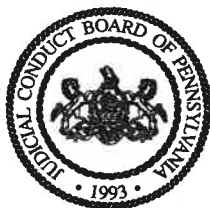


Judicial Conduct Board

Commonwealth of Pennsylvania



Joseph A. Massa, Jr., Chief Counsel
717-234-7911

Press Release

November 4, 2010

TO: Media/Press

FROM: Judicial Conduct Board

**SUBJECT: Maryesther Merlo,
Magisterial District Judge;
Magisterial District 31-1-02;
Lehigh County
3 JD 2010**

Harrisburg. The Judicial Conduct Board announced today that it has instituted formal proceedings against Magisterial District Judge Maryesther Merlo of Lehigh County. A Board Complaint has been filed with the Court of Judicial Discipline.

In accordance with the rules which govern proceedings before the Court of Judicial Discipline, Magisterial District Judge Merlo has an opportunity to respond to the charges, obtain and inspect the evidence which forms the basis of the allegations and the right to a public trial before the Court of Judicial Discipline.

Upon completion of the trial, if the Court determines that the charges have been proven by clear and convincing evidence, it will schedule a Sanctions Hearing to determine what sanctions should be imposed upon the magisterial district judge for violating the Rules Governing Standards of Conduct of Magisterial District Judges and the Pennsylvania Constitution. Possible sanctions include reprimand, suspension, or removal from office.

Counsel

Board: Francis J. Puskas II – Deputy Chief Counsel

Respondent: Samuel C. Stretton, Esquire

Contact

Joseph A. Massa, Jr., Chief Counsel

Board Complaint is attached.

For more information about the Judicial Conduct Board, please visit our website at www.icbpa.org.

END

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2010 NOV -4 P 1:59

IN RE:

Maryesther S. Merlo :
Magisterial District Judge :
Magisterial District 31-1-02 :
Lehigh County : 3 JD 2010

IMPORTANT NOTICE

TO: MARYESTHER S. MERLO:

You are hereby notified that the Pennsylvania Judicial Conduct Board has determined there is probable cause to file formal charges against you for conduct proscribed by Article V, §17(b) and §18(d)(1) of the Constitution of the Commonwealth of Pennsylvania and the Rules Governing Standards of Conduct of Magisterial District Judges. The Board's counsel will present the case in support of the charges before the Pennsylvania Court of Judicial Discipline.

You have an absolute right to be represented by a lawyer in all proceedings before the Court of Judicial Discipline. Your attorney should file an entry of appearance with the Court of Judicial Discipline within fifteen (15) days of service of this Board Complaint in accordance with C.J.D.R.P. No. 110.

You are hereby notified, pursuant to C.J.D.R.P. No. 302(B), that should you elect to file an omnibus motion, that motion should be filed no later than thirty (30) days after the service of this Complaint in accordance with C.J.D.R.P. No. 411.

You are further hereby notified that within thirty (30) days after the service of this Complaint, if no omnibus motion is filed, or within twenty (20) days after the dismissal of all or part of the omnibus motion, you may file an Answer admitting or denying the allegations

contained in this Complaint in accordance with C.J.D.R.P. No. 413. Failure to file an Answer shall be deemed a denial of all factual allegations in the Complaint.

AND NOW, this 4th day of November, 2010, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (hereinafter "Board") and files this Board Complaint against the Honorable Maryesther S. Merlo (hereinafter "Respondent"), Magisterial District Judge for Magisterial District 31-1-02 of the Thirty-First Judicial District, Lehigh County, Pennsylvania, alleging that the Respondent has violated the Rules Governing Standards of Conduct of Magisterial District Judges and Article V, §17(b) and §18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, as more specifically delineated herein.

1. Pursuant to Article V, §18 of the Constitution of the Commonwealth of Pennsylvania, the Board is granted authority to determine whether there is probable cause to file formal charges, and, when it concludes that probable cause exists, to file formal charges, against a justice, judge, or justice of the peace, for proscribed conduct and to present the case in support of such charges before the Court of Judicial Discipline.
2. Since on or about 2004, the Respondent has served continuously to the present as the duly-elected Magisterial District Judge for Magisterial District 31-1-02 of the Thirty-first Judicial District, Lehigh County, Pennsylvania, encompassing the City of Allentown and Wards 4, 7, and 11.

Respondent's Work Habits

3. During the time period of 2007-2009, the Respondent exhibited a pattern of absenteeism and tardiness resulting in unnecessary delay and continuance of numerous hearings, which had to be cancelled and rescheduled, sometimes more than once, as the Respondent was sometimes absent on the rescheduled date. The Respondent was tardy to court on a continual basis, usually being late by at least 30 to 45 minutes, and on occasions, calling in after she was already tardy to call off from work or advise her staff she would be in later still. The following represent examples of identifiable dates when the Respondent was noted to have called off from work or to have been tardy for a specific amount of time, though the Respondent was generally tardy on a continual basis:

2007

September 12 (Wednesday): ½ hour late.

September 13 (Thursday): ½ hour late.

September 25 (Tuesday): Called off.

September 26 (Wednesday): Called off at 10:40 AM. Respondent informed staff she overslept.

October 10 (Wednesday): Called off. Respondent was also scheduled to cover arraignments for MDJ David Leh.

October 18 (Thursday): Called off afternoon.

October 31 (Wednesday): ½ hour late.

November 8 (Thursday): ½ hour late.

November 15 (Thursday): Called off at 10:00 AM when the Respondent had matters scheduled for 9:30 AM. Informed staff her boat trailer had arrived and she wanted to stay home to deal with that. People waiting at Respondent's court for hearings had to be sent home and were angry.

December 13 (Thursday): Called off. Snow.

December 17 (Monday): Called off.

December 20 (Thursday): ½ hour late.

2008

January 2 (Wednesday): Called off.

January 3 (Thursday): Called off.

January 4 (Friday): Called off.

January 9 (Wednesday): ½ hour late.

January 10 (Thursday): ½ hour late.

January 14 (Monday): Called off.

January 16 (Wednesday): ½ hour late.

January 17 (Thursday): ½ hour late.

January 30 (Wednesday): ½ hour late.

January 31 (Thursday): ½ hour late.

February 13 (Wednesday): Called off. Snow.

February 14 (Thursday): 40 minutes late. Court had been scheduled to begin at 9:30 AM. Respondent entered courtroom at 10:10 AM, relating that her vehicle rear window was stuck. Waiting room filled with parents and students on truancy cases to standing room only. Some parents overheard sarcastically commenting: “*I’m here again. Let’s see if she shows up this time*” and “*She’ll be here this time...I hope.*” After the Respondent arrived, she spent ten (10) minutes in court directing her staff on an errand. The Respondent then spent another ten (10) minutes talking to her staff about the petty cash account. Finally, at 10:35 AM, the Respondent began hearing a truancy case. This took about an hour. The Respondent then handled two arraignments, which further delayed hearing the remaining truancy cases.

February 19 (Tuesday): Called off.

February 20 (Wednesday): ½ hour late.

February 27 (Wednesday): ½ hour late.

February 28 (Thursday): ½ hour late.

March 5 (Wednesday): Called off.

March 6 (Thursday): 57 minutes late for truancy hearings. Parents became upset and argumentative with the Respondent’s staff, who contacted Lehigh County court offices about parent concerns.

March 12 (Wednesday): 5 minutes late.

April 7 (Monday): Called off.

April 9 (Wednesday): 10 minutes late.

April 10 (Thursday): 40 minutes late.

April 16 (Wednesday): 10 minutes late.

April 17 (Thursday): 15 minutes late.

May 5 (Monday): Called off.

May 28: Called off.

June 5 (Thursday): Called off. The Respondent was also scheduled to cover arraignments for MDJ David Leh this day.

June 6 (Friday): Called off.

June 13 (Friday): Called off.

July 11 (Friday): Called afternoon off.

July 14 (Monday): Called off.

August 8 (Friday): Called afternoon off.

August 11 (Monday): Called off.

August 12 (Tuesday): Called afternoon off.

August 13 (Wednesday): Called off.

August 14 (Thursday): Called off.

August 15 (Friday): Called off.

August 18 (Monday): Called off.

August 29 (Friday): Called off.

September 3 (Wednesday): Called off.

September 8 (Monday): Called off.

September 9 (Tuesday): Called off.

September 11 (Thursday): Called off.

September 29 (Monday): Called off.

October 6 (Monday): Called off.

October 8 (Wednesday): Called off.

October 17 (Friday): Called off.

October 20 (Monday): Called off.

October 30 (Thursday): Called off.

October 31 (Friday): Called off.

November 5 (Wednesday): Called off.

November 17 (Monday): Called off.

November 18 (Tuesday): Called off. The Respondent was also scheduled to cover arraignments for MDJ David Leh.

November 19 (Wednesday): Called off. The Respondent was also scheduled to cover arraignments for MDJ David Leh.

2009

January 28 (Wednesday): Called off. Snow.

February 9 (Monday): Called off.

February 12 (Thursday): Conducted only three (3) truancy hearings and then sent everyone home without explanation. Remaining truancy hearings had to be rescheduled.

February 23 (Monday): Called off.

March 6 (Friday): Called off.

March 9 (Monday): Called off.

March 11 (Wednesday): Called off.

March 12 (Thursday): Called off. Coverage Order states “*unavailable because of doing campaign issues.*”

March 13 (Friday): Called off. Coverage Order states “*unavailable because of doing campaign issues.*”

March 16 (Monday): Called off. Coverage Order states “*unavailable because of doing campaign issues.*”

March 18 (Wednesday): Called off.

March 20 (Friday): Called off. Coverage Order states “*unavailable because of campaign matters.*”

March 23 (Monday): Called off. Coverage Order states “*unavailable because of campaign matters.*”

March 24 (Tuesday): Called off.

April 1 (Wednesday): Called off.

April 3 (Friday): Called off.

April 6 (Monday): Called off.

April 7 (Tuesday): Called off.

April 8 (Wednesday): Called off.

April 9 (Thursday): Called off.

April 13 (Monday): Called off.

April 16 (Thursday): Called off.

April 17 (Friday): Called off.

April 20 (Monday): Called off.

April 22 (Wednesday): Called off.

May 1 (Friday): Called off.

May 4 (Monday): Called off.

May 5 (Tuesday): Called off.

May 6 (Wednesday): Called off.

May 7 (Thursday): Called off.

May 11 (Monday): Called off.

May 12 (Tuesday): Called off.

May 13 (Wednesday): Called off.

May 14 (Thursday): Called off.

May 15 (Friday): Called off.

May 18 (Monday): Called off.

May 19 (Tuesday): Called off.

May 20 (Wednesday): Called off.
May 28 (Thursday): At least 1 hour late.
May 29 (Friday): 1 hour and 15 minutes late.

June 1 (Monday): Called off.
June 16 (Tuesday): Called off.
June 30 (Tuesday): Called off.

July 8 (Wednesday): Called off.

August 12 (Wednesday): Called off.
August 14 (Friday): Called off afternoon.
August 21 (Friday): Called off afternoon. The Respondent left for lunch and then called back in the afternoon and told staff she was “*beat and taking the afternoon off.*” Remaining hearings continued. No coverage arranged.
August 24 (Monday): Called off.
August 28 (Friday): Called off afternoon.

September 1 (Tuesday): Called off.
September 2 (Wednesday): Called off afternoon.
September 23 (Wednesday): Called off afternoon.
September 24 (Thursday): Called off.
September 28 (Monday): Called off.

October 5 (Monday): Called off.
October 7 (Wednesday): Called off.
October 8 (Thursday): Called off.
October 12 (Monday): Called off.
October 13 (Tuesday): Called off.
October 14 (Wednesday): Called off.
October 15 (Thursday): Called off.
October 16 (Friday): Called off. The Respondent advised staff she was “*blowing off*” the day since she already missed all the previous days of the week. Numerous hearings continued.
October 19-23 (Monday – Friday): Scheduled to attend minor judiciary continuing education classes. The Respondent did not attend. Instead, the Respondent used the time to campaign for reelection.
October 30 (Friday): Called off.

November 2 (Monday): Called off.
November 3 (Tuesday): Called off.
November 4 (Wednesday): Called off.
November 5 (Thursday): 30 minutes late.
November 30 (Monday): Called off.

December 2 (Wednesday): Called off.

December 14 (Monday): Called off.

December 15 (Tuesday): Called off.

4. The Respondent's tardiness and absenteeism, along with continuances and rescheduling of cases, unnecessarily delayed hearings and trials of pending court matters. The following are examples of matters delayed in getting hearings or trials because of the Respondent's tardiness and/or calling off:

A. Truancy Cases: The Respondent unnecessarily delayed trial for truancy cases by calling off from work and continuing the cases. The following truancy cases were continued three (3) and four (4) times and took almost nine (9) months to get to trial because the Respondent called off and the matters had to be continued repeatedly:

Commonwealth v. Michael Ott, NT-0000539-07

Commonwealth v. Brian Wright, NT-0000377-07

Commonwealth v. Belkis Lerebours, NT-0000514-07

Commonwealth v. Maggie Frias, NT-0000515-07

Commonwealth v. Kimberly Miller, NT-0000516-07

Commonwealth v. Lana Turull, NT-0000517-07

Commonwealth v. Carolyn Welch, NT-0000518-07

Commonwealth v. Lucy Roth, NT-0000532-07

Commonwealth v. George Velez, NT-0000533-07

B. The following matters were continued at least once, in some cases twice, because the Respondent called off and the matters had to be rescheduled:

Commonwealth v. Amanda Banks, NT-0000790-07

Commonwealth v. Cee Cee Matthews, NT-0001158-08

Commonwealth v. Na-Ana-Ja Sarda Stevens, CR-0000266-08

Commonwealth v. Linda Hosking, PC-0001323-07

TR-0000475-08

TR-0002172-08

TR-0002361-08

TR-0002135-08

TR-0003238-08

TR-0001484-08

TR-0000115-08

Commonwealth v. Jasprit Singh, NT-0000731-09
Commonwealth v. Richard Jones, TR-0001350-09
Pujols v. Harbingreither, CV-0000380-08
Commonwealth v. Beatriz Ramos Rivera, CR-0000676-08

C. Angela Caraballo v. Dana Easterday, LT-0000163-09.

On or about March 25, 2009, Angela Caraballo filed a Landlord and Tenant Complaint at Angela Caraballo v. Dana Easterday, LT-0000163-09. Caraballo was represented in the matter by David Vaida, Esq.

The Caraballo case was initially scheduled to be heard on April 6, 2009; however, the Respondent called off. It was rescheduled for April 22, 2009; however, the Respondent called off. It was rescheduled for May 6, 2009; however, the Respondent called off. It was rescheduled for May 12, 2009; however, the Respondent called off.

On or about May 12, 2009, attorney Vaida complained to the Lehigh County District Judge Administrator, H. Gordon Roberts, regarding repeated rescheduling of the case and delay in being heard. Attorney Vaida requested the matter be brought to the attention of the President Judge for reassignment to another magisterial district judge.

By Order dated May 12, 2009, President Judge William H. Platt transferred the Caraballo case to another magisterial district judge for hearing.

D. Commonwealth v. Andrew Robert Krauss, TR-0001148-09.

On or about March 11, 2009, Officer Stephen Rosenberger, Allentown Police Department, filed in the Respondent's magisterial district court a criminal complaint charging Exceeding Maximum Speed Limits (i.e. speeding) at Commonwealth v. Andrew Robert Krauss, TR-0001148-09. Trial was initially scheduled for April 17, 2009, at 10:45 AM.

On or about April 17, 2009, Debra Krauss took off from work to attend trial with her then 18-year old son, Andrew Krauss (the defendant). At approximately 10:00 AM, Debra Krauss received a telephone call from the Respondent's office advising that trial was continued because the Respondent had called off for the day. Trial was rescheduled for May 15, 2009, at 10:30 AM.

On or about May 15, 2009, Debra Krauss received a telephone call from the Respondent's office again informing that trial was continued. The Respondent had called off from work. Trial was rescheduled to May 29, 2009, at 9:45 AM.

On or about May 29, 2009, the Respondent presided over the summary trial of Commonwealth v. Andrew Robert Krauss, NT-0001148-09. Though trial was scheduled for 9:30 AM, and Debra Krauss and her son (the defendant) had been at court since 9:15 AM, the Respondent did not appear until 10:15 AM, at which time she stated she would hear those cases scheduled for 9:45 AM. After first hearing a different speeding case, the Respondent called the Krauss case.

5. The Respondent instructed her staff to enter default judgments in her absence on Landlord and Tenant complaints in those cases where a defendant failed to appear and the landlord was present. The Respondent also instructed her staff to enter judgments if a tenant was present and agreed to the amount owed the landlord. The Respondent's staff would record dispositions and the Respondent would sign the worksheets at a later date when she was available. The following eighty-five (85) landlord/tenant cases involved the Respondent's staff entering judgments on days when the Respondent was not present because of calling off from work and/or being on vacation:

Allentown Apts. LLC v. Michael Danner, et al., LT-0000528-07
Allentown Apts. LLC v. Angel Ofray, et al., LT-0000734-07
Arayus Management v. Guillermo Dosal-Galindo, LT-0000730-07
Ramon Carrasco v. Edna Birdwell, et al., LT-0000521-07
F.K.C.R. Trust v. Phillip Berger, et al., LT-0000455-07
Magarita Garcia v. Jasmine Rodriguez, LT-0000717-07
Hardev Malhotra v. Adam Lopez, et al., LT-0000526-07
John J. Hurley v. Ernie Escobedo, LT-0000639-07
Livingston Apts. LP v. Kaif Funderburg, LT-0000461-07
R.E. Management Services v. Brad Eck, LT-0000467-07
Sendo Corp. v. Tabitha Cordoba, LT-0000681-07
Daisuke Shintani v. Freddy Wolina, LT-0000655-07
Dennis L. Silfies v. Dulcinea Guerrero, LT-0000726-07
Rich Smith v. Felicia Lawson, LT-0000731-07
Raj Soin v. Donald Smith, LT-0000626-07
Frank Tineo v. Diana L. Nagel, LT-0000470-07
Alonso Vargas, et al. v. Dave McLonghan, et al., LT-0000645-07
Han Ho Wang v. Nuri Altagracia, LT-0000733-07
Joseph R. Wright v. Joanna E. Castro, LT-0000746-07

Rawle Alkins v. Joseph Watkins III, LT-0000412-08
Allentown Apts. LLC v. Taheerah Mohammed, LT-0000422-08
Allentown Rescue Mission v. Agnes Velez, LT-0000417-08
Allentown Rescue Mission v. Tanya Wigfall Harrington, LT-0000499-08
Allentown Technology v. Aaron Byers, LT-0000416-08
Arayus Management v. Salina Browning, LT-0000505-08
Clark Management v. Shantee Brazzell, LT-0000032-08
Clark Management v. Elizabeth Negron, LT-0000030-08
Clark Management v. Ailyn Rotger, LT-0000031-08
F.K.C.R. Trust v. Sylvia Smalling, et al., LT-0000655-08
Glen Fulton v. Gary Fretz, LT-0000500-08
R. Jay Geiger v. Newbria Mitchell, LT-0000426-08
R. Jay Geiger v. Gloria Moore, LT-0000429-08
R. Jay Geiger v. Nina Perez, LT-0000339-08
R. Jay Geiger v. Katrira Turner, LT-0000428-08
Homekept Real Estate LLC v. Toomey K. Anderson et al., LT-0000637-08
Homekept Real Estate LLC v. Wandy Saldana, LT-0000636-08
Alan A. Kulick v. Tammy Abdurrahkman, LT-0000648-08
Talika Lennard et al. v. Justan Feilds et al., LT-0000413-08
Cesar A. Martinez v. Angelica Roldan, LT-0000425-08
Jorge L. Pena et al. v. Margarita Rodrigo, LT-0000420-08
Quality Neighborhoods Ltd. v. Latica Bamberg, LT-0000720-08
Muhammad H. Rehman v. Kedene Williams, LT-0000064-08
Eddie Rodriguez v. Shelly Ann Whyte, LT-0000690-08
John Rushanan Sr. v. Sabik Note, LT-0000342-08
Thomas S. Schleicher v. Candace Witman et al., LT-0000063-08
Joseph Schaefer v. Jorge L. Perez-Acosta, LT-0000421-08
TFD Rentals v. Javier Mendez, LT-0000641-08
Derrick Thomas v. Madeline Pereira Aristud, LT-0000658-08
Adam Thor v. Shoshanna Douglas, LT-0000414-08
Advanced Realty Services Ltd. v. Yvette Corby et al., LT-0000113-09
Airx LLC v. Deshawn Holmes, LT-0000041-09
Christos Alexatos v. Vanessa Virella et al., LT-0000248-09
Rawle Alkins v. Lourdes Landor, LT-0000176-09
Arayus Management v. Marilyn Dejesus, LT-0000166-09
Arayus Management v. Victoria Kepawa, LT-0000165-09
Arayus Management v. Patrick Walker, LT-0000122-09
Robert M. Beach v. Tykema Veney et al., LT-0000171-09
Shukri Bekiri v. Enuan Leon, LT-0000181-09
David S. Capece v. Zeeke Workman et al., LT-0000114-09
Clark Management v. Ericka Agosto, LT-0000529-09
Clark Management v. Rashone Haire, LT-0000172-09
Clark Management v. Michelle Mitchell, LT-0000227-09

Clark Management v. Tiffany Moore, LT-0000238-09
Thomas F. Costa v. Sheila Brickhouse, LT-0000218-09
Nelson A. Diaz v. Jose Rosario et al., LT-0000191-09
Julius Ewungkem v. Ray Wilkins, LT-0000240-09
Bruce Fritch v. April Edmond, LT-0000244-09
Gidalina Garcia v. Susan Young, LT-0000241-09
R. Jay Geiger v. Jacinta Huskey, LT-0000537-09
R. Jay Geiger v. Newbrey Mitchell, LT-0000177-09
Infinity Property Management v. Jill Walterick, LT-0000188-09
Kerry Roberts Member LLC v. Joe Beidler, LT-0000223-09
Kerry Roberts Member LLC v. Leticia Hernandez, LT-0000224-09
LMB Financial LLC v. Jennifer Young, LT-0000038-09
Lindenhall Associates v. James Brunson et al., LT-0000180-09
Cesar Martinez v. Carlos Gavillan, LT-0000111-09
Robert J. Micek v. Kathy Jo Slabaugh et al., LT-0000040-09
Richard Peckham v. Shavonne Alford, LT-0000094-09
Cristobal Perez v. Shiohan Howard, LT-0000217-09
Carlos Quinteros v. Nelson Medina et al., LT-0000228-09
Martha Sickles v. Anthony Ponder, LT-0000170-09
Norma Vazquez v. Eric Hernandez, LT-0000216-09
Scott Williamson v. Audrey Coleman, LT-0000093-09
Joseph Zacher et al. v. Gerald Barton, LT-0000226-09
Clark Management v. Tammy Abdur-Rahkman, LT-0000552-09

6. From 2005 to 2008, the Respondent held group hearings for truancy cases where she grouped those charged according to the number of illegal absences (from least to most). The Respondent did not conduct separate hearings on each individual case away from the group.
7. The Respondent employed a practice of continuing truancy cases without making decisions to see if students' attendance improved, delaying resolution of the cases and sending the wrong message since warnings were already provided by the school district. The Respondent would dismiss a case if the slightest improvement occurred or sometimes find students guilty, but not impose fines or costs. All the while, the Respondent was chronically tardy for court and/or called off and failed to show. The

Respondent's failure to resolve truancy cases because of continuances and delays negatively affected school discipline as students figured out that if they were charged in the Respondent's court, they might not be penalized as the Respondent might not show up for court.

8. During 2009, the Respondent failed to promptly address cases involving students who failed to appear for their truancy hearings. In the past, the Respondent would meet with Suzette Arcelay, the Home School Visitor, after the hearings and if there was proof of adequate service, she would find the "no shows" guilty in absentia. During 2009, however, the Respondent entered judgments days or weeks after the scheduled trial date where the defendant failed to show. The Respondent would tell Arcelay she was too tired, needed a cigarette, or that she wanted to leave court. The following are examples of the Respondent failing to enter judgments days or weeks after a scheduled trial date for truancy cases where the defendant failed to show for trial:

Commonwealth v. Christina Byard, NT-0000317-09
Commonwealth v. Jaqueze Campbell, NT-0000318-09
Commonwealth v. Lowell Henderson II, NT-0000324-09
Commonwealth v. Deanna Henderson, NT-0000385-09
Commonwealth v. Emil Jackson, NT-0000386-09
Commonwealth v. Shanice Lewis, NT-0000388-09
Commonwealth v. Anthony Matos, Jr., NT-0000393-09
Commonwealth v. Emilio Figueroa, NT-0000398-09
Commonwealth v. Terrell Johnson, NT-0000196-09
Commonwealth v. Franchely Cuesta, NT-0000253-09
Commonwealth v. Ramon Dejesus, NT-0000232-09
Commonwealth v. Joegeiry Feliz, NT-0000233-09
Commonwealth v. Sharell Reid, NT-0000461-09
Commonwealth v. Ashley Lynn Remaly, NT-0001335-09
Commonwealth v. Scott Brockel, Jr., NT-0000474-09
Commonwealth v. Razz-Berry Diaz, NT-0000475-09

Commonwealth v. Felicia Rosario, NT-0000478-09
Commonwealth v. Karen Proano-Martinez, NT-0000519-09
Commonwealth v. Shawqune Gibson, NT-0000542-09
Commonwealth v. Jawcy Montanez, NT-0000544-09
Commonwealth v. David Orellana, NT-0000545-09
Commonwealth v. Christopher Rivera, NT-0000546-09
Commonwealth v. Steven Schuler, NT-0000549-09
Commonwealth v. Rashad Vaden, NT-0000550-09
Commonwealth v. Dulcinea Guerrero, NT-0000553-09
Commonwealth v. Jose Nieves, NT-0000556-09
Commonwealth v. Valerie Ortiz, NT-0000557-09
Commonwealth v. Izaiah Turpin, NT-0000559-09
Commonwealth v. Eric Vess, NT-0000560-09
Commonwealth v. Joegeiry Feliz, NT-0000622-09

Respondent's Conduct in Courtroom:
Abuse of Power and Improper Judicial Demeanor and Behavior

9. On or about August 31, 2009, the Respondent presided over a preliminary hearing in the matter of Commonwealth v. Elijah D. Steinbrecher, CR-0000267-09. The defendant had been charged with Burglary, Conspiracy to Commit Burglary, Criminal Trespass, Theft By Unlawful Taking, and Receiving Stolen Property.
10. At the preliminary hearing, the defendant was represented by Assistant Public Defender Dennis C. Dougherty. The defendant waived his preliminary hearing.
11. At the preliminary hearing, Assistant Public Defender Dougherty made an oral request for unsecured bail conditioned on release to an inpatient treatment facility. The Respondent stated she would not grant the request unless the defendant admitted to her that he was a "scumbag." Though Assistant Public Defender Dougherty advised his client not to do so, the defendant responded, "I am." The Respondent then granted a bail reduction with release to an inpatient treatment facility.

12. On or about December 8, 2009, the Respondent presided over a scheduled trial in the matter of *Commonwealth v. Angel Mercado*, TR-0002302 -09. The defendant had been charged with a parking violation. Present for trial were the defendant, Angel Mercado, his girlfriend, and Michael Solomon, the charging scofflaw supervisor.
13. During the trial hearing, Mercado admitted that he was guilty of the parking violation. Mercado spoke about his relationship with his girlfriend and that they had children together and a lot of bills. He expressed concern about coming up with money to pay any fine. Mercado talked about different things he was trying to do to “go legit” in his life. When the Respondent asked him if there were any other areas in his life he needed to legitimize, Mercado gestured to his girlfriend and said he should marry her. Solomon interjected, referring to the Respondent, “*I know someone who can do it.*” The Respondent then announced that the case was continued to January 26, 2009, and if Mercado married his girlfriend by the next court date, the citation would be dismissed. If not, the Respondent would find Mercado guilty and put him on a payment plan. Solomon did not request this outcome.
14. The Respondent memorialized her ruling in a handwritten note stating, “*Cont’d to 1/26. If Δ marries girl, case dismissed 1/26. If Δ doesn’t marry girl, G. Can have payment plan. MSM.*”
15. On or about January 26, 2009, the Respondent found Mercado guilty and sentenced him to pay fines and costs. Mercado had not married his girlfriend.
16. On or about June 15, 2009, the Respondent presided over a preliminary hearing in the

matter of Commonwealth v. Sergio Parrales, CR-0000336-09, which involved charges of Simple Assault, Recklessly Endangering, and Harassment. At that time, Sujeily Rodriguez, the alleged victim, was subpoenaed to testify as a prosecution witness. Rodriguez appeared for the preliminary hearing represented by David Nicholls, Esq. Joan Reinsmith, Senior Deputy District Attorney, represented the Commonwealth.

17. During the preliminary hearing, Rodriguez was called to testify. An interpreter was used to translate for Rodriguez. Attorney Nicholls sat next to Rodriguez during her testimony. After answering preliminary questions, including her name, address, and relationship to the defendant, Rodriguez was asked a specific question about a written statement she had made in connection with the incident. Rodriguez refused to testify and attorney Nicholls advised the Respondent that his client was asserting her 5th Amendment right against self-incrimination and declined to answer further questions.
18. The Respondent began a dialogue with attorney Nicholls about why his client could not assert her 5th Amendment right and began questioning Rodriguez. The Respondent told attorney Nicholls he was not allowed to speak with his client during the hearing. When Rodriguez persisted in stating she would not testify, the Respondent began leafing through her materials and said, *"I'm going to look for some way to charge her with perjury."* Nicholls whispered to Rodriguez, *"I think you should continue to assert your 5th Amendment right."* When Rodriguez continued to assert her 5th Amendment right, the Respondent became *"close to*

enraged.”

19. Attorney Nicholls continued to assert his client’s 5th Amendment right and tried to explain that he believed that if Rodriguez testified further and answered questions truthfully she might expose herself to criminal liability. The Respondent said, *“You can’t do that, she has to testify. And if she doesn’t testify I’m going to put her in jail.”* The Respondent then called the sheriffs to arrest and handcuff Rodriguez. They declined to do so. The Respondent became extremely agitated.
20. The Respondent continued speaking about charging Rodriguez with perjury, though Rodriguez had made no statement constituting perjury. Attorney Nicholls said, *“Judge, she’s just not going to testify. You know, you’re going to have to do what you got to do, that’s her position.”*
21. The Respondent then stated, *“We’re going to do it question by question.”* She then asked something to the effect, *“Did you file a statement?”* Attorney Nicholls again asserted Rodriguez’ 5th Amendment right against self-incrimination.
22. During the preliminary hearing, when attorney Nicholls attempted to address his client asserting her 5th Amendment right, multiple times the Respondent yelled at him to *“shut up.”*
23. During the preliminary hearing, the Respondent became excited and lost her temper. At one point, the Respondent banged her gavel and told everyone to be quiet. The interpreter appeared frightened and when the Respondent asked the interpreter why she was not interpreting, she replied in a fearful manner, *“Your Honor, you told nobody to speak.”*

24. The Respondent held Rodriguez in contempt of court and sentenced her to pay a fine of \$110.00 and serve 10 days in jail. The Respondent's Order of Criminal Contempt for Rodriguez indicated "*victim refused to testify.*"
25. Attorney Nicholls appealed on behalf of Rodriguez at *Commonwealth v. Sujaily Rodriguez*, MD-2799-09. After hearing, by Order dated August 10, 2009, the Honorable Robert L. Steinberg vacated the finding of contempt.
26. On or about 2007 or 2008, Assistant District Attorney (ADA) Bethany Zampogna appeared for a preliminary hearing involving a defendant who had pointed a shot gun at a person on a street in Allentown. The Respondent continued the preliminary hearing after a witness failed to appear because there was a problem with serving notice of the hearing. The Respondent then reduced the defendant's bail, comparing it to cases she heard in court involving school fights.
27. When ADA Zampogna addressed the seriousness of the offense involved, the Respondent told her to "*shut up*" and banged her gavel. ADA Zampogna responded that she would shut up when the court stopped addressing her. The Respondent then said, "*That will cost you \$100.*" ADA Zampogna brought the contempt finding to the attention of District Attorney James Martin. It was agreed that since the Respondent had no authority to find an attorney in contempt of court, the finding would be ignored. The Respondent did not follow up on the matter.

Improper Judicial Demeanor and Behavior

28. Since 2004, the Respondent has displayed behavior toward those appearing before her in court and toward court personnel and staff characterized by mood swings and

inconsistent behavior. The Respondent's behavior has been characterized, *inter alia*, as nasty, rude, erratic, strange, bizarre, irrational, unpredictable, yelling, demeaning, babbling, rambling, nutty, and crazy. Examples include, but are not limited to, the following:

A. *Commonwealth v. Christopher Berrios*, NT-0000675-08.

1. On or about May 7, 2008, Officer Jeremy Moll, Allentown City Police Department, filed in the Respondent's magisterial district court a citation charging summary Harassment at *Commonwealth v. Christopher Berrios*, NT-0000675-08. The charges stemmed from an incident wherein a surveillance camera owned by Douglas Smith was damaged when a basketball was thrown at it. The surveillance camera recorded the incident on DVD.
2. Trial was initially scheduled for July 21, 2008. At Officer Moll's request, the Respondent continued the matter to August 28, 2008.
3. On or about August 28, 2008, prosecution witnesses Smith and Michael Albinski, did not appear for trial. Neither had been subpoenaed for trial. The Respondent rescheduled trial for September 26, 2008, at 9:30 AM.
4. On or about September 11, 2008, subpoenas were issued and served upon Smith and Albinski.
5. On or about September 26, 2008, the Respondent presided over the summary trial of *Commonwealth v. Christopher Berrios*, NT-0000675-08. At approximately 10:00 AM, the Respondent took the bench. Officer Moll did not appear and the case was handled by Officer Suzanne Toth. Also present for trial were Smith, Albinski, the

defendant, the defendant's mother, Sabrina Berrios, Nicholas Butterfield, then Human Relations Officer for the City of Allentown, and Constable Mike Horton.

6. The Respondent sarcastically told Smith and Albinski that she was glad "*you guys decided to show up today.*" Albinski was surprised because he had not previously been subpoenaed.
7. At trial, Smith raised the issue of wanting the charge dropped against Christopher Berrios. Smith had been working out an agreement with his neighbors through arbitration at the time of the trial and considered the matter settled. Smith's manner was professional, quiet, and respectful. The Respondent reacted by becoming "*totally enraged.*" The Respondent's manner toward Smith was angry and aggressive. She "*lit into him for 20 minutes about not attending the previous hearing*" and told him that once he gave the DVD recording to the police, it was a police matter, that he could not withdraw it, and that she would determine guilt or innocence. The Respondent threatened to have Smith arrested if he failed to attend court again, but "*made it clear that she did not want to see him ever.*"
8. During trial, the Respondent several times told Smith to "*shut up*" and remarked that "*this was her court room and her world.*" In response to the Respondent's remarks, Smith rolled his eyes and the Respondent threatened to have him arrested for contempt of court, mimicked him, and turned to Constable Horton and loudly asked if he observed the rolling of the eyes.
9. During trial, Smith informed the Respondent that he would no longer be willing to give copies of his DVDs from his surveillance system to the police if this was how he

would be treated. The Respondent questioned why Smith would have security cameras if he was unwilling to prosecute. The Respondent accused Smith of spying on his neighbors and said she would force the removal of his surveillance system since he was not using it for its intended purpose.

10. At one point, the Respondent told Douglas Smith, "*I'm sick of looking at your face*" or "*I'm sick of looking at you.*"

11. During trial, the Respondent told Douglas Smith she did not want to see his face in her courtroom and then tried to summarize his involvement in the case through questioning directed at eliciting a yes and no response. The Respondent pushed Smith to give a yes or no answer to a question about whether he provided the DVD from his surveillance camera to the police. Smith said "*Yes*" and his testimony ended, as that was all the Respondent wanted from him. The Respondent told Smith, "*You can get out*" and "*I don't want to see your face here again.*"

12. As Smith and Albinski left the courtroom, the Respondent made a comment to the effect she was glad to get rid of them.

13. During the trial proceeding, the Respondent yelled and appeared angry and red-faced.

B. **Commonwealth v. Andrew R. Krauss**, TR-0001148-09.

1. On or about March 11, 2009, Officer Stephen Rosenberger, Allentown Police Department, filed in the Respondent's magisterial district court a citation charging Exceeding Maximum Speed Limits (i.e. speeding) at **Commonwealth v. Andrew R. Krauss**, TR-0001148-09.

2. On or about May 29, 2009, the Respondent presided over a summary trial for the Krauss case, which was scheduled to be heard at 9:45 AM. At approximately 9:15 AM, Debra Krauss and her son (the defendant), who appeared *pro se*, arrived at the Respondent's court office. At approximately 10:15 AM, the Respondent appeared and stated she would hear those cases scheduled for 9:45 AM. After hearing a different speeding case, the Respondent called the Krauss case.
3. Officer Rosenberger advised the Respondent that the parties had entered a plea agreement. Krauss agreed to plead guilty and Officer Rosenberger gave him a break by agreeing to lower the amount of miles over the speed limit that would officially be listed. Krauss' mother informed the Respondent that her son would have repercussions at home, including that his curfew would be lowered for a time and that he would be responsible for paying his fines and for any increase in motor vehicle insurance. Debra Krauss also advised the Respondent that her son knew they were disappointed in his poor choice but felt it was a learning experience. Krauss apologized to the Respondent and told her he would be more careful in the future.
4. The Respondent went into a "tirade or rant" for 15 minutes. According to Debra Krauss, the Respondent

told Andrew it has nothing to do now with being more careful...that he is nothing but a dog and needs to be retrained (he and I were both teary-eyed at this – like I said – she does not know him at all!)...then she went on about drinking at college and making choices and that she just recently told her mother about drinking at college and he will drink...that he should stop drinking by 8 or 10 and not stay out all night because he needs to study for exams...then she said something about she forgot her rings this morning and she likes to wear these rings because when she hands papers to people they can see these rings and then she flashed them and it took her 23 seconds to go from

her car back into her house to get these rings...the [Allentown Police Department] officer tried to interject at least once if not twice about he felt Andrew was a good person and learned from this; that when he was pulled over he was very respectful, etc. but she kept rambling on.

C. *Mark Alcaro et al. v. Faith Decesare et al.*, CV-0000439-08.

1. On or about July 2, 2008, Mark Alcaro filed a civil complaint in the Respondent's magisterial district court against Faith Decesare at *Mark Alcaro et al. v. Faith Decesare et al.*, CV-0000439-08, claiming breach of a lease and asking for judgment in the amount of \$1500.00 to recover a rental security deposit and interest. Trial was scheduled for August 20, 2008; however, because the constable was unable to serve the defendant, the Respondent continued trial until September 12, 2008.
2. On or about September 12, 2008, the Respondent again continued the case because the constable was unable to serve the defendant. A new trial date was set for October 8, 2008, at 1:15 PM.
3. On or about October 8, 2008, though all parties arrived at court, trial was again continued because the Respondent called off from work. The case was rescheduled for December 5, 2008, at 2:30 PM.
4. On or about December 5, 2008, at approximately 3:45 PM, the Respondent called the *Alcaro* case and another case for their trials. Present for the *Alcaro* trial were Mark Alcaro and his wife, Leslie Alcaro, who appeared *pro se*. The defendant, Faith Decesare, appeared with counsel, Patrick Healey, Esq. The Respondent remarked, "*I see we have an attorney here today.*" Attorney Healey was the only individual the

Respondent acknowledged and she indicated she would get to his case after the first one.

5. The Respondent addressed the other case first and was observed yelling at the plaintiff in a rude manner and accusing the plaintiff of wasting her time and not having the case prepared.
6. When the Respondent got to the Alcaro case, she instructed Mark Alcaro to present his evidence. Mark Alcaro brought a prepared binder with twenty (20) documents. He presented two (2) documents to show that Faith Decesare was the apartment manager and that she had acted as such regarding their apartment in place of her son, Brian Decesare, with whom the Alcaros had signed their lease. The Alcaros, however, had been unable to locate Brian Decesare for service and brought suit against his mother as apartment manager.
7. During trial, the Respondent appeared unhappy that Faith Decesare was defending a lawsuit involving her son, Brian Decesare. The Respondent presented an attitude that the Alcaros had pulled some type of trick to bring Brian Decesare's mother into the litigation.
8. During trial, Mark Alcaro stated that Faith Decesare had been dodging service of the complaint and that Deborah Stringer, the Respondent's office manager, had left a voice mail message advising that service had finally been made on Decesare and describing the difficulty in serving her. Mark Alcaro had kept the message on his cell phone and wanted to introduce the recording. Attorney Healey objected. The Respondent ruled the recording was inadmissible, but stated she wanted to hear it

anyway. Mark Alcaro placed his cell phone on speaker mode and played the message.

9. After Mark Alcaro played the voice mail message, the Respondent went “*nuts*” and yelled at him for approximately five (5) minutes, stating she could not believe he would attempt to play the recording and get one of her employees in trouble when the employee tried to help him. The Respondent spoke as if Alcaro had intentionally tricked Stringer into leaving a message that would help his case. The Respondent accused the Alcaros of getting Stringer to be nice to them and stated she would now have to dock Stringer’s pay for leaving the message.

When Mark Alcaro tried to explain, the Respondent cut him off. She continued to yell at him and stated he was wasting her time at 4:00 PM on a Friday afternoon. The Respondent stated she could not believe that Mark Alcaro would come to court and play an inadmissible recording, especially after he sat in the waiting area under a sign warning that staff is not permitted to give legal advice. The Respondent glared at Mark Alcaro and stated she would instruct her staff not to answer any of his questions for the next thirty (30) days.

10. During trial, the Respondent and attorney Healey were discussing an issue involving a Code Enforcement inspection and the presence and role of Faith Decesare concerning it. Leslie Alcaro politely interrupted saying, “*Your Honor*” and then began explaining that she had been present for the Code Enforcement inspection when Faith Decesare was present. The Respondent yelled at Leslie Alcaro, “*Shut up!*” Leslie Alcaro, who was shocked by the Respondent’s behavior, stated, “*I’m*

sorry, Your Honor.” The Respondent replied, *“No you’re not, but we’re not going to deal with that now”* or *“we will deal with that later.”*

11. Because of the Respondent’s behavior, although he had additional evidence to present, Mark Alcaro decided not to say anything further. The Respondent, however, asked if he had anything else to present. When Mark Alcaro began to answer, the Respondent interrupted and asked him what condition the apartment was in when he and his wife moved out. He stated it was the same except for water damage. Appearing dissatisfied with the answer, the Respondent again asked the same question. When Mark Alcaro indicated he did not know how he should answer, the Respondent yelled at him, telling him he had his chance and she would not take anymore evidence.
12. The Respondent then turned her attention to Faith Decesare and in a demeaning manner scolded her, telling her she should have known better than to have signed something for her son (i.e. a Code Enforcement inspection report). The Respondent told Decesare she was wrong and lucky the Respondent had worn herself out on Mark Alcaro.
13. The Respondent asked attorney Healey if he had anything to present and he responded no. She then asked if he wanted to object to the two (2) documents presented by Mark Alcaro. Attorney Healey objected. The Respondent admitted one document, a signed Code Enforcement inspection report, which Faith Decesare admitted signing. The Respondent stated to attorney Healey, *“You realize that I have to rule in their favor.”* The Respondent then rendered judgment in favor of the

Alcaros for their original security deposit plus costs. In doing so, the Respondent appeared angered that the *pro se* Alcaros were able to “show-up” a lawyer and win their case. Attorney Healey was the only individual the Respondent treated in a civil and respectful manner, though she appeared exasperated when he at first did not object to Alcaro’s documents. The Respondent gave the impression she was forced to render judgment in favor of the Alcaros, though she did not wish to do so.

14. During trial, the Respondent’s behavior was described as loud, atrocious, rude, nasty, and condescending. She was described as being on a power trip and belittling and cutting everyone off. She would make statements in a rude and condescending tone, such as “*I did not ask you that*” when someone responded to her questions. Her behavior was characterized by yelling and screaming.

15. After trial, the Respondent confronted her then office manager, Deborah Stringer, getting nasty and testy with her. The Respondent ranted and raved, accusing Stringer of giving out information to the Alcaros about service of the complaint. She accused Stringer of saying things to the plaintiffs which she should not have said. Stringer, who was upset and angry that the Respondent spoke to her in such a manner and accused her of doing something wrong, pulled the case file and determined that she did not have her facts straight. Stringer then confronted and informed the Respondent of the correct situation, to which she responded, “*Oh.*” The Respondent did not apologize or admit she was wrong to Stringer.

D. *Commonwealth v. Rebecca Alvarez*, NT-0000377-05

1. On or about March 9, 2005, Officer John F. Guido, Allentown Police Department,

filed in the Respondent's magisterial district court a citation charging Disorderly Conduct at Commonwealth v. Rebecca Alvarez, NT-0000377-05. The charges stemmed from an incident at William Allen High School wherein Alvarez, a 16-year old female, became unruly in a classroom and ran after a male student "to kick him in the groin." Alvarez missed the student's groin and only landed a kick on his upper leg. Alvarez admitted to the conduct and a teacher wrote up the incident.

2. On or about April 25, 2005, the Respondent presided over a summary trial for the Alvarez case. Present for trial were Officer Guido, Anne Wenninger (Assistant Principal Intern), Alvarez (the defendant), the defendant's friend, and a family member of the defendant.
3. Wenninger testified about what occurred and Officer Guido rested the prosecution's case. Alvarez then admitted kicking the other student, but stated she thought about it and was sorry for what happened. The Respondent then began deliberation aloud, asking herself if there was "deliberate intent" to cause public inconvenience, annoyance, or alarm under the Disorderly Conduct statute. Officer Guido pointed out that Alvarez' conduct had recklessly created a risk of public inconvenience, annoyance, or alarm. The Respondent stated there was no testimony that the incident occurred in a classroom, though Wenninger did testify to that. The Respondent stated that she was "*deliberating*" out loud. Officer Guido stated that Wenninger was acting in loco parentis and the Respondent replied that she would consider that.

The Respondent then went off on a tangent unrelated to the case and Officer

Guido and Wenninger tried to talk to the Respondent, but she told them they had time to talk and that time was over. The Respondent became very upset. Officer Guido pointed out that Alvarez admitted her guilt and the Respondent commented, "*That's self-incrimination.*" The Respondent then abruptly announced, "*I've made a decision. Not guilty.*" She then banged her gavel.

4. When Officer Guido asked the Respondent why she found Alvarez not guilty, the Respondent replied, "*Insufficient evidence.*" Officer Guido began writing this in his folder. He then got up to get his coat and the Respondent questioned why he was asking her about her ruling. Officer Guido replied he needed it to finish his report. The Respondent then in an extremely nasty manner yelled/screamed at Officer Guido, "*Get out!*" The Respondent did this in front of Wenninger, Alvarez, Alvarez' friend, and Alvarez' family member. Officer Guido and Wenninger left.

E. **Commonwealth v. Sujeily Rodriguez**, MD 2799-09.

1. As related in more detail at Paragraphs 16-25 above, on June 15, 2009, during the preliminary hearing on the matter of Commonwealth v. Sergio Parrales, CR-0000336-09, the Respondent repeatedly told attorney David Nicholls, Esq., to "*shut up*" during the hearing. The Respondent's behavior was excited and she yelled and threatened Nicholls' client to be handcuffed and put in jail.

F. **Assistant District Attorney Bethany Zampogna**

1. As related in more detail in Paragraphs 26-27 above, on or about 2007 or 2008, during a preliminary hearing, the Respondent told ADA Zampogna to "*shut up*" before improperly finding her in contempt.

G. Truancy Matters

1. When addressing truancy cases in court, the Respondent has given families the impression the school district is not doing its job. The Respondent also has displayed improper demeanor and embarrassed school district personnel in front of families and students. On or about March 2008, the Respondent embarrassed Suzette Arcelay, the Home School Visitor with Allentown School District, by telling her in court to “*shut up*” when she attempted to provide her with information relative to the case being heard. She did this in front of school students and their families.

H. Deborah Stringer, former office manager for Respondent.

1. Stringer worked for the Lehigh County court system for 24 years, spending 14 years at District Court 31-1-02. From 2004 to 2009, Stringer worked at District Court 31-1-02 while the Respondent presided there. In February 2009, six (6) months earlier than planned, Stringer retired because she no longer enjoyed her job and could not tolerate the Respondent’s behavior toward her. The Respondent was intimidating and aggressive – getting in Stringer’s face while speaking in a loud voice. The Respondent often looked like she was ready to explode and appeared nervous with her hands shaking. On one occasion, the Respondent inappropriately and unnecessarily ridiculed Stringer in open court for no reason, talking down to her and embarrassing her in front of those present in court. When Stringer decided to retire, she was reluctant to tell the Respondent, and when she did, the Respondent became even nastier in her treatment of Stringer. During the time Stringer worked for the

Respondent, Stringer experienced a medical problem causing her to frequently vomit because of the stress.

I. Sandra Nonnemacher, former clerk in Respondent's Office

1. Nonnemacher worked for the Lehigh County District Courts from 1988 until her retirement in March 2009. From 2004 until 2009, Nonnemacher worked at District Court 31-1-02 while the Respondent presided there. Nonnemacher was happy to retire when she became eligible for Social Security and her pension because she no longer enjoyed her job because of the Respondent's behavior. For example, on one occasion the Respondent "*snapped*" at Nonnemacher and on another she got "*in her face*" when a woman's case had been continued but the new date conflicted with the woman's doctor's appointment and the Respondent refused to grant another continuance. The woman complained about a telephone conversation she had with a staff person regarding the second continuance. The Respondent blamed Nonnemacher and said it was her fault the woman complained, even though Nonnemacher was not the staff person who spoke with the woman.

By virtue of some, or all of the facts collectively, alleged in paragraphs 1 through 28 of this Board Complaint, the Respondent is subject to discipline pursuant to Article V, §18(d)(1) of the Pennsylvania Constitution for the following reasons:

Count 1: The Respondent has violated Rule 2A of the Rules Governing Standards of Conduct of Magisterial District Judges, which provides, in part, that

"Magisterial district judges shall respect and comply with the law and shall conduct themselves at all times in a manner

that promotes public confidence in the integrity and impartiality of the judiciary.”

Count 2: The Respondent has violated Rule 3A of the Rules Governing Standards of Conduct of Magisterial District Judges, which provides that

“Magisterial district judges shall devote the time necessary for the prompt and proper disposition of the business of their office, which shall be given priority over any other occupation, business, profession, pursuit or activity.”

Count 3: The Respondent has violated Rule 4A of the Rules Governing Standards of Conduct of Magisterial District Judges, which provides, in part, that

“Magisterial district judges shall be faithful to the law and maintain competence in it.

Count 4: The Respondent has violated Rule 4C of the Rules Governing Standards of Conduct of Magisterial District Judges, which provides that

“Magisterial district judges shall be patient, dignified, and courteous to litigants, witnesses, lawyers and others with whom they deal in their official capacity, and shall require similar conduct of lawyers, of their staff and others subject to their direction and control.”

Count 5: The Respondent has violated Rule 5A of the Rules Governing Standards of Conduct of Magisterial District Judges, which provides that

“Magisterial district judges shall diligently discharge their administrative responsibilities, maintain competence in judicial administration and facilitate the performance of the administrative responsibilities of their staff and of other members of the judiciary and court officials.”

Count 6: The Respondent has violated Article V, §18(d)(1) of the Pennsylvania Constitution by engaging in conduct which brings the judicial office into

disrepute.

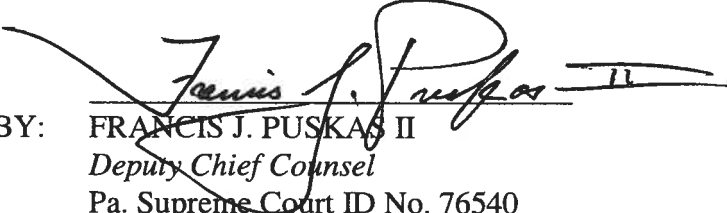
Count 7: The Respondent has violated Article V, §18(d)(1) of the Pennsylvania Constitution by neglecting or failing to perform the duties of office.

WHEREFORE, Maryesther S. Merlo, the Magisterial District Judge named in these charges, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, §18(d)(1).

Respectfully submitted,

JOSEPH A. MASSA, JR.
Chief Counsel

DATE: November 4, 2010


BY: FRANCIS J. PUSKAS II
Deputy Chief Counsel
Pa. Supreme Court ID No. 76540

Judicial Conduct Board
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

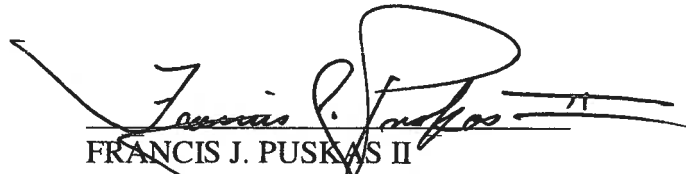
IN RE:

Maryesther S. Merlo :
Magisterial District Judge :
Magisterial District 31-1-02 : 3 JD 10
Lehigh County :

VERIFICATION

I, Francis J. Puskas II, Deputy Chief Counsel to the Judicial Conduct Board, verify that the Judicial Conduct Board found probable cause to file the formal charges contained in the Board Complaint. I understand that the statements herein are made subject to the penalties of 18 Pa. Cons. Stat. Ann. §4904, relating to unsworn falsification to authorities.

Respectfully submitted,


FRANCIS J. PUSKAS II
Deputy Chief Counsel
Pa. Supreme Court ID No. 76540

DATE: November 4, 2010

Judicial Conduct Board
601 Commonwealth Avenue, Suite 3500
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COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE:

Maryesther S. Merlo :
Magisterial District Judge :
Magisterial District 31-1-02 : 3 JD 10
Lehigh County

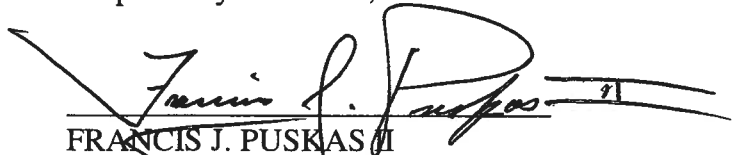
PROOF OF SERVICE

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on or about November 4, 2010, a copy of this *BOARD COMPLAINT* was sent by Certified Mail to the Respondent's counsel, Samuel C. Stretton, Esquire, who agreed to accept service of this *BOARD COMPLAINT* on behalf of his client, the Respondent:

The Honorable Maryesther S. Merlo
c/o Samuel C. Stretton, Esquire
301 South High Street
P.O. Box 3231
West Chester, PA 19381-3231

Certified Mail No. 7161 7145 5370 3333 6023
Return Receipt Requested

Respectfully submitted,



FRANCIS J. PUSKAS II
Deputy Chief Counsel
Pa. Supreme Court ID No. 76540

DATE: November 4, 2010

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