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**SUPERIOR COURT OF NEW JERSEY
ADVISORY COMMITTEE ON JUDICIAL CONDUCT**

IN THE MATTER OF

JOHN F. RUSSO, Jr.
JUDGE OF THE SUPERIOR COURT

Docket No. ACJC 2017-225

**ANSWER TO AMENDED
FORMAL COMPLAINT**

Respondent, the Honorable John F. Russo, Jr., by way of Answer to the Amended Formal Complaint, says:

1. Respondent admits the allegations of Paragraph 1.
2. Respondent admits the allegations of Paragraph 2. Respondent also states that since May 18, 2017, he has been on administrative leave having been removed from his official duties and ordered not to return to the Courthouse. As such, this puts him in a difficult position as compared to other judges in answering the Amended Formal Complaint as he has no access to files, transcripts, notes, other documents and staff that might refresh his recollection in order to better respond to the allegations. Moreover, in reviewing the Amended Formal Complaint, there are many factual inaccuracies and mistakes that are specifically addressed below. For these reasons, and due to the length of time that has elapsed (in some cases over two years), Respondent does not have sufficient information to respond to some allegations and therefore

denies them until such time as all discovery is received. Nevertheless, specific answers are set forth below.

Count I

3. Respondent repeats the responses to the foregoing paragraphs as if each were set fully and at length therein.

4. Respondent admits that the case of *M.R. v. D.H.* involved a Plaintiff-female who sought a Final Restraining Order (“FRO”) after she alleged the Defendant-male, with whom she was in a relationship, sexually assaulted her. Respondent admits that at the Final Restraining Order Hearing, the Plaintiff-female made some of the allegations described in a civil complaint against Defendant-male and denies that the Plaintiff-female presented credible evidence sufficient for the Court to substantiate the allegations.

5. Respondent admits that a colloquy occurred about events that were alleged to have happened on March 24, 2016. However, it should be noted that the selected excerpts in the Complaint do not effectively capture the essence of this matter which occurred over three days.

6. Respondent admits the allegations of paragraph 6. However, it should be noted that the selected excerpts do not effectively capture the essence of this matter which occurred over three days.

7. Respondent admits the allegations of paragraph 7.

8. Respondent denies the allegations of paragraph 8.

Count II

9. Respondent repeats the responses to the foregoing paragraphs as if each were set fully and at length therein.

10. Respondent denies the allegations of paragraph 10. By way of further explanation, Respondent admits that he was assigned the FD docket and presided over a morning calendar and an afternoon calendar every Thursday, both calendars concerned motions and complaints filed under an FD docket number.

11. Respondent responds that to the best of his knowledge, the allegations of paragraph 11 are admitted.

12. Respondent denies the allegations of paragraph 12. Respondent further states he was involved in a matter in Chancery Division, General Equity, not Family Part in Burlington County, by way of his application to become legal guardian of his adult son with disabilities in March 2017.

13. Admitted.

14. Respondent denies the allegations of paragraph 14.

15. Respondent is without information sufficient to form a belief as to the allegations of paragraph 15, and therefore the allegations are denied.

16. Respondent admits that he appeared in Burlington County Superior Court, Chancery Division, General Equity on March 23, 2017 with his counsel at which time the matter was resolved.

17. Respondent denies the allegations of paragraph 17.

Count III

18. Respondent repeats the responses to the foregoing paragraphs as if each were set fully and at length therein.

19. Admitted.

20. Because Respondent does not have access to the entire court file, Respondent is without information sufficient to respond to the allegations of paragraph 20. Therefore, the allegations are denied.

21. Because Respondent does not have access to the entire court file, Respondent is without information sufficient to respond to the allegations of paragraph 21. Therefore, the allegations are denied.

22. Admitted.

23. Because Respondent does not have access this order, Respondent is without information sufficient to respond to the allegations of paragraph 23. Therefore, the allegations are denied.

24. Because Respondent does not have access to this order, Respondent is without information sufficient to respond to the allegations of paragraph 24. Therefore, the allegations are denied.

25. Admitted.

26. Respondent denies the allegations of paragraph 26 as the audio recording does not verbatim reflect the allegations as drafted therein.

27. Respondent admits that he presided over the matter of a bench warrant due to Mr. Carbonetto's non-payment of support arrears. As the allegations of paragraph 26 do not verbatim match the remarks in the audio recording of the matter, the remainder of the allegations of paragraph 27 are denied.

28. Respondent denies the allegations of paragraph 28 as the audio recording does not verbatim reflect the allegations as written therein.

29. Admitted.

30. Admitted that Respondent found that Mr. Carbonetto was not indigent given his employment and that he reduced the purge amount from \$10,000.00 to \$300.00. Because Respondent does not have the October 30, 2015 order, Respondent is without sufficient information to form a belief as to the remainder of the paragraph and therefore, the allegations are denied.

31. Admitted that Respondent released Mr. Carbonetto based upon his promise to pay the \$300.00 in support arrears and that Respondent ordered the automatic issuance of a bench warrant if Mr. Carbonetto failed to make the \$300.00 payment on March 14, 2016. Because Respondent does not have the January 5, 2016 order, Respondent is without sufficient information to form a belief as to the remainder of the paragraph and therefore, the allegations are denied.

32. Respondent denies the allegations of paragraph 32.

33. Respondent denies the allegations of paragraph 33.

Count IV

34. Respondent repeats the responses to the foregoing paragraphs as if each were set fully and at length therein.

35. Respondent admits the allegations of paragraph 35.

36. Respondent denies the allegations of paragraph 36. By way of further explanation, at the hearing, Plaintiff/Father appeared but Defendant/Mother failed to appear. However, Respondent, on the record, directed his court clerk to call the Defendant/Mother's telephone number as Respondent was informed that she lived out of state. Respondent further states that it was common in the FD docket to call litigants if they were out of state but did not appear in the courtroom. Respondent's clerk called Defendant/Mother on the record, in

Plaintiff/Father's presence, and left a voice mail asking her to please call the court immediately. Thereafter, Respondent rescheduled the hearing for July 21, 2017 at 1:30, took no further action and released the Plaintiff/Father. Respondent admits that shortly after Plaintiff/Father left, Defendant/Mother returned the call to Respondent's chambers and Respondent directed that the call be transferred to his Court Clerk's phone where Defendant/Mother was sworn in by the court clerk and placed on the record. Respondent further states that he took no action other than to advise Defendant/Mother that he continued the matter until July 21st, providing Defendant/Mother virtually the same information he gave Plaintiff/Father.

37. Respondent denies the allegations of paragraph 37. Defendant/Mother advised Respondent that she did not get any paperwork, it is unclear as to what documents to which she was referring.

38. Respondent admits the allegations of paragraph 38.

39. Respondent denies the allegations of paragraph 39.

WHEREFORE, Respondent requests that the Amended Formal Complaint be dismissed.

Separate Defenses

First Separate Defense to All Counts

Respondent reserves the right to amend his answer and to assert any additional defenses upon reviewing discovery in this matter, particularly since Respondent has no access to files, documents or transcripts which inhibits his ability to provide full and complete answers and defenses.

Second Separate Defense to Counts One and Four

Respondent was a newly appointed judge to the Superior Court with little to no training or supervision prior to September, 2016. If any errors in procedure or otherwise were made,

these were already discussed with the Honorable Marlene Lynch Ford, A.J.S.C., who reviewed some of the matters included in this Amended Formal Complaint with Respondent at her election long before this Amended Formal Complaint was filed. At that time, Judge Ford indicated no further action was needed and made no referral to the Committee.

Third Separate Defense to All Counts

Respondent personally observed the highest standards of conduct. Respondent acted in a manner that promoted public confidence in the independence, integrity and impartiality of the judiciary and took reasonable steps to avoid impropriety and the appearance of impropriety. Respondent did not attempt to use his position to gain personal advantage or deferential treatment of any kind.

Fourth Separate Defense to All Counts

Any misconduct that may be found is only minor misconduct and does not rise to the level requiring formal discipline.

MITIGATING FACTORS

First Mitigating Factor

Respondent has fully cooperated with the investigation of this matter.

Second Mitigating Factor

Respondent has a good reputation and character. Respondent has had exemplary conduct both prior to and since the alleged incidents. Respondent respected and complied with the law and acted in a matter that promotes public confidence in the judiciary. He was consistently dignified, courteous and impartial to those he dealt with in a judicial capacity. Never did Respondent discriminate because of race, color, religion, age, sexual orientation, national origin, language, marital status, socioeconomic status, or disability.

Third Mitigating Factor

During the time that Respondent was on the bench in Superior Court, Respondent worked hard, was caring and passionate about litigants, handled cases efficiently and reduced the backlog to zero on June 30, 2016, in the FD docket in Ocean County for the first time in many years. Respondent is unaware of any complaints against his strong work ethic, and to his knowledge, no party that appeared before him was ever successful in filing an appeal.

Fourth Mitigating Factor

At the time of the events alleged, Respondent was newly appointed to the Superior Court bench with little to no training from his peers prior to September 30, 2016. Respondent complied with all requests and advice by his superiors when mistakes were pointed out to him or suggestions made and took steps to make sure that they were not repeated. Respondent has not engaged in similar alleged misconduct in the past nor has he shown the propensity to do so in the future.

Respectfully submitted,

Dated: September 13, 2018

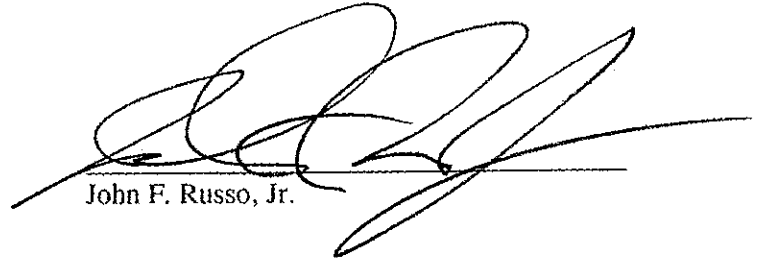
REISMAN CAROLLA GRAN LLP

/s/ Amelia Carolla

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VERIFICATION

I, John F. Russo, Jr., am the Respondent in the within disciplinary action. I hereby certify that I have read the foregoing Answer to Amended Formal Complaint and verify that the statements therein are true based upon my personal knowledge. I am aware that if any statements made by me are willingly false, I am subject to punishment.



John F. Russo, Jr.

Dated: September 14, 2018