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FILED
AUG 26 2010
A. C. J. C.

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| **IN THE MATTER OF MAX A. BAKER JUDGE OF THE SUPERIOR COURT** | **: SUPREME COURT OF NEW JERSEY : ADVISORY COMMITTEE ON : JUDICIAL CONDUCT** |
| | **DOCKET NO. ACJC 2010-151** |
| | **ANSWER AND SEPARATE DEFENSES** |

Respondent, Max A. Baker, J.S.C., responding to the formal complaint filed herein says:

1. Admitted.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted.

6. Admitted.

7. Admitted.

8. Denied that Respondent became irate with Mrs. P[redacted] or screamed at her. It is further denied that he accused her of being a bad parent. Admitted that Respondent communicated to Ms. P[redacted] that she could be incarcerated if she violated the court's visitation order.

9. Denied.

10. Admitted that Respondent's remarks to Mrs. P[redacted] demonstrated an inappropriate

level of patience and courtesy all of which was unintentional. It is denied that his remarks were insulting.

11. While acknowledging that his conduct lacked the appropriate level of patience and dignity referenced in Canon 3:A(3), it is denied that Respondent violated Canons 1 and 2A of the Code of Judicial Conduct.

**FIRST SEPARATE DEFENSE**

Respondent did not prejudge the P[redacted] matter; rather Respondent's reactions represented a bi-product of his desire to do justice to children, who often have no one else to protect them other than the Court under the Court's parens patriae authority when one parent attempts to keep them from the other parent. Respondent's perception comes not only from years on the bench but from years of private practice. The continuing use of a child by one parent as a weapon and the resultant estrangement between that child and the other parent is devastating to children who grow up thinking that is how relationships normally exist.

While not excusing the Court's over zealous invective, the Court's reaction was not one of prejudice or prejudgment but rather one of passion for a child's best interest.

**SECOND SEPARATE DEFENSE**

Respondent has sincerely apologized to D[redacted] P[redacted] in writing, acknowledging that the manner in which he spoke to her and the words that he utilized were wrong and were embarrassing to him. Said apology represents the unconditional recognition of the inappropriateness of his behavior of December 31, 2009.

**THIRD SEPARATE DEFENSE**

Throughout his judicial career, Respondent has always striven to uphold the

integrity and independence of the judiciary consistent with Canon 1 of the Code of Judicial Conduct. As a Family Court Judge and thereafter Family Court Presiding Judge, he has always imparted the standards and insisted upon compliance with the standards to other members of the judiciary and court personnel under his supervision as well as to attorneys and litigants appearing before him.

## FOURTH SEPARATE DEFENSE

Respondent has always sought to respect and comply with the law and act in an manner as a jurist that promotes public confidence in the integrity and impartiality of the judiciary pursuant to Canon 2(a). He has taken his oath seriously and at all times has striven not only to avoid partiality but to avoid any semblance of racial, religious, ethnic, gender or age bias.

## FIFTH SEPARATE DEFENSE

Respondent has striven to be patient, dignified and courteous to litigants and others with whom he deals in an official capacity and to assure that others appearing before him act in a patient and courteous manner in accordance with Canon 3(A)(3).

Upon reflection, as acknowledged in his correspondence to D[redacted] P[redacted], he fully acknowledges that he should have exhibited greater patience and dignity in that instance but such instance is not representative of his day-to-day demeanor and attitude while on the bench.

## SIXTH SEPARATE DEFENSE

At no time during the December 31, 2009 proceedings was Respondent accusing Ms. P[redacted] of being a bad parent, although upon reflection Respondent acknowledges that his words could have been so interpreted. Respondent's intention,

however, was to be didactive and instructive in imparting to Ms. P[redacted] that denying Mr. P[redacted]'s access to their child would in the long run prove detrimental to the child. While the message should have been imparted more cordially and patiently, it was a heartfelt message with the hope of doing justice to the family, not in any manner intended to demean either of the litigants.

**WHEREFORE,** Respondent requests dismissal of all pending charges.

BIEL, ZLOTNICK & FEINBERG, P.A.

BY: _____
Mark Biel
Attorney for Respondent Max A. Baker, J.S.C.