISD") to provide all Probate Court case files housed in the old system to the new vendor, an unlucky DCISD employee was given the job of informing Respondent that this would not be possible -- at least not as a wholesale transfer of raw data -- because the County's licensing agreement with the former vendor prohibited the County from doing so. After a few apparently unsatisfying exchanges with this DCISD employee, Respondent fired off an e-mail to her county colleagues at DCISD as well as several other senior county officials with the subject line: "NOTICE OF INTENT TO SUE." Therein, Respondent warned all recipients that by failing to facilitate the data migration in the manner she directed, they were engaging in "obstruction" and "overstepping your authority; authority which you do not have." She closed with the threat that she "will move forward with legal action," and that the officials would be "sanctioned accordingly for noncompliance" if her demands were not met. Director's Ex. 9.

6. Jailing and Contempt of P.J. (Counts 31-34)

On 3 May 2016 P.J. -- a naturalized U.S. citizen of Thai birth -- and her fiancé submitted an application for a marriage license with the Douglas County Probate Court. Therein, P.J. averred that her father was S.J., a resident and national of Thailand. Director's Ex. 32. Several years later, on 2 August 2021, P.J. filed a petition to amend her marriage record, stating that her "father['s] name should be W.S." In support of the requested amendment, P.J. provided a copy of her birth certificate which had been translated from Thai into English. The birth certificate stated it was not recommended as a legal document. Director's Ex. 33, 61. When considering P.J.'s petition to

amend, Respondent became "alerted" to what she deemed to be "fraudulent misrepresentations" on P.J.'s original 2016 marriage license application concerning the identity of her father. Director's Ex. 35.

Respondent decided to issue a "Notice of Trial or Hearing" dated 12 August 2021 which informed P.J. that she was required to attend an in-person hearing on 24 August 2021 with respect to her petition to amend and that transcription services would only be provided if P.J. arranged for them. Director's Ex. 34. This Notice made no mention of any contempt charges nor did it advise P.J. that she was entitled to have counsel present.

At the 24 August 2021 hearing, when P.J. as part of her testimony offered the translated (but no less authentic) birth certificate, Respondent determined it to be "fictitious," "fraudulent," and "forged." Evid. Hr'g Tr. Vol. 2 at 314-18 (fictitious); *id*. at 334-37 (fraudulent); *id*. at 343-45 (forged). P.J. explained to Respondent that she had listed her uncle S.J. as her father on her original marriage license application because her biological father W.S. was absent from her childhood and her uncle had raised her. In fact, P.J.'s biological father was such a remote actor in her life that P.J. did not even know his name in 2016 when she completed the license application. Despite what appeared to the Hearing Panel to be an innocent mistake borne out of ignorance rather than ill-intent -- and one that P.J. was now in good faith trying to correct -- Respondent determined that P.J. was attempting to defraud the Court and held her in contempt.[10] More particularly, without affording P.J. the opportunity to consult with counsel, Respondent issued a 24 August 2021

[10] The record is mixed concerning P.J.'s motive for filing the petition to amend. According to Respondent, P.J. testified that she was seeking to correct her marriage record so that her mother could emigrate from Thailand to the United States. Evid. Hr'g Tr. Vol. 2 at 315. P.J. denied that that was the case, and instead told the Hearing Panel that she became aware of the mistake during the time she was filling out a green card application for her mother and learned of her father's name. Evid. Hr'g Tr. Vol. 5 at 1163. The Panel credits P.J.'s recollection of the facts, having observed the demeanor of both witnesses, having considered their different motives in testifying, and having noted that Respondent was unable to articulate how the amendment would assist P.J. in obtaining the immigration documents for her *mother*, whose name was already on the marriage license.

Contempt Order which stated that P.J. had "willfully provided false information on [her] marriage application." The Order went on to find P.J. "in blatant disregard of the laws of the State of Georgia and of this Court as evidenced by her fraudulent misrepresentations to the Court via her filings with the Court."[11] As part of this summary adjudication of contempt, Respondent sentenced P.J. to the maximum allowable term of incarceration (twenty days) -- but permitted P.J. to purge her contempt by paying a $500 fine. After P.J. languished in the Douglas County Jail for two days without notice to her employer or a chance to make childcare arrangements for her three-year old daughter, P.J.'s husband was finally able to gather the funds to pay the fine and obtain his wife's release from custody.

7. Petition for Year's Support (Counts 35, 37-43)

On 19 March 2021 Diane Richmond filed a Petition for Year's Support to obtain funds from the estate of her deceased husband. The petition listed several known interested parties, including Richmond's daughter Jaquita Mercado, Richmond's son, and various creditors. Director's Ex. 15. On 19 March 2021, one of Respondent's clerks, Bonnie Fasick, served a Notice of Petition to File for Year's Support that set the deadline to submit any "caveat" or objection to the Petition as 3 May 2021. Director's Ex. 16. Fasick served this Notice on the interested parties via mail, certified return, restricted delivery. Evid. Hr'g Tr. Vol. 4 at 941-42. As Fasick understood it, for items mailed "certified return, restricted delivery", the person to whom the mailing is addressed "has to be the one to sign for it" to perfect service. *Id*. at 940-41.

[11] Respondent maintains that she found P.J. in *direct* contempt for presenting the supposedly fictitious birth certificate at the 24 August 2021 hearing. Hr'g Tr. Vol. 2 at 351. Either Respondent's testimony was false or her 24 August 2021 contempt order was incorrect, as that order states clearly that P.J.'s contempt was based on her "false information" in her original marriage application – and *not* her testimony during the hearing. Thus, the order sounds in indirect contempt, which would require the alleged contemnor to "be advised of charges[,] be permitted the assistance of counsel and [have] the right to call witnesses." *Ramirez v. State*, 279 Ga. 13, 15 (2005). Respondent afforded none of those fundaments of due process to P.J. before jailing her.

On 5 April 2021, the Post Office returned to Fasick the signature card intended for Jaquita Mercado; someone other than Jaquita Mercado had signed it. Director's Ex. 18; Hr'g Tr. Vol. 4 at 943. This meant that service on Mercado was statutorily unsuccessful. Fasick asked Respondent to search LexisNexis to obtain an alternative address for Mercado so the clerk could perfect service. The search yielded a possible e-mail address for Mercado. Fasick then e-mailed a second Notice of Petition to File for Year's Support to Mercado via the e-mail address that Respondent had located. The second Notice set a new deadline to file objections: 10 July 2021. Director's Ex. 19; Evid. Hr'g Tr. Vol. 4 at 946-50. On 1 June 2021 Mercado e-mailed Fasick concerning the objection, asking how she should format the objection. Another of Respondent's clerks, Shaneka Wallace, responded to Mercado. Director's Ex. 68. Mercado eventually e-mailed her objection to the Clerk's office. Director's Ex. 20. Thereafter, Fasick and Mercado spoke over the telephone about Mercado's objection. Fasick inquired about the status of Mercado's payment of a filing fee and the original document, both of which were required to complete the filing. Mercado informed Fasick that she had mailed the filing fee, and Fasick presumed it had gotten lost in the mail. Fasick ultimately took Mercado's filing fee payment over the telephone and filed the objection on 14 July 2021 -- four days after the extended deadline to submit objections had passed. None of the foregoing communications with Mercado included counsel for Diane Richmond.

Upon receiving Mercado's untimely caveat, Respondent set a hearing for the petition on 27 July 2021. Director's Ex. 28. On 4 August 2021 counsel for Diane Richmond filed a motion to strike the caveat as untimely, which Respondent denied in an order dated 31 August 2021. Director's Ex. 21, 24. Counsel later moved to recuse Respondent after learning that the JQC was investigating her conduct. Respondent did recuse and on 10 February 2022 entered an Order transferring the case to Superior Court -- but failed to transmit the entire record. *See* Director's

Ex. 27 at 2. Upon receiving the case, Chief Judge McClain struck Mercado's caveat as untimely and granted Richmond's petition for year's support. Director's Ex. 29-30. Diane Richmond did not obtain her needed relief until fifteen months after she filed her petition. Director's Ex. 30.

8. Letters of Administration (Counts 44, 46, and 48)

On 17 September 2021 Ashley Jones filed a petition for letters of administration to utilize assets from the estate of her deceased father, Bruce Charles Gordon. Director's Ex. No. 36. The petition included a proposed order for Respondent's signature. Mr. Gordon's other heirs provided unanimous consent for Jones to be appointed administrator. *Id*. After receiving the proper filing fee, Respondent issued an order on 20 October 2021 requiring four consecutive weekly publications of the notice. Director's Ex. 40. The required publication concluded on 11 November 2021. Director's Ex. 41.

After several weeks of inaction on the now-published petition, counsel for petitioner, Miranda Jordan, contacted Respondent's court in late November 2021 and again on 4 January 2022 to inquire about the status of her client's unopposed petition. On both occasions, Jordan was told that the petition had not been granted but was in the "final stages". On 20 January 2022 attorney Jordan made one last call to the Probate Court Clerk's office to ensure that the petition had not still been granted. Jordan recorded this call. Director's Ex. 48. Upon confirming her suspicions, Jordan filed a petition for writ of mandamus the next day.

The Sheriff's Office served Respondent with the mandamus petition on 24 January 2022 around 10:00 a.m. Director's Ex. 46; Evid. Hr'g Tr. Vol. 5 at 1239. Jordan received an e-mail from Clerk Fasick about an hour later informing her that the order appointing the administrator had been entered. Mysteriously, Respondent's signature on the order was dated 18 January 2022 and the file stamp date on the order was also 18 January 2022 -- two days *prior* to Jordan's third

and final call checking on the delay, when she was again told that the petition had not yet been granted. According to Respondent (and her clerks), this back-dating of file stamps was a holdover practice from the previous administration so that the signature date and the file date would match. Evid. Hr'g Tr. Vol. 3 at 676; Evid. Hr'g Tr. Vol. 4 at 985, 1127. Regardless of its origins, it was a practice that persisted well over a year into Respondent's administration of Probate Court. And regardless of whether Respondent signed the order four days before being served with the mandamus petition or immediately after, her delay in processing an unopposed petition for letters of administration meant that for nearly three months Ashley Jones could not access her deceased father's estate to satisfy payments due to his creditors.

9. Routine Backdating of Orders (Count 49)

As Respondent's clerks testified, it was a common practice, carried forward from the previous probate judge's administration, to adjust the hand stamp to match the date that an order was signed. Evid. Hr'g Tr. Vol. 4 at 985, 1127. Respondent claimed not to have been aware of the back-dating practice during the early days of her administration and asserted that she corrected it once she did learn of it. Evid. Hr'g Tr. Vol. 3 at 676.

10. Systemic Incompetence (Count 50)

The Director's final allegation is that Respondent, "by persistently and continuously failing to respect and comply with the law and the Code of Judicial Conduct," demonstrated "systemic judicial incompetence." The Panel addresses this claim -- analogous to the concept of cumulative error in criminal cases -- in Section III.B.10 below.

B. Legal Conclusions

1. Social Media Posts (Counts 1-4)

a. *Clear and Convincing Evidence of CJC Violations*

Counts 1-3 allege that Respondent's Rosebar Post, Wine Bottle Wednesdays Post, Birthday Cash App Post, and Homeless Sexuals Video (collectively, "Social Media Posts") violated CJC Rules 1.2(A), 1.2(B), and 3.1(A). Put differently, these Counts allege that Respondent's Social Media Posts failed to promote confidence in the independence, integrity, and impartiality of the judiciary, *see* CJC Rule 1.2(A); fell short of the "high standards of conduct" necessary to preserve those principles, *see* CJC Rule 1.2(B); and "detract[ed] from the dignity" of the judicial office, *see* CJC Rule 3.1(A). Additionally, Count 4 alleges that Respondent's Rosebar Post and Wine Bottle Wednesdays Post violated CJC Rule 1.3, which states "Judges shall not lend the prestige of their office to advance the private interests of the judge or others."

The Hearing Panel finds that the Director has proven Counts 1-4 by clear and convincing evidence, with one caveat: as mentioned above, the Director did not sufficiently demonstrate that Respondent made her Rosebar Post *after* she became a judicial candidate and thus became subject to the CJC (and the JQC's jurisdiction). It seems likely that the Rosebar Post occurred soon after Respondent qualified to run for Probate Court -- but "likely" is not "clear and convincing." However, because the Counts are "charged alternatively," Evid. Hr'g Tr. Vol. 7 at 67, the Hearing Panel looks at whether the Director has proven by clear and convincing evidence that *any* of the conduct charged in each count amounts to a violation of the corresponding CJC Rule -- and she has.

The Wine Bottle Wednesdays Post violates CJC Rule 1.3 because Respondent lent the imprimatur of her judicial status to endorse -- or shill for -- a private business and its proprietors. When the Investigative Panel questioned Respondent, she admitted that the Wine Bottle Wednesdays Post was *her* advertisement to get people to come spend at the lounge because she was a judge. Director's Notice of Filing, Ex. B at 15. And Respondent is correct. She did just that -- encouraging viewers to attend that Wine Bottle Wednesday by stating "Come party with me," and "See you Wednesday" in a social media post that received hundreds of views. Director's Ex. 6. The Wine Bottle Wednesdays Post strikes at the heart of Rule 1.3's admonition that judges must avoid "lending the prestige of judicial office for the advancement of the private interests of the judge and others."

For similar reasons, all the proven Social Media Posts violate Rules 1.2(A), 1.2(B), and 3.1 because they demean the integrity or dignity of the office of judge. By using the hashtag "Judge-Elect" on her Birthday Cash App Post, Respondent traded upon her quasi-judicial status to obtain undisclosed[12] and unregulated monetary benefits via her CashApp account. She similarly traded on her title to direct business to the Tribeca lounge for the Wine Bottle Wednesday event. Both these posts say to the reader that this judge is willing to use her elected position to promote her own interests and the private interests of select others. And, finally, there is nothing good to be said about the Homeless Sexuals post, which variously mocked and demeaned Black men, gay men, and homeless people. Respondent claims to have found it harmlessly comical; what it wasn't was judicial. Respondent erred not by making the video -- she is entitled to her own private views

[12] Respondent claimed to have the ability to clarify once and for all her ever-shifting answer to the question of whether she received any money through her CashApp solicitation -- from unknown persons, to close friends, to none at all -- when she testified that her CashApp records were there in court on her phone. Evid. Hr'g Tr. Vol. 1 at 105-06. Alas, she declined to share them with the Panel, leaving the Panel to wonder what in fact the records would have revealed.

of what constitutes humor -- but by sharing it publicly on her "official" Twitter account, where members of the community who might soon appear before her could see it and be offended (or, theoretically, entertained) by it.[13]

b. *Grounds for Discipline*

Counts 1-4 all involve conduct "prejudicial to the administration of justice which brings the judicial office into disrepute." JQC Rule 6(A)(5). Because this disreputable and prejudicial conduct occurred when Respondent was acting outside her judicial capacity (despite her overt references to her status as judge or judge-elect), to warrant any sanction the Hearing Panel must find -- by clear and convincing evidence -- that Respondent acted in bad faith when she violated Rules 1.2(A), 1.2(B), 1.3, and 3.1(A) of the CJC. *Coomer I*, 315 Ga. at 859-60. Here, bad faith means more than negligence; it requires a consciousness of doing wrong, coupled with some malintent. *Id.* at 860; *see also Inquiry Concerning Coomer*, 316 Ga. 855, 866 (2023) ("*Coomer II*"). Given those requirements, the Hearing Panel finds that the misconduct alleged in Counts 1-4, though adequately proven, does not constitute grounds for discipline, as it is not sufficiently clear that Respondent appreciated that her social media posts of 2020 violated the CJC when she made them. Indeed, that lack of appreciation has been a constant and consistent theme from Respondent and her counsel: she was new to the job and did not understand all the many rules and responsibilities of her role.

While the Hearing Panel credits this explanation qua justification up to a point -- and that point extends beyond the dates of these early postings -- the Panel also observes that one can claim ignorance only so many times before it becomes a flimsy and obvious cover for willful, knowing

[13] The Panel notes that much of the social media evidence was available both on Respondent's own accounts as well as on a community "electronic bulletin board" where private citizens reposted Respondent's material amidst expressions of the very concerns the CJC's rules are meant to guard against.

disregard. And Respondent has undergone that transformation, as discussed in greater detail below.[14] But for *these* Counts, dating back to 2020, the Panel finds that Respondent lacked the bad faith necessary for any sanction.[15]

2. March 2022 Homeowner's Association Meeting (Counts 13-15)

a. *Clear and Convincing Evidence of CJC Violations*

Counts 13-15 allege that Respondent's conduct at the 31 March 2022 Silver Creek HOA meeting violated CJC Rules 1.1, 1.2(A), and 1.2(B). More specifically, the Director avers that Respondent's comments towards the Silver Creek HOA Directors (whom she knew to be represented by counsel) concerning her pending lawsuit against them ran afoul of Georgia Rule of Professional Conduct ("GRPC") Rule 4.2(a), and therefore violated CJC Rule 1.1's mandate to "respect and comply with the law." The Director further alleges that Respondent's conduct during this encounter failed to promote public confidence in the independence, integrity, and impartiality

[14] As but one example is the Director's 404(b) evidence, which, if charged, may well have merited a sanction. In February 2021, Respondent met with the Investigative Panel, at which time judges, lawyers and lay members of that Panel endeavored to explain to Respondent the obvious problems with her 2020 social media postings at issue here. During that session, Respondent professed a newfound and profound understanding of these concepts of not trading on her title and being mindful of the impact of words spoken (or posted) outside of work: "At the time, I didn't know that there was an issue with it. Now I have reviewed the Code of Conduct. Now I understand how it's perceived. Absolutely." Director's Notice of Filing, Ex. B at 15-16. And yet, in 2022, long after having "reviewed" the Code of Conduct and having assured the Investigative Panel that she "absolutely" understood her obligations under that Code, Respondent was posting and speaking publicly about how she, as *Judge* Peterson, was appearing in a play and, more critically, how people should *purchase* tickets to see her and her show. Director's Ex. 52-55.

[15] The Hearing Panel rejects Respondent's argument that CJC Rules 1.2, 1.3, and 3.1 are unconstitutionally vague or overbroad for the reasons set forth in the Director's Opposition to Respondent's Motion for Directed Verdict. As the Director and the commentary to CJC Rule 1.2 observe, "Judges, by virtue of their choice to serve in a judicial capacity, must accept certain restrictions on their conduct that may be viewed as burdensome by the ordinary citizen." Director's Opp. at 3; *see* CJC Rule 1.2 Commentary. It follows that our Supreme Court has routinely imposed judicial discipline when a judge's speech violates the CJC. *See, e.g.*, *In re Peters*, 289 Ga. 633, 636 (2011) (imposing removal and lifetime bar from seeking or holding judicial office in Georgia for, *inter alia*, "publicly disparaging" other judges on television). Respondent's constitutional claim is also moot because the Hearing Panel finds that no disciplinary action is warranted on the four Counts related to her social media posts.

of the judiciary, CJC Rule 1.2(A), and failed to maintain the "high standards of conduct" necessary to preserve the same, CJC Rule 1.2(B).

The Hearing Panel finds that the Director has proven Counts 13-15 by clear and convincing evidence. The evidence demonstrating that Respondent violated GRPC Rule 4.2(a) -- and therefore CJC Rule 1.1 -- is beyond reasonable dispute. GRPC Rule 4.2(a) states that "A lawyer who is representing a client in a matter shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or court order." When the 31 March 2022 HOA meeting occurred, Respondent was an experienced licensed practicing attorney (and an elected judge) and her lawsuit that she personally brought against the Silver Creek HOA was still pending. Evid. Hr'g Tr. Vol. 3 at 798. Her complaint, which she drafted, named Quiton Wiggles and the other then-directors of the HOA Board as defendants. Director's Ex. 73. Respondent knew this and she also knew that the Board and its Directors were represented by the law firm of Lazega and Johanson. Evid. Hr'g Tr. Vol. 3 at 695-96. And in case she had temporary amnesia at the HOA Board meeting, one of the Directors explained to Respondent after she began to accost the Directors and demand a special election, "I'm going to tell you what was told to us by our legal firm, which is Lazega and Johanson." Director's Ex. 50 at 2:16-2:26. Despite these facts and the plain and simple prohibition established by GRPC Rule 4.2(a), Respondent twice told Directors Wiggles and Houston to "call a special election . . . that's what I'm advocating for in my lawsuit," and, in exchange, she offered to "dismiss the lawsuit." Director's Ex. 50 at 1:45-1:53; 5:15-5:18. In other words, she was not simply communicating with represented parties in violation of State Bar Rules and the Code of Judicial Conduct, but she was actually attempting to negotiate with them.

Respondent's attempts to avoid responsibility for these clear violations bordered on the farcical, severely eroding her credibility with the Hearing Panel. Her testimony in this area also began to show that actual ignorance as an excuse was more so feigned ignorance as a dodge. Respondent first suggested that she did not speak to a represented party because Wiggles and the other then-presiding directors did not legitimately hold office since the Board had not properly held a special election. Evid. Hr'g Tr. Vol. 3 at 700, 705 (stating Wiggles and the other directors were "allegedly representing" the HOA). However, this is contrary to Respondent's statements at the HOA meeting, where she referred to Wiggles and the other Directors as "acting board," and instructed them to "call a special election."[16] The Hearing Panel noted this inconsistency, observing that if Respondent truly believed that Wiggles and the other directors were illegitimate, then they would have no authority to call a special election as Respondent requested. Evid. Hr'g Tr. Vol. 3 at 801-03.

Thwarted at her first failed attempt to shirk responsibility for her actions, Respondent next gamely suggested that she did not violate GRPC Rule 4.2(A) because Wiggles "wasn't speaking. He was just there." Evid. Hr'g Tr. Vol. 3 at 705. This feint was no better, as a violation of GPRC Rule 4.2(A) does not require that the represented party who is improperly contacted by a lawyer actually respond to the wrongful communication. Rather, the ban is on the communicative efforts *of the lawyer*: she may not initiate contact directly with a represented party without that party's lawyer's consent -- which Respondent was plainly doing.[17]

[16] And, of course, ***Respondent had named Wiggles as a defendant in her suit***, making his actual HOA authority immaterial: *she* created the legally adversarial relationship that triggers GRPC 4.2(A).

[17] Respondent's approach to these Counts at the hearing was particularly informative to the Hearing Panel's determination of what sanction should accompany the proven misconduct. The incident was a serious violation of the Georgia Rules of Professional Conduct -- disbarment is the maximum penalty for running afoul of Rule 4.2 -- and the entire episode was caught on film. And yet Respondent engaged with the Hearing Panel as if the panel members did

Finally, Respondent's hostile interactions with the HOA Board Directors and many other homeowners in attendance fell woefully short of the "high standards of conduct" necessary to maintain the integrity of the judiciary, as required by CJC Rules 1.2(A) and 1.2(B). Respondent repeatedly cut off homeowners as they attempted to speak; engaged in petty quibbles with them; mocked them; and used cavalier, rude gestures while communicating. There was nothing judicial or judicious about Respondent's conduct: it was discourteous by any measure and certainly did not uphold the level of decorum expected of members of the judiciary. Instead, it affirmatively detracted from the same.

b. *Grounds for Discipline*

The Hearing Panel finds that the Georgia Constitution permits Respondent to be disciplined for conduct comprising Counts 13-15 because the Director proved by clear and convincing evidence that this conduct was prejudicial to the administration of justice, was committed off the bench, and was done in bad faith. The Director's proof of bad faith is rooted in Respondent's own admission that she knew of GRPC Rule 4.2, having "read it in law school," Evid. Hr'g Tr. Vol. 3 at 799, and in the fact that she was for years a criminal prosecutor and so was very well aware that lawyers do not speak to represented parties. And Respondent's violation of GRPC 4.2 (and thus CJC 1.1) was done with ill intent: she was advancing her own legal self-interest in cajoling these represented parties to give her the relief she sought in her lawsuit when she accosted them at the HOA meeting. What is more, Respondent sought to exploit her specialized knowledge as an attorney in surprise settlement negotiations with laypersons on an unlevel playing field. She also issued thinly veiled threats to use her position as judge to coerce compliance or exact retribution

not see what occurred at the meeting and had not heard her *communications* with represented parties. More fundamentally, she made it clear to the Panel that she did not feel that these rules should apply to her.

against any obstinate homeowner or director: "if you come into my courtroom you're going to follow the law." Director's Ex. 50 at 4:37-4:40. And referencing a previous lawsuit in which Respondent had prevailed against the HOA, she threatened homeowners at the meeting who disagreed with her by warning they would "continue to be—not having anything if you don't follow the law." *Id*. at 4:31-4:34. This conduct was prejudicial to the administration of justice because it was both "unjudicial" in demonstrating poor judgment and "harmful to the public's esteem of the judiciary" by leaving the many members of the public present for the HOA meeting with the perception that judges inject personal animosity and self-interest into their judicial acts. *Coomer II*, 316 Ga. at 855 ("That our judgment is our only power shapes the kind of conduct we must insist upon from Georgia's judges.").

3. Saturday Courthouse Wedding (Counts 19-21)

a. *Clear and Convincing Evidence of CJC Violations*

Counts 19-21 allege that Respondent violated CJC Rules 1.2(B) and 2.5(B) when, contrary to Douglas County Sheriff's Captain Wilson's direct instructions and the County's courthouse security policy, she helped several private citizens enter the courthouse without being screened by Sheriff's deputies. More particularly, the Director argued that, by disobeying Captain Wilson's instructions and violating the security policy, Respondent failed to maintain high standards of conduct to preserve the independence, integrity, and impartiality of the judiciary, CJC Rule 1.2(B), and failed to maintain professional competence or "cooperate with other judges and court officials in the administration of court business," CJC Rule 2.5(B). The Panel agrees and finds that the Director has proven Counts 19-21 by clear and convincing evidence.

Respondent agreed to perform a wedding for a couple on 17 April 2021 -- a Saturday, when the courthouse would be closed. Respondent submitted a request for after-hours deputy support

so that the wedding party could be properly screened before entering the courthouse, meaning she knew that deputy support was needed for such an event. She believed her request was for 1:00 p.m. but the Sheriff's Office logged the request for 11:00 a.m. After Respondent failed to arrive at the courthouse at the time the Sheriff's deputies expected her, Captain Wilson informed Respondent around 12:45 p.m. that having a wedding inside the courthouse was no longer an option, because admitting citizens without conducting a security screening would violate security protocol. Evid. Hr'g Tr. Vol. 4 at 1085-87. Respondent disregarded Captain's Wilson's instructions and told him that she and her party were going in anyway.[18] *Id*. at 1087. In doing so, Respondent violated CJC Rule 2.5(B) by being uncooperative with Captain Wilson in a matter that concerned one of the highest orders of business for the Court, *i.e.*, keeping its visitors safe. As Judge Emerson later observed, Respondent's insubordination "endangered the lives of all those who work in the courthouse." Director's Ex. 13. Furthermore, Respondent's willful and knowing violation of courthouse security protocol damaged the integrity of the judiciary because Respondent showed herself to be above and more important than rules that did not align with her needs and desires -- precisely the opposite of what the public rightly expects from judges, the ultimate rule followers and rule enforcers in our legal system.

Respondent's litany of proffered excuses for this unnecessary drama does not change the result for her -- in fact it makes it worse for her. Respondent's primary claim is that Sheriff Pounds overruled his subordinate, Captain Wilson, and blessed her entry into the courthouse. Evid. Hr'g

[18] To be clear, the problem was not Respondent going into the courthouse. She enjoyed (at the time) full after-hours access and did not require screening to enter late at night or on weekends. It was instead the individuals in the wedding party, of unknown background, whom she insisted on letting into the building without screening. Fortunately this security breach did not result in trouble, but Respondent did not know and did not check -- and did not allow the Sheriff's deputies to check -- if these individuals were bringing into the courthouse any contraband that could be used then and there to harm someone or instead be secreted somewhere in the courthouse, having been ferried in undetected, for later use.

Tr. Vol. 1 at 196-97. This claim suffers from at least two flaws. First, it is not true. Sheriff Pounds denies ever having done so, and the Panel fully credits his testimony insofar as it conflicts with Respondent's. Evid. Hr'g Tr. Vol. 4 at 1048. Second, based on the timeline of events, Respondent had flouted Captain Wilson's instructions *before* Sheriff Pounds could have overridden them, as she falsely claimed he did. *Id*. at 1087. Respondent also trotted out the "Well, others were doing it too…" excuse when she argued that Deputy Clayton's admission of his wedding party into the courthouse excused her actions. Captain Wilson's extemporaneous response to learning this information about his subordinate aptly summarizes the Panel's reaction: "You wrong, and he wrong." Director's Ex. 67 at 0:38-0:40. As Captain Wilson explained to Respondent, Deputy Clayton "had no business doing this." *Id*. at 0:43-0:45. Indeed, Deputy Clayton's actions resulted in an internal affairs investigation, reprimand, and an unpaid suspension. Evid. Hr'g Tr. Vol. 2 at 524-25. And here we are with Respondent.

b. *Grounds for Discipline*

The Hearing Panel finds that the Georgia Constitution permits Respondent to be disciplined for the conduct comprising Counts 19-21 both because it constitutes willful misconduct in office and for the separate reason that her judicial misconduct was prejudicial to the administration of justice. The concept of willful misconduct in office addresses "actions taken in bad faith by a judge acting in her judicial capacity." *Matter of Inquiry Concerning a Judge No. 94-70*, 265 Ga. 326, 328 (1995). To show prejudice to the administration of justice resulting from actions a judge takes in the execution of her duties, the Director must show "inappropriate actions taken in good faith by the judge acting in her judicial capacity, but which may appear to be unjudicial and harmful to the public's esteem of the judiciary." *Id.*

As for willful misconduct in office, the record clearly shows that Respondent was acting in her judicial capacity -- as wedding officiant -- when, in bad faith, she disregarded Captain Wilson's directive and courthouse security policy. Even if Respondent was unaware of the courthouse security protocol as she unconvincingly claims (Evid. Hr'g Tr. Vol. 1 at 197-98), informing Captain Wilson that she would admit her wedding party into the courthouse against his proscription willfully violated a known duty because at the time this was the only instruction she had received, and, as the Panel has found, it was an instruction never countermanded by a superior. Plus, Respondent's actions were self-serving. Rather than acknowledge (or, perchance, take responsibility for) the scheduling mixup, Respondent pressed ahead to save embarrassment and because she was unwilling to yield to or abide by the "obstructions" plaguing her. Evid. Hr'g Tr. Vol. 1 at 184-86.

Respondent's on-the-job conduct during this incident was also prejudicial to the administration of justice because it was decidedly "unjudicial" to flout Captain Wilson's directive and it also lessened the "public's esteem of the judiciary" for the public to later learn, as it has, that this judge felt that rules and security policies were for other people, but not for her and her guests, thereby undermining public trust that judges can fairly apply to themselves the same rules that apply to all others.[19]

4. Obstructing Access to Public Records (Counts 25 and 26)

a. *Clear and Convincing Evidence of CJC Violations*

Counts 25 and 26 allege that Respondent's clerk, DeKevion Buchanan, denied then-Deputy Director Veal and Investigator Alford access to marriage records pursuant to an unwritten Probate

[19] And again, the fact that Deputy Clayton made the same mistake does not mean that different rules were being applied for different people. To the contrary, Clayton was, as discussed, severely sanctioned for his conduct.

Court policy in violation of CJC Rules 2.5(A) and 2.12(A). Respondent can be vicariously responsible for her staff's non-compliance because CJC Rule 2.12 requires her staff to abide by "the judge's obligations under this Code" and imputes their conduct to her. *See* CJC Rule 2.12 Commentary n.1 ("A judge is responsible for . . . the conduct of others, such as staff."). Thus, Respondent can be held accountable if the Director proved that Buchanan failed to keep the official marriage records "accessible to the public" and "available for public inspection" as required by O.C.G.A. § 31-10-25(f) and Uniform Probate Court Rule 4.1. *See* CJC Rule 1.1 (judges shall "respect and comply with the law."). Respondent can be held responsible for a violation of CJC Rule 2.5(A) under the same scheme of vicarious liability if the Director proved that Buchanan's alleged failure to provide the records demonstrated incompetence, bias, or prejudice.

However, the Hearing Panel finds that the Director failed to prove Counts 25 and 26 by clear and convincing evidence. First, the record is mixed as to why the requested records were not initially provided. Respondent testified that then-Deputy Director Veal and Investigator Alford "didn't have the correct name" for her staff to process the request and find the records. Evid. Hr'g Tr. Vol. 1 at 256 and Evid. Hr'g Tr. Vol. 6 at 1355-56. Clerk Buchanan, on the other hand, explained that the issue was not locating the records but rather paying for them. He testified that he could not release the records because the JQC staff failed to either (a) pay for them or (b) provide a request on letterhead to obtain them free of charge. Evid. Hr'g Tr. Vol. 3 at 845-46; *see also* Evid. Hr'g Tr. Vol. 6 at 1436-37 (Respondent explaining letterhead policy to waive fees). Moreover, there was additional evidence that Veal and Alford may have been able to at least *view* the records in a "public vault," but it was never cleared up whether that offer was made and refused or if Buchanan forgot to mention that option to his JQC visitors. Evid. Hr'g Tr. Vol. 3 at 844-47. To further cloud the record, Buchanan's recollection of his interaction with Veal and Alford was

spotty at best: he admitted that he only remembered "bits and pieces" of the relevant events, *Id.* at 839, and often qualified his answers with "Um, I am going to say," *Id.* at 842, or stating that he was less than certain, *Id.* at 847 ("I might be about 75 percent sure.").

In short, the record is ambiguous about whether Buchanan -- or anyone else on Respondent's staff -- failed or refused to make records available to Veal and Alford on 22 April 2021. Because the Director has not proven Counts 25 and 26 by clear and convincing evidence, discipline for this alleged misconduct is unwarranted.

5. Abusive Conduct Towards County Personnel (Counts 28 and 30)

a. *Clear and Convincing Evidence of CJC Violations*

Counts 28 and 30 allege that Respondent's interactions with Judge Emerson, Sheriff Pound's deputies, and other county personnel in April and May 2021 violated CJC Rules 1.2(B) and 2.8(B). Otherwise stated, the Director asserts that Respondent's 21 April 2021 e-mail to Judge Emerson and other county officials, her 27 April 2021 e-mail to Ruel Douglas and other county officials, her multiple requests for after-hours court access dated 21 April 2021, and her unnecessary triggering of the panic button on 11 May 2021 did not demonstrate "patient, dignified, or courteous" conduct (Rule 2.8(B)) nor were they commensurate with the "high standards" required of judges to preserve the independence, integrity, and impartiality of the judiciary (CJC Rule 1.2(B)).

The Hearing Panel finds that the Director has proven Counts 28 and 30 by clear and convincing evidence. This was not a close call: these counts were proven beyond a reasonable doubt. Taken together, these communications and actions reveal a judge (Respondent) who publicly vilifies colleagues, is quick to threaten them with unnecessary legal action, and generally

projects a spiteful and vainglorious persona. In her e-mail rant sent to multiple County officials, Respondent questioned then-Chief Judge David Emerson's qualifications as a judge, accused him of having "no authority to make the decisions in (sic) which you attempt to make," and instructed him to retire. Director's Ex. 12. Later, Respondent sent an e-mail to County IT personnel (and several other senior County officials) dramatically and threateningly announcing her "NOTICE OF INTENT TO SUE" and promising to "sanction" County officials because she perceived them as obstructing her "directive" to transfer old files to her new system when in fact a contractual licensing issue prevented the County from complying with her request. Director's Ex. 9. Respondent also made multiple frivolous requests for middle-of-the-night courthouse access without any showing that she in fact intended to be in the building during these times -- and plainly without consideration of the taxpayer expense that comes with paying multiple deputies overtime for each such demand. Director's Ex. 8; Evid. Hr'g Tr. Vol. 1 at 238-39. Finally, Respondent abused the courthouse panic button system when, losing patience after waiting only several minutes, she accelerated her deputy escort's arrival via that button rather than by phone or e-mail. Evid. Hr'g Tr. Vol. 3 at 633-37. None of these actions, viewed individually, is consistent with the high standards that Rules 1.2(B) and 2.8(B) require of members of the judiciary; taken collectively, they raise grave concerns about Respondent's general judicial demeanor and the manner in which she treats others, especially those whom she views as "obstructions."[20]

[20] That term -- obstruction -- featured prominently in Respondent's testimony at the final hearing and it merits discussion here. Respondent often invoked the word to describe, in a negative light, the actions of others whom she believed were intentionally interfering with her goals and ambitions (but who were typically simply seeking to apply the same rules and laws to Respondent that apply to everyone else). These invocations were usually interlaced with references to the challenges she felt as a Black female taking office in Douglas County. *See, e.g.,* Evid. Hr'g Tr. Vol. 3 at 820-31 (targeted for being a black female Democrat); Evid. Hr'g Tr. Vol. 1 at 184-86 (obstructions); Hr'g Tr. Vol. 2 at 339-40 (more obstructions); *id.* at 394 (isolation). Setting aside the fact that she had been preceded by nearly four years by another Black female judge in that same county courthouse -- and that that trailblazing judge did not in her first two years of service manage to accumulate any of the many complaints with which the Hearing Panel is now dealing in connection with Respondent -- the Panel in not insensitive to what Respondent perceived as "my reality . .

b. *Grounds for Discipline*

The Hearing Panel finds that the Georgia Constitution permits Respondent to be disciplined for conduct comprising Counts 28 and 30 on three independent bases, namely willful misconduct in office taken in bad faith, habitual intemperance, and judicial conduct prejudicial to the administration of justice.

First, Respondent willfully acted in bad faith when she engaged in this conduct at work. For some of the acts (the demand for night coverage and the panic button misuse), she knowingly acted discourteously and impatiently in order to advance her self-interest; for the others (the e-mails), she was motivated by and clearly displayed ill will for her County colleagues. Respondent testified that she "absolutely" regretted sending the 21 April 2021 e-mail to Judge Emerson (indicating that she knew it fell short of expectations), Evid. Hr'g Tr. Vol. 1 at 229-30, and she admitted a mix of self-interest and ill will in wanting to vindicate her "frustration" towards him. *Id*. She also summoned the deputy in bad faith because she knowingly acted impatiently (and imperiously) to protect her reputation for being timely -- and likely was motivated by ill will toward the Sheriff's Office following the 17 April 2021 courthouse wedding debacle. *Id.* at 230-31.[21] And Respondent knowingly acted discourteously (and threateningly) by sending the 27 April 2021 e-mail about the transfer of files to advance her self-interest of using the case management system that she preferred. Evid. Hr'g Tr. Vol. 3 at 781.

. my truth." Evid. Hr'g Tr. Vol. 3 at 821. That "reality," however complex and challenging it may be, does not excuse her misconduct, nor does it provide a legal defense to her multiple violations of the CJC Rules.

[21] Respondent unconvincingly claimed that she was unaware that the button was reserved for emergencies. Evid. Hr'g Tr. Vol. 3 at 629-32. Despite the button's clandestine and unorthodox location hidden under her desk, Respondent could not explain how she knew the button existed but somehow believed it to be a simple call button rather than an emergency alert. But the Panel's disbelief is of no moment for this particular bad faith analysis (although it figures prominently in the overall assessment of Respondent's fitness to serve) because the duty imposed by the CJC is for the judge to be "patient, dignified, [and] courteous" -- which Respondent was not. CJC Rule 2.8(B).

Second, these acts demonstrate Respondent's habitual failure to act with a "patient, dignified, or courteous" temperament and to observe the "high standards" required of judges. CJC Rules 1.2(B), 2.8(B). Although Counts 28 and 30 provide relatively brief snapshots into Respondent's actions over a few weeks in 2021, the Panel now sees that this conduct is part of a larger, pervasive pattern of intemperance. When interacting with other judges; other County colleagues; members of the public (to include fellow members of her HOA); the JQC's Investigative Panel; and, most recently, the JQC's Hearing Panel, Respondent routinely demonstrates a lack of restraint -- *i.e.*, intemperance -- in how she interacts with the person(s) to whom she is speaking, how she escalates the exchange, and how any disagreement with her quickly triggers allegations of obstructionism or even racism. None of that reflects the temperate disposition the public rightfully expects of judges, officials who by trade are often thrust into highly contentious debates and who must maintain civility in discourse and debate -- first and foremost by being civil themselves.

Finally, Respondent's conduct worked to the detriment of the administration of justice by undermining the public's trust in and respect for the judiciary. More specifically, actions like Respondent's fail to meet the public's expectations for a judicial officer's poise, thoughtfulness, and good judgment -- those special powers from which judicial authority derives.

6. Jailing and Contempt of P.J. (Counts 31-34)

a. *Clear and Convincing Evidence of CJC Violations*

Counts 31-34 allege that Respondent's summary adjudication of P.J.'s petition to amend her marriage record and her jailing of P.J. for contempt failed to "respect and comply with the law" in violation of CJC Rule 1.1; did not promote "public confidence in the independence, integrity, and impartiality of the judiciary" or maintain "high standards of conduct" to preserve the same

contrary to CJC Rules 1.2(A) and 1.2(B); and did not resolve P.J.'s legal matters "fairly" or with "due regard for the rights of the parties," as CJC Rule 2.2 requires. Respondent's specific missteps included (1) making a decision that P.J. had provided false testimony in her previous petition for a marriage license before holding a hearing; (2) notifying P.J. about the hearing without providing notice of the possibility of contempt charges; (3) failing to afford P.J. an opportunity to prepare a response to such charges or consult with an attorney; and (4) ultimately holding P.J. in contempt and jailing her for "fraudulent misrepresentations to the Court via her filings" absent sufficient proof or justification.[22] Director's Ex. 35.

The Hearing Panel finds that the Director has proven Counts 31-34 by clear and convincing evidence.[23] More particularly, Respondent violated CJC Rules 1.1 and 2.2 by failing to comply with the minimum standards of due process that Georgia law requires before finding someone in indirect criminal contempt for conduct outside the court's presence. While P.J. was "presumed to be innocent," *Carlson v. Carlson*, 324 Ga. App. 214, 216 (2013), Respondent predetermined that

[22] There is some confusion as to whether Respondent found P.J. to be in direct or indirect contempt. It was clearly criminal (as opposed to civil) contempt, because Respondent imposed "unconditional punishment for prior acts of contumacy." *Ford v. Ford*, 270 Ga. 314, 315 (1998). Direct criminal contempt involves "misbehavior in the presence of the court" while indirect contempt addresses actions that occurred outside the presence of the judge imposing the contempt. *In re Harris*, 289 Ga. App. 334, 336 (2008) (citation omitted). Respondent's order (and testimony) alluded to both forms, finding that P.J. had provided false or fraudulent information in her original marriage application in 2016 and again by presenting related documents at the August 2021 hearing. What is clear, however, is that the core concern animating Respondent was P.J.'s listing of her uncle as her father on her marriage application. That occurred in 2016, years before Respondent took the bench. The Hearing Panel thus finds that the contempt, if any, was indirect, triggering the requirement of "more normal adversary procedures." *Young v. United States*, 481 U.S. 787, 798 (1987).

[23] Of all the many allegations levelled against Respondent in the Amended Formal Charges, these most trouble the Hearing Panel, because Respondent's actions here were so discordant with one of the judiciary's primary purposes: to provide due process to all who come into court, especially when one's freedom is at stake. So it is that judges are cautioned to use their powers of contempt sparingly and with great care: "Contempt is a drastic remedy which ought not to deprive one of her liberty unless it rests upon a firm and proper basis." *In re Harris*, 289 Ga. App. 334, 336 (2008). Respondent provided neither a firm nor a proper basis when she held P.J. in contempt and, without explanation or justification, imposed the *maximum* term of incarceration plus a fine -- implying that P.J.'s "contempt" was of the most serious and blameworthy kind.. Regrettably, the Hearing Panel remains unpersuaded that Respondent would make a better decision in the future; if she felt her authority was challenged or not afforded the full respect she is convinced it is due -- *i.e.*, if someone were *obstructing* her -- she might well again fail to distinguish between a well-meaning (even if misguided) litigant and a legitimate fraudster.

P.J. had made a "fraudulent misrepresentation . . . via her filings with the court on May 3rd of 2016" before ever conducting a hearing on the matter. Evid. Hr'g Tr. Vol. 2 at 313.[24] Whereas the alleged contemnor "must be advised of charges," the Notice of Trial or Hearing issued to P.J. makes no mention of contempt (or the risk of being fined or sent to jail). *See Ramirez v. State*, 279 Ga. 13, 15 (2005) (explaining, in very basic terms, the rights of the contemnor); Director's Ex. 34. Indeed, Respondent admitted that "P.J. was not given an opportunity to consult with an attorney." Evid. Hr'g Tr. Vol. 2 at 331; Evid. Hr'g Tr. Vol. 5 at 1170-71 (P.J. testified that Respondent merely *asked* if she had an attorney). The Panel easily finds that P.J.'s hearing lacked any meaningful due process protections and essentially amounted to summary punishment -- and incarceration -- for conduct that occurred outside the presence of Respondent, which is prohibited. *Ramirez*, 279 Ga. at 15 ("[s]ummary adjudication of indirect contempts is prohibited"), quoting *International Union v. Bagwell*, 512 U.S. 821, 833 (1994); *see* Evid. Hr'g Tr. Vol. 2 at 313 (Respondent stating P.J.'s supposedly fictitious 3 May 2016 application for a marriage license was "one of the reasons" Respondent held P.J. in contempt). Accordingly, the conduct charged in Counts 31-34 violated CJC Rule 1.1 by failing to "comply with the law," and CJC Rule 2.2 by failing to demonstrate "due regard for the rights" of P.J.[25]

[24] The Contempt Order stated that the "Court was alerted to the fraudulent misrepresentations on August 2, 2021 when Mrs. Junnongyai filed a Petition to Amend Marriage Record." Director's Ex. 35. This occurred several weeks prior to the 24 August 2021 hearing. Respondent later denied this, testifying that she found P.J. in contempt for submitting a supposedly fictitious birth certificate *at the hearing*. Evid. Hr'g Tr. Vol. 2 at 323:1-10 (denial); *id*. at 333:1-334:4 (contempt based on allegedly fictitious birth certificate). To the extent Respondent denies that by 12 August 2021 (the date the notice for hearing was issued) she had determined P.J. made fraudulent representations on P.J.'s petition to amend, the Hearing Panel does not credit such testimony because it contradicts the plain language of the order which is a more reliable contemporaneous record of the events.

[25] Even if one were to construe the contumacious behavior to be solely what P.J. said when she appeared before Respondent -- which is *not* the position Respondent took -- the Panel still finds that Respondent denied P.J. fundamental due process in a scenario in which Respondent was seriously contemplating jailing P.J. There is also the concern, applicable equally to direct and indirect contempt in this case, that the sanction was so grossly disproportionate to the allegedly contemptuous acts.

Respondent's one-sided and premature determination that P.J. had committed a crime before allowing the "accused" to present a defense also violates CJC Rules 1.2(A) and 1.2(B) because it saps the public's confidence that the judiciary will fairly adjudicate matters. Respondent knows this. It is tragically ironic, because she chided Judge Emerson for similar conduct in her 21 April 2021 email: "Did you even think to get the actual series of events from [the accused] or do judges just take one side of the story and convict based on that information only?" Director's Ex. 12. If there were any merit to Respondent's assertion that Judge Emerson's conduct was "not becoming of the judiciary," that rationale would apply here with even greater force. Moreover, imposing the maximum sentence for criminal contempt -- 20 days -- given the rather benign circumstances of P.J.'s case and her lack of any documented criminal history further diminishes the public's confidence that the judiciary can fashion punishments appropriate to the history and characteristics of the defendant and nature and circumstances of the offense. *See* O.C.G.A. § 15-11-31 (setting maximum penalty for contempt at "imprisonment for not more than 20 days."). Indeed, Respondent eventually admitted her sentence was "harsh" and could not provide a rationale to justify it.[26] Evid. Hr'g Tr. Vol. 2 at 342-43.

b. *Grounds for Discipline*

The Hearing Panel finds that the Georgia Constitution permits Respondent to be disciplined for conduct comprising Counts 31-34 under three separate and independent bases: (1) willful misconduct in office taken in bad faith, (2) habitual intemperance, and (3) judicial conduct prejudicial to the administration of justice. Respondent engaged in this willful judicial misconduct

[26] Indeed, even if one were to construe P.J.'s purportedly contemptuous acts as having all occurred before Respondent, so that the contempt was purely direct -- rather than the confusing hybrid we have here -- Respondent lacked the justification that allows summary adjudication, as P.J.'s actions in no way "threaten[ed the] court's immediate ability to conduct its proceedings." *International Union v. Bagwell*, 512 U.S. 821, 832 (1994).

in bad faith because, as she told the Panel, she knew the procedures she employed failed to meet the due process requirements that she had "research[ed]" and "read," specifically "in relation to the due process required for indirect" contempt -- and yet she sent P.J. to jail, potentially for nearly three weeks. Evid. Hr'g Tr. Vol. 2 at 347-48, 350. This misconduct is also further illustrative of Respondent's intemperance: for P.J.'s seemingly minor and innocent mistake bred from linguistic, cultural, and legal misapprehensions, Respondent -- clearly feeling obstructed by the error that she angrily labelled "fraudulent" conduct -- hurled at P.J. the full might of a contempt sentence, saying, through her maximum punishment, that no other contempt could be more offensive to the Court. Such a hasty and shockingly disproportionate reaction is the hallmark of Respondent's intemperance, much like her e-mail to Judge Emerson or her (rather contemptuous) statement of disregard to Captain Wilson during the Saturday marriage episode. Finally, this incident also constitutes judicial misconduct prejudicial to the administration of justice. Respondent did not afford P.J. proper notice of the contempt charges, an opportunity to prepare a defense to the same, or counsel to assist her in the face of a potential jail sentence. This failure mars the image of judges as faithful administrators of justice by (rightly) leading the public to believe that judges cannot be trusted to perform their duty to safeguard fundamental rights and liberties.[27]

7. Petition for Year's Support (Counts 35, 37-43)

a. *Clear and Convincing Evidence of CJC Violations*

[27] This is not to say that managing a contempt episode is always simple. The Panel appreciates that judges (including Panel members) frequently struggle with the difference between direct and indirect contempt and civil and criminal contempt. There are, however, resources available to assist with this confusion -- ample case law; more experienced colleagues; and, best of all, a lawyer appointed to represent the contemnor. Importantly, Respondent claimed to have availed herself of some of these resources and yet, despite her homework, she sentenced P.J. to the maximum possible sentence for what was at worst a minimal interference with the operations of the Court.

Counts 35 and 37-43 allege that Respondent's adjudication of Diane Richmond's petition for year's support and her *ex parte* communication with an interested party to that matter violated CJC Rules 1.1, 1.2(A), 2.5(A), 2.9(A), and 2.9(B). Specifically, the Director claims that e-mails and telephone calls between Respondent's chambers staff and Richmond's daughter Jaquita Mercado concerning Richmond's petition (*see* Director's Ex. 19, 20, 68) constituted improper *ex parte* communications that CJC Rule 2.9(A) prohibits.[28] The Director additionally asserts that Respondent's actions also failed to "respect and comply with the law," CJC Rule 1.1, or promote public confidence in the "independence, integrity, and impartiality of the judiciary," CJC Rule 1.2(A). The Director also argues that this episode was another example of Respondent failing to perform judicial or administrative duties "competently, diligently, and without bias or prejudice," CJC Rule 2.5(A), and that her failure to "promptly to notify the parties of the substance of the communication[s]" and provide them a "reasonable opportunity to respond" violated CJC Rule 2.9(B). Insofar as the second Notice of Hearing wrongly extended the caveat deadline, the Director further contends that Respondent failed to "respect and comply with the law," CJC Rule 1.1, failed to promote public confidence in the "independence, integrity, and impartiality of the judiciary, CJC Rule 1.2(A), and did not perform judicial or administrative duties "competently, diligently, and without bias or prejudice," CJC Rule 2.5. And, the Director argues, by accepting Mercado's belated caveat, Respondent failed to "respect and comply with the law," CJC Rule 1.1, and perform judicial or administrative duties "competently, diligently, and without bias or prejudice," CJC Rule

[28] CJC Rule 2.9(A) states, in relevant part, "Judges shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to them outside the presence of the parties, or their lawyers, concerning a pending proceeding or impending matter." This prohibition is subject to a list of exceptions none of which applies here. The commentary to Rule 2.9 states, "Judges must take reasonable efforts, including the provision of appropriate supervision, to ensure this Rule is not violated through law clerks or other personnel on their staff."

2.5(A). Finally, by incorrectly transferring the matter to Superior Court and failing to transmit the entire case file, Respondent again purportedly violated CJC Rule 2.5(A).

The Director has proven Counts 35 and 37-43 by clear and convincing evidence.[29] By responding to Mercado's e-mails and accepting her caveat via e-mail, Respondent's staff "considered" *ex parte* communications. CJC Rule 2.9(A); *see* Directors Ex. 20, 68. Respondent is simply wrong that researching alternative addresses for Mercado in order to perfect service by mail is "what's required" under the law, as CJC Rule 2.9(C) states judges "shall not investigate facts in a pending proceeding."[30] By sending Mercado the second Notice of Hearing, Respondent's staff "initiated" an *ex parte* communication. CJC Rule 2.9(A). And by engaging in two telephone conversations with Mercado, Respondent's staff "permitted" another set of *ex parte* communications. *Id*.; Evid. Hr'g Tr. Vol. 4 at 957-58. These e-mails and telephone calls fit the definition of *ex parte* communication as provided by CJC Rule 2.9(A) because they "concern[ed] a pending proceeding" -- *i.e.*, Richmond's petition for year's support -- and none of the listed exceptions to the prohibition applied to otherwise permit the *ex parte* communications. *See* Director's Ex. 19; Evid. Hr'g Tr. Vol. 4 at 948-50 (Fasick admitting she "sen[t] a second notice of petition to file for year's support to Ms. Mercado" by "e-mail to Jaquita Mercado."); *id*. at 957-58 (telephone conversations concerned serving the notice and status of the original caveat). These

[29] The Director failed to prove by clear and convincing evidence that Respondent's staff accepted Mercado's objection without a filing fee (Counts 35, 38). Clerk Fasick testified that she filed the objection only after she took Mercado's payment over the telephone. Evid. Hr'g Tr. Vol. 4 at 962. The Director likewise failed to prove that Respondent violated O.C.G.A. §§ 15-9-88, 53-3-7(a), or Uniform Probate Court Rule 5.3.14 (thus violating CJC Rule 1.1) because Respondent testified that she extended the objection deadline as permitted by O.C.G.A. § 53-11-5 after making the necessary findings. However, the various grounds in these Counts are charged alternatively and the Director did prove other conduct charged in Counts 35 and 38 by clear and convincing evidence.

[30] Respondent's contention that adjudicating the petition *required* her to research other potential mailing addresses for Mercado falls flat because O.C.G.A. § 53-11-10 provides for an interested person like Mercado to be served with notice by publication -- an option Respondent acknowledged during the evidentiary hearing but which she did not permit in the Richmond proceedings. Evid. Hr'g Tr. Vol. 2 at 396.

communications took place outside the presence of Diane Richmond (or her lawyer) and other interested parties: the telephone calls were strictly between Fasick and Mercado and Fasick did not indicate that she served any other party with the second Notice of Hearing. *Id*. *at* 956-57. Fasick's (and thus Respondent's) failure to notify Richmond's counsel of these communications constitutes a violation of CJC Rule 2.9(B) because the court did not promptly inform Richmond of the communications or allow her a reasonable opportunity to respond. *See, e.g.*, Evid. Hr'g Tr. Vol. 2 at 458 (counsel stating she "never received" the second Notice of Hearing). Moreover, although Respondent's staff knew about the rule for "no-ex parte communication," Evid. Hr'g Tr. Vol. 4 at 1134-35, Respondent clearly failed to conduct proper oversight to "ensure that this Rule is not violated by court staff." CJC Rule 2.9(D). These *ex parte* exchanges also violated CJC Rule 1.1 by failing to "comply with the law" of Uniform Probate Court Rule 5.1, which states that judges shall not "consider" or "initiate" *ex parte* communications.

The practice of considering, sending, and permitting court communications outside the presence of an interested party also detracts from the independence, integrity, and impartiality of the judiciary in violation of CJC Rule 1.2(A) because it weakens the public's perception that the judge has afforded all parties the same right to be heard -- an "essential component of a fair and impartial system of justice." CJC Rule 2.9 Commentary (noting that the "[s]ubstantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.").

Extending the deadline for Mercado's caveat without notice to Richmond and then accepting the late caveat further creates an appearance of bias in favor of Mercado that could only prejudice Richmond. This violates CJC Rule 2.5. This appearance remains even if Respondent, as her clerks testified, never intended to favor one party over another. Evid. Hr'g Tr. Vol. 4 at 1008, 1134.

Finally, Respondent's actions (and inactions) led to a 15-month delay in adjudicating this simple petition. This is anything but diligent when similar petitions are routinely resolved within a matter of weeks, even when there are timely-filed objections. CJC Rule 2.5(A); *see* Evid. Hr'g Tr. Vol. 2 at 474-75.

b. *Grounds for Discipline*

The Hearing Panel finds that the Georgia Constitution permits Respondent to be disciplined for the proven conduct in Counts 35 and 37-43 because her "inappropriate [judicial] actions taken in good faith" were prejudicial to the administration of justice. *Coomer I*, 315 Ga. at 859. It is plain that Respondent was acting in her judicial capacity, either directly or as the supervisor of her chamber's staff, when researching Mercado's address, acting through her clerks to communicate with Mercado alone about the petition, and delegating to her clerks the role of serving Mercado with the second notice. *See* CJC Rule 2.5 (recognizing that Judges "perform judicial and administrative duties."); CJC Rule 2.12 (imputing the conduct of staff to the judge when they are "acting at the judge's direction or control."). Initiating and engaging in *ex parte* communications is "unjudicial" because doing so demonstrates poor judgment, gives the appearance of bias, and tends to "harm[] the public's esteem of the judiciary." *Coomer I*, 315 Ga. at 859. Central to the public's faith in the impartiality and fairness of the judiciary is the belief that both sides to a dispute will be heard -- in each other's presence. That did not happen here.

Plus, unnecessarily delaying a final order on the petition resulted in similar reputational harm because it demonstrated a dilatory disposition incommensurate with the "efficient administration of justice" that the public expects of the judiciary. *Shonson v. Bottomy*, 126 Ga. App. 691, 691 (1972) (Hall J., concurring) (recognizing that the public holds "the judiciary responsible for the efficient administration of justice."). And failing to properly notice opposing

counsel compromises the perception of the court's fair dealings because -- as Richmond's counsel testified and Respondent acknowledged -- the public expects courts to share the same information with all parties. Evid. Hr'g Tr. Vol. 2 at 392. In this case, the court's reputation suffered actual harm, as Richmond's legal staff described the slow and inequitable process as an "egregious situation." Evid. Hr'g Tr. Vol. 4 at 1035-36.

8. Letters of Administration (Counts 44, 46, and 48)

a. *Clear and Convincing Evidence of CJC Violations*

Counts 44, 46, and 48 allege that Respondent's failure to timely issue an order appointing an administrator for the estate of Bruce Charles Gordon, her staff's manual adjustment of a date-stamp to backdate the order, and Respondent's failure to supervise her staff regarding the backdating practice violated CJC Rules 1.2(A), 2.2, and 2.5(A). More particularly, the Director asserts that this conduct failed to promote confidence in the "independence, integrity, and impartiality of the judiciary." CJC Rule 1.2(A). Per the Director, Respondent's delay in appointing the administrator also implicated the CJC because Respondent did not dispose of the matter "promptly and efficiently" as CJC Rule 2.2 requires. Finally, the Director claims that Respondent did not "perform judicial and administrative duties competently [or] diligently" by failing to supervise and/or train her staff on lawful filing procedures. CJC Rule 2.5(A). The Hearing Panel finds that the Director has proven Counts 44, 46, and 48 by clear and convincing evidence.

Regardless of the row over backdating, the delay here is problematic. Respondent did not sign the order appointing an administrator until 18 January 2022 at the earliest -- over two months after the order in this uncontested matter was ready for Respondent's signature. Director's Ex. 36, 37, 42; Evid. Hr'g Tr. Vol. 3 at 667-70. This needless delay was not without consequences: during the interim, Petitioner Jones had to "pay her [deceased] father's bills out of her own pocket …

because she didn't have the letters of administration" and so "couldn't access his bank accounts to start to settle matters" with creditors. Evid. Hr'g Tr. Vol. 5 at 1225-26. This inattention to what was essentially a ministerial function violated CJC Rule 2.2 because it resulted in unfair and unnecessary out-of-pocket expenses for Jones.

The backdating likewise violates the CJC. Clerk Caldwell admitted that on 24 January 2022 she hand-stamped the Order Appointing Administrator with a date of 18 January 2022 because she understood an "order must be stamped the date that the judge signed it." Evid. Hr'g Tr. Vol. 4 at 1126-27. It does appear that, prior to Respondent becoming the Probate Judge for Douglas County, someone had improperly trained her clerks to "ensur[e] that the filing date matched the date the judge signed the order." *Id*. at 985; *see also id*. at 1127. However, the origin of the misconduct is not the issue here; rather, it is the *persistence* of this malpractice for more than a year after Respondent's installation as judge that concerns the Panel. Until the JQC complaint underlying this faulty practice was filed, Respondent never properly trained her staff on the topic. *Id*. at 987. And Respondent's failure to adequately supervise her staff violated CJC Rule 2.5(A) because it resulted in her office's failure to "competently" and "diligently" execute essential judicial and administrative tasks.

The delay, backdating, and failure to properly train staff on the lawful filing procedures all undermine the public's confidence in the integrity of the judiciary for numerous reasons. Most importantly, these bad practices obscure the actual date when judicial action was taken and prevent the public, other courts, and *even the judge who signed the order* from placing "trust" in the accuracy of the date of the document. *See* Evid. Hr'g Tr. Vol. 2 at 403-04 (when Hearing Panel asked Respondent, "is there a reason we shouldn't trust the date?" on an order, she answered "I don't know . . . it might be different from the date [Clerk Fasick] file-stamped it in.").

b. *Grounds for Discipline*

The Hearing Panel concludes that the Georgia Constitution does not permit Respondent to be disciplined for the conduct comprising Counts 44, 46, and 48 because the Director did not prove by clear and convincing evidence that Respondent engaged in the challenged judicial conduct in bad faith. The excessive delay in signing the unopposed order appointing an administrator and the backdating of its file-stamp were both improper, but there is insufficient proof that Respondent acted with ill intent in this situation. Respondent presented some evidence of a workload backlog, which could explain (but not excuse) the delay in signing the order. And, as mentioned, the record shows that Respondent was not the person who trained probate court clerks to manually adjust the handstamp so that it matched the date of signature. And once the JQC Director alerted Respondent to this malpractice, she corrected it. Evid. Hr'g Tr. Vol. 3 at 676. Finally, while it was likely not a coincidence that on the same day Attorney Jordan filed a writ of mandamus to force Respondent to sign the order, the order magically appeared with a signature (and file-stamp) date of three days earlier, it was not sufficiently demonstrated that Jordan's writ provided that bad faith motive for the complained-of conduct. *See* Evid. Hr'g Tr. Vol. 4 at 989-90, 1129. Accordingly, the actions comprising Counts 44, 46, and 48 do not subject Respondent to discipline.

9. Routine Backdating of Orders (Count 49)

Count 49 alleges that Respondent engaged in a "continuing practice" of failing to supervise her staff that resulted in the routine backdating of orders in violation of CJC Rule 2.12(A), which obligates judges to ensure that staff subject to their direction "observe the standards of fidelity and diligence that apply to judges." For the reasons stated in the previous section concerning the Gordon Estate's letters of administration, the Panel finds that the Director has proven Count 49 by clear and convincing evidence but that there is no basis for judicial discipline.

10. Systemic Incompetence (Count 50)

a. *Clear and Convincing Evidence of CJC Violations*

Count 50 alleges that from 28 February 2021 until 31 May 2022, Respondent demonstrated "systemic judicial incompetence and a disregard for the law" by failing to adhere to, among other things, the CJC and its Rules. This timeframe runs from just after Respondent's interview with the JQC's Investigative Panel (when she professed to understand the requirements of the CJC "absolutely") until the most recent allegations set forth in the Formal Charges (concerning the petition for year's support). The Hearing Panel finds that the Director has proven Count 50 by clear and convincing evidence based on all the findings of fact and conclusions of law above, as well as the pervasive nature and expansive temporal scope of Respondent's misconduct. For the reasons stated above, the Hearing Panel also finds that the Georgia Constitution permits Respondent to be disciplined for conduct comprising Count 50, because it constitutes willful misconduct taken on the bench in bad faith, conduct prejudicial to the administration of justice, and a persistent failure to perform the duties of the office of judge. *See Coomer I*, 315 Ga. at 858.

IV. Recommended Sanction

The Hearing Panel recommends that Respondent be subject to discipline for her multiple and sometimes repetitive violations of the CJC because the Director has proven by clear and convincing evidence that these violations constitute

- willful misconduct in office (Counts 19-21, 28, 30-34, and 50)
- willful and persistent failure to perform the duties of office (Count 50)
- habitual intemperance (Counts 28, 30-34) and

- conduct -- both on the bench and off it -- prejudicial to the administration of justice which brings the judicial office into disrepute (Counts 13-15, 19-21, 28, 30-35, 37-43, and 50).

JQC Rule 6(A).

The Director seeks Respondent's removal from office. Evid. Hr'g Tr. Vol. 7 at 80. Respondent offers instead a collection of remedial measures: (1) training, (2) a restriction on the types of cases over which she may preside, and (3) a second layer of judicial approval for any future contempt orders. Evid. Hr'g Tr. Vol. 6 at 1516-18. These recommendations are starkly divergent: stripping Respondent of her title versus installing light guardrails that are not much more restrictive (or protective) than what Respondent purportedly already has in place. The gulf between these proposed sanctions reflects the fundamental issue Respondent presents as a judge -- and the reason why the Hearing Panel concurs with the Director: Respondent views rules (and rulings) that obstruct her chosen course to be personal attacks; affronts; and, most problematically, things that can be ignored. These "obstructions" can be bar rules, CJC rules, directives from the Sheriff's Office, or a decision of the Chief Judge. If they are not what Respondent wants, they are variously flouted; met with intransigence and hostility; challenged with the threat of legal action; or, most troublingly, cast as some racially motivated cabal. None of that is properly judicial -- and none of it has changed from Respondent's February 2021 interview with the Investigative Panel to her hours of inconsistent and combative testimony before the Hearing Panel in late 2023.

In mitigation -- and in support of Respondent's request for a *de minimis* sanction -- are several facts. First, all the episodes of misconduct (with the glaring exception of the wrongful imprisonment of P.J.) are relatively minor violations of the CJC; none alone would come close to justifying removal. Second, at the time of the earliest charged conduct, Respondent was a relatively inexperienced judge and some of her missteps at work could arguably be chalked up to

simply not knowing better (in a legal, judicial sense). She also claims to have undergone extensive training and routinely consults with other probate judges for advice and counsel. Respondent even expressed a modicum of regret for sending the 21 April 2021 e-mail to Judge Emerson and others. And perhaps most critically, she voluntarily appeared before the Investigative Panel in February 2021, ostensibly to engage in a constructive conversation about her initial missteps as a judge.

Unfortunately for Respondent, several of these seeming mitigators have become aggravating factors in her case. It remains true that:

> [c]onsidered in isolation, none of [Respondent's] actions would warrant [her] removal from the bench [with the possible exception of P.J.'s wrongful jailing]. Considered as a whole, however, [Respondent's] actions demonstrate a troubling pattern of ineptitude and misconduct, and lead us to conclude that [s]he is not fit to serve.

In re Inquiry Concerning a Judge, 275 Ga. 404, 406 (2002). The trainings and consultations apparently yielded little, as the now-substantiated complaints about Respondent's misconduct continued to flow into the JQC. Finally, her trek to the Investigative Panel in early 2021 put her in no better stead: while before that group, she assured them that she "absolutely" understood the CJC and yet she proceeded to commit violation after violation as documented in the Formal Charges and as proven at the Final Hearing. So Respondent either lied to the Investigative Panel or, as the Hearing Panel has concluded, she decided she would simply ignore -- in bad faith -- the CJC Rules that interfered with her chosen course of action.[31]

[31] Any doubt about what the answer is -- lie or bad faith -- is dispelled by Respondent's affidavits filed in connection with her opposition to the interim suspension the Director twice sought during the pendency of the Formal Charges. In her first affidavit she claimed "Ultimately, I desire to be held to the same standards as other Judges, as opposed to heightened unattainable standards, and am afforded the same protections and rights under the Judicial Code and the Georgia Constitution as my peers." (Respondent's Opp. to Director's Mot. for Interim Suspension, Ex. 1, Peterson Affidavit of 12 October 2021, ¶ 11). Her second affidavit riffed from the first: "I have previously stated my desire to one day be held to the same standards as other judges and afforded the same protections and rights under the Judicial Code and the Georgia Constitution." (Respondent's Opp. to Director's Second Mot. to Disqualify, Ex. B, Peterson Affidavit of 26 July 2022, ¶ 11). In other words, the JQC's prosecution was instead a persecution and the Rules of the CJC are now "unattainable standards" -- the *ultimate* obstruction. In Respondent's perspective, what needed to change was the system, its rules, and their application, and not Respondent.

This persistent unwillingness to apply to herself the rules that apply to everyone else is deeply troubling. Disregarding orders from Captain Wilson and engaging in settlement negotiations with parties whom she knew to be represented show a "cavalier disregard for the law as applied to [her] own conduct." *Id*. Moreover, she has demonstrated a "steadfast unwillingness to accept moral accountability" in nearly all the episodes of misconduct. *Id*. at 412. This, too, is significant because "[a] judge who cannot recognize his own transgressions does not deserve the authority or command the respect necessary to judge the transgressions of others." *Matter of Inquiry Concerning a Judge*, 265 Ga. at 852 n.12.

Further aggravating Respondent's case is her "disingenuous, if not outright dishonest" conduct during the JQC process, in particular her untruthful and evasive testimony to the Hearing Panel. *Coomer II*, 316 Ga. at 874 (finding Coomer's mendacity during the JQC proceedings to be an aggravating factor when determining the appropriate level of discipline). A non-exhaustive list of Respondent's misdirection and prevarication during the hearing includes:

- Respondent's testimony concerning whether and from whom she received CashApp payments, which varied from some money to none, with the roster of donors similarly changing throughout the hearing. Respondent eventually offered to present her CashApp records as best evidence, but never did -- a failure from which the Panel draws a negative inference. Evid. Hr'g Tr. Vol. 1 at 102-106.

- Respondent falsely testified that she made no recording at the HOA Meeting. *Compare* Evid. Hr'g Tr. Vol. 3 at 707-708 *with* Director's Ex. 50 at 4:40-4:42.

- Respondent repeatedly asserted that Sheriff Pounds granted her permission to enter the courthouse. The Sheriff flatly contradicted Respondent. The Panel, having carefully evaluated both witnesses' testimony, fully credits the Sheriff. *Compare* Evid. Hr'g Tr. Vol. 1 at 196-197 *with* Evid. Hr'g Tr. Vol. 4 at 1048.

- Although asked repeatedly, Respondent refused to even approximate how much she collected in extrajudicial income. Evid. Hr'g Tr. Vol. 6 at 1374-77.

Respondent's efforts "to justify, or conceal, [her] misconduct . . . demonstrated a disrespect for this disciplinary process and a pattern of deceptive behavior that is unacceptable in the judiciary." *In*

re Robert K. Adrian, No. 22 CC 04 (Eighth Jud. Cir., Ill., Feb. 23, 2024) (collecting cases). As our Supreme Court recently stated in *Coomer II*, "The judiciary has no place for dishonest persons" because its authority "depends in large measure on the public's willingness to respect and follow its decisions," thus "judges cannot be perceived to be dishonest or above the law." 316 Ga. at 866.

So where does that leave us? "[T]he severity of discipline depends, in part, upon the effect of the improper activity on the judicial system." *In re Inquiry Concerning Judge Robertson*, 277 Ga. 831, 834 (2004). Often, the Hearing Panel is left to surmise the impact a wayward judge's conduct has had on the community she serves. Here, the Director provided testimony from people directly and adversely affected by Respondent's misconduct -- testimony that reinforces the Hearing Panel's finding that Respondent has already done significant damage to the public's perception of the judiciary as a competent, neutral, reliable, equitable, and efficient institution. Legal professionals with matters in Douglas County's probate court described the situation as "egregious" when they detailed how Respondent's mismanagement of her docket resulted in delay and unnecessary costs to their clients. Evid. Hr'g Tr. Vol. 4 at 1035-36; Evid. Hr'g Tr. Vol. 5 at 1229-30 (testifying that counsel's client absorbed additional costs for writ of mandamus). Litigants were left wondering how to respond to Respondent's orders, as P.J. testified that she didn't know if she was "going back to jail or not" if she provided another translated copy of her birth certificate to support her petition. Evid. Hr'g Tr. Vol. 4 at 1173-74. Among peers and colleagues, Respondent needlessly incited fear, as County's staff testified about being "afraid" of her legal retaliation. *Id*. at 912-13. And while some members of the public may perceive Respondent's outside antics to be "funny," they do not find her conduct to be commensurate with the standards of the judiciary. *Id*. at 1184-85, 1203. In other words, Respondent's misconduct has already demonstrably eroded the public's respect for the judicial system. This is unacceptable and

institutionally harmful, as the judiciary will "be obeyed only so long as the public respects it," *Coomer II*, 316 Ga. at 855-56.

Given Respondent's unyielding view that these disciplinary proceedings have been unfair, biased, and intentionally obstructive to her career, the Hearing Panel has no faith that a sanction less than removal will have a meaningful restorative or corrective impact. Respondent's actions in the courtroom and outside it demonstrate a consistent and persistent pattern of misconduct comprised of intemperance, judicial incompetence, and danger to the rights of litigants, which combined warrant removal. *Inquiry Concerning Fowler*, 287 Ga. 467, 472 (2010). "We do not expect judges to be perfect," *Coomer II*, 316 Ga. at 866, but they are expected to act in a manner that promotes the integrity and impartiality of the judiciary. Respondent has shown that she cannot -- or will not -- do so. And so she must go.

V. Conclusion

"The purpose of judicial removal proceedings and the function of the JQC, above all, is to assure the citizens of this State that the judiciary is worthy of its trust." *In re Inquiry Concerning Judge Robertson*, 277 Ga. at 833–34. An experience with the probate court no doubt plays a substantial role in shaping the public's trust in and respect for our judicial system because the judges of that court preside over some of the most personally significant matters that many will experience in their lifetimes -- like marriage or the death of a loved one. However, the public cannot be expected to "respect the law and remain confident in our judiciary while judges who do not respect and follow the law themselves remain on the bench." *Inquiry Concerning Fowler*, 287 Ga. at 472. In order to protect and preserve that public trust upon which the judiciary's authority depends, the Hearing Panel recommends that Respondent Judge Christina J. Peterson be removed from her position as judge of the Douglas County Probate Court. *See* JQC Rule 6(B)(1).

The Director shall ensure that the record is transmitted to the Supreme Court.

All members of the JQC Hearing Panel join in this Report and Recommendation.

DATED: 1 April 2024

Robert C.I. McBurney (judge member)

Dax E. Lopez with permission
Dax E. Lopez (lawyer member)

Richard Hyde with permission
Richard Hyde (citizen member)

RICHARD L. HYDE, SPECIAL CONCURRENCE

I concur fully with the findings and recommendations of my colleagues regarding Christina J. Peterson, Probate Judge of Douglas County. Removing her from elected judicial office is the appropriate sanction given her pattern of violations of the Code of Judicial Conduct. "We must never forget that the courts belong to the people and are operated solely for their benefit."[32] It is clear to me that the people are not benefitting from the manner in which Respondent has operated.

I agree that several serious allegations were proven and warrant removal on their own. On some of the counts of lesser misconduct alleged and proven by the Director of the Judicial Qualifications Commission, I would have suggested a suspension without pay. However, I do not believe that this is a lawful alternative for judicial discipline.

Because Article VI, Section VII, Paragraph V of our Constitution states that "An incumbent's salary, allowance, or supplement shall not be decreased during the incumbent's term of office", I find no authority to suspend, without pay, a judicial officer of this state.[33]

And a suspension with pay is nothing more than a vacation and could be seen by the public as no penalty at all. Furthermore, it does not advance our primary mandate to protect the integrity of the judiciary. Indeed, to concerned citizens, a paid suspension might well look more like a clubby wink and nod than a meaningful penalty.

As I understand the case law and history of this Commission, our Supreme Court has never been squarely presented with the question of whether an involuntary suspension of a judge without

[32] Honorable Hugh Lawson, New Judge Orientation, Council of Superior Court Judges, 1992.

[33] While not speaking directly to its constitutionality, the Court has routinely suspended judges without pay in matters of judicial discipline by *consent. See e.g.*, *Inquiry Concerning Gundy*, 314 Ga. 430, 434 (2022) (90-day suspension without pay by consent for Atlanta Magistrate Judge Terrinee Gundy); *Inquiry Concerning Hays*, [Hyde, dissenting] 313 Ga. 148, 150 (2022) (accepting and imposing 30-day suspension without pay by consent for Crawford County Magistrate Court Judge Cary Hays III); *but see In re Judge No. 93-154*, 263 Ga. 883, 883 (1994) (imposing reprimand and non-consensual 90-day suspension without pay upon Rabun County Probate Court Judge Larry Cannon).

pay violates Article VI, Section VII, Paragraph V of the Georgia Constitution. This limits our use of the full range of sanctions adopted by many other states and prevents us from recommending lesser disciplinary actions tailored to a particular case.

It might be time for the legislature to consider an amendment to the Constitution to allow the citizens of our State to decide this question.

I am authorized to state that both of my colleagues on the Panel join in this concurrence.

DATED: 1 April 2024

Richard Hyde with permission
Richard Hyde (citizen member)