

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2018 JAN - 3 A.M. 01

IN RE:

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

**JOINT STIPULATIONS OF FACT IN LIEU OF TRIAL AND
WAIVER OF TRIAL PURSUANT TO C.J.D.R.P. No. 502(D)(1)**

AND NOW, this 3rd day of January, 2018, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) and Magisterial District Judge Michael G. Shaw, by and through the undersigned counsel, and submits these Joint Stipulations of Fact in Lieu of Trial and Waiver, pursuant to Court of Judicial Discipline Rule of Procedure (C.J.D.R.P.) No. 502(D)(1), as follows:

JOINT STIPULATIONS OF FACT

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 this Court's determination of whether Judge Shaw engaged in the alleged 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 this Court's determination of whether Judge Shaw engaged in the alleged 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 charged with a DUI or drug related offense in the Court of Common Pleas of Bradford County.

13. When a defendant is charged with 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, to be sentenced 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, the Treatment Court Committee meets and decides upon the appropriate sanction. Then the Presiding Judge of Treatment Court is responsible for imposing the sanction during a Treatment Court proceeding.

21. While serving as the Presiding Judge of Treatment Court, Judge Shaw was the authority figure at Treatment Court who imposed sanctions less than imprisonment, after conferring and reaching consensus with the Treatment Court Committee.

22. As the Presiding Judge of Treatment Court, Judge Shaw often told the participants, "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 has known J.L. for many years. As a young man, Judge Shaw worked for J.L.'s father and became acquainted with his family.

Sexting Conduct: Girlfriend of Treatment Court Participant

28. In February 2014, Judge Shaw knew that D.A. was the girlfriend of J.L. J.L. had introduced D.A. to Judge Shaw at a funeral in January 2013 and D.A. attended Treatment Court as a support person for J.L.

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. The Merriam Webster Dictionary defines "sexting" as "the sending of sexually explicit messages or images by cell phone." www.merriam-webster.com/dictionary.

39. The Urban Dictionary defines "sexting" 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. D.A. entered the hotel lobby, registered for the room and conducted a cash transaction on behalf of herself and Judge Shaw.

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 or prior to 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. that 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. Within his May 27, 2014 Facebook page response, Judge Shaw agreed not to contact D.A. and apologized to her for his "inappropriate" and "disrespectful" conduct.

72. Within his May 27, 2014 Facebook page response, 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 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. Therefore, he was not required to and did not attend Treatment Court the week after Judge Shaw apologized to and D.A. about his improper conduct.

91. Judge Shaw chose to continue as Presiding Judge of Treatment Court, even after the Treatment Court session when he made the statement about "eat[ing] 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 "eat[ing] 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 Second 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 woman who worked as Bradford County Adult Probation Department in 2012-2013. Her position with the Adult Probation

Department coincided with part of Judge Shaw's term of service as a magisterial district judge in Bradford County.

110. During her employment as a Bradford County Probation Officer, R.K. interacted with Judge Shaw on an almost daily basis, typically via telephone communication, about Treatment Court business.

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 to work for Bradford County Court Administration.

120. When R.K. ceased working for Adult Probation and serving on the Treatment Court Committee, R.K and Judge Shaw no longer communicated with one another 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 denied any recollection of the exact language contained within his sext messages to R.K. However, he recalled the terms "nooner" and "having ice cream" when describing suggestive, flirtatious, sexual language that was commonly bantered among his group of peers at the time that he engaged in the sexting conduct.

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

B. Ex Parte Communications

Note: To facilitate consistency with the Board Complaint and the Answer to Complaint, the Amended Board Complaint and the Answer to the First Amended Complaint, the stipulated facts are repeated in Section B, *Ex Parte* Communications, and Section C, Special Consideration. The same set of facts is integral to the charges as set forth in the Amended Board Complaint. The following paragraphs correspond to one another:

Ex Parte**Special Consideration**

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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. According to the Treatment Court policy, as Presiding Judge of Treatment Court, Judge Shaw was not a designated contact person for participants who had urgent matters arise between Treatment Court sessions.

126. Some participants disregarded the Treatment Court reporting policy and contacted Judge Shaw directly when urgent matters arose between Treatment Court sessions.

127. Judge Shaw accepted and responded to telephone calls and text messages from Treatment Court participants about urgent matters, despite the Treatment Court Policy directing the participants to call the Probation Department.

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 Committee were dissatisfied that Judge Shaw permitted Treatment Court participants to communicate directly with him by telephone calls and text messages, in disregard of the Treatment Court policy directing participants to report urgent matters that arose between Treatment Court sessions to the Probation Department.

Litigants and Relatives of Litigants

130. In the cases set forth below, 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. 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."

133. A.F.'s Summary Traffic Trial was scheduled for February 2, 2015 at 9 a.m. in Judge Shaw's district court.

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 at 5:11:12 p.m., 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. On February 2, 2015 at 5:32:30 p.m., Judge Shaw responded by text message to L.H. and said, "K have her call tomm."

137. On February 2, 2015 at 5:54:26 p.m., L.H. further explained in her reply text message to Judge Shaw: "The ticket is a financial hardship for her [employee], so Jeremy told her to take the hearing and ask for a lesser fine. Thanks judge."

138. Earlier on February 2, 2015 at or about 9:00 a.m., 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 role 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 by the high school principal, 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 volunteered to preside over Juvenile Accountability Court, an informal entity.

153. Through his volunteer work at the Juvenile Accountability Court, Judge Shaw became well acquainted with W.F. and his sister, V.F., who was a student at the local high school.

154. As a magisterial district judge who volunteered at the 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 at 10:00:06 a.m., 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 at 10:00:51 a.m., 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 scheduled for 10:00 a.m., 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 V.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. Some 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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183. On February 2, 2015 at 5:11:12 p.m., 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. On February 2, 2015 at 5:32:30 p.m., Judge Shaw responded by text message to L.H. and said, "K have her call tomm."

185. On February 2, 2015 at 5:54:26 p.m., L.H. further explained in her reply text message to Judge Shaw: "The ticket is a financial hardship for her [employee], so Jeremy told her to take the hearing and ask for a lesser fine. Thanks judge."

186. Earlier on February 2, 2015 at or about 9:00 a.m., 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.

188. 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

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

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

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

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

193. On January 23, 2015, a Truancy Elimination Plan was implemented by the high school principal, 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.

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.

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

196. 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.

197. 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.

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 volunteered to preside over Juvenile Accountability Court, an informal entity.

201. Through his volunteer work at the Juvenile Accountability Court, Judge Shaw became well acquainted with W.F. and his sister, V.F., who was a student at the local high school.

202. As a magisterial district judge who volunteered at the 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 at 10:00:06 a.m., 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 at 10:00:51 a.m., 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 scheduled for 10:00 a.m., 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 V.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 |
| <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 |

| <u>Case</u> | <u>Docket No.</u> | <u>Date Filed</u> |
|--|-------------------|-------------------|
| <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 |
| <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-0000131-2015 | 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 by the associate attorney 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, they file a civil case 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's district court 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 filed in Judge Shaw's district court.

250. Sometime between December 2016 and February 2017, Mr. DePaola notified Judge Shaw that he must recuse from any matters filed in his district court in which Mr. DePaola, or any attorneys from his law firm, represented litigants, because of Judge Shaw's attorney-client relationship with Mr. DePaola 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.

WAIVER OF TRIAL

Pursuant to Court of Judicial Discipline Rule of Procedure No. 502(D)(1), the Judicial Conduct Board (Board) and Magisterial District Judge Michael G. Shaw, by and through his counsel, William A. Hebe, Esquire, hereby submit Joint Stipulations of Fact and Waiver of Trial. The parties agree that the Joint Stipulations of Fact comprise all the facts necessary for this Court to decide the issues presented in the Board's Amended Complaint and that they shall be binding. The parties acknowledge that this Court may decide this case based solely upon the Stipulations of Fact. The Board and Respondent expressly waive any right to trial under Article V, § 18(b)(5) of the Pennsylvania Constitution and the Rules of this Court, and hereby submit this case to the Court for its conclusions of law.

January 3, 2018
~~December 21, 2017~~
eat

Respectfully submitted,

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

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

December ~~21~~²⁹, 2017

By: *William A. Hebe*
William A. Hebe
Attorney for Respondent
Pa. Supreme Court ID No. 16601

17 Central Avenue
Wellsboro, PA 16901
(570) 724-1832

December ~~22~~²², 2017

By: *Michael G. Shaw*
Michael G. Shaw
Respondent

**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 | : | |

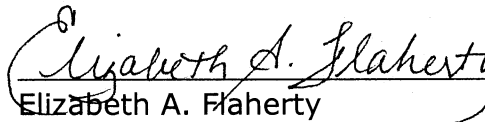
PROOF OF SERVICE

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on or about January 3, 2018, a copy of the *Joint Stipulation of Fact in Lieu of Trial Pursuant to C.J.D.R.P. 502(D)(1)* was sent by email and U.S. Mail to Magisterial District Judge Shaw's counsel, William A. Hebe, Esquire, at the following address:

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

Respectfully submitted,

January 3, 2018


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