SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO.: ACJC 2021-286

IN THE MATTER OF MICHAEL J. KASSEL, JUDGE OF THE SUPERIOR COURT	:	**PRESENTMENT**

The Advisory Committee on Judicial Conduct ("Committee") hereby presents to the Supreme Court its Findings and Recommendation in this matter in accordance with Rule 2:15-15(a) of the New Jersey Court Rules. The Committee's findings and the evidence of record demonstrate that the charges filed against Michael J. Kassel, Judge of the Superior Court ("Respondent"), as set forth in Counts I and II of the Formal Complaint, have been proven by clear and convincing evidence. The Committee's findings and the evidence of record also demonstrate that the charges set forth in Counts III and IV of the Formal Complaint have not been proven by clear and convincing evidence and recommends the Supreme Court dismiss those charges.

Accordingly, the Committee recommends that Respondent be publicly reprimanded for his misconduct as set forth in Counts I and II of the Formal Complaint. The Committee further recommends

that the charges set forth in Counts III and IV be dismissed without the imposition of discipline.

I. PROCEDURAL HISTORY

This matter was brought to the Committee's attention when a grievance was filed by a family-part litigant who appeared on June 2, 2021 before Respondent in the Superior Court, Family Part, in the Camden Vicinage. The grievance concerned Respondent's handling of M.N. v. A.R., FD-04-1325-20, which involved issues of parenting time and reunification therapy. The grievance alleged multiple instances of misconduct, including the judge's failure to wear his judicial robes while appearing virtually with his legs propped up on the desk in front of him. Furthermore, the grievant alleged that Respondent expressed a fundamental lack of understanding of family law, failed to fully review the parties' submissions, failed to maintain appropriate order and decorum, and demonstrated a bias which necessitated his recusal.

The Committee reviewed documentation relevant to these allegations, including audio files and transcripts. Thereafter, on October 13, 2021, the Committee requested that Respondent comment, in writing, on the allegations in the grievance. On October 15, 2021, Respondent supplied his written comments. The Committee's investigation subsequently revealed that Respondent made similar comments to litigants and counsel in at least 15 other matters.

On April 19, 2022, the Committee issued a four-count Formal Complaint charging Respondent with violations of Canon 1, Rule 1.1, Canon 2, Rule 2.1, and Canon 3, Rule 3.2, Rule 3.4, and Rule 3.17(A) and (B) of the Code of Judicial Conduct, as well as R. 1:2-1(d) and R. 1:12-1(g) of the New Jersey Court Rules. The charges contained in Count I relate to Respondent's comments made in the M.N. v. A.R. matter and 15 other court matters occurring on April 21, May 12, May 19, June 2, and June 9, 2021, respectively. The remaining charges relate to Respondent's conduct on June 2, 2021 while presiding over the M.N. v. A.R. matter (Counts II thru IV).

Count I alleged that Respondent, while fulfilling his temporary family part assignment, inappropriately criticized and expressed dissatisfaction with that assignment. In addition, Count I charged Respondent with failing to remain professionally competent in the performance of his judicial duties, as Respondent failed to endeavor to familiarize himself with the applicable law and repeatedly advised the parties and their counsel that he lacked the requisite knowledge and skill to adjudicate their family court matters. Count II alleged that Respondent failed to maintain appropriate courtroom decorum when, while presiding virtually over the M.N. v. A.R. matter, Respondent appeared without his judicial robes and with his legs propped up on the desk in front of him. Count III alleged that Respondent's prior professional association with defense counsel, who served as the prosecutor in Respondent's

DWI case 11 years earlier, created the appearance of a conflict of interest that required Respondent's recusal from the M.N. v. A.R. matter. Finally, Count IV alleged that Respondent, despite disclaiming a conflict with defense counsel, adjourned the hearing based solely on Respondent's impression that plaintiff's counsel had an "unstated concern" about Respondent's potential partiality for defense counsel. Count IV charged that Respondent's failure to hear the M.N. v. A.R. matter, despite the professed absence of a conflict, violated his obligation to hear and decide all matters assigned to him for which no conflicts exist.

Respondent filed a Verified Answer on April 27, 2022, wherein he admitted the factual allegations, adding some additional information, acknowledged violating the cited canons of the Code of Judicial Conduct as charged in Counts I and II, but denied violating those charged in Counts III and IV. Later that same day, Respondent filed a supplemental letter seeking to clarify specific language he used in paragraph 4 of his Verified Answer.

In September 2022, Presenter and Respondent jointly executed a set of Stipulations that left no outstanding issues of fact. Presenter and Respondent agreed on the operative facts for Counts III and IV, but Respondent disagreed that his conduct constituted violations of the Code and sought leave from the Committee to present legal argument through briefing as to why the factual

record relative to those counts fails to demonstrate, clearly and convincingly, judicial misconduct, and to address mitigation.

The Committee convened a Formal Hearing on December 21, 2022 for the limited purpose of hearing legal argument concerning whether the stipulated facts and evidence of record provided clear and convincing evidence of the charged violations of the Code in Counts III and IV. Presenter and Respondent offered exhibits, all of which were admitted into evidence and considered by the Committee. See Presenter's Exhibits P-1 thru P-19; see also Respondent's Exhibits R-1 thru R-4. In respect of Respondent's Exhibit R-3, i.e. a collection of documents related to his Judicial Performance Program Evaluations compiled in accordance with Rule 1:35A et seq., the Committee admitted it into evidence, under seal, pending authorization from the Supreme Court for release in conformity with Rule 1:35A-3.b.(4). On June 22, 2022, the Court authorized the limited use of these evaluations for this disciplinary proceeding, subject to continued confidentiality.

After carefully reviewing the evidence, as well as the briefs submitted, the Committee makes the following findings, which form the basis for its recommendation for the imposition of discipline.

II. FINDINGS

Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 1982. See Stipulations at ¶3. In 2001, Respondent was appointed to the

Superior Court of New Jersey in the Camden vicinage, a position he continues to hold. Ibid. At all times relevant to this matter, Respondent was assigned to the Civil Division. Ibid. The facts provided below concerning the allegations of Respondent's misconduct flow from the Stipulations, which include the allegations as stated in the Formal Complaint, along with additional statements made by Respondent to those appearing before him during various court proceedings.

On or about April 10, 2021 through June 15, 2021, Respondent was temporarily assigned to the Family Division one day per week to address a management need. Stipulations at ¶4. Respondent, on 16 separate occasions while serving temporarily in the Family Division, remarked to litigants and their counsel that he lacked familiarity with their case, was ignorant of the applicable law and inexperienced in adjudicating family court matters, and expressed dissatisfaction with the temporary assignment and the method by which that assignment was made. Id. at ¶5. Respondent would frequently add that he would "do his best" and request that he be "walked through the motions" so he would have a better understanding of same. Ibid. Respondent also openly expressed disagreement with Rule 5:4-3(b), which relieves a defendant of the need to file an answer, appearance, or acknowledgment in certain summary family actions, provided the defendant appears in court on

the return day. Ibid. Included below is an illustrative selection of Respondent's problematic statements:

a. In M.N. v. A.R., FD-04-1325-20, Respondent, when addressing the issue of parenting time during a virtual court proceeding, stated that he "knew very little about the applicable laws" having not served in the Family Division for two decades and having removed that which he may have remembered from his mind. Stipulations at ¶6(a). Respondent compared his involvement in the matter before him to that of a cardiologist seeing his first patient. Ibid. Respondent also remarked that he had not read all the documents and did not understand that which he had read, but agreed to hear the matter if counsel would "walk [him] through their issues step by step" and "treat [him] like [he's] a ninth grader in high school." Ibid.

b. In L.M. v. S.M., FD-04-1965-19, while hearing an application for child support, Respondent stated, "I am not a family division judge. I am a judge helping out. I am not a family division judge. I have no expertise in family law." Respondent also stated, "I know nothing about this case. I know nothing about you, the litigants." Id. at ¶6(b). Respondent then stated, "I have no expertise in any family law and the best I can do in any case is use some common sense and the legal knowledge I've accumulated over the past 20 years. That's the best I can do." Ibid. Respondent continued, "You're going to have to walk me through why we are

here and what the issue is and then I'm glad to hear from [the litigants]." Ibid.

c. In D.R. v. G.P., FD-04-673-15, at the start of the proceeding, Respondent advised the litigants, "The last time I was a family division judge was 18 years ago and we're doing the best we can under very difficult circumstances." Stipulations at ¶6(h). Respondent also discussed the prospect of mediation, stating,

> I think this couple would benefit from it. It would help you because these are professional people. These are people that know what they're doing and they're a lot more experienced than me, frankly. Frankly, you can get a guy off the street that's more experienced than me with this stuff.

Ibid.

d. In C.R. v. A.R., FM-04-141-21, counsel advised Respondent that they would be attending mediation and that a trial may be necessary to address child support issues. Respondent expressed his displeasure with his temporary assignment, stating, "As a matter of fact, by the time this conference call ends, if I'm still in the family division, I'll be very unhappy about it, but it's unrealistic to expect my liberation from the family division is going to be sooner than that." Stipulations at ¶6(k).

e. In S.S. v. W.S., FM-04-1051-17, prior to the start of the hearing, Respondent advised the parties, "I did peruse the papers, I use the term liberally, peruse, all this stuff." Stipulations at ¶6(l). Respondent further stated, "I have very

little knowledge of matrimonial law. I didn't do it as a practitioner and didn't do it as a judge. I have zero, zero matrimonial knowledge." Ibid. After consulting with his court clerk and learning that there were five other cases on his calendar that day, Respondent stated:

> I don't have the luxury of spending hours upon hours on this case to have the attorneys walk me through everything. I can give a morning or afternoon between now and June 15. If there is one discreet issue that can be resolved cleanly within an hour or so, I'll be glad to give you that time. If we go through all the issues in this case, all the paperwork, it will probably require me to set aside a full eight-hour day. You may not get that luxury until Judge Bernardin comes back. That's the reality of it. I'm not an apologist for the New Jersey court system.

Ibid.

Respondent, in addressing counsel, stated, ". . . and the attorneys can literally, literally walk me through their motions issue by issue by issue and I will make decisions, for better or worse. I'll make decisions." Ibid. Respondent continued, "That's the best I can do and I'm telling this to everybody to be 100 percent transparent. We're desperately short of judges in Camden County." Ibid. Respondent also commented, "If it's the type of issue that's clean and can be decided after both attorneys walk me through it in their paperwork, I'm glad to devote the next hour and 15 minutes to it." Ibid. Later, Respondent advised, "I'm not an idiot, but I'm not a family division judge." Ibid.

The following findings relate to Counts III and IV of the Formal Complaint and similarly stem from the Stipulations:

At the start of the virtual proceeding in M.N. v. A.R., FD-04-1325-20, Respondent disclosed to the parties that defense counsel previously served as the prosecutor in his driving while intoxicated case 11 years earlier, which was ultimately dismissed on the prosecutor's motion based on the toxicology analysis, which was negative for alcohol and illegal drugs. Exhibit R-2. The following colloquy occurred:

> RESPONDENT: So I don't disqualify myself in [defense counsel's] cases. I happen to like him, all right. He used to work for my old law firm after I left. I think he's a highly competent attorney. But I ought to disclose all that. So before we go any further with anything in regard to the case, does anybody have any questions or concerns? Feel free. I want everybody to feel comfortable with what I do or what I don't do in the case. Anybody have anything they want to put on the record?
>
> PLAINTIFF'S COUNSEL: Your Honor, I would just like to note that given the seriousness of the nature of what has occurred in this case previously, I would like to note for the record that, you know, there are certainly certain burdens that the opposing party has to meet which we will, I guess, discuss further in oral argument, but that, you know, there are serious allegations and criminal charges that have been brought in this matter that have been dealt with in this matter. And this is not just a typical FD application on reinstatement of parenting time and I do want to note that for the record.
>
> RESPONDENT: I'm willing to handle it, [counsel]. I'm either willing if both parties agree to put it off or I'm willing to hear it (indiscernible), but there's one

> qualification. . . . I can't devote seven hours to the case today or six hours.

Stipulations at ¶12.

Respondent advised the parties that he could begin the hearing and stated, "I want there to be continuity. . . . If both attorneys believe that I can complete the matter this morning, say by 12:30, and that you're both willing because believe me when I tell you I haven't gone through the paperwork page-by-page." Ibid.

Respondent suggested the attorneys consult with their clients and advise on their respective positions regarding proceeding that day. Plaintiff's counsel sought to wait for Judge Bernardin's return, asserting that the matter was complex. Ibid. Conversely, defense counsel sought to proceed, arguing that interim parenting time is appropriate given the amount of time that lapsed since defendant's most recent parenting time. Ibid. Respondent stated:

> RESPONDENT: [Plaintiff's counsel], I'm inclined to grant your request for a new listing for two reasons. The first reason is you may feel uncomfortable saying it, but given what I indicated about my concern disclosing that [defense counsel] was my prosecutor, but he's also the fellow that made the decision to dismiss the charges and there might be some concern that I would bend over backwards for [defense counsel] and his client. I don't think I would do that, but I'm very happy, obviously, that the charges at his request were dismissed. It was a long time ago, but it is what it is. But it's not an unreasonable request to - - for the father to request some type of parenting time, even if it's structured, until Judge Bernardin or me, if it turns out to be me and Judge Bernardin doesn't come back anytime soon, or somebody else, we're expecting some new judges in the building hopefully sooner rather than later.

Ibid.

After disclaiming a conflict with defense counsel, Respondent adjourned the matter based on Respondent's impression that plaintiff's counsel had an unstated concern about Respondent's potential partiality for defense counsel given counsel's involvement in Respondent's driving while intoxicated case and plaintiff's counsel's stated concern for continuity given the complexity of the matter. Stipulations at ¶13. However, prior to adjourning the matter, Respondent entered an interim parenting time order as requested by defense counsel. Stipulations at ¶14.

III. ANALYSIS

The burden of proof in judicial disciplinary matters is clear-and-convincing evidence. R. 2:15-15(a). Clear and convincing evidence is that which "produce[s] in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, evidence, so clear, direct and weighty and convincing as to enable the factfinder to come to a clear conviction, without hesitancy, of the precise facts in issue." In re Seaman, 133 N.J. 67, 74 (1993) (citations and internal quotations omitted).

As a general matter, Respondent's behavior in these instances implicates the Judiciary's core ethical principles of integrity and impartiality contained in Canon 1, Rule 1.1, and Canon 2, Rule

2.1, of the Code of Judicial Conduct. Further, the Committee finds Respondent's specific statements confessing his inadequacy as a jurist undermined the public's confidence in the Judiciary.

Canon 1, Rule 1.1, requires judges to "participate in establishing, maintaining and enforcing, and . . . [to] personally observe, high standards of conduct so that the integrity, impartiality and independence of the judiciary is preserved."

Canon 2, Rule 2.1, requires judges to "act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and . . . [to] avoid impropriety and the appearance of impropriety."

Canon 3, Rule 3.2, requires judges to maintain professional competence in the performance of their judicial duties.

Canon 3, Rule 3.4, requires judges to maintain order and decorum in judicial proceedings.

Canon 3, Rule 3.17(A), requires judges to hear and decide all assigned matters unless disqualification is required by the canon or "other law."

Canon 3, Rule 3.17(B), requires judges to disqualify themselves in proceedings in which their impartiality or the appearance of their impartiality might reasonably be questioned.

Rule 1:2-1 (d) requires judges to wear judicial robes during proceedings in open court.

Rule 1:12-1(g) requires judges to disqualify themselves in proceedings in which their impartiality or the appearance of their impartiality might reasonably be questioned.

Respondent stipulates to the ethical impropriety of his conduct as alleged in Counts I and II of the Complaint, which concern his statements of inadequacy to the parties and their counsel, his failure to maintain judicial competency, and his failure to demonstrate appropriate decorum when presiding over court by wearing his judicial robes and sitting upright at his desk. Respondent, likewise, concedes that this conduct violated the charged canons of the Code of Judicial Conduct.

We find that Respondent's remarks as set forth in Count I constitute a complete departure from the ethical standards to which all judges must adhere, undermine the integrity of the Judiciary and the judicial process, and trivialize the parties' legitimate interests in seeking redress with the court. Indeed, Respondent's misdirected dissatisfaction with his temporary Family Part assignment towards the litigants and their counsel coupled with Respondent's gratuitous references to the vicinage's depleted staffing levels, which has no legitimate bearing on the parties' right to be heard, while stating crassly and in an overblown fashion that Respondent did not have seven hours to devote to the matter, was grossly inappropriate. See Exhibit P-3, T6-16 thru T7-8. Such remarks, regardless of their intended impact, stifle the

litigants' and their counsels' active participation in the proceedings, which conflicts with Canon 1, Rule 1.1, and Canon 2, Rule 2.1, of the Code as it impugns the judicial system and its ability to serve the public with integrity.

Similarly, Respondent's repeated references to his own childhood and upbringing, specifically that his divorced parents worked out visitation without court involvement, when deciding an issue of parenting time, and Respondent's characterization of the court proceeding as akin to permitting "a stranger that may be more dysfunctional" than the litigants to interject himself into their lives, was injudicious, pejorative, and served no legitimate purpose. See Exhibit P-3, T24-8-24. While encouraging litigants to resolve matters without court intervention may be appropriate, doing so with reference to a judge's personal life or by disparaging those who serve on the bench is not.

In addition, Respondent's stated unfamiliarity with the applicable precedent and statutory law governing Family Part matters, failure to read in full the parties' moving papers, and professed inability to understand that which he had read irretrievably diminished the efficacy of the judicial office. Such conduct, moreover, violates a judge's obligation to maintain professional competence in the law and the legal system pursuant to Canon 3, Rule 3.2, of the Code.

We do not mean to say that a judge may not alert counsel or the litigants to his unfamiliarity with a particular legal issue or to the complex facts of the case. Transparency in such situations signals to counsel and the litigants the need to clarify those issues or facts in their arguments or presentations. Likewise, judges may at times properly encourage parties to try to resolve their dispute rather than risk a potentially worse outcome from the court. The record in this case, however, is far different. Respondent repeatedly professed to counsel and litigants his ignorance of family law, his lack of preparation in the matters before him, and his unwillingness to commit the time and effort necessary to understand and resolve their legal issues. The litany of these comments inevitably had the effect of undermining public confidence in the ability of the judiciary to perform the very functions it was supposed to do. As such, Respondent's transparency defense is without merit and incompatible with the Judiciary's core mission to preserve the rule of law and protect constitutionally guaranteed rights and liberties.

The Committee reaffirms that judges, like attorneys, are responsible for their continuing legal education and for maintaining and enhancing their knowledge and skills on the bench. Indeed, access to continuing professional development is provided to all judges through the Judicial Education Program, which was adopted by the New Jersey Supreme Court in 1986. See generally

Pb5-6.[1] In addition to training for newly appointed judges, the Judicial Education Program hosts, annually, a Judicial College and judicial seminars aimed at providing judges with the tools necessary to remain abreast of developments in the law and judicial administration. Id. Moreover, the Judicial Education Program maintains voluminous materials including an audio-video library that is available to all judges and covers all applicable aspects of the law and the legal system. Id. These resources are and were readily available to Respondent. His decision not to avail himself of them was unconscionable. In addition, the Committee finds Respondent's failure to read and understand the parties' submissions related to the matters assigned to him prior to their scheduled oral arguments inexcusable.

Turning to Counts III and IV, Respondent was charged with violating Canon 3, Rule 3.17(A) and Rule 3.17(B) of the Code when he failed to recuse from the M.N. v. A.R. matter despite a prior professional relationship with defense counsel, and, thereafter, adjourned the matter on an inference that plaintiff's counsel had an "unstated concern" about Respondent's impartiality as it related to defense counsel. Rule 3.17(A) requires judges to "hear and decide all assigned matters unless disqualification is

[1] Consistent with R. 2:6-8, references to the Presenter's and Respondent's briefs are designated as "Pb" and "Rb," respectively. The number following this designation signifies the page at which the information is presented.

required by this rule or other law." Rule 3.17(B) requires disqualification whenever the judge's impartiality or the appearance of impartiality might reasonably be questioned." See State v. McCabe, 201 N.J. 34 (2010) (finding "it is not necessary to prove actual prejudice on the part of the court[;] . . . the mere appearance of bias may require disqualification.").

In the instant matter, we cannot find, based on this record, that Respondent's prior professional interaction with defense counsel in the M.N. v. A.R. matter 11 years earlier created a conflict or the appearance of one for which Respondent's recusal was required. See DeNike v. Cupo, 196 N.J. 502, 517 (2008) (setting forth that the standard for evaluating a conflict is: Would a reasonable, fully informed person have doubts about the judge's impartiality.) Given the intervening passage of time and the absence of any evidence in the record indicating that Respondent maintained an ongoing professional or personal relationship with defense counsel during that intervening period, we can find no evidence to conclude that a reasonable, fully informed person would have doubts about Respondent's impartiality as it related to defense counsel. For this reason, we recommend dismissal of Count III of the Complaint without the imposition of discipline.

In respect of Count IV, Respondent's conduct presents a much closer case. Having determined no conflict or the appearance of one existed to preclude Respondent from presiding over the M.N. v.

A.R. matter, Canon 3, Rule 3.17(A) required that he hear the matter. Respondent, instead, adjourned the scheduled court date, in lieu of conducting the required motion hearing, based, at least in part, on his inference that plaintiff's counsel may question Respondent's impartiality as to defense counsel. In short, Respondent, contrary to his earlier denial of a conflict or its appearance, gave credence to an inference of partiality he raised, *sua sponte*, and thereby undermined his determination that no conflict or appearance of one existed. We accept on the strength of this record that Respondent's statements to the parties reflect his assessment of the circumstances at issue, which included plaintiff's counsel's concern for continuity in view of the stated "complexity" of the M.N. v. A.R. matter.

Accordingly, the Committee finds the proofs of record insufficient to satisfy the clear and convincing evidence standard in respect of Count IV. For this reason, we recommend dismissal of Count IV of the Complaint without the imposition of discipline.

The sole issue remaining is the appropriate quantum of discipline. In our consideration of this issue, we are mindful that the primary purpose of our system of judicial discipline is to preserve the public's confidence in the integrity and independence of the judiciary, not to punish an offending judge. In re Seaman, supra, 133 N.J. at 96 (1993).

Determining discipline in a judicial disciplinary matter "requires more than establishing some instance or instances of unethical conduct." Id. at 98. (citation omitted). It requires "'a more searching and expansive inquiry . . . carefully scrutiniz[ingl the substantive offenses that constitute the core of respondent's misconduct, the underlying facts, and the surrounding circumstances in determining the nature and extent of discipline.'" Id. (In re Collester, 126 N.J. 468, 472 (1992)); see also In re Mathesius, 188 N.J. 496 (2006). Relevant to this inquiry is a review of the aggravating and mitigating factors that may accompany judicial misconduct. Id. at 98-100.

The aggravating factors to consider when determining the gravity of judicial misconduct include the extent to which the misconduct demonstrates a lack of integrity and probity, a lack of independence or impartiality, misuse of judicial authority that indicates unfitness, and whether the conduct has been repeated or has harmed others. Id.

Factors considered in mitigation include length and quality of the judge's tenure in office, the judge's sincere commitment to overcoming the fault, the judge's remorse and attempts at apology, and whether the inappropriate behavior is susceptible to modification. See In re Subryan, 187 N.J. 139, 154 (2006).

Consistent with the Committee's obligation to consider whether a jurist's misconduct has been repeated or harmed others,

we are constrained to find that Respondent's misconduct, which included 16 separate instances spanning at least five days, harmed litigants and their counsel, whose matters languished. When litigants appear before the Superior and Municipal Courts of New Jersey, they expect, and deserve, thoughtful and diligent efforts by the court to resolve their matters. When met, instead, with Respondent's repeated expressions of dissatisfaction with his temporary assignment and continued statements about his lack of requisite knowledge and skill to appropriately adjudicate their family court matters, these litigants' legitimate expectations were undeservedly frustrated and the Judiciary's mission to provide court users with a neutral forum in which to receive disinterested justice was undermined. These circumstances serve to aggravate Respondent's misconduct.

In mitigation, the Committee recognizes Respondent's unblemished judicial and attorney disciplinary records. The Committee gives little weight to the AOC's evaluations and the *New Jersey Law Journal's* surveys of Respondent's performance on the bench. See Exhibit R-3. These evaluations and surveys are not only significantly outdated, but the subject matter thereof does not correspond with the ethical infractions found here. However, the Committee recognizes Respondent's lengthy period of committed service to the bench – nearly 20 years – and credits Respondent for his acknowledgement that he "could have and should have worked

harder to prepare for and understand the Family matters that were on his Wednesday list." See Verified Answer, ¶¶7-8. We agree.

Weighing cumulatively the aggravating and mitigating factors, in conjunction with our findings, the Committee concludes that the most appropriate recommendation is the imposition of a public reprimand. See In re Convery, 201 N.J. 411 (2010) (reprimanding Superior Court judge for, *inter alia*, failing to maintain order and decorum in proceedings); In re Citta, 201 N.J. 413 (2010) (reprimanding Superior Court judge for, *inter alia*, failing to maintain order and decorum in proceedings). We trust that Respondent, moving forward, will refrain from employing rhetoric like that which has been described above when addressing court users and members of the bar. Further, we emphasize that a jurist's obligation to maintain a dignified demeanor when performing judicial duties, including wearing judicial robes when presiding over a court proceeding, either virtually or in-person, is a critical component of fostering the public's confidence in the judiciary.

IV. RECOMMENDATION

For the foregoing reasons, the Committee recommends that Respondent be publicly reprimanded for his misconduct.

Respectfully submitted,

ADVISORY COMMITTEE ON JUDICIAL CONDUCT

April 11, 2023 By: /s/ Virginia A. Long
Virginia A. Long, Chair

Edwin H. Stern, J.A.D. (*Ret.*) filed a concurrence:

I join the Presentment of the Committee in its entirety. I agree that a lack of confidence in the Judiciary flowed from Respondent's conduct in this case and by what he said about his lack of knowledge of the subject matter and his lack of preparation. Respondent's criticism of the assignment, and therefore of the assignment system and of the administration of justice in New Jersey, was undeserved and inappropriate. One of the strengths of the New Jersey Judiciary and its national reputation flows from the assignment powers of the Chief Justice and his delegation of administrative powers to the Assignment Judges. N.J. Const. art. VI, § II, ¶ 3; Rule 1:33-2,-3. The ability to determine and address calendar priorities and needs is unique to New Jersey.