

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Michael G. Shaw :
Magisterial District Judge :
Magisterial District 42-3-02 : 5 JD 2016
42nd Judicial District :
Bradford County :

TO: MICHAEL G. SHAW

You are hereby notified that the Pennsylvania Judicial Conduct Board has determined that there is probable cause to file formal charges against you for conduct proscribed by Article V, § 17(b) and the Administration of Justice and Disrepute Clauses of § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, Rules 2A, 4D, and 8A of the Old Rules Governing Standards of Conduct of Magisterial District Judges and Rules 1.2, 2.4(B), 2.4(C), 2.9(A), 2.11(A) of the New Rules Governing Standards of Conduct of Magisterial District Judges. The Board's counsel will present the case in support of the charges before the Pennsylvania Court of Judicial Discipline.

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

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

You are further hereby notified that within thirty (30) days after the service of this Complaint, if no omnibus motion is filed, or within twenty (20) days after the dismissal of all or part of the omnibus motion, you may file an Answer admitting or denying the allegations contained in this Complaint in accordance with C.J.D.R.P. No. 413. Failure to file an Answer shall be deemed a denial of all factual allegations in the Complaint.

AMENDED COMPLAINT

AND NOW, this 14th day of July, 2017, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania and files this Board Complaint against the Honorable Michael G. Shaw, Magisterial District Judge for Magisterial District 43-3-02 of Bradford County Pennsylvania, alleging that Judge Shaw has violated the Rules Governing Standards of Conduct of Magisterial District Judges and Article V, § § 17(b) and 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, as more specifically delineated herein.

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the 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.

2. From 1994 until the present time, Judge Shaw has served as judge of Magisterial District Court 42-3-02.

3. Beginning in or about January or February 2006 until March 2011, and from June 2012 through June or July 2014, Judge Shaw served as the Presiding Judge of Treatment Court at the Court of Common Pleas of Bradford County.

4. In or about June or July 2014, President Judge Maureen T. Beirne removed Judge Shaw from his position as Presiding Judge of Treatment Court

5. Based on Confidential Requests for Investigation at JCB File No. 2014-621 and 2016-643, the Board investigated the instant matters.

6. 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 is probable cause to file formal charges against Judge Shaw in this Court.

7. 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.

8. 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.

A. Impropriety: Sexting Conduct

9. For a total of approximately seven years, Judge Shaw served as the Presiding Judge of Treatment Court for the Court of Common Pleas of Bradford County, Pennsylvania.

10. As the Presiding Judge of Treatment Court, Judge Shaw was a member of the Treatment Court Committee, which was comprised of five or six other members.

11. During Judge Shaw's service as Presiding Judge of Treatment Court, the other members of the Treatment Court Committee included an attorney representative from the Bradford County Office of the District Attorney, an attorney representative from the Bradford County Office of the Public Defender, the Assistant Chief Probation Officer and one or more Probation Officers from the Bradford County Probation Department, and a drug and alcohol counselor from Mental Health Associates of Towanda.

12. Each of the participants in Treatment Court had been convicted of a DUI or drug related offense in the Court of Common Pleas of Bradford County.

13. Following conviction of a DUI or drug-related offense, a defendant may submit an application to participate in Treatment Court to the Bradford/Sullivan Drug and Alcohol Single County Authority.

14. The Bradford/Sullivan Drug and Alcohol Single County Authority performs an assessment and submits the results to the Treatment Court Committee for tentative approval.

15. If the Treatment Court Committee approves the application and the defendant agrees to the conditions, then the defendant appears in Criminal Court at the Court of Common Pleas for purposes of entering a guilty plea and sentencing on the underlying charges and to request placement in the Treatment Court Program.

16. The Sentencing Order for each of the defendants admitted to Treatment Court includes a directive that the defendant must participate in Treatment Court in lieu of or in addition to a term of incarceration or other sentence and comply with all the agreed upon conditions.

17. The Treatment Court Committee reviews the participants' compliance with the rules and conditions of Treatment Court.

18. If a Treatment Court participant fails to abide by the rules and conditions of Treatment Court, then the participant is subject to sanctions.

19. If the appropriate sanction for a Treatment Court participant is a prison term, then the case must be transferred to the Court of Common Pleas.

20. If the appropriate sanction for a Treatment Court participant is a lesser sanction, then the Presiding Judge of Treatment Court is responsible for imposing the sanction.

21. While serving as the Presiding Judge of Treatment Court, Judge Shaw was the authority figure at Treatment Court for the imposition of all sanctions less than imprisonment.

22. As the Presiding Judge of Treatment Court, Judge Shaw often told the participants that "honesty is part of the basis for treatment court."

23. On May 30, 2013, J.L. was convicted of a repeat DUI offense in Bradford County.

24. Senior Judge John Leete of Potter County sentenced J.L. to 24 months of intermediate punishment which consisted of 84 days of incarceration in Bradford County Prison, followed by the remainder of his sentence to be served in Treatment Court.

25. Following completion of his prison term, J.L. became a participant in the Bradford County Treatment Court.

26. As Presiding Judge of Treatment Court, Judge Shaw and the other members of the Bradford County Treatment Court Committee supervised J.L.'s conduct during the remainder of his sentence.

27. Judge Shaw and J.L. have known one another since they were teenagers.

Sexting Conduct: Girlfriend of Treatment Court Participant

28. D.A. is the girlfriend of J.L., a Treatment Court participant.

29. In February 2014, D.A. contacted Judge Shaw through his Facebook page and informed him that she planned to break up with J.L.

30. D.A. believed that J.L. would be upset when she ended their relationship.

31. D.A. expressed concern about J.L.'s potential reaction to her ending their relationship.

32. In response to her Facebook message, Judge Shaw placed a telephone call to D.A.

33. During their telephone conversation, D.A. voiced her concerns about J.L.'s counseling, court supervision and the possibility that he would relapse because of his history of alcohol dependency.

34. Subsequently, Judge Shaw sent a text message to D.A. and asked for an update about her plans to end her relationship with J.L.

35. Judge Shaw continued to send frequent text messages to D.A. from February 2014 through April 2014.

36. Judge Shaw admits that some of the text messages were very flirtatious.

37. Some of the text messages that Judge Shaw sent to D.A. were sexual in nature (sexting).

38. "Sexting" is defined as "the sending of sexually explicit messages or images by cell phone." www.merriam-webster.com/dictionary.

39. "Sexting" is also defined as "the act of text messaging someone in the hopes of having a sexual encounter with them later; initially casual, transitioning into highly suggestive and even sexually explicit." www.urbandictionary.com.

40. In some of the sext messages sent by Judge Shaw to D.A., he described the sex acts that he wanted to perform with D.A.

41. In some of the sext messages sent by Judge Shaw to D.A., he told her that he was fondling himself.

42. In some of the sext messages sent by Judge Shaw to D.A., he described masturbating alone, masturbating together and his "big cock."

43. Over the course of approximately one month, Judge Shaw exchanged text and sext messages with D.A. on a frequent basis, at least once a day, sent and received day and night.

44. In the course of the exchange of sext messages, D.A. sent a sexually suggestive photograph of her buttocks.

45. After approximately one month of texting and sexting communications, Judge Shaw and D.A. agreed to meet in person.

46. In March 2014, on a weekday and during the day, Judge Shaw and D.A. met at a hotel in Binghamton, NY.

47. Judge Shaw paid for the hotel room that he shared with D.A.

48. While at the hotel, Judge Shaw and D.A. engaged in sexual relations and stayed at the hotel for approximately two hours.

49. Following his tryst with D.A., Judge Shaw's relationship with her gradually faded.

50. By April 2014, Judge Shaw stopped sending text messages to D.A.

51. In May 2014, D.A. and J.L. resumed their romantic relationship.

52. In 2014, J.L. and D.A. shared a cell phone account.

53. In February 2014, J.L. reviewed his cell phone bill and noticed text messages and phone calls between D.A. and a phone number with a 607 area code.

54. The calls and texts that J.L. observed on the cell phone bill took place after 10:00 - 11:00 p.m.

55. J.L. called the 607 number and Judge Shaw's name and phone number appeared in his cell phone directory.

56. J.L. questioned D.A. about why she was calling and texting Judge Shaw after business hours.

57. D.A. told J.L. that she had contacted Judge Shaw by cell phone calls and text messages out of concern for J.L.

58. Judge Shaw drove Treatment Court participants home from Treatment Court on a regular basis, including J.L.

59. In February 2014, J.L. confronted Judge Shaw about the phone calls and texts messages between D.A. and Judge Shaw while Judge Shaw drove him home following Treatment Court.

60. Judge Shaw told J.L. his conversations with D.A., via cell phone calls and text messages, were about J.L.

61. Based on Judge Shaw's responses and those of D.A., J.L. did not pursue the matter any further at that time.

62. In May 2014, J.L. was holding D.A.'s cell phone while they were shopping together.

63. Judge Shaw sent a text message to D.A. while J.L. was holding D.A.'s cell phone.

64. Upon seeing the text message from Judge Shaw to D.A., J.L. became upset.

65. Based on the new text message from Judge Shaw, J.L. began scrolling through D.A.'s text messages and discovered the prior text messages between Judge Shaw and D.A., including the sext messages.

66. Upon viewing the sexting history between Judge Shaw and D.A., J.L. became very upset.

67. J.L. demanded that D.A. delete Judge Shaw's contact information from her cell phone and notify him to end the relationship.

68. On May 27, 2014, D.A. contacted Judge Shaw through Facebook and informed him that J.L. discovered the text messages that Judge Shaw sent to her and was "very upset."

69. In her May 27, 2014 Facebook message, D.A. asked Judge Shaw, "Please don't text or call me anymore"

70. On May 27, 2014, Judge Shaw responded to D.A. via his Facebook page which displays a photo of him standing in front of a flag.

71. Judge Shaw agreed not to contact D.A. and apologized to her for his "inappropriate" and "disrespectful" conduct.

72. Judge Shaw informed D.A. that he would "defriend" her from his Facebook page "so there is no communication possibility."

73. The following week during Treatment Court, Judge Shaw entered the courtroom wearing his judicial robes and motioned for J.L. and D.A. to come into the jury room with him.

74. While in the jury room, Judge Shaw apologized to J.L. for his improper conduct toward his girlfriend, D.A.

75. During the meeting in the jury room, J.L. told Judge Shaw that he was very upset and concerned about Judge Shaw's relationship with D.A.

76. During the meeting in the jury room, Judge Shaw said to J.L., "I disrespected you."

77. During the meeting in the jury room, Shaw asked D.A. if she wanted to say anything, but J.L. asked Judge Shaw not to address D.A.

78. J.L. and D.A. returned to the courtroom following their discussion with Judge Shaw.

79. Back in the courtroom, Judge Shaw said, "Today I have to eat humble pie."

80. Assistant Chief Probation Officer Susan Ide was present in the courtroom and believed that Judge Shaw's statement about humble pie was somehow related to J.L. and D.A.

81. J.L. did not request that Judge Shaw recuse from his role as Presiding Judge of Treatment Court.

82. Judge Shaw did not offer to recuse from his role as Presiding Judge of Treatment Court.

83. Judge Shaw then proceeded with his duties as Presiding Judge of Treatment Court with J.L. and D.A. remaining in the courtroom with the other participants and the Treatment Court Committee.

84. The following Sunday, Judge Shaw either texted or called J.L. to ask if they could meet.

85. Judge Shaw drove his vehicle to J.L.'s home and asked him to go for a ride.

86. J.L. complied and rode with Judge Shaw in his vehicle for about 10 minutes while they talked about Judge Shaw's relationship with D.A.

87. During their conversation in the vehicle, Judge Shaw spoke about resigning from his position as Presiding Judge of Treatment Court.

88. J.L. recalled that during their conversation, Judge Shaw advised J.L. that if he resigned, then Treatment Court would likely cease to exist.

89. J.L. did not want to see Treatment Court fail because of his personal issues with Judge Shaw.

90. As a Level II Treatment Court participant, J.L. was required to attend Treatment Court every two weeks so he did not attend Treatment Court the following week.

91. Judge Shaw chose to continue as Presiding Judge of Treatment Court, even after the Treatment Court session when he made the statement about eating humble pie.

92. Judge Shaw wanted to preside over a graduation ceremony for some of the Treatment Court participants which was scheduled two weeks after the Treatment Court session when he made the statement about eating humble pie.

93. J.L. was concerned about how Judge Shaw's relationship with D.A. might impact his standing in Treatment Court and his supervision by the Treatment Court Committee.

94. After J.L. discovered the text and sext messages on D.A.'s cell phone, he discussed the situation with his drug and alcohol counselor.

95. Another Treatment Court participant, T.J., knew of Judge Shaw's text and sext messages to D.A. and reported the information to Probation Officer Craig Duddy.

96. Probation Officer Duddy reported what he had learned from T.J. to Assistant Chief Probation Officer Ide.

97. In or about June or July 2014, Assistant Chief Probation Officer Ide reported the information about Judge Shaw's alleged conduct to President Judge Maureen T. Beirne.

98. President Judge Beirne, Probation Officer Duddy, and Assistant Chief Probation Officer Ide met with Judge Shaw for approximately 20 minutes and confronted him about the "inappropriate texting" with D.A.

99. During the meeting in President Judge Beirne's chambers, Judge Shaw admitted that he sent and received sexually explicit texts to and from D.A.

100. During the meeting in President Judge Beirne's chambers, Judge Shaw denied that he was having an affair with D.A.

101. As a result of Judge Shaw's improper conduct toward D.A., President Judge Beirne informed Judge Shaw she was removing him immediately from his position as Presiding Judge of Treatment Court.

102. The timing of his removal as Presiding Judge of Treatment Court preceded the graduation ceremony that Judge Shaw had hoped to attend.

103. Treatment Court participants learned of the sexting conduct and were upset that Judge Shaw, who had repeatedly preached to them about honesty, had "hurt one of their own behind their backs."

104. Treatment Court participants regarded Judge Shaw as "their judge. He motivated them, acted like he cared and when this matter occurred they thought it was disturbing. Some lost their enthusiasm."

105. J.L. was not aware that Judge Shaw engaged in sexual relations with D.A.

106. Prior to the Board's investigation of the instant matter, President Judge Beirne was not aware that Judge Shaw engaged in sexual relations with D.A.

Sexting Conduct: Probation Officer

107. At his July 30, 2015 deposition, Judge Shaw admitted that he engaged in sexting conduct with other women.

108. In response to the First Supplemental Notice of Full Investigation, Judge Shaw identified R.K as one of the women to whom he sent sext messages.

109. R.K. is a 35-year-old adult probation officer who was employed by Bradford County Probation Department during Judge Shaw's term of service as a magisterial district judge in Bradford County.

110. In her role as an adult Probation Officer, R.K. interacted with Judge Shaw on an almost daily basis.

111. Judge Shaw and R.K. have known each other for approximately 13 years and are personal friends.

112. R.K. visited Judge Shaw at his home on several occasions while other people were present.

113. In or about 2012-2013, R.K. served on the Treatment Court Committee for the Court of Common Pleas of Bradford County while Judge Shaw was the Presiding Judge of Treatment Court.

114. In or about 2012, while Judge Shaw and R.K. served as members of the Treatment Court Committee, Judge Shaw began to use his personal cell phone to send text and sext messages to R.K.

115. R.K. described the text and sext messages that she received from Judge Shaw as flirtatious.

116. R.K. was "shocked by the text messages from Judge Shaw but went along with them."

117. R.K. did not tell Judge Shaw to stop sending the text and sext messages to her.

118. Judge Shaw and R.K. exchanged sext messages from 2012 through 2013.

119. In 2013, R.K. changed jobs and is now employed outside of Bradford County.

120. As a result of R.K.'s change in employment, Judge Shaw no longer communicated with her on a frequent basis.

121. In or about 2013, Judge Shaw gradually stopped exchanging text and sext messages with R.K.

122. At his May 19, 2016 deposition, Judge Shaw admitted that in the course of sending sext messages to R.K., he may have suggested that they engage in a sexual encounter.

123. R.K. described the text message exchanges with Judge Shaw as "so stupid and wrong."

B. Ex Parte Communications

Treatment Court Participants

124. The Treatment Court policy in effect when Judge Shaw served as Presiding Judge provided that if a Treatment Court participant had an urgent matter arise between Treatment Court sessions, such as a missed appointment or missed urine test, then the participant was directed to call the Probation Department and speak with the on-call Probation Officer.

125. Judge Shaw was not included as a contact person for participants who had urgent matters arise between Treatment Court sessions.

126. Judge Shaw circumvented the policy and allowed Treatment Court participants to contact him by telephone and text messages.

127. Based on his willingness to make himself accessible, some participants disregarded the reporting policy pertaining to urgent matters and contacted Judge Shaw directly.

128. Judge Shaw admitted he offered advice and encouragement to the Treatment Court participants who called or texted him and those who approached him in public places.

129. Other members of the Treatment Court were dissatisfied that Judge Shaw, despite any good intentions on his part, circumvented the Treatment Court policy by which participants were required to report urgent matters directly to the Probation Department when Treatment Court was not in session.

Litigants and Relatives of Litigants

130. Judge Shaw sent text messages to and received text messages from litigants and relatives of litigants who were scheduled to appear before him in his magisterial district court.

Ex Parte Communications from and Response to Employer of Litigant

131. On December 31, 2014, Pennsylvania State Police-Towanda issued a Summary Traffic Citation to A.F. for Failure to Obey the Instructions of an Applicable Official Traffic-Control Device (exceeding the speed limit). The Traffic Citation was e-filed in Judge Shaw's district court that same day. *Commonwealth v. Field*, Docket No. MJ-42302-TR-0001645-2014.

132. On January 6, 2015, A.F. entered a Not Guilty Plea to the summary traffic charge.

133. A.F.'s Summary Traffic Trial was scheduled for February 2, 2015.

134. L.H. is the wife of a police officer who is employed by the Sayre Borough, PA Police Department.

135. On February 2, 2015, L.H. sent a text message to Judge Shaw's personal cell phone in which she stated that she had mistakenly advised her employee, A.F., that her hearing scheduled before Judge Shaw was cancelled.

136. Judge Shaw responded by text message to L.H. and said, "K have her call tomm."

137. L.H. further explained in her February 2, 2015 text message: "The ticket is a financial hardship for her [employee], so Jerry told her to take the hearing and ask for a lesser fine. Thanks judge."

138. On February 2, 2015, Judge Shaw presided over the summary traffic trial in *Commonwealth v. Field*, the case referenced by L.H. in her text message to Judge Shaw.

139. On February 2, 2015, the charge against A.F. was changed from Obedience to Traffic-Control Device to a new charge of Exceed 55 mph by 5 mph.

140. On February 2, 2015, Judge Shaw adjudicated A. F. "Guilty in absentia" and sentenced her to fines and costs.

Ex Parte Communications to and from Relative of Litigant

141. In his roles as magisterial district judge, Judge Shaw went to local schools and presided over school truancy cases.

142. Judge Shaw does not have a written policy concerning management of truancy cases that are filed in his district court.

143. Judge Shaw worked with A.W. to try to keep her on track with attendance and her behavior at school.

144. A.W., a student at a local high school, had a record of multiple unlawful absences from school.

145. On January 23, 2015, a Truancy Elimination Plan was implemented which provided that if A.W. missed one more day of school without a doctor's note, then a citation would be filed in Judge Shaw's district court.

146. On March 26, 2015, Sayre Borough filed a Private Criminal Complaint against A.W.'s mother in Judge Shaw's district court and alleged that A.W. was illegally absent from school on 11 days following the implementation of the January 23, 2015 Truancy Elimination Plan. Docket No. MJ-42302-NT-0000095-2015.

147. On March 26, 2015, Judge Shaw's district court issued a summons to A.W.'s mother.

148. On March 27, 2015, Judge Shaw sent a text message from his personal cell phone to A.W. and made the following request:

[A.W.] It's Judge Shaw could you please call me. It's very important about your future.

149. On April 8, 2015, A.W. and Judge Shaw exchanged text messages via Judge Shaw's personal cell phone as follows:

A.W.: Is there any way I could make an appointment to talk to you sometime this week?

Judge Shaw: Yes, when would you like to do it you let me know

A.W.: Is tomorrow okay?

Judge Shaw: Yes, what time?

A.W.: Would you be able to come into school and talk to me. I have study hall from 11:14 to 11:56. And then I have the star tutoring after school until 5.

Judge Shaw: Yes I will

A.W.: Okay, see you then. Have a good night.

Judge Shaw: Ty u too.

150. On June 11, 2015, a Summary Trial was scheduled in the truancy case filed against A.W.'s mother.

151. On June 11, 2015, Judge Shaw dismissed the truancy case against A.W.'s mother.

Ex Parte Communications from and Responses to Relative of Litigant

152. As magisterial district judge, Judge Shaw worked with W.F. and his sister who was a student at the local high school.

153. As magisterial district judge, Judge Shaw was assigned to Juvenile Accountability Court.

154. As the judge assigned to Juvenile Accountability Court, Judge Shaw presided over cases involving W.F.'s sister, V.F.

155. On April 20, 2014, W.F. sent a text message to Judge Shaw's personal cell phone pertaining to a citation he received for a summary motor vehicle violation in another district.

156. Judge Shaw had seen W.F. in the community prior to the text message and had agreed to look up an answer to W.F.'s question about his traffic citation.

157. On April 20, 2014, Judge Shaw responded by text message to W.F. and stated:

Call 570-265-9393 ask them when your hearing is when they say you don't have one say I Plead not Guilty.

158. W.F. replied by text message, "Ok will do."

159. At his May 19, 2016 Board deposition, Judge Shaw stated that he was explaining procedure to W.F.

160. On December 1, 2014, Athens Township Police Department issued a Non-Traffic Citation to W.F.'s sister, V.F., charging her with the summary offense of Retail Theft. Docket No. MJ-42302-NT-0000413-2014. The case was filed in Judge Shaw's district court.

161. On February 24, 2015, the summary charge of Retail Theft against V.F. was withdrawn.

162. On March 11, 2015, Athens Township Police refiled charges against V.F. consisting of two misdemeanor-2 charges: Retail Theft -Take Merchandise; and Receiving Stolen Property. Docket No. MJ-42302-CR-0000091-2015.

163. On April 21, 2015, W.F. sent a text message to Judge Shaw about his sister, V.F., who was scheduled to appear before Judge Shaw in his district court that same day.

I was gonna say something to you when I seen you but forgot to. Like to give little recommendation to you for my sister [V.F.] She's in your court today. She has don't [sic] a complete 360 and has changed her life for the better and has a son that she takes extremely good care of and she has now gotten her own place and is constantly work[ing] her better of [sic] to be a great mom and a good person. So if you could just take this in consideration for me I'd appreciate if very must [sic]. Hopefully you get this before she goes in front of you. Thank you.

164. On April 21, 2015, Judge Shaw responded to W.F. by text message from his personal cell phone and stated, "Ok will np [no problem] Ty [Thank you]."

165. On April 21, 2015, Judge Shaw presided over V.F.'s Preliminary Hearing wherein V.F. waived the two misdemeanor charges for court.

166. At his May 19, 2016 Board deposition, Judge Shaw explained that although he presided over the case involving V.F., the summary charge was withdrawn, refiled as misdemeanors and W.F. waived the charge for court.

C. Special Consideration

167. Judge Shaw presided over Treatment Court and participated as a member of the Treatment Court Committee on a weekly basis.

168. Many of the Treatment Court participants were not legally permitted to drive vehicles because their driver's licenses were suspended because of DUI convictions.

169. Routinely, certain Treatment Court participants, including J.L., would stand and wait by Judge Shaw's car after Treatment Court ended in hopes of getting a ride home from Judge Shaw.

170. Following Treatment Court, Judge Shaw drove many of the participants to their homes, including J.L.

171. Judge Shaw provided transportation to the Treatment Court participants in order to "make it easier for them."

172. The Treatment Court policy in effect when Judge Shaw served as Presiding Judge provided that if a Treatment Court participant had an urgent matter arise between Treatment Court sessions, such as a missed appointment or missed urine test, then the participant was directed to call the Probation Department and speak with the on-call Probation Officer.

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180. On January 6, 2015, A.F. filed a Not Guilty Plea to the summary traffic charge and requested a summary trial. In her typewritten plea, dated January 5, 2015, A.F. wrote, "I can't forward the collateral at this time. I haven't got the extra funds at this time to cover the amount."

181. A.F.'s Summary Traffic Trial was scheduled for February 2, 2015 in Judge Shaw's district court.

182. L.H. is the wife of a police officer who is employed by the Sayre Borough, PA Police Department.

183. On February 2, 2015, L.H. sent a text message to Judge Shaw's personal cell phone in which she stated that she had mistakenly advised her employee, A.F., that her hearing scheduled before Judge Shaw was cancelled.

184. Judge Shaw responded by text message to L.H. and said, "K have her call tomm."

185. L.H. further explained in her February 2, 2015 text message: "The ticket is a financial hardship for her [employee], so Jerry told her to take the hearing and ask for a lesser fine. Thanks judge."

186. On February 2, 2015, Judge Shaw presided over the summary traffic trial in *Commonwealth v. Field*, the case referenced by L.H. in her text message to Judge Shaw.

187. On February 2, 2015, the charge against A.F. was changed from Obedience to Traffic-Control Device to a new charge of Exceed 55 mph by 5 mph.

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194. On March 26, 2015, Sayre Borough filed a Private Criminal Complaint against A.W.'s mother in Judge Shaw's district court and alleged that A.W. was illegally absent from school on 11 days following the implementation of the January 23, 2015 Truancy Elimination Plan. Docket No. MJ-42302-NT-0000095-2015.

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Judge Shaw: Yes I will

A.W.: Okay, see you then. Have a good night.

Judge Shaw. Ty u too.

198. On June 11, 2015, a Summary Trial was scheduled in the truancy case filed against A.W.'s mother.

199. On June 11, 2015, Judge Shaw dismissed the truancy case against A.W.'s mother.

Ex Parte Communications from and Responses to Relative of Litigant

200. As magisterial district judge, Judge Shaw worked with W.F. and his sister who was a student at the local high school.

201. As magisterial district judge, Judge Shaw was assigned to Juvenile Accountability Court.

202. As the judge assigned to Juvenile Accountability Court, Judge Shaw presided over cases involving W.F.'s sister, V.F.

203. On April 20, 2014, W.F. sent a text message to Judge Shaw's personal cell phone pertaining to a citation he received for a summary motor vehicle violation in another district.

204. Judge Shaw had seen W.F. in the community prior to the text message and had agreed to look up an answer to W.F.'s question about his traffic citation.

205. On April 20, 2014, Judge Shaw responded by text message to W.F. and stated:

Call 570-265-9393 ask them when your hearing is when they say you don't have one say I Plead not Guilty.

206. W.F. replied by text message, "Ok will do."

207. At his May 19, 2016 Board deposition, Judge Shaw stated that he was explaining procedure to W.F.

208. On December 1, 2014, Athens Township Police Department issued a Non-Traffic Citation to W.F.'s sister, V.F., charging her with the summary offense of Retail Theft. Docket No. MJ-42302-NT-0000413-2014. The case was filed in Judge Shaw's district court.

209. On February 24, 2015, the summary charge of Retail Theft against V.F. was withdrawn.

210. On March 11, 2015, Athens Township Police refiled charges against V.F. consisting of two misdemeanor-2 charges: Retail Theft -Take Merchandise; and Receiving Stolen Property. Docket No. MJ-42302-CR-0000091-2015.

211. On April 21, 2015, W.F. sent a text message to Judge Shaw about his sister, V.F., who was scheduled to appear before Judge Shaw in his district court that same day.

I was gonna say something to you when I seen you but forgot to. Like to give little recommendation to you for my sister [V.F.] She's in your court today. She has don't [sic] a complete 360 and has changed her life for the better and has a son that she takes extremely good care of and she has now gotten her own place and is constantly work[ing] her better of [sic] to be a great mom and a good person. So if you could just take this in consideration for me I'd appreciate if very must [sic]. Hopefully you get this before she goes in front of you. Thank you.

212. On April 21, 2015, Judge Shaw responded to W.F. by text message from his personal cell phone and stated, "Ok will np [no problem] Ty [Thank you]."

213. On April 21, 2015, Judge Shaw presided over V.F.'s Preliminary Hearing wherein V.F. waived the two misdemeanor charges for court.

214. At his May 19, 2016 Board deposition, Judge Shaw explained that although he presided over the case involving V.F., the summary charge was withdrawn, refiled as misdemeanors and W.F. waived the charge for court.

D. Additional Facts Pursuant to JCB File No. 2016-643

215. On June 1, 2015, the Board issued a Notice of Full Investigation to Judge Shaw at JCB File No. 2014-621.

216. On June 29, 2015, Attorney Rinaldo DePaola entered his appearance as Judge Shaw's attorney in the Board's investigation at 2014-621.

217. Mr. DePaola continued to represent Judge Shaw throughout the Board's investigation at 2014-621.

218. On November 1, 2016, the Board filed a Board Complaint against Judge Shaw in the Court of Judicial Discipline (CJD). *In re Shaw*, 5 JD 2016.

219. On November 4, 2016, the Board initiated a Confidential Request for Investigation at JCB File No. 2016-643 pertaining to Judge Shaw's conduct in a

Landlord/Tenant matter, *Hutchison v. Reeves*, Docket No. MJ-42302-LT-0000054-2016.

220. On December 6, 2016, Mr. DePaola filed the Answer to the Board Complaint, in the CJD. *In re Shaw*, Docket No. 5 JD 2016

221. On December 16, 2016, Mr. DePaola entered his appearance in the CJD in *In re Shaw*, 5 JD 2016.

Hutchison v. Reeves

222. On September 9, 2016, Judge Shaw presided over a Landlord/Tenant Hearing wherein William A. Shaw, Esquire, represented the landlord, Robin M. Hutchison, and Rinaldo DePaola, Esquire, represented the tenants. *Hutchison v. Reeves*, Docket No. MJ-42302-LT-0000054-2016.

223. On September 9, 2016, the Board had not yet filed the Board Complaint against Judge Shaw and therefore the charged conduct was not public knowledge.

224. Robin M. Hutchison, Esquire, is a practicing attorney in Bradford County.

225. At the September 9, 2016 Landlord/Tenant Hearing, Judge Shaw did not disclose to Mr. Hutchison or Attorney William Shaw that Mr. DePaola represented him in a pending judicial disciplinary matter.

226. At the September 9, 2016 Landlord/Tenant Hearing, the parties, through their attorneys, reached a verbal agreement such that the tenants would be evicted.

227. On September 9, 2016, Judge Shaw entered judgment for the landlord and against the tenants in the amount of \$1941.11 and granted possession of the real property if the money judgment was not satisfied by the time of eviction.

228. In November 2016, Mr. Hutchison first learned that Mr. DePaola represented Judge Shaw in a judicial disciplinary matter when he read a newspaper article about the Board Complaint, *In re Shaw*, Docket No. 5 JD 2016.

Other Civil Matters Filed in District Court 43-3-02

229. Between July 1, 2015 and October 27, 2016, Mr. DePaola filed the following 42 cases in Judge Shaw's district court:

<u>Case</u>	<u>Docket No.</u>	<u>Date Filed</u>
<i>Guthrie Clinic Ltd. v. Prough</i>	CV-0000120-2015	July 10, 2015
<i>Guthrie Clinic Ltd. v. Polzella, et al.</i>	CV-0000126-2015	July 20, 2015
<i>St. Joseph's Hospital v. Westerfer</i>	CV-0000135-2015	August 7, 2015
<i>Arnot Medical Services v. Westerfer</i>	CV-0000136-2015	August 7, 2015
<i>Arnot Medical Services v. Westerfer</i>	CV-0000140-2015	August 7, 2015
<i>St. Joseph's Hospital v. Westerfer</i>	CV-0000141-2015	August 7, 2015
<i>Arnot Ogden Medical Center v. Whipple</i>	CV-0000131-2015	August 7, 2015
<i>Robert Packer Hospital v. Loomis</i>	CV-0000146-2015	September 4, 2015
<i>Robert Packer Hospital v. Reynolds</i>	CV-0000148-2015	September 8, 2015
<i>Corning Hospital v. Ling</i>	CV-0000180-2015	October 29, 2015
<i>Robert Packer Hospital v. Wandell</i>	CV-0000181-2015	October 29, 2015
<i>Robert Packer Hospital v. Morley, et al</i>	CV-0000182-2015	October 29, 2015
<i>Robert Packer Hospital v. Schmoyer, et al</i>	CV-0000183-2015	November 2, 2015
<i>Robert Packer Hospital v. Weingartner</i>	CV-0000184-2015	November 2, 2015
<i>Robert Packer Hospital v. Loomis</i>	CV-0000190-2015	November 24, 2015
<i>Robert Packer Hospital v. Page</i>	CV-0000191-2015	November 24, 2015
<i>Robert Packer Hospital v. Pardoe, et al</i>	CV-0000202-2015	December 14, 2015

<u>Case</u>	<u>Docket No.</u>	<u>Date Filed</u>
<i>Guthrie Clinic LTD v. Lee, et al</i>	CV-0000203-2015	December 14, 2015
<i>Robert Packer Hospital v. Lee, et al</i>	CV-0000204-2015	December 14, 2015
<i>Guthrie Clinic Ltd v. Shadduck</i>	CV-0000208-2015	December 17, 2015
<i>Guthrie Clinic Ltd v. Roach, et al</i>	CV-0000209-2015	December 17, 2015
<i>Robert Packer Hospital v. Moore, et al</i>	CV-0000001-2016	January 13, 2016
<i>Robert Packer Hospital v. Robbins</i>	CV-0000004-2016	January 25, 2016
<i>Robert Packer Hospital v. Lattimer</i>	CV-0000016-2016	February 12, 2016
<i>Robert Packer Hospital v. Townsend, et al</i>	CV-0000045-2016	April 4, 2016
<i>Robert Packer Hospital v. Weinman</i>	CV-0000046-2016	April 4, 2016
<i>Guthrie Clinic Ltd v. Moore, et al</i>	CV-0000050-2016	April 20, 2016
<i>Robert Packer Hospital v. Saxon, et al</i>	CV-0000053-2016	April 25, 2016
<i>Robert Packer Hospital v. Lowell, et al</i>	CV-0000054-2016	April 25, 2016
<i>Robert Packer Hospital v. Loskie, et al</i>	CV-0000055-2016	April 25, 2016
<i>Robert Packer Hospital v. Orozco, et al</i>	CV-0000063-2016	May 23, 2016
<i>Guthrie Clinic Ltd v. Walt, et al</i>	CV-0000064-2016	May 23, 2016
<i>Guthrie Clinic Ltd v. Ward, et al</i>	CV-0000072-2016	June 27, 2016
<i>Guthrie Clinic Ltd v. Norton, et al</i>	CV-0000073-2016	June 27, 2016
<i>Guthrie Clinic Ltd v. Paul, et al</i>	CV-0000074-2016	June 27, 2016
<i>Robert Packer Hospital v. Tappan, et al</i>	CV-0000075-2016	June 27, 2016
<i>Robin M. Hutchinson v. R. Reeves, et al</i>	CV-0000054-2016	August 30, 2016
<i>Guthrie Clinic Ltd v. Searfoss</i>	CV-0000130-2016	October 24, 2016
<i>Robert Packer Hospital v. Searfoss</i>	CV-0000131-2016	October 24, 2016
<i>Robert Packer Hospital v Salsman, et al</i>	CV-0000133-2016	October 27, 2016

<u>Case</u>	<u>Docket No.</u>	<u>Date Filed</u>
<i>Guthrie Clinic Ltd v. Shepler</i>	CV-0000134-2016	October 27, 2016
<i>Robert Packer Hospital v. Rinus, et al</i>	CV-0000135-2016	October 27, 2016

230. In those 42 cases referenced in the paragraph immediately above, Judge Shaw did not disclose to the other party or the other party's lawyer, that Mr. DePaola represented him in a legal matter.

231. An associate attorney at Mr. DePaola's law firm, Griffin, Dawsey, DePaola & Jones PC, represented litigants in 11 of the 42 cases filed by Mr. DePaola in Judge Shaw's district court which were debt collection matters involving medical facilities and providers, as listed below:

<u>Case</u>	<u>Docket No.</u>	<u>Date Filed</u>
<i>Arnot Ogden Medical Center v. Whipple</i>	CV-0000120-2015	August 7, 2015
<i>Robert Packer Hospital v. Loomis</i>	CV-0000146-2015	September 4, 2015
<i>Robert Packer Hospital v. Morley, et al</i>	CV-0000182-2015	October 29, 2015
<i>Robert Packer Hospital v. Pardoe, et al</i>	CV-0000202-2015	December 14, 2015
<i>Robert Packer Hospital v. Lee, et al</i>	CV-0000204-2015	December 14, 2015
<i>Guthrie Clinic Ltd v. Shaddock</i>	CV-0000208-2015	December 17, 2015
<i>Robert Packer Hospital v. Moore, et al</i>	CV-0000001-2016	January 13, 2016
<i>Robert Packer Hospital v. Townsend, et al</i>	CV-0000045-2016	April 4, 2016
<i>Robert Packer Hospital v. Saxon, et al</i>	CV-0000053-2016	April 25, 2016
<i>Guthrie Clinic Ltd v. Searfoss</i>	CV-0000130-2016	October 24, 2016
<i>Robert Packer Hospital v. Searfoss</i>	CV-0000131-2016	October 24, 2016

232. The associate attorney did not appear before Judge Shaw in his district court in any of the 11 debt collection cases in which he represented a party on behalf of his law firm, Griffin, Dawsey, DePaola & Jones PC.

233. The 11 debt collection matters included various forms of communication with the debtors to attempt to negotiate payment prior to filing civil complaints.

234. Mr. DePaola executed the complaints in all 11 of the debt collection matters handled by the associate attorney and his name appears on notices and correspondence in those matters.

235. In the debt collection matters handled by Mr. DePaola and his law firm's associate attorney, even if a settlement is reached, a civil case must still be filed in district court to enforce the settlement agreement.

236. In debt collection matters that settled prior to a hearing, the associate attorney sent a letter to Judge Shaw's district court to explain the settlement agreement.

237. In the 11 debt collection cases handled by the associate attorney, Judge Shaw did not disclose to the other party, or the other party's lawyer that the associate attorney worked for Mr. DePaola's law firm and that Mr. DePaola represented Judge Shaw in a legal matter.

238. In 2016, the associate attorney from Mr. DePaola's law firm, Griffin, Dawsey, DePaola & Jones PC, represented the plaintiff in each of the following three Landlord/Tenant cases filed in Judge Shaw's district court:

- a. *Futures Community Support & Services, Inc. v. Dimopoulos-Spencer*, Docket No. MJ-42302-LT-13-2016;
- b. *Futures Community Support & Services, Inc. v. Graham*, Docket No. MJ-42302-LT-14-2016; and

- c. *Futures Community Support & Services, Inc. v. Youngs*, Docket No. MJ-42302-LT-20-2016.

239. Judge Shaw knew that the attorney who appeared before him in the three Landlord/Tenant matters set forth above was an associate attorney at Griffin, Dawsey, DePaola & Jones PC.

240. At the March 28, 2016 Landlord/Tenant Hearing in *Futures Community Support & Services, Inc. v. Dimopoulos*, Judge Shaw did not disclose his attorney-client relationship with Mr. DePaola to the parties or their counsel.

241. At the March 28, 2016 Landlord/Tenant Hearing in *Futures Community Support & Services, Inc. v. Graham*, Judge Shaw did not disclose his attorney-client relationship with Mr. DePaola to the parties or their counsel.

242. At the May 5, 2016 Landlord/Tenant Hearing in *Futures Community Support & Services, Inc. v. Youngs*, Judge Shaw did not disclose his attorney-client relationship with Mr. DePaola to the parties or their counsel.

243. In 2017, Mr. DePaola represented the plaintiff in a civil matter in Judge Shaw's district court. *Guthrie Clinic v. Teel*, Docket No. MJ-42302-CV-0000005-2017.

244. On January 9, 2017, Mr. DePaola sent a letter to Judge Shaw, asking him to file the civil complaint, *Guthrie Clinic v. Teel*, in his district court, serve the defendant and provide notice of the hearing date.

245. One month later, on February 8, 2017, Judge Shaw sent a letter to Court Administration requesting his recusal from *Guthrie Clinic v. Teel*, and to transfer the case to another judge. Judge Shaw did not include the reason for his request for recusal and transfer of the case.

246. On February 8, 2017, President Judge Maureen T. Beirne issued an Order appointing Judge Timothy Clark to hear the *Teel* matter.

247. On February 13, 2017, Judge Shaw issued a Notice of Intent to Defend form to the plaintiff pertaining to a March 13, 2017 Civil Action Hearing in *Teel*.

248. On March 13, 2017, Judge Timothy M. Clark entered judgment in the *Teel* case.

249. Between July 10, 2015 and January 2017, Mr. DePaola and his associate attorney, represented litigants in 46 cases in Judge Shaw's district court.

250. On December 22, 2016, Board counsel notified Mr. DePaola about the apparent conflict of interest in *Hutchison v. Reeves* and any other matters in which he, or any attorneys from his law firm, represented litigants in Judge Shaw's district court, because of Judge Shaw's attorney-client relationship with him in this judicial disciplinary matter.

251. In February 2017, Judge Shaw began sending letters to Court Administration, requesting to recuse himself from *Guthrie v. Teel* and other cases filed in his court in which Mr. DePaola, or other attorneys from his law firm, represented litigants, and to transfer those matters to another judge.

E. Charges

Count One

Impropriety and the Appearance of Impropriety

A. Old Rule

252. By virtue of some, or all of the conduct set forth in Parts A, B and C, Judge Shaw violated Rule 2A of the Old Rules Governing Standards of Conduct of Magisterial District Judges, effective through November 30, 2014.

253. Rule 2 is titled "Impropriety and the Appearance of Impropriety to be Avoided" and 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.

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

254. By his 2014 improper conduct of communicating by Facebook, telephone, text messages and sext messages with the girlfriend of a Treatment Court participant who appeared before him in Treatment Court, and his conduct of engaging in sexual relations with her, Judge Shaw failed to conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

255. Judge Shaw's 2014 improper conduct of communicating by Facebook, telephone, text messages and sext messages with the girlfriend of a Treatment Court participant, and his conduct of engaging in sexual relations with her, while he was the Presiding Judge of Treatment Court, did implicate the judicial decision making process.

256. By his 2012-2013 improper conduct of engaging in sexting communications with a probation officer assigned to the Treatment Court Committee, while he was a fellow member of said Committee and the Presiding Judge of Treatment Court, Judge Shaw failed to conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

257. Judge Shaw's 2012-2013 improper conduct of exchanging sext messages with a probation officer who was a fellow member of the Treatment Court Committee, while he was the Presiding Judge of the Treatment Court, did implicate the judicial decision making process.

258. By his improper conduct of driving Treatment Court participants home following Treatment Court, while serving as Presiding Judge of Treatment Court,

Judge Shaw failed to act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary.

259. By his improper conduct of permitting Treatment Court participants to contact him by cell phone and text message, in disregard of Treatment Court policy, and offering advice to those participants, Judge Shaw failed to act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary.

260. As a result of all of the conduct set forth above, Judge Shaw violated Rule 2A of the Old Rules Governing Standards of Conduct of Magisterial District Judges.

B. New Rule

261. By virtue of some or all of the conduct set forth in Parts B, C and D, Judge Shaw violated Canon 1, Rule 1.2 of the New Rules Governing Standards of Conduct of Magisterial District Judges, effective December 1, 2014.

262. Canon 1, Rule 1.2 is titled "Promoting Confidence in the Judiciary and 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.

263. Judge Shaw's 2015 conduct of engaging in *ex parte* communications with an employer of a litigant and the relatives of litigants about cases pending before him did undermine public confidence in the independence, integrity, and impartiality of the judiciary.

264. Judge Shaw's 2015 conduct of failing to recuse himself from cases pending before him following *ex parte* communications with an employer of a litigant and the relatives of litigants did undermine public confidence in the independence, integrity, and impartiality of the judiciary.

265. By his 2015 conduct of engaging in *ex parte* communications with an employer of a litigant and the relatives of litigants about cases pending before him, Judge Shaw failed to avoid impropriety and the appearance of impropriety.

266. By his conduct of failing to recuse himself from cases pending before him following *ex parte* communications with an employer of a litigant and the relatives of litigants, Judge Shaw failed to avoid impropriety and the appearance of impropriety.

267. By his September 9, 2016 conduct of failing to disclose his attorney-client relationship with Rinaldo A. DePaola, Esquire, to the opposing party and the opposing party's counsel during the Landlord/Tenant Hearing in *Hutchison v. Reeves*, Judge Shaw undermined public confidence in the independence, integrity and impartiality of the judiciary.

268. By his September 9, 2016 conduct of failing to disclose his attorney-client relationship with Rinaldo A. DePaola, Esquire, to the opposing party and the opposing party's counsel during the Landlord/Tenant Hearing in *Hutchison v. Reeves*, Judge Shaw failed to avoid impropriety and the appearance of impropriety.

269. By his July 2015 through December 2016 conduct of failing to disclose his attorney-client relationship with Rinaldo A. DePaola, Esquire, to the opposing party and the opposing party's counsel in 45 matters in which Mr. DePaola and his

associate attorney represented litigants in his district court, Judge Shaw undermined public confidence in the independence, integrity and impartiality of the judiciary.

270. By his July 2015 through December 2016 conduct of failing to disclose his attorney-client relationship with Rinaldo A. DePaola, Esquire, to the opposing party and the opposing party's counsel in 45 matters in which Mr. DePaola and his associate attorney represented litigants in his district court, Judge Shaw failed to avoid impropriety and the appearance of impropriety.

271. As a result of all of the conduct set forth above, Judge Shaw violated Canon 1, Rule 1.2 of the New Rules Governing Standards of Conduct of Magisterial District Judges.

Count Two

Special Consideration

A. Old Rule

272. By virtue of some or all of the conduct set forth in Parts A, B & C. Judge Shaw violated the Special Consideration Clause of Rule 2A of the Old Rules Governing Standards of Conduct of Magisterial District Judges, effective through November 30, 2014.

273. Rule 2 A provides in pertinent part:

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 their 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.

274. By his February through May 2014 conduct of engaging in Facebook, telephone, texting and sexting communications with the girlfriend of a Treatment

Court participant, and his conduct of engaging in sexual relations with her, Judge Shaw did allow his social relationship with her to influence his judicial conduct or judgment.

275. By his February through May 2014 conduct of communicating by Facebook, telephone, texting and sexting messages with the girlfriend of a Treatment Court participant about the participant's counseling, court supervision and risk for relapse into alcohol dependency, Judge Shaw did:

- a. lend the prestige of his judicial office to advance the private interest of others; and
- b. convey or permit others to convey the impression that the girlfriend was in a special position to influence him.

276. By his conduct of providing transportation to Treatment Court participants following Treatment Court, while serving as the Presiding Judge of Treatment Court, Judge Shaw did convey the impression that those participants were in a special position to influence him.

277. By his conduct of permitting Treatment Court participants to contact him by cell phone and text message, in disregard of Treatment Court policy, and offering advice to those participants, Judge Shaw did convey or permit others to convey the impression that those participants were in a special position to influence him.

278. By virtue of some or all of the conduct set forth above, Judge Shaw violated the Special Consideration Clause of Rule 2A of the Old Rules Governing Standards of Conduct of Magisterial District Judges.

B. New Rule

279. By virtue of some or all of the conduct set forth in Parts A, B & D, Judge Shaw violated Canon 2, Rule 2.4(B) of the New Rules Governing Standards of Conduct of Magisterial District Judges, effective December 1, 2014.

280. Canon 2, Rule 2.4(B) is titled "External Influences on Judicial Conduct" and provides in pertinent part:

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

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

281. By his February 2, 2015 conduct of exchanging text messages with L.H. about her employee, A.F., who was scheduled to appear before Judge Shaw that same day at a summary traffic trial, Judge Shaw did permit his social and community interests or relationships to influence his conduct or judgment.

282. By his March and April 2015 conduct of initiating and engaging in *ex parte* texting communications with A.W. about her truancy matters while A.W.'s mother had a pending matter before him, Judge Shaw did permit his social and community interests or relationships to influence his conduct or judgment.

283. By his April 21, 2015 conduct of engaging in *ex parte* texting communications with W.F. about his sister, V.F, who was scheduled to appear before Judge Shaw that day on a misdemeanor criminal charge of retail theft, Judge Shaw did permit his social and community interests or relationships to influence his conduct or judgment.

284. As a result of all the conduct set forth above, Judge Shaw violated Canon 2, Rule 2.4(B) of the New Rules Governing Standards of Conduct of Magisterial District Judges.

C. New Rule

285. By virtue of some or all of the conduct set forth in Parts B & C, Judge Shaw violated Canon 2, Rule 2.4(C) of the New Rules Governing Standards of Conduct of Magisterial District Judges.

286. Rule 2.4(C) provides:

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

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

287. By his February 2, 2015 conduct of exchanging text messages with L.H. about her employee, A.F., who had a summary traffic trial scheduled before Judge Shaw that same day, Judge Shaw did convey or permit others to convey the impression that L.H. was in a position to influence him.

288. By his March and April 2015 conduct of initiating and engaging in *ex parte* texting communications with A.W. about her truancy matters, while a case was pending against A.W.'s mother in Judge Shaw's district court, Judge Shaw did convey or permit others to convey the impression that A.W. was in a position to influence him.

289. By his April 21, 2015 conduct of engaging in *ex parte* texting communications with W.F. about his sister, V.F, who was scheduled to appear before Judge Shaw that day on a misdemeanor criminal charge of retail theft, Judge Shaw did convey or permit others to convey the impression that W.F. was in a position to influence him.

290. As a result of all the conduct set forth above, Judge Shaw violated Canon 2, Rule 2.4(C) of the New Rules Governing Standards of Conduct of Magisterial District Judges.

Count Three

Ex Parte Communications

A. Old Rule

291. By virtue of some or all of the conduct set forth in Part A & C, Judge Shaw violated Rule 4D of the Old Rules Governing Standards of Conduct of Magisterial District Judges, effective through November 30, 2014.

292. Rule 4 is entitled "Adjudicative Responsibilities" and provides in pertinent part:

D. 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.

293. By his conduct of engaging in Facebook, telephone and texting communications with the girlfriend of a Treatment Court participant about concerns for that participant's continued sobriety following a romantic break up, Judge Shaw did consider *ex parte* or other communications concerning a pending or impending proceeding.

294. By his conduct of meeting with a Treatment Court participant to discuss his transgressions with the participant's girlfriend and his possible resignation as the Presiding Judge of Treatment Court, Judge Shaw did initiate and consider *ex parte* communications concerning a pending or impending proceeding.

295. By his conduct of communicating with Treatment Court participants about their issues and concerns by cell phone and text message, to the exclusion of other members of the Treatment Court Committee and the participants' counsel,

Judge Shaw did consider *ex parte* communications concerning a pending or impending proceeding during his term as Treatment Court Judge.

296. As a result of all the conduct set forth above, Judge Shaw violated Rule 4D of the Old Rules Governing Standards of Conduct of Magisterial District Judges.

B. New Rule

297. By virtue of some or all of the conduct set forth in Parts B & C, Judge Shaw violated Canon 2, Rule 2.9(A) of the New Rules Governing Standards of Conduct of Magisterial District Judges.

298. Rule 2.9 is titled "*Ex Parte Communications*" and provides in pertinent part:

(A) 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).

299. By his February 2, 2015 conduct of exchanging text messages with L.H. about her employee, A.F., who had a summary traffic trial scheduled before Judge Shaw that same day, Judge Shaw did permit or consider *ex parte* communications, or consider other communications made to him outside the presence of the parties or their lawyers or authorized representatives, concerning a pending matter.

300. By his March and April 2015 conduct of initiating and exchanging text messages with A.W. about her truancy matters, which gave rise to the case against A.W.'s mother that was pending before him, Judge Shaw did permit or consider *ex parte* communications, or consider other communications made to him outside the

presence of the parties or their lawyers or authorized representatives, concerning a pending or impending matter.

301. By his April 21, 2015 conduct of exchanging text messages with W.F. about his sister, V.F, who was scheduled to appear before Judge Shaw that day on a misdemeanor criminal charge of retail theft, Judge Shaw did permit or consider *ex parte* communications, or consider other communications made to him outside the presence of the parties or their lawyers or authorized representatives, concerning a pending or impending matter.

302. As a result of all the conduct set forth above, Judge Shaw violated Canon 2, Rule 2.9(A) of the New Rules Governing Standards of Conduct of Magisterial District Judges.

Count Four

Failure to Recuse

A. Old Rule

303. By virtue of some or all of the conduct set forth in Part A, Judge Shaw violated Rule 8A of the Old Rules Governing Standards of Conduct of Magisterial District Judges, effective through November 30, 2014.

304. Rule 8 is entitled "Disqualification" and provides:

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, or personal knowledge of disputed evidentiary facts concerning the proceeding.

R.G.S.C.M.D.J. No. 8A.

305. Beginning in February 2014, Judge Shaw had a duty to disqualify himself from his position as the Presiding Judge of Treatment Court because his impartiality could reasonably be questioned in light of his Facebook, telephone, texting and sexting communications with the girlfriend of a Treatment Court participant.

306. In March 2014, Judge Shaw had a duty to disqualify himself from his position as the Presiding Judge of Treatment Court because his impartiality could reasonably be questioned in light of his sexual relations with the girlfriend of a Treatment Court participant.

307. Based on his Facebook, telephone, texting and sexting communications with the girlfriend of a Treatment Court participant, Judge Shaw's impartiality could reasonably be questioned as to his personal bias or prejudice concerning that Treatment Court participant.

308. In May 2014, Judge Shaw demonstrated an awareness that he should disqualify himself from his position as Treatment Court Judge when he met with the Treatment Court participant, J.L., and discussed his possible resignation from Treatment Court.

309. Judge Shaw failed to recuse himself from his position as Treatment Court Judge, even though his impartiality could reasonably be questioned.

310. Judge Shaw continued to serve as Presiding Judge of Treatment Court between February 2014, when he began Facebook, telephone, texting and sexting communications with D.A., and in or about June-July 2014 when President Judge Beirne removed him from that position following the discovery of his sexting conduct with the girlfriend of a Treatment Court participant.

311. As a result of all the conduct set forth above, Judge Shaw violated Rule 8A of the Old Rules Governing Standards of Conduct of Magisterial District Judges.

B. New Rule

312. By virtue of some or all of the conduct set forth in Parts B, C & D, Judge Shaw violated Canon 2, Rule 2.11(A) of the New Rules Governing Standards of Conduct of Magisterial District Judges.

313. Rule 2.11 is titled "Disqualification" and provides in pertinent part:

(A) A magisterial district judge shall disqualify himself or herself in any proceeding in which 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.

314. Based on his February 2, 2015 conduct of exchanging *ex parte* text messages with L.H. about her employee, A.F., who had a summary traffic trial scheduled before Judge Shaw that same day, Judge Shaw had a duty to disqualify himself from any proceeding involving A.F. because his impartiality could reasonably be questioned.

315. Judge Shaw did not recuse himself from presiding over A.F.'s summary traffic trial where he ruled her guilty in absentia, even though his impartiality could reasonably be questioned.

316. Based on his March and April 2015 exchange of *ex parte* text messages with A.W., Judge Shaw had a duty to disqualify himself from the truancy proceeding against A.W.'s mother because his impartiality might reasonably be questioned.

317. Judge Shaw did not recuse himself from presiding over the truancy matter against A.W.'s mother on June 11, 2015, even though his impartiality could reasonably be questioned.

318. Based on his April 21, 2015 conduct of exchanging *ex parte* text messages with W.F. about his sister, V.F, who was scheduled to appear before Judge Shaw that day on a misdemeanor criminal charge of retail theft, Judge Shaw had a duty to disqualify himself from any proceeding involving V.F. because his impartiality might reasonably be questioned.

319. Judge Shaw did not recuse himself from presiding over the V.F.'s Preliminary Hearing where she waived the charge for Court, even though his impartiality could reasonably be questioned.

320. Based on his attorney-client relationship with Rinaldo A. DePaola, Esquire, which began in June 2015, Judge Shaw had a duty to disqualify himself from all proceedings in which Mr. DePaola, or any attorney from his firm, represented a client in his district court because his impartiality might reasonably be questioned.

321. Judge Shaw did not recuse himself from any of the July 2015-December 2016 proceedings in which Mr. DePaola or his associate attorney represented clients in his district court, even though his impartiality could reasonably be questioned.

322. As a result of all the conduct set forth above, Judge Shaw violated Canon 2, Rule 2.11(A) of the New Rules Governing Standards of Conduct of Magisterial District Judges.

Count Five

323. By virtue of some or all of the conduct set forth in Parts A, B, C & D, Judge Shaw violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.

324. Article V, § 17(b) provides in pertinent 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).

325. A violation of the Rules Governing Standards of Conduct of Magisterial District Judges is an automatic derivative violation of Article V, § 17(b).

326. Judge Shaw violated Rules 2A, 4D, and 8A of the Old Rules Governing Standards of Conduct of Magisterial District Judges.

327. Judge Shaw violated Rules 1.2, 2.4(B), 2.4(C), 2.9(A) and 2.11(A) of the New Rules Governing Standards of Conduct of Magisterial District Judges.

328. As a direct result of his violations of all of the Rules set forth above, Judge Shaw violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.

Count Six

329. By virtue of some or all of the conduct set forth in Parts A, B & C, Judge Shaw violated the Administration of Justice Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.

330. 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).

331. By his 2014 conduct of failing to recuse himself from his position as Presiding Judge of Treatment Court in light of his Facebook, telephone, texting and sexting communications and sexual relations with the girlfriend of a Treatment Court participant, Judge Shaw did prejudice the proper administration of justice.

332. By his 2015 conduct of failing to recuse himself from his position as magisterial district judge from cases following *ex parte* communications from an employer of a litigant and the relatives of litigants, Judge Shaw did prejudice the proper administration of justice.

333. As a result of all the conduct set forth above, Judge Shaw violated the Administration of Justice Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.

Count Seven

334. By virtue of some or all of the conduct set forth in Parts A, B, C & D, Judge Shaw violated the Disrepute Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.

335. 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 or is prohibited by law

PA CONST. art. V, § 18(d)(1).

336. Judge Shaw engaged in conduct so extreme that it brought disrepute upon the judicial office itself.

337. As a result of all the conduct set forth above, Judge Shaw did violate the Disrepute Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.

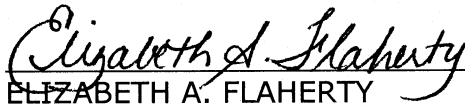
WHEREFORE, Michael G. Shaw, Magisterial District Judge, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

DATE: July 14, 2017

By:


ELIZABETH A. FLAHERTY
Deputy Counsel

Pa. Supreme Court ID No. 205575

Judicial Conduct Board
601 Commonwealth Avenue, Suite 3500
Harrisburg, PA 17106
(717) 234-7911

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Michael G. Shaw	:	
Magisterial District Judge	:	
Magisterial District 42-3-02	:	5 JD 2016
42 nd Judicial District	:	
Bradford County	:	

VERIFICATION

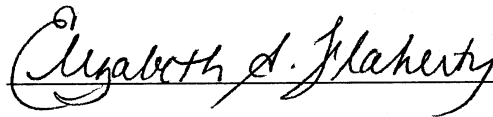
I, Elizabeth A. Flaherty, Deputy Counsel to the Judicial Conduct Board, verify that the Judicial Conduct Board found probable cause to file the formal charges contained in the Amended Board Complaint. I understand that the statements herein are made subject to the penalties of 18 Pa. Cons. Stat. Ann.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

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

July 14, 2017

BY:



Elizabeth A. Flaherty
Deputy Counsel
Pa. Supreme Court ID No. 205575

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**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Michael G. Shaw :
Magisterial District Judge :
Magisterial District 42-3-02 : 5 JD 2016
42nd Judicial District :
Bradford County :

PROOF OF SERVICE

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on or about July 14, 2017, a copy of this *AMENDED BOARD COMPLAINT* was sent by email and UPS Overnight Delivery to Magisterial District Judge Shaw's counsel, William A. Hebe, Esquire, who agreed to accept service on behalf of his client, Judge Shaw:

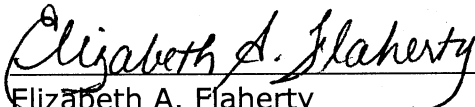
William A. Hebe, Esquire
P.O. Box 507
Wellsboro, PA 16901

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

July 14, 2017

BY:


Elizabeth A. Flaherty

Deputy Counsel

Pa. Supreme Court ID No. 205575

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