

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

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JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2016 JUN - 1 P 12: 30

IN RE:

Angeles Roca :
Court of Common Pleas : 14 JD 2015
First Judicial District :
Philadelphia County :

JUDICIAL CONDUCT BOARD PRE-TRIAL MEMORANDUM

AND NOW, this 7th day of June, 2016, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board), by and through Elizabeth A. Flaherty, Deputy Counsel, pursuant to this Court's Order dated April 29, 2016, and files this Pre-trial Memorandum and avers the following:

A. TRIAL WITNESS LIST

The Board may call some or all of the following witnesses at trial:

1. FBI Special Agent Eric H. Ruona
U.S. Department of Justice
Federal Bureau of Investigation
8th Floor
600 Arch Street
Philadelphia, PA 19106
2. Special Agent Leah Chambers
(By Affidavit or Video Conference Call)
U.S. Department of Justice
Federal Bureau of Investigation
10385 Vista Sorrento Parkway
San Diego, CA 92121

B. EXHIBITS:

The parties stipulate to the authenticity and admissibility of the following exhibits:

1. A true and correct copy of the Confidential Request for Investigation verified by Robert A. Graci, Chief Counsel, on March 20, 2015 with attached Newspaper Article: Craig R. McCoy, Mark Fazlolla, and Dylan Purcell, "Buried in a filing: a new case of Philly judicial misconduct," <http://articles.philly.com/2013-9-16/news> Sept. 16, 2013
2. True and correct copies of *City of Philadelphia v. Ian C. Rexach*, CE-12-03-73-0123, case file documents:
 - a. Code Enforcement Complaint, filed March 27, 2012.
 - b. Order dated May 15, 2012, Judgment for Plaintiff by Default.
 - c. Notice of Judgment and Fine, filed May 15, 2012.
 - d. Petition to Open Judgment for Plaintiff by Default, June 12, 2012.
 - e. Rule dated June 12, 2012, Denied.
 - f. Notice of Denial, June 12, 2012.
 - g. Petition for Reconsideration of a Petition to Open Default Judgment, dated June 29, 2012.
 - h. Rule dated June 29, 2012, Granted.
 - i. Order dated March 13, 2013, Granting Petition to Open Default Judgment.
 - j. Order dated March 13, 2013, Withdrawn Without Prejudice.
3. A true and correct copy of the Letter of Inquiry to the Honorable Angeles Roca from Robert A. Graci, Chief Counsel, dated March 24, 2015.
4. A true and correct copy of the Response to the Letter of Inquiry by the Honorable Angeles Roca, dated April 13, 2015.
5. A true and correct copy of the Response to the Letter of Inquiry from John W. Morris, Esquire, dated April 14, 2015.

6. A true and correct copy of the Supplemental Letter of Inquiry to the Honorable Angeles Roca, c/o John W. Morris, Esquire, from Robert A. Graci, Chief Counsel, dated May 13, 2015.
7. A true and correct copy of the Response to the Supplemental Letter of Inquiry from the Honorable Angeles Roca to Robert A. Graci, Chief Counsel, dated May 21, 2015.
8. A true and correct copy of the Supplemental Response by the Honorable Angeles Roca to the Supplemental Letter of Inquiry, forwarded by John W. Morris, Esquire, dated June 19, 2015.
9. A true and correct copy of the Redacted Letter to Special Agent in Charge Edward J. Hanko from Robert A. Graci, Chief Counsel, dated October 29, 2014.
10. A true and correct copy of the June 3, 2013 FD-302 Report by FBI Special Agent Eric H. Ruona.
11. A true and correct copy of the Letter from Assistant United States Attorney Richard P. Barrett to Elizabeth A. Flaherty, Deputy Counsel, dated July 16, 2015.
12. A true and correct redacted copy of the Email from FBI Special Agent Eric H. Ruona to former Board Investigator Sean Brennan (with request to forward to Deputy Counsel Flaherty) with attachments consisting of two intercepted recorded telephone calls from Municipal Court Judge Dawn A. Segal to former Municipal Court Judge Joseph C. Waters on June 29, 2012 and July 1, 2012, dated January 26, 2016.
13. A true and correct copy of the Disc with 14 telephone conversations recorded by the FBI pursuant to 18 U.S.C. § 2518. Twelve of the intercepted telephone calls are between Judge Roca and former Judge Joseph C. Waters and occurred on September 21, 2011, September 22, 2011, December 23, 2011 (2), May 8, 2012 (2), May 16, 2012, June 26, 2012, June 29, 2012, July 1, 2012 (2), and September 19, 2012. The remaining two intercepted telephone calls, between Judge Dawn A. Segal and former Judge Waters, occurred on June 29, 2012 and July 1, 2012.

The parties stipulate to the identity of the voices on the intercepted phone calls. The female voice on the first twelve calls contained on the Disc listed in Paragraph No. 13 above is that of Judge Roca. Whereas, the female voice on the last two calls on the Disc listed in Paragraph No. 13 is that of Judge Dawn A. Segal. The male voice on all of the calls is that of former Judge Joseph C. Waters.

14. A true and correct copy of the Notice of Full Investigation sent to the Honorable Angeles Roca, c/o John W. Morris, Esquire, from Robert A. Graci, Chief Counsel, dated July 29, 2015.
15. A true and correct copy of the Response to Notice of Full Investigation by the Honorable Angeles Roca to Robert A. Graci, Chief Counsel, dated August 26, 2015.
16. Board Transcription of September 21, 2011 Recorded Call (Roca to Waters).
17. Board Transcription of September 22, 2011 Recorded Call (Roca to Waters).
18. Board Transcription of December 23, 2011 Recorded Call (Roca to Waters).
19. Board Transcription of December 23, 2011 Recorded Call (Waters to Roca).
20. Board Transcription of May 8, 2012 Recorded Call (Roca to Waters).
21. Board Transcription of May 8, 2012 Recorded Call (Waters to Roca).
22. Board Transcription of May 16, 2012 Recorded Call (Waters to Roca).
23. Board Transcription of June 26, 2012 Recorded Call (Roca to Waters).
24. Board Transcription of June 29, 2012 Recorded Call (Roca to Waters).
25. Board Transcription of June 29, 2012 Recorded Call (Segal to Waters).
26. Board Transcription of July 1, 2012 Recorded Call (Segal to Waters).
27. Board Transcription of July 1, 2012 Recorded Call (Roca to Waters' voicemail).
28. Board Transcription of July 1, 2012 Recorded Call (Waters to Roca).
29. Board Transcription of September 19, 2012 Recorded Call (Waters to Roca's Chambers).
30. A true and correct copy of the Deposition of the Honorable Angeles Roca taken by Elizabeth A. Flaherty, Esquire, on September 18, 2015.
31. A true and correct copy of the Letter from John W. Morris, Esquire, to Robert A. Graci, Chief Counsel, dated October 1, 2015.

32. A true and correct copy of the Redacted Minutes of the October 5, 2015 Judicial Conduct Board meeting, authorizing the filing of Formal Charges.

C. PROPOSED STIPULATIONS OF FACT

It can reasonably be expected that opposing counsel will agree to all or some of the following stipulations:

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. Since October 2008, Judge Roca has served continuously as Judge of the Court of Common Pleas of Philadelphia. Her appointed term began on October 25, 2008, followed by an elected term which started on January 4, 2010.
3. Based on a Confidential Request for Investigation at JCB File No. 2015-172, the Board investigated the instant matter.
4. 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 Roca in this Court.
5. The misconduct alleged in this Complaint occurred prior to July 1, 2014. Therefore, the Old Code of Judicial Conduct applies.
6. Former Judge Joseph C. Waters served on the Municipal Court of Philadelphia from the time of his initial appointment on July 7, 2009 through his resignation on September 23, 2014.
7. Judge Roca's term as Judge of the Court of Common Pleas coincided with that of former Judge Waters.

8. Since January 2010, Judge Dawn A. Segal has served as Judge of the Municipal Court of Philadelphia.

9. Judge Roca's term as Judge of the Court of Common Pleas coincides with that of Judge Segal.

10. Pursuant to a criminal investigation and unknown to former Judge Waters, Judge Roca and Judge Segal, the Federal Bureau of Investigation conducted a wiretap of former Judge Waters' telephone communications and recorded his intercepted telephone conversations with Judge Roca on June 26, 2012, June 29, 2012 and July 1, 2012, and his related intercepted conversations with Judge Segal on June 29, 2012 and July 1, 2012.

11. Incident to its investigation of this matter and upon request, on July 20, 2015, Board counsel received a copy of the recording of the intercepted telephone conversations between Judge Roca and former Judge Waters.

12. Incident to its investigation in another matter, *In re Segal*, 3 JD 2015, on January 26, 2016, Board counsel received a copy of the recording of related intercepted telephone conversations between Judge Segal and former Judge Waters.

13. Judge Roca's son, Ian C. Rexach, owns a barbershop in Philadelphia and was required by the codes or ordinances of the City of Philadelphia to file tax returns and pay taxes due and owing pursuant to a Net Profits Tax and a Business Privilege Tax.

14. On March 27, 2012, the Philadelphia City Solicitor's Office filed a Code Enforcement Complaint in the Philadelphia Municipal Court against Ian C. Rexach

for failure to file his 2008 Business Privilege Tax return that was due on April 15, 2009. *City of Philadelphia v. Rexach*. Case No. CE-12-03-73-0123.

15. On May 15, 2012, without a hearing in the *Rexach* case and in accord with standard Municipal Court ministerial actions, the signature of Municipal Court President Judge Marsha H. Neifield was affixed to the Order for a default judgment against Rexach because he failed to appear at the hearing in his case.

16. Thereafter, Rexach filed a *pro se* Petition to Open Judgment.

17. On June 12, 2012, Judge Segal denied Rexach's Petition to Open Judgment for failure to set forth a meritorious defense.

18. On June 26, 2012, Judge Roca called former Judge Waters to ask him how her son, Ian Rexach, should proceed to obtain relief in the tax matter.

19. Judge Roca's June 26, 2012 intercepted telephone conversation with former Judge Waters consisted of the following:

Judge Roca: I have a question . . . Can you file a motion for reconsideration with her [Segal]?

Former Judge Waters: Yea. You file a Motion for Reconsideration with her and I'll talk to her.

Judge Roca: Huh?

Former Judge Waters: I said file a Motion for Reconsideration with her and I'll talk to her.

Judge Roca: Ok.

Former Judge Waters: Why didn't you call me first?

Judge Roca: Because I didn't know it was late, so I just sent him over and I said, "Just go open it." I didn't know it was beyond the 30 day period. Otherwise, I would have called.

Former Judge Waters: Yea.

Judge Roca: It was on May 15th and he wrote in the petition, "I apologize I got this mixed up with another court date in Municipal Court," and then he wrote, "I wish to reopen my case so that I can resolve this matter and make payments." The bitch denied it. That's a pretty good . . . laughs]...I mean it's not a legal defense, but give me a break.

20. From that conversation, Judge Roca understood that as a result of her telephone call to former Judge Waters, he planned to talk to Judge Segal about the Petition for Reconsideration in the *Rexach* case.

21. Judge Roca told former Judge Waters that the reason she did not call him earlier for his help was that she "didn't know it was beyond the 30 day period."

22. During her June 26, 2012 telephone conversation with former Judge Waters, Judge Roca did not attempt to dissuade him from contacting Judge Segal about the *Rexach* matter.

23. During her June 26, 2012 telephone conversation with former Judge Waters, Judge Roca referred to Judge Segal as "the bitch [who] denied it," meaning the Petition to Open Judgment.

24. Subsequent to the June 26, 2012 telephone conversation with former Judge Waters, Judge Roca learned that Judge Segal would not be presiding over such petitions and motions after June 29, 2012.

25. Judge Roca wanted to ensure that Judge Segal was the judge who decided the *Rexach* Petition for Reconsideration.

26. On June 29, 2012, Judge Roca called former Judge Waters again and informed him that her son, Ian Rexach, filed the Petition for Reconsideration.

27. During the June 29, 2012 intercepted telephone conversation, Judge Roca encouraged former Judge Waters to intervene:

Former Judge Waters: Hey Honey, what's up Babe?

Judge Roca: Do you have Dawn's number?

Former Judge Waters: Who?

Judge Roca: Dawn Segal.

Former Judge Waters: Uh...

Judge Roca: He [Rexach] just filed for reconsideration. They said she [Segal] does 'em right today. So we need to call her today.

Former Judge Waters: Oh. Okay. I'll call Dawn right now. All right.

Judge Roca: It's Ian Rexach. She said call Monday and by Monday she [Segal] would have already decided the decision.

Former Judge Waters: All right. What's his name?

Judge Roca: It's Ian Rexach. R-E-X-A-C-H.

Former Judge Waters: R-E-X-A-C-H. I'll call her right now.

Judge Roca: And it was a Motion for Reconsideration. All right?

Former Judge Waters: All right. Bye-bye.

Judge Roca: Thank you, Baby.

28. During her June 29, 2012 telephone conversation with former Judge Waters, Judge Roca understood that he planned to call Judge Segal to request special consideration for her son, Ian Rexach, regarding his Petition for Reconsideration.

29. During her June 29, 2012 telephone conversation with former Judge Waters, Judge Roca encouraged him to intervene in the *Rexach* matter by calling Judge Segal and thanked him in advance for his help.

30. On June 29, 2012, Judge Segal reviewed the Petition for Reconsideration and granted a Rule to Show Cause why the relief requested should not be granted.

31. Judge Segal did not preside over the *Rexach* case after June 29, 2012.

32. On June 29, 2012, Judge Segal called former Judge Waters and left an intercepted voicemail as follows:

Former Judge Waters: . . . and I will return your call as quickly as possible. Thank you and have a good day.
[voicemail commands]

Judge Segal: Hi Joe, it's Dawn Segal returning your call. Um, give me a call when you have a chance. Hopefully, I'll get you, I had to go to . . . oh this might be you, let me, let me see . . . [55 seconds of voicemail commands].

33. On July 1, 2012, Judge Segal called former Judge Waters to advise him that she "took care of it."

34. During the July 1, 2012 intercepted telephone conversation with former Judge Waters, Judge Segal asked him to convey a message to "her" as follows:

Former Judge Waters: [23 seconds of phone ringing] Hey what's up?

Judge Segal: Hi, I figured it out and I took care of it.

Former Judge Waters: Oh, okay. Thank you.

Judge Segal: I got it. Alright. It was on my um, queue, so I did it. So, tell her it's done.

Former Judge Waters: Thank you very much, honey.

35. On July 1, 2012, former Judge Waters called Judge Roca and left an intercepted voice mail on her phone in which he stated in part:

Former Judge Waters: Angie, it's Joe. Dawn Segal just called me. She just said she took care of that thing. All right. Bye-bye.

36. Later that same day, former Judge Waters again called Judge Roca and their intercepted telephone conversation included the following:

Judge Roca: Hello.

Former Judge Waters: Angie, it's Joe. How you doin'?

Judge Roca: Good. What's up?

Former Judge Waters: Not much. That thing's taken care of.

Judge Roca: Thank you, Honey. Thanks so much.

Former Judge Waters: She called me this morning and she said she did it over the weekend. So it's taken care of.

Judge Roca: All right. Cool. Thanks, Baby.

Former Judge Waters: Just check on it tomorrow and make sure it's [unintelligible words].

Judge Roca: I will. I will definitely check on Monday. Okay.

Former Judge Waters: All right, Sweetie. Talk to you.

Judge Roca: Bye-bye, Honey. Bye-bye.

37. In his July 1, 2012 intercepted voice mail and telephone conversation with Judge Roca, former Judge Waters informed her that Judge Segal called him and said that she took care of "that thing," meaning the Petition for Reconsideration in the *Rexach* case.

38. During her July 1, 2012 intercepted telephone conversation with former Judge Waters, Judge Roca thanked him for contacting Judge Segal on her behalf regarding the *Rexach* matter.

39. Following several continuances, on March 13, 2013, without a hearing in the *Rexach* case and in accord with standard Municipal Court ministerial actions, the signature of Municipal Court President Judge Marsha H. Neifield was affixed to orders entered at the request of Rexach and the City's counsel, ordering the default judgment against Rexach be opened and vacated and that the case against him be withdrawn without prejudice.

40. On June 3, 2013, FBI Special Agent Eric H. Ruona and Special Agent Leah Chambers interviewed Judge Roca in the presence of her attorney.

41. During that interview, Judge Roca denied that judges call one another and ask for favors. She stated, "We don't do that here at all."

42. During the same interview, Judge Roca also said that she would not call another judge to request a favor for a member of her family.

43. Judge Roca told the FBI agent that she knew a few other judges but would not call to ask any of them for a favor.

44. On March 24, 2015, Board counsel sent an informal letter of inquiry to Judge Roca.

45. On April 13, 2015, the Board received a response letter from Judge Roca and a separate response letter from her attorney.

46. On May 13, 2015, Board counsel sent a supplementary letter of inquiry to Judge Roca.

47. On May 28, 2015, Board counsel received Judge Roca's response to the supplementary letter of inquiry, dated May 21, 2015.

48. At the time of Judge Roca's April 13, 2015 and May 21, 2015 responses to the letter of inquiry and supplementary letter of inquiry respectively, Judge Roca was not aware of the wiretap recordings of her telephone conversations with former Judge Waters on June 26, 2012, June 29, 2012 and July 1, 2012.

49. In those responses, Judge Roca admitted to only one conversation with former Judge Waters and stated that it was limited to procedural advice about a petition for reconsideration in the *Rexach* matter.

50. In Judge Roca's April 13, 2015 response, she stated that after former Judge Waters explained that her son, Ian Rexach, should file a petition for reconsideration, she advised Rexach on the proper procedure.

51. In her April 13, 2015 response, Judge Roca denied that she had any further conversation with Rexach or anyone else about the tax matter.

52. At Paragraph No. 7 of the April 13, 2015 response letter, Judge Roca stated, "I never requested preferential treatment and do not believe that any was given."

53. At Paragraph No. 8 of the same document, Judge Roca said, "Apparently, Judge Waters contacted Judge Segal. This was without my knowledge and not at my request," and "I was unaware that Judge Waters actually called Judge Segal."

54. In her May 21, 2015 supplementary response, Judge Roca reiterated that she sought procedural information only from former Judge Waters.

55. In that same supplementary response letter, Judge Roca stated that former Judge Waters did not offer to request special consideration from Judge Segal.

56. On June 9, 2015, Judge Roca and her attorney met with Assistant United States Attorney Richard Barrett and listened to the FBI intercepted telephone recordings of conversations between her and former Judge Waters for the time period between September 22, 2011 and July 1, 2012.

57. After her June 9, 2015 meeting with AUSA Barrett, Judge Roca submitted a second supplementary response letter to Board counsel, dated June 18, 2015.

58. In her second supplementary response letter, Judge Roca admitted that on June 26, 2012, former Judge Waters offered to speak with Judge Segal on her behalf and that she did not ask him not to do so.

59. In that same response letter, Judge Roca admitted that she placed a second phone call to former Judge Waters on June 29, 2012 and "asked him to request that Judge Segal consider the matter promptly."

60. Judge Roca also stated, "I should have stayed out of the matter completely."

61. In her June 18, 2015 supplementary response letter, Judge Roca admitted to the July 1, 2012 voice mail from and phone conversation with former Judge Waters who told her that the *Rexach* matter was "taken care of."

62. Despite her knowledge that former Judge Waters engaged in *ex parte* communication with Judge Segal, Judge Roca did not report his misconduct to the Judicial Conduct Board.

D. DISCOVERY CERTIFICATION

The Board, by and through undersigned counsel, hereby certifies that Judge Roca has been furnished with all non-privileged evidence within the Board's possession relevant to the charges contained in the Board Complaint as required by C.J.D.R.P. 401(D)(1).

E. EXCULPATORY CERTIFICATION

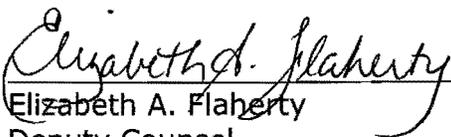
The Board, by and through undersigned counsel, hereby certifies that Judge Roca has been provided with any and all exculpatory evidence relevant to the charges contained in the Board Complaint as required by C.J.D.R.P. 401(E).

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

DATE: June 7, 2016

BY:



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

Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

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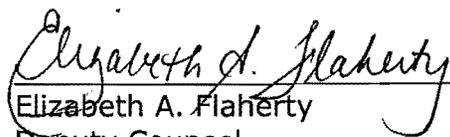
PROOF OF SERVICE

In compliance with Rule 122 of the Court of Judicial Discipline Rules of Procedure, on June 7, 2016, a copy of the Board's Pre-trial Memorandum was sent by first-class mail to Judge Roca's counsel, Samuel C. Stretton, at the following address:

Samuel C. Stretton, Esquire
301 South High Street
P.O. Box 3231
West Chester, PA 19381-3231

Respectfully submitted,

DATE: June 7, 2016


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