



THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION ON JUDICIAL CONDUCT

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**PRESS RELEASE**

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FOR IMMEDIATE RELEASE  
January 31, 2006

**COMMISSION ON JUDICIAL CONDUCT FILES  
FORMAL CHARGES AGAINST JUDGE SANTO J. RUMA**

**BOSTON, MA (January 31, 2006)** - Formal Charges have today been filed with the Supreme Judicial Court against Judge Santo J. Ruma, First Justice of the Peabody District Court, arising from a complaint filed against him. Judge Ruma's response to the Formal Charges has also been filed with the Supreme Judicial Court. Copies of both documents are attached.

The Commission has asked the Supreme Judicial Court to appoint a Hearing Officer to preside at the Public Hearing of this matter. The Commission will then schedule the Hearing to take place in thirty to sixty days after that appointment, in accordance with G.L. c.211C and Commission Rule 8. The Commission's statute and Rules and other information about the Commission are available at its web site: [www.mass.gov/cjc](http://www.mass.gov/cjc).

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## **BEFORE THE COMMISSION ON JUDICIAL CONDUCT**

### **Complaint Number 2004-57**

#### **FORMAL CHARGES**

The Commission on Judicial Conduct ("the Commission"), acting pursuant to M.G.L. c. 211C, § 5(14) and Commission Rule 7B(4), hereby notifies the Honorable Santo J. Ruma ("Judge Ruma"), First Justice of the Peabody District Court, that it has found sufficient cause to issue Formal Charges in the above-numbered matter.

These charges grew out of the investigation of a complaint filed on May 3, 2004. As a result of that investigation, on November 9, 2005, the Commission issued a Statement of Allegations pursuant to M.G.L. c. 211C, § 5(5). Judge Ruma received the Statement of Allegations on November 14, 2005. Judge Ruma's response to the Statement of Allegations was filed with the Commission on December 5, 2005 by his attorney, Andrew J. Fay. Judge Ruma did not request to appear before the Commission.

The Commission hereby notifies Judge Ruma that, pursuant to M.G.L. c. 211C, § 5(14) and Commission Rule 7B(4), he has ten (10) days after service of these Formal Charges in which to file a written response with the Commission. The response should set forth in concise language all denials, affirmative defenses, and any other matters upon which Judge Ruma intends to rely at the hearing on these charges. Immediately after the filing of Judge Ruma's response or the expiration of the ten days, a copy of the Formal Charges and of Judge Ruma's response shall be filed with the Supreme Judicial Court. Upon this filing, the confidentiality of the Formal Charges and the response thereto shall cease.

The Commission alleges that Judge Ruma has engaged in willful misconduct which is prejudicial to the administration of justice and unbecoming a judicial officer and which brings the judicial office into disrepute. This misconduct includes: failure to uphold the integrity of the judiciary, in violation of Canon 1A of the Code of Judicial Conduct (Supreme Judicial Court Rule 3:09); failure to promote public confidence in the integrity and impartiality of the judiciary, in violation of Canon 2A; failure to be faithful to the law, in violation of Canon 3B(2); and failure to be patient and courteous to a litigant with whom the judge dealt in an official capacity, in violation of Canon 3B(4).

#### **Judge Ruma's Abuse of the Power of Custody**

The Commission alleges that Judge Ruma abused the power of custody on April 28, 2004, in the following circumstances:

1. On the morning of April 28, 2004, in the First Session of the Peabody District Court, 19-year-old Kristina Morales ("Ms. Morales") sat in the gallery, waiting for her

shoplifting and trespass case to be called. After the case of Commonwealth v. McKenna was called, Judge Ruma had Assistant District Attorney Timothy V. Dooling ("ADA Dooling") and defense attorney Alfred E. Saggese, Jr. ("Attorney Saggese") approach the bench. At sidebar, Judge Ruma introduced Attorney Saggese to ADA Dooling, and the three men had a social conversation which included laughter. During this sidebar, Ms. Morales talked with her cousin, with whom she was seated. Court Officer Kevin Honan ("Court Officer Honan") told Ms. Morales to be quiet. When she continued to talk, court clerk Mary Coan directed Court Officer Honan to send Ms. Morales and her companion out of the courtroom. Court Officer Honan said, "Girls, outside. Out. Both of youse. Out." While Ms. Morales was walking towards the exit of the courtroom, Ms. Morales asked Court Officer Honan how she would know when her case was called. He replied sarcastically, "I'll let you know. About 4 o'clock I'll give you a call." Ms. Morales replied, "Yeah, right." Judge Ruma then looked up from his sidebar conversation and said in a raised voice, "No, I don't want you. . . get her now! Wait a minute, get her now! OK? You get her now. What 4 o'clock? There is no 4 o'clock! Just put her in custody and that's the end of that story. What are we playin' around for?" Court Officer Honan then took Ms. Morales into custody, placed her in handcuffs, and eventually seated her in the dock. Ms. Morales remained in the dock for approximately one-and-one-half hours, when her case was called. Ms. Morales was then released, and her case was continued to a future date.


2. Ms. Morales had already been ordered out of the courtroom by Court Officer Honan before Judge Ruma took notice of her and was voluntarily walking out of the courtroom when Judge Ruma ordered her into custody.

3. Judge Ruma did not give any warning to Ms. Morales that her behavior could result in her being placed into custody, nor did he attempt to follow any of the procedures required by Massachusetts Rule of Criminal Procedure 43 for a finding of summary contempt.

4. Ms. Morales' behavior was not disrupting court business, as Judge Ruma was conducting a conversation with Attorney Saggese and ADA Dooling at sidebar when he ordered Ms. Morales into custody.

The conduct set forth above constitutes conduct prejudicial to the administration of justice and unbecoming a judicial officer, brings the judicial office into disrepute, and violates the Code of Judicial Conduct.

For the Commission,

  
Robert J. Guttentag  
Chairman

Date: December 23, 2005

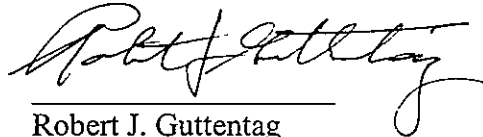
**NOTICE OF DISCOVERY RIGHTS PURSUANT TO FORMAL CHARGES**

**Complaint No. 2004-57**

The Commission hereby notifies Judge Ruma that, pursuant to Commission Rule 9A, the Commission shall, within a reasonable time, make available for inspection upon the written request of the judge all books, papers, records, documents, electronic recordings, and other tangible things within the custody and control of the Commission which are relevant to the issues of the disciplinary hearing, and any written or electronically recorded statements within the custody and control of the Commission which are relevant to the issues of the disciplinary proceeding.

As specified in Commission Rule 9C, nothing in this Notice of Discovery Rights shall be construed to require the discovery of any report made to the Commission by its staff or Special Counsel. Furthermore, in granting discovery the Commission shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of its staff, Special Counsel, or other representative.

For the Commission,

A handwritten signature in black ink, appearing to read "Robert J. Guttentag", written over a horizontal line.

Robert J. Guttentag  
Chairman

Date: December 23, 2005

## BEFORE THE COMMISSION ON JUDICIAL CONDUCT

Complaint Number 2001-133 [sic: 2004-57]RESPONSE OF HON. SANTO J. RUMA TO  
FORMAL CHARGES

The Hon. Santo J. Ruma ("Judge Ruma") hereby respectfully responds to the charges issued by the Commission on Judicial Conduct ("Commission") as follows:

Judge Ruma denies that he engaged in willful misconduct which is prejudicial to the administration of justice and unbecoming a judicial officer and which brings the judicial office into disrepute. Judge Ruma further respectfully denies that he failed (1) to uphold the integrity of the judiciary, in violation of Canon 1A of the Code of Judicial Conduct (Supreme Judicial Court Rule 3:09); (2) to promote public confidence in the integrity and impartiality of the judiciary, in violation of Canon 2A; (3) to be faithful to the law, in violation of Canon 3B(2); and (4) to be patient and courteous to a litigant with whom the judge dealt in an official capacity, in violation of Canon 3B(4).

Judge Ruma also respectfully denies that he abused the power of custody on April 28, 2004.

**1. Response to Paragraph 1 of the Charges**

A. In response to ¶1 of the charges, Judge Ruma denies that Ms. Morales merely "talked with her cousin, with whom she was seated" during the sidebar conference, as the charges allege.<sup>1</sup> This statement is a mischaracterization of Ms. Morales' conduct and a mischaracterization of the context in which Judge Ruma's conduct should be evaluated.

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<sup>1</sup> The charges also state, at ¶1, "[w]hen she continued *to talk*, court clerk Mary Coan directed Court Officer Honan to send Morales and her companion out of the courtroom." (emphasis added)

Rather, the evidence will show that Ms. Morales was seated in the front row of the spectator area of the courtroom at Location "1" on Ex. A, a diagram of the courtroom. Ms. Morales was talking very loudly and laughing and was generally being disruptive to the Court. According to her counsel, attorney Arthur J. Carakatsane, seated near Location "2" on Ex. A, Ms. Morales was seated directly behind attorney Carakatsane. Affidavit of Arthur J. Carakatsane, attached as Ex. B at ¶ 5. On two occasions attorney Carakatsane "had to turn around and tell her to quiet down and behave in an appropriate manner for a courtroom. [Attorney Carakatsane] noticed that Court Officer Kevin Honan had observed [Carakatsane's] actions regarding Ms. Morales on at least one of the occasions." Ex. B at ¶ 5.

According to Off. Honan, he observed Ms. Morales speaking to another woman in the front row of the spectator area of the court. Affidavit of Kevin Honan, attached as Ex. C at ¶ ¶ 2, 3. Off. Honan was standing at Location "3" on Ex. A, about twenty-five (25) feet from the women. Ex. C. at ¶ 4. The women were talking very loudly, laughing out loud and being disruptive to the Court. Ex. C at ¶ 3. "At approximately 10 a.m. [Off. Honan] went over to the two women and in a cordial manner informed them that they would have to be quiet." Ex. C. at ¶ 5.

"Approximately ten minutes later the women started talking very loudly and laughing again." Ex. C. at ¶ 6. "At that time [Off. Honan] again walked over to the women and informed them that if [he] had to come back to speak to them again they would have to leave the courtroom." Ex. C. at ¶ 6. "At approximately 10:30 a.m. [Off. Honan] made eye contact with Ms. Morales and the woman seated next to her and put [his] index finger up to [his] lips to send a visual warning to them that they should be quiet. The two women saw [him] when [he] did so.

However, the women continued to talk loudly.” Ex. C. at ¶ 7. See also Affidavit of Mary E. Coan attached as Ex. D at ¶ 3. “[Off. Honan] then said, “Sssshh” and directed that comment to Ms. Morales and the woman seated next to her. The women did not quiet down but kept talking loudly and disrupting the Court.” Exs. C. at ¶ 8 and D at ¶ 3.

According to Ms. Coan, the courtroom clerk, seated at Location “4” on Ex. A, Ms. Morales “was making a lot of noise, talking loudly and laughing in the courtroom. The volume and tone of Ms. Morales’ voice was distracting and made it difficult to hear.” Ex. D at ¶ 2.

According to Attorney George J. Duffy, also present in the courtroom at the time, “[f]or some few minutes, two young women in the court room had been acting obstreperously, laughing and raising their voices in a disturbing manner.” Affidavit of Attorney George J. Duffy, attached as Ex. E at ¶ 4.

Attorney Edward F. Pasquina was also present in the courtroom attempting to review his notes in anticipation of his case being assigned for trial that day. According to attorney Pasquina, “[h]owever, I was unable to do so insofar as my attention was diverted. Two (2) young women attired in the relaxed fashion of today’s pop culture were talking and laughing in a loud and disturbing manner. That mode of communication continued without interruption and escalated to a point that I was so distracted from my work, that I was unable to concentrate. I then left this unsettling atmosphere of that courtroom and continued my trial preparation in the hall of the court, which although occupied with foot traffic, was more serene then the courtroom and the disturbance which was causally related to the females mentioned in this paragraph.” Ex. F at ¶ 4.

According to Assistant District Attorney, Timothy V. Dooling, Esq., who at this time was participating in sidebar conference with Judge Ruma and attorney Alfred E. Saggese, Jr. at

Location "5" on Ex. A, "[d]uring this sidebar, I heard the voice of a woman who was sitting in the first or second row of the audience; she was talking loudly and being generally disruptive. It sounded like she was complaining about something." Ex. G.

According to Gary Cowles, the Chief Probation Officer at the Peabody District Court who was also in the courtroom when the disturbance took place, "I heard a woman's voice talking loudly and laughing in the courtroom while a conference was taking place at the Bench." Ex. H at ¶3.

"At this point, Mary Coan, the Courtroom Clerk, made a gesture to [Off. Honan] with her head and in the direction of the two women. [Off. Honan] interpreted the gesture as a request by Ms. Coan for [him] to remove these two women from the courtroom because they were disrupting the Court. At this point Clerk Coan said to [Off. Honan] while pointing at the two women, 'Why don't you send those two out. Those two. Send them out.'" Exs. C. at ¶ 9, D at ¶ 4 and H.

According to Chief Probation Officer Cowles, "I observed the Court Officer approach the woman ... and tell her and her companion to quiet down." Ex. H at ¶4. "The disturbance continued and I heard Asst. Clerk Mary Coan tell the Court Officer to remove the woman from the courtroom." Ex. H ¶5. "The Court Officer told the women to leave the courtroom and they got up from their seats and continued to loudly protest causing everyone in the courtroom to look their way." Ex. H ¶6.

Accordingly, clearly, Ms. Morales was not simply "talk[ing] to her cousin, with whom she was seated", as the charges allege, but rather was creating a disturbance in the courtroom.

**B.** Judge Ruma also denies Paragraph 1 of the charges to the extent it alleges that



*“[w]hile Ms. Morales was walking towards the exit of the courtroom, Ms. Morales asked Court Officer Honan how she would know when her case is called.”* (emphasis added). The evidence will show that Ms. Morales was not “walking towards the exit of the courtroom” at this time. See discussion at 2, *infra*.

C. Judge Ruma also denies Paragraph 1 of the charges to the extent it alleges that “Judge Ruma then looked up from his sidebar conversation, *saw that Ms. Morales was nearing the exit*, and said ...” (emphasis added). The evidence will show that when Judge Ruma saw Ms. Morales she was not “nearing the exit” but was rather engaged in a verbal altercation with Court Officer Honan and was not leaving the courtroom. See discussion at 2, *infra*.

D. Judge Ruma also notes that the charges omit the fact that no fine or other penalty of any kind was assessed by Judge Ruma against Ms. Morales for her disruptive and contumacious behavior.

## **2. Response to Paragraph 2 of the Charges**

A. In response to ¶2 of the charges, Judge Ruma denies that Ms. Morales “was voluntarily walking out of the courtroom when Judge Ruma ordered her into custody.” Rather, the evidence will show that at this time Ms. Morales was involved in a defiant, verbal altercation with Court Officer Honan and not leaving the courtroom.

From Judge Ruma’s perspective approximately twenty-five (25) feet away at Location “6” on Ex. A, “[t]he sidebar conference was interrupted by a disturbance in the courtroom.” Affidavit of Hon. Santo J. Ruma, attached as Ex. I at ¶ 6. “Off. Honan appeared to be requesting that a female spectator leave the courtroom. The woman was speaking loudly, pointing her

finger in Off. Honan's face, acting obstreperously and refusing to leave the courtroom. The situation appeared to be escalating." Ex. I at ¶ 6.

According to Chief Probation Officer Cowles, "[t]he Court Officer told the women to leave the courtroom and they got up from their seats and continued to loudly protest causing everyone in the courtroom to look their way." Ex. H at ¶6. "Ms Morales was in the middle of the courtroom with her back to the exit, approximately twenty feet away from the exit, with her finger pointed toward the court officer asking when her case would be called." Ex. H at ¶7.

"[Off. Honan] walked over to speak to the women. When [he] spoke to them Ms. Morales stood up, pointed her finger at [Off. Honan] and spoke in a loud voice to [him] in the front of the spectator area where everyone in the courtroom could hear her. She was making 'a scene' in the courtroom." Ex. C. at ¶ 10. "It appeared a court officer went over to her to quiet her down but she got louder and started to complain about something. She appeared upset and grew louder as she was approached again by the court officer." Statement of Attorney Alfred E. Saggese, Jr., Ex. J. "[Ms. Morales] did not quiet down, but instead began to swear and complain that her case was not being called." Ex. G. "[Off. Honan] asked her several times to leave the courtroom and she did not leave or move towards the door." Ex. C. at ¶ 11. Ms. Coan "saw Morales stand up and speak to Off. Honan in a defiant and sarcastic manner. [Ms. Coan] did not see [Morales] move towards the door." Ex. D at ¶ 4. "As [Ms. Morales] got up, she was louder and more disruptive. Judge Ruma asked that she be placed in custody, when it appeared she was not going to leave voluntarily." Ex. I. "She still did not calm down; instead, she got even angrier and continued to swear." Ex. G.

As attorney Saggese put it, "[a]s she got up, she became louder and more disruptive.

Judge Ruma asked that she be placed in custody, when it appeared she was not going to leave voluntarily.” Ex. J.

According to attorney Duffy, “[w]hen the women failed to heed Ms. Coan’s order to leave the court room, Court Officer Kevin Honan approached them and again ordered them to leave. One of the two women became verbally confrontational and began challenging Officer Honan’s authority, insisting that she would stay until her case was heard. It was painfully obvious that this young woman was not about to leave the court room voluntarily, but was intent upon standing her ground. Officer Honan appeared to be losing patience with her and the situation seemed to be reaching critical mass.” Ex. E at ¶6.

Accordingly, Ms. Morales was not, in fact, “voluntarily walking out of the court room when Judge Ruma ordered her into custody”, as the charges allege.

### **3. Response to Paragraph 3 of the Charges**

A. In response to ¶3 of the charges, Judge Ruma denies that he “did not attempt to follow any of the procedures required by Massachusetts Rule of Criminal Procedure 43 for a finding of summary contempt.”

Mass.R.Crim.P. 43(a) provides:

**(a) Availability of Summary Proceedings.** A criminal contempt may be punished summarily when it is determined that such summary punishment is necessary to maintain order in the courtroom and:

(1) the contemptuous conduct could be seen or heard by the presiding judge and was committed within the actual presence of the court;

(2) the judgment of contempt is entered upon the occurrence of the contemptuous conduct; and

(3) the punishment imposed for each contempt does not exceed three months

imprisonment or a fine of five hundred dollars.

Judge Ruma was certainly authorized to use his summary contempt powers here<sup>2</sup> and, other than the fact he did not make a formal entry of a judgment of contempt against Ms. Morales, he otherwise did comply with the requirements of Mass.R.Crim.P. 43. First, he rightfully determined that summary punishment was “necessary to maintain order in the courtroom”. Second, the contemptuous conduct was both seen and heard by him and was “committed within the actual presence of the court”. Third, Ms. Morales was removed to the dock at the rear of the court room upon the occurrence of her contemptuous conduct. Finally, there was no punishment imposed upon her that “exceed[ed] three months imprisonment or a fine of five hundred dollars.” Ms. Morales simply remained in the dock at the back of the courtroom for an hour and one half and when her case was called she was released. No other penalty or fine of any kind was imposed for her willfully contemptuous behavior.

Rule 43 permits summary punishment when “summary punishment is necessary to maintain or restore order in the courtroom.” *Commonwealth v. Segal*, 401 Mass. 95, 99 (1987), quoting from Mass.R.Crim.P. 43(a). “Contempt may ... consist of an objectionable manner, speech, attitude, conduct, and tone of voice in the court room.” *Commonwealth v. Brunnell*, \_\_ Mass.App.Ct. \_\_ (2006), 2006 WL 133452 quoting *Albano v. Commonwealth*, 315 Mass. 531, 535 (1944). As the Court in *Commonwealth v. Wiencis*, 48 Mass.App.Ct. 688, 692 (2000) stated:

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<sup>2</sup> Judge Ruma would also have been authorized to cause a criminal complaint to issue against Ms. Morales for violation of G.L. c. 268, § 13C, which provides “[w]hoever causes or actively participates in the willful disruption of proceedings of any court of the commonwealth may be punished by a fine of not more than one thousand dollars or by imprisonment in a jail or house of correction for not more than one year, or both. Nothing in this section shall interfere with or prevent the exercise by any court of the commonwealth of its power of contempt.” Judge Ruma, however, did not cause a criminal complaint to issue against Ms. Morales.

"[T]he facts of this case are consistent with 'the standard case for summary contempt and punishment ... of a party or witness or bystander who behaves boisterously or offensively in open court against the dignity of the court.' " *Commonwealth v. Malley*, 42 Mass.App.Ct. 804, 811, 680 N.E.2d 123 (1997), quoting from *Commonwealth v. Viera*, 41 Mass.App.Ct. 206, 209, 669 N.E.2d 209 (1996). When, as here, the flagrant conduct occurred in the presence of the judge and jury, discretion to use summary contempt procedures to maintain order rests squarely with the judge. *Commonwealth v. Malley*, 42 Mass.App.Ct. at 810-811, 680 N.E.2d 123.

Moreover, "a court exercises considerable discretion in dealing with contemptuous conduct occurring in its presence, and its summary adjudication is accorded a presumption of finality," *State v. Melechinsky*, 36 Conn.Supp. 547,549, 419 A.2d 900 (1980). 'From necessity the court must be its own judge of contempts committed within its presence.' *Goodhart v. State*, 84 Conn. 60, 62-63, 78 A. 853 (1911)." *Jackson v. Bailey*, 221 Conn. 498, 504, 605 A.2d 1350, cert. denied, 506 U.S. 875, 113 S.Ct. 216, 121 L.Ed.2d 155 (1992) quoted in *Commonwealth v. Brunnell*, \_\_ Mass.App.Ct. at \_\_, 2006 WL 133452. A judge's contempt finding will be upheld where "the trial judge reasonably could have found that the plaintiff's conduct was willfully contumacious beyond a reasonable doubt. See, e.g., *Moore v. State*, 186 Conn. 256, 258-259, 440 A.2d 969 (1982)(explaining that, while criminal contempt proceedings should conform as closely as possible to criminal proceedings, especially regarding the presumption of innocence and the standard of proof beyond a reasonable doubt, they need not exactly adhere to criminal proceeding and can be summary in nature)." *Id.*

Furthermore,

[a] warning is not a condition precedent to criminal contempt in all cases. See *Sussman v. Commonwealth*, 374 Mass. at 697, 374 N.E.2d 1195 (noting that 'flagrant contemptuous conduct' could justify the exercise of the summary contempt power without a warning). We can conceive of a wide panoply of acts

that would constitute contempt of court without the necessity of a prior warning. Such acts include a 'party or witness or bystander who[, as here,] behaves boisterously or offensively in open court against the dignity of the court.' *Commonwealth v. Viera*, 41 Mass.App.Ct. at 209, 669 N.E.2d 209. *Commonwealth v. Malley*, 42 Mass.App.Ct. 804, 811, 680 N.E.2d 123 (1997).

Id. As the Court in *Wiencis* put it, "[e]xpressed more coarsely, when the offending person is completely out of line, no warnings need be given." *Wiencis*, 48 Mass.App.Ct. at 692 (2000).

The evidence here will show that Ms. Morales was "completely out of line" and Judge Ruma was justified in acting as he did.<sup>3</sup>

Additionally, the Court in *Sussman* cited with approval the American Bar Association Standards Relating to the Function of the Trial Judge. See *Sussman*, 374 Mass. at 698 (1978) at footnote 5. Specifically:

"7.1 Inherent power of the court.

The court has the inherent power to punish any contempt in order to protect the rights of the defendant and the interests of the public by assuring that the administration of criminal justice shall not be thwarted. The trial judge has the power to cite and, if necessary, punish summarily anyone who, in his presence in open court, willfully obstructs the course of criminal proceedings."

"7.2 Admonition and warning.

No sanction other than censure should be imposed by the trial judge unless

(i) it is clear from the identity of the offender and the character of his acts that disruptive conduct was willfully contemptuous, *or*

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<sup>3</sup> Even if a warning were required under the circumstances - and it was not for the aforementioned reasons - any such warning requirement is satisfied by the undisputed evidence that Mr. Morales was warned by Court Officer Honan that if she was not quiet she would have to leave the courtroom. See Ex. C at ¶6. See also *Ex Parte Charles E. Krupps, et al.*, 712 S.W.144, 147-148 (1986)(in connection with summary contempt proceedings, where the bailiff rather than the judge provided a warning to the offenders to stand when the judge entered the courtroom and the offenders refused, the judgment of contempt and thirty day jail sentence was upheld). See also, *Haldane v. Chagnon*, 345 F.2d 601, 604 (9<sup>th</sup> Cir. 1965).

(ii) the conduct warranting the sanction was preceded by a clear warning that the conduct is impermissible and that specified sanctions may be imposed for its repetition."

(emphasis added). Here, it was clear from the identity and character of the acts of Ms. Morales and her failure to heed the numerous and repeated warnings of her own attorney, the court clerk and the court officer "that the disruptive conduct was willfully contemptuous". Accordingly, no warning by Judge Ruma to Ms. Morales was required pursuant to the ABA Standards Relating to the Function of the Trial Judge, invoked approvingly by the SJC in *Sussman*.

Furthermore, the Court in *Sussman* was dealing with a summary contempt proceeding against an attorney based on his court room conduct. The *Sussman* Court remarked that:

we must balance the trial judge's obligation to protect the processes of orderly trial with the attorney's obligation zealously to protect the client's interest. In determining whether the power to punish summarily is justified, we must give due weight to the importance of vigorous advocacy. To do otherwise would chill the less courageous attorney in his efforts to represent his client effectively.

*Sussman*, 374 Mass. at 696. Clearly, those circumstances have no application here as Judge Ruma was not forced to deal with simply an overly zealous attorney.

Moreover, according to attorney Saggese, "[i]n my opinion and from my observation, the court officer and Judge Ruma acted with polite restraint and propriety. The woman taken into custody was loud and disruptive and disrespectful. It was appropriate to take her into custody." According to attorney Duffy, "[i]t is, to me, remarkable that anyone could seriously question the need for precisely the measured but firm response to such an egregious disruption of a court engaged in open session as Judge Ruma provided. If Judge Ruma had failed to ensure a non-violent and orderly resolution of that outrageous behavior, he would surely have been derelict in his duty." Ex. E at ¶ 8.

Furthermore, Judge Ruma has an affirmative obligation to “maintain order and decorum in the proceedings before the Judge.” Massachusetts Code of Judicial Conduct, Canon 3B(3). The Judge was obligated by law to deal with Kristina Morales’ flagrant, wilfully contemptuous behavior which occurred in the Judge’s presence.

Additionally, in *Commonwealth v. Bohmer* the SJC upheld a trial judge’s removal of a spectator, one of the defendants’ brother, from the courtroom “for no reason other than that he was causing a disturbance” which removal “was preceded by laughing and snickering in the courtroom.” *Commonwealth v. Bohmer*, 374 Mass. 368, 380-381 (1978). In reaching that conclusion the SJC stated:

“The judge must also have the power to maintain order in court proceedings so that the administration of the criminal law will be fair and just. See *Illinois v. Allen*, U.S. 337, 343, 90 S.Ct. 1057, 25 L.Ed. 2d 353 (1970). As a corollary to this power a judge has the authority to exclude spectators ... who conduct themselves in a manner that disrupts the order and decorum of the proceeding.”(citations omitted).

At the time the incident involving Ms. Morales occurred, she was not on trial and her case was not before the court. She was a spectator waiting for her case to be called.

Moreover, G.L. c. 211C § 2(4) provides:

(4) In the absence of fraud, corrupt motive, bad faith, or clear indication that the judge's conduct violates the code of judicial conduct, the commission shall not take action against a judge for making findings of fact, reaching a legal conclusion, or applying the law as he understands it. Commission proceedings shall not be a substitute for an appeal.

There is no “clear indication” here that the Judge’s conduct violates the Code of Judicial Conduct. Moreover, Judge Ruma, in good faith, made findings of fact, reached a legal conclusion and/or applied the law as he understood it to a highly charged and rapidly escalating



incident. Because there is no “fraud, corrupt motive, bad faith, or clear indication that the judge’s conduct violates the code of judicial conduct”, the Commission “shall not” take action against Judge Ruma for “applying the law as he understands it.” See G.L. c. 211C § 2(4).

### **3. Response to Paragraph 4 of the Charges**

A. In response to ¶4 of the charges, Judge Ruma denies that “Ms. Morales’ behavior was not disrupting court business, as Judge Ruma was conducting a conversation with Attorney Saggese and ADA Dooling at sidebar when he ordered Ms. Morales into custody”, as the charges allege. Rather, the evidence will show that not only was Ms. Morales disrupting court business, she had created a rapidly escalating, potentially dangerous situation in the courtroom which needed to be dealt with immediately.

As Attorney Duffy put it, “[d]uring that session, Judge Ruma had occasion to conduct a so called side bar conference with Assistant District Timothy Dooling and a defense attorney I do not know. For some few minutes, two young women in the court room had been acting obstreperously, laughing and raising there voices in a disturbing manner. I was sitting with other attorneys in the bar enclosure, engaged in polishing my intended argument in a case which presented a particularly challenging search warrant issue. I was repeatedly distracted from my work by the commotion in the court room caused by the two women and the annoying interactions this commotion elicited.” Ex. E. at ¶ 4. “This incident was disruptive and disquieting to all who were engaged in the important business of dealing with serious, legal matters. It is clear that no further court business was going to be conducted until this situation was rectified.” Ex. E at ¶8.

As Judge Ruma has put it, “[t]he woman was speaking loudly, pointing her finger in Off.

Honan's face, acting obstreperously and refusing to leave the courtroom. The situation appeared to be escalating." Ex. I at ¶ 6. "It would have been impossible to conduct any further business in the Court without first ending this disturbance." Ex. I at ¶ 7. "Additionally, the 'Criminal Daily List' for April 28, 2004 indicates there were sixty-six (66) separate criminal defendants scheduled to appear [in the First Session] that morning, not including witnesses. The spectator area of the courtroom was filled. [Judge Ruma] was concerned with the impact this woman's recalcitrance and obstreperousness might have on the numerous other defendants and spectators in the courtroom." Ex. I at ¶ 8.

According to ADA Dooling, "Mr. Saggese, the judge and I spoke for no more than three minutes at the sidebar. The entire incident involving the woman occurred during this time period. At the time, I did not notice her race, her age or anything about her, other than that she was loud, disruptive and profane." Ex. G.

According to attorney Saggese, "[d]uring the sidebar conference, a disruption took place in the audience of the courtroom (near the front two rows). I heard loud talk from a woman who disrupted the proceedings. It appeared a court officer went over to her to quiet her down but she got louder and started to complain about something. She appeared upset and grew louder as she was approached again by the court officer." Ex. J.

Finally, the allegations of the Complaint are, in many important respects, completely unsupported by the transcript, the affidavits and the diagram of the courtroom.<sup>4</sup> The nature and

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<sup>4</sup> First, the complainant's allegation that "[Ms. Morales] was singled out for an unknown reason" is entirely unsupported by the record in this matter. Ex. K, Complaint Form. The transcript and the affidavits of the participants and/or observers of the incident indicate that Ms. Morales was disrupting the business of the Court by talking and laughing loudly and refusing to be quiet and refusing to leave the courtroom after her own attorney's and Officer Kevin Honan's

phrasing of these inconsistencies suggests not only that the Complaint is inaccurate but, worse, disingenuous and, further, calls into question the complainant's motivations for filing the Complaint. The evidence, including testimony from several sitting and retired judges, including the former Chairman of the Commission, Hon. Robert E. Barton (ret'd), will show that the Complainant is not credible. Additionally, the evidence will show that the Complainant is biased against Judge Ruma because prior to the incident Judge Ruma determined to recuse himself from matters in which the Complainant appeared as counsel. The evidence will further show that this bias has resulted in a distortion of the facts by the Complainant for purposes of initiating a disciplinary action against Judge Ruma.

Judge Ruma reserves the right to call additional witnesses and introduce additional evidence not set forth herein.

#### **AFFIRMATIVE DEFENSES**

1. The charges violate G.L. c. 211C, § 2(4) in that they constitute actions against Judge Ruma in the absence of fraud, corrupt motive, bad faith, or clear indication that his conduct violated the code of judicial conduct for making findings of fact, reaching legal

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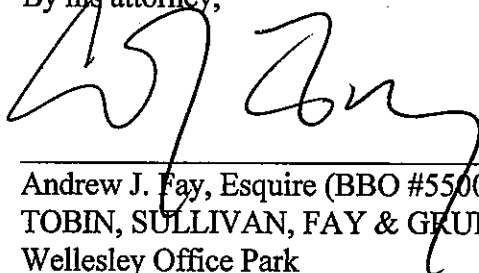
repeated requests to do so. Second, the complainant's statement that "[t]here was absolutely no warning of any kind to the general audience or to this young woman" is totally inaccurate. In fact, Ms. Morales was warned several times by the Officer Honan to be quiet. The transcript and the affidavits of the participants and/or observers of the incident indicate that Ms. Morales was warned by Off. Honan at approximately 10 am, again approximately ten minutes later, and again two more times around 10:30 am. Ms. Morales was also addressed by the court clerk, Mary E. Coan and twice warned by her own attorney. Morales chose to ignore those warnings and then to become obstreperous and defiant when Off. Honan approached her. Ms. Morales and her friend were the only two individuals whose conduct necessitated a warning. Third, the complainant fails to mention in his Complaint that Ms. Morales was taken to the dock and remained in the rear of the courtroom; she was not permanently removed from the courtroom, as the Complaint suggests.

conclusions, and applying the law as he understood it.

2. There has been a lengthy and undue delay in the investigation and/or prosecution of this matter by the Commission.

WHEREFORE, the charges should be dismissed.

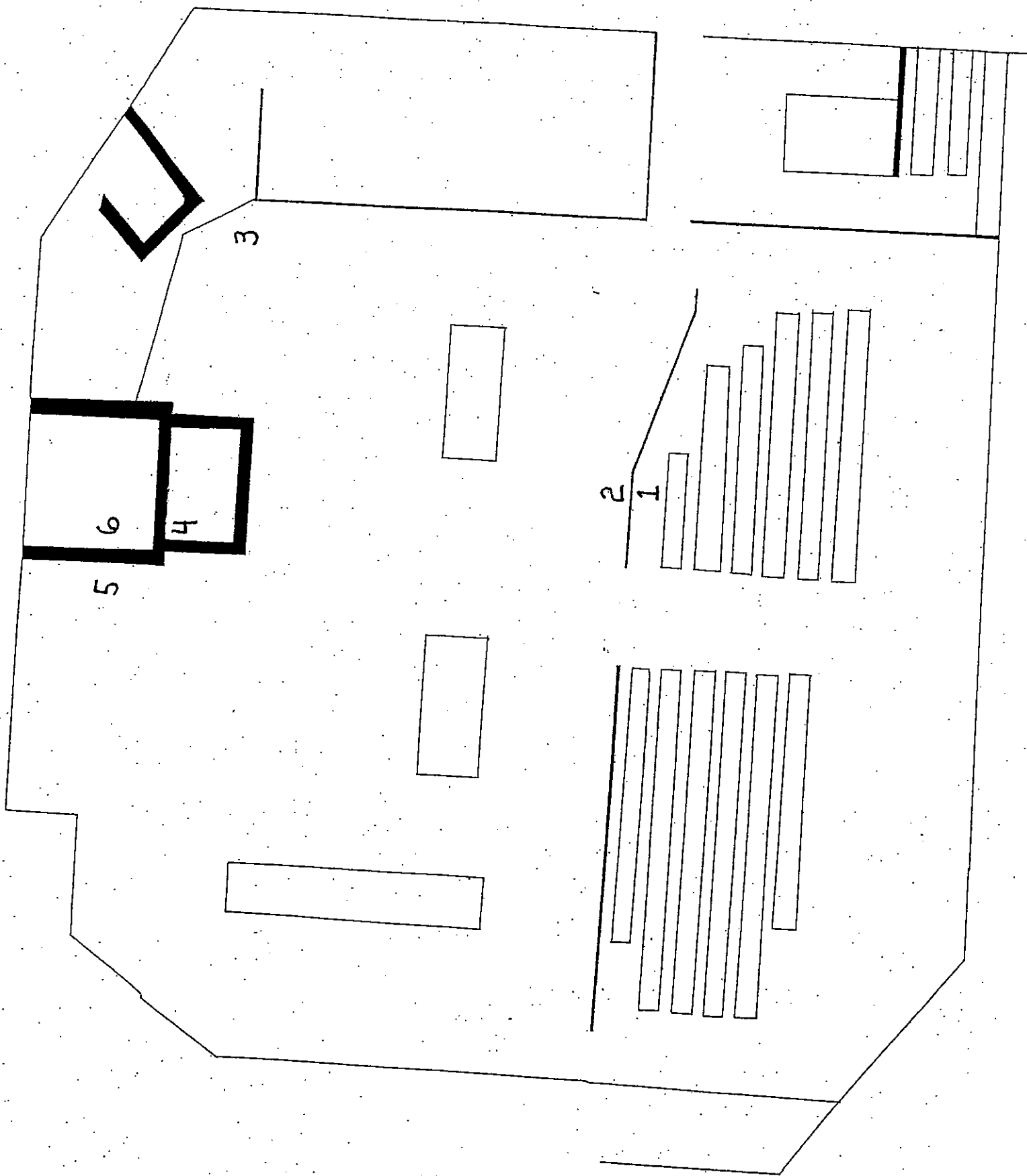
Respectfully submitted,  
HON. SANTO J. RUMA,  
By his attorney,

A handwritten signature in black ink, appearing to read "AJ Fay", is written over a horizontal line.

Andrew J. Fay, Esquire (BBO #550058)  
TOBIN, SULLIVAN, FAY & GRUNEBAUM  
Wellesley Office Park  
60 William Street  
Wellesley, MA 02481  
(781)237-0877

Dated: January 30, 2006

## Exhibit A



## Exhibit B

# COMMISSION ON JUDICIAL CONDUCT

Complaint Number 2004-57

## AFFIDAVIT OF ARTHUR J. CARAKATSANE

I, Arthur J. Carakatsane, state as matters about which I have personal knowledge as follows:

1. I am an attorney and have been licensed to practice in the Commonwealth of Massachusetts since 1991.
2. I represented Kristina Morales in *Commonwealth v. Morales* #0386CR0993 at the Peabody District Court on April 28, 2004.
3. I considered Ms. Morales at that time to be an individual who did not consider her legal problems seriously.
4. I have reviewed the Complaint filed with the Commission on Judicial Conduct by Attorney Raymond Buso in the above referenced matter.
5. During the first call of the docket list for that day, I was sitting in front of the rail and Ms. Morales was seated directly behind me in the audience. On two occasions I had to turn around and tell her to quiet down and behave in an appropriate manner for a courtroom. I noticed that Court Officer Kevin Honan had observed my actions regarding Ms. Morales on at least one of the occasions.
6. I had stepped out of the court room and did not witness the incident in the Court. Outside the courtroom I was dealing with two much more pressing matters than Ms. Morales' underlying case. One of the matters involved an individual who was



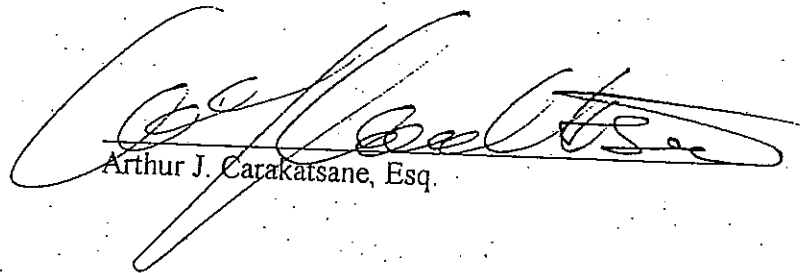
repeatedly banging his head against the cement wall and we were actively considering having him further evaluated under M.G.L. Chapter 123.

7. I returned to the court room sometime later and found Ms. Morales was in the custody of the court officers.
8. Apparently shortly after the incident, outside the court room Attorney Buso spoke to me about the incident. With respect to the comment attributed to me by Attorney Buso that "Judge Ruma does this on a regular basis", I do not recall making that statement or words to that effect to Attorney Buso.
9. If I did make that statement to attorney Buso, I did so in a flippant and off-handed manner for the purpose of indicating to attorney Buso that I was extremely busy right now, I will deal with Ms. Morales' situation in appropriate due course and that he should concern himself with his own matters.
10. There is no truth to that statement. I have appeared before Judge Ruma in excess of one thousand (1000) times over the course of the last twelve (12) years. I can recall perhaps two or three occasions during that period of time when Judge Ruma had a spectator placed in custody for disturbing the Court. In each of those occasions, in my opinion, Judge Ruma was entirely justified in placing the individual in custody and followed the appropriate procedures.
11. Ms. Morales' matter was called at 12:10 p.m. in normal order during the second call of the docket list. I suggested to the Court that her matter be scheduled for another date for probable disposition, which was allowed by Judge Ruma and she was immediately released. Parenthetically, Ms. Morales defaulted on the next court date.

12. There was no fine and no other criminal or civil penalty imposed by Judge Ruma on Ms. Morales arising out of her disrupting the court other than removing her from the spectator area to the dock for approximately one and one half (1 ½) to two (2) hours.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY this 22<sup>nd</sup> day of

October, 2004.



Arthur J. Carakatsane, Esq.



# COMMISSION ON JUDICIAL CONDUCT

Complaint Number 2004-57

## AFFIDAVIT OF KEVIN HONAN

I, Kevin Honan, state and affirm as matters about which I have personal knowledge as follows:

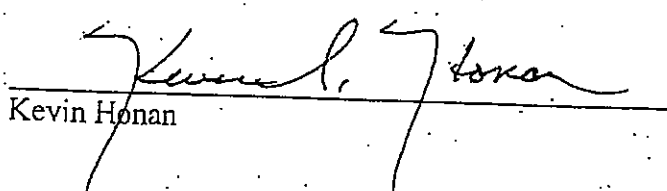
1. I have been a Court Officer in the Commonwealth of Massachusetts for fourteen years.
2. I was a Court Officer in the First Session of the Peabody District Court on the morning of April 28, 2004.
3. On the morning of April 28, 2004 a woman who I later learned to be Kristina Morales was in the front row in the spectator area off towards the right side as one faces the spectator area from the bench. She was talking very loudly and laughing with a woman seated next to her.
4. I was standing between the witness stand and the jury box, approximately twenty-five (25) feet away from the two women.
5. At approximately 10 a.m. I went over to the two women and in a cordial manner informed them that they would have to be quiet.
6. Approximately ten minutes later the women started talking very loudly and laughing again. At that time I again walked over to the women and informed them that if I had to come back to speak to them again they would have to leave the courtroom.
7. At approximately 10:30 a.m. I made eye contact with Ms. Morales and the woman seated next to her and put my index finger up to my lips to send a visual warning

to them that they should be quiet. The two women saw me when I did so.

However, the women continued to talk loudly.

- 8 I then said, "Sssshh" and directed that comment to Ms. Morales and the woman seated next to her. The women did not quiet down but kept talking loudly and disrupting the Court.
- 9 At this point, Mary Coan, the Courtroom Clerk, made a gesture to me with her head and in the direction of the two women. I interpreted the gesture as a request by Ms. Coan for me to remove these two women from the courtroom because they were disrupting the Court. At this point Clerk Coan said to me while pointing at the two women, "Why don't you send those two out. Those two. Send them out."
- 10 I walked over to speak to the women. When I spoke to them Ms. Morales stood up, pointed her finger at me and spoke in a loud voice to me in the front of the spectator area where everyone in the courtroom could hear her. She was making "a scene" in the courtroom.
- 11 I asked her several times to leave the courtroom and she did not leave or move towards the door.
- 12 At this point, Judge Ruma instructed me to place her in custody. I placed her in handcuffs and took her directly to the dock at the back of the courtroom.
- 13 She was released at approximately 12:30 p.m.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY this 22<sup>nd</sup> day  
of October, 2004.

  
Kevin Honan



# COMMISSION ON JUDICIAL CONDUCT

Complaint Number 2004-57

## AFFIDAVIT OF MARY E. COAN

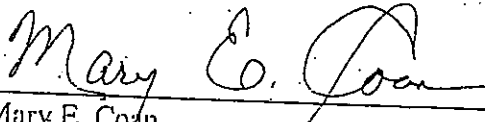
I, Mary E. Coan, state as matters about which I have personal knowledge as follows:

1. I have been a court clerk in the Commonwealth of Massachusetts since 1984.
2. I am currently the First Assistant Clerk Magistrate in the Peabody District Court.  
I was Judge Ruma's Courtroom Clerk in the First Session on the morning of April 28, 2004.
2. At approximately 10:30 a.m., I was standing near the sidebar while a conference was being held between Judge Ruma and attorneys Alfred E. Saggase, Jr. and Timothy Dooling when a disruption in the courtroom occurred. I turned around and noticed a woman seated in the spectator area who I later learned to be Kristina Morales. She was making a lot of noise, talking loudly and laughing in the courtroom. The volume and tone of Ms. Morales' voice was distracting and made it difficult to hear.
3. I observed Court Officer Kevin Honan making eye contact with Morales and the other woman seated next to her and putting his index finger to his lips to send a visual warning for them to be quiet. The women appeared to ignore that signal. I then witnessed Off. Honan say "Ssshhhh" to the women. Ms. Morales continued to talk loudly and laugh and be disruptive in the Court.
4. At that point I looked at Off. Honan and made a gesture with my head towards the two women to send a signal to Off. Honan that the two women should be removed

from the courtroom because of their disruptive behavior. I then pointed to Ms. Morales and the woman seated next to her and said to Off. Honan, "Why don't you send those two out. Those two. Send them out." I then observed Off. Honan walk over to Ms. Morales and have a discussion with her in which he asked her to leave the courtroom. I saw Morales stand up and speak to Off. Honan in a defiant and sarcastic manner. I did not see her move towards the door.

5. At this point Judge Runa ordered her to be placed in custody. She was taken to the dock. She was released at approximately 12:30 p.m.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY this 22<sup>nd</sup> day  
of October, 2004.

  
\_\_\_\_\_  
Mary E. Coan





## **AFFIDAVIT OF GEORGE J. DUFFY**

I, George J. Duffy, hereby swear and depose as follows:

1. I am an attorney admitted to practice in Massachusetts since 1989. Prior to my admission to the Bar, I was a public school teacher and administrator in the public schools of Revere, from which occupation I retired in June of 1990 after more than twenty-five years of service.
2. Since 1991, I have specialized in the practice of criminal defense law. Much of my practice has been as a private counsel contractor to the Committee for Public Counsel Services. As an indigent defense advocate I am assigned to the District and Superior Courts of Essex County. Since 1993 I have been predominantly assigned to the Peabody District Court where my duties require my presence on an average of three days every week.
3. On April 28, 2004 I was present at the Peabody District Court until early afternoon with three clients whose cases were in various stages of pre-trial. During the first morning call of the list, an unusual incident occurred which I understand has come to the attention of the Commission on Judicial Conduct. I was present during the entire episode and am able to clearly recall what transpired.
4. During that session, Judge Ruma had occasion to conduct a so called side bar conference with Assistant District Attorney Timothy Dooling and a defense attorney I do not know. For some few minutes, two young women in the court room had been acting obstreperously, laughing and raising their voices in a disturbing manner. I was sitting with other attorneys in the bar enclosure, engaged in polishing my intended argument in a case which presented a particularly challenging search warrant issue. I was repeatedly distracted from my work by the commotion in the court room caused by the two women and the annoying interactions this commotion elicited.
5. Several times, the attorney for one of the young women attempted to "shush" his client, but to no avail. The session clerk, Assistant Clerk Magistrate Mary Coan admonished the women to behave appropriately by reminding them, "Court is in session." This too was unavailing. After several more minutes of disruption, Assistant Clerk Magistrate Coan ordered the women to leave the court room. The two women neither ceased their noise making nor made any attempt to leave as ordered.

6. When the women failed to heed Ms. Coan's order to leave the court room, Court Officer Kevin Honan approached them and again ordered them to leave. One of the two women became verbally confrontational and began challenging Officer Honan's authority, insisting that she would stay until her case was heard. It was painfully obvious that this young woman was not about to leave the court room voluntarily, but was intent upon standing her ground. Officer Honan appeared to be losing patience with the woman and the situation seemed to be reaching a critical mass.

7. At this point, Judge Ruma, speaking from the bench, ordered Officer Honan to take the woman into custody. Judge Ruma's show of authority seemed to provide the requisite, calming ingredient needed to defuse what showed every sign of developing into an ugly incident. The woman immediately calmed herself and went with Officer Honan without further protest or sign of continued resistance.

8. This incident was disruptive and disquieting to all who were engaged in the important business of dealing with serious, legal matters. It is clear that no further court business was going to be conducted until this situation was rectified. It is, to me, remarkable that anyone could seriously question the need for precisely the measured, but firm response to such an egregious disruption of a court engaged in open session as Judge Ruma provided. If Judge Ruma had failed to ensure a non-violent and orderly resolution of that outrageous behavior, he would surely have been derelict in his duty.

9. In the more than twelve years I have been practicing before Judge Ruma I have never felt that he failed to deal with any citizen in an appropriate manner. I know of no attorney who spends more time in the criminal session of the Peabody District court than I do and I have never observed Judge Ruma have any person taken into custody except where a defendant had been sentenced to a term of incarceration or was being held pending a bail determination. On the contrary, it has always been my experience that Judge Ruma manages his courtroom with dignity and sympathetic consideration for all of the people who appear before him. The incident related herein is certainly no exception.

Signed under the pains and penalties of perjury on this 1<sup>st</sup> day of December, 2005.

  
George J. Duffy



## AFFIDAVIT OF EDWARD F. PASQUINA

I, Edward F. Pasquina, do hereby depose and say:

- 1.) That my name is Edward F. Pasquina. I was administered and accepted the oath as a Massachusetts lawyer on December 22, 1980, then admitted to the bar the same day. My principal place of business has been 75 Middle Street, Gloucester, Essex County since that date.
- 2.) That I am a member in good standing at the State and Federal Courts holden within the Commonwealth of Massachusetts. Prior to being an attorney at law, I was a Senior Auditor, Commonwealth of Massachusetts Bureau of Special Investigations under this State Attorney General Office for approximately eight (8) years.
- 3.) That subsequent to and continuing from the date I accepted the oath as an attorney at law, I represent clients in the District, Superior and Federal Courts within the Commonwealth of Massachusetts. My practice necessitates I appear at various courts on an average of four (4) days per week arguing motions, participating in trials (Civil and Criminal; Jury and Non Jury), tendering pleas, before many and diverse State and Federal Judges.
- 4.) That on April 28, 2004 I answered ready for jury trial at first call of the criminal list, Peabody District Court, Com. vs. Pojoy. I was held for trial awaiting further assignment to another session, as the usual practice of that court, and as such immediately began to review my notes in anticipation of that event. However, I was unable to do so insofar as my attention was diverted. Two (2) young women, attired in the relaxed fashion of today's pop culture were talking and laughing in a loud and disturbing manner. That mode of communication continued without interruption and escalated to a point that I was so distracted from my work, that I was unable to concentrate. I then left this unsettling atmosphere of that courtroom and continued my trial preparation in the hall of the court, which although occupied with foot traffic, was more serene then the courtroom and the disturbance which was causually related to the females mentioned in this paragraph.
- 5.) That I was subsequently paged to return to the courtroom and informed that my case would not be reached for trial due to an alternative trial taking precedence. As I entered the courtroom, the distasteful episode had ended, and the proper demeanor of the court had been restored, absent disturbing noise. No one mentioned any incident between Judge Ruma and two females. I left the courtroom that day without knowledge of any of the events which have become the subject matter of judicial inquiry, but fully aware of the inappropriate behavior of the two (2) women.
- 6.) That although I am present at the Peabody District Court on a regular basis, I was not cognizant of, nor had anyone discussed Judge Ruma's actions of April 28, 2004

with me until a reference was made thereto by Attorney Raymond Buso on September 7, 2005.

- 7.) That on September 7, 2005 I was in the midst of a jury trial, Com. Vs. Ward, at the Peabody District Court when I became cognizant of Attorney Raymond Buso's presence in the courtroom. At some time during the proceeding the court recessed, I then made inquiry as to why Mr. Buso was in that specific courtroom. His answer was he was desirous of having a few cases heard and continued. I thought that was odd insofar as those types of routine matters are usually done in the first session and devoid of the trial judge. I then made comment that, I would not voice objection if he could get the Judge's attention, that he was free to interrupt the proceeding at any time and make his oral request. The occasion did not occur.
- 8.) That the trial of Com. Vs. Ward resumed until Judge O'Leary called for a lunch recess at approximately 1:00 PM. At that time Attorney Buso asked to address the court, his response to Judge O'Leary's inquiry as to why that was necessary, was, that he had a few matters that he would like heard. Judge O'Leary stated, he would deal with those issues when court reconvened subsequent to lunch break, i.e. 2:00 PM. and left the bench.
- 9.) That the inference I drew from my observation of Attorney Buso subsequent to Judge O'Leary's response was he was upset. He (Buso) then turned to me and said he was being punished in this court. I then asked why he was being punished? His response was that he reported Judge Ruma to the Judicial Conduct Committee. Attorney Buso further responded that the genesis of his conduct complaint was something to the effect and I am now paraphrasing, that (Judge Ruma acted in an inappropriate racial manner; or made a racial comment, or otherwise had acted with racial profiling.)
- 10.) That on September 27, 2005, I still did not have any idea that the complaint Attorney Buso was referring to related back to events that occurred on April 28, 2004. It was made known to me when counsel for Judge Ruma contacted my office and refreshed my recollection that I was present in the Peabody District Court on April 28, 2004 and I was asked to submit an affidavit as to my present recollection of events; which is the subject matter of this document.
- 11.) That Justice Louis Brandeis once said "Sunlight is a great disinfectant". I would be remiss if I did not attempt to place some sunlight on these proceedings. In my now twenty-six (26) years as a practicing attorney at law, I have appeared before many triers of fact. Therefore I possess the expertise to make comparisons of the judiciary. Accordingly, Judge Ruma in my opinion exemplifies the epitome of what a judge should be. Although confronted daily with a mind field of wrenching human tragedy, different opinions and often times guile; he negotiates this difficult course with dignity, offers solace to the wronged, allows open debate and has never placed the judiciary in an improper light. He (Judge Ruma) in the performance of the most perfunctorily of duties, does not allow his demeanor to be flawed by

impatience. Conversely, his candor is beyond reproach in the performance of his most complicated of duties. More importantly, he accepts repetitive argument with the same enthusiasm and interest as he does new ideas. Simply put, his courtroom is ensconced with excellence, and the simple mention of Judge Ruma's name has become synonymous with integrity among those who practice regularly within the courts of Essex County.

Signed under the Pains and Penalties of Perjury:

A handwritten signature in black ink, appearing to read 'E. Pasquina', is written over a horizontal line. The signature is stylized with a large, sweeping loop at the end.

Edward F. Pasquina, Esq.

Dated: December 22, 2005





Statement of Timothy Dooling  
August 18, 2004

I am employed as an Assistant District Attorney in Essex County and have been since May, 2003. I am presently assigned to Peabody District Court and have been for the past six months.

I am writing this statement of my present memory of an event that occurred one day in the Spring, 2004 because I have been informed by Judge Ruma that I have been named as a witness in a JCC complaint that was filed against him. I have not listened to any tapes nor read any transcript of the event.

I do not remember the particular day of the week or date, but it was one day this past Spring when I was the only prosecutor in the courthouse. I was in Judge Ruma's session around 10:30 a.m. to handle a case in which an attorney I did not know, Al Saggese, represented the defendant. The case was brief and was before the court only for the purpose of obtaining a continuance. Judge Ruma called Mr. Saggese and me up to the sidebar, he greeted Mr. Saggese, exchanged pleasantries with us, and introduced me to him. It appeared to me that they knew each other.

During this sidebar, I heard the voice of a woman who was sitting in the first or second row of the audience; she was talking loudly and being generally disruptive. It sounded like she was complaining about something. Clerk Mary Coan called over the court officer, Kevin Honan, and asked him to tell the woman to quiet down. I saw the court officer go over and speak to the woman, but did not hear what he said to her. The woman did not quiet down, but instead began to swear and complain that her case was not being called. Clerk Coan instructed the court officer to speak with the woman again, which he did. She still did not calm down; instead, she got even angrier and continued to swear. I remember that she was asked to wait outside the courtroom; I do not remember whether Judge Ruma asked her to leave or whether he instructed the court officer to ask her. As she was escorted from the courtroom, she became even louder and more disruptive. The audience reacted by laughing and talking. Just before she was actually leaving the courtroom, Judge Ruma told the court officer to put her in the dock and said something like, "She'll wait until 4:30." The court officer escorted her to the dock; I do not remember that she created a disturbance while she was in the dock.

Mr. Saggese, the judge and I spoke for no more than three minutes at the sidebar. The entire incident involving the woman occurred during this time period. At the time, I did not notice her race, her age or anything about her, other than that she was loud, disruptive and profane.

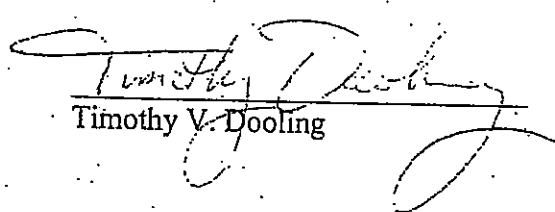
When the woman's case was called a short time later, before the lunch break at 1:00 p.m., I learned that she was represented by attorney Arthur Carakatsane. When her case was called, it was assigned to another date and she later defaulted.

On Wednesday, August 8, 2004, Judge Ruma called me to his lobby, along with Clerk Mary Coan and the court supervisor Assistant District Attorney Cesar Archilla. The judge told me that he was the subject of a JCC complaint and that I had been named in the complaint as a witness to an incident in the Spring in which he had ordered a female defendant held in the dock. He read the complaint to me verbatim and told me that he was recusing himself from cases involving the complainant and those involving the attorney who represented the female, Arthur Carakatsane. He said that he was considering recusing himself from cases in which I represent the Commonwealth. I told him that I would contact the Deputy First Assistant DA Mary-Alice Doyle, who is the Chief of District Court operations for guidance. I asked whether the judge would mind telling me who the complainant was; he said it was attorney Ray Buso.

I called Mary-Alice immediately. Later that day, she told me that I could remain in Peabody for the two days remaining that week (I had previously been assigned to Lawrence District Court the next week) and that she would notify me if she planned to reassign me from Peabody. As of this date, she has not reassigned me.

The day after I spoke with Mary-Alice, I told Judge Ruma about my conversation with her.

On Wednesday, August 11, 2004, Judge Ruma told me that he was represented by Attorney Andrew Fay who might wish to speak with me.

  
Timothy V. Dooling



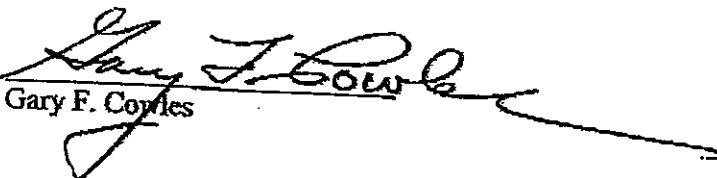
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COMMISSION ON JUDICIAL CONDUCT  
Complaint Number 2004-57

AFFIDAVIT OF GARY COWLES

- I, Gary Cowles, state and affirm as matters about which I have personal knowledge as follows:
1. I have been a Probation Officer and Chief Probation Officer at the Peabody District Court for more than thirty-two years.
  2. I was on duty in the courtroom on April 28, 2004 as part of a regularly scheduled "duty day" covering the probation responsibilities having to do with criminal matters.
  3. I heard a woman's voice talking loudly and laughing in the courtroom while a conference was taking place at the Bench.
  4. I observed the Court Officer approach the woman (who I later learned was Kristena Morales) and tell her and her companion to quiet down.
  5. The disturbance continued and I heard Asst Clerk Mary Coan tell the Court Officer to remove the women from the courtroom.
  6. The Court Officer told the women to leave the courtroom and they got up from their seats and continued to loudly protest causing everyone in the courtroom to look their way.
  7. Ms Morales was in the middle of the courtroom with her back to the exit, approximately twenty feet away from the exit, with her finger pointed towards the court officer asking when her case would be called.
  8. The Court Officer said something about four o'clock and Ms. Morales said something I could not understand.
  9. In my opinion, the situation was escalating.
  9. Judge Ruma said something to the effect of "what do you mean four o'clock, place her in custody and we'll deal with it later"
  10. Later that morning, Ms. Morales' case was dealt with and she was released.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY this fourteenth day of November, 2005.

  
Gary F. Cowles

## Exhibit I

# COMMISSION ON JUDICIAL CONDUCT

Complaint Number 2004-57

## AFFIDAVIT OF HON. SANTO J. RUMA

I, Hon. Santo J. Ruma, state and affirm as matters about which I have personal knowledge as follows:

1. I was appointed to the bench in 1983. I have been a First Justice of the Peabody District Court for over twenty (20) years.
2. On April 28, 2004 I was presiding in the First Session at the Peabody District Court.
3. At approximately 10:30 a.m. I was engaged in a sidebar conference with Assistant District Attorney Timothy Dooling and Attorney Alfred E. Saggase, Jr.
4. The sidebar conference was conducted at the request of the attorneys involved, on the record and in open court.
4. I did not hold attorney Saggase's or ADA Dooling's hand during that or any other sidebar conference. I did not observe attorney Saggase and ADA Dooling holding each other's hand during that sidebar conference.
5. I know Attorney Saggase from when I was practicing law before going on the bench.
6. The sidebar conference was interrupted by a disturbance in the courtroom. At that time I noticed Court Officer Kevin Honan standing about twenty-five (25) feet in front of me at the front of the spectator area of the courtroom. Off. Honan appeared to be requesting that a female spectator leave the courtroom. The woman was speaking loudly, pointing her finger in Off. Honan's face, acting

obstreperously and refusing to leave the courtroom. The situation appeared to be escalating.

7. It would have been impossible to conduct any further business in the Court without first ending this disturbance.
8. Additionally, the "Criminal Daily List" for April 28, 2004 indicates there were sixty-six (66) separate criminal defendants scheduled to appear before me that morning, not including witnesses. The spectator area of the courtroom was filled. I was concerned with the impact this woman's recalcitrance and obstreperousness might have on the numerous other defendants and spectators in the courtroom.
9. Accordingly, I instructed Officer Honan to place the woman in custody. She was removed to the dock area at the rear of the courtroom.
10. I did not hold Ms. Morales in contempt. I assessed no fine or other civil or criminal penalty against her. Her attorney, Arthur Carakatsane, remained in the courtroom while she was in the dock. The woman was released approximately one and a half to two hours later when her matter was reached and resolved.
11. I do not put people in custody without being lawfully authorized to do so.
12. My familiarity with attorney Dooling and attorney Saggase did not and does not affect my ability to carry out my judicial responsibilities with integrity, impartiality and competence.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY this 22nd day  
of October, 2004.

Santo J. Ruma  
Hon. Santo J. Ruma





LAW OFFICES OF  
ALFRED E. SAGGESE, JR.

OF COUNSEL:  
BRETT LEVY

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Statement of Alfred E. Saggese, Jr.

October 21, 2004

My name is Alfred E. Saggese, Jr., I am an Attorney and have practiced law in Massachusetts since 1972.

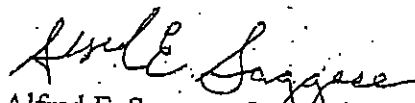
I have been asked to relate my observations of an incident in Peabody District court on April 28, 2004. I was at the court at 9:00 AM to represent a client on a criminal matter.

At approximately 10:30 AM my case was called and the Assistant District Attorney, Tim Dooling, and I approached the side bar to discuss the case with Judge Ruma. Judge Ruma greeted me and introduced ADA Dooling to me. The Judge inquired about a lapel cross I was wearing on my suit coat to which I had told him it was commemorative of a friend's two small children who had died in an auto crash. The Judge responded I'm always trying to help someone and I thanked him.

During the side conference, a disruption took place in the audience of the courtroom (near the front two rows). I heard loud talk from a woman who disrupted the proceedings. It appeared a court officer went over to her to quiet her down but she got louder and started to complain about something. She appeared upset and grew louder as she was approached again by the court officer. I believe that my bench conference had concluded and as I stepped away from the Judge's bench and stepped toward the counsel table I heard the court officer ask this woman to leave the courtroom and wait in the hallway until her case was called. As she got up, she became louder and more disruptive. Judge Ruma asked that she be placed in custody, when it appeared she was not going to leave voluntarily. My matter was continued to another date and I left the courthouse.

In my opinion and from my observation, the court officer and Judge Ruma acted with polite restraint and propriety. The woman taken into custody was loud and disruptive and disrespectful. It was appropriate to take her into custody.

Sincerely,

  
Alfred E. Saggese, Jr.





COMMONWEALTH OF MASSACHUSETTS  
COMMISSION ON JUDICIAL CONDUCT  
14 BEACON STREET SUITE 102  
BOSTON, MASSACHUSETTS 02108  
Phone: (617) 725-8050  
Fax: (617) 248-9938

MAY 03 2004

## COMPLAINT FORM

CJC Complaint No. 2004-54

This form is designed to provide the Commission with the information to screen your complaint and to begin an investigation of your allegations. Please read the accompanying materials on the Commission's function and procedures before filling out this form. ONLY ONE JUDGE MAY BE COMPLAINED OF ON EACH FORM.

PLEASE TYPE OR PRINT CLEARLY ALL INFORMATION

Your name Raymond Buse  
Address 15 Church Street  
Salem, Ma Zip Code 01970  
Daytime telephone 978-744-8500  
Name of judge Judge Ruma, Peabody  
Court Peabody  
Case name Comm v. Kristine Morales  
Docket number \_\_\_\_\_  
Attorneys involved \_\_\_\_\_  
Date(s) of misconduct 4.28.04 10:15 a.m.  
Has an appeal been filed? NO

A summary of the general nature of your complaint: Judge placed  
a female defendant into custody without  
warning to her based upon her smiling  
and laughing in the courtroom. She was  
singled out for unknown reason.

**Specific Facts:**

Please describe exactly what the judge did that was misconduct, and on what date(s). YOUR COMPLAINT WILL BE SCREENED ON THE BASIS OF THIS FORM ONLY. DO NOT RELY UPON ATTACHMENTS TO MAKE YOUR ALLEGATIONS. (You may attach copies of any documents which support your allegations, for the purposes of the investigation.)

On April 28<sup>th</sup>, 2004 I was in the first session of Probate District Court at 10:15 a.m. Judge Rima was involved in a sidebar between himself, Attorney Al Saggese & ADA Tim Dealing for several minutes which involved smiling and handholding. After this sidebar the Judge said something to the clerk, Mary Conn, who then spoke to a court officer (bald, name unknown) who then approached 2 hispanic females in the front row (one of whom was Kristina Morales) and in a very loud and pretty offensive manner said to those 2 to leave the courtroom. Ms Morales twice asked "why" and was repeatedly told that she was told to leave. Ms Morales was moving toward the door and asked the court officer words to the effect "how will I know when my case is called?" to which the court officer responded words to the effect "I'll let you know around 4:00." His voice was very loud, & obnoxious. As the two were almost at the door they quietly said something to each other and one laughed quietly. (continued on other side) ↓

Signed

Date

Please mail completed form to:

Executive Director  
Commission on Judicial Conduct  
14 Beacon Street, Suite 102  
Boston, MA 02108

Judge Rums saw the 2 smile and in response said to the court officer words to the effect "Forget that 4:00, take her into custody", and the court officer did.

At this point I check the courtroom pretty carefully and counted about 25 people in the audience, many of whom had been talking quietly as the Judge had been involved in the sidebar. Additionally there were at least a dozen lawyers, several police officers, several probation officers, and a variety of other persons inside the bar enclosure many of whom had been quietly speaking during this same time.

There was absolutely no warning of any kind to the general audience or to this young woman. While she was one of the loudest persons speaking at that moment, there were many other persons speaking quietly and some others as loud as her.

I asked several lawyers present who was representing this young hispanic woman and found out she was represented by Attorney Arthur Karakasane. I spoke to Attorney Karakasane and informed him what I saw and he informed me Judge Rums does this on a regular basis. The next day I was told she was released around 12:30.

It is my opinion that this custody was unlawful and unwarranted.

I would note that Judge Rums and I have no love lost for each other, and that on 2 occasions in January and April he has informed me that he will recuse himself from all my future cases, but will not inform me why. I am not unhappy about this fact.

Despite his standing recusal I feel certain Judge Rums will attempt to retaliate against me if informed of my name and as such would request that my name be withheld under Rule 6.9, if possible. If not I will

London 4/26/1985 N 2