

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

2017 AUG 11 P 4: 13

David W. Tidd :
Former Magisterial District Judge :
Magisterial District 03-2-04 :
Third Judicial District :
Northampton County :

RECEIVED & FILED
COURT OF JUDICIAL DISCIPLINE
3 JD 2016

**JUDICIAL CONDUCT BOARD'S BRIEF IN SUPPORT OF
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

I. PROPOSED FINDINGS OF FACT

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the Judicial Conduct Board the authority to determine whether there is probable cause to file formal charges against a judicial officer in this Court, and thereafter, to prosecute the case in support of such charges in this Court. (Stip. 1)
2. From January 4, 2010 through July 25, 2016, Judge Tidd served as Judge of Magisterial District Court No. 03-2-04. (Stip. 2)
3. On July 25, 2016, Judge Tidd resigned from his position as Magisterial District Judge. (Stip. 3)
4. Based on Confidential Requests for Investigation at JCB File Nos. 2014-510, 2015-227, 2015-237, 2015-285, 2015-286, and 2015-421, the Board investigated the instant matter. (Stip. 4)
5. As a result of its investigation, and pursuant to Article V, § 18(a)(7) of the Constitution of the Commonwealth of Pennsylvania, the Board determined that there was probable cause to file formal charges against Judge Tidd in this Court. (Stip. 5)

6. Some of the alleged judicial misconduct occurred prior to December 1, 2014 and therefore, the Old Rules Governing Standards of Conduct of Magisterial District Judges (R.G.S.C.M.D.J.) apply to those allegations of misconduct. (Stip. 6)

7. Some of the alleged judicial misconduct occurred after November 30, 2014 and therefore, the New R.G.S.C.M.D.J. apply to those allegations of misconduct. (Stip. 7)

8. The names and dates of employment of each of the court clerks who worked at Judge Tidd's district court and testified at trial in the instant matter are set forth below:¹

<u>Name</u>	<u>Dates of Employment</u>	<u>Testimony</u>
Lisa LeVan	Jan. 2010 - August 2012	vol. 1, 31:4-6
Diane Kale	April 2010 - December 2014	vol. 1, 114-116
Amber Glass	Sept. 2012 - December 2013	vol. 2, 317-318
Tracie Drayton	January 2015 - present	vol. 2, 348
Brenda Anthony	April 2011 - June 2015	vol. 3, 396-397
Cassandra Bettler	Feb. 2014 - present	vol. 5, 871

A. Retaliation

9. On August 11, 2011, then-President Judge Kimberly J. McFadden and two Northampton County Court Administrators, Jill Cicero and Debra French, met with Judge Tidd to discuss an anonymous complaint filed against him which pertained to a conflict of interest arising from Judge Tidd's legal representation in *Society Hill v. Nieves*, Docket No. MJ-03204-CV-0000134-2010. (Stipulation Nos. 8, 30, 31)

¹ Each clerk's testimony was limited to her observations during her time of employment at District Court 03-2-04.

10. Deputy Court Administrator French attended the August 11, 2011 and the February 13, 2012 meetings of then-President Judge McFadden with Judge Tidd and contemporaneously memorialized the meetings. (N.T. McFadden: vol. 2, 200:3-203:6, Jan. 19, 2017; French: vol. 3, 519:14-20; 537:19-538:7, Jan. 20, 2017) (Bd. Exhibit 28)

11. During the August 11, 2011 meeting, then-President Judge McFadden warned Judge Tidd not to retaliate against his court clerks. (N.T. vol. 3, 521:2-8, Jan. 20, 2017) (Bd. Ex. 28).

12. In the February 19, 2016 Notice of Full Investigation, Board counsel specifically cautioned Judge Tidd against retaliation, stating:

You are hereby on notice that you shall not directly or indirectly retaliate, or take adverse action against any current or former member of your office staff as a reprisal for any action in cooperation with the Board that may or may not have occurred regarding prior or pending investigations or prosecutions of your conduct. Any such action could subject you to discipline under Canon 2, Rule 2.16(b).

(Bd. Exhibit 13)

13. Court Clerks Lisa LeVan, Diane Kale and Brenda Anthony testified at trial that they feared that complaining about Judge Tidd's misconduct would cause them to lose their county jobs. (N.T. LeVan: vol.1, 36:18-24, Jan. 18, 2017; Kale: vol. 1, 124:15-18, Jan. 18, 2017; Anthony: vol. 3, 414:24-415:21-416:5, 418:19-22, Jan. 20, 2017)

14. Former President Judge McFadden and Deputy Court Administrator French were aware that the court clerks were hesitant about proceeding with their complaints against Judge Tidd because they feared he would retaliate against them

and their jobs would be at risk. (N.T. McFadden: vol. 2, 219:21-23, Jan. 19, 2017; French: vol 3, 575:11-13, Jan. 20, 2017; vol. 4, 614:19-615:12, May 3, 2017)

15. In the afternoon on April 23, 2015, Judge Tidd entered his district court, locked the front door, blocking the public from entering the building, told them to sit down and confronted his court clerks about complaints filed against him with the Judicial Conduct Board. Judge Tidd yelled at the clerks for approximately 30 minutes. (N.T. Drayton: vol. 2, 357:5-14, Jan. 19, 2017; Anthony: vol. 3, 426:15-427:11, 432:8-16, Jan. 20, 2017; Bettler: vol. 5, 888:13-889:15, 891:7-11 (May 4, 2017)

16. During the April 23, 2015 meeting behind a locked door, Judge Tidd asked his court clerks, who among them had communicated about court business with David Repyneck, his political opponent for the position of magisterial district judge in the upcoming Primary Election. (Stipulation No. 9)

17. The court clerks consistently testified that they were very upset by the April 23, 2015 incident, did not feel free to leave because of the locked door and reported the incident to Deputy Court Administrator Debra French. (N.T. Drayton: vol. 2, 538:24-359:6, Jan. 19, 2017; Anthony: vol. 3, 428:3-15, 429:9-10, Jan. 20, 2017; Bettler: vol. 5, 890:11-19, May 4, 2017)

18. Judge Tidd admitted that on April 23, 2015, he was upset, locked the door and yelled at the clerks. Based on hearsay from Police Officer Stephen Kunigus, Judge Tidd speculated that his court clerks had talked with David Repyneck, his political opponent in the upcoming judicial race for his MDJ seat. (N.T. Vol. 6, 1387-90, May 5, 2017)

19. Court Clerks Anthony, Drayton and Bettler responded truthfully to Judge Tidd's question, denying that they had spoken with his political opponent, Mr.

Repyneck. (N.T. Anthony: vol. 3, 430:9-20, Jan. 18, 2017; Drayton: vol. 2, 357:5-358:3, Jan. 19, 2017; Bettler: vol. 5, 888:13-889:15, May 4, 2017)

20. At trial, Ms. Anthony admitted that sometime after April 23, 2015, but before the May 19, 2015 Primary Election Day, she spoke via telephone with Mr. Repyneck. (N.T. vol. 3, 430:16-23; 498:1-17, Jan. 20, 2017)

21. Ms. Anthony recalled that Mr. Repyneck asked general questions about the administration of the district court but she did not respond to his questions. (N.T. 460:11-461:1; 461:25-462:5) He asked questions about the campaign, but she did not answer those. However, their conversation did not include any discussion of Mr. Repyneck's judicial campaign, nor did Ms. Anthony offer to support him in his efforts to win the judicial seat in Hellertown. (N.T. vol. 3, 462:17-22, Jan. 20, 2017)

22. Court Clerk Anthony specifically recalled that during the April 23, 2015 incident, Judge Tidd also asked the clerks who had filed a complaint against him with the Judicial Conduct Board. (N.T. vol 2, 426:20-430:12 January 19, 2017)

23. Sometime prior to May 19, 2015, Primary Election Day, Judge Tidd decided to take that day off from work to campaign at the polls for his reelection to the position of magisterial district judge. (Stipulation No. 10)

24. Prior to May 19, 2015, Judge Tidd was aware that he had several hearings scheduled on the court calendar for May 19, 2015. He told his court clerks not to schedule any more hearings for Primary Election Day. (N.T. Drayton: vol. 2, 353:10-354:3, Jan. 19, 2017; Anthony: vol. 3, 433:4-434:16, Jan. 20, 2017; Bettler: vol. 5, 891:20-892:12, May 4, 2017)

25. Four hearings were already scheduled for May 19, 2015. Judge Tidd never instructed the court clerks to continue those four hearings to another day. (N.T.

Anthony: vol. 3, 433:9-434:4, Jan. 20, 2017; Bettler: vol. 5, 891:16-891:21, May 4, 2017) (Bd. Exhibit 15a)

26. On May 19, 2015, Judge Tidd called his district court on the telephone and yelled and cursed at Court Clerk Brenda Anthony after she notified him that he had hearings scheduled that morning. (N.T. vol. 3, 435:8-12, Jan. 20, 2017) (Bd. Exhibit 7, at 61-62)

27. On May 19, 2015, following his phone call with Ms. Anthony, Judge Tidd went to his district court and continued to yell at her, in the presence of Police Officer Bensics and Court Clerk Traci Drayton, about the hearings scheduled for that Primary Election Day. (N.T. Anthony: vol. 3, 435:8-23, Jan. 20, 2017; Drayton: vol. 2, 353:2-9; 354:25-355:25; 356:22-357:4, Jan. 19, 2017; Bensics: vol 2, 381:16-384:11, Jan. 19, 2017; Tidd: vol. 5, 1163:11-1164:24) (Bd. Exhibits 7, at 61-62; 11b; 12b)

28. On May 19, 2015, Primary Election Day, Judge Tidd believed that Brenda Anthony had purposefully ignored his request to clear his calendar for that day. (Stipulation No. 11)

29. On June 17, 2015, Judge Tidd repeatedly asked Court Clerk Bettler what she knew about the Board's investigation and posed the following questions:

- a. Did anyone call her about the Board's investigation?
- b. Did another member of his court staff drag her into "the plot to ruin my life?" and
- c. Did she want to change her answers?

(N.T. Bettler: vol. 5, 894:24-895:15, May 4, 2017)

30. In his June 18, 2015 email to Northampton County Deputy Court Administrator Debra French, Judge Tidd wrote:

"I am requesting the immediate removal of Brenda Anthony from my Court as it has come to my attention that she has taken part in filing a complaint against me with the Judicial Conduct Board."

(Stip. No. 12) (Bd. Exhibit 21)

31. Previously, by letter dated December 3, 2014, Court Clerk Anthony requested that Court Administration transfer her from Judge Tidd's court to a district court that was closer to her home, should a vacancy become available. (N.T. French: vol. 4, 626:17-627:10 May 3, 2017) (Bd. Exhibit 20)

32. Deputy Court Administrator Debra French confirmed with Brenda Anthony that she still desired a transfer from Judge Tidd's court to a district court closer to her home. (N.T. French: vol. 4, 626:17-627:10, May 3, 2017)

33. On June 18, 2015, Northampton County Court Administration arranged for the transfer of Court Clerk Brenda Anthony from Judge Tidd's district court to another Northampton County district court. (Stipulation No. 13)

34. By his same June 18, 2015 email to Deputy Court Administrator French, Judge Tidd requested that Diane Kale, who retired in December 2014 and now serves as a floater court clerk, "not be assigned to this court until further notice as I believe she took part in the filing of the [Board] complaint as well." (Stip. No. 14) (Bd. Exhibit 21)

35. On or about June 22, 2015, Judge Tidd told Ms. Bettler that she was not permitted to communicate with recently transferred Court Clerk Anthony. At trial, Judge Tidd admitted he made this directive. (N.T. Bettler: vol. 5, 895:23-896:8, May 4, 2017; Tidd: vol. 7, 1373:2-5, May 5, 2017)

36. On or about June 22, 2015, Judge Tidd told Ms. Bettler that he requested the transfer of Court Clerk Brenda Anthony because he "couldn't even look at her

anymore" without feeling sick. (N.T. vol. 5, 895:16-22, May 4, 2017) (Bd. Exhibit 7, at 65)

37. On or about June 22, 2015, Judge Tidd told Court Clerk Bettler that she was not permitted to call Court Clerk Kale. (Stip. No. 15) (N.T. Bettler: vol. 5, 896:3-8, Jan. 4, 2017; N.T. Tidd: vol. 6, 1374:17-1376:1, May 4, 2017)

38. In January 2016, six months after court clerk Brenda Anthony transferred to Judge Hawke's district court, Judge Tidd sent an letter to Debra French, complaining about Brenda Anthony. Upon reviewing Judge Tidd's email, President Judge Baratta directed Ms. French to set up a meeting with Judge Tidd and require him to provide documents pertaining to his claims. (N.T. French: vol. 4, 611:3-614:2, May 3, 2017; Baratta: vol. 4, 643:19-648:8, May 3, 2017) (Bd. Exhibits 155; 156; 157; 158)

39. When Ms. French communicated to Judge Tidd that documentation was required to substantiate his claims against Ms. Anthony, Judge Tidd cancelled the meeting via a fax message. (N.T. French: vol. 4, 613:17-614:2; Baratta: vol. 4, 648:3-649:17, May 3, 2017; Tidd: vol. 5, 1151:10-1152:6, May 4, 2017) (Bd. Exhibits 155b;161))

40. At trial, President Judge Baratta testified that he was concerned about Judge Tidd's complaint against Ms. Anthony, six months after she had transferred out of his court and stated:

He was still approaching us, asking that we fire her, even though he no longer had any contact with her and she had been removed. He was that angry at her. And I was really concerned about this.

(N.T. vol. 4, 651:18-652:1, May 3, 2017)

41. On the afternoon of February 19, 2016, Judge Tidd received the Board's Notice of Full Investigation (NOFI). (Stipulation No. 16) (Bd. Exhibit 13)

42. After receiving the February 19, 2016 NOFI, Judge Tidd called his district court and spoke with Court Clerk Bettler. He then went to the district court and confronted Ms. Bettler, yelling at her about her cooperation with the Board's investigation and calling her a liar. (N.T. Bettler: vol. 5, 896:17-899:20, May 4, 2017; Tidd: vol. 5, 1154:5-16; 1154:25-1155:2, May 4, 2017) (Bd. Exhibits 7, at 66-67; 11c; 12c; 23; 24)

43. Court Clerk Bettler called Deputy Court Administrator French to report the February 19, 2016 incident and sent a letter via email to President Judge Baratta, describing how Judge Tidd "was interrogating [her] about what her involvement was, what her cooperation was, whether she was working against him." (N.T. Bettler: vol. 5, 896:17-902:10, May 4, 2017; Baratta: 665: 10-665, May 3, 2017) (Bd. Exhibit 23)

44. Upon learning of Judge Tidd's February 19, 2016 conduct, President Judge Baratta met with Court Clerk Bettler and offered to transfer her to another court. Ms. Bettler declined the transfer because she had done nothing wrong and because of the burden of an increased commute time to other district courts. (N.T. Baratta: vol. 4, 666:1-667:11, May 3, 2017) (Bd. Exhibit 165)

45. Hellertown Police Sergeant Jeffrey Johnston's name appears in the Board's February 19, 2016 NOFI. (Stip. No. 17)

46. Judge Tidd is acquainted with Sergeant Johnston who appears regularly for police matters at District Court 03-2-04. (Stip. No. 18)

47. At 9 a.m. on an unknown date in February 2016, soon after his receipt of the Board's NOFI, Judge Tidd placed a telephone call from his personal cell phone to Hellertown Police Sergeant Johnston. (Stip. No. 19)

48. During the February 2016 telephone call, Judge Tidd stated that he had received a letter from the Judicial Conduct Board. (Stip. No. 20)

49. During the February 2016 telephone call, Judge Tidd said he knew that Sergeant Johnston and Officer Michael Dattilio had cooperated with the Board's investigation. (Stip. No. 21)

50. During the February 2016 telephone call, Judge Tidd posed questions to Sergeant Johnston including:

- a. "Did I ever do wrong to you?" and
- b. "Why didn't you come to me about your problems instead of talking to the Judicial Conduct Board?"

(Stip. No. 22)

51. Sergeant Johnston testified that Judge Tidd also asked him, "if he had ever done wrong to Detective Datillio?" (N.T. vol. 4, 7909:1-7, May 3, 2017)

52. During the February 2016 telephone call, Judge Tidd told Sergeant Johnston that as a result of the investigation by the Judicial Conduct Board, Sergeant Johnston might have to go to Harrisburg to testify. (Stip. No. 23)

53. Robert Shupp is the Chief of Police at the Hellertown Police Department. (Stip. No. 24)

54. Chief Shupp's name does not appear in the Board's February 19, 2016 NOFI. (Stip. No. 25)

55. Immediately after the phone call, Sergeant Johnston called Chief Shupp "to see if - - that if we did something wrong or if I should be concerned about

something coming from the Judicial Board.” Sergeant Johnston was concerned “that I had either said something or did something with the Judicial Board that I should be aware of or alarmed about.” (N.T. vol. 4, 790:12-791:11, May 4, 2017)

56. On that same morning in February 2016, soon after his conversation with Sergeant Johnston, Judge Tidd drove to the Hellertown Police Department and asked to meet with Chief Shupp. (Stip. No. 26)

57. During his February 2016 in-person conversation, Judge Tidd asked Chief Shupp, “Do you have any specific issue with the way my court is being run?” (Stip. No. 27)

58. In 2012, Judge Tidd directed his court clerks that no warrants or other work were to be assigned to Constable Seeds because of complaints about him from the public and his court clerks. (N.T. vol. 5, 907:1-14, May 4, 2017) (Bd. Exhibit 7, at 13)

59. In April 2016, court clerk Cassandra Bettler called Deputy Court Administrator Debra French to report her concerns about Judge Tidd changing constables and directing her and court clerk Traci Drayton to immediately recall all warrants and reissue them to Constable Seeds. (N.T. Bettler: vol. 5, 907:1-908:4; 985:21-986:5, May 4, 2017; French: vol. 4, 617:19-24, May 3, 2017) (Board Exhibit 170)

60. Ms. Bettler believed that Judge Tidd’s decision to begin using Constable Seeds again and demanding that all warrants be recalled and reissued was a form of retaliation. (Bd. Exhibit 170)

61. Ms. French advised court clerk Bettler and Drayton to take care of a few warrants a day to the best of their ability. (N.T. French: vol. 4, 637:9-638:14, May 3, 2017; Bettler: vol. 5, 908:13-909:12, May 4, 2017)

62. On May 8, 2016, Judge Tidd sent an email communication to Deputy Court Administrator French, requesting "the immediate transfer" of Court Clerks Bettler and Drayton. (N.T. Tidd: vol. 6, 1383:13-1385:12, May 5, 2017) (Bd. Ex. 27)

63. In his May 8, 2016 email to Deputy Court Administrator French, Judge Tidd claimed that Ms. Bettler was a witness for, and cooperating with the Board, and that both clerks were "insubordinate." (*Id.*)

64. At trial, Judge Baratta testified that he took no action in response to Judge Tidd's May 8, 2016 request to transfer the clerks because he deemed the stated reasons for requesting the transfer to be retaliatory and considered them to be bald claims. (N.T. vol. 4, 684:23-685:15)

B. Improper Demeanor

65. At trial, Court Clerks LeVan, Kale, Anthony, Glass, Drayton and Bettler testified that between 2011 and February 2016, and limited to their own period of employment at his district court, they observed Judge Tidd's conduct of frequently treating his court clerks in a disrespectful manner in the reception area of his district court, often in front of police officers, attorneys, litigants and other members of the public. (N.T. LeVan: vol. 1, 33:8-22, Jan. 18, 2017; Kale: vol. 1, 127:2-10, Jan. 18, 2017; Glass, vol. 2, 326:8-16; 327:14-328:5, Jan. 19, 2017; Drayton: vol. 2, 3359:16-361:18, Jan. 19, 2017; Anthony: vol. 3, 419:4-9, Jan. 20, 2017; Bettler: vol. 5, 874:18-875:19; 917:1-918:4, May 4, 2017))

66. At trial, Court Clerks LeVan, Kale, Anthony, Glass, Drayton and Bettler testified that between 2011 and continuing through February 2016, and limited to their own period of employment at Judge Tidd's district court, they observed his conduct of belittling, cursing and yelling at court clerks in the reception area of his district court, often in the presence of police officers, attorneys, litigants and other members of the public. (N.T. LeVan: vol. 1, 54:8-11, Jan. 18, 2017; Kale: vol. 1, 118:23-119:24; 127:14-18; 138:20-139:11; 145:15-16; Glass: vol. 2, 327:25-328:5; 346:10-17, Jan. 18, 2017; Drayton: vol. 2, 361:19-362:9, Jan. 19, 2017; Anthony: vol. 3, 413:13-21; 419:4-420:2; 426:15-427:13; 435:16-436:10; 458:1-4, Jan. 20, 2017; Bettler: vol. 5, 875:24-877:8; 891:7-11; 912:1-6; 915:23-916:10; 1023:24-1024:16; 1027:11-18 May 4, 2017) (Bd. Exhibits 7 at 48, 61-62, 66-67; 11a; 11b; 11c; 12a; 12b; 12c; 23; 24; 26)

67. At trial, Court Clerks LeVan, Kale, Anthony, Glass, Drayton and Bettler testified that between 2011 and February 2016, and limited to their own period employment at Judge Tidd's district court, they heard him use the words "fuck," "bitch," "fucker," "mother fucker," "goddamn," "this shit is ridiculous." when speaking to or in the presence of his court clerks. (N.T. LeVan: vol. 1, 52:19-21, Jan. 18, 2017; Kale: vol. 2, 127:14-18, Jan. 18, 2017; Glass: vol. 2, 320:5-10; 328:6-19, Jan. 19, 2017; Drayton: vol. 2, 350:8-351:4; 362:3-9, Jan. 19, 2017; Anthony: vol. 3, 419:8-21; 424:6-12, Jan. 20, 2017; Bettler, vol. 5, 875:24-878:8; 898:232-898:20; 917:1-918:4, May 4, 2017) (Bd. Exhibit 11c; 12c)

68. On multiple occasions between September 2015 and February 2016, Judge Tidd asked one of his court clerks, "Why are you acting like such a bitch?" He

asked this question in front of his other court clerks. (N.T vol. 2, 350:8-357:4, Jan. 19, 2017; Bettler: vol. 5, 876:10-14, May 4, 2017)

69. Beginning on or about January 23, 2012 and continuing through February 2016, Judge Tidd made crude, disrespectful comments about litigants who appeared at this district court, in front of his court clerks, police officers, attorneys and other members of the public. (N.T. LeVan: vol. 1, 51:7-53:16; 54:17-55:8, Jan. 18, 2017; Kale: vol.1, 127:24-128:1, Jan. 18, 2017; Glass: vol 2, 328:20-329:8; (Bd. Exhibit 7, at 16 and throughout log generally)

70. At trial, the court clerks described their reactions to Judge Tidd's cursing and demeanor at court as "shocked," "horrified," "stressful," "embarrassed" and "humiliated." Kale: vol. 1, 125, 129-131, 138; Anthony: vol. 3, 435:8-438:13; 442:3-17, Jan. 20, 2017; Glass: vol. 2, 318:19-24; Jan. 19, 2017; Drayton: vol. 2, 361:12-18, Jan. 19, 2017; Bettler: vol. 5, 916:4-12, May 4, 2017)

71. On August 11, 2011, former President Judge McFadden and Court Administrators Cicero and French, met with Judge Tidd to discuss an anonymous complaint filed against him. The complaint identified a potential conflict of interest arising from Judge Tidd's legal representation of Maria Nieves in an enforcement of judgment case in the Court of Common Pleas. (Stip. 30)

72. Judge Tidd had previously entered judgment in the *Nieves* case involving failure to pay condominium fees in his district court. *Society Hill v. Nieves*, Docket No. MJ-03204-CV-0000134-2010. Additionally, Judge Tidd's law firm provided legal representation in a bankruptcy matter for Ms. Nieves in federal bankruptcy court. (Stip. 31)

73. During the August 11, 2011 meeting with then-President Judge McFadden and Court Administrators Cicero and French, Judge Tidd stated that he suspected his court staff sent the anonymous complaint about the *Nieves* matter. (N.T. French: vol. 3, 521:2-5, Jan. 20, 2017) (Bd. Exhibit 28)

74. During the August 11, 2011 meeting, President Judge McFadden cautioned Judge Tidd not to retaliate against his court clerks. (N.T. French: vol. 3, 521:2-8, Jan. 20, 2017) (Bd. Exhibit 28)

75. Beginning in 2011 and on at least three occasions, Court Clerks LeVan, Kale and Anthony complained to Northampton County Court Administrators about Judge Tidd's behavior toward them and his improper methods of conducting district court business. (N.T. LeVan: vol. 1, 45:14-46:6, Jan. 18, 2017; Kale: vol. 1, 122:17-20, Jan. 18, 2017; Anthony: vol. 3, 412:18-24, 413:13-24; 414:16-23, Jan. 20, 2017; French: vol. 3, 514:17-515:20; 516:7-5:18:2, Jan. 20, 2017) (Bd. Exhibit 8; 9; 19; 28)

76. Court Clerks, Lisa LeVan, Diane Kale and Brenda Anthony requested that Northampton County Court Administration not identify them as the complainants because they feared for their jobs. (N.T. LeVan: vol. 1, 36:18-24, Jan. 18, 2017; Kale: vol. 1, 124:15-18; Anthony: vol. 3, 414:24-415:7; 418:19-22, Jan. 20, 2017, McFadden: vol. 2, 219:11-13, Jan. 19, 2017; French, vol. 3, 518:11-20, 575:11-13, Jan. 20, 2017)

77. Deputy Court Administrator French advised Lisa LeVan, Diane Kale and Brenda Anthony that they could file a complaint with an ethics committee. (N.T. Kale: vol. 1, 124:8-11, Jan. 18, 2017; Anthony: vol. 3, 414:24-415:7, Jan. 20, 2017)

78. On or about November 9, 2011, and based on instruction from Deputy Court Administrator Debra French, Judge Tidd's court clerks began documenting incidents of his improper demeanor and his methods of conducting the business of court. (N.T. LeVan: vol. 1, 39:15-40:14; 45:14-19, Jan. 18, 2017; Kale: vol. 1, 123:4-11, Jan. 18, 2017; Anthony: vol. 3, 412:20-414:7, Jan. 20, 2017; French: vol. 3, 516:7-21; 517:10-14, Jan. 20, 2017) (Bd. Exhibits 8; 9; 10)

79. On January 18, 2012, Deputy Court Administrator Debra French met with Lisa LeVan, Diane Kale and Brenda Anthony and, after listening to their concerns, advised the court clerks to continue to keep a log to memorialize Judge Tidd's "behavior/improprieties." (N.T. French: vol. 3, 514:17-515:8) (Bd. Ex. 28)

80. In compliance with the instruction of Deputy Court Administrator French, Lisa LeVan, Diane Kale and Brenda Anthony continued to document, in a detailed log format, Judge Tidd's behavior toward them and the perceived improprieties in the way he conducted the business of court. (Bd. Exhibits 7; 8; 9; 10)

81. The court clerks mailed the logs containing documentation of incidents of perceived misconduct by Judge Tidd to Ms. French on the following dates: January 20, 2012, January 31, 2012 and February 21, 2012. (N.T. LeVan: vol. 1, 39:15-41:13, Jan. 18, 2017; Anthony: vol. 3, 414:3-23, Jan. 20, 2017; French: vol. 3, 515:9-20; 516:7-10, Jan. 20, 2017) (Bd. Exhibits 8; 9; 10)

82. After submitting the February 21, 2012 segment of log notes to Ms. French, the court clerks believed that they could not get relief from the County. They continued to memorialize Judge Tidd's demeanor and his perceived improprieties regarding the business of court for submission to the Judicial Conduct Board. (N.T.

Kale: vol. 1,123:22-124:7, Jan. 18, 2017; Anthony: vol. 3, 416:19-417:21) (Bd. Exhibit 7)

83. During a second meeting with Judge Tidd, sometime prior to February 13, 2012, then-President Judge McFadden and Northampton County Court Administrators expressed concerns to Judge Tidd about his performance of his judicial duties at his district court and the need for change. (N.T. McFadden: vol. 2, 203:1-205:23, Jan. 19, 2017; French: vol. 3, 538:3-23; 540:14-541:20, Jan. 20, 2017) (Bd. Exhibit 28)

84. On January 23, 2012, a defendant appeared for a hearing at Judge Tidd's court without first filing a Notice to Defend. As a result, the hearing had to be rescheduled so that the plaintiff would have the opportunity to appear at the proceeding. *Sterling Jewelers, Inc. v. Echenberg*, MJ-03204-CV-0000188-2011. (Stip. 32)

85. Following the *Echenberg* hearing, after the defendant left the court but in the presence of a local landlord, Jonathan Hill, and his court clerks, Judge Tidd stated, "She's as dumb as a fucking pile of dirt." (N.T. LeVan: vol. 1, 49:24-51:17, Jan. 18, 2017; Kale, vol. 1, 128:6-20, Jan. 18, 2017) (Bd. Exhibit 7, at 16)

86. On January 25, 2012, Detective Benton contacted Judge Tidd's district court and stated that he needed to present a search warrant to Judge Tidd for his signature. At 1:15 p.m., one of Judge Tidd's court clerks called him at his law offices and requested that he come to the court to sign the search warrant for Detective Benton. Judge Tidd said to the court clerk, "What a fucking dick. Call me when he gets there and I'll be there in 2 minutes." Upon his arrival at the court, Judge Tidd attempted to sign the search warrant for Detective Benton. When the first pen he

tried to use did not work, Judge Tidd threw the pen and screamed, "Fucking son of a bitch!" When the second pen also did not work properly, Judge Tidd threw that pen and screamed, "Fucking shit!" Detective Benton, a typewriter repairman and the court clerks observed Judge Tidd's behavior concerning the pens in the reception area of his district court. (N.T. Kale: 128:21-130:18, Jan. 18, 2017) (Bd. Exhibit 7, at 18.

87. On January 30, 2012 at 10:55 a.m., Attorney Edward Andres arrived at Judge Tidd's district court with his client, the plaintiff in a civil case which was scheduled for 11:15 a.m. *Trexler v. Gamble, Kreative Kitchens, LLC*, Docket No. MJ-03204-CV-0000227-2011. Judge Tidd considers Attorney Andres to be "a good friend." In the reception area of his district court, in the presence of the plaintiff and his court clerks, Judge Tidd said to Attorney Andres, "You had to go and fuck up my morning with defending a civil case." (N.T. LeVan: 52:12-53:16, Jan. 18, 2017; Kale: vol. 1, 130:19-131:18, Jan. 18, 2017) (Bd. Ex. 7, at 21; 32)

88. On February 8, 2012, Deputy Court Administrator French initiated a telephone conversation with Judge Tidd, on behalf of former President Judge McFadden, to schedule a February 13, 2012 meeting to discuss complaints about his conduct at his district court. (Stip. No. 33)

89. During the February 8, 2012 telephone conversation, Judge Tidd persistently questioned Deputy Court Administrator French about the issues to be discussed at the February 13, 2012 meeting. (N.T. French: vol. 3, 540:14-541:4, Jan. 20, 2017) Ms. French contemporaneously memorialized the information she shared with Judge Tidd about the complaints to be discussed at the meeting as follows:

I told him the issues involved his language, that he isn't available for afternoon hearings and that a few people were confused with his court process. Things were done at the counter, not a courtroom.

(Bd. Exhibit 28)

90. Deputy Court Administrator French attended and contemporaneously memorialized the minutes of the February 13, 2012 meeting with Judge Tidd at which former President Judge McFadden specifically discussed the following issues that were the subject of the complaints about him:

- a. "She mentioned his use of four letter words and difficulty scheduling afternoon hearings at his district court;"
- b. "Hearings must be conducted in the courtroom while wearing his judicial robe;"
- c. "She heard he arrives late for hearings and that his judicial office must take priority over his private law practice;" and
- d. "[Judge Tidd] mentioned that he does not treat people badly and Judge McFadden told him there is the perception of that and it needs to change."

(Bd. Exhibit 28)

91. At trial, former President Judge McFadden testified that she relied on Deputy Court Administrator French to document the meetings with Judge Tidd and that her notes were accurate. (N.T. McFadden: vol. 2, 203:1-205:14, Jan. 19, 2017)

92. During the February 13, 2012 meeting, former President Judge McFadden warned Judge Tidd that if he continued to engage in the identified misconduct, then she would file a report with the Judicial Conduct Board. (N.T. McFadden: vol. 2, 205:15-17, Jan. 19, 2017) (Bd. Ex. 28)

93. Following the February 13, 2012 meeting, at 9:20 a.m., Judge Tidd called his district court and spoke with Court Clerk LeVan. He asked her, "Did you

know that I constantly drop the f-bomb in front of defendants? Did you know that I have an abrasive personality and that I treat people rudely?" Ms. Levan responded affirmatively and told him, "that was the kind of thing that would get him in trouble." (N.T. LeVan: vol. 1, 46:23-47:8, Jan. 18, 2017) (Bd. Exhibit 10 at Feb. 13, 2012)

94. At 9:40 a.m. on February 13, 2012, Judge Tidd entered the district court and said, "Fuck, fuck, fuck, fuck, fuck. That's all I say when I'm here. I'm abrasive and rude. Onembo said I hold court at the counter. I'm going to hold court in the courtroom. Jim Onembo said I'm not allowed to walk around in the outer office anymore. From this point on everything gets recorded." When Ms. Levan said that the surveillance equipment doesn't have audio, Judge Tidd responded, "Oh it will!" (N.T. Levan: vol. 1, 46:23-49:23, Jan. 18, 2017; Kale: vol. 1, 131:19-132:21, Jan 18, 2017; Anthony: vol. 3, 422:17-425:3, Jan. 20, 2017) (Bd. Exhibit 10 at Feb. 13, 2012)

95. After the February 13, 2012 meeting, Judge Tidd returned to his court and told the clerks about it. He told Ms. Kale that President Judge McFadden told him to stop cursing at the court. (N.T. vol. 1, 125:7-9, Jan. 18, 2017)

96. Immediately following each of the three meetings with former President Judge McFadden and Northampton County Court Administrators, Judge Tidd demonstrated an improved demeanor toward his district court clerks. (N.T. Kale: vol. 1, 126,6-10, Jan. 18, 2017; Anthony: vol. 3, 415:21-416:5, Jan. 20, 2017)

97. Within a few weeks after each meeting with former President Judge McFadden and Northampton County Court Administrators, Judge Tidd resumed a disrespectful and improper demeanor toward his court clerks. He belittled, yelled and cursed at them or when in their presence. (*Id.*)

98. During his April 21, 2016 Board deposition and at trial, Judge Tidd admitted that during the February 13, 2012 meeting, former President Judge McFadden told him not to curse and to wear his judicial robe. (Bd. Exhibit 17 at 66:6-12) (N.T. Tidd: vol. 7, 7:18-8:13; 82:21-83:3, June 8, 2017)

99. Beginning in February 2014 and continuing through June 2015, Judge Tidd routinely and impatiently hovered over one his newly hired court clerks, Cassandra Bettler. Judge Tidd yelled at the court clerk, in front of his other court clerks, for taking too long with entering data into the magisterial district judge computer system (MDJS). (N.T. Kale: vol. 1, 136:1-3; 137:10-14, Jan. 18, 2017; Bettler: vol. 5, 910:15-18; 911:18-25, May 4, 2017)

100. Court Clerk Glass testified that during her term of employment at the district court, Judge Tidd routinely hovered over her and yelled at her in front of other court clerks for taking too long with data entry into the MDJS. (N.T. Glass: vol. 2, 238:16-19, Jan. 19, 2017)

101. On April 2, 2012, two traffic summary trials involving the same defendant were scheduled in Judge Tidd's district court beginning at 8:45 a.m. *Commonwealth v. Petras*, Docket Nos. MJ-03204-TR-0000660-2012; MJ-03204-TR-0000661-2012. Judge Tidd arrived at his court at 9:15 a.m., one-half hour after the first summary trial was scheduled to begin. During his traffic summary trials, defendant Petras got "mouthy." After the summary trials concluded and the parties had left the building, Judge Tidd remarked to his court clerks that Petras, was "a cocky ass dick." (N.T. Kale: vol. 1, 137:15-138:5, Jan. 18, 2017) (Bd. Exhibits 7, at 27; 33; 34)

102. On April 30, 2012, Judge Tidd spoke in a derogatory manner and cursed in reference to a defendant who appeared at his district court. *Commonwealth v. Zick*, MJ-03204-CR-0000065-2012. The record in *Zick* has been expunged. When the defendant arrived at Judge Tidd's court to set up a payment plan, Judge Tidd was eating lunch at the counter in the reception area. Judge Tidd said to the defendant, "Pull up your pants." After the defendant left the court, Judge Tidd made the following statement in the reception area of his court, in the presence of his court clerks and Hellertown Borough Police Officer Timothy Piotrowski: "I really didn't need to see his fucking ass-crack while I'm eating lunch." (N.T. LeVan: vol. 1, 54:17-55:8, Jan. 18, 2017; Kale: vol. 1, 138:6-139:1, Jan. 18, 2017) (Bd. Ex. 7, at 10)

103. On August 12, 2014, Judge Tidd yelled and cursed at one of his court clerks about a scheduling matter in three traffic summary trials which were scheduled for the following day. *Commonwealth v. Araujo, Jr.*, Docket Nos. MJ-03204-TR-0001712-2014; MJ-03204-TR-0001713-2014; MJ-03204-TR-0001714-22014. The defendant called Judge Tidd's court and asked one of the court clerks if he could come in earlier than the scheduled time for his summary trials on the traffic citations. The court clerk told the defendant that if the police officer arrived early, then he could come early also. Upon hearing the court clerk's statement to the defendant, Judge Tidd yelled and screamed at her as follows:

Judge Tidd: I told you no, don't let the tail wag the fucking dog. When I say no, it means no.

Court Clerk: You always encourage them to come in earlier if the officer is here earlier.

Judge Tidd: No, I fucking told you that he has to come in when scheduled, period.

(N.T. Kale: vol. 1, 139:2-140:4, Jan. 18, 2017; Bettler: vol. 5, 916:17-918:18, May 4, 2017) (Bd. Exhibit 7, at 48; 35; 36; 37)

104. On August 28, 2014, traffic summary trial was scheduled in Judge Tidd's district court. *Commonwealth v. Snyder*, Docket No. MJ-03204-TR-0001906-2014. Judge Tidd was seated at a clerk's desk next to the desk where one of his court clerks was seated. The defendant was standing at the counter of the reception area of the court. The citing officer, Lower Saucon Police Officer Robert Winters, entered the reception area, approached the counter and stated that he wanted to amend the traffic citation against the defendant. Judge Tidd rose from his chair and as he walked behind the court clerk's cubicle, she said "Huh?" Judge Tidd impatiently said in a loud, angry voice:

"If you say 'huh' to me one more time instead of 'yes' or 'excuse me' or something, I'm going to have a goddam fit."

When the court clerk told Judge Tidd that she did not realize that he was speaking to her, Judge Tidd abruptly stated:

"Yes, you did. You answered me. Don't respond like that."

Police Officer Winters, the defendant and the other court clerks observed Judge Tidd's demeanor toward the court clerk. (N.T. Kale: vol. 1, 142:6-146:3, January 18, 2017; Anthony: vol. 3, 441:20-442:23, Jan. 20, 2017; Bettler: vol. 5, 914:1-916-12, May 4, 2017; Tidd: vol. 7, 12:3-15, June 8, 2017) (Bd. Exhibits 7, at 48; 11a; 12a; 38)

105. At trial, Court Clerk Bettler testified that she had told Judge Tidd prior to the August 28, 2014 incident set forth above, that she had a hearing deficit and that she was humiliated when he yelled at her in front of others. (Bettler: vol. 5, 913:1:-25; 916:4-12, May 4, 2017)

106. On October 9, 2014, Constable Douglas Fulmer transported a defendant from Lehigh County Prison to Judge Tidd's district court for a scheduled preliminary hearing on three misdemeanor charges including Driving Under the Influence - Impaired Ability, 1st offense, 75 Pa.C.S.A. § 3802 §§ D2. *Commonwealth v. Butler*, Docket No. MJ-03204-CR-0000198-2014.

a. The preliminary hearing in the *Butler* matter was initially scheduled for August 28, 2014, but Judge Tidd granted a defense continuance so that the defendant could obtain counsel;

b. By October 9, 2014, the defendant had not yet obtained counsel;

c. On October 9, 2014, while standing at the counter of the reception area of his court, Judge Tidd asked the defendant if he wanted to waive his hearing; and

d. The defendant responded that he wanted to fight the charges.

(Stip. No.35 a-d)

107. On October 9, 2014, Judge Tidd instructed the defendant in *Butler* to go into the courtroom and then said to his court clerks, "I can't believe I have to have a fucking hearing on a fucking DUI!" Approximately two minutes after Judge Tidd entered the courtroom, he came back out and reported to the court clerk that all the charges against Mr. Butler were held for court. Judge Tidd did not require Mr. Butler to sign a waiver of counsel during the proceedings. (N.T. Kale: 146:15-147:14, Jan. 18, 2017) (Bd. Exhibits 7, at 57; 39)

108. On April 23, 2015, Judge Tidd demonstrated an improper demeanor when he entered the district court office, locked the front door and told his court clerks to sit down. Judge Tidd "ranted" at his court clerks about complaints filed with the Judicial Conduct Board, questioned them about who filed the complaints and asked

who among them had communicated with his political opponent about court business. The court clerks believed that they were not free to leave when Judge Tidd locked the door to the district court and confronted them with questions over a period of 30 minutes. (N.T. Drayton: vol. 2, 357:5-359:6, Jan. 19, 2017; Anthony: vol. 3, 426:15-428:15; 432:8-16, Jan. 20, 2017; Bettler: vol. 5, 888:13-891:11, May 4, 2017; French: vol 3, 521:9-523:2, Jan. 20, 2017)

109. At 8:46 a.m. on May 19, 2015, Primary Election Day, Court Clerk Brenda Anthony sent a text message to Judge Tidd and asked if he was coming to the district court for four hearings that were scheduled that morning. (Stip. 36)

110. On May 19, 2015, Judge Tidd returned the call to Court Clerk Brenda Anthony and screamed and cursed at her as follows:

"Are you fucking kidding me, please tell me you are fucking kidding me."

(Stip. No. 37)

111. Ms. Anthony explained to Judge Tidd that there were only four hearings scheduled that day. (Stip. No. 38)

112. Judge Tidd screamed into the phone:

"Are you fucking kidding me, I'm supposed to have off today."

(Stip. No. 39)

113. Judge Tidd ended the phone call by hanging up on Brenda Anthony (Stip. No. 40)

114. Just as the phone call ended, Upper Saucon Township Police Officer Daniel Bencsics arrived at Judge Tidd's district court for a traffic summary trial.

Commonwealth v. Melhem III, Docket No. MJ-03204-TR-0000653-2015. (Stip. No. 41)

115. Within approximately one minute of hanging up the phone, Judge Tidd drove his vehicle at a rapid speed into the parking lot and entered the district court building in a rage. (Stip. No. 91)

116. Judge Tidd stood at the counter in the reception area of his court and, in the presence of Officer Bencsics, whom he ignored, and the other court clerks, he again screamed and cursed at the Brenda Anthony about the hearings that day. The following exchange occurred:

Judge Tidd: Are you out of your mind?

Ms. Anthony: No.

Judge Tidd: Are you out of your mind?

Ms. Anthony: No.

Judge Tidd. Today is Election Day.

Ms. Anthony: I know.

Judge Tidd: I have off . . . dammit . . . I have off [pounding counter with fist].

Ms. Anthony: I didn't know that. There were four hearings on there and you did not tell me to move them.

Judge Tidd: Common sense says to move them.

(N.T. Anthony: vol. 3, 432:22-439:7, Jan. 20, 2017; Drayton: vol. 2, 354:4- 355:25, Jan. 19, 2017; Bencsics, vol. 2, 382:20-384:11, Jan. 19, 2017; Tidd: vol. 5, 1163:11-21, May 4, 2017; vol. 6, 1349:2-9; 1351:11-1352:17, May 5, 2017) (Bd. Exhibits 7, at 61; 11b; 12b)

117. Brenda Anthony repeatedly told Judge Tidd that she did not know that he was off on Election Day. Judge Tidd responded with the following comments: "You have to be out of your mind;" "Unbelievable;" and "Jesus Christ!" (Bd. Ex. 11b; 12b)

118. After speaking with Deputy Court Administrator French by telephone, Judge Tidd told his court clerks, "Everything's continued per [Deputy Court Administrator], and it's on the Court. Continuances on the Court." (Stip. No. 43)

119. Court Administrator Debra French testified that during her May 19, 2015 telephone conversation with Judge Tidd, she told him that Primary Election Day was not a court holiday, that he did not have it off, but he could chose to take the day off and he had discretion to continue his cases to another date and time. (N.T. French: vol. 3, 523:21-524:23, Jan. 20, 2017)

120. Judge Tidd exited the district court building just as Attorney Mark Minotti drove into the court parking lot with his client for his traffic summary trial scheduled in Judge Tidd's court that morning. *Commonwealth v. Melhem III*. (Stip. No. 44) (Bd. Exhibits 7, at 61; 11b; 12b)

121. On May 19, 2015, Police Officer Daniel Bencsics, the affiant in the Melhem case, was standing in the reception area of the court. Police Officer Bencsics observed Judge Tidd's conduct toward Court Clerk Anthony. He also observed Judge Tidd in the parking lot of the district court where he greeted and spoke with Attorney Minotti in front of his client and outside the presence of Police Officer Bencsics. (N.T. vol. 2, 382:24-385:23, Jan. 19, 2017) (Bd. Exhibits 11b; 12b)

122. On May 19, 2015 at 8:31 a.m., Judge Tidd reentered the district court building and told his court clerks, "[Attorney] Mark Minotti's here, it's going to take place. He's here." Judge Tidd stood behind the counter of his reception area of his

court in his street clothes and waited. When Attorney Minotti entered the building, Judge Tidd asked, "What's his name?" After hearing the defendant's name, Judge Tidd, pointed at Officer Bencsics while saying to Attorney Minotti, "Do it . . . do it quick. There's your officer." Attorney Minotti said to Officer Bencsics, "3111?" (Bd. Exhibit 11b; 12b)

123. After Officer Bencsics agreed to reduce the summary traffic charge to a violation of 75 Pa.C.S.A. § 3111(a), Obedience to Traffic-Control Devices, which carries a penalty of a \$150 fine, Judge Tidd said, "Good. Very good. Where's Melhem?" Judge Tidd quickly signed a document and then said, "I gotta go." (Bd. Exhibit 11b; 12b)

124. Judge Tidd left the district court building at 8:32 a.m. saying, "They're killing me." (Stip. No. 45)

125. After Judge Tidd's departure, Court Clerk Anthony processed the *Melhem* case while apologizing to Attorney Minotti for Judge Tidd's behavior. (N.T. Anthony: vol. 3, 440: 20-441:2, Jan. 20, 2017) (Bd. Exhibits 11b; 12b)

126. At trial, Ms. Anthony described her reaction to Judge Tidd's conduct of yelling at her at district court in the presence of Court Clerks Tracie Drayton, Krystal Allman and Officer Bencsics as follows:

I was humiliated. I thought - - he made me feel like I was stupid, that I didn't know what I was doing. And the truth is I didn't. I didn't know he was supposed to be off on election day. That's not stupid. I didn't know.

N.T. Anthony: vol. 3, 438:3-13, Jan. 20, 2017)

127. Ms. Drayton testified that in August 2015, Judge Tidd asked her, "Why are you acting like such a bitch" in the presence of Ms. Bettler and a police officer.

She stated he asked her this same question on two or three other occasions. (N.T. Drayton, vol. 2, 350:8-351:4, Jan. 19, 2017; Bettler: vol. 5, 876:10-14; May 4, 2017)

128. On February 19, 2016, after receiving the Board's NOFI, Judge Tidd called his district court and questioned Court Clerk Cassie Bettler about her cooperation with the Board's investigation, misleading her that her name was in the NOFI. (N.T. Bettler, vol. 5, 896:17-897:10, May 4, 2017)

129. On February 19, 2016, Judge Tidd then went to the district court and confronted Ms. Bettler, yelling and screaming at her for her cooperation with the Board's investigation of his conduct in earshot of Court Clerk Traci Drayton. The following exchange took place:

Judge Tidd: You know, for you to say you got mistreated by me takes balls. Takes a lot of balls. Look me in the face and tell me I did that. Look me in the face and tell me I ever mistreated you.

Ms. Bettler: David, do you know how many names you've called me since I started here?

Judge Tidd: Like what?

Ms. Bettler: Like, ah, just two weeks ago you called me a mother fucker, okay?

Judge Tidd: When did I ever look you in the face and call you a mother fucker or even behind your back?

Ms. Bettler: You did.

Judge Tidd: When?

Ms. Bettler: Two weeks ago! Two, three weeks ago.

Judge Tidd: What . . . under what circumstances did I ever do that.

Ms. Bettler: Just saying.

Judge Tidd: Pull it off there [pointing to audio/video recording system]. I did it right here?

Ms. Bettler: You were sitting right here, yes.

Judge Tidd: You got a lot of nerve.

(N.T. Drayton: vol. 2, 362:10-363:11, Jan. 19, 2017; Bettler, vol. 5, 897:9-898:24, 901:8-902:2, 904:22-906:3, May 4, 2017; Tidd: vol. 6, 1378:6-1379:2, May 5, 2017; vol. 7, 12:16-13:11; 25:5-19, June 8, 2017) (Bd. Exhibits 7, at 66-67; 11c; 12c)

130. On February 19, 2016, Judge Tidd directed Court Clerk Bettler to call Court Administration to find another judge to cover his night duty assignment. (N.T. Bettler: vol. 5, 898:25-899:13, May 4, 2017) (Bd. Exhibits 7, at 66-67; 11c; 12c)

131. On February 19, 2016, Judge Tidd said to Court Clerk Bettler, "I can take a lot of things, but I can't take a liar." (Bd. Exhibits 7, at 66-67; 11c; 12c)

132. Judge Tidd's conduct toward Ms. Bettler on February 19, 2016 caused her to react as follows:

"I was shaking. I was - - but I tried to appear calm. But inside, my mind was racing. I was scared."

N.T. Bettler: vol. 5, 901:8-18, May 4, 2017)

133. Ms. Drayton testified that she heard Judge Tidd call Ms. Bettler "motherfucker." (N.T. vol. 2, 361:19-362:9, Jan. 19, 2017)

134. At his April 21, 2016 Board deposition, after viewing the audio-video recordings of his poor demeanor toward his court clerks, Judge Tidd stated that he was "embarrassed," that the video was "unsettling." He stated, " I don't act this way at home, I don't act this way at my other office" (Exhibit 17, at 159:161:6, April 21, 2016)

135. At his April 21, 2016, Board deposition, Judge Tidd admitted that it is his responsibility as judge to set the tone at his district court. He questioned, "But it's a conundrum. Why am I ok in the courtroom but not back here. I get that and I don't have a good answer." (*Id.* at 161:7-162:5)

136. At deposition and at trial, Judge Tidd admitted that he used foul language at his district court, including "motherfucker," and labeled his usage as "colloquial." (*Id.* at 152:8-153:13) (N.T. Tidd 1149:16-11:50:11; 1379:3-1381:18)

C. Ex Parte Communications re: Traffic Matters

137. On repeated occasions between November 9, 2011 and February 2016, Judge Tidd routinely discussed summary traffic charges with defendants who appeared at his court before the citing police officers arrived for the scheduled summary trials. (N.T. LeVan N.T. vol. 1, 55:9-16, Jan. 18, 2017; Kale: vol. 1, 121:2-10, Jan. 18, 2017; Glass: vol. 2, 329:9-17, Jan. 19, 2017; Anthony: vol. 3, 420:23-421:1; Bettler: vol. 5, 885:11-19; 922:1-12, May 4, 2017)

138. When Judge Tidd discussed traffic citations matters with defendants prior to the arrival of the citing police officers, Judge Tidd routinely asked the defendants if they would agree to enter a plea to a lesser charge. (N.T. Levan: vol. 1, 55:17-21, Jan. 18, 2017; Kale: vol. 1, 121:2-10, Jan. 18, 2017; vol. 2, 226:3-10, Jan. 19, 2017; Glass: vol. 2, 329:18-25, Jan. 19, 2017; Anthony: vol. 3, 421:2-4, Jan. 20, 2017; Bettler: vol. 5, 879:15-23; 922:18-923:1, May 4, 2017)

139. After a defendant agreed to enter a plea to a lesser traffic charge, Judge Tidd would then call the absent police officer and ask if he would agree to a lesser charge. (N.T. LeVan: vol. 1, 55:22-25; 65:21-57:1, Jan. 18, 2017; Bettler, 922:18 - 923:1, May 4, 2017)

140. On those occasions when the absent police officer agreed by telephone to change the citation to a lesser summary traffic charge, Judge Tidd accepted the defendant's guilty plea to the lesser offense. (N.T. Bettler: vol. 5, 922:18-923:1, May 4, 2017)

141. In some traffic citation cases wherein the citing police officer had not yet arrived at his court for the scheduled traffic summary trials, Judge Tidd first discussed the case with the defendant and then permitted the defendant to use the district court telephone to speak with the police officer about entering a guilty plea to a lesser charge.

142. On repeated occasions between 2011 and February 2016, Judge Tidd initiated discussions about summary traffic charges with police officers who arrived at his court before the defendants for scheduled traffic summary trials. (LeVan: vol. 1, 57:6-9, Jan. 18, 2017; Kale: vol. 1, 121:11-19-122:10, Jan. 18, 2017; Glass: vol. 2, 330:1-6, Jan. 19, 2017; Anthony: vol. 3, 421:5-10, Jan. 20, 2017; Bettler: vol. 5, 880:2-13; 923:2-11, May 4, 2017)

143. When Judge Tidd discussed summary traffic citations matters with police officers prior to the arrival of the defendants, Judge Tidd would ask the police officers if they were willing to change the charged traffic violation to a lesser traffic offense. (N.T. LeVan: vol. 1, 57:10-14, Jan. 18, 2017; Kale: vol. 1, 121:11-17, Jan. 18, 2017; Glass: vol. 2, 330:7-14, Jan. 19, 2017; Anthony: vol. 3, 421:11-13, Jan. 20, 2017; Bettler: vol. 5, 882:12-24; 883:8-18; 923:2-11, May 4, 2017)

144. When a defendant arrived after a police officer had agreed to change the charged summary traffic violation, Judge Tidd would ask the defendant if he or she was willing to enter a plea to the lesser traffic offense. (N.T. LeVan: vol. 1,

57:15-18, Jan. 18, 2017; Kale: vol. 1, 122:12-16, Jan. 18, 2017; Glass: vol. 2, 330:15-22, Jan. 19, 2017; Bettler: vol. 5, 923:12-924:2, May 4, 2017)

145. Judge Tidd admitted that if the defendant in a traffic matter arrived at court before the citing officer, then he would engage in a conversation with that defendant and ask, "What's your intention." (N.T. vol. 6: 27:21-25, June 8, 2017)

146. Judge Tidd admitted that if the citing officer showed up at court before the defendant in a traffic matter, he would engage in "a preliminary discussion about what they wanted to do vis-à-vis hearing, negotiating a plea, withdrawal, something along those lines." (*Id.* at 28:4-14)

147. Judge Tidd admitted that if a police officer called his court because of a conflict preventing him from attending or arriving on time for a summary traffic trial, Judge Tidd would speak to the officer by telephone and engage in the same type of preliminary discussion about what the officer wanted to do with the case. If an officer was late for a summary traffic trial, Judge Tidd would initiate a call to the officer and ask what the officer wanted to do with the case. (*Id.* at 29:3-24; 32:4-11) The phone calls were not conducted on speakerphone, so Judge Tidd would relay the information to the defendant after the fact. (*Id.* at 32:4-24)

148. Judge Tidd is acquainted with Hellertown Police Officer Michael Dattilio who frequently appears at District Court 03-2-04 on police matters. (Stip. No. 46)

149. When Officer Michael Dattilio arrived at Judge Tidd's district court for traffic summary trials, Judge Tidd routinely asked, "Did you work out a deal?" (Stip. No. 47)

150. At trial, Police Detective Datillio described a specific case in which he called Judge Tidd's district court to state that he was on his way to the court and that

he would be a few minutes late for a summary trial on a traffic offense wherein the defendant had been "belligerent, demeaning and very, very rude to law enforcement." (N.T. vol. 4, 747:6-24, May 3, 2017)

151. When Detective Datillio arrived at Judge Tidd's district court for the summary traffic trial described above, Judge Tidd advised, "Oh, I took care of it for you already." (*Id.* at 747:25-748:2)

152. Detective Datillio further testified that he told Judge Tidd that he was displeased because he wanted to take the case to summary trial, Judge Tidd asked him, "Why didn't you tell me ahead of time?" (*Id.* at 748: 3-13)

153. At trial, Detective Datillio could not recall if the defendant entered a reduced plea or if the case was dismissed, but he was certain that he had not negotiated a lesser charge with that defendant. (*Id.* at 14-24)

154. When the penalty for the charge Obedience to Traffic-Control Devices, 75 Pa.C.S.A. § 3111(a), increased to \$150, Judge Tidd began substituting a lesser charge, Investigation by Police Officer, 75 Pa.C.S.A. § 6308, which carried a penalty of \$25, when he negotiated with defendants to enter guilty pleas to a reduced charge. (N.T. Kale: vol. 1, 151:19-152:9, Jan. 18, 2017; vol. 2, 315:8-316:3, Jan. 19, 2017)

155. On November 9, 2011,² the defendant appeared for his 9:30 a.m. traffic summary trial at Judge Tidd's court. *Commonwealth v. Fiorino*, MJ-03204-TR-0003184-2011. The defendant had entered a not guilty plea to the charge of Exceed Speed Limit School Zone by 14 mph, 75 Pa.C.S.A. § 3365(b)(14), and requested a summary trial. The citing officer, Hellertown Borough Police Officer James Deleone,

² A transcription error occurred in the Proposed Stipulations of Fact filed on Jan. 17, 2017, citing the date of the Fiorino adjudication as November 11, 2011. The correct date is November 9, 2011 as set forth in the Board Complaint at ¶ 71.

Sr., was not present at the court. Judge Tidd offered to reduce the charge to Obedience to Traffic-Control Device, 75 Pa.C.S.A. § 3111(a), if the defendant agreed to enter a guilty plea. The defendant entered a guilty plea to the reduced charge. (N.T. Kale: vol. 1, 152:22-153:17, Jan. 18, 2017; vol. 2, 284:19-285:22, Jan. 19, 2017) (Bd. Exhibits 7, at 1-9; 41)

156. On January 23, 2012, the defendant arrived at Judge Tidd's court for a traffic summary trial on the charge of Failure to Stop at a Red Signal, 75 Pa.C.S.A. § 3112(a)(31). *Commonwealth v. Groves*, Docket No. MJ-03204-TR-0003937-2011. The citing officer, Hellertown Borough Police Officer Kevin McCartney, had not yet arrived for the summary trial. Judge Tidd stood at the counter of the reception area of his court and told the defendant that he could enter a plea to a lesser charge of Obedience to Traffic-Control Devices, 75 Pa.C.S.A. § 3111(a), with no points against his driver's license. Based on his discussion with Judge Tidd, the defendant agreed to enter a plea to a lesser charge. When Police Officer Kevin McCartney arrived, Judge Tidd told him, "I took care of your 10:15." (N.T. LeVan: vol. 1, 58:19-60:7, Jan. 18, 2017; Kale: vol. 1, 153:18-154:15, Jan. 18, 2017) (Bd. Exhibits 7, at 16; 42)

157. On January 23, 2012, Attorney Matthew Potts arrived for a preliminary hearing in a criminal matter, which has since been expunged. Docket No. MJ-03204-CR-0000463-2011. Judge Tidd and Attorney Potts went into Judge Tidd's court office and shut the door. By 9:10 a.m., Lower Saucon Police Officer Jared Gunshore and the defendant had arrived at the court. Judge Tidd and Attorney Potts came out of the office and Attorney Potts said, "We have a deal for the 9:15 hearing." Officer Gunshore, who had no knowledge of the inner office discussion, stated, "I don't know what you're talking about. I have no deal worked out with you." (N.T. LeVan: vol.

1, 60:8-18, Jan. 18, 2017; Kale: vol. 1, 155:3-23, Jan. 18, 2017) (Bd. Exhibit 7, at 16)

158. At trial, Police Officer Gunshore testified about his recollection of the January 23, 2012 incident at Judge Tidd's district court concerning the later expunged case referenced above. Officer Gunshore stated that when he arrived at the district court, he observed Attorney Potts in chambers with Judge Tidd. After they came out of chambers, Judge Tidd approached Officer Gunshore and told him the case was "taken care of." Officer Gunshore stated that he did not participate nor have prior knowledge of "taking care of" the case. He stated that when he arrived at court he was told that the case was waived as part of a plea deal to which he had no prior knowledge. (N.T. vol. 4, 813:5-814:24; 818:3-17, May 3, 2017)

159. On January 25, 2012 at 10:50 a.m., the defendant arrived at Judge Tidd's court for his 11:15 a.m. traffic summary trial. *Commonwealth v. Desmond*, MJ-03204-TR-0003848-2011. The citing officer, Hellertown Borough Police Corporal Jeffrey Johnston had not yet arrived for the summary trial. Judge Tidd discussed the case with the defendant while standing at the counter of the reception area of his court. When the defendant confirmed that he did not get his car inspected, Judge Tidd told him, "If you take a hearing, I'm going to find you guilty because you haven't gotten it inspected. You can change your plea to guilty if you want." The defendant agreed to enter a guilty plea before Corporal Johnston arrived at the district court. (N.T. LeVan: 62:10-63:24, Jan. 18, 2017; Kale: vol. 1, 159:6-160:3, Jan. 18, 2017); Bd. Exhibits 7, at 18; 43)

160. On January 30, 2012, the defendant arrived at Judge Tidd's district court for a 10:00 a.m. traffic summary trial. *Commonwealth v. Garippa*, MJ-03204-TR-

0003936-2011. The citing officer, Hellertown Borough Police Officer Dominick Fragano had not yet arrived at the district court. Judge Tidd discussed the case with the defendant while standing at the counter of the reception area of his court. Although Officer Fragano was not present, the defendant agreed to enter a guilty plea to a lesser charge. After obtaining the consent of the defendant, Judge Tidd changed the charge from Exceeding the Speed Limit in a School Zone, 75 Pa.C.S.A. § 3365(b-16), to a lesser no points charge of Obedience to Traffic-Control Devices, 75 Pa.C.S.A. § 3111(a). (N.T. LeVan: vol. 1, 63:25-64:17, Jan. 18, 2017; Kale: vol. 1: 161:12-162:1, Jan. 18, 2017) (Bd. Exhibit 7, at 21; 44)

161. On January 31, 2012, a defendant arrived at Judge Tidd's court for his 8:45 a.m. traffic summary trials for two traffic citations to which he had pled not guilty and requested a summary trial. *Commonwealth v. John A. Freed*, Docket Nos. MJ-03204-TR-0003421-2011 (Exceeding the Maximum Speed Limit by 19 mph) & MJ-03204-TR-0003422-2011 (Driving While Operating Privilege Suspended or Revoked as a Result of Accelerated Rehabilitative Disposition). The citing officer, Lower Saucon Police Officer Jared Gunshore, was present for the summary trials. Per Judge Tidd's direction, the defendant called his attorney's office and discovered that Attorney Thomas Joachim could not arrive at the court until 10:00 a.m. Judge Tidd told the defendant:

"That won't work. You'll have to have your hearing without him."

At 9:15 a.m., Attorney Joachim called and spoke with Judge Tidd by telephone. After telling Attorney Joachim that he could wait until he arrived to conduct the summary trials, Judge Tidd offered the following:

"Maybe I can get it reduced to a 1543(a)(1) instead of 1543(b)(1) by the time you get here. He'll have to plead guilty to speeding though and pay in full today."

Judge Tidd concluded his phone conversation with Attorney Joachim and then said to the citing officer, Police Officer Gunshore:

"Would you be ok with giving him a 1543(a) instead and he'll also plead guilty to speeding?"

Officer Gunshore agreed to the lesser charge. Judge Tidd then told the defendant:

"Your attorney and I worked this out. You can plead guilty to 1543(a) and to a speeding charge. That way you won't have any jail time. Have a seat until your attorney gets here and he'll go over it with you."

The defendant entered guilty pleas to the lesser charge of 1543(a) and to the speeding violation as initially charged. The statutory penalty for a violation of 75 Pa.C.S.A. § 1543(a) (\$200) is less than that for § 1543(b)(\$500 plus 60 to 90 days in prison). (N.T. LeVan: 64:1-66:20, Jan. 18, 2017; Kale: vol. 1, 162:5-164:8, Jan. 18, 2017) (Bd. Exhibits 7, at 21; 45; 46)

162. On August 11, 2014, a defendant appeared for a traffic summary trial which had been continued to September 15, 2014 per request of the citing officer, Hellertown Borough Police Corporal Jeffrey Johnston. *Commonwealth v. Martin*, Docket No. MJ-03204-TR-0001268-2014. The defendant had not received notice of the new summary trial date. Based on the grant of the continuance, Corporal Johnston was not present at Judge Tidd's court. The defendant had pled not guilty to a charge of Exceeding the 25 mph speed limit by 12 mph and requested the summary trial. 75 Pa.C.S.A. § 3362(a)(1.2-12). Judge Tidd did not tell the defendant to come back on the new summary trial date. Judge Tidd discussed the case with the defendant at the counter of the reception area of his court and offered to reduce

the charge to Exceeding the Speed Limit by 5 mph. 75 Pa.C.S.A. § 3362(a)(1.2-5). The defendant entered a guilty plea to the lesser charge. (N.T. Kale: vol. 1, 167:17-169:23, Jan. 18, 2017 (Bd. Ex. 7, at 43; 48)

163. On May 19, 2015, Primary Election Day, Judge Tidd exited the district court building just as Attorney Mark Minotti drove into the court parking lot with his client who had a traffic summary trial scheduled in Judge Tidd's court that morning. *Commonwealth v. Melhem III*, Docket No. MJ-03204-TR-0000653-2015. Lower Saucon Police Officer Daniel Bencsics was the affiant in the *Melhem* case and was standing in the reception area of the court. Police Officer Bencsics observed Judge Tidd in the parking lot of the district court where he greeted and spoke with Attorney Minotti in front of his client and outside the presence of Police Officer Bencsics. (N.T. vol. 2, 384:19-385:23, Jan. 19, 2017) (Bd. Exhibit 12b; 40)

164. On May 19, 2015, Judge Tidd reentered the district court building and told his court clerks, "[Attorney] Mark Minotti's here, it's going to take place. He's here." Judge Tidd stood behind the counter of his reception area of his court in his street clothes and waited. When Attorney Minotti entered the building, Judge Tidd asked, "What's his name?" After hearing the defendant's name, Judge Tidd, pointed at Officer Bencsics while saying to Attorney Minotti, "Do it . . . do it quick. There's your officer." Attorney Minotti said to Officer Bencsics, "3111?" (N.T. vol. 2, 385:24-390:17, Jan. 19, 2017) (Bd. Exhibits 11b; 12b)

165. After Officer Bencsics agreed to reduce the summary traffic charge to a violation of 75 Pa.C.S.A. § 3111(a), Obedience to Traffic-Control Devices, which carries a penalty of a \$150 fine, Judge Tidd said, "Good. Very good. Where's Melhem?" Judge Tidd quickly signed a document and then said, "I gotta go." Judge

Tidd left the district court building at 8:32 a.m. saying, "They're killing me." After Judge Tidd departure, Brenda Anthony processed the *Melhem* case while apologizing to Attorney Minotti for Judge Tidd's behavior. (N.T. vol. 3, 440-441, Jan. 20, 2017) (Bd. Exhibits 11b, 12b)

166. Officer Bencsics did not have an opportunity to discuss the reduced charge in the *Melhem* case with Attorney Minotti outside the presence of Judge Tidd. (N.T. vol. 3, 386:20-389:12, Jan. 20, 2017)

167. Officer Bencsics did not have an opportunity to present the facts of the case to Judge Tidd prior to the guilty plea by the defendant. (N.T. vol. 3, 386:20-389:12, Jan. 20, 2017)

168. In or about May 2015, Slate Belt Regional Police Officer Matthew Messinger forgot that he was scheduled to appear that day as the citing officer at a traffic summary trial scheduled in Judge Tidd's court. (Stip. 48)

169. On the day of the May 2015 traffic summary trial, one of Judge Tidd's court clerks called Officer Messinger to remind him of the proceeding at district court. (Stip. 49)

170. Officer Messinger informed the clerk that he could be at District Court 03-2-04 in 30 to 50 minutes. (Stip. 50)

171. A few minutes after the clerk's call to Officer Messinger, Judge Tidd placed a telephone call to him. (Stip. 51)

172. Judge Tidd asked Officer Messinger if he would accept a guilty plea from the defendant to a lesser traffic offense than the one for which he cited the defendant. (Stip. 52)

173. Officer Messinger agreed to the negotiated guilty plea as presented to him by Judge Tidd. (Stip. 53)

174. Judge Tidd accepted the guilty plea to the reduced charge directly from the defendant. (Bd. Exhibit 7, at 61)

175. At his April 21, 2016 Board Deposition, Judge Tidd admitted that he engaged in these practices of working out deals to summary traffic charges in order to save time and money and to accommodate schedules. (Bd. Exhibit 17, at 63:3-65:7, April 21, 2016)

176. At trial, Judge Tidd admitted that he conducted hearings at the counter of the public reception area of his district court in order to move things efficiently and at other times "because of space limitations and security reasons." (N.T. vol. 7, 54:53:25-54:7, June 18, 2017)

177. At trial, Officer Dattilio refuted Judge Tidd's claim about security at the counter versus the courtroom when he stated: "If anything, at the counter, Judge Tidd would be in closer proximity to a defendant than in the courtroom. (Vol. 4, 753:7-20, May 3, 2017)

D. Special Consideration

178. Judge Tidd and Attorney James J. Burke are professional colleagues and friends. (Stip. No. 54)

179. Court Clerk Kale testified that during her 2010-2014 employment at Judge Tidd's district court, she witnessed him go out to lunch with Attorney Burke an average of once or twice a month. She stated that he sat at the fourth desk of the clerks work area and talked on the phoned with Burke a couple of times each week. (N.T. vol. 2, 192:1-193:18, Jan. 18, 2017)

180. Between October 2007 and December 2015, Police Officers in Northampton County issued multiple parking citations to Attorney Burke. (Stip. No. 55)

181. Pennsylvania Rule of Criminal Procedure No. 401 governs the "Means of Instituting Proceedings in Summary Cases Charging Parking Violations." (Stip. No. 56)

182. When a police officer issues a parking ticket to an individual for parking illegally, that individual must respond within the time specified on the ticket. Pa.R.Crim.P. No. 401(A). (Stip. No. 57)

183. If the individual who has received a parking ticket chooses to enter a guilty plea, that individual may complete the guilty plea portion on the back of the ticket and submit it along with a payment of the amount specified on the ticket. (Stip. No. 58)

184. If the individual who has received a parking ticket fails to enter a plea or pay the amount due on the ticket, a traffic citation is then filed in the appropriate magisterial district court by the citing police officer. (Stip. No. 59)

185. Upon the filing of a traffic citation in the district court, the magisterial district judge shall issue a summons which grants the individual 10 days to respond. Pa.R.Crim.P. No. 411(A). (Stip. No. 60)

186. At trial on January 18, 2017, this Court took judicial notice of Paragraph 92 of the Board Complaint: If the individual fails to respond to the citation or summons, a bench warrant shall issue from the district court for the arrest of the individual. Pa.R.Crim.P. No. 403(B). (N.T. vol. 1, 172:22-173:1 Jan. 18, 2017) (Judicial notice at trial Jan. 18, 2017)

187. On a routine basis, Attorney Burke failed to timely enter a plea or pay the fee on the parking tickets issued to his vehicle. (N.T. vol. 1, 173:2-10 Jan. 18, 2017)(Bd. Compl. ¶ 93, Stipulated at Trial, Jan. 18, 2017)

188. Because Attorney Burke did not timely enter a plea or pay the fee on the parking tickets, the police department filed the summary traffic citations in Judge Tidd's district court. (Bd. Compl. ¶ 94, Stipulated at Trial, Jan. 18, 2017)

189. On a routine basis, Attorney Burke ignored the sequential warnings from Judge Tidd's district court to respond to and pay his citations. (Bd. Compl. ¶ 95, Stipulated at Trial, Jan. 18, 2017)

190. Each time Attorney Burke ingored his obligation to pay on his traffic citations, a warrant for the arrest of Attorney Burke should have issued from Judge Tidd's district court. (Bd. Compl. ¶ 96, Stipulated at Trial, Jan. 18, 2017)

191. Between January 2010 and November 30, 2014, Judge Tidd presided over six cases involving parking citations issued to Attorney Burke:

Docket Nos.

MJ-03204-TR-2649-2007 (decided April 2013)

MJ-03204-TR-0003339-2012

MJ-03204-TR-0003287-2013

MJ-03204-TR-0001082-2013

MJ-03204-TR-0001612-2014

MJ-03204-TR-0000528-2014

(Bd. Compl. ¶ 97, Stipulated at Trial, Jan. 18, 2017) (Bd. Exhibits 49-54)

192. Between December 1, 2014 and January 19, 2016, Judge Tidd presided over two cases involving parking citations issued to Attorney Burke.

Docket Nos.

MJ-03204-TR-0002538-2015

MJ-03204-TR-0000099-2016

(Bd. Compl. ¶ 98, Stipulated at Trial, Jan. 18, 2017) (Bd. Exhibits 55-56)

193. At trial, court clerk Diane Kale testified she typically issued the warrants for Judge Tidd's district court. She stated that after she issued a warrant to Attorney Burke for an unpaid traffic citation, Judge Tidd "wasn't happy. He said I should have let him know that there was a warrant going to be issued for him and in the future if it occurred he was to be notified." Ms. Kale testified that Judge Tidd said, "to let him know before I issued a warrant for Attorney Burke." (N.T. vol. 2, 186:23-187:12 Jan. 19, 2017)

194. Ms. Kale testified that the instruction from Judge Tidd "to let him know before I issued a warrant for Attorney Burke" was an ongoing instruction which she followed and that Ms. Anthony and Ms. Bettler were subject to the same directive. (*Id.* at 187:16-21; 191:4-10)

195. Ms. Kale testified that of the couple of warrants that did issue to Attorney Burke from Judge Tidd's court, the court clerks collected the constable fees directly from Burke, but on later occasions, Judge Tidd instructed the clerks either not to charge for the constable fees or to put the fees on the county cost sheet rather than collecting the constable fees directly from Attorney Burke. (*Id.* at 188:2-189:17)

196. Ms. Kale testified that Judge Tidd did not always pay constables for serving warrants to Attorney Burke. She said, "There was a time when he said to

just have the constable eat it." (*Id.* at 291:5-13; *See also*, Anthony: vol. 3, 501:15-25, Jan. 20, 2017)

197. Amber Glass testified that she heard Judge Tidd instruct Diane Kale and Brenda Anthony to track Attorney Burke's unpaid traffic citations and instruct them not to issue warrants to him. (N.T. vol. 2, 332:11-18 Jan. 19, 2017)

198. Tracie Drayton testified that she notified Judge Tidd when a warrant was about to issue to Attorney Burke. Following a warning call from the court, Attorney Burke came in that same day to pay the citation. (N.T. vol. 2, 365:14-366:2 Jan. 19, 2017)

199. Brenda Anthony testified that Judge Tidd asked her to track warrants that were about to issue from his court to Attorney Burke on unpaid traffic citations and to inform him before issuing a warrant to Burke. Ms. Anthony followed Judge Tidd's directive, informed him about warrants that were about to issue to Burke and overheard Judge Tidd on the phone telling Attorney Burke to resolve the citations. (N.T. vol. 3, 444:10-445:16, Jan. 20, 2017)

200. Ms. Anthony testified that sometimes, per Judge Tidd's instructions, the court clerks cancelled a warrant issued for Mr. Burke, in which case the constable would not be paid. However, in most cases, the returned warrants which the constables served to Mr. Burke "got sent down to county so they would have to pay for it." (*Id.* at 445:17-446:21; 501:15-25;)

201. Court Clerk Bettler testified that she heard Judge Tidd tell Court Clerks Kale, Anthony and Drayton to watch for Attorney Burke's tickets, to let him know about the tickets and not to issue warrants to him. (N.T. vol. 5, 931:3-20, May 4, 2017)

202. Court Clerk Cassandra Bettler testified that when Attorney Burke came to the district court to pay his traffic citations after notification that a warrant was about to issue to him, he thanked Judge Tidd. (*Id.* at 933:7-15)

203. Per his instructions, Judge Tidd's court clerks informed him on multiple occasions that a warrant for Attorney Burke was scheduled to issue on a traffic citation for a parking violation. (Stip. No. 61)

204. When Judge Tidd called Attorney Burke about his outstanding traffic citations, he told him, "If he [Burke] didn't take care of it, I would be forced to issue a warrant." (Stip. No. 62.)

205. At trial, Judge Tidd admitted to providing Attorney Burke with advance notice of warrants about to issue on several occasions and said, "I would either have someone call or I called I think on two or three occasions to say if he doesn't pay the warrant will issue when it is supposed to." (N.T. vol. 7, 38:6-9, June 8, 2017)

206. At trial, Judge Tidd admitted that the issuance of a warrant generates constable fees, county fees, and in his words, "Any number of fees." (*Id.* At 38:10-12)

207. Northampton County Controller Stephen Barron, Jr. testified that the 30-day period of his review of Judge Tidd's court in the AOPC system did not include the warrant activity regarding Attorney Burke's citations. He stated, "Just from what I have heard about the case or read, these tickets were back a little way and those would have cleared out by the time Judge Tidd left office. So I would not have seen that in my 30-day review, no." (N.T. 1224:6-22, vol. 6, May 5, 2017)

208. Judge Tidd admitted that he never contacted other attorneys who had matters pending in his court that could result in the issuance of warrants. (Bd. Deposition 67:2-8, June 14, 2016)

209. Judge Tidd admitted that, in his discretion, he allowed an extension of time for warrants to issue in cases where defendants called his district court, stated they could not get to district court but intended to pay the fine. (Board Deposition at 68:5-15 June 14, 2016)

210. Judge Tidd admitted that Attorney Burke never called his court to ask for an extension of time on a warrant and never offered an explanation for why he was habitually late in paying his traffic citations. (*Id.* at 69:9-19 June 14, 2016)

211. Judge Tidd believes it was acceptable to call Attorney Burke and advise him to pay the amount due on his traffic citation as a matter of professional courtesy. (Stip. 63)

212. At his second Board deposition, Judge Tidd acknowledged that when extending "professional courtesy," he should think twice in light of how it could possibly be perceived by others." (Bd. Deposition at 132:16-21, June 14, 2016)

E. Failure to Recuse

213. Judge Tidd has known Attorney Burke for approximately 13 to 15 years. (Stip. No. 64)

214. Judge Tidd considers Attorney Burke to be his friend. (Stip. No. 65)

215. Judge Tidd admits that he and Attorney Burke went out to lunch together on at least five occasions. (Stip. No. 67)

216. Judge Tidd admitted that he and Attorney Burke routinely spoke on the telephone every few days. (Bd. Deposition 72:18-21, June 14, 2016)

217. Diane Kale testified that between April 2010 and December 2014, Judge Tidd and Attorney Burke went out to lunch together twice a month. She stated that Judge Tidd sat at the fourth desk of the clerks work area and she heard him talking on the phone with Burke a couple of times each week. (N.T. vol. 2, 192:1-193:18, Jan. 19, 2017)

218. Between January 2010 and June 2016, Attorney Burke routinely represented defendants in Judge Tidd's district court. (Stip. No. 66)

219. Judge Tidd continued to preside over cases in his district court wherein the defendants were represented by Attorney Burke. (Stip. No. 68)

220. On April 7, 2016, Attorney Burke requested a defense continuance for a Preliminary Hearing in a criminal case, *Commonwealth v. Lohman*, Docket No. MJ-03203-CR-0000094-2016. (Stip. No. 69) (Bd. Exhibit 57)

221. On April 8, 2016, Judge Tidd granted the defense continuance in *Lohman* and rescheduled the Preliminary Hearing for May 24, 2016. Subsequently, the defendant waived his right to the Preliminary Hearing. (Stip. No. 70)

222. Court Clerk Diane Kale testified that she and Brenda Anthony spoke with Judge Tidd on more than one occasion about Attorney Burke's cases in his court and asked him, "Did he want us to have it transferred [to another court] because of their friendship." (N.T. Vol 2, 193:19-194:3, Jan. 19, 2017)

223. Ms. Kale further testified that each time she and Ms. Anthony questioned Judge Tidd about transferring Attorney Burke's cases, he responded, "It's fine, I can - - I'll be able to handle it." (*Id.* at 194: 4-15)

224. Court Clerk Brenda Anthony testified that she was present when Ms. Kale asked Judge Tidd whether he should transfer Attorney Burke's cases to another

district court because of their friendship. Ms. Anthony testified that Judge Tidd continued to hear Attorney Burke's cases after Ms. Kale questioned him about it. (N.T. vol. 3, 502:16-503:7, Jan. 20, 2017)

225. At trial, Judge Tidd admitted that he never requested to transfer any of Attorney Burke's cases from his district court to another district court. (N.T. vol. 7, 44:6-45:1, June 8, 2017)

226. At trial, Court Clerks Kale and Anthony testified that they spoke with Judge Tidd about the following case: On May 17, 2013, Lower Saucon Township Police Officer Thomas Louder issued a traffic citation to Susan E. Blair, the landlord of Judge Tidd's district court office building, for speeding which resulted in a vehicle crash. Officer Louder charged Ms. Blair with a violation of 75 Pa.C.S.A. § 3361, failure to drive her vehicle at a safe speed. *Commonwealth v. Blair*, MJ-03204-TR-1339-2013. Ms. Blair entered a plea of not guilty and requested a summary trial. The case was scheduled for a June 11, 2013 summary trial in Judge Tidd's district court. On May 22, 2013, Court Clerks Kale and Anthony asked Judge Tidd if *Commonwealth v. Blair* should be transferred to another district court because of the conflict of interest arising from Ms. Blair's relationship to Judge Tidd's district court. Initially, Judge Tidd told the clerks that he could hear the case. Judge Tidd then advised his clerks that he would ask Officer Louder how bad the accident was and if the police chief "made" him write the citation. Judge Tidd also informed his court clerks that he would dismiss the case if possible, but would transfer the case if a hearing was necessary. (N.T. Kale vol. 2, 195:14-196:19, Jan. 19, 2017; Anthony vol. 3, 449:1-451:6, Jan. 20, 2017) (Bd. Ex. 7, at 32; 58)

227. At trial, Court Clerk Brenda Anthony stated that she was present during the discussion with Judge Tidd about the *Blair* case. She testified, "One of us [court clerks] had asked Judge Tidd if he wanted the case transferred out, and he said no." In response, the clerks said, "But that's the landlord, don't you think that's a conflict[?]" (N.T. vol. 3, 449:14-17, Jan. 20, 2017)

228. At trial, Judge Tidd admitted that everyone was advised of the conflict in the *Blair* case and he told his court clerks that if there was a deal worked out with Officer Louder, he would keep the case, but if no deal was worked out, he would transfer the case. He also admitted that he disclosed to Officer Louder that he would dismiss the *Blair* case if possible, but would transfer it if a hearing was required. (N.T. vol. 7, 46:6-47:6, June 8, 2017; See Bd. Exhibit at 23)

229. At trial, Judge Tidd admitted that he ruled on the *Blair* case when he dismissed it. (*Id.* at 51:12-14)

230. Judge Tidd did not request a transfer of *Commonwealth v. Blair* to another district court. On June 11, 2013, Judge Tidd dismissed the case. (Bd. Exhibit 58)

F. Failure to Accord Full Right to Be Heard

231. Court Clerks LeVan, Kale, Glass, Drayton, Anthony, and Bettler and Police Detective Dattilio, Sergeant Johnston, and Officer Gunshore testified that between 2011 and 2016, Judge Tidd conducted traffic summary trials, landlord-tenant hearings, preliminary arraignments and waivers of preliminary hearings at the counter of the reception area of his court. (N.T. LeVan: vol. 1, 35:8-10; 36:5-7; 67:25-68:6; 70:3-6; 71:2-7, Jan. 18, 2017; Kale, vol. 1, 120:12-14, Jan. 18, 2017; vol. 2: 225:7-14, Jan. 19, 2017; Glass: Vol. 2, 320:18-321:19; 332:22-334:5, Jan.

19, 2017; Drayton: vol 2, 351:14-20, 367:1-6; 368:25-369:2, Jan. 19, 2017; Anthony: vol. 3, 412:14-19; 454:25-455:2, Jan. 20, 2017; Dattilio: vol. 4, 735:5-17; 739:3-7; 758:20-23, May 3, 2017; Johnston: vol. 4, 797:3-6; 798:18-799:7; 803:16-20; 804:20-606:10, May 3, 2017; Gunshore: vol. 4, 811:3-25, May 3, 2017; Andree: vol. 6, 1262:19-1263:1, May 5, 2017) (Bd. Exhibit 7 generally)

232. At trial, Judge Tidd admitted that he conducted traffic hearings, landlord-tenant hearings, preliminary arraignments and waivers of preliminary hearings at the counter of the reception area of his court. (N.T. vol. 5, 1095:18-23; 1096:11-1097:18; 1102:4-20; 1108:2-20 (admitted to one Landlord-Tenant hearing), May 4, 2017; vol. 7, 53:11-55:25; 60:25-61:12;)

233. Court Clerks LeVan, Kale, Glass, Drayton, Anthony, and Bettler and Police Detective Dattilio testified that, during relevant periods between 2011 and 2016,³ unless a defendant or the defendant's attorney specifically requested to conduct a traffic summary trial in the courtroom, Judge Tidd conducted the scheduled trial at the counter of the reception area of his court. (N.T. LeVan: vol. 1, 35:4-16; 68:7-9, Jan. 18, 2017; Kale: vol. 1, 120:17-19, Jan. 18, 2017; vol. 2, 225:18-21; 226:11-22, Jan. 19, 2017; Glass: vol. 2, 320:18-21; 333:3-11; 341:20-24, Jan. 20-24, Jan. 19, 2017; Drayton: vol. 2, 351:5-20, 367:1-13, Jan. 19, 2017; Anthony: vol. 3, 421:24-422:1, Jan. 20, 2017; Dattilio: vol. 4, 739:13-18, May 3, 2017; Bettler: vol. 5, 939:2-940:5, may 4, 2017)

234. Each defendant who appeared at Judge Tidd's court for a traffic summary trial had previously entered a not guilty plea pertaining to the charged

³ Each clerk's testimony was limited to her observations during her time of employment at District Court 03-2-04.

traffic violation(s), requested a summary trial and received notice of the scheduled proceeding. (Stip. No. 71)

235. Judge Tidd admitted at trial that hearings were "rare at [his] court." (N.T. vol. 5, 1094:21-1095:1, May 4, 2017)

236. Judge Tidd admitted that he conducted waivers of preliminary hearings, and negotiated pleas to traffic offenses at the counter of the public area of his court. (*Id.* at 1095:18-23; 1096:11-1097:18)

237. Judge Tidd admitted that he conducted the majority of the preliminary arraignments at the counter of the public area of his court. (*Id.* at 1102:4-16)

238. Judge Tidd admitted that he conducted a landlord-tenant hearing, in part, at the counter of public area of his court. (vol. 5, 1108:2-20)

239. Judge Tidd admitted at trial and at deposition that he handled a volume of matters at the counter of the public area of his court, including summary traffic trials, sometimes referred to as hearings. (N.T. vol. 7, 53:25-54:7, June 8, 2017)

240. Judge Tidd admitted at trial and at deposition that on some occasions when an officer appeared for a summary traffic trial and the defendant did not, he would handle it at the counter as follows: "swear the officer in, make him go through the minimum he has to go through to make his case, and, assuming it's a guilty, I would have guilty after a hearing." (*Id.* at 53:11-55:25, June 8, 2017; Bd. Exhibit 17 at 55:18-56:12, Apr. 21, 2017)

241. Judge Tidd admitted that he handled landlord-tenant matters at the counter, which were scheduled for hearings, but were resolved by consent of the parties who appeared before him. (N.T. Vol. 7, 60:19-63:6, June 8, 2017)

242. At trial, Judge Tidd admitted that he "should have just kept to the courtroom for every single thing I ever did or, if I couldn't take it, then not have held the position. " (N.T. vol. 6, 1342:18-1343:14, May 5, 2017)

243. The court clerks consistently testified that when a defendant arrived at Judge Tidd's court for a scheduled traffic summary trial, Judge Tidd routinely encouraged a plea agreement at the counter of the reception area of his court, whether or not the police officer was present. (N.T. LeVan vol. 1, 17-20; 55:17-21; 57:6-23; 59:4-11; 63:17-24, Jan. 18, 2017; Kale: N.T. vol. 1, 149:11-14; 150:19-151:14; 153:1-11; 153:23-154:12; 159:3-24; 161:12-162:1-21; 164:15-165:9; 167:17-168:15, Jan. 18, 2017; vol. 2: 226:3-10, Jan. 19, 2017; Glass: vol. 2, 321:6-19, Jan. 19, 2017; Anthony: vol. 3, 421:2-13, Jan. 20, 2017); Bettler: vol. 5, 879:15-23, 880:2013, 922:1-12, 922:18-924:2, May 4, 2017) (Bd. Exhibits 7 (generally); 41; 42; 43; 44; 45; 46; 47 & 48)

244. At trial, Detective Datillio testified that Judge Tidd conducted expedited preliminary arraignments at the counter of the lobby of the district court. He stated that Judge Tidd failed to read the charges to the defendant, failed to ask questions of the defendant pertaining to bail factors, and provided no information to the defendant about his right to an attorney. (N.T. vol. 4, 730:18-736:2, May 4, 2017)

245. Detective Datillio testified about his concerns regarding the effect that Judge Tidd's procedural approach to handling cases:

I don't think he follows judicial procedures to the "T" like he should. And I believe that causes a serous potential for problems for any of the - - the person that gets shorted out of that is the defendants and the Commonwealth, both. You know, there's Rules of Criminal Procedure for a reason. They need to be followed.

(*Id.* at 764:8-17)

246. Detective Datillio testified that after Judge Tidd conducted brief preliminary arraignments, limited to setting bail, the defendants would ask him multiple questions that should have been addressed by Judge Tidd.

After a quick arraignment where just bail was set, defendants would ask me, "What's going on?" "What happened?" "What happens next?" And here I am explaining to them what their charges are, that they have the right to get an attorney, how bail was set and what it means, how they get out of jail. All of that stuff fell on my shoulders because they were asking me.

(*Id.* at 764:24-765:8)

247. Detective Datillio further stated, ". . . that's part of the judicial process that is to be done by the judge." (765:19-766:2)

248. Detective Datillio testified that he observed Judge Tidd conduct waivers of preliminary hearings at the counter in the lobby of his district court "more often than not," but sometimes in the courtroom if the defendant was represented by counsel. (*Id.* at 738:16-739:18).

249. Detective Datillio testified that Judge Tidd often signed affidavits of probable cause in criminal complaints and search warrants without reading them. He cited a specific case, *Commonwealth v. Williams*, in which he presented an affidavit for a search warrant and observed Judge Tidd "paging through it. And he signed the initial page." Officer Datillo recalled his statement to Judge Tidd: "You might want to read that affidavit, all right, because I'm not exactly sure if it's completely solid." (*Id.* at 743:1-746:12)

250. Detective Datillio testified that Judge Tidd sometimes set bail in criminal matters prior to talking to the defendant and specifically cited to an expunged criminal fraud case where he arrived at district court to find that Judge Tidd had

already set bail without talking to the defendant and conducted the arraignment at the counter. (*Id.* at 736:25-738:15)

251. Sergeant Jeffrey Johnston testified that Judge Tidd conducted preliminary arraignments both at the counter and in the courtroom. He recalled that those preliminary arraignments were "not as detailed as other judges I've seen do arraignments," and in some cases Judge Tidd "had not given the charges in detail, what they're charged with. Just told them this is your bail. And that was their preliminary arraignment." Sergeant Johnston stated that Judge Tidd did not ask defendants questions before setting bail. (*Id.* at 795:13-25; 797:3-5)

252. When asked if Judge Tidd did anything to make sure defendants who waived preliminary hearings understood what the charges were, Sergeant Johnston testified that if a defendant had a lawyer, Judge Tidd asked if the defendant spoke with his attorney about the case. However, if the defendant appeared pro se, Judge Tidd would tell his staff, "he has a waiver in full" and the defendant would sign the waiver. (*Id.* at 798:2-17)

253. Sergeant Johnston testified that he appeared in front of Judge Tidd at summary trials, including witness testimony, some of which were conducted at the counter of the reception area of the court. He recalled giving testimony at the counter in one particular case. (*Id.* at 798:18-799:22)

254. Between 2011 and 2016, unless a criminal defendant or the defendant's attorney specifically requested that a preliminary arraignment be conducted in the courtroom, Judge Tidd routinely conducted the preliminary arraignment at the counter of the reception area of his court. (N.T. LeVan: vol. 1, 67: 25-68:6; 71:5-7, Jan. 18, 2017; Kale: vol. 2, 22510-14; 252:5-13, Jan. 19, 2017; Glass: vol. 2,

321:2:17-19; 332:22-333:2, Jan. 19, 2017; Drayton: vol. 2, 367:1-6, Jan. 19, 2017; Bettler: vol. 5, 878:14-23; 938:14-939:1; 946:7-17, May 4, 2017)

255. Between 2011 and February 2016, unless a criminal defendant or the defendant's attorney requested that a waiver of a preliminary hearing be conducted in the courtroom, Judge Tidd routinely conducted such waivers at the counter of the reception area of his court. (Stip. No. 72)

256. The court clerks consistently testified that between 2011 and February 2016, when a criminal defendant opted to waive his or her preliminary hearing, Judge Tidd routinely directed his court clerks to explain the waiver process, rather than explaining the legal process to the defendant himself. (N.T. LeVan: vol. 1, 71:8-24, Jan. 18, 2017; Kale: vol. 1, 117:6-13, Jan. 18, 2017; vol. 2, 227:16-24; 248:13-15, Jan. 19, 2017; Anthony: vol. 3, 451:11-13, Jan. 20, 2017; Bettler: vol. 5, 940:6-20, May 4, 2017) (Bd. Exhibits 7, at 49; 82)

257. The court clerks consistently testified that between 2011 and February 2016, when *pro se* criminal defendants arrived for scheduled preliminary hearings, Judge Tidd routinely encouraged them to waive their hearings, even when they had questions or when they were interested in getting an attorney. (N.T. LeVan: vol. 1, 71:20-22; 72:18-22; 73:8-11, Jan. 18, 2017; Kale: vol. 1, 146:15-147:14, Jan. 18, 2017; vol. 2, 227:25-228:8, Jan. 19, 2017; Bettler: vol. 5, 941:10-17, May 4, 2017) (Bd. Exhibits 7, at 57; 39)

258. The court clerks consistently testified that between 2011 and February 2016, Judge Tidd told *pro se* criminal defendants who appeared for preliminary hearings that the hearings could not be continued and that they must decide that very day whether or not to waive the hearings. (N.T. LeVan: vol. 1, 72:7-73:19, Jan.

18, 2017; Kale: vol. 2, 228:9-14, Jan. 19, 2017, Bettler: vol. 5, 943:5-13, May 4, 2017)

259. The court clerks consistently testified that between 2011 and February 2016, Judge Tidd conducted preliminary arraignments of criminal defendants without looking at the criminal complaint and affidavit of probable cause. (N.T. Kale: vol. 2, 228:17-229:4; 247:23-248:9, Jan. 19, 2017; Bettler: vol. 5, 943:14-20, May 4, 2017)

260. The court clerks consistently testified that between 2011 and February 2016, when Judge Tidd presided over waivers of preliminary hearings at the counter of the reception area of his district court, he failed to inform the criminal defendants of the charges filed against them, merely telling them to read the criminal complaint. (LeVan: vol. 1, 73:20-74:2, Jan. 18, 2017, Kale: vol. 2, 229:5-14; 229:24-230:7, Jan. 19, 2017; Glass: vol. 2, 333:24-334:1, Jan. 19, 2017; Bettler: 943:21-944:4, May 4, 2017)

261. The court clerks consistently testified that between 2011 and June 19, 2015, Judge Tidd repeatedly instructed his court clerks to act in his stead and to "handle" court matters when he was absent from his court, busy in the courtroom or otherwise occupied. Such matters included the acceptance of reduced pleas in summary traffic cases, review and explanation of waiver of preliminary hearings, preliminary arraignment and bail issues and obtaining the signatures of the defendants on the appropriate paperwork in Judge Tidd's absence. Judge Tidd would then affix his signature to such paperwork after he returned to his court. (N.T. LeVan: vol. 1, 36:10-17; 74:25-75:18; 77:12-20; 81:23-82:8, Jan. 18, 2017; Kale: vol. 11, 117:14-118:1, Jan. 18, 2017; vol. 2, 230:17-233:5; 238:2-21; 241:11-24; 307:20-

308:4; 314:8-21, Jan. 19, 2017; Glass: vol. 2, 334:16-335:13, Jan. 19, 2017; Anthony: vol. 3, 451:7-453:1, Jan. 20, 2017; Bettler, vol. 5, 883:22-884:11, May 4, 2017) (Bd. Exhibits 7, at 11, 13, 14, 16; 69)

262. Clerks LeVan and Kale testified that on numerous occasions between 2011 and February 2016, Judge Tidd told his district court staff, "They don't pay me enough to hold hearings" and "This is nothing but Traffic Court." (N.T. LeVan: vol. 1, 75:19-76:9, Jan. 18, 2017; Kale: vol. 2, 233:6-14, Jan. 19, 2017) (Bd. Exhibit 7, at 13)

263. Diane Kale testified that Judge Tidd expressed that he hated civil hearings and said, "It's a waste of my time, he would say it's a waste of my time, I don't know why I have to listen to this. Landlord/tenant hearings he especially didn't like those." (N.T. vol. 1, 118:114-22, Jan. 18, 2017)

264. Court Clerks LeVan and Kale testified that on November 30, 2011, Judge Tidd instructed his court staff that, despite his absence from the court on December 1, 2011, they should accept reduced pleas from defendants who appeared for their requested summary trials in traffic citation cases. (N.T. LeVan: vol. 1, 76:16-78:3; 104:22-106:6, Jan. 18, 2017; Kale: vol. 2, 233:10-236:10; 307:7-313:11, Jan. 19, 2017) (Bd. Exhibit 7, at 11; 59-67)

265. Court Clerks LeVan and Kale testified that on November 30, 2011, Judge Tidd instructed his court staff that, despite his absence from the court on December 1, 2011, they should process the paperwork in cases where defendants wanted to waive preliminary hearings and he would sign the paperwork later. (*Id.*)

266. On November 30, 2011, Judge Tidd instructed his court staff that during his absence on December 1, 2011, they should reschedule proceedings only in cases where defendants insisted on doing so. (*Id.*)

267. Court Clerks LeVan and Kale testified that on December 1, 2011, the following cases were scheduled in Judge Tidd's and they "handled" them per his November 30, 2011 instructions:

<u>Case Name</u>	<u>Docket No.</u>	<u>Disposition</u>
<i>Commonwealth v. Allen</i>	TR-3320-2011	Guilty Plea
<i>Commonwealth v. Szilagyi</i>	TR-3670-2011	Guilty Plea
<i>Gescek v. MAS Transp., Sandone</i>	CV-172-2011	Judgment Plaintiff
<i>Commonwealth v. Fischer</i>	TR-3477-2011	Dismissed
<i>Commonwealth v. Lance, Jr.</i>	CR-440-2011	Bail set
<i>Commonwealth v. Litzenberger</i>	TR-3642-2011	Guilty Plea
<i>Commonwealth v. Grello, Jr.</i>	TR-3631-2011	Dismissed
<i>Commonwealth v. Racek</i>	TR-3657-2011	Dismissed
<i>Berkheimer Tax Admin. v. Pettijohn</i>	CV-142-2011	Judgment Plaintiff
<i>Capital One Bank v. Maura</i>	CV-191-2011	Judgment Defend

(*Id.*)

268. At trial, Judge Tidd admitted that he instructed his court clerks to handle matters in his absence as follows:

On a few occasions, maybe two or three, I would say, "Listen," to the staff, "if its' a waiver and they have counsel - - maybe even if they did not have counsel - - if it's a straight waiver, here's the bail. The waivers we had were only for - - generally for DUI. If it was a DUI case and a DUI only, I would say, "here is the bail. Set it up. If they want to waive, they can waive. I will sign it after the fact. If they wanted a hearing, continue it. Anybody who came in and there was an officer, if they worked something out for a negotiated plea, take it, if they wanted a hearing, continue it.

(N.T. vol. 6, 1332:6-19, May 5, 2017)

269. In his response to the February 19, 2016 NOFI, Judge Tidd admitted that he told his court clerks to “handle matters” on December 1, 2011 because he had a doctor’s appointment. (Bd. Exhibit 14 at ¶ 113)

270. At his April 21, 2016 Board deposition and at trial, Judge Tidd admitted that in those instances when he told his court clerks to handle matters in his absence, he would countersign the paperwork when he got back to the court. He recalled a half dozen times in seven years when he gave this instruction to his staff. (Exhibit 17, at 99-101; N.T. 71:16-19)

271. Court Clerk LeVan testified that on January 12, 2012, a hearing was scheduled for 9:00 a.m. in the case *Commonwealth v. Phillippe Bortz*, Docket No. MJ-03294-TR-0003751-2011. Judge Tidd arrived 25 minutes late at the district court and did not provide a reason for his late arrival. The defendant requested a hearing and Judge Tidd acted annoyed. Judge Tidd put on his robes and said to the defendant, “Go into the courtroom, NOW!” After the hearing in the *Bortz* case, Judge Tidd emerged from the courtroom, threw the citation onto the court clerk’s desk and said, “Guilty. Nobody stands a chance in a hearing with me today.” (N.T. LeVan vol. 1, 78:4-23, January 18, 2017) (Bd. Exhibit 7, at 12-13; 68)

272. At trial, Judge Tidd testified pertaining to the *Bortz* case and admitted, “I have a rather dry sense of humor. I may have said something along those lines, I may not have, but I can’t remember this far down the road.” (N.T. vol. 6, 1333:4-25, May 5, 2017)

273. Ms. Kale testified that on January 24, 2012, Judge Tidd presided over a landlord tenant hearing at the counter of the reception area of his court. *Diehl v. Warjas*, MJ-03204-LT-0000002-2012. The defendant was represented by James

Katz, Esquire. Judge Tidd did not swear anyone in. Judge Tidd entered judgment for the plaintiff, granting possession of rental property and money judgment of \$1,002.10 against the defendant for past rent due and fees. (N.T. vol. 2, 242:3-8, Jan. 19, 2017) (Bd. Exhibit 7, at 17; 70)

274. At trial, although Judge Tidd could not recall the *Warjas* case, he did admit generally how he frequently handled landlord/tenant matters at the counter:

It wasn't uncommon in landlord/tenant cases for, many times, especially when there was a party that was represented, for the parties to come up with 'Here's what's going to happen. I want judgment entered for ' or they would come up and say - - make an admission right there, 'Judge I didn't pay, I don't have it.' Then I would say, 'Okay. Well that will be judgment for.' If you want to consider that having a hearing. I understand how that might look that way, but many times, especially in landlord/tenant cases, you would get defendants come up with the landlord and the landlord's counsel and make the admission, 'Look, I didn't pay it. Do what you have to do. And I would do this disposition sheet right there at the counter where they came up to me.

(N.T. vol. 6, 1335:4-1336:5, May 5, 2017)

275. Rule 540(A) of the Pennsylvania Rules of Criminal Procedure allows for a two-way simultaneous audio-visual communication for proceedings such as preliminary arraignments. The Rule does not permit audio only devices for this purpose. Pa.R.Crim.P. No. 540(A).

276. Court Clerks LeVan and Kale testified that on February 6, 2012, Judge Tidd was on night duty and arrived at his district court at 8:45 p.m. He conducted preliminary arraignments in nine criminal cases by telephone rather than by the Polycom video conferencing device. He presided over the following preliminary arraignments without the video feed:

Case Name

Docket Number

<i>Commonwealth v. Kaitlyn M. Boullosa</i>	MJ-03104-CR-251-2010
<i>Commonwealth v. Carole Jackson</i>	MJ-03104-MD-005-2012
<i>Commonwealth v. Robert Jackson</i>	MJ-03104-MD-004-2012
<i>Commonwealth v. Henry Hughes</i>	MJ-03206-CR-015-2012
<i>Commonwealth v. Quincy Wilson</i>	MJ-03212-CR-026-2012
<i>Commonwealth v. Jose L. Rodriguez</i>	MJ-03211-CR-046-2012
<i>Commonwealth v. Sandro Alonso</i>	MJ-03211-CR-047-2012
<i>Commonwealth v. Julius Stevenson</i>	MJ-03211-CR-013-2012
<i>Commonwealth v. Jessica I. Pedroza</i>	MJ-03211-CR-048-2012

(N.T. LeVan: vol. 1, 78:24-79:15, Jan. 18, 2017; Kale: vol. 2, 242:18-243:12, Jan. 19, 2017) (Bd. Exhibit 7, at 22-23; 71-79)

277. Deputy Court Administrator French testified that during a February 8, 2012 telephone conversation pertaining to a scheduled February 13, 2012 meeting, she advised Judge Tidd that the issues to be discussed with former President Judge McFadden included complaints about his unavailability for afternoon court hearings and conducting hearings at the counter of the reception area of his court rather than in the courtroom. (N.T. French: vol 3, 540:14-541:20, Jan. 20, 2017) (Bd. Exhibit 28)

278. During a separate February 8, 2012 telephone conversation, Court Administrators Jim Onembo and Debra French advised Judge Tidd that the issues to be discussed with former President Judge McFadden also included his judicial process, the priority he gave to his law practice over his responsibilities as judge and the impression that his court was a "fast food court." (N.T. French: vol. 3, 541:5-20, Jan. 20, 2017) (Bd. Exhibit 28)

279. At trial, Diane Kale testified that she observed all of the conduct as stated in the following paragraph and participated in the contemporaneous

memorialization of her observations. On May 23, 2014, Hellertown Borough Police Officer Timothy Piotrowski issued three traffic citations to the same defendant. *Commonwealth v. Clark III*, Docket Nos. MJ-03204-TR-0001252-2014, Operation Following Suspension of Registration, 75 Pa.C.S.A. § 1371(a); MJ-03204-TR-0001253-2014, Operation Without Required Insurance, 75 Pa.C.S.A. § 1786(f); and MJ-03204-TR-0001254-2014, Operation While Driving Privileges Suspended, 75 Pa.C.S.A. § 1543(a). Clark entered not guilty pleas, paid the collateral and requested a summary trial on each charge. On July 23, 2014, Judge Tidd stood at the counter of the reception area of his court and dismissed the charges at Docket Nos. MJ-03204-TR-0001252-2014 and MJ-03204-TR-0001253-2014 without hearing testimony or admitting evidence. Judge Tidd did not confirm whether or not Clark's registration was reinstated or if he had insurance at the time of the traffic stop or at the time that he appeared for the hearing. Judge Tidd continued to stand at the counter of the reception area of his court while defendant Clark entered a guilty plea to a lesser charge of 75 Pa.C.S.A. § 3111(a), Obedience to Traffic Control Devices. Judge Tidd changed the summary charge of Operation While Driving Privileges Suspended without confirming that Clark's driver's license was restored. District court staff later contacted PennDOT and learned that Clark's driver's license was still suspended at the time that Judge Tidd accepted his plea to a lesser charge. (N.T. Kale: vol. 2, 245:5-21, Jan. 19, 2017; (Bd. Exhibit 7, at 39-41; 78-80)

280. Officer Piotrowski, the citing officer in the three *Clark* cases, testified that Judge Tidd accepted a reduced charge from 1543(a) (Operation While Driver's License Suspended) to 3111(a), "a catchall violation with no points," even though

the defendant's license was suspended. Piotrowski stated, "He's never not accepted anything I've worked out." (vol. 4, 780:6-781:12, May 4, 2017)

281. Court Clerk Kale testified that she observed all of the conduct as follows: On August 27, 2014 at 8:15 a.m., Judge Tidd received a call from Northampton County Prison that a defendant needed to be arraigned. *Commonwealth v. Passaro*, Docket No. MJ-03204-CR-0000051-2011. Judge Tidd conducted the preliminary arraignment via video conferencing without an officer present. During the arraignment, Judge Tidd did not look at the criminal charges, did not explain the charges to the defendant and did not question him. (N.T. Kale: vol. 2, 245:22-246:1; 247:23-248:18, Jan. 19, 2017)

282. At trial, Diane Kale testified that between 2011 and 2014, Judge Tidd occasionally directed her to change dispositions. She cited an example: In a traffic case where a defendant failed to appear at a scheduled time for a hearing, Judge Tidd entered a judgment of guilty. However, if the party showed up later in the day, Judge Tidd directed her "to change it to something else as opposed to telling him to go down and take his appeal because the officer had been there and there had already been a hearing. Ms. Kale stated, "I would have to back out the guilty finding [from the MDJS system] and change everything, yes." (N.T. Kale: vol. 2, 253:11-254:5, Jan. 19, 2017)

283. The following cases, set forth in Section C, *Ex Parte* Communications, of the Proposed Findings of Fact, are incorporated by reference as violations of Rule 4D. Between 2011 and August 2014, the affiants and/or litigants were deprived of the full right to be heard according to law: *Comm. v. Fiorino*; *Comm. v. Groves*, an expunged criminal case wherein Judge Tidd met with Attorney Potts, to the exclusion

of the Officer Gunshore; *Comm. v. Desmond*; *Comm. v. Freed*; *Comm. v. Garippa*; and *Comm. v. Martin*.

G. Conflicts of Interest and Prioritization Business of Court

284. From approximately 2006 through January 17, 2011, Attorneys Tidd and John Everett Cook, Esquire were law partners who practiced law in the United States Bankruptcy Court for the Eastern District of Pennsylvania. (Stip. No. 73)

285. Sometime after Judge Tidd assumed the bench in January 2010, Judge Tidd and Attorney Cook divided their work at their law practice pertaining to bankruptcy matters as follows:

- a. Judge Tidd, acting in his role as a lawyer, handled consults and case management; and
- b. Attorney Cook "work[ed] the case."

(Stip. No. 74)

286. On February 23, 2006, Judge Tidd filed a Bankruptcy Petition, No. 06-20168-ref, on behalf of his clients, Jose E. Nieves and Maria del Pilar Nieves, under Chapter 13 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Pennsylvania. (Bd. Exhibit 98)

- a. On August 31, 2010, Society Hill at Saucon Valley filed a civil complaint in Judge Tidd's district court against Maria Nieves for failure to pay condominium fees. *Society Hill at Saucon Valley v. Maria Nieves*, Docket No. MJ-03204-CV-0000134-10; (Bd. Exhibit 30)

- b. On October 1, 2010, Attorney Cook, Judge Tidd's law partner, was responsible for "working" the Nieves' bankruptcy case which was still an open matter in U.S. Bankruptcy Court (Stip. 74 a-b);
- c. On October 1, 2010, Judge Tidd entered judgment for the plaintiff, Society Hill at Saucon Valley, and against Ms. Nieves in the amount of \$4,438.00. Docket No. MJ-03204-CV-0000134-10; (*Id.*)
- d. On January 17, 2011, Judge Tidd and Attorney Cook formally dissolved their partnership in their law practice (Stip. 73);
- e. On February 11, 2011, in the U.S. Bankruptcy Court, an Order was entered in the Nieves bankruptcy case at No. 06-20168-ref, discharging the debts and the case was closed; (Bd. Exhibit 98) and
- f. By letter dated February 14, 2011, Attorney Laura Tobey informed Judge Tidd that she represented Society Hill at Saucon Valley and requested a copy of the judgment entered on October 1, 2010 at Docket No. MJ-03204CV-0000134-10. (Bd. Exhibit 30)

(Stip. No. 75)

287. On February 18, 2011, Society Hill at Saucon Valley filed a civil suit in the Court of Common Pleas against Maria Nieves to enforce the October 1, 2010 judgment entered by Judge Tidd. *Society Hill at Saucon Valley v. Maria Nieves*, Docket No. C-0048-CV-2011-01498. (Bd. Exhibit 94)

- a. On an unknown date, Judge Tidd, acting in his capacity as an attorney, agreed to provide legal representation for Ms. Nieves in the enforcement action in the Court of Common Pleas at Docket No. C-

0048-CV-2011-01498, without performing an adequate conflicts check; and

- b. Judge Tidd asserted that when Ms. Nieves conferred with him about legal representation in the enforcement action at Docket No. C-0048-CV-2011-01498, she presented him with paperwork which included the Court of Common Pleas docket number, but did not contain the district court number.

(Stip. No. 76)

288. On March 16, 2011, Society Hill at Saucon Valley filed a second civil case against David Nieves, II & Maria Nieves, in Judge Tidd's district court, for failure to pay condominium fees. *Society Hill at Saucon Valley v. David Nieves, II & Maria Nieves*, MJ—03204-CV-0000053-2011. (Bd. Exhibit 95)

- a. On April 11, 2011, Attorney Tobey wrote to Judge Tidd to confirm that her client, Society Hill at Saucon Valley, agreed to accept payment from Maria Nieves to resolve its civil case against her at CV-0000134-10;
- b. In her April 11, 2011 letter, Attorney Tobey stated that Judge Tidd had confirmed that Ms. Nieves possessed that amount of money in her bank account and would hand deliver a check to Ms. Tobey the following day;
- c. On April 20, 2011, Judge Tidd requested a change of venue in the second civil matter filed in his district court, *Society Hill at Saucon Valley v. David Nieves, II & Maria Nieves*, MJ—03204-CV-0000053-2011 "due to my representation of the defendant Maria Nieves;"

- d. On April 26, 2011, former President Judge McFadden issued an Order to transfer the case to another district court due to a possible conflict of interest; and
- e. The 2010 and 2011 Society Hill at Saucon Valley civil debt cases against the Nieves occurred long after Judge Tidd filed the 2006 Bankruptcy Petition on their behalf.

(Stip. No. 77)

289. Society Hill at Saucon Valley is not listed as a creditor in the *Nieves* Bankruptcy Petition or Final Order. (Stip. No. 78) (Bd. Exhibit 98)

290. After receiving an anonymous complaint, on August 11, 2011, then-President Judge McFadden and Court Administrators Jill Cicero and Debra French met with Judge Tidd to discuss the appearance of a conflict of interest that arose from Judge Tidd providing legal representation for Ms. Nieves in the Court of Common Pleas in *Society Hill at Saucon Valley v. Maria Nieves*, Docket No. C-0048-CV-2011-01498. (Bd. Exhibit 28)

- a. At the August 11, 2011 meeting, Judge Tidd informed former President Judge McFadden and Court Administrators Cicero and French that he reported the incident to the Special Court Judges Association (SCJA) Ethics and Professionalism Committee and that the Committee would discuss the issue at its September 6, 2011 meeting;
- b. At the August 11, 2011 meeting, Judge Tidd advised former President Judge McFadden and Court Administrators Cicero and French that after he discovered the conflict that arose from his

representation of Ms. Nieves in the Court of Common Pleas case, *Society Hill at Saucon Valley v. Maria Nieves*, Docket No. C-0048-CV-2011-01498, he transferred *Society Hill at Saucon Valley v. David Nieves, II & Maria Nieves*, MJ—03204-CV-0000053-2011, out of his district court;

- c. Three weeks after the August 11, 2011 meeting with former President Judge McFadden, on September 2, 2011, Judge Tidd sent a letter to the SCJA Ethics and Professionalism Committee; and
- d. On September 25, 2011, the SCJA Ethics and Professionalism Committee sent an advisory opinion to Judge Tidd, specifying the particular Rules Governing Standards of Conduct of Magisterial District Judges (effective through November 30, 2014), which were applicable to the potential conflicts arising from his legal representation of bankruptcy clients while also deciding civil credit and debt matters in his role as judge. (Bd. Exhibit 96; Resp. Ex. 1)

(Stip. No. 79)

291. At the Board depositions on April 21, 2016 and June 14, 2016, Board counsel requested a copy of Judge Tidd's September 2, 2011 letter to the SCJA Ethics and Professionalism Committee which prompted the September 25, 2011 Advisory Opinion. Board counsel explained that the Committee would honor the request only from the judge who made the inquiry. Judge Tidd stated that he could not find a copy of his letter to the Committee but agreed that he or his counsel would obtain the letter and provide it to Board counsel. (Bd. Deposition 165:2-166:12 Apr. 21, 2016; Bd. Deposition 13:13-14:3 June 14, 2016) Judge Tidd failed to provide the

Board with a copy of the September 2, 2011 letter which he sent to the SCJA Ethics and Professionalism Committee. (Bd. Exhibits 17; 18)

292. In his March 17, 2016 response to the Board's February 19, 2016 Notice of Full Investigation, Judge Tidd stated that he relied on the September 25, 2011 advisory opinion of the SCJA Ethics and Professionalism Committee to determine if his legal representation of bankruptcy clients presented a conflict of interest with his responsibilities as judge. (Stip. No. 80) (Bd. Exhibit 14 at ¶161, pg. 32)

293. At his June 14, 2016 Board deposition, Judge Tidd admitted that he narrowly interpreted the September 25, 2011 advisory opinion of the SCJA Ethics and Professionalism Committee to suit his own purposes of providing legal representation for bankruptcy clients at his law practice:

"Number one, . . . , but the advisory opinion I may have read differently had it included the additional rules that you cited, which it didn't. And I have to admit to being myopic in reading it. Because the goal was to figure out how I could do both. So, of course, when I'm reading I'm reading it like you don't want a client to read something, which is one perspective. So of course I'm looking for how I can do it as opposed to what would keep me from doing it. So I'll admit to being a little myopic there."

(Bd. Exhibit 18, at 127:7-18)

294. At trial, Judge Tidd agreed with that the Board's characterization, "He narrowly interpreted," set forth at Paragraph 177 of the Board Complaint, was analogous to his phrase, "He myopically interpreted," when referencing his understanding of the September 24, 2011 SCJA Ethics and Professionalism Committee advisory opinion.

295. One month after receiving the advisory opinion from the SCJA Ethics and Professionalism Committee, on October 27, 2011, Capital One Bank filed a civil

complaint against Leslie A. Ziegler, now Leslie Repyneck, in Judge Tidd's district court for failure to pay sums due and owing on her revolving credit account. *Capital One Bank v. Ziegler*, Docket No. MJ-03204-CV-0000190-2011. (Bd. Ex. 99)

- a. On an unknown date prior to December 13, 2011, Ms. Ziegler contacted Judge Tidd's law offices to discuss a potential bankruptcy case;
- b. On an unknown date prior to December 13, 2011, Ms. Ziegler spoke with Judge Tidd by telephone and explained her legal issues to him.
- c. On December 13, 2011, Ms. Ziegler met with Judge Tidd, paid the fee for his services in full and discussed filing for bankruptcy; (Bd. Exhibit 176)
- d. Capital One Bank filed its complaint against Ms. Ziegler, in Judge Tidd's district court 61 days prior to the December 13, 2011 meeting between Judge Tidd and Ms. Ziegler;
- e. Two days later, on December 15, 2011, Judge Tidd sent a letter to Deputy Court Administrator French, requesting a change of venue in the *Capital One Bank v. Ziegler* case "due to a conflict as I currently represent the Defendant in a civil matter;" (Bd. Exhibit 100)
- f. On December 16, 2011, former President Judge McFadden issued an Order transferring the case from Judge Tidd's district court to Judge Manwaring's district court. A new docket number was assigned to the case: MJ-03201-CV-0000180-2011; (Bd. Exhibit 100)
- g. On January 13, 2012, Judge Tidd filed a Bankruptcy Petition, No. 12-10338-ref, under Chapter 7 of the United States Bankruptcy Code in

the United States Bankruptcy Court for the Eastern District of Pennsylvania on behalf of his client, Ms. Ziegler; (Bd. Exhibit 101) and

h. Capital One Bank is listed as a creditor in Ms. Ziegler's Bankruptcy Petition at Section F, Unsecured Nonpriority Claims. (*Id.*)

(Stip. No. 81)⁴

296. At trial, Ms. Repyneck testified that she received service of the Capital One Complaint against her on December 10, 2011. (N.T. vol. 4, 834:22-835:6, May 3, 2017)

297. Ms. Repyneck testified that when she contacted Attorney Tidd's private law office, and when she met with him at his law office, she did not know that he was also a magisterial district judge in Hellertown. (*Id.* at 836:24-837:10, 841:3-7)

298. Ms. Repyneck recalled that she called Judge Tidd's office a couple of days after receipt of the Complaint. (*Id.* at 834:22-835:1)

299. At trial, Judge Tidd admitted that a member of his law office staff wrote the words "could be a conflict" under Ms. Repyneck's name on the December 13, 2011 scheduling page of his law office appointment calendar. (N.T. vol. 6, 1392:6-15, May 5, 2017)

300. Judge Tidd did not investigate the potential conflict in representing Ms. Repyneck in a bankruptcy matter before telling her to make an appointment and bring a check for \$1,900.00 to her appointment. (*Id.* at 1392:6-1394:19)

⁴ An error occurred in the Proposed Joint Stipulations of Fact filed on January 17, 2017. Judge Tidd did not stipulate to the following statement: "During the December 13, 2017 meeting, Judge Tidd told Ms. Ziegler that he could 'make the hearing [scheduled in district court] go away,'" which was listed at Stipulation 81e. Therefore, that language has been omitted from Stipulation 81 listed.

301. Judge Tidd did not investigate the warning on the law office calendar, "could be a conflict," in regards to his representing Ms. Repyneck in a bankruptcy matter until after meeting with her on December 13, 2011 and collecting his fee. (*Id.* at 1394:21-1396:1)

302. On December 13, 2011, neither Judge Tidd nor Ms. Repyneck were aware that *Capital One Bank v. Ziegler* was filed in Judge Tidd's district court. (N.T. Repyneck, vol. 4, 836:24-847:9, May 3, 2017; Tidd, vol. 5, 1128:9-22, May 4, 2017; vol. 6, 1392:25-1393:6, May 4, 2017)

303. After the December 13, 2011 meeting with Ms. Repyneck, Judge Tidd discovered that *Capital One Bank v. Ziegler* was filed in his district court and two days later he requested a change of venue. (N.T. Vol. 6, 1398:15-20, May 5, 2017)

304. Ms. Repyneck testified that in 2015, she first discovered that the *Capital One Bank v. Ziegler* case was filed in Judge Tidd's district court at the time when she hired him to represent her in bankruptcy. (N.T. vol. 4, 844:17-846:5, May 3, 2017)

305. As a result of her 2015 discovery that the Capital One matter was in his district court at the time when Judge Tidd agreed to represent her, Ms. Repyneck filed a Confidential Request for Investigation on April 22, 2015, with the Judicial Conduct Board. (N.T. vol. 4, 845:6-846:9, May 3, 2017) (Bd. Ex. 3)

306. Ms. Repyneck executed her CRI on April 22, 2015, one day prior to the April 23, 2015 incident at Judge Tidd's district court when he locked the door at his district court and yelled at his court clerks, asking who had talked to his political opponent, David Repyneck, and who had complained to the Judicial Conduct Board.

307. Judge Tidd did not have a system at his law practice to perform a conflict check on potential bankruptcy clients before his initial consult with them. He testified:

The conflict check, unfortunately, came after, in the form of a specific request for pending litigation in any court anywhere in the United States. Bankruptcy clients, per the Statement of Financial Affairs, in bankruptcy petitions they are required to list pending litigation against them. So as part of our questionnaire we had a specific question that mirrored the Statement of Financial Affairs question, is there any pending litigation, what and where. If we saw that, then we would know we have a conflict.

(N.T. vol. 6, 1405:3-12, May 5, 2017)

308. At his June 14, 2016 Board deposition, Judge Tidd described his prior system of conflict checks at his district court which involved reviewing the court calendar of scheduled cases to determine if he recognized any names of individuals who were clients of his private practice. His later system of conflict checks at his district court involved utilizing the UJS portal. (Bd. Exhibit 18 at 28:24-29:15)

309. Witness testimony at trial proves that during a phone call just prior to the December 13, 2011 meeting at his law offices, Judge Tidd told Ms. Ziegler that he could "make the hearing [scheduled in district court] go away." (N.T. vol. 4, 840:7-15, 848:6-22, May 3, 2017)

310. Ms. Repyneck (formerly Ziegler) testified that on December 10, 2011, she received notice of a complaint filed against her by Capital One Bank pertaining to a line of credit. A couple of days later, upon the advice of her attorney, Ms. Ziegler called Attorney Tidd's law office to inquire about representation in bankruptcy. She stated that she first spoke by phone with a receptionist. She then spoke with Mr. Tidd by phone and he told her to come in and pay the fee for bankruptcy filing. Ms.

Ziegler recalled that Judge Tidd said, "If I was there by the evening, Wednesday evening, that the court hearing would disappear, because I would then be entered into bankruptcy." She further explained that Judge Tidd told her, "That if I scheduled the appointment and showed up with the payment, that that would be entered into bankruptcy and the court case would disappear." (*Id.* at 834:12-837:24 May 3, 2014)

311. On December 13, 2011, Ms. Ziegler provided Attorney Tidd with a check for \$1,900.00. (*Id.* at 837:25-838:20; Tidd vol. 6, 1194:21-1395:1)(Bd. Ex. 176)

312. At trial, Judge Tidd admitted that he would tell his bankruptcy clients the following:

That with respect to hearings, that they would be stayed. And what that means is, if they didn't understand that, that the hearing would go away. They didn't have to appear. The automatic stay would stop the litigation against them.

(N.T. vol. 5, 1135:18-1136:7, May 4, 2017)

313. On October 11, 2010, Equable Ascent Financial, LLC filed a civil complaint against Ian Cortez in Judge Tidd's district court for failure to pay the principle on credit granted by Wamu Chase 14 with the account assigned to Equable Ascent Financial. *Equable Ascent Financial, LLC v. Ian Cortez*, Docket No. MJ-03204-CV-0000143-2010. (Bd. Exhibit 102)

- a. On January 6, 2011, Judge Tidd entered judgment for defendant, Mr. Cortez and against Equable Ascent Financial; (*Id.*)
- b. On February 22, 2012, First Financial Investment Fund filed a civil complaint against Ian Cortez in Judge Tidd's district court for failure to pay the principle on credit granted by HSBC Bank Nevada NA Bowflex with the account assigned to First Financial Investment.

First Financial Investment Fund v. Ian Cortez, Docket No. MJ-03204-CV-0000038-2012; (Bd. Exhibit 103)

- c. On April 25, 2012, Judge Tidd entered judgment for defendant, Mr. Cortez and against First Financial. First Financial Investment Fund filed an appeal in the Court of Common Pleas of Northampton County; (*Id.*)
- d. On August 13, 2012, Security Credit Services filed a civil complaint against Ian Cortez in Judge Tidd's district court for failure to pay the principle amount due and owing on credit card debt. *Security Credit Services v. Ian Cortez*, Docket No. MJ-03204-CV-0000123-2012; (Bd. Exhibit 104)
- e. On October 2, 2012, Judge Tidd entered judgment for defendant and against Security Credit Services; (*Id.*)
- f. During the time period that the three *Cortez* cases were before him, Judge Tidd entered judgments for the defendant when the plaintiffs failed to appear; (*Id.*)
- g. On May 22, 2013, Mr. Cortez consulted with Judge Tidd, acting in his capacity as an attorney, about representation in a bankruptcy proceeding;
- h. Judge Tidd agreed to represent Mr. Cortez in bankruptcy court, reasoning that Mr. Cortez had no matters pending in his district court;
- i. On October 16, 2013, Judge Tidd filed a Bankruptcy Petition, No. 13-19031-ref, under Chapter 7 of the United States Bankruptcy Code in

the United States Bankruptcy Court for the Eastern District of Pennsylvania on behalf of his client, Mr. Cortez; (Bd. Exhibit 105) and

- j. First Financial Investment Fund is listed as a creditor in Mr. Cortez's Bankruptcy Petition at Section F, Unsecured Nonpriority Claims. (*Id.*)

(Stip. No. 82)

314. On February 10, 2012, Target National Bank filed a civil complaint against Kathleen M. Pagel in Judge Tidd's district court for failure to pay the balance on an open ended credit card. *Target National Bank v. Pagel*, Docket No. MJ-03204-CV-0000025-2012. (Bd. Exhibit 106)

- a. On March 29, 2012, Judge Tidd entered a default judgment for the plaintiff, Target National Bank and against Ms. Pagel in the amount of \$10,070.76; (*Id.*)
- b. On December 6, 2012, Ms. Pagel met with Judge Tidd at his law offices to discuss his representation of Ms. Pagel in her bankruptcy case;
- c. On February 5, 2013, Judge Tidd filed a Bankruptcy Petition, No. 13-11036-mdc, under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Pennsylvania on behalf of his client, Kathleen Pagel; (Bd. Exhibit 107) and
- d. Target National Bank is listed as a creditor in Ms. Pagel's Bankruptcy Petition at Schedule F, Unsecured Nonpriority Claims. (*Id.*)

(Stip. No. 83)

315. On October 11, 2012, PPL Electric Utilities filed a civil complaint against Franklin and Dawn Craig in Judge Tidd's district court for failure to pay the balance due on their electric service contract. *PPL Electric v. Craig*, Docket No. MJ-03204-CV-0000162-2012. (Bd. Exhibit 108)

- a. On November 14, 2012, Judge Tidd entered judgment in favor of the plaintiff, PPL Electric Utilities and against Franklin and Dawn Craig in the amount of \$10,116.17; (*Id.*)
- b. The docket in *PPL Electric v. Craig* does not state that Judge Tidd entered a default judgment; (*Id.*)
- c. At his June 14, 2016 Board deposition, Judge Tidd stated that the magisterial district court file did not contain a Notice of Intent to Defend, PPL generally did not appear at hearings and he likely entered a default judgment for PPL based on the non-appearance of both parties; (Bd. Exhibit 18 at 56:11-57:17)
- d. Sixteen days later, on November 30, 2012, Ms. Craig met with Judge Tidd at his law offices to discuss his representation of the Craigs in their potential bankruptcy case;
- e. On February 4, 2013, Judge Tidd filed a Bankruptcy Petition, No. 13-10958-ref, under Chapter 13 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Pennsylvania on behalf of his clients, Franklin and Dawn Craig; (Bd. Exhibit 109)
- f. PPL is listed as a creditor in the Craigs' Bankruptcy Petition at Section F, Unsecured Nonpriority Claims; (*Id.*) and

- g. Judge Tidd denied that he was aware of the November 14, 2012 default judgment entered in his district court at the time he agreed to represent the Craigs in their bankruptcy case. (Bd. Exhibit 18 at 57:10-25)

(Stip. No. 84)

316. At his June 4, 2016 Board deposition, Judge Tid stated that even if he were aware of the default judgment, he still would have represented the Craigs in their bankruptcy case because *PPL v. Craig* was no longer pending in his court. (Bd. Exhibit 18 at 58)

317. On November 19, 2012, Discover Bank filed a civil complaint against Lonna Deschler in Judge Tidd's district court for failure to pay the amount due on her account. *Discover Bank v. Lonna Deschler*, Docket No. MJ-03204-CV-0000175-2012. (Bd. Exhibit 110)

- a. On December 13, 2012, Judge Tidd entered a default judgment for the plaintiff, Discover Bank, and against Ms. Deschler in the amount of \$1,975.83; (*Id.*)
- b. On January 22, 2013, Capital One Bank filed a civil complaint against Tyrone Deschler in Judge Tidd's district court for failure to pay the balance due on his credit card account. *Capital One Bank (USA) v. Tyrone A. Deschler*, Docket No. MJ-03204-CV-000009-2013; (Bd. Exhibit 111)
- c. On February 19, 2013, Judge Tidd entered a default judgment for the plaintiff, Capital One Bank, and against Mr. Deschler in the amount of \$4,314.68; (*Id.*)

- d. On August 13, 2013, Judge Tidd met with Ms. Deschler at his law office to discuss his representation of the Deschlers in their potential bankruptcy case;
- e. On August 16, 2013, Judge Tidd filed a Bankruptcy Petition, No. 13-17187-ref, under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Pennsylvania on behalf of his clients, Lonna and Tyrone Deschler; (Bd. Exhibit 112) and
- f. Capital One Bank and Discover Bank are listed as creditors in the Deschler's Bankruptcy Petition at Section F, Unsecured Nonpriority Claims. (*Id.*)

(Stip. No. 85)

318. On November 9, 2012, Gilberto Cruz met with Judge Tidd at his law offices to discuss legal representation in his potential bankruptcy case.

- a. On July 10, 2013, DeWire Dental LLC filed a civil complaint against Gilberto Cruz in Judge Tidd's district court for failure to pay in full the balance due on dental services rendered. *DeWire Dental LLC v. Gilberto Cruz*, Docket No. MJ-03204-CV-0000105-2013; (Bd. Exhibit 113)
- b. Twenty days later, on July 30, 2013, Judge Tidd filed a Bankruptcy Petition, No. 13-166686-ref, under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Pennsylvania on behalf of his client, Gilberto Cruz; (Bd. Exhibit 114)

- c. On October 1, 2013, Judge Tidd filed an Amended Chapter 7 Statement of Current Monthly Income and Means Test Calculation (Form 22A) on behalf of his clients, Gilberto and Diane Cruz; (Id.)
- d. On October 7, 2013, Judge Tidd entered a Notice of Judgment in the civil case in his district court, ruling in favor of the plaintiff, DeWire Dental, and against Gilberto Cruz in the amount of \$774.73; (Bd. Exhibit 113)
- e. DeWire Dental is not listed as a creditor in the Cruz's Bankruptcy Petition. (Bd. Exhibit 114)

(Stip. No. 86)

319. On August 31, 2012, Deborah Repash met with Judge Tidd at his law offices to discuss his representation of her in a potential bankruptcy case.

- a. On June 7, 2013, Cavalry SPV I, LLC filed a civil complaint against Ms. Repash in Judge Tidd's district court. *Cavalry SPV I, LLC v. Repash*, Docket No. MJ-0324-CV-0000084-2013. (Bd. Exhibit 115);
and
- b. On July 1, 2013, Judge Tidd properly requested that *Cavalry SPV I, LLC v. Repash* be transferred out of his district court because his law firm represented the defendant in federal bankruptcy proceedings. (Id.)

(Stip. No. 87)

320. On September 15, 2013, Calvary, SPV I, LLC filed a civil complaint against Joseph F. Killo in Judge Tidd's district court for failure to make timely payments on a credit account issued to Killo by Citibank with assignment to Calvary

SPV I, LLC. *Calvary SPV I, LLC v. Joseph F. Killo*, Docket No. MJ-03204-CV-0000144-2013. (Bd. Exhibit 117)

- a. On November 26, 2013, Judge Tidd entered a default judgment in favor of the plaintiff, Calvary SPVI, LLC and against Mr. Killo in the amount of \$4,194.35; (*Id.*)
- b. On November 19, 2013, FFIF-ACM Opportunity Fund LLC filed a civil complaint against Joseph Killo in Judge Tidd's district court for defaulting on a credit account granted by ELAN with assignment to FFIF-ACM Opportunity Fund LLC. *FFIF-ACM Opportunity Fund LLC v. Joseph Killo*, Docket No. MJ-03204-CV-0000173-2013; (Bd. Exhibit 118)
- c. On March 5, 2014, Judge Tidd entered a default judgment for the plaintiff, FFIF-ACM Opportunity Fund LLC, and against Mr. Killo in the amount of \$5,894.32; (*Id.*)
- d. On October 23, 2014, Joseph Killo met with Judge Tidd at his law offices to discuss his representation of Mr. Killo in his potential Chapter 13 bankruptcy filing;
- e. On November 18, 2014, Judge Tidd filed a Bankruptcy Petition, No. 14-19140-ref, under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Pennsylvania on behalf of his client, Mr. Killo; (Bd. (Exhibit 19) and
- f. Calvary SPV I, LLC and FFIF-ACM Opportunity Fund LLC are not listed in Mr. Killo's Bankruptcy Petition. (*Id.*)

(Stip. No. 88)

321. On February 20, 2014, Capital One Bank USA filed a civil complaint against Heidi L. Trexler in Judge Tidd's district court for failure to pay the balance due on her credit card account. *Capital One Bank USA v. Heidi L. Trexler*, Docket No. MJ-03204-CV-0000015-2014. (Bd. Exhibit 120)

- a. On March 12, 2014, Judge Tidd entered judgment for the plaintiff, Capital One Bank USA, and against Heidi Trexler in the amount of \$6,354.71; (*Id.*)
- b. Less than one year later, on February 19, 2015, Ms. Trexler met with Judge Tidd at his law offices to discuss his representation of her in a potential bankruptcy case;
- c. On March 6, 2015, Judge Tidd filed a Bankruptcy Petition, No. 15-11582-ref, under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Pennsylvania on behalf of his client, Heidi Trexler; (Bd. Exhibit 21) and
- d. Capital One Bank is listed as a creditor in Ms. Trexler's Bankruptcy Petition at Schedule F, Unsecured Nonpriority Claims. (*Id.*)

(Stip. No. 89)

322. On March 7, 2014, Jennifer L. Frey met with Judge Tidd in his law offices to discuss his representation of her in a potential bankruptcy case.

- a. On May 23, 2014, First Commonwealth FCU filed suit against Jennifer L. Frey in Judge Tidd's district court for failure to pay the unpaid balance on a personal loan. *First Commonwealth FCU v. Jennifer L. Frey*, Docket No. MJ-03204-CV-0000058-2014; (Bd. Exhibit 122)

- b. On June 2, 2014, Judge Tidd signed a Notice of Judgment, dismissing the case, *First Commonwealth FCU v. Jennifer L. Frey*, without prejudice with the notation "no service see attached;" (*Id.*)
- c. On June 24, 2014, First Commonwealth FCU requested that the civil case be reinstated with service to Ms. Frey via constable; (*Id.*)
- d. Thereafter, notice was issued that a hearing in *First Commonwealth FCU v. Jennifer L. Frey* was scheduled at Judge Tidd's district court on July 30, 2014; (*Id.*)
- e. By letter dated July 17, 2014 and addressed to Court Administrator Jill Smith, Judge Tidd requested a change of venue in *First Commonwealth FCU v. Jennifer L. Frey* because he was representing Ms. Frey in her bankruptcy matter; (*Id.*)
- f. On July 17, 2014, Judge Tidd filed a bankruptcy case under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Pennsylvania on behalf of his client, Ms. Frey; (Bd. Exhibit 123)
- g. On July 23, 2014, President Judge Baratta entered an Order transferring *First Commonwealth FCU v. Jennifer L. Frey* to Magisterial District Judge Romig-Passaro; (Bd. Exhibit 122) and
- h. First Commonwealth FCU is listed in Ms. Frey's Bankruptcy Petition at Schedule F, Unsecured Nonpriority Claims. (Bd. Exhibit 123)

(Stip. No. 90)

323. On February 10, 2014, Paul E. Getz, Jr. met with Judge Tidd at his law offices to discuss his representation of Mr. Getz in a potential bankruptcy matter.

- a. On January 20, 2015, Discover Bank filed a civil complaint against Mr. Getz in Judge Tidd's district court. *Discover Bank v. Getz, Jr.*, Docket No. MJ-03204-CV-0000005-2015; (Bd. Exhibit 124) and
- b. On February 11, 2015, Judge Tidd properly requested that *Discover Bank v. Getz, Jr.* be transferred out of his district court because his law firm represented the defendant in federal bankruptcy proceedings. (*Id.*)

(Stip. No. 91)

H. Failure to Wear Judicial Robes

324. Court Clerks Levan, Kale, Drayton, Anthony and Bettler and Officer Sergeant Johnston testified that they observed the following during their experiences at District Court 03-2-04: Between 2011 and continuing through February 2016, Judge Tidd routinely failed to wear his judicial robes when he conducted summary traffic hearings, landlord tenant hearings, preliminary arraignments and waivers of preliminary hearings at the counter of the reception area of his district court. (N.T. Levan, vol. 1, 36:5-9; 36:25-37:9; 54:3-7; 91:1-17, Jan. 18, 2017; Kale: vol. 2, 252:5-16; 273:10-19, Jan. 19, 2017; Glass: vol. 2, 320:14-17, Jan. 19, 2017; Drayton: vol. 2, 351:10-13, Jan. 19, 2017; Anthony: vol. 3, 413:13-21; 420:3-13; 454:22-24, Jan. 30, 2017; Bettler: vol. 5, 877:20-8787:8; 926:10-20; 1002:5-12, May 4, 2017) (Bd. Exhibit 7 Generally)

325. Former President Judge McFadden and Deputy Court Administrator French testified at trial that beginning in 2011, they received complaints that Judge Tidd failed to wear his judicial robes when he conducted hearings on summary traffic hearings, landlord tenant hearings, preliminary arraignments, and waivers of

preliminary hearings at the counter of the reception area of his district court. (N.T. McFadden: vol. 2:199:10-200:8; 217:14-218:12, Jan. 19, 2017; French: vol. 3, 516:7-517:9; 540:21-541:4, Jan. 20, 2017) (Bd. Exhibits 8-10; 28)

326. On three occasions, beginning on August 11, 2011 and ending on February 13, 2012, former President Judge McFadden and Northampton County Court Administrators met with Judge Tidd to discuss complaints about his job performance as a magisterial district judge. (N.T. McFadden: vol. 2, 200:9-202:22; 204:3-10; 205:11-14; 206:12-207:8; 209:8-210:1; 213:12-217:7; 219:6-11, Jan. 19, 2017; French: vol. 3, 516:7-517:9; 540:21-541:4, Jan. 20, 2017) (Bd. Exhibit 28)

327. During the February 13, 2012 meeting, former President Judge McFadden specifically told Judge Tidd that hearings must be conducted in the courtroom and that he must wear his judicial robes while conducting hearings. (McFadden: vol. 2, 201:18-205:23, Jan. 19, 2017) (Bd. Exhibit 28)

328. Within a few weeks after the February 13, 2012 meeting with former President Judge McFadden and Northampton County Court Administrators, and continuing through February 2016, Judge Tidd again routinely failed to wear his judicial robes while conducting summary traffic hearings, landlord tenant hearings, preliminary arraignments and waivers of preliminary hearings at the counter of his court. (LeVan: vol. 1, 53:17-54:2, Jan. 18, 2017; Kale: vol. 2, 250:15-25, Jan. 19, 2017; Glass: vol. 2, 320:14-17, Jan. 19, 2017; Drayton: vol. 2, 351:5-20, Ja. 19, 2017; Anthony: vol. 3, 420:3-13; 421:17-23; 423:19-25, Jan. 20, 2017;

329. At trial, Judge Tidd admitted that during the February 13, 2012 meeting, Judge McFadden told him to wear his judicial robe and conduct hearings in the courtroom. (N.T. vol. 5, 1144:7-11; 1145:6-17, May 3, 2017)

330. At trial, Judge Tidd admitted that he only wore his robe intermittently when he conducted proceedings at the counter. (N.T. vol. 5, 1097:19-1098:7; 1102:4-20, May 5, 2017)

331. After Judge Tidd received the Board's NOFI, he began wearing his robe and conducting all hearings in the courtroom.

332. Judge Tidd admitted that he could understand the bad optics of litigants coming to court and wondering who is this guy at the counter.

333. Detective Datillio testified that he observed Judge Tidd conduct preliminary hearings and waivers of preliminary hearings at the counter without wearing his judicial robes on some occasions (N.T. vol. 4, 736:3-10; 739:3-12, May 3, 2017).

334. Sergeant Johnston testified that he observed Judge Tidd conduct hearings at the counter without wearing his judicial robes but more recently he conducted hearings in the courtroom while wearing his robes. He also testified that he observed Judge Tidd conduct preliminary arraignments at the counter without wearing his judicial robes on some occasions. (*Id.* at 797:12; 799:10; 803:16-804:11)

335. The audio-video recording of May 19, 2015 demonstrates that Judge Tidd failed to wear his judicial robes when accepting a reduced plea in the *Commonwealth v. Melham* case. (Bd. Exhibit 11b)

336. On May 27, 2015, Judge Tidd did not wear his robe while conducting a hearing, but instead left it rolled up on the floor of his chambers where he had used it as a pillow. (N.T. vol. 5, 956:1-24, 1072:25-1028:7, May 4, 2017) (Bd. Exhibits 7, at 63; 154)

I. Disregard for the Dignity of the Judicial Robes

337. On January 12, 2012, Court Clerks LeVan and Kale testified to the following: Three summary traffic hearings were scheduled for the same defendant at 11:30 a.m. in Judge Tidd's court. *Commonwealth v. Zheng*, Docket Nos. MJ-03204-TR-0003807-2011; MJ-03204-TR-0003808-2011; MJ-03204-TR-0003809-2011. At 11:00 a.m., Judge Tidd went into his office and closed the door. At 11:30 a.m., while Judge Tidd was still in his office with the door closed, a district court clerk accepted a guilty plea from the defendant in Docket No. MJ-03204-TR-0003809-2011. The charges in the other two cases were withdrawn. At 11:45 a.m., the court clerk knocked on Judge Tidd's door and entered his office to inform him that he had a telephone call. Court Clerks LeVan and Kale both observed Judge Tidd sleeping on the floor of his office in his judicial robes. (LeVan: vol. 1, 81:20-82:18, Jan. 18, 2017; Kale: vol. 2, 252:21-253:7; 291:15-28, Jan. 19, 2017) (Bd. Exhibit 7, at 12-13; 126-128)

338. On the morning of January 23, 2012, Court Clerk LeVan knocked on the door to Judge Tidd's office to inform him of a phone call. She observed Judge Tidd sleeping on the floor of his office. Later that morning, Ms. LeVan knocked on his office door to inform him that a defendant had arrived and observed Judge Tidd asleep on the floor of his office, wearing his judicial robes. (vol. 1, 82:19-83:11, Jan. 18, 2017) (Bd. Exhibit 7, at 16)

339. On May 27, 2015, when Court Clerk Bettler stood in the doorway of Judge Tidd's court office to inform him that the parties were present for a scheduled hearing, she observed Judge Tidd sleeping on the floor. (N.T. vol. 5, 956:1-24; 1072:25-1028:7, May 4, 2017) (Bd. Exhibits 7, at 63; 154)

340. On May 27, 2015, when Judge Tidd got up from his sleeping position on the floor of his office and conducted the hearing. When he emerged from his office, Court Clerk Bettler observed his judicial robes rolled up on the floor where he had used it as a pillow. (*Id.*)

341. Court Clerk Anthony testified that she observed Judge Tidd sleeping in his robe in his office and observed him using his robe as a pillow. (N.T. vol. 3, 455:16-21, Jan. 20, 2017) (Bd. Exhibits 7, at 63; 154)

342. Judge Tidd admitted at trial that he slept on his judicial robe on the floor of his judicial office on more than one occasion. (N.T. 7, 83:15:-84:4, June 8, 2017)

343. Judge Tidd admitted that on May 27, 2015, he purposefully used his judicial robe as a pillow. (N.T. vol. 5, 1167:12-1169:2, May 4, 2011)

II. DISCUSSION

Count 1

Retaliation

Judge Tidd violated Canon 2, Rule 2.16(B) of the Rules Governing Standards of Conduct of Magisterial District Judges by engaging in retaliatory conduct toward the clerks assigned to his district court. Rule 2.16 (B) provides:

A magisterial district judge shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a magisterial district judge or lawyer.

R.G.S.C.M.D.J. Canon 2, Rule 2.16(B).

The charge of retaliation by a judge is an issue of first impression before this Court. The Board proved by clear and convincing evidence that Judge Tidd knew that retaliatory conduct was prohibited, yet he directly retaliated against his court clerks because of their cooperation with the Board's investigation.

As a preliminary matter, beginning in 2011, Court Clerks LeVan, Kale and Anthony began documenting and communicating their complaints about Judge Tidd's judicial misconduct to Deputy Court Administrator French. The court clerks feared that if Judge Tidd learned that they were making allegations about his misconduct, then they could be fired from their county jobs. At trial, both former President Judge McFadden and Ms. French testified that in 2012, the court clerks were hesitant to file complaints against Judge Tidd because they feared that he would retaliate against them.

On two occasions, Judge Tidd received warnings not to retaliate against his court clerks. On August 11, 2011, former President Judge McFadden met with Judge Tidd to discuss concerns about a letter, sent anonymously to court administration, pertaining to his conflict of interest in the *Nieves* matter. Deputy Court Administrator French attended the August 11, 2011 meeting and contemporaneously took notes about the conversation, including the following excerpt:

Tidd mentioned that the only copy of the [*Nieves*] letter was in his court office files, so he suspects his staff may have sent it. Judge McFadden cautioned him not to retaliate against or threaten any staff members.

(Board Ex. 28) At trial, Ms. French recalled that President Judge McFadden warned Judge Tidd not to retaliate against his clerks. Despite the warning from President Judge McFadden, Judge Tidd engaged in multiple instances of retaliatory conduct toward his court clerks.

In addition, the Board specifically cautioned Judge Tidd against retaliation by setting forth Rule 2.16(B), in bold print, in the February 19, 2016 Notice of Full Investigation. (Bd. Exhibit 13) Despite the warning from the Board, Judge Tidd

engaged in retaliatory conduct toward his court clerks after his receipt of the NOFI, based on his suspicions that they complained about his conduct to the Board.

The numerous instances of Judge Tidd's retaliatory conduct set forth here subject Judge Tidd to discipline under Rule 2.16(B). First, Court Clerks Anthony, Drayton and Bettler testified that in the afternoon on April 23, 2015, Judge Tidd stormed into the district court, locked the front door, told the court clerks to sit down and angrily yelled at them for about 30 minutes. Judge Tidd confronted the clerks about complaints filed against him with the Judicial Conduct Board. The clerks did not feel free to leave and reported the incident to Ms. French. Judge Tidd admitted that he that he was very upset, locked the door, yelled at his clerks and told them to sit down and listen to him. Based on hearsay, Judge Tidd speculated that his court clerks had talked with David Repyneck, his political opponent in the upcoming judicial race for his MDJ seat. The court clerks, who were subjected to Judge Tidd's rant, consistently testified that he asked who had spoken with Mr. Repyneck.

Court Clerks Anthony, Drayton and Bettler responded truthfully to Judge Tidd's question, denying that they had spoken with his political opponent, Mr. Repyneck. At trial, Ms. Anthony admitted that sometime after April 23, 2015, but before the May 19, 2015 Primary Election Day, she spoke via telephone with Mr. Repyneck. Ms. Anthony recalled that Mr. Repyneck asked general questions about the administration of the district court but she did not respond to his question; he asked questions about the campaign, but she did not answer those. However, their conversation did not include any discussion of Mr. Repyneck's judicial campaign nor did Ms. Anthony offer to support him in his efforts to win the judicial seat in Hellertown. Court Clerk Anthony specifically recalled that during the April 23, 2015 incident, Judge Tidd also

asked the clerks who had filed a complaint against him with the Judicial Conduct Board.

Second, sometime prior to May 19, 2015, Primary Election day, Judge Tidd decided to take the day off from work to campaign at the polls for his reelection. However, he did not communicate his plan to his staff. Court Clerks Anthony, Drayton and Bettler consistently testified that Judge Tidd was aware of several hearings scheduled for that day, told them not to schedule anymore and did not ask them to continue the cases. The Court Calendar did not have an "X" or line marked through it, which was the typical procedure when Judge Tidd was taking a day off. Deputy Court Administrator French was not aware that Judge Tidd planned to take the day off. Judge Barner testified that on May 19, 2015 after the upset at the court, Judge Tidd called him to request coverage for his court while he campaigned at the polls.

On May 19, 2017, Primary Election Day, Court Clerk Anthony notified Judge Tidd that he had four hearings that morning. Judge Tidd yelled and cursed at Ms. Anthony over the telephone and then stormed into his district court where he continued to yell at her in an accusatory and demeaning manner in the presence of Police Officer Bencsics and Court Clerk Drayton. Judge Tidd believed that Court Clerk Anthony had purposefully ignored his request to clear his calendar for that day. (Facts The audio-video recording of, and witness testimony about May 19, 2015 clearly demonstrate that Judge Tidd acted in an outrageous, unacceptable and retaliatory manner toward Ms. Anthony. (Bd. Exhibits 11b, 12b)

Third, Judge Tidd directly retaliated against Court Clerks Anthony and Kale based on his suspicions that they complained about his conduct to the Board. On

June 18, 2015, he sent an email to Deputy Court Administrator French, which stated in part:

I am requesting the immediate removal of Brenda Anthony from my Court as it has come to my attention that she has taken part in filing a complaint against me with the Judicial Conduct Board. I am also requesting that Diane Kale not be assigned to this court until further notice from me as I believe that she took part in the filing of the complaint as well. I learned of Ms. Kale's involvement subsequent to our phone conversation.

(Bd. Exhibit No. 21) Judge Tidd also stated that he received information from "sources close to the court" that Clerks Anthony and Kale had provided confidential information to Mr. Repyneck, his former political opponent. One day prior to sending the email to Ms. French, he pressured Court Clerk Bettler with repeated questions about her cooperation with the Board's investigation, even asking her if she wanted to change her answers.

Fourth, on June 22, 2015, Judge Tidd directly retaliated against Court Clerk Bettler when he instructed her not to communicate with Court Clerks Anthony and Kale who no longer worked at his district court. He disparaged Ms. Anthony by telling Ms. Bettler that he "couldn't even look at her anymore" without feeling sick.

Fifth, six months after Court Clerk Anthony transferred to another district court, Judge Tidd directly retaliated against her when he sent a letter to Ms. French, complaining about Ms. Anthony's prior conduct. Upon review of the letter, Judge Baratta directed Ms. French to set up a meeting with Judge Tidd and to require him to provide documentary evidence in support of his claims. (Facts 40, 41) President Judge Baratta testified that he was "really concerned" about Judge Tidd's retaliatory conduct toward Ms. Anthony:

He was still approaching us, asking that we fire her, even though he no longer had any contact with her and she had

been removed [from his court]. He was that angry at her.
And I was really concerned about this.

(N.T. vol. 4, 651:18-652:1, May 3, 2017). Judge Tidd failed to produce any evidence and cancelled the meeting with President Judge Baratta. At trial, Judge Baratta classified Judge Tidd's complaint against Ms. Anthony as "bald claims." (N.T. vol. 4, 642:19-650:2, May 3, 2017) (Bd. Exhibit 161)

Sixth, on February 19, 2016, following his receipt of the Board's first Notice of Full Investigation, Judge Tidd called his district court and spoke with Court Clerk Bettler, asking her about her cooperation with the Board. Immediately after the call, Judge Tidd went to the district court, yelled at Ms. Bettler about her involvement in the Board's investigation, and called her a liar. Court Clerk Bettler reported the February 19, 2016 incident to Deputy Court Administrator French and President Judge Baratta in a letter sent by email and described how Judge Tidd "was interrogating her about what her involvement was, whether she was working against him." President Judge Baratta was very concerned about Judge Tidd's retaliatory conduct. He offered Ms. Bettler his support, including the option of transferring to a different district court. However, Ms. Bettler opted to stay at 03-2-04 because she had done nothing wrong, because of its proximity to her home and because she did not want to leave the other clerks to deal with Judge Tidd. (Fact 48) (N.T. vol. 5, 902:13-904:4, May 4, 2017)

On a later date in February, Judge Tidd tried unsuccessfully to reach Detective Datillio by phone. He spoke with Sergeant Johnston by phone and asked him questions about his cooperation with the Board's investigation. (Facts 49-56) Immediately after the phone call, Sergeant Johnston was concerned and called Chief Robert Shupp for the following reasons:

To see if - - that if we did something wrong or if I should be concerned about something coming from the Judicial Board; that I had either said something or did something with the Judicial Board that I should be aware of or alarmed about.

(N.T. vol. 4, 790:12-791:11, May 4, 2017)

Next, early in his judicial term, Judge Tidd directed his court clerks that no warrants or other work was to be assigned to Constable Seeds because of complaints about his conduct from the public and his court clerks. In April 2016, after learning that Ms. Bettler had cooperated with the Board's investigation, Judge Tidd imposed a heavy burden on his court clerks, directing them to recall thousands of arrest warrants and reissue them to Constable Seeds. Judge Tidd demanded that Court Clerks Bettler and Drayton perform all the related administrative tasks on top of their daily responsibilities. Ms. Bettler perceived Judge Tidd's directive to be retaliatory and reported her concerns to Deputy Court Administrator French. Ms. French advised Court Clerks Bettler and Drayton that they must follow Judge Tidd's directives because he is their boss and to take care of a few warrants each day.

Finally, in an email to Deputy Court Administrator French, dated May 8, 2016, Judge Tidd directly retaliated against Court Clerks Bettler and Tracie Drayton when he requested their "immediate transfer" out of his district court for the following reasons:

[Ms.] Bettler is a confirmed witness in the disciplinary action against me and continues to at least indirectly provide the Board with details of my day-to-day work. This makes contact with her intolerable. Additionally, [Ms.] Drayton and [Ms.] Bettler have both been consistently insubordinate with respect to my instructions regarding constables and show open contempt towards Richard Seeds.

(Bd. Exhibit 27)

Judge Tidd first reasons that Ms. Bettler should be transferred out of his court because of her cooperation with the Board. Such reasoning is in direct violation of Rule 2.16(B), which prohibits a magisterial district judge from retaliating against a person for cooperating with the Board's investigation. Judge Tidd's second basis for requesting the transfer of Ms. Bettler and Ms. Drayton arises directly from his perception that they were not following his directive to recall all warrants and reassign them to Constable Seeds. Witness testimony from Court Clerks Bettler, Drayton and Deputy Court Administrator French refutes the bald assertion that the clerks were insubordinate. Ms. Bettler and Ms. Drayton followed the instructions to manage the directive the best they could. There was no proof offered at trial to support Judge Tidd's claim that the clerks were insubordinate or acted in a contemptuous manner. Therefore, this second line of reasoning also smacks of retaliation. Judge Baratta testified at trial that he took no action pertaining to Judge Tidd's request to transfer Court Clerks Bettler and Drayton because it sounded retaliatory and he considered the stated reasons to be bald claims.

Judge Tidd hired the clerks who worked at his district court, yet he failed to get along with any of them. He forced Ms. LeVan to retire after 23 and one half years of service with the court. Ms. Kale retired early because she could not tolerate Judge Tidd's conduct. Ms. Glass quit after a year of employment because working for Judge Tidd was intolerable. Judge Tidd requested the transfer of Ms. Anthony and Ms. Bettler because he knew or suspected that they cooperated with the Board. Finally, within two months of receiving the Board's first NOFI, Judge Tidd made unrealistic demands on the resources of Court Clerks Bettler and Drayton, falsely accused them of misconduct and requested that they be transferred away from his court.

Judge Tidd knew that it was impermissible to act against an individual for cooperating with the Board's investigation. He admitted at his April 21, 2016 Board deposition that if he had asked for the transfer of a Ms. Bettler upon receipt of the NOFI, based on her cooperation with the Board, it could be considered a retaliatory act. Yet, two and one half weeks later, he requested that Clerks Bettler and Drayton be transferred for that very reason.

This Court must scrutinize Judge Tidd's conduct toward his court clerks in light of the clear language of Rule 2.16(B). The examples cited above prove by clear and convincing evidence that prior to his receipt of the NOFI, Judge Tidd knowingly and directly retaliated against Court Clerks Anthony and Kale based on his suspicions that they cooperated with the Board. After receipt of the NOFI, he knowingly and directly retaliated against Court Clerks Bettler and Drayton, and indirectly toward Sergeant Johnston, based on his knowledge that they cooperated with the Board's investigation. Therefore, the Board has proved by clear and convincing evidence that Judge Tidd engaged in retaliatory conduct violation of Rule 2.16(B).

Count 2

Improper Demeanor

Between 2011 and November 30, 2014, former Judge Tidd repeatedly demonstrated an impatient, undignified and discourteous demeanor toward his court clerks and made vulgar and disrespectful comments about litigants, in violation of Rule 4C of the Old R.G.S.C.M.D.J. Rule 4C provides in part:

C. Magisterial district judges shall be patient, dignified and courteous to litigants, witnesses, lawyers and others with whom they deal in their official capacity

R.G.S.C.M.D.J. No. 4C.

Similarly, between December 1, 2014 and 2016, Judge Tidd repeatedly demonstrated an impatient, undignified and discourteous demeanor toward his court clerks and made vulgar and disrespectful comments about litigants, in violation of Canon 2, Rule 2.8(B) of the New R.G.S.C.M.D.J. Rule 2.8(B) of provides in part:

(B) A magisterial district judge shall be patient, dignified, and courteous to litigants, witnesses, lawyers, authorized representatives, court staff, court officials, and others with whom the magisterial district judge deals with in an official capacity

R.G.S.C.M.D.J. 2.8(B).

The precedent of this Court and that of our Supreme Court supports a finding that the Board has proved by clear and convincing evidence that Judge Tidd violated these Rules during the relevant time periods. In *Berkhimer*, this Court determined that the respondent judge's conduct of "routinely, regularly, frequently, often [using] crude, coarse, vulgar, offensive and improper language, including frequent use of the F-word, in conversing with his female staff and others in the course of an ordinary day at the office" violated Rule 4C. *In re Berkhimer*, 877 A.2d 579, 587-588 (Pa.Ct.Jud.Disc. 2005), *aff'd*, 930 A.2d 1255 (Pa. 2007).

In *Lokuta*, this Court determined that the respondent judge's "attitude and demeanor towards those with whom she came into contact in the course of everyday business of her judicial office," including her staff, violated Canon 3A(3) which is analogous to Rule 4C. *In re Lokuta*, 964 A.2d 988, 1031-1032 (Pa.Ct.Jud.Disc. 2008), *aff'd*, 11 A.3d 427 (Pa. 2011). The witnesses in *Lokuta* presented testimony of violations "describing incident after incident, occurring continually, repeatedly, unpredictably." *Id.*

In deciding whether a judge fails to abide by the Rule or Canon to treat others in a patient, dignified and courteous manner, this Court contemplates that although the temperament of judges may vary, there is no excuse for discourteous conduct:

We do not come to this conclusion unmindful that all judges do not come to their office with the same allotment of equanimity—some have a lower threshold of intolerance than others; but, whatever their idiosyncratic predispositions, in the conduct of their judicial duties there is no place for discourtesy.

Id. at 1032. (See also, *In re Zoller*, 792 A.2d 34, 35-36 (Pa.Ct.Jud.Disc. 2002). Rules 4C and 2.8(B) apply to on and off bench conduct, as long as the judge is acting in an official capacity. *Zoller*, 792 A.2d at 35 (“Respondent’s use of the language which is stipulated he used constitutes a violation of Rule 4C whether these outbursts came during or after the hearing, inasmuch as, in either case, he was acting in his official capacity.”)

Similarly, in *Merlo*, this Court determined that the Respondent’s rude, ridiculing, unfair, harshly critical and belittling behavior toward office staff violated Rule 4C. *In re Merlo*, 34 A.3d 932, 973 (Pa.Ct.Jud.Disc. 2011).

In this case, the court clerks credibly and consistently testified that Judge Tidd frequently treated them in a disrespectful manner, demonstrating an impatient temperament. He belittled, cursed and yelled at them in the reception area of the district court in front of police officers, attorneys, litigants and other members of the public. The court clerks deemed Judge Tidd’s course language to be offensive and they described their reactions to his demeanor as “shocked,” “horrified,” “embarrassed” and “humiliated.” The consistent testimony and detailed contemporaneous documentation by the clerks, coupled with the audio-video

recordings, clearly demonstrate that Judge Tidd's demeanor violated Rules 4C and 2.8 (B).

Court Clerks LeVan, Kale and Anthony complained to Deputy Court Administrator French about Judge Tidd's demeanor and documented his conduct in accord with instruction from Deputy Court Administrator French. President Judge McFadden met with Judge Tidd on three occasions. At the February 13, 2012 meeting, she directed Judge Tidd not to curse and told him his conduct needs to change. Following the meeting, Judge Tidd told his clerks what had transpired. Court Clerk Kale recalled that on February 13, 2012, Judge Tidd told the court clerks that during his meeting with President Judge McFadden, she told him to stop cursing at the district court. Judge Tidd admitted that President Judge McFadden told him not to curse and to wear his robes. Despite a warning from President Judge McFadden that she would report him to the Board, within a few weeks of meeting with her, Judge Tidd continued to curse, belittle and yell at his clerks. Ms. Kale stated that she was offended, horrified and embarrassed by Judge Tidd's conduct.

Additionally, between February 2014 and June 2015, Judge Tidd routinely demonstrated an impatient attitude toward Cassandra Bettler, yelling at her for taking too long while she learned how to perform data entry into the magisterial district judge computer system. He had demonstrated this same demeanor toward Court Clerk Glass during her earlier term of employment.

Court Clerks LeVan, Kale, Anthony and/or Bettler provided credible testimony about Judge Tidd's conduct at district court between 2011 and November 30, 2014:

Impatient, undignified, discourteous conduct 2011 –November 2014

Judge Tidd's language while speaking to or in the presence of court clerks:

Feb. 13, 2012 "Fuck, fuck, fuck, fuck, fuck." Judge Tidd to court clerks after his meeting with President Judge McFadden.

Generally "Fuck," "Bitch," "Fucker," "Mother fucker"

Aug. 12, 2014 "I told you no, don't let the tail wag the fucking dog, when I say no, it means no," and "No, I fucking told you that he has to come in when scheduled, period."
(*Comm. v. Araujo, Jr.*)(Tidd speaking to Court Clerk Bettler about a request from the defendant to arrive early for a hearing)

Aug. 28, 2012 "If you say huh to me one more time instead of yes or excuse me or something else, I'm going to have a goddam fit." 142 (*Comm. v. Snyder*) (yelling at Court Clerk Bettler who has a hearing deficit)

Judge Tidd's impatient, undignified, discourteous conduct about litigants and others:

Jan. 23, 2012 "She's as dumb as a fucking pile of dirt." (*Comm. v. Petras*) (Referring to a defendant)

Jan. 25, 2012 "What a fucking dick, call me when he gets here." (*Comm. v. Snyder*) (Referring to a police officer requesting he come to court to sign warrant)

"Fucking son of a bitch." (At court to sign warrant for officer, 1st pen not working)

"Fucking shit." (At court, 2nd pen not working: threw pen and screamed)

Ms. Kale testified that she was horrified and embarrassed that Judge Tidd acted out in front of a detective who was not at court often, a typewriter repairman, and two other. Judge Tidd did not apologize for his conduct.

Jan. 30, 2012 "You had to go and fuck up my morning." (*Trexler v. Gambler*, Judge Tidd's statement to an attorney)

Jan. 30, 2012 "[Defendant was] a cocky ass dick." 137-138 (*Comm. v. Petras*)

April 2, 2012 "I really don't need to see [defendant's] fucking ass crack while I'm eating lunch." (*Comm. v. Zick*)(stated in front of clerks and police officer)

Oct. 9, 2014 "I can't believe I have to do a fucking hearing on a fucking DUI." (*Comm. v. Butler*)

These cited examples of Judge Tidd's outrageous behavior toward his court clerks and others, which occurred at his district court, prove by clear and convincing evidence that between 2010 and November 30, 2014, Judge Tidd was impatient, undignified and discourteous in violation of Rule 4C.

Ms. Anthony, Ms. Bettler and Ms. Drayton provided credible testimony about specific instances of Judge Tidd's improper demeanor toward them, which occurred between December 1, 2014 and 2016.

Impatient, undignified, discourteous conduct (April 2015-February 2016)

April 23, 2015: Judge Tidd locked the front door of courtroom and yelled at Court Clerks Anthony, Bettler, and Drayton in an angry rant for 20 to 30 minutes, confronting them with questions about who filed complaints with the Board and who talked to his political opponent for his judicial seat. The clerks testified that they were scared and intimidated, reported his conduct to Deputy Court Administrator French. (Facts 104)

May 19, 2015: Primary Election Day

Phone call: Judge Tidd admitted that he yelled and cursed at Brenda Anthony, using F-word repeatedly.

At district court: Judge Tidd exhibited an angry demeanor toward Ms. Anthony, yelling at her in front of police officer and another clerk.

August 2015: Judge Tidd asked Court Clerk Drayton, "Why [are you] being such a bitch," in the presence of Court Clerk Bettler and a police officer

January-February 2016: Judge Tidd called Court Clerk Bettler a "Mother fucker."

February 19, 2016: Receipt of Board NOFI

Phone call: Yelled at Court Clerk Bettler, lied to her about whether her name appeared in NOFI.

At district court: Yelled at Court Clerk Bettler in front of another clerk about her cooperation with the Board. He said, "Takes a lot of balls," and called her a liar.

These specific examples of Judge Tidd's outrageous behavior toward his court clerks prove by clear and convincing evidence that between December 1, 2014 and February 2016, Judge Tidd was impatient, undignified and discourteous to his court clerks in violation of Rule 2.8(B).

At trial, attorney and police officer witnesses for the defense testified that when they were at District Court 03-2-04 for hearings, they did not witness Judge Tidd yelling at or cursing at his clerks. However, those attorneys and officers admitted that they infrequently appeared at Judge Tidd's court. Furthermore, Judge Tidd's admission that he rarely conducted hearings at his court bolsters the fact that his defense witnesses did not observe his demeanor with any regularity. Besides the audio-video recordings shown at trial, the best evidence in assessing Judge Tidd's demeanor is the testimony and documentary evidence of the court clerks who observed his everyday conduct and were exposed to his intemperate outbursts, repetitive cursing and impatient demeanor.

At trial, Judge Tidd attempted to justify his anger toward his court clerks on April 23, 2015, because he heard a rumor that his clerks were talking with his political opponent in a contested race for his judicial seat. He tried to excuse his repeated cursing by saying he thought the clerks were his friends and he used foul language colloquially. Judge Tidd blamed his chronic illness for the August 28, 2014 incident when he suddenly and angrily yelled "If you say 'huh' to me one more time, . . . I'm going to have a goddam fit" at Ms. Bettler, who has a hearing deficit.

In *Berkhimer*, this Court determined that medical testimony about the Respondent's "sleep apnea could possibly contribute to appellant's offensive statements and behavior, but found the suggestion fell short of linking actual causation to his behavior." *In re Berkhimer*, 930 A.2d 1255, 1258-1259 (Pa. 2007). Here, Judge Tidd testified about his various medical ailments; however, he offered no expert medical testimony or evidence to demonstrate that his illness or his medications were a direct cause of his impatient, discourteous conduct at his district court.

Judge Tidd tried to rationalize his demeaning conduct toward Ms. Anthony, on May 19, 2015, complaining that he was supposed to be off on Primary Election Day and suspected that she intentionally scheduled hearings. Judge Tidd cursed at Ms. Anthony over the phone that day, screaming, "Are you fucking kidding me, please tell me you are fucking kidding me." At court, Judge Tidd continued to scream at Ms. Anthony, repeatedly asking her, "Are you out of your mind?" He pounded his fist on the counter and yelled, "I have off . . . dammit . . . I have off." At trial, Ms. Anthony was very upset after viewing the audio-video recording of this event and stated:

I was humiliated. I thought - - he made me feel like I was stupid, that I didn't know what I was doing. And the truth is I didn't. I didn't know he was supposed to be off on election day. That's not stupid. I didn't know.

(N.T. vol. 3, 438:3-13, Jan. 20, 2017) Court Clerk Drayton and Officer Bencsics observed Judge Tidd's impatient, undignified and discourteous demeanor that day.

Judge Tidd's conduct toward Ms. Bettler on February 19, 2016 was equally unacceptable. After receiving the Board's NOFI, Judge Tidd called the district court and spoke with Ms. Bettler, questioning her about her cooperation with the Board's investigation and misinforming her that her name appeared in the NOFI. He then

went to the court and confronted Ms. Bettler, yelling and screaming at her in front of Ms. Drayton:

Tidd: You know, for you to say you got mistreated by me takes balls. Takes a lot of balls. Look me in the face and tell me I did that. Look me in the face and tell me I ever mistreated you.

Bettler: David, do you know how many names you've called me since I started here?

Tidd: Like what?

Bettler: Like, ah, just two weeks ago you called me a mother fucker, okay?

Tidd: When did I ever look you in the face and call you a mother fucker or even behind your back?

Bettler: You did.

(Bd. Exhibits 11c; 12c) At the end of the incident, Judge Tidd exclaimed, "I can take a lot of things but I can't take a liar." (*Id.*) Ms. Bettler testified about the effect of Judge Tidd's outburst toward her:

I was shaking. I was - - but I tried to appear calm. But inside, my mind was racing. I was scared.

(vol. 5, 901:8-18, May 4, 2017)

At his April 21, 2016 Board deposition, Judge Tidd admitted that he was "embarrassed" at the sight of his behavior toward the clerks on the audio-video recordings which were "unsettling." He stated, "I don't act this way at home, I don't act this way at my other office." Judge Tidd acknowledged that he was responsible for setting the tone at this district court and queried, "But it's a conundrum. Why am I ok in the courtroom but not back here? I get that and I don't have a good answer." (Bd. Depo. 161:10-162:5 Apr. 21, 2016))

Judge Tidd's efforts to convince this Court that his offensive conduct toward his clerks was somehow mitigated by his concerns about his judicial election, his misconception about his relationship with his clerks, and his intermittent health issues are unavailing. Although Judge Tidd's tolerance for stresses in his personal and work life may differ from that of other individuals, there is no justification for his impatient, undignified and discourteous conduct over a protracted period of time. See, *In re Lokuta*, 964 A.2d at 1032 (. . . but, whatever their idiosyncratic predispositions, in the conduct of their judicial duties there is no place for discourtesy).

The credible testimony, documentary evidence and audio-video exhibits prove by clear and convincing evidence that during his time on the bench, Judge Tidd repetitively failed to act in a patient, dignified and courteous manner toward his court staff and others with whom he deals in an official capacity. Therefore, during the relevant time periods, he violated Rules 4C and 2.8(B) of the R.G.S.C.M.D.J.

Count 3

Ex Parte Communications

Between 2011 and November 30, 2014, former Judge Tidd engaged in prohibited *ex parte* communications in violation of Rule 4D of the Old R.G.S.C.M.D.J. Rule 4D provides in pertinent part:

Magisterial district judges shall . . . except as authorized by law, neither initiate nor consider *ex parte* or other communications concerning a pending or impending proceeding.

R.G.S.C.M.D.J. No. 4D.

Correspondingly, between December 1, 2014 and 2016, Judge Tidd engaged in prohibited *ex parte* communications in violation of Rule 2.9(A) of the New R.G.S.C.M.D.J. Rule 2.9(A) provides in pertinent part:

A magisterial district judge shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to the magisterial district judge outside the presence of the parties or their lawyers or authorized representatives, concerning a pending or impending matter. . . .

R.G.S.C.M.D.J. Canon 2, Rule 2.9(A).

The Board proved by clear and convincing evidence that former Judge Tidd engaged in *ex parte* communications with defendants, police officers, and attorneys, including Attorney James Burke, and thereby violated Rule 4D and 2.9(A) during the relevant time periods.

Court Clerks LeVan, Kale, Glass, Anthony and Bettler consistently and credibly testified that during their terms of employment, they observed Judge Tidd's conduct of routinely discussing summary traffic charges with *pro se* defendants who appeared at his district court for scheduled summary trials before the citing officers. The observed and documented specific instances where Judge Tidd asked *pro se* defendants if they would agree to a plea to a lesser charge outside the presence of a police officer. In some instances, Judge Tidd called the citing officer and asked if he would agree to a lesser charge. If the officer agreed, Judge Tidd would process the defendant's plea to a lesser charge. In other instances, Judge Tidd first discussed the traffic case with the defendant and then permitted the defendant to call the officer from the district court telephone to speak with the officer about entering a plea to a lesser charge.

Court Clerks Levan, Kale, Glass, Anthony and Bettler also consistently and credibly testified that when the citing officer arrived at court before the defendant, Judge Tidd would initiate discussions with the officer and ask if the officer was willing to reduce the charge to a lesser traffic offense. When the defendant subsequently

arrived at court, Judge Tidd would ask the defendant if he would accept the lesser charge.

At trial, Judge Tidd admitted that if the defendant on a traffic matter arrived before the citing officer, then he would engage in a conversation with the defendant and ask, "What's your intention." If the reverse occurred, and a citing police officer showed up at this court before the defendant in a traffic matter, Judge Tidd admitted that he would engage in "a preliminary discussion [with the officer] about what they wanted to do vis-à-vis hearing, negotiated plea, withdrawal, something along those lines."

Judge Tidd admitted that if a police officer called his court because of a conflict preventing him from attending or arriving on time for a summary traffic trial, Judge Tidd would speak to the officer by telephone and engage in the same type of preliminary discussion about what the officer wanted to do with the case. Judge Tidd also admitted that if an officer was late for a summary traffic trial, he would sometimes initiate the call to the officer and ask what the officer wanted to do with the case. The phone calls were not conducted on speaker phone and Judge Tidd would relay the information to the defendant after the fact.

Witness testimony, documentary evidence, the contemporaneous documentation of the court clerks, and the audio-video recordings prove that Judge Tidd engaged in multiple instances of *ex parte* communication about pending matters.

Specific Instances of Ex Parte Communications 2011-November 30, 2014

Hellertown Police Officer Michael Dattilio frequently appeared before Judge Tidd at District Court 03-2-04. When Detective Dattilio arrived for a summary traffic matter, Judge Tidd routinely asked him, "Did you work out a deal?" Detective Dattilio

testified that on one occasion, Detective Datillio called the district court to say he would be a few minutes late for a summary traffic case that he wanted to take to trial because the defendant was "belligerent, demeaning and very, very rude to law enforcement." When Detective Datillio arrived for the summary trial, Judge Tidd told him, "Oh, I took care of it for you already." At no time did Detective Datillio negotiate a plea deal with the defendant. Therefore, Judge Tidd engaged in a discussion with the defendant, to the exclusion of Detective Datillio about a pending matter.

In the following cases, Judge Tidd spoke with each of the defendants about his summary traffic case, offered to accept a guilty plea to a lesser charge, which each of the defendants accepted, in the absence of the citing police officer:

Nov. 9, 2011	<i>Comm. v. Fiorino</i>	Guilty Plea lesser charge
Jan. 23, 2012	<i>Comm. v. Groves</i>	Guilty Plea lesser charge
Jan. 30, 2012	<i>Comm. v. Garippa</i>	Guilty Plea lesser charge
Aug. 11, 2014	<i>Comm. v. Martin</i>	Guilty Plea lesser charge

Lower Saucon Police Officer Jared Gunshore testified about a January 23, 2012 preliminary hearing in a criminal matter, which was later expunged. Judge Tidd and Attorney Potts, who represented the defendant in the criminal matter, met in chambers behind a closed door immediately prior to the time of the hearing. Officer Gunshore recalled that when he arrived at court, he saw Judge Tidd and Attorney Potts emerge from chambers. Officer Gunshore testified that Judge Tidd approached him and said the case was "taken care of" even though he had not participated in nor had any knowledge of a plea deal. Court Clerks LeVan and Kale testified to the accuracy of the contemporaneous memorialization of the incident in their log notes, detailing how Attorney Potts told Gunshore, "We have a deal for the 9:15 hearing,"

to which Gunshore responded, "I don't know what you're talking about. I have no deal worked out with you." Both versions of the event demonstrate that Judge Tidd engaged in a discussion with Attorney Potts to the exclusion of the citing officer about a pending criminal matter.

Again, on January 25, 2012, Judge Tidd engaged in an *ex parte* conversation with the defendant in *Commonwealth v. Desmond*, a summary traffic matter, before the police officer arrived at district court. When the defendant admitted he did not get his car inspected, Judge Tidd advised him that he would find him guilty and that he could change his plea. This discussion occurred outside the presence of the charging officer about the pending traffic matter.

On January 30, 2012, in *Commonwealth v. Freed*, Judge Tidd engaged in a telephone conversation with the defendant's attorney who said he would be late for the two scheduled summary traffic trials. During the telephone conversation, Judge Tidd offered to get the charge reduced in one of the cases. After ending the phone conversation, Judge Tidd asked Police Officer Gunshore, if he would agree to the lesser charge. By his conducting of discussing the pending matter with the attorney separately from his discussion with the police officer, Judge Tidd engaged in *ex parte* communications about a pending matter.

Additionally, between January 2011 and November 30, 2014, Judge Tidd engaged in *ex parte* communications with Attorney Burke each time he called and advised him to come to district court to resolve outstanding traffic citations that were about to go to warrant. During those phone conversations, Judge Tidd told Attorney Burke, "If he didn't take care of it, I would be forced to issue a warrant." By his calls

to Attorney Burke, Judge Tidd initiated and considered *ex parte* communications about pending matters.

Specific Cases of *Ex Parte* Communication After December 1, 2014

Officer Bencsics testified, and the audio-video recording demonstrates that on May 19, 2017, Primary Election Day, he observed Judge Tidd speaking with Attorney Mark Minotti in front of his client, the defendant in *Commonwealth v. Melham*, in the parking lot of the district court. When he reentered the district court, Judge Tidd told the court clerks, "Attorney Minotti's here, its' going to take place. He's here." When Attorney Minotti entered the district court, Judge Tidd asked the defendants name, pointed at Officer Bencsics, then said to Attorney Minotti, "Do it quick. There's your officer." Attorney Minotti said to Officer Bencsics, "3111?" to which Officer Bencsics agreed. The evidence demonstrates that Judge Tidd discussed the Melham matter with Attorney Minotti outside the presence of Officer Bencsics. Officer Bencsics did not have an opportunity to discuss the reduced charge with Attorney Minotti other than the rapid-fire exchange at the direction of Judge Tidd.

In May 2015, Slate Belt Regional Police Officer Matthew Messinger received a call from District Court 03-2-04 about a summary traffic matter scheduled for that day. Officer Messinger informed the court clerk that he could be at court in 30-50 minutes. Judge Tidd called Officer Messinger and asked if he would accept a negotiated guilty plea to a lesser offense from the defendant in the traffic matter and Officer Messinger agreed. (Stip. 82) Judge Tidd engaged in *ex parte* communication with the defendant about the pending matter without the citing officer present.

Additionally, between January December 1, 2014 and February 2016, Judge Tidd engaged in *ex parte* communications with Attorney Burke each time he called

and advised him to come to district court to resolve outstanding traffic citations that were about to go to warrant. During those phone conversations, Judge Tidd told Attorney Burke, "If he didn't take care of it, I would be forced to issue a warrant." By his calls to Attorney Burke, Judge Tidd initiated and considered *ex parte* communications about pending matters.

At deposition and trial, Judge Tidd claimed that he engaged in the practice of working out deals to summary traffic citations at the counter of his district court for the following reasons:

1. To save time and money;
2. To accommodate schedules of police officers;
3. To move things efficiently; and
4. Because of space limitations and security.

All of Judge Tidd's reasons demonstrate that he knowingly and intentionally engaged in prohibited *ex parte* communications with defendants and police officers. None of his proffered reasons justifies Judge Tidd's routine conduct of engaging in prohibited *ex parte* communications.

Therefore, by his conduct of intentionally participating in *ex parte* communications, Judge Tidd violated Rules 4D and Canon 2, Rule 2.9(A).

Count 4

Special Consideration

Between 2010 and November 30, 2014, Judge Tidd provided preferential treatment to a friend, Attorney James J. Burke, and thereby violated Rule 2A of the former R.G.S.C.M.D.J. Rule 2A provides in pertinent part:

- A. Magisterial district judges shall . . . conduct themselves at all times in a manner that promotes public confidence in the integrity and

impartiality of the judiciary. Magisterial district judges shall not allow their family, social or other relationships to influence their judicial conduct or judgment. They shall not lend the prestige of the office to advance the private interest of others, nor shall they convey or permit others to convey the impression that they are in a special position to influence the judge.

R.G.S.C.M.D.J. No. 2A.

Additionally, between December 1, 2014 and January 19, 2016, Judge Tidd provided preferential treatment to Attorney Burke in violation of Canon 1, Rule 1.2 and Canon 2, Rule 2.4(B) & (C). Rule 1.2 provides:

A magisterial district judge shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

R.G.S.C.M.D.J. Canon 1, Rule 1.2.

Rule 2.4(B) & (C) provide, in pertinent part:

(A) A magisterial district judge shall not permit family, social, political, financial, or other interests or relationships to influence the magisterial district judge's judicial conduct or judgment.

(B) A magisterial district judge shall not convey or permit others to convey the impression that a person or organization is in a position to influence the magisterial district judge.

R.G.S.C.M.D.J. Canon 2, Rule 2.4.

Judge Tidd admits that he and Attorney Burke are friends who talked on the phone three or four times per week and went out to lunch on at least five occasions. At trial, he claimed that he spoke with Attorney Burke frequently only after he received the Board's second NOFI in May 2016. However, Ms. Kale refuted that testimony when she testified that between 2010 and 2014, she witnessed Judge Tidd going out to lunch once or twice per month and talking on the phone with Attorney Burke while he sat at the clerk's work station a couple of times per week.

At trial, Judge Tidd stipulated that Attorney Burke routinely ignored sequential warnings from his district court to respond to and pay his citations, ignored his obligation to pay the fines due on his each of his traffic citations, and therefore a that a warrant should have issued from Judge Tidd's district court. Judge Tidd also stipulated that he presided over the six traffic citations issued to Attorney Burke between January 2010 and November 30, 2014, as well as the two traffic citations issued between December 1, 2014 and January 2016, that are set forth in the Board Complaint.

At trial, Clerks Kale and Anthony testified that Judge Tidd instructed them to track Attorney Burke's numerous traffic citations and to notify him prior to issuing warrants. Judge Tidd admitted that per his instructions, his court clerks informed him on multiple occasions that a warrant for Attorney Burke was scheduled to issue. Clerk Drayton, who worked at the court beginning in 2015, also testified that she notified Judge Tidd when a warrant was about to issue to Attorney Burke. Ms. Glass and Bettler corroborated their testimony.

Judge Tidd stipulated that he called Attorney Burke about his outstanding traffic citations and said, "If he [Burke] didn't take care of it, I would be forced to issue a warrant." (Stip. 62) At trial, Judge Tidd recalled giving advance notice to Attorney Burke as follows:

"I would either have someone call or I called I think on two or three occasions to say if he doesn't pay the warrant will issue when it is supposed to."

(N.T. vol. 7, 38:6-9, June 8, 2017)

Following the calls from Judge Tidd, Attorney Burke would come to the district court to pay the fine. Ms. Bettler testified that when Attorney Burke came to court

to pay his fines after notification that a warrant was about to issue, he thanked Judge Tidd.

If the unpaid traffic citations had gone to warrant, and a constable had served such warrants to Attorney Burke, then he would have been subject to increased costs and fees for service of the warrant, including constable fees and county fees. At trial, Ms. Kale testified that early during her employment at Judge Tidd's district court, the clerks collected constable fees directly from Attorney Burke; however, on later occasion, Judge Tidd instructed the clerks either not to charge for the constable fees or to put the fees on the county cost sheet rather than collecting them from Burke. Ms. Anthony testified that Judge Tidd instructed the clerks to cancel a warrant issued for Mr. Burke, in which case the constables would not be paid. She stated that in most instances, the returned warrants served to Mr. Burke "got sent down to the county" Both Ms. Kale and Ms. Anthony recalled Judge Tidd stating, "just have the constable eat it," referring to the warrant fees and costs.

Northampton County Controller Stephen Barron, Jr. appeared for the defense to testify about warrants issued and costs incurred at District Court 03-2-04. He admitted that his 30-day review of warrant activity at Judge Tidd's court in the AOPC system did not include the warrant activity regarding Attorney Burke's citations. He stated:

Just from what I have heard about the case or read, these tickets were back a little way and those would have cleared out by the time Judge Tidd left office. So I would not have seen that in my 30-day review, no.

(N.T. vol. 6, 1224:6-22, May 5, 2017)

Judge Tidd did not instruct his court clerks to track warrants about to issue to any other attorney. Judge Tidd admitted that he never contacted other attorneys who

had matters pending in his court that could result in the issuance of warrants. Judge Tidd claimed that he sometimes allowed an extension of time for defendants who called his district court and stated they intended to pay the fine but could not get to the court in time. In contrast, Attorney Burke did not call the court to request an extension, or offer an excuse for late payment on his citations. Instead, Judge Tidd required his clerks to provide favorable treatment and track his citations and warrants about to issue.

Judge Tidd claimed his directive to the clerks to track warrants about to issue and the phone calls advising Attorney Burke to come to the court and pay the fines on his citations was a "professional courtesy." At his Board deposition, he acknowledged:

And that social aspect, or social attribute, causes me to do the thing like consider professional courtesy when maybe I should think twice in light of how it could possibly be perceived by others.

(Bd. Exhibit 18 at 132:16-21)

Judge Tidd's directive to his clerks to alert him when warrants were about to issue to Attorney Burke, their compliance with the directive, and his follow-up phone calls telling Burke to pay the fines or else a warrant would issue, cannot be characterized as professional courtesy. Such conduct far exceeds professional courtesy because of the tangible benefit it provided to Attorney Burke, which included reminders from the court to pay his fines after notices had already issued. Attorney Burke also benefitted financially when warrants did not issue or in the cases where warrants did issue, he could defer payment on the constable fees which were transferred to the county for collection. Judge Tidd's conduct involving warrants for

Attorney Burke equates to favorable, preferential treatment to a friend in violation of the Rules.

The Board proved by clear and convincing evidence that Judge Tidd's 2010-November 30, 2014 conduct of issuing a directive to his court clerks to track Attorney Burk's parking citations, to hold back warrants, and to waive or turn over constable fees to the county violated Rule 4C of the Old R.G.S.C.M.D.J as charged in the Board Complaint. The Board also proved by clear and convincing evidence that Judge Tidd's phone calls to his friend, Attorney Burke, advising him to come in and pay his fines or else a warrant would issue violated Rule 4C as charged in the Board Complaint.

The Board proved by clear and convincing evidence that by continuing the same conduct favoring Attorney Burke from December 1, 2014 through January 19, 2016, Judge Tidd violated Canon 1, Rule 1.2. Canon2, Rule 2.4(B) & (C) as charged in the Board Complaint.

Count 5

Failure to Recuse

A. Old Rule

Between January 2010 and November 30, 2014, Judge Tidd failed to disqualify himself from presiding over matters in which his impartiality could reasonably be questioned, and thereby violated Rule 8A(1) of the Old R.G.S.C.M.D.J. Rule 8A(1) provides in pertinent part:

A. Magisterial district judges shall disqualify themselves in a proceeding in which their impartiality might reasonably be questioned, including but not limited to instances where:

- (1) they have a personal bias or prejudice concerning a party
-

R.G.S.C.M.D.J. No. 8A(1).

Similarly, between December 1, 2014 and 2016, former Judge Tidd failed to disqualify himself from matters in which his impartiality might reasonably be questioned and thereby violated Rule 2.11(A)(1) of the New R.G.S.C.M.D.J. Rule 2.11(A) provides in pertinent part:

(A) A magisterial district judge shall disqualify himself or herself in any proceeding in the magisterial district judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:

(1) The magisterial district judge has a personal bias or prejudice concerning a party or a party's lawyer or personal knowledge of facts that are in dispute in the proceeding.

R.G.S.C.M.D.J. Canon 2, Rule 2.11(A)(1).

Judge Tidd has known Attorney Burke for approximately 15 years. He admits that he and Attorney Burke are friends, talked on the phone every few days and had lunch together on at least 5 occasions. Ms. Kale testified that during her 2010-2014 service at the district court, she observed Judge Tidd go out to lunch with Attorney Burke twice each month and talk on the phone a couple of times per week.

Between 2010 and 2016, Judge Tidd routinely presided over numerous cases in which Attorney Burke represented defendants at his district court, including up through a 2016 case, *Commonwealth v. Lohman*. Ms. Kale testified that on more than one occasion, she and Ms. Anthony discussed Attorney Burke's appearance before Judge Tidd and asked, "Did he want us to have it transferred [to another court] because of their friendship." (N.T. vol. 2, 193:19-194:3, Jan. 19, 2017). Ms. Kale stated that each time she and Ms. Anthony questioned him about transferring the cases, Judge Tidd responded, "It's fine, I can - - I'll be able to handle it.: (Id. at 194:4-15) Ms. Anthony testified Judge Tidd continued to hear Attorney Burke's cases

even after they questioned him about it. Judge Tidd admitted that he never requested to transfer Attorney Burke's cases.

Based on his friendship with Attorney Burke, Judge Tidd's impartiality could reasonably be questioned as to whether he had a personal bias or prejudice when presiding over cases where Attorney Burke represented litigants in his district court. Judge Tidd had a duty to disqualify himself in proceedings in which Attorney Burke represented litigants in his district court because his impartiality could reasonably be questioned based on their friendship and the frequency with which they spoke on the phone and went out to lunch together.

The Board proved by clear and convincing evidence that by his failure failed to recuse himself from the January 2010 through November 30, 2014 proceedings in which Attorney Burke represented litigants in his district court, Judge Tidd violated R.G.S.C.M.D.J. No. 8A(1). The Board proved by clear and convincing evidence Judge Tidd's failure to recuse himself from the December 1, 2014 through 2016 cases in which Attorney Burke represented litigants in his district court violated R.G.S.C.M.D.J. Canon 2.11(A)(1).

In another matter, on October 1, 2010, Judge Tidd presided over *Society Hill at Saucon Valley v. Nieves*, Docket No. MJ-03294-CV-0000134-10, even though his law firm represented the defendant in a bankruptcy matter beginning in 2006. Based on his law firm's representation of Ms. Nieves, Judge Tidd's ability to be impartial could reasonably be questioned when he adjudicated the *Nieves* civil matter at his district court.

Additionally, on November 9, 2012, Judge Tidd agreed to represent Gilberto Cruz in a bankruptcy matter. During the continued representation of Mr. Cruz in the

bankruptcy matter, on October 7, 2013, Judge Tidd entered judgment in a civil matter, *DeWire Dental LLC v. Cruz*, Docket No. MJ-03204-CV-0000105. Based on his law firm's representation of Mr. Cruz, Judge Tidd's ability to be impartial could reasonably be questioned when he adjudicated *Cruz* civil matter at his district court.

In a third matter, on March 7, 2014, Judge Tidd agreed to represent Jennifer L. Frey in a bankruptcy matter. Three months later, while his firm continued to represent Ms. Frey, Judge Tidd dismissed without prejudice a civil matter filed against her. *First Commonwealth FCU v. Frey*, Docket No. MJ-03204-CV-0000058-2014.

Finally, June 11, 2013, Judge Tidd presided over a traffic summary trial wherein the defendant was the landlord of the building which housed District Court 03-2-04. *Commonwealth v. Blair*, Docket No. MJ-03204-TR-00001339-2013. Court Clerks Kale and Anthony testified that prior to the hearing, on May 22, 2013, they spoke with Judge Tidd about the *Blair* case. They asked if he would like to transfer the case because of the conflict of interest arising from Ms. Blair's relationship to the district court building. He opted to keep the case in his court.

Judge Tidd admitted at trial that everyone was advised of the conflict in the *Blair* case. He told the clerks that if there was a deal worked out with Officer Louder, then he would keep the case. He also admitted that he disclosed to Officer Louder that he would dismiss the *Blair* case if possible, but transfer it if a hearing was required. Judge Tidd ultimately dismissed the case. Judge Tidd admitted that he would have transferred the *Blair* case if a hearing was necessary, thereby acknowledging the conflict of interest. He admitted that dismissing a case amounts to ruling on the matter.

The Board proved by clear and convincing evidence that Judge Tidd's impartiality in the *Nieves, Cruz, Frey* and *Blair* proceedings could reasonably be questioned and therefore, he had a duty to recuse from each of those matters. As a result of his failure to recuse from these four cases, Judge Tidd violated R.G.S.C.M.D.J. No. 8A(1).

Count 6

Failure to Accord Full Right to Be Heard

Between 2011 and November 30, 2014, former Judge Tidd failed to accord the full right to be heard to litigants and affiants who appeared before him in violation of Rule 4D of the Old Rules Governing Standards of Conduct of Magisterial District Judges.

Rule 4 D provides in pertinent part:

Magisterial district judges shall accord to every person who is legally interested in a proceeding, or their lawyer, full right to be heard according to law

R.G.S.C.M.D.J. No. 4D.

Between December 1, 2014 and February 2016, former Judge Tidd failed to accord to every person or entity the full right to be heard in legal proceedings and thereby violated Rule 2.6 of the New Rules Governing Standards of Conduct of Magisterial District Judges. Rule 2.6 provides:

A magisterial district judge shall accord to every person or entity who has a legal interest in a proceeding, or that person or entity's lawyer or authorized representative, the right to be heard according to law.

R.G.S.C.M.D.J. Canon 2, Rule No. 2.6(A).

Consistent, credible trial testimony from all of the court clerks, as well as Police Detective Datillio, Sergeant Johnston and Officer Gunshore, demonstrates by clear and convincing evidence, that between 2011 and 2016, Judge Tidd routinely conducted summary traffic trials or hearings, Landlord-Tenant hearings, preliminary arraignments and waivers of preliminary hearings at the counter of the public reception area of his district court instead of in the courtroom. Judge Tidd admitted to conducting a volume of these proceedings at the counter instead of the courtroom. The court clerks consistently and credibly testified that unless a defendant or his attorney requested that a scheduled summary traffic trial, preliminary hearing, or a waiver of preliminary hearing be held in the courtroom, Judge Tidd handled the matter at the counter. Detective Datillio, who frequently appeared in that court, corroborated their testimony.

Court Clerks LeVan, Kale, Glass, Anthony and Bettler consistently and credibly testified that between 2011 and 2016, Judge Tidd routinely encouraged *pro se* defendants to enter a plea agreement at the counter without the affiant police officer present.

At trial, Judge Tidd made the following admissions about proceedings that he conducted at the counter:

1. Hearings in his courtroom were rare;
2. He conducted waivers of preliminary hearings and negotiated plea deals to traffic offenses at the counter;
3. He conducted the majority of preliminary arraignments at the counter;
4. He recalled a specific Landlord-Tenant hearing that he conducted at the counter;

5. He handled a volume of matters, including summary traffic trials, sometimes referred to as hearings, at the counter and described a specific example: If an officer showed up for a summary trial and the defendant did not show, then Judge Tidd would handle it in the following manner:

Swear the officer in, make him go through the minimum he has to go through to make his case, and, assuming it's a guilty, I would have guilty after a hearing.

(N.T. vol. 7, 53:11-53:25, June 8, 2017; Bd. Exhibit 17 at 55:18-56:12)

6. He handled Landlord-Tenant matters, scheduled for hearings, at the counter when the parties appeared and reached an agreement.

At trial, Judge Tidd admitted, "I should have just kept to the courtroom for every single thing I ever did or, if I couldn't take it, then not have held the position." (NT. Vol. 6, 1342:18-1343:14, May 5, 2017)

Detective Datillio testified that Judge Tidd did the following:

1. Conducted expedited preliminary arraignments at the counter;
2. Failed to read the charges to, ask questions of, review bail factors with or provide information about the right to an attorney to criminal defendants at preliminary arraignments;
3. Failed to follow judicial procedures as required by the Rules of Criminal Procedure.
4. Signed affidavits of probable cause and search warrants without reading them. Detective Datillio provided a specific example, *Commonwealth v. Williams*, wherein he had to encourage Judge Tidd to read the affidavit for a search warrant; and

5. Set bail in criminal matters prior to talking with the defendant, citing a criminal fraud matter that has since been expunged.

Detective Datillio testified that he had concerns regarding the effect of Judge Tidd's procedural approach to handling cases:

I don't think he follows judicial procedures to a "T" like he should. And I believe that causes a serious potential for problems for any of the - - the person that gets shorted out of that is the defendants and the Commonwealth, both. You know, there's Rules of Criminal Procedure for a reason. They need to be followed.

(N.T. vol. 4, 730:18-736:2, May 4, 2017)

Sergeant Johnston testified that he observed Judge Tidd conduct preliminary arraignments at the counter and characterized them as, "not as detailed as other judges I've seen do arraignments" and did not include questions about bail. Like Detective Datillio, Sergeant Johnston stated that Judge Tidd "had not given the charges in detail, what they're charged with. Just told them this is your bail. And that was their preliminary arraignment." (N.T. vol. 4, 795, 13-25; 797:3-5, May 3, 2017) Sergeant Johnston also observed Judge Tidd conduct summary trials, including witness testimony, at the counter and recalled one particular case when he gave testimony at the counter.

The court clerks corroborated the testimony of the police officers. Between 2011 and February 2016, they observed Judge Tidd conduct preliminary arraignments without looking at the criminal complaint or the affidavit, without informing the criminal defendants of the charges and merely telling them to read the complaint.

The court clerks consistently and credibly testified that Judge Tidd directed them to explain the waiver process to criminal defendants who opted to waive their

preliminary hearings. They also testified that Judge Tidd told *pro se* criminal defendants that their preliminary hearings could not be continued and encouraged them to waive their preliminary hearings that same day, even if they had questions or wanted to retain an attorney.

Between 2011 and June 19, 2015 when Ms. Anthony transferred from the court, Judge Tidd repeatedly instructed Court Clerks LeVan, Kale and Anthony to “handle” court matters in his absence from the court and while he was in the courtroom otherwise occupied. Matters to be “handled” included acceptance of reduced pleas in summary traffic cases, waivers of preliminary hearings, preliminary arraignments and bail issues. The clerks testified that they would obtain the defendants signatures on the appropriate paperwork and Judge Tidd would sign the paperwork when he returned.

For example, on November 30, 2011, Judge Tidd instructed his court clerks to “handle” matters at the court on the following day, directing them to accept reduced pleas in traffic matters, process paperwork for waivers of preliminary hearings and reschedule hearings only upon request from defendants. Court Clerks LeVan and Kale testified that on December 1, 2011, they “handled” the following matters:

<u>Case Name</u>	<u>Docket No.</u>	<u>Disposition</u>
<i>Commonwealth v. Allen</i>	TR-3320-2011	Guilty Plea
<i>Commonwealth v. Szilagyi</i>	TR-3670-2011	Guilty Plea
<i>Gescek v. MAS Transp., Sandone</i>	CV-172-2011	Judgment Plaintiff
<i>Commonwealth v. Fischer</i>	TR-3477-2011	Dismissed
<i>Commonwealth v. Lance, Jr.</i>	CR-440-2011	Bail set
<i>Commonwealth v. Litzenberger</i>	TR-3642-2011	Guilty Plea
<i>Commonwealth v. Grello, Jr.</i>	TR-3631-2011	Dismissed
<i>Commonwealth v. Racek</i>	TR-3657-2011	Dismissed

<i>Berkheimer Tax Admin. v. Pettijohn</i>	CV-142-2011	Judgment Plaintiff
<i>Capital One Bank v. Maura</i>	CV-191-2011	Judgment Defend.

(*Id.*)

At deposition, Judge Tidd recalled a half dozen times when he gave the same instruction to his clerks and specifically recalled that he had a doctor's appointment on December 1, 2011. At trial, Judge Tidd admitted that he instructed his court clerks to handle matters in his absence on a few occasions as follows:

On a few occasions, maybe two or three, I would say, "Listen," to the staff, "if its' a waiver and they have counsel - - maybe even if they did not have counsel - - if it's a straight waiver, here's the bail. The waivers we had were only for - - generally for DUI. If it was a DUI case and a DUI only, I would say, "here is the bail. Set it up. If they want to waive, they can waive. I will sign it after the fact. If they wanted a hearing, continue it.["] Anybody who came in and there was an officer, if they worked something out for a negotiated plea, take it, if they wanted a hearing, continue it.

(N.T. vol. 6, 1332:6-19, May 5, 2017)

Witness testimony and Board exhibits presented at trial proved by clear and convincing evidence that Judge Tidd failed to accord the full right to be heard in the following cases, which are set forth in full in the Findings of Fact:

Jan. 12, 2012	<i>Comm. v. Bortz</i>	Traffic citation, Defendant requested hearing
Jan. 24, 2012	<i>Diehl v. Warjas</i>	Landlord-Tenant hearing at counter
July 23, 2014	<i>Comm. v. Clark</i>	Traffic hearing at counter
Aug. 27, 2014	<i>Comm. v. Passaro</i>	Prelim. Arraign., no explanation of charges

The following cases, set forth in Section C, *Ex Parte* Communications, of the Proposed Findings of Fact, are incorporated by reference as additional violations of Rule 4D, because the affiants and litigants were deprived of the full right to be heard according to law:

Nov. 9, 2011	<i>Comm. v. Fiorino</i>
Jan. 23, 2012	<i>Comm. v. Groves</i>
Jan. 23, 2012	Expunged criminal case, Tidd met with Attorney Potts, Officer Gunshore excluded
Jan. 25, 2012	<i>Comm. v. Desmond</i>
Jan. 30, 2012	<i>Comm. v. Freed</i>
Jan. 30, 2012	<i>Comm. v. Garippa</i>
Aug. 11, 2014	<i>Comm. v. Martin</i>

Witness testimony and documentary evidence proves that on February 6, 2012, Judge Tidd conducted preliminary arraignments in nine criminal cases by telephone only, without the video feed of the Polycam video conferencing device, in violation of Pa.R.Cr.P. No. Rule 540(A) which does not permit audio only devices for this type of proceeding.

Starting in February 13, 2012, Judge Tidd was on notice from then-President Judge McFadden that he was to conduct hearings in the courtroom, not at the counter, and to wear his judicial robes. In a February 8, 2012 phone call with Judge Tidd, Court Administrators Onembo and French advised Judge Tidd that topics of concern included his judicial process, the priority he gave to his law practice over his judicial responsibilities, and the impression that he operated a "fast food court."

Ms. Kale testified that between 2011 and 2014, Judge Tidd directed her to change dispositions. If a defendant failed to show for a hearing at the scheduled time, Judge Tidd adjudicated the defendant guilty. However, if the defendant showed up late that same day, Judge Tidd directed her "to change it to something else" rather than instructing the defendant about filing an appeal.

Court Clerks Levan and Kale credibly testified about Judge Tidd's poor attitude regarding his responsibility to conduct hearings, particularly Landlord-Tenant hearings, and quoted him as saying:

"They don't pay me enough to hold hearings." (N.T. 75-76; 233:6-14)

"This is nothing but Traffic Court." (*Id.*)

"It's a waste of my time, I don't know why I have to listen to this." (N.T. 118)

These statements demonstrate an attitude contrary to the spirit of the rule to afford every person the full right to be heard in a legal proceeding.

The Board proved by clear and convincing evidence that, during the relevant time periods of 2011 through November 30, 2014 and December 1, 2014 and February 2016, Judge Tidd failed to accord to every person who is legally interested in a proceeding, or their lawyer, the full right to be heard according to law and thereby violated Rule 4D and Canon 2, Rule 2.6(A) respectively.

Count 7

Conflicts of Interest

By his January 2010 through November 30, 2014 conduct of representing bankruptcy clients in his capacity as an attorney, even though those clients had related legal matters assigned to, or previously decided in his district court, Judge Tidd violated Rule 14A of the Old R.G.S.C.M.D.J. Rule 14A is entitled, "Prohibited Practice of Attorney Magisterial District Judges and provides, in part:

A. Attorneys who are magisterial district judges shall not . . . act as a lawyer in a proceeding in which they have served as a magisterial district judge or in any other proceeding related thereto.

R.G.S.C.M.D.J. No. 14A.

Additionally, between December 1, 2014 and April 2016, former Judge Tidd acted as an attorney in a proceeding in which he had also acted as a judge and thereby violated Canon 3, Rule 3.10A of the New Rules Governing Standards of Conduct of Magisterial District Judges. The title and language of Rule 3.10(A) are the same as former Rule 14 A.

- A. Attorneys who are magisterial district judges shall not . . . act as a lawyer in a proceeding in which they have served as a magisterial district judge or in any other proceeding related thereto.

R.G.S.C.M.D.J. Canon 3, Rule 3.10(A).

Judge Tidd stipulated to the majority of the allegations set forth in the Board Complaint at Section G. (Stip. 73-91) Early in his tenure on the bench, on October 1, 2010, Judge Tidd decided a civil matter, *Society Hill at Saucon Valley v. Maria Nieves*, even though his law firm had represented the defendant, Ms. Nieves, in a bankruptcy matter since 2006. On February 18, 2011, the plaintiff, Society Hill at Saucon Valley, filed a civil suit to enforce the October 1, 2010 judgment. Despite his prior adjudication of the case, Judge Tidd agreed to represent Ms. Nieves in the Court of Common Pleas action. Judge Tidd failed to perform an adequate conflicts check prior to agreeing to represent Ms. Nieves. Once opposing counsel alerted Judge Tidd to the conflict, he recused himself and transferred the matter.

Then-President Judge McFadden learned of the conflict of interest issue in the *Nieves* matter by way of an anonymous complaint. On August 11, 2011, she and Court Administrators Ciccero, and French met with Judge Tidd to discuss the apparent conflict of interest in the *Nieves* matter. Following that meeting, on September 2, 2011, Judge Tidd sent a letter to the SCJA Ethics and Professionalism Committee and subsequently received an September 25, 2011 Advisory Opinion form the Committee.

(Bd. Exhibit 96) Despite repeated requests from Board counsel for discovery, Judge Tidd did not obtain a copy of his letter from the Committee. Therefore, it is impossible to know what question he posed.

Although the Advisory Opinion states that Rule 14A does not prohibit an attorney MDJ from practicing bankruptcy law, it specifically directs Judge Tidd to Rule 14. The Rule prohibits an attorney MDJ from acting as a lawyer in a case that is related to any proceeding in which the judge has served as an MDJ. R.G.S.C.M.D.J. No. 14. Despite the advice from the Committee, Judge Tidd did not comply with Rule 14.

At his June 14, 2016 Board deposition, Judge Tidd admitted that he narrowly or myopically interpreted the September 25, 2011 Advisory Opinion to suit his own purposes of providing legal representation for bankruptcy clients:

“Number one, . . . , but the advisory opinion I may have read differently had it included the additional rules that you cited, which it didn’t. And I have to admit to being myopic in reading it. Because the goal was to figure out how I could do both. So, of course, when I’m reading I’m reading it like you don’t want a client to read something, which is one perspective. So of course I’m looking for how I can do it as opposed to what would keep me from doing it. So I’ll admit to being a little myopic there.”

(Bd. Exhibit 18, at 127:7-18) At trial, Judge Tidd agreed with the Board’s characterization that, “He narrowly interpreted,” set forth at ¶ 177 of the Board Complaint, was analogous to his phrase, “He myopically interpreted,” when referencing his understanding of the September 24, 2011 SCJA Ethics and Professionalism Committee advisory opinion. Such agreement is essentially a stipulation to ¶ 177.

The stipulations, witness testimony and Board exhibits demonstrate by clear and convincing evidence that, Judge Tidd, an attorney MDJ, provided legal representation in federal bankruptcy court for defendants whose civil or credit cases were decided, pending or impending in Judge Tidd's district court:

January 2010 and November 30, 2014,

<i>Capital One Bank v. Ziegler</i>	MJ-03204-CV-0000190-2011
<i>Equable Ascent Financial LLC v. Cortez</i>	MJ-03204-CV-0000143-2010
<i>Equable Ascent Financial LLC v. Cortez</i>	MJ-03204-CV-0000038-2012
<i>Security Credit Services v. Cortez</i>	MJ-03204-CV-0000123-2013
<i>Target National Bank v. Pagel</i>	MJ-03204-CV-0000025-2012
<i>PPL Electric v. Craig</i>	MJ-03204-CV-0000162-2012
<i>Discover Bank v. Lonna Deschler</i>	MJ-03204-CV-0000175-2012
<i>Discover Bank v. Tyrone Deschler</i>	MJ-03204-CV-0000009-2013
<i>DeWire Dental LLC v. Cruz</i>	MJ-03204-CV-0000105-2013
<i>Calvary SPV I, LLC v. Killo</i>	MJ-03204-CV-0000144-2013
<i>FFIF-ACM-Opportunity Fund v. Killo</i>	MJ-03204-CV-0000173-2013
<i>First Commonwealth FCU v. Frey</i>	MJ-03204-CV-0000058-2014

On December 13, 2011, Judge Tidd agreed to represent Leslie Ziegler (now Repyneck) in her bankruptcy matter while a civil credit matter, *Capital One Bank v. Ziegler*, was pending in his court. Judge Tidd failed to timely perform a conflict check.

Between January 6, 2011 and October 2, 2012, Judge Tidd entered judgment for Ian Cortez in three separate cases involving credit or debt matters. *Equable Ascent Financial LLC v. Cortez*, *Equable Ascent Financial LLC v. Cortez*, *Security Credit Services v. Cortez*. Even though he had decided those three matters, on May 22, 2013, Judge Tidd agreed to provide legal representation for Mr. Cortez and on October 16, 2013, he or his firm filed the bankruptcy petition on behalf of Mr. Cortez.

On March 20, 2012, Judge Tidd entered a default judgment in *Target National Bank v. Pagel*, a debt or credit matter. Less than eight months later, on December 6, 2012, Judge Tidd agreed to represent Ms. Pagel in bankruptcy, and on February 5, 2013, he filed a bankruptcy petition on her behalf.

On November 14, 2012, Judge Tidd entered judgment against Franklin and Dawn Craig for failure to pay their utility bill. *PPL Electric v. Craig*. Sixteen days later, on November 30, 2012, Judge Tidd agreed to represent the Craigs, and on February 4, 2013, he filed a bankruptcy petition on their behalf. At his June 4, 2016 Board deposition, Judge Tidd stated that even if he was aware of the default judgment, he still would have represented the Craigs in their bankruptcy case because the PPL matter was no longer pending in his court.

On December 13, 2012, Judge Tidd entered a default judgment against Lonna Deschler in a credit or debt matter. *Discover Bank v. Lonna Deschler*. On February 19, 2013, Judge Tidd entered a default judgment against Tyrone Deschler. *Discover Bank v. Tyrone Deschler*. Six months later, on August 13, 2013, Judge Tidd agreed to represent the Deschler's, and on August 16, 2013, he filed a bankruptcy petition on their behalf.

On November 9, 2012, Judge Tidd consulted with Gilberto Cruz about legal representation in a bankruptcy matter. On July 10, 2013, DeWire Dental filed a civil complaint against Mr. Cruz in Judge Tidd's court. *DeWire Dental LLC v. Cruz*. While the civil case was pending, On July 30, 2013, Judge Tidd filed a bankruptcy petition on behalf of Mr. Cruz. Approximately two months later, on October 1, 2013, Judge Tidd entered judgment against his client Mr. Cruz.

On November 26, 2013 and March 5, 2014, Judge Tidd entered default judgments in two civil credit or debt matters against Joseph Killo, *Calvary SPV I, LLC v. Killo* and *FFIF-ACM-Opportunity Fund v. Killo*, respectively. Seven months after deciding the second case, Judge Tidd consulted with Mr. Killo about providing legal representation, and on November 18, 2014, Judge Tidd filed a bankruptcy petition on his behalf.

On March 7, 2014, Judge Tidd consulted with Jennifer L. Frey about representing her in a bankruptcy matter. Soon thereafter, on June 2, 2014, Judge Tidd dismissed without prejudice a credit or debt matter against Jennifer Frey in his district court. *First Commonwealth FCU v. Frey*. On June 24, 2014, First Commonwealth FCU requested that the case be refiled and Judge Tidd's court issued a notice for a hearing. On July 17, 2014, Judge Tidd requested a change of venue and filed for bankruptcy on behalf of Ms. Frey. However, President Judge Baratta did not issue an Order transferring the matter out of Judge Tidd's court until July 23, 2014. Therefore, the Frey case was still pending in his court when Judge Tidd filed the bankruptcy petition.

December 1, 2014 to April 2016

On March 20, 2014, Judge Tidd entered judgment against Heidi Trexler in credit or debt matter. *Capital One v. Trexler*. On February 19, 2015, Judge Tidd consulted with Ms. Trexler about legal representation, and on March 6, 2015, he filed a bankruptcy petition on her behalf.

Judge Tidd had a conflict of interest in representing the clients in all of the January 2010 through April 2016 bankruptcy matters set forth above because each of Judge Tidd's clients had a civil debt or credit case that was related to the filing of

a bankruptcy petition. The stipulations demonstrate that the majority of the cases list the plaintiff, in the civil debt or credit matter, in the list of creditors in the bankruptcy petitions filed by Judge Tidd or his firm. At trial, Judge Tidd tried to convince this Court that a bankruptcy petition is only collaterally related to the an underlying debt or credit civil matter. This argument is without basis and defies logic. It is in direct conflict with Judge Tidd's statement regarding the *Ziegler* matter, wherein he explained this statement to clients: "make the hearing [scheduled in district court] go away:"

That with respect to hearings, that they would be stayed. And what that means is, if they didn't understand that, that the hearing would go away. They didn't have to appear. The automatic stay would stop the litigation against them.

(N.T. vol. 5, 1135:18-1136:7, May 4, 2017) Since filing a bankruptcy petition causes a stay on the obligation to pay on the debt owed in a civil matter, the two cases are inextricably linked and therefore, closely related.

The Board proved by clear and convincing evidence that between January 2010 to November 30, 2014, Judge Tidd represented nine clients in federal bankruptcy, even though their civil credit or debt matters were decided, pending or impending in his district court. He repeated that same conduct in *First Commonwealth FCU v. Frey* in 2015. Additionally, in 2011, Judge Tidd agreed to represent Maria Nieves in an enforcement action directly related to civil matter against her, which Judge Tidd had previously decided in his district court. By his conduct in all of these cases, Judge Tidd did act as a lawyer in a proceeding in which he had served as a magisterial district judge, and thereby violated R.G.S.C.M.D.J. 14A and Canon 3, Rule 3.10(A) during the relevant time periods.

Count 8

Failure to Prioritize Business of the Court

In December 2011, former Judge Tidd failed to prioritize his judicial duties over that of his private law practice and thereby violated Rule 3 of the Old R.G.S.C.M.D.J.

Rule 3 provides, in pertinent part:

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

R.G.S.C.M.D.J. No. 3A. The Board proved by clear and convincing evidence that by his December 13, 2011 agreement to provide legal representation for Leslie Ziegler, now Leslie Repyneck, in a federal bankruptcy matter, when the underlying credit matter was pending in his district court, Judge Tidd failed to prioritize the business of his court over that of his private law practice.

Judge Tidd stipulated to the basic facts in the *Capital One Bank v. Ziegler* civil complaint filed in his district court on October 27, 2011 for failure to pay a credit debt. At trial, Ms. Repyneck provided credible testimony as follows:

1. She received the *Capital One Bank* civil complaint on December 10, 2011, and upon advice of her attorney, she called Judge Tidd a couple of days later, seeking representation in a bankruptcy filing.
2. After speaking with a receptionist, Ms. Repyneck spoke with Judge Tidd by phone. He told her to set up an appointment, bring a check for \$1900, and he could "make the hearing [scheduled in district court] go away." (N.T. vol. 4, 840-848)
3. Judge Tidd told her, "That if I scheduled the appointment and showed up with the payment, that that would be entered into bankruptcy and the court case would disappear." (N.T. vol. 4, 834-837)

4. She went to Judge Tidd's law office on December 13, 2011 and gave Judge Tidd a check for \$1900 for his legal services.
5. Ms. Repyneck did not know that Judge Tidd was a district court judge at the time entered into an agreement for his legal services.
6. In 2015, she first discovered that *Capital One Bank v. Ziegler* was filed in Judge Tidd's district court at the time when she hired him to represent her in bankruptcy. As a result, she filed a Confidential Request for Investigation, executed on April 22, 2015.

At trial, Judge Tidd admitted that a member of his law office staff wrote the words "could be a conflict" under Ms. Repyneck's (Ziegler's) name on the December 13, 2011 scheduling page of his law office appointment calendar. Despite the words, "could be a conflict," Judge Tidd failed to investigate the potential conflict in representing Ms. Repyneck in a bankruptcy matter prior to or during her initial consult on December 13, 2011 and collecting his fee. Only after agreeing to represent Ms. Repyneck in the bankruptcy matter did Judge Tidd discover that *Capital One Bank v. Ziegler* was filed in his district court. As a result, he requested that the case be transferred out of his court.

At trial, Judge Tidd admitted to using the language, "make it go away," when discussing underlying debt matters with bankruptcy clients and stated:

That with respect to hearings, that they would be stayed. And what that means is, if they didn't understand that, that the hearing would go away. They didn't have to appear. The automatic stay would stop the litigation against them.

(N.T. vol. 5, 1135:18-1136:7, May 4, 2017) This admission demonstrates that Judge Tidd typically advised other bankruptcy clients that he could "make it go away," referring to underlying debt matters pending in court.

At his June 14, 2016 Board deposition, Judge Tidd described his prior system of conflict checks at his district court which involved reviewing the court calendar of scheduled cases to determine if he recognized any names of individuals who were clients of his private practice. His later system of conflict checks at his district court involved utilizing the UJS portal. (Bd. Exhibit 18 at 28:24-29:15) At trial, Judge Tidd testified to the inadequacy of his conflict check system at his law practice as follows.

The conflict check, unfortunately, came after, in the form of a specific request for pending litigation in any court anywhere in the United States. Bankruptcy clients, per the Statement of Financial Affairs, in bankruptcy petitions they are required to list pending litigation against them. So as part of our questionnaire we had a specific question that mirrored the Statement of Financial Affairs question, is there any pending litigation, what and where. If we saw that, then we would know we have a conflict.

(N.T. vol. 6, 1405:3-12, May 5, 2017)

Judge Tidd failed to perform an adequate conflicts check before agreeing to represent Ms. Repyneck in her bankruptcy matter. If he had investigated the reason why the words, "could be a conflict" appeared on his law office calendar, he would have discovered that the *Capital One Bank* case was in his own district court and declined the consult and representation. That approach to a conflicts check would elevate his obligation as a judge to decide matters assigned to his court above his pecuniary gain at his law practice.

The Board met its burden in proving by clear and convincing evidence that Judge Tidd failed to prioritize the business of his judicial office over his other occupation, his private law practice, and thereby violated Rule 3A of the Old R.G.S.C.M.D.J.

Count 9

Failure to Wear Judicial Robes

Between 2011 and November 30, 2014, Judge Tidd routinely failed to wear his judicial robes while conducting hearings, preliminary arraignments and waivers of preliminary hearings at the counter of his district court in violation of Rule 4B of the Old R.G.S.C.M.D.J.

Rule 4B provides in pertinent part:

Magisterial district judges . . . shall wear judicial robes while conducting hearings and trials.

R.G.S.C.M.D.J. No. 4B.

Additionally, between December 1, 2014 and February 2016, Judge Tidd failed to wear his judicial robes while conducting hearings, preliminary arraignments and waivers of preliminary hearings at the counter of his district court in violation of Rule 2.8(A) of the New R.G.S.C.M.D.J. Rule 2.8(A) provides in part:

A magisterial district judge . . . shall wear judicial robes while conducting hearings and trials.

R.G.S.C.M.D.J. Canon 2, Rule No. 2.8(A).

Court Clerks LeVan, Kale, Drayton, Anthony and Bettler credibly and consistently testified that during their times of employment at District Court 03-2-04, they frequently observed Judge Tidd conduct hearings, preliminary arraignments and waivers of preliminary hearings at the counter of the reception area of the district court without donning his judicial robes. Detective Datillio and Sergeant Johnston testified that on some occasions they also observed Judge Tidd preside over these same types of proceedings without wearing his judicial robes.

Based on complaints about Judge Tidd's conduct, President Judge McFarland met with Judge Tidd on three occasions between August 2011 and February 13, 2012.

Judge Tidd admits that at that final meeting, President Judge McFadden directed him to wear his judicial robes and conduct hearings in the courtroom. Judge Tidd told his court clerks about that directive and admitted that President Judge McFadden told him to wear his robes and conduct proceedings in the courtroom. However, Clerk Kale testified that within a few weeks after the February 13, 2012 meeting, Judge Tidd again routinely failed to wear his robes while conducting summary traffic hearings, landlord tenant hearings, preliminary arraignments and waivers of preliminary hearings at the counter of his district court. Clerks Anthony, Drayton and Bettler testified that Judge Tidd's practice of failing to wear his robes continued in 2014-2016.

For example, on May 19, 2015, Judge Tidd stood at the counter in his street clothes and accepted a reduced plea from a defendant in a case scheduled for a summary traffic trial. *Commonwealth v. Melhem*. (Bd. Exhibits 11b; 12b) Additionally, on May 27, 2015, Judge Tidd failed to wear his judicial robes while conducting a hearing, but instead left it rolled up in a ball on the floor of his chambers where he had used it as a pillow.

At trial, Judge Tidd admitted that he sporadically wore his robe when conducting hearings at the counter. However, after he received the NOFI, he began to consistently wear his judicial robes and conduct all hearings in the courtroom.

The Board proved by clear and convincing evidence that between January 2010 and November 30, 2014, Judge Tidd routinely failed to wear his judicial robes when conducting hearings at the counter of his district court in violation of Rule 4B of the

R.G.S.C.M.D.J. The Board also proved by clear and convincing evidence that between December 1, 2014 and February 2016, Judge Tidd engaged in the same conduct in violation of Canon 2, Rule No. 2.8(A) of the R.G.S.C.M.D.J.

Count 10

Disregard for Dignity of Judicial Robes

Judge Tidd's 2012 conduct of sleeping in or upon his judicial robes violated Rule 2A of the R.G.S.C.M.D.J. Rule 2A is titled "Impropriety and the Appearance of Impropriety to be Avoided" and provides in part:

Magisterial district judges shall . . . conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

R.G.S.C.M.D.J. No. 2A.

On May 27, 2015, and at other times during his tenure on the bench, former Judge Tidd rolled up his judicial robes to use as a pillow while he slept on the floor of his chambers, and thereby violated Rule 1.2 of the New Rules Governing Standards of Conduct of Magisterial District Judges. Rule 1.2 provides:

A magisterial district judge shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

R.G.S.C.M.D.J. Canon 1, Rule No. 1.2.

Rule 101 of the Rules and Standards with Respect to Offices of Magisterial District Judges is entitled "Establishment of Offices. Minimum Office Standards" and provides, in pertinent part:

To maintain the dignity of the office, he or she [magisterial district judge] shall be provided with judicial robes.

Rule 101A(3) of Rules & Standards with Respect to Offices of MDJs.

Furthermore, the R.G.S.C.M.D.J. No. 4B and Canon 2, Rule 2.8(A) require that a magisterial district judge to wear his judicial robes when conducting hearings or trials. The judicial robes, provided to Judge Tidd by Northampton County serve as a symbol of the judiciary and commands the respect of all those who appear before him at district court. Judge Tidd's conduct of using the judicial robes as a sleeping garment and as a pillow flies in the face of Rule 101A(3) and undermines the dignity of the judicial office itself.

Court Clerk Lisa LeVan testified that she was present on January 12, 2012 and January 23, 2012. She knocked on Judge Tidd's chambers door on both days and observed him sleeping on the floor of his chambers while wearing his judicial robes. Court Clerk Diane Kale testified that on January 12, 2012, she observed Judge Tidd lying on his side on the floor of his chambers, using his coat as a pillow and wearing his judicial robe. Court Clerk Brenda Anthony testified that she personally observed Judge Tidd sleeping in his chambers while wearing his robe and while using the robe as a pillow. The court clerks contemporaneously documented these incidents. (Board Exhibits 7 at 16; 126 & 128)

The Board proved by clear and convincing evidence that Judge Tidd slept on the floor of his chambers while using his judicial robes as a pillow on at least one occasion. Court Clerk Cassandra Bettler testified that on May 27, 2015, she knocked on the door of Judge Tidd's office and went in to tell him "that his next hearing was ready." She observed Judge Tidd asleep on the floor of his chambers. When Judge Tidd emerged from his office, Ms. Bettler stood at the doorway of his office. She observed his judicial robes "crumpled up into a ball on the floor" and took a photograph. Court Clerk Brenda Anthony also testified that she observed Judge Tidd

sleeping on the floor while using his robes as a pillow. (Board Exhibits 7 at 16; 126; 128 & 154)

In this case, Judge Tidd not only failed to wear his robe with any consistency as required by the rules, but also instead, on occasion, slept on the floor of his chambers while wearing his robes. The sight of Judge Tidd sleeping in his robe startled Ms. LeVan. All three clerks deemed such conduct improper. They contemporaneously documented the conduct and complained about it to Deputy Court Administrator French and to the Judicial Conduct Board.

At trial, Judge Tidd admitted sleeping on his robe on more than one occasion, using it to prop his head. He testified that on May 27, 2015, he experienced cramping from Crohn's disease, took medication that made him sleepy, laid down on the floor to relieve his symptoms. He purposefully used his robes as a pillow, claiming he had no other option.

Judge Tidd's explanation that his illness caused him to use his government issued judicial robes as bedding to make him comfortable on the floor of his office is without merit. Judge Tidd's Crohn's disease began in 2011 and was a chronic condition. He could have made appropriate accommodations for those times when he needed to lie down. He had plenty of time and opportunity to equip his chambers with a pillow, floor mat, cot, blanket or other comfort measures for emergency purposes. Instead, he intentionally and repeatedly used his robes in an inappropriate manner.

Although Judge Tidd asserted that his office is private, he knew that his court clerks routinely knocked on his door to notify him about phone calls or hearings. Judge Tidd should have known that his court clerks would be likely to observe him

on these occasions when he slept on the floor in, or on top of his robes. Instead, he repeatedly used his robes for his personal comfort, rather than utilizing them in the manner for which they are intended: "to maintain the dignity of the [judicial] office." Rules & Standards with Respect to Offices of MDJs No. 101A(3).

Judge Tidd's conduct of sleeping on the floor with his judicial robes balled up as a pillow was improper, gave the appearance of impropriety and undermined public confidence in the integrity of the judicial office in violation of Rule 1.2. By sleeping in the government issued judicial robes that he was required to wear in upcoming hearings, Judge Tidd failed to maintain the dignity of his office, gave the appearance of impropriety and undermined public confidence in the integrity of the judiciary. As a result, his conduct violated rule 2A of the Old and Canon 1., Rule 1.2 of the New R.G.S.C.M.D.J.

The Board proved by clear and convincing evidence that on at least two occasions between January 2012 and November 30, 2014, Judge Tidd slept on the floor of his office while wearing, or upon his judicial robes and that on at least one occasion between December 1, 2014 and 2016, Judge Tidd slept on the floor of his office using his judicial robe balled up as a pillow. Such conduct demonstrated disrespect for the judicial robes, a symbol of the dignity of the office of magisterial district judge, was improper and gave the appearance of impropriety, and undermined public confidence in the integrity of the judiciary in violation of Rule 2A of the Old R.G.S.C.M.D.J. and Canon 1, Rule 1.2 of the New R.G.S.C.M.D.J.

Count 11

The Board proved by clear and convincing evidence that Judge Tidd violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania. Article V, § 17(b) provides in part:

Justices of the peace shall be governed by rules or canons which shall be prescribed by the Supreme Court.

PA. CONST. art. V, §17(b). A violation of the Rules Governing Standards of Conduct of Magisterial District Judges is an automatic derivative violation of Article V, § 17(b). As a direct result of his violation of Rules 2A, 3A, 4B, 4C, 4D, 8A(1) & 14A of the Old Rules Governing Standards of Conduct of Magisterial District Judges, Judge Tidd violated Article V, § 17(b). Furthermore, as a direct result of his violation of Rules 1.2, 2.4(B), 2.4(C), 2.6(A), 2.8(A), 2.8(B), 2.9(A), 2.11(A)(1), 2.16(B) & 3.10(A) of the New Rules Governing Standards of Conduct of Magisterial District Judges, Judge Tidd violated Article V, § 17(b).

Count 12

The Board proved by clear and convincing evidence that Judge Tidd violated the Administration of Justice Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania. Article V, § 18(d)(1) provides in pertinent part:

A justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for . . . conduct which prejudices the proper administration of justice

PA. CONST. art. V, § 18(d)(1). By his conduct of engaging in *ex parte* communications, providing special consideration to an attorney, failing to recuse from cases in which he had a conflict of interest, failing to afford full opportunity to be heard, acting as a lawyer in proceedings related to matters in which he had previously served as judge,

and failing to prioritize the business of his court, Judge Tidd did prejudice the proper administration of justice.

Count 13

Judge Tidd violated the Disrepute Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania. Article V, § 18(d)(1) provides in pertinent part:

A justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for . . . conduct which . . . brings the judicial office into disrepute, whether or not the conduct occurred while acting in a judicial capacity.

PA. CONST. art. V, § 18(d)(1).

The proof for violation of the Disrepute Clause requires a showing of conduct “so extreme” that it brings disrepute upon the entire judiciary. *In re Cicchetti*, 743 A.2d 431, 443-44 (Pa. 2000) (citing *In re Smith*, 687 A.2d 1229, 1238 (Pa.Ct.Jud.Disc. 1996)) The Board must prove by clear and convincing evidence that the judicial officer engaged in improper conduct, on or off the bench, and the conduct was so extreme that it adversely affected not only the reputation of the particular judge, but also the reputation of the judicial office itself. *In re Berkhimer*, 930 A.2d 1255, 1258 (Pa. 2007).

The standard by which disrepute is measured is “. . . the reasonable expectations of the public of a judicial officer’s conduct.” *In re Carney*, 79 A.3d 490, 494 (Pa. 2013) (citing *In re Merlo*, 58 A.3d 1, 10 (Pa. 2012) and *Berkhimer*, 930 A.2d at 1258). The challenge in deciding a disrepute case is to distinguish whether the underlying conduct reflects poorly on the individual judge or “makes *everybody* ‘look bad,’ whether it makes judges *collectively* look bad, whether the conduct gives

all judges a 'bad name' – whether it is such that brings the office itself into disrepute." *Merlo*, 58 A.3d at 10 (citing *Berry*, 979 A.2d 991, 998 (Pa.Ct.Jud.Disc. 2009)(emphasis in the original)).

This Court determines the reasonable expectations of the public by recognizing that a respondent judge represents the judicial office to members of the public and therefore his or her misconduct reflects back on the entire judiciary. *Berkhimer*, 930 A.2d at 1258-59. Therefore, the Court views the alleged misconduct "as if the public knows about it." *Berry*, 979 A.2d at 999-1000.

In this case, the Board proved by clear and convincing evidence that Judge Tidd's conduct was "so extreme" that it brought disrepute upon the entire judiciary. All of the clerks who were employed at Judge Tidd's court, as well as members of the public, had a right to expect that Judge Tidd would exhibit appropriate and respectful conduct toward them. See *In re Berkhimer*, 930 A.2d 1255, 1259 (Pa. 2007). Judge Tidd knew that his conduct was unacceptable, yet he retaliated against the clerks on multiple occasions and frequently exhibited an unacceptable, offensive demeanor. He persistently engaged in *ex parte* communications, failed to afford the full opportunity to be heard, provided special consideration to a friend, failed to recuse in the face of a conflict, ignored obvious conflicts between his judicial office and law practice, failed to wear, and disregarded, the dignity of his judicial robes. The sum of all of Judge Tidd's conduct, and his failure to demonstrate appropriate demeanor, his retaliatory actions, his *ex parte* communications, his failures to afford the opportunity to be heard, his unremedied conflicts of interest and his provision of special consideration individually, was so extreme that it brought disrepute upon the judicial office itself.

J.C.B.R.P. No. 15 and Course of Conduct Testimony

Judge Tidd objects that some of the charged conduct occurred several years ago and that some of the testimony lacked a specific date or case name. Rule 15 of Judicial Conduct Board Rules of Procedure, entitled "Time Limitations," provides:

Except where the Board determines otherwise for good cause, the Board shall not consider complaints arising from acts or omissions occurring more than four years prior to the date of the complaint, provided, however, that when the last episode of an alleged pattern of recurring judicial misconduct arises within the four-year period, the Board may consider all prior acts or omissions related to such an alleged pattern of conduct.

Pa.J.C.B.R.P. No. 15. The word "complaints" as used in this Board rule, refers to the Confidential Requests for Investigation (CRI) received by the Board. *In re Zupsic*, 893 A.2d 875, 885 (Pa.Ct.Jud.Disc. 2005). The Board received the CRI from the court clerks, filed anonymously, on August 18, 2014, just three years after the earliest 2011 conduct that is averred in the Board Complaint. (Bd. Exhibit 1) Even if the conduct alleged in the CRI exceeded the four-year limitations period, the alleged acts are part of a pattern of recurring judicial misconduct and therefore fit the exception to the rule.

The CRIs pertaining to conflict of interest in bankruptcy matters were received by the Board on April 9, 2015, April 14, 2015, April 27, 2015 and June 11, 2015 (Bd. Exhibits 2,3,4,5 & 6). The earliest act complained of in those five CRIs occurred in December 2011 and therefore fell within the four-year limitations period described in Rule 15. Again, the conduct alleged pertaining to conflicts between Judge Tidd's ruling on credit and debt matters in his court and acting as a lawyer for the defendants in bankruptcy matters is part of an alleged pattern of misconduct and therefore meets the exception to the Rule.

This Court's precedent in *In re Lokuta*, 964 A.2d 988 (Pa.Ct.Jud.Disc. 2008), *aff'd* 968 A.2d 227 (Pa. 2009), and *In re Berkhimer*, 877 A.2d 579, 587-589 (Pa.Ct.Jud.Disc. 2007), *aff'd* 930 A.2d 1255 (Pa. 2007), demonstrate that course of conduct testimony and evidence is proper. In *Lokuta*, after reviewing general testimony regarding the errant judge's work habits over a period of years, this court said it was sufficient for the court to find violations of the applicable canon and Constitution. *Id.*, 964 A.2d at 1001-1006. Similarly in *Berkhimer*, the court, after recounting testimony supporting the Board's "general allegation that it was [the magisterial district judge]'s routine practice to use crude, vulgar language in speaking with his staff and others in the course of an ordinary workday" the court concluded:

We have no hesitancy in finding that the Board has established by clear and convincing evidence that [the magisterial district judge] routinely, regularly, frequently, often, used crude, coarse, vulgar, offensive and improper language, including frequent use of the F-word, in conversing with his female staff and others in the course of an ordinary day at the office.

Id., 877 A.2d at 585, 587-589.

Further support for the proposition that general testimony is sufficient to support judicial misconduct charges is found in the criminal law. Judicial misconduct proceedings are quasi-criminal in nature. *In re Berkhimer*, 930 A.2d 1255, 1258 (Pa. 2007). Criminal courts allow for course of conduct testimony and evidence. "The Commonwealth must be afforded broad latitude when attempting to fix the date of offenses which involve a continuous course of criminal conduct." *Commonwealth v. Benner*, 147 A.2d 915, 921 (Pa. Super. 2016). Due process is satisfied "where the victim ... can at least fix the times when the ongoing course of [conduct] commenced and when it ceased." *Commonwealth v. G.D.M., Sr.*, 926 A.2d 984, 990 (Pa. Super, 2007).

Here, the clerks at Judge Tidd's court, the "victims" of his inappropriate behavior and language, were eyewitnesses to Judge Tidd's repetitive misconduct. They observed his daily behavior, saw and heard exactly what went on day after day, and carefully documented significant events. Contrary to Judge Tidd's assertions that they were working against him, the court clerks were doing their best to cope with adverse circumstances. They recognized Judge Tidd's conduct, reported it to Northampton County Court Administration and kept careful records to substantiate their complaints. Once Court Clerks Kale, Anthony and Bettler filed the anonymous CRI with the Board, they continued to communicate their concerns during the course of the investigation. They should be respected and lauded for their commendable conduct and efforts to protect the procedures and dignity of the court system. Their testimony was clear and convincing in every regard and is properly considered by this Court.

At trial, Judge Tidd's counsel repeatedly argued that if Judge Tidd had been made aware of the complaints against him he would have corrected his conduct. Judge Tidd was familiar with the R.G.S.C.M.D.J. and constitutional provisions governing his conduct. He attended the annual MDJ continuing education classes in Harrisburg and educational opportunities in Northampton County pertaining to procedures of court. Between August 11, 2011 and February 13, 2012, President Judge McFadden and court administrators met with him on three occasions and directed him to stop cursing and behave. Court Administrators French and Onembo spoke with Judge Tidd by phone and enumerated the types of conduct that were of concern. Even after Judge McFadden warned him that she would report him to the Board if he did not change his unacceptable conduct, he frequently demonstrated an

improper demeanor, routinely engaged in ex parte communications and habitually failed to accord the full right to be heard to individuals appearing before him. Course of conduct evidence is permissible to prove that Judge Tidd's repetitive misconduct violated the Rules and Constitution as charged. Therefore, this argument must fail.

III. PROPOSED CONCLUSIONS OF LAW

Judge Tidd's conduct, as set forth in the Proposed Findings of Fact, establishes the following violations:

1. At Count 1, the Board has proved by clear and convincing evidence that Judge Tidd violated Canon 2, Rule 2.16 of the New Rules Governing Standards of Conduct of Magisterial District Judges.

2. At Count 2, the Board has proved by clear and convincing evidence that Judge Tidd violated Rule 4C of the Old Rules Governing Standards of Conduct of Magisterial District Judges and Canon 2, Rule 2.8(B) of the New Rules Governing Standards of Conduct of Magisterial District Judges.

3. At Count 3, the Board has proved by clear and convincing evidence that Judge Tidd violated *Ex Parte* Clause of Rule 4D of the Old Rules Governing Standards of Conduct of Magisterial District Judges and Canon 2, Rule 2.9(A) of the New Rules Governing Standards of Conduct of Magisterial District Judges.

4. At Count 4, the Board has proved by clear and convincing evidence that Judge Tidd violated Rule 2A of the Old Rules Governing Standards of Conduct of Magisterial District Judges and Canon 1, Rules 1.2 and Canon 2, Rule 2.4(B) & (C) of the New Rules Governing Standards of Conduct of Magisterial District Judges.

5. At Count 5, the Board has proved by clear and convincing evidence that Judge Tidd violated Rule 8(A)(1) of the Old Rules Governing Standards of Conduct of

Magisterial District Judges and Canon 2, Rule 2.11(A)(1) of the New Rules Governing Standards of Conduct of Magisterial District Judges.

6. At Count 6, the Board has proved by clear and convincing evidence that Judge Tidd violated the Failure to Accord Full Right to Be Heard Clause of Rule 4D of the Old Rules Governing Standards of Conduct of Magisterial District Judges and Canon 2, Rule 2.6(A) of the New Rules Governing Standards of Conduct of Magisterial District Judges.

7. At Count 7, the Board has proved by clear and convincing evidence that Judge Tidd violated Rule 14A of the Old Rules Governing Standards of Conduct of Magisterial District Judges and Canon 3, Rule 3.10(A) of the New Rules Governing Standards of Conduct of Magisterial District Judges.

8. At Count 8, the Board has proved by clear and convincing evidence that Judge Tidd violated Rule 3A of the Old Rules Governing Standards of Conduct of Magisterial District Judges.

9. At Count 9, the Board has proved by clear and convincing evidence that Judge Tidd violated Rule 4B of the Old Rules Governing Standards of Conduct of Magisterial District Judges and Canon 2.8(A) of the New Rules Governing Standards of Conduct of Magisterial District Judges.

10. At Count 10, the Board has proved by clear and convincing evidence that Judge Tidd violated Rule 2A of the Old Rules Governing Standards of Conduct of Magisterial District Judges and Canon 1, Rule 1.2 of the New Rules Governing Standards of Conduct of Magisterial District Judges.

11. At Count 11, the Board has proved by clear and convincing evidence that Judge Tidd violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.

12. At Count 12, the Board has proved by clear and convincing evidence that Judge Tidd violated the Administration of Justice Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.

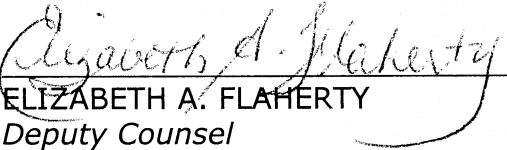
13. At Count 13, the Board has proved by clear and convincing evidence that Judge Tidd violated the Disrepute Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.


Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

August 11, 2017

By:


ELIZABETH A. FLAHERTY
Deputy Counsel
Pa. Supreme Court ID No. 205575


MELISSA L. NORTON
Assistant Counsel
Pa. Supreme Court ID No. 46684

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

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

David W. Tidd	:	
Former Magisterial District Judge	:	
Magisterial District 03-2-04	:	3 JD 2016
Third Judicial District	:	
Northampton County	:	

PROOF OF SERVICE

In compliance with Rule 122(F) of the Court of Judicial Discipline Rules of Procedure, on or about August 11, 2017, a copy of the *Judicial Conduct Board's Brief in Support of Proposed Findings of Fact and Conclusions of Law* was sent by first-class mail and by email to former Magisterial District Judge Tidd's counsel, Samuel C. Stretton, Esquire, at the following address:

Samuel C. Stretton, Esquire
103 South High Street
P.O. Box 3231
West Chester, PA 19381-3231

Respectfully submitted,
ROBERT A. GRACI
Chief Counsel

August 11, 2017

BY:


Elizabeth A. Flaherty
Deputy Counsel

Pa. Supreme Court ID No. 205575
Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911