

1.

**COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT**

SUFFOLK, ss.

COMMISSION ON JUDICIAL CONDUCT
COMMISSION COMPLAINT NUMBER 2017-39

IN THE MATTER OF THOMAS ESTES

UNDER SEAL

**FINAL SUBMISSION TO THE SUPREME JUDICIAL COURT UPON AGREED FACTS
BY THE COMMISSION ON JUDICIAL CONDUCT
AND THE HONORABLE THOMAS ESTES
PURSUANT TO G.L. C. 211C AND COMMISSION RULE 13A
ON COMMISSION COMPLAINT NUMBER 2017-39**

The Commission on Judicial Conduct (the Commission), acting pursuant to Commission Rule 13A, and the Honorable Thomas Estes (Judge Estes), Justice of the District Court Department, hereby submit this Agreement for Final Submission to the Supreme Judicial Court upon Agreed Facts.

1. Rule 13A(1)(a) Waiver

Judge Estes, by signing this Agreement, hereby waives his right to a Formal Hearing.

2. Rule 13A(1)(b) Stipulation of Facts

Judge Estes and the Commission hereby stipulate that the following facts are true:

- A. Judge Estes was appointed as a judge of the Massachusetts District Court Department in 2014. Judge Estes served as First Justice of the Eastern Hampshire Division of the District Court Department (Belchertown District Court) from February of 2016 through August of 2017. From October of 2016 through August of 2017, Judge Estes presided over a Drug Court session in the Pittsfield Division of the District Court Department (Pittsfield District Court). Judge Estes has no history of discipline with the Commission.

Ms. Tammy Cagle (Ms. Cagle) worked with Judge Estes as a member of the Pittsfield District Court Drug Court team from July of 2016 through March 17,

2017. The Massachusetts Executive Office of the Trial Court has an interagency agreement with the Massachusetts Department of Mental Health (DMH), and DMH contracted with the Behavioral Health Network (BHN) to place clinical professionals in specialty courts in Massachusetts. Pursuant to that arrangement, BHN placed Ms. Cagle, who was an employee of BHN, with the Pittsfield Drug Court. In March of 2017, BHN reassigned Ms. Cagle to another position within BHN.

The Pittsfield Drug Court team consisted of Judge Estes, Ms. Cagle, staff from the Pittsfield Probation Department, members of the criminal defense bar, and other interested parties.

- B. As a member of the Pittsfield Drug Court team, from October of 2016 through March 17, 2017, Ms. Cagle participated in discussions regarding whether persons facing criminal charges and/or probation violation hearings would be admitted into the Drug Court. She also participated in discussions regarding whether persons being considered for admission into the Drug Court, or persons already in the Drug Court, should be referred for drug and/or alcohol treatment, or should be terminated from the Drug Court program. In those discussions, the final decisions regarding a current or prospective participant in the Pittsfield Drug Court were always Judge Estes' responsibility.

Over that same period of time, from October of 2016 through March 17, 2017, Ms. Cagle had difficulty in her relationships with members of the Pittsfield Drug Court team, and for a time, Judge Estes attempted to mediate problems between Ms. Cagle and other members of the Pittsfield Drug Court team.

- C. On November 16, 2016, Judge Estes began a sexual relationship with Ms. Cagle, as follows:

- i. On November 16, 2016, while attending the New England Association of Drug Court Professionals conference at the Best Western hotel in Marlboro, Massachusetts, Judge Estes engaged in a sexual encounter with Ms. Cagle during which Ms. Cagle performed fellatio on him in her hotel room.

On November 17, 2016, Judge Estes sent a text message to Ms. Cagle regarding what he would say to others if anyone had seen him enter or leave her room.

On November 17, 2016, Ms. Cagle sent the following text messages to Judge Estes regarding a participant in the Pittsfield Drug Court, Ms. Erin Bristol (Ms. Bristol), asking Judge Estes to try to prevent Ms. Bristol from

being taken into custody by the Pittsfield Probation Department and/or the judge sitting in Pittsfield District Court on or about November 17, 2016:

"I found erin and shes on her way to probation.
She starts her iop tomorrow. Please call
probation and ask them not to hold her.

"She said she didn't think there was court
today and she hasn't used

"She had a clean urine"

Judge Estes denies that he called probation as Ms. Cagle had requested.

On November 18, 2016 and November 21, 2016, Judge Estes and Ms. Cagle exchanged additional text messages regarding Ms. Bristol.

On November 18, 2016, Judge Estes and Ms. Cagle exchanged the following additional text messages regarding Ms. Bristol:

Ms. Cagle: Did yiu (sic) get my message on Erin.

Judge Estes: Yes. Did she get held.

Ms. Cagle: Yes.

Ms. Cagle: Can you talk

Judge Estes: In a minute.

These text messages were exchanged at the very inception of the Drug Court. Judge Estes later decided that exchanges such as this were inappropriate.

(An image of the November 16, 2016 text message exchange which led to the November 16, 2016 sexual encounter and of the November 17, 2016 text message Judge Estes sent to Ms. Cagle about the sexual encounter; and images of the November 18, 2016 and November 21, 2016 text message exchanges between Judge Estes and Ms. Cagle regarding Ms. Bristol are all attached as Exhibit A.)

Following the initial sexual encounter on November 16, 2016, Judge Estes and Ms. Cagle continued to have sexual encounters during which Ms. Cagle would

perform fellatio on Judge Estes. During some of these encounters, Judge Estes and Ms. Cagle would have general discussions regarding the operation of the Pittsfield Drug Court before or after their sexual activity. From November of 2016 through March of 2017, while Ms. Cagle continued to participate as an active member of the Pittsfield Drug Court team, Ms. Cagle and Judge Estes continued to engage in a sexual relationship, as follows:

- i. Ms. Cagle performed fellatio on Judge Estes on four occasions at her home. Some or all of these occasions were during a lunch recess while Judge Estes was sitting in the Westfield District Court. He did not leave court early or return late to engage in these sexual encounters. These four occasions are, as follows:
 - a. On December 1, 2016, Judge Estes had a sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place at Ms. Cagle's home. (An image of the December 1, 2016 text message exchange between Judge Estes and Ms. Cagle to arrange this encounter is attached as Exhibit B.)
 - b. On January 12, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place at Ms. Cagle's home. (Images of the January 10, 2017 text message exchange between Judge Estes and Ms. Cagle to arrange this encounter are attached as Exhibit C. An image of a January 11, 2017 text message exchange between Judge Estes and Ms. Cagle to further arrange this encounter and of a January 13, 2017 text message exchange between Judge Estes and Ms. Cagle regarding this encounter is attached as Exhibit D.)
 - c. On February 8, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place at Ms. Cagle's home.
 - d. On March 17, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place at Ms. Cagle's home.
 - ii. From November of 2016 through March of 2017, Ms. Cagle also performed fellatio on Judge Estes on at least two occasions in his lobby at the Belchertown District Court. These sexual encounters occurred at approximately 4:30 p.m.
- D. From May 10, 2017 through May 31, 2017, Judge Estes used his official judicial

email account to engage in a continuing email exchange with Ms. Cagle about his and her personal lives, which included discussions as to how best to text message so that Judge Estes' family would not learn of his extramarital affair with Ms. Cagle. (Copies of email exchanges between Judge Estes and Ms. Cagle from May 10, 2017 through May 31, 2017 are attached as Exhibit E.)

- E. On July 3, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place in Judge Estes' lobby in the Belchertown District Court at approximately 11:00 a.m., after Judge Estes' duties in Belchertown District Court had concluded for the day, and while Judge Estes was preparing to leave for an afternoon session in the Northampton District Court. This encounter was arranged between them by text message and through an email exchange using Judge Estes' official judicial email account. (An image of a June 27, 2017 text message exchange between Judge Estes and Ms. Cagle to arrange this encounter is attached as Exhibit F. Images of a July 3, 2017 text message exchange between Judge Estes and Ms. Cagle regarding this encounter are attached as Exhibit G. Copies of emails between Judge Estes and Ms. Cagle to arrange the July 3, 2017 encounter are all attached as Exhibit H.)

3. Rule 13A(1)(c) Code of Judicial Conduct

The Commission alleges, and Judge Estes agrees, that, through the conduct described in the above stipulation of facts, he has engaged in willful judicial misconduct that brings the judicial office into disrepute, as well as conduct prejudicial to the administration of justice and unbecoming a judicial officer, and has violated the Code of Judicial Conduct (Supreme Judicial Court Rule 3:09), by failing to act, at all times, in a manner that promotes public confidence in the independence, integrity, and/or impartiality of the judiciary, and by failing to avoid impropriety and/or the appearance of impropriety, in violation of Rule 1.2; by failing to give precedence to judicial duties, in violation of Rule 2.1; by creating an appearance that he was not performing all duties of judicial office fairly and impartially, in violation of Rule 2.2; by creating an appearance that he was not performing judicial duties without bias or prejudice, in violation of Rule 2.3; by creating an appearance that his judicial decision-making was subject to inappropriate outside influences, in violation of Rule 2.4; by failing to be dignified, and/or courteous to litigants, witnesses, lawyers, court personnel, and others with whom he deals in an official capacity, in violation of Rule 2.8(B); by failing to disqualify himself from a proceeding in which his impartiality might reasonably be questioned, in violation of Rule 2.11(A); by participating in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality, in violation of Rule 3.1(C); and by making improper use of court premises, staff, stationery, equipment or other resources, in violation of Rule 3.1(E).

4. Rule 13A(1)(d) Recommendations for Discipline/Disposition

- a. The Commission respectfully recommends to the Supreme Judicial Court that the following is the appropriate disposition/sanction for Judge Estes' misconduct:

Public censure and an order suspending Judge Estes without pay from his judicial office, until further order of the Court, for a reasonable time to permit the executive and legislative branches to consider, if they wish, the question of whether he should retain his judicial office, on the basis of such factors as they think appropriate, including the record of evidence before the Commission.

The Commission also recommends that, in connection with this disposition, the Court grant the Commission permission to share information and evidence from its investigation of this matter with the legislative and/or executive branches that, in the Commission's discretion, the Commission feels may assist the legislative and/or executive branches in any consideration of whether Judge Estes should retain his judicial office.

Finally, the Commission recommends that, in connection with this disposition, the Court also grant the Commission permission to issue the following press release along with a copy of this submission, but not its exhibits (the question of further impoundment of the submission's exhibits is left to the discretion of the Court), on the next business day following the Court's decision:

On [DATE OF FILING], the Commission on Judicial Conduct and Justice of the District Court, Thomas Estes, filed with the Supreme Judicial Court a Final Submission Upon Agreed Facts (attached without exhibits) pursuant to M.G.L. c. 211C and Commission Rule 13A on Commission Complaint Number 2017-39.

Complaint Number 2017-39 was filed by the Supreme Judicial Court and alleged that, from November of 2016 through March of 2017, Judge Estes engaged in an undisclosed sexual relationship with a clinician who was actively working as a member of the Pittsfield Drug Court team over which he presided, Ms. Tammy Cagle. The complaint also alleged that, concurrent with this sexual relationship, Judge Estes took steps to mediate ongoing disputes between Ms. Cagle and other members of the Pittsfield Drug Court team. Finally, the complaint alleged that this sexual relationship continued from March of 2017 through July of 2017, after the clinician was no longer actively working with the Pittsfield Drug Court.

The Commission's investigation of this matter found clear and convincing evidence supporting the above allegations in the complaint. The Commission's investigation revealed evidence that, while Ms. Cagle worked as an active member of the Pittsfield Drug Court team, Judge

Estes engaged in four sexual encounters with Ms. Cagle at her home and at least two sexual encounters with Ms. Cagle in his lobby at the Eastern Hampshire Division of the District Court Department. After Ms. Cagle was no longer working with the Pittsfield Drug Court, and had relocated out of state, Judge Estes had a final sexual encounter with her in his lobby at the Eastern Hampshire Division of the District Court Department in July of 2017. Finally, the Commission's investigation revealed evidence that Judge Estes used his official judicial email account to facilitate some of these sexual encounters.

Through this conduct, Judge Estes has engaged in willful judicial misconduct that brings the judicial office into disrepute, as well as conduct prejudicial to the administration of justice and unbecoming a judicial officer, and has violated the Code of Judicial Conduct (Supreme Judicial Court Rule 3:09), by failing to act, at all times, in a manner that promotes public confidence in the independence, integrity, and/or impartiality of the judiciary, and by failing to avoid impropriety and/or the appearance of impropriety, in violation of Rule 1.2; by failing to give precedence to judicial duties, in violation of Rule 2.1; by creating an appearance that he was not performing all duties of judicial office fairly and impartially, in violation of Rule 2.2; by creating an appearance that he was not performing judicial duties without bias or prejudice, in violation of Rule 2.3; by creating an appearance that his judicial decision-making was subject to inappropriate outside influences, in violation of Rule 2.4; by failing to be dignified, and/or courteous to litigants, witnesses, lawyers, court personnel, and others with whom he deals in an official capacity, in violation of Rule 2.8(B); by failing to disqualify himself from a proceeding in which his impartiality might reasonably be questioned, in violation of Rule 2.11(A); by participating in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality, in violation of Rule 3.1(C); and by making improper use of court premises, staff, stationery, equipment or other resources, in violation of Rule 3.1(E).

By an Order dated [DATE OF ORDER] (attached), the Supreme Judicial Court publicly censured Judges Estes and ordered that he be suspended without pay until further order of the Court, for violating Massachusetts General Laws Chapter 211C, Section 2(5); and Rules 1.2, 2.1, 2.2, 2.3, 2.4, 2.8(B), 2.11(A), 3.1(C), and 3.1(E) of the Code of Judicial Conduct (Supreme Judicial Court Rule 3:09).

The Court ordered that Judge Estes be suspended for a reasonable period of time to permit the executive and legislative branches to consider, if they

wish, the question of whether he should retain his judicial office, on the basis of such factors as they think appropriate, including the record of evidence before the Commission.

The Commission's statute and rules are available on the Commission's website: www.mass.gov/cjc.

- b. As a fair sanction for his violations of the above-referenced Rules of the Code of Judicial Conduct, Judge Estes recommends to the Supreme Judicial Court that the following is the appropriate disposition for his misconduct:
- *Assignment to administrative duties from the date of the complaint until resolution of this complaint by the SJC. Judge Estes is currently serving in this capacity.*
 - *Suspension without pay for a period of four months.*
 - *Public censure.*
 - *Letter of apology to colleagues and staff at the Belchertown and Pittsfield District Courts.*
 - *Remain in counseling with his current therapist.*
 - *Reassignment to Region 5 for a period of one year following the four month suspension.*
 - *Ban from sitting in specialty courts of any type until such time as the Chief Judge permits in his discretion.*
5. Rule 13A(1)(e) Agreement of the Commission and the Judge
- The Commission and Judge Estes agree that the Supreme Judicial Court may accept or reject the recommendations of either the Commission or the judge, or the Supreme Judicial Court may impose whatever discipline it deems appropriate.
6. Rule 13A(1)(f) Acknowledgement by the Commission and the Judge
- The Commission and Judge Estes acknowledge that the decision of the Supreme Judicial Court will constitute the final disposition of this case.
7. Rule 13A(1)(g) Waiver of Confidentiality

Judge Estes, by signing this Agreement, waives any confidentiality rights that would preclude submission of this matter to, or disclosure of this matter by, the Supreme Judicial Court, including the items to be submitted as specified herein, and the Supreme Judicial Court's disposition of this case.


8. Rule 13A(2) Submission Under Seal

The Commission and Judge Estes agree that this submission shall be submitted under seal to the Supreme Judicial Court and shall include this Agreement (including Exhibits A-H, referenced above), a copy of Commission Complaint Number 2017-39, and the following additional exhibits (Exhibits 1-7):

1. October 19, 2017 Statement of Allegations issued in Complaint Number 2017-39.
2. Judge Estes' written response to October 19, 2017 Statement of Allegations.
3. Statement of Judge Thomas Estes before Commission on Judicial Conduct in response to October 19, 2017 Statement of Allegations.
4. November 15, 2017 Amended Statement of Allegations issued in Complaint Number 2017-39.¹
5. Letter from Dr. Frank Marotta, Ph.D.
6. Dispositional Argument of Judge Thomas Estes.
7. Dispositional Argument of the Commission on Judicial Conduct.

Respectfully Submitted,

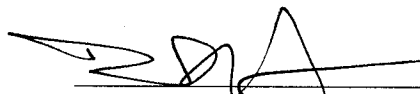
by:


John J. Carroll, Jr.
Chair
Commission on Judicial Conduct

¹ The Commission amended Section E and Section E(3)(j) of the previously served Statement of Allegations. Judge Estes did not submit a further response after being served with this Amended Statement of Allegations.



Hon. Thomas Estes



Mr. David P. Hoose, Esq.,
Counsel for Judge Thomas Estes
Sasson, Turnbull, Ryan & Hoose
100 Main Street
Northampton, MA 01060

Dated: January 17, 2018

EXHIBIT A



95% 9:05 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

I need help with the
tv

10:44 PM

Ok

10:45 PM

10:48 PM R u coming up

Yes

10:48 PM

10:48 PM K

Thursday, November 17, 2016

I am going to tell
people that I walked
you to your room, we
talked for a minute
about drug court
and said goodnight.
Sound good?

6:44 AM

📎 Enter message





97% 9:01 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

Friday, November 18, 2016

3:04 PM Hi. Did yiu get my message
on Erin

Yes. Did she get held. 3:19 PM

Yes

3:19 PM Can you talk

In a minute. 3:40 PM

Monday, November 21, 2016

I won't know what the day
looks like until I get to court.
I will let you know. Tell Erin
that I am thinking of her and
rooting for her. 7:28 AM

Tuesday, November 22, 2016

Can you call when you get
a minute today except for
between two and three I have

 Enter message





95% 9:06 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

Monday, November 21, 2016

I won't know what the day
looks like until I get to
court. I will let you know.
Tell Erin that I am thinking
of her and rooting for her.

7:28 AM

Tuesday, November 22, 2016

Can you call when you get
a minute today except for
between two and three I
have a meeting

7:54 AM

We are going to have our
first African American in
drug court

11:11 AM

Great!

11:13 AM

Hes being held until
march and then he will go
residential so you probably
wont meet him until next



Enter message



EXHIBIT B



94% 9:08 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

11:40 AM

12:55 PM Give yourself about 50
minutes to get there

Ok. 19 lockhouse? 1:05 PM

1:06 PM Yes it's an apartment
9-3

2:14 PM Are you on your way
yet?

No. I will be leaving
around 2:30 maybe
2:40. 2:15 PM

2:15 PM Ok

I am on the way. 2:47 PM

📎 Enter message



EXHIBIT C



94% 9:10 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

I just realized that I
have an appointment
that afternoon and I am
taking personal time for
it so I won't be at work.
Will you be at home this
Thursday a

fternoon at 4 or so?

4:21 PM

4:32 PM Yes

I have to be in Belcher-
town at 5 for a going
away party, but there
should be a window of
time.

4:33 PM

4:34 PM Sounds like a plan.

We need to get done with
2nd st asap

4:36 PM

 Enter message





94% 9:10 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

4:37 PM Do you have something
in mind for Thursday

Not specifically. 4:38 PM

4:38 PM You should think about
it.

Ok. Do you? 4:38 PM

4:39 PM Yeah, making you feel
good.

I would like to make you
feel good too. 4:41 PM

4:42 PM :)

Wednesday, January 11, 2017

My supervisor is coming
up to observe court
tomorrow.

📎 Enter message



EXHIBIT D



93% 9:11 PM



Judge Estes ▼

(413) 320-0077

CALL

MORE

12:53 PM Umg its beautiful out.

12:54 PM

Do i get have my way
with you tomorrow

Yes and yes.

12:55 PM

1:05 PM

THATS HOT!!

Friday, January 13, 2017

9:04 AM

I woke up thinking about
you and had to take care
of myself.

The gift that keeps on
giving!

9:38 AM

10:01 AM

Yes it does 😊

12:02 PM

Do you have anything
going on next Thursday?



Enter message



EXHIBIT E

From: Tammy Cagle
Sent: Friday, May 12, 2017 11:33 AM
To: Thomas Estes
Subject: Re: Hi From Georgia

Call me at your convenience.

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Thursday, May 11, 2017 3:02:45 PM
To: Tammy Cagle
Subject: Re: Hi From Georgia

Sure.
Maybe sometime in the afternoon or on my commute home?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "thomas estes" <thomas.estes@jud.state.ma.us>
Sent: Wednesday, May 10, 2017 2:01:48 PM
Subject: Hi From Georgia

Good afternoon,
Hope all is well. Would you have time for a phone conversation on Friday?
-Tammy

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>
Sent: Wednesday, May 31, 2017 8:51:44 AM
Subject: Re: Weekend

Good morning,

I spent time in FL with cousins I haven't seen in a while. I love FL and plan on spending more time down there diving. Any interesting court cases? I get to spend time up in Atlanta in a couple of weeks. Have you ever been?

-Tammy

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Tuesday, May 30, 2017 12:02:22 PM
To: Tammy Cagle
Subject: Re: Weekend

Yes.

We went to Newport on Sunday. We walked along the cliffwalk, had lunch with a view of the ocean and toured a mansion. And yesterday, we had a bunch of people over for dinner.

How about you? Anything fun?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "thomas estes" <thomas.estes@jud.state.ma.us>
Sent: Tuesday, May 30, 2017 11:03:16 AM
Subject: Weekend

Hi,

Did you do anything fun over the holiday weekend?

-Tammy

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Tammy Cagle
Sent: Wednesday, May 31, 2017 10:52 AM
To: Thomas Estes
Subject: Re: Weekend

No problem. Lets talk soon!

*Tammy Cagle, LCSW
Program Director: Applying ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Wednesday, May 31, 2017 10:23:32 AM
To: Tammy Cagle
Subject: Re: Weekend

I haven't been to Atlanta in years. It is a great town. I am glad to hear you are enjoying your weekends.

See you who knows when, but someday!

I need to be careful texting, maybe we could always start with you texting me "Hey" and if I respond "Hey" it is a safe time to text. I want to avoid any unfortunate incidents. My family looks at my phone.

EXHIBIT F

Judge Estes

+1 413-320-0077



J

I will be in Belchertown in the am and Northampton in the pm. The region is not surprisingly short on judges that day. Will you still be in town?

2:02 PM

Tuesday, June 27, 2017

11:06 AM

I go back Tuesday evening.
Maybe we can meet Monday

J

That sounds great. I will look and see how busy the day appears.

1:43 PM

2:24 PM Great

J

It is a very light day and a skeleton crew to run the court because so many people are on vacation. I will need to leave by 12 or 12:30 to go cover Northampton.

It is a very light day and a skeleton crew to run the court because so many people are on vacation. I will need to leave by 12 or 12:30 to go cover Northampton.

3:07 PM

4:40 PM

What time should I come by

J

Between 10:30 and 11 if that woks for you.

I mean works not woks.

5:11 PM



Enter message



EXHIBIT G

< Judge Estes
+1 413-320-0077



9:13 AM

9:14 AM See you soon

J

Sorry our visit was so short this morning. I did not expect to have to go to North Hampton so early. Have a safe trip tomorrow. Happy Fourth of July.

11:23 AM

11:33 AM Thanks

I don't think I want this to happen anymore. its one one sided. I'm not getting anything out of it

11:36 AM

J

Believe it or not I was having the same thoughts on my drive back to Northampton. I agree. One sided relationships aren't fair and don't work.

11:50 AM

11:51 AM No they dont.

It also doesn't make the other person feel good about themselves

11:52 AM

J

I agree

Enter message





98% 4:37 PM

← Judge Estes ▼

CALL

MORE

(413) 320-0077

Hampton so early. Have a
safe trip tomorrow. Happy
Fourth of July.

11:23 AM

11:33 AM Thanks

I don't think I want this to
happen anymore. its one
one sided. I'm not getting
anything out of it

11:36 AM

Believe it or not I was having
the same thoughts on my
drive back to Northampton.
I agree. One sided
relationships aren't fair and
don't work.

11:50 AM

11:51 AM No they dont.

It also doesn't make the
other person feel good about
themselves

11:52 AM

I agree. 1:07 PM



Enter message





83% 10:23 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

1:13 PM ~~THANK AN ERROR!~~

I just wasn't thinking. 1:21 PM

1:22 PM LoL you're funny.

Sometimes the truth happens to be funny. Got to go. I will text later. 1:23 PM

Wednesday, July 26, 2017

Can you send me your email address? Somehow I lost it. I hope you are surviving the heat. Summer is half way over. Drug Court is going great. Thanks for

helping to start such a good program. I hope work is treating you well. 11:20 AM

 Enter message



EXHIBIT H

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 8:55:39 AM
To: Tammy Cagle
Subject: Re: Up Coming Visit

I am scheduled to be in Belchertown that day.
Will you be around?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "thomas estes" <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 7:59:17 AM
Subject: Up Coming Visit

Good morning,
How is your week going? Will you be in the office on June 30th?
Tammy

*Tammy Cagle, LCSW
Program Director: Applying ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

Sent: Wednesday, June 7, 2017 10:28:30 AM
Subject: Re: Up Coming Visit

Maybe you can take a longer lunch?

Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761

From: Tammy Cagle
Sent: Wednesday, June 7, 2017 10:12:56 AM
To: Thomas Estes
Subject: Re: Up Coming Visit

How am I suppose to see you?

Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 9:47:08 AM
To: Tammy Cagle
Subject: Re: Up Coming Visit

If only I could.
How is work?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 9:37:29 AM
Subject: Re: Up Coming Visit

I think so. Take the day off.

Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761

From: Tammy Cagle
Sent: Thursday, June 8, 2017 11:29:12 AM
To: Thomas Estes
Subject: Re: Up Coming Visit

Hi,
I'm staying in Oxford with a friend.
Tammy

*Tammy Cagle, LCSW
Program Director: Applying ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Thursday, June 8, 2017 10:45:04 AM
To: Tammy Cagle
Subject: Re: Up Coming Visit

That might be the best plan.
Where are you staying?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 4:18:58 PM
Subject: Re: Up Coming Visit

I'm coming in Wed night. Maybe we can meet after Drug Court on Thursday?

*Tammy Cagle, LCSW
Program Director: Applying ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 3:01:56 PM
To: Tammy Cagle
Subject: Re: Up Coming Visit

What are your travel plans? Where will you be staying?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>

From: Tammy Cagle
Sent: Friday, June 9, 2017 11:49 AM
To: Thomas Estes
Subject: Re: Up Coming Visit

Hi
Do you have any ideas on where to meet up?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Tammy Cagle
Sent: Thursday, June 8, 2017 12:29:30 PM
To: Thomas Estes
Subject: Re: Up Coming Visit

Can I call you tomorrow?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "thomas estes" <thomas.estes@jud.state.ma.us>
Sent: Monday, June 12, 2017 6:33:22 PM
Subject: Up Coming Visit

Hi,

Do you have trial readiness on Thursday the 29th after Drug Court ?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 31513
(912) 367-1761 ext. 206*

From: Tammy Cagle
Sent: Tuesday, June 13, 2017 5:33 PM
To: Thomas Estes
Subject: Re: Up Coming Visit

I don't think Friday will work for me. I might be leaving with friends for the weekend.
Maybe we can meet in Westfield Thursday afternoon?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 31513
(912) 367-1761 ext. 206*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Tuesday, June 13, 2017 2:35:12 PM
To: Tammy Cagle
Subject: Re: Up Coming Visit

I do and I don't know how long it will take.
I have been thinking about this and given the logistics, maybe we should have lunch on Friday or just catch up here in court late in the afternoon (when I am usually finished).

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>
Sent: Tuesday, June 20, 2017 2:44:53 PM
Subject: Re: Next Week

Good afternoon,
I spend most days inside due to the sun fatigue. I was thinking about getting a room in Westfield. What are your thoughts?
-Tammy

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 31513
(912) 367-1761 ext. 206*



From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Tuesday, June 20, 2017 12:33:39 PM
To: Tammy Cagle
Subject: Re: Next Week

I hope you are having a great day too! How is the heat? It is 80 here and low humidity. Nice weather. I don't like the heat.
I am hoping to see you too. Maybe I should text or call you in the morning once I have a sense of what kind of day it is going to be in court. I wish I wasn't in Pittsfield that day, it would be easier to see each other if I was in Belchertown.
Any thoughts on where to meet up?
Thomas

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "thomas estes" <thomas.estes@jud.state.ma.us>
Sent: Tuesday, June 20, 2017 11:27:15 AM
Subject: Next Week

Hope you are having a great day! Hope to see you next Thursday.
-Tammy

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive*

Baxley, GA 31513
(912) 367-1761 ext. 206



From: Tammy Cagle
Sent: Thursday, June 22, 2017 11:48 AM
To: Thomas Estes
Subject: Re: Next Week

Yes we can talk this afternoon. If you don't get me on my cell try my office number.

*Tammy Cagle, LCSW
Program Director: Applying ITP
252 West Park Drive
Baxley, GA 31513
(912) 367-1761 ext. 206*



From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Thursday, June 22, 2017 10:52:06 AM
To: Tammy Cagle
Subject: Re: Next Week

Sorry to be out of touch. Life has been crazy.
I am worried about committing next week because I don't know what will happen
in court. We really took advantage of opportunities when you were here.
We can talk this afternoon.

COMPLAINT
NUMBER
2017-39



SUPREME JUDICIAL COURT
JOHN ADAMS COURTHOUSE

2017-39

Received
AUG 15 2017
Commission on
Judicial Conduct

RALPH D. GANTS
CHIEF JUSTICE

August 15, 2017

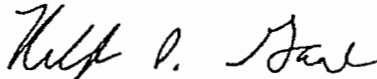
CONFIDENTIAL
Hand Delivery

John J. Carroll, Jr., Esq.
Chair, Commission on Judicial Conduct
11 Beacon Street, Suite 525
Boston, MA 02108

Dear Attorney Carroll:

The Massachusetts Commission Against Discrimination sent the Executive Office of the Trial Court the enclosed complaint and accompanying transmittal. The allegations in the complaint refer to a judge in the District Court Department, Judge Thomas Estes. I forward this material to you for such action as the Commission on Judicial Conduct deems appropriate.

Sincerely,


Ralph D. Gants

Enclosures

cc: Howard V. Neff, III, Esq., Executive Director, CJC (w/ enclosures) (Hand Delivery)
Chief Justice Paula M. Carey (w/o enclosures)
Chief Justice Paul C. Dawley (w/o enclosures)

2017-39

The Commonwealth of Massachusetts
Commission Against Discrimination
436 Dwight Street, Rm. 220, Springfield, MA 01103
Phone: (413) 739-2145 Fax: (413) 784-1056

Received
AUG 15 2017

Commission on
Judicial Conduct

8/4/2017

Executive Office of the Trial Court
attn: Human Resources/Legal Department
One Pemberton Square
Boston, MA 02108

RE: Tammy Cagle vs. Behavioral Health Network, Executive Office of the Trial Court
MCAD Docket Number: 17SEM01764
EEOC/HUD Number: 16C-2017-01821

Dear Respondent Party:

The Massachusetts Commission Against Discrimination (MCAD) has received the above complaint of discrimination which alleges that you have committed an act of discrimination against the complainant. A copy of that complaint is enclosed.

State law requires the Commission to impartially review the allegations in that complaint. The Commission has assigned one of its staffs, Melvin Arocho, to investigate the complaint. This MCAD investigator will keep the parties informed of the course of the investigation.

State law requires that you submit a formal written answer to the complaint, called a Position Statement. This Position Statement must be submitted within twenty-one (21) days of receipt of this notification. The Position Statement must be signed under the pains and penalties of perjury. A copy must also be forwarded to the Complainant at the address listed on the enclosed complaint. Failure to file a Position Statement or other response within the prescribed time may result in sanctions being imposed in accordance with 804 CMR 1.16.

It is our policy to determine whether the parties are willing to consider a rapid, informal and voluntary resolution of this dispute. The Commission encourages such resolutions as an alternative to the often lengthy and expensive litigation process. To discuss the possibility of settlement, please contact the Investigator named below.

Please be advised that Position Statements are to be addressed to Carol Murchison, 1st Assistant Clerk to the Commission. If you have any questions concerning Position Statements please call (413) 314-6129.

If you have any questions pertaining to the Investigation, please contact Melvin Arocho at (413) 314-6131.

Sincerely,

Melvin Arocho
Investigator

MCAD Docket Number 17SEM01764, Serve Respondent - Without Investigative Conference

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION



Behavioral Health Network
attn: Human Resources/Legal Department
417 Liberty Street
Springfield, MA 01104

Person Filing Charge: Tammy Cagle
This Person (Check One): (x) Claims to be aggrieved
() Is filing on behalf of
Date of Alleged Violation: 03/17/17
Place of Alleged Violation: Springfield, MA
EEOC Charge Number: 16C-2017-01821
MCAD Docket Number: 17SEM01764

Executive Office of the Trial Court
attn: Human Resources/Legal Department
One Pemberton Square
Boston, MA 02108

NOTICE OF CHARGE OF DISCRIMINATION WHERE AN FEP AGENCY WILL INITIALLY PROCESS
(See Attached Information Sheet For Additional Information)

You are hereby notified that a charge of employment discrimination under
[x] Title VII of the Civil Rights Act of 1964
[] The Age Discrimination in Employment Act of 1967 (ADEA)
[] The Americans Disabilities Act (ADA)

Has been received by

[] The EEOC and sent for initial processing to MCAD
(FEP Agency)

[x] The Mass. Commission Against Discrimination
(FEP) Agency and sent to the EEOC for dual filing purposes.

While the EEOC has jurisdiction (upon the expiration of any deferral requirements if this is a Title VII or ADA Charge) to investigate this charge, EEOC may refrain from beginning an investigation and await the issuance of the Agency's final findings and orders. These final findings and orders will be given weight by EEOC in making its own determination as to whether or not reasonable cause exists to believe that the allegations made in the charge are true.

You are therefore encouraged to cooperate fully with the Agency. All facts and evidence provided by you to the Agency in the course of its proceedings will be considered by the Commission when it reviews the Agency's final findings and orders. In many instances the Commission will take no further action, thereby avoiding the necessity of an investigation by both the Agency and the Commission. This likelihood is increased by your active cooperation with the Agency.

[X] As a party to the charge, you may request that EEOC review the final decision and order of the above named Agency. For such a request to be honored, you must notify the Commission in writing within 15 days of your receipt of the Agency's issuing a final finding and order. If the agency terminates its proceedings without issuing a final finding and order, you will be contacted further by the Commission. Regardless of whether the Agency or the Commission processes the charge, the Recordkeeping and Non-Retaliation provisions of Title VII and the ADEA as explained on the second page of this form apply.

For further correspondence on this matter, please use the charge number(s) shown.

[] An Equal Pay Act Investigation (29 U.S.C 206(d)) will be conducted by the Commission concurrently with the Agency's investigation of the charge.
[X] Enclosure: Copy of the Charge

Basis of Discrimination

() Race () Color (x) Gender () Religion () National Origin
() Age () Disability () Retaliation () Other

Circumstances of alleged violation:

SEE ENCLOSED COPY OF THE CHARGE OF DISCRIMINATION (or EEOC FORM 5)

Date Type Name/Title of Authorized EEOC Official Signature
8/4/2017 Feng An, Director

2017-39

The Commonwealth of Massachusetts
Commission Against Discrimination
436 Dwight Street, Rm. 220, Springfield, MA 01103
Phone: (413) 739-2145 Fax: (413) 784-1056



MCAD DOCKET NUMBER: 17SEM01764
FILING DATE: 8/2/17

EEOC/HUD CHARGE NUMBER: 16C-2017-01821
VIOLATION DATE: 03/17/17

Name of Aggrieved Person or Organization:

Tammy Cagle
705 Georgia Avenue
Glennville, GA 30427
Primary Phone: (413)475-4745

Named is the employer, labor organization, employment agency, or state/local government agency who discriminated against me:

Behavioral Health Network
attn: Human Resources/Legal Department
417 Liberty Street
Springfield, MA 01104

Executive Office of the Trial Court
attn: Human Resources/Legal Department
One Pemberton Square
Boston, MA 02108

No. of Employees: 25+

Work Location: Springfield, MA

Cause of Discrimination based on:
Sexual Harassment.

The particulars are:

I, Tammy Cagle, the Complainant believe that I was discriminated against by Behavioral Health Network, Executive Office of the Trial Court, on the basis of Sexual Harassment. This is in violation of M.G.L. Chapter 151B, Section 4, Paragraphs 1 and 16A, and Title VII of the Civil Rights Act of 1964, as amended.

1. I am a female. I began working for Respondent Behavioral Health Network (BHN) on or about July 17, 2016. I was hired as a Clinical Coordinator. My work performance has always been satisfactory.
2. Soon after I was hired, I was assigned to a team to work on implementing a specialty Drug Court. This team included among others me, the Probation Department, and Judge Thomas E. I was contracted to this team by the Department of Mental Health (DMH) and Respondent Executive Office of the Trial Court (Trial Court). My pay would come from Respondent BHN, and was paid out from a grant funded by DMH and Respondent Trial Court. Judge Thomas E. was the head of the team and as a result he had control over my tasks and could control my employment status.
3. While working on the team to implement the Drug Court, I worked very closely with Judge Thomas E. and would meet with him regularly.
4. On or about November 16, 2016, I was attending a Drug Court Conference. That night, Judge Thomas E. and I had been drinking alcohol. Judge Thomas E. came to my hotel room to help me with something. Afterwards, Judge Thomas E. was lying on my bed and I ended up performing oral sex on him.
5. The next day, I left the conference early because of what happened the previous night. Judge Thomas E. called me, and we both agreed it was a night of stupidity that happened because of the alcohol involved.
6. About one week later, I met with Judge Thomas E. in his chambers to discuss work. Judge Thomas E. said he wanted to continue what we were doing on or about November 16, 2016. Judge Thomas E. said he would help me with problems I was having with probation with regard to the Drug Court, but he wanted oral sex again; he promised he would not ask again after this because I said no. Accordingly, I again performed oral sex on Judge Thomas E.
7. I continued to perform oral sex on Judge Thomas E. throughout my employment. I would regularly speak with him saying I was uncomfortable with what was happening. I tried to end the relationship a few times, but was unsuccessful.

MCAD Docket Number 17SEM01764, Complaint

8. On or about March 17, 2017, I received a phone call from Julia R., Director of Forensics with Respondent BHN. Julia R. said I could not go to Drug Court anymore. I was not given a reason why. I later called Judge Thomas E. and he said he did not know anything about this. I tried speaking with Respondent BHN's Human Resources department about this, but was still not given an explanation.
9. After being told I could no longer go to Drug Court, I was put into an out-patient position making less money. I began applying elsewhere, and left Respondent BHN's employ on or about April 18, 2017.
10. The sexual relations with Judge Thomas E. continued reluctantly after my employment. Judge Thomas E. would it would be worse for me if someone found out.
11. On or about July 3, 2017, I met with Judge Thomas E. to try to resolve the situation between us. When Judge Thomas E. met with me in his chambers, I was able to say about two words before he began unbuttoning his pants.
12. For these reasons, I believe I was subjected to sexual harassment.

I hereby verify, under the pains and penalties of perjury, that I have read this complaint and the allegations contained herein are true to the best of my knowledge.


(Signature of Complainant)

EXHIBIT 1

BEFORE THE COMMISSION ON JUDICIAL CONDUCT

Complaint Number 2017-39

STATEMENT OF ALLEGATIONS

The Commission on Judicial Conduct (“the Commission”) makes this Statement of Allegations against the Honorable Thomas Estes (“Judge Estes”), Justice of the District Court Department, pursuant to M.G.L. c. 211C, sec. 5(5). This Statement of Allegations incorporates Commission Complaint Number 2017-39 and all of the referenced exhibits.

The Commission alleges that Judge Estes has engaged in judicial misconduct that brings the judicial office into disrepute, as well as conduct prejudicial to the administration of justice and unbecoming a judicial officer, in violation of M.G.L. c. 211C, sec. 2(5). This misconduct includes willful misconduct in office (M.G.L. c. 211C, sec. 2(5)(b)) and the following violations of the Code of Judicial Conduct (Supreme Judicial Court Rule 3:09): failure to act, at all times, in a manner that promotes public confidence in the independence, integrity, and/or impartiality of the judiciary, and failure to avoid impropriety and/or the appearance of impropriety, in violation of Rule 1.2; abusing the prestige of judicial office, in violation of Rule 1.3; failure to give precedence to judicial duties, in violation of Rule 2.1; failure to uphold and apply the law, and perform all duties of judicial office fairly and impartially, in violation of Rule 2.2; failure to perform judicial duties without bias or prejudice, in violation of Rule 2.3; failure to prevent judicial decision-making from being perceived as subject to inappropriate outside influences, in violation of Rule 2.4; failure to be patient, dignified, and/or courteous to litigants, witnesses, lawyers, court personnel, and others with whom he deals in an official capacity, in violation of Rule 2.8(B); engaging in improper ex parte communications, in violation of Rule 2.9; failure to disqualify himself from a proceeding in which he cannot be impartial or his impartiality might reasonably be questioned, in violation of Rule 2.11(A); participation in activities that would appear to a reasonable person to undermine the judge’s independence, integrity, or impartiality, in violation of Rule 3.1(C); and making improper use of court premises, staff, stationery, equipment or other resources, in violation of Rule 3.1(E).

The Commission specifically alleges the following:

- A. Judge Estes was appointed as a judge in 2014. Judge Estes served as First Justice of the Eastern Hampshire Division of the District Court Department (Belchertown District Court) from December 7, 2016 through August of 2017. From October of 2016 through August of 2017, Judge Estes presided over a Drug Court session in the Pittsfield Division of the District Court Department (Pittsfield District Court).
- B. Ms. Tammy Cagle (Ms. Cagle) worked with Judge Estes as a member of the Pittsfield District Court Drug Court team from July of 2016 through March 17, 2017. The Trial Court has an interagency agreement with the Department of Mental Health (DMH), and DMH contracted with the Behavioral Health Network (BHN) to place clinical

professionals in specialty courts in Massachusetts. Pursuant to that arrangement, BHN placed Ms. Cagle, who was an employee of BHN, with the Pittsfield Drug Court.

- C. From July of 2016 through March of 2017, the Pittsfield Drug Court team consisted of Judge Estes, Ms. Cagle, staff from the Pittsfield Probation Department, law enforcement, members of the criminal defense bar, and other interested parties.
- D. As a member of the Pittsfield Drug Court team, from July of 2016 through March 17, 2017, Ms. Cagle participated in discussions regarding whether persons facing criminal charges and/or probation violation hearings would be admitted into the Drug Court. She also participated in discussions regarding whether persons being considered for admission into the Drug Court, or persons already in the Drug Court, should be referred for drug and/or alcohol treatment, or should be incarcerated. In those discussions, the final decisions regarding a current or prospective participant in the Pittsfield Drug Court were always Judge Estes' responsibility.
- E. From November of 2016 through July of 2017, Judge Estes engaged in a sexual relationship with Ms. Cagle, violating M.G.L. c. 211C and the Code of Judicial Conduct (Supreme Judicial Court Rule 3:09), as follows:
 - 1. On November 16, 2016, while attending the New England Association of Drug Court Professionals conference at the Best Western hotel in Marlboro, Massachusetts, Judge Estes engaged in a sexual encounter with Ms. Cagle during which Ms. Cagle performed fellatio on him in her hotel room.

On November 17, 2016, Judge Estes sent a text message to Ms. Cagle encouraging her to lie about their sexual encounter.

On November 17, 2016, Ms. Cagle sent the following text messages to Judge Estes regarding a participant in the Pittsfield Drug Court, Ms. Erin Bristol (Ms. Bristol), asking Judge Estes to try to prevent Ms. Bristol from being taken into custody by the Pittsfield Probation Department and/or the judge sitting in Belchertown District Court on or about November 17, 2016:

"I found erin and shes on her way to probation.
She starts her iop tomorrow. Please call
probation and ask them not to hold her.

"She saud she didn't think there was court
today and she hasn't used

"She had a clean urine"

On November 18, 2016 and November 21, 2016, Judge Estes and Ms. Cagle

exchanged additional text messages regarding Ms. Bristol.

(An image of the November 16, 2016 text message exchange which led to the November 16, 2016 sexual encounter and of the November 17, 2016 text message Judge Estes sent to Ms. Cagle encouraging her to lie about the sexual encounter; and images of the November 18, 2016 and November 21, 2016 text message exchanges between Judge Estes and Ms. Cagle regarding Ms. Bristol are all attached as Exhibit A.)

2. On a later date in November of 2016, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place in Judge Estes' lobby in the Belchertown District Court at approximately 2:30 p.m.

During this encounter, Ms. Cagle expressed reluctance to continue a sexual relationship with Judge Estes, and he offered to assist her with difficulties she was having in her work relationship with the Pittsfield Probation Department. Judge Estes then took steps to assist Ms. Cagle with her relationship with the Pittsfield Probation Department.

(An image of a November 30, 2016 text message exchange between Judge Estes and Ms. Cagle in which Ms. Cagle thanked Judge Estes for talking to a person, or persons, employed in the Pittsfield Probation Department on her behalf is attached as Exhibit B. Images of a January 26, 2017 text message exchange between Judge Estes and Ms. Cagle in which Ms. Cagle asked Judge Estes to talk with a member of the Pittsfield Drug Court team, Probation Officer John Lander, on her behalf and then thanked him for doing so are attached as Exhibit C.)

3. Following these initial two sexual encounters, Judge Estes and Ms. Cagle continued to have sexual encounters during which Ms. Cagle would perform fellatio on Judge Estes. During some of these encounters, Judge Estes and Ms. Cagle would discuss the Pittsfield Drug Court and its participants before or after their sexual activity. These subsequent sexual encounters between Judge Estes and Ms. Cagle included the following:
 - a. On December 1, 2016, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place at Ms. Cagle's home. (An image of the December 1, 2016 text message exchange between Judge Estes and Ms. Cagle to arrange this encounter is attached as Exhibit D.)
 - b. On December 5, 2016, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place in Judge Estes' lobby in the Belchertown District Court at approximately 3:00 p.m. This encounter was arranged between them by text message and through an

email exchange using Judge Estes' official judicial email account. (An image of the December 5, 2016 text message exchange between Judge Estes and Ms. Cagle to arrange this encounter and copies of December 5-6, 2016 emails between Judge Estes and Ms. Cagle regarding this encounter are all attached as Exhibit E.)

- c. On January 3, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place in Judge Estes' lobby in the Belchertown District Court.
- d. On January 12, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place at Ms. Cagle's home. (Images of the January 10, 2017 text message exchange between Judge Estes and Ms. Cagle to arrange this encounter are attached as Exhibit F. An image of a January 11, 2017 text message exchange between Judge Estes and Ms. Cagle to further arrange this encounter and of a January 13, 2017 text message exchange between Judge Estes and Ms. Cagle regarding this encounter is attached as Exhibit G.)
- e. On January 30, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place in Judge Estes' lobby in the Belchertown District Court.
- f. On February 6, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place in Judge Estes' lobby in the Belchertown District Court.
- g. On February 8, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place at Ms. Cagle's home.
- h. On February 13, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place in Judge Estes' lobby in the Belchertown District Court.
- i. On March 17, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place at Ms. Cagle's home.
- j. On April 5, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place in Judge Estes' lobby in the Belchertown District Court at approximately 4:30 p.m.
- k. From May 10, 2017 through May 31, 2017, Judge Estes used his official

judicial email account to engage in a continuing email exchange with Ms. Cagle about his and her personal lives and to discuss an approach to text messaging each other so that Judge Estes' family would not learn of his extramarital affair with Ms. Cagle. (Copies of email exchanges between Judge Estes and Ms. Cagle from May 10, 2017 through May 31, 2017 are attached as Exhibit H.)

1. On July 3, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place in Judge Estes' lobby in the Belchertown District Court between approximately 9:00 a.m. and 11:00 a.m. This encounter was arranged between them by text message and through an email exchange using Judge Estes' official judicial email account. (An image of a June 27, 2017 text message exchange between Judge Estes and Ms. Cagle to arrange this encounter is attached as Exhibit I. Images of a July 3, 2017 text message exchange between Judge Estes and Ms. Cagle regarding this encounter are attached as Exhibit J. Copies of emails between Judge Estes and Ms. Cagle to arrange the July 3, 2017 encounter are all attached as Exhibit K.)

By engaging in an undisclosed sexual relationship with Ms. Cagle from November 16, 2016 through March 17, 2017, while she continued in her above-described role as a member of the Pittsfield Drug Court over which he presided, Judge Estes failed to act, at all times, in a manner that promotes public confidence in the independence, integrity, and/or impartiality of the judiciary, and failed to avoid impropriety and/or the appearance of impropriety, in violation of Rule 1.2; failed to give precedence to his judicial duties, in violation of Rule 2.1; failed to uphold and apply the law, and perform all duties of judicial office fairly and impartially, in violation of Rule 2.2; failed to perform judicial duties without bias or prejudice, in violation of Rule 2.3; failed to prevent his judicial decision-making from being perceived as subject to inappropriate outside influences, in violation of Rule 2.4; failed to be patient, dignified, and/or courteous to litigants, witnesses, lawyers, court personnel, and others with whom he deals in an official capacity, in violation of Rule 2.8(B); failed to disqualify himself from a proceeding in which he cannot be impartial or his impartiality might reasonably be questioned, in violation of Rule 2.11(A); and participated in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality, in violation of Rule 3.1(C).

By engaging in sexual encounters with Ms. Cagle in the judge's lobby at the Belchertown District Court, Judge Estes failed to act, at all times, in a manner that promotes public confidence in the independence, integrity, and/or impartiality of the judiciary, and failed to avoid impropriety and/or the appearance of impropriety, in violation of Rule 1.2; failed to give precedence to his judicial duties, in violation of Rule 2.1; failed to be patient, dignified, and/or courteous to litigants, witnesses, lawyers, court personnel, and others with whom he deals in an official capacity, in violation of Rule 2.8(B); participated in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality, in

violation of Rule 3.1(C); and made improper use of court premises, staff, stationery, equipment or other resources, in violation of Rule 3.1(E).

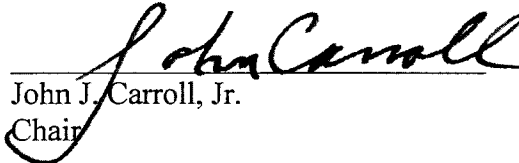
By using his official judicial email to facilitate sexual encounters with Ms. Cagle, Judge Estes failed to act, at all times, in a manner that promotes public confidence in the independence, integrity, and/or impartiality of the judiciary, and failed to avoid impropriety and/or the appearance of impropriety, in violation of Rule 1.2; failed to give precedence to his judicial duties, in violation of Rule 2.1; participated in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality, in violation of Rule 3.1(C); and made improper use of court premises, staff, stationery, equipment or other resources, in violation of Rule 3.1(E).

By using his judicial office to encourage Ms. Cagle to continue to engage in sexual encounters with him during an encounter in November of 2016, and/or by then, subsequently, speaking with a member or members of the Pittsfield Probation Department on her behalf, Judge Estes failed to act, at all times, in a manner that promotes public confidence in the independence, integrity, and/or impartiality of the judiciary, and failed to avoid impropriety and/or the appearance of impropriety, in violation of Rule 1.2; abused the prestige of judicial office, in violation of Rule 1.3; failed to give precedence to his judicial duties, in violation of Rule 2.1; participated in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality, in violation of Rule 3.1(C); and made improper use of court premises, staff, stationery, equipment or other resources, in violation of Rule 3.1(E).

Finally, by engaging in private, one-on-one communications with Ms. Cagle regarding current and/or prospective participants in the Pittsfield Drug Court concurrent with his sexual relationship with her, Judge Estes failed to act, at all times, in a manner that promotes public confidence in the independence, integrity, and/or impartiality of the judiciary, and failed to avoid impropriety and/or the appearance of impropriety, in violation of Rule 1.2; failed to give precedence to his judicial duties, in violation of Rule 2.1; failed to uphold and apply the law, and perform all duties of judicial office fairly and impartially, in violation of Rule 2.2; failed to perform judicial duties without bias or prejudice, in violation of Rule 2.3; failed to prevent his judicial decision-making from being perceived as subject to inappropriate outside influences, in violation of Rule 2.4; failed to be patient, dignified, and/or courteous to litigants, witnesses, lawyers, court personnel, and others with whom he deals in an official capacity, in violation of Rule 2.8(B); engaged in improper ex parte communications, in violation of Rule 2.9; failed to disqualify himself from a proceeding in which he cannot be impartial or his impartiality might reasonably be questioned, in violation of Rule 2.11(A); and participated in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality, in violation of Rule 3.1(C).

The Commission also alleges that the conduct set forth above, if true, constitutes willful judicial misconduct, conduct prejudicial to the administration of justice and unbecoming a judicial officer, and brings the judicial office into disrepute, in violation of M.G.L. c. 211C.

For the Commission on Judicial Conduct,


John J. Carroll, Jr.
Chair

Date: 19 oct 17

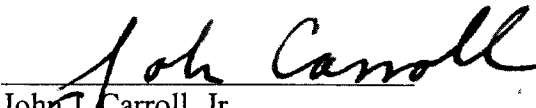
NOTICE OF PROCEDURES PURSUANT TO STATEMENT OF ALLEGATIONS

Complaint Numbers 2017-39

The Commission hereby notifies Judge Estes that, pursuant to M.G.L. c. 211C, sec. 5(7) and Commission Rule 6L, he has twenty-one (21) days following his counsel's receipt of this Statement of Allegations to respond in writing to the charges and, if he wishes, to file a written request for a personal appearance before the Commission.

The Commission also notifies Judge Estes that, pursuant to M.G.L. c. 211C, sec. 5(8) and Commission Rule 6P(1), after he is served with this Statement of Allegations, he is entitled to compel by subpoena the attendance and testimony of witnesses through depositions, and to provide for the inspection of documents, books, accounts, written or electronically recorded statements, and other records. The judge may file written material for Commission consideration before the issuance of Formal Charges.

For the Commission on Judicial Conduct,


John J. Carroll, Jr.
Chair

Date: 19 oct 17

COMPLAINT
NUMBER

2017-39



SUPREME JUDICIAL COURT
JOHN ADAMS COURTHOUSE

2017-39

Received
AUG 15 2017
Commission on
Judicial Conduct

RALPH D. GANTS
CHIEF JUSTICE

August 15, 2017

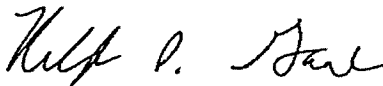
CONFIDENTIAL
Hand Delivery

John J. Carroll, Jr., Esq.
Chair, Commission on Judicial Conduct
11 Beacon Street, Suite 525
Boston, MA 02108

Dear Attorney Carroll:

The Massachusetts Commission Against Discrimination sent the Executive Office of the Trial Court the enclosed complaint and accompanying transmittal. The allegations in the complaint refer to a judge in the District Court Department, Judge Thomas Estes. I forward this material to you for such action as the Commission on Judicial Conduct deems appropriate.

Sincerely,


Ralph D. Gants

Enclosures

cc: Howard V. Neff, III, Esq., Executive Director, CJC (w/ enclosures) (Hand Delivery)
Chief Justice Paula M. Carey (w/o enclosures)
Chief Justice Paul C. Dawley (w/o enclosures)

2017-39

The Commonwealth of Massachusetts
Commission Against Discrimination
436 Dwight Street, Rm. 220, Springfield, MA 01103
Phone: (413) 739-2145 Fax: (413) 784-1056

Received
AUG 15 2017

Commission on
Judicial Conduct

8/4/2017

Executive Office of the Trial Court
attn: Human Resources/Legal Department
One Pemberton Square
Boston, MA 02108

RE: Tammy Cagle vs. Behavioral Health Network, Executive Office of the Trial Court
MCAD Docket Number: 17SEM01764
EEOC/HUD Number: 16C-2017-01821

Dear Respondent Party:

The Massachusetts Commission Against Discrimination (MCAD) has received the above complaint of discrimination which alleges that you have committed an act of discrimination against the complainant. A copy of that complaint is enclosed.

State law requires the Commission to impartially review the allegations in that complaint. The Commission has assigned one of its staffs, Melvin Arocho, to investigate the complaint. This MCAD investigator will keep the parties informed of the course of the investigation.

State law requires that you submit a formal written answer to the complaint, called a Position Statement. This Position Statement must be submitted within twenty-one (21) days of receipt of this notification. The Position Statement must be signed under the pains and penalties of perjury. A copy must also be forwarded to the Complainant at the address listed on the enclosed complaint. Failure to file a Position Statement or other response within the prescribed time may result in sanctions being imposed in accordance with 804 CMR 1.16.

It is our policy to determine whether the parties are willing to consider a rapid, informal and voluntary resolution of this dispute. The Commission encourages such resolutions as an alternative to the often lengthy and expensive litigation process. To discuss the possibility of settlement, please contact the Investigator named below.

Please be advised that Position Statements are to be addressed to Carol Murchison, 1st Assistant Clerk to the Commission. If you have any questions concerning Position Statements please call (413) 314-6129.

If you have any questions pertaining to the investigation, please contact Melvin Arocho at (413) 314-6131.

Sincerely,

Melvin Arocho
Investigator

MCAD Docket Number 17SEM01764, Serve Respondent - Without Investigative Conference

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION



Behavioral Health Network
attn: Human Resources/Legal Department
417 Liberty Street
Springfield, MA 01104

Person Filing Charge: Tammy Cagle
This Person (Check One):
(x) Claims to be aggrieved
() Is filing on behalf of
Date of Alleged Violation: 03/17/17
Place of Alleged Violation: Springfield, MA
EEOC Charge Number: 16C-2017-01821
MCAD Docket Number: 17SEM01764

Executive Office of the Trial Court
attn: Human Resources/Legal Department
One Pemberton Square
Boston, MA 02108

NOTICE OF CHARGE OF DISCRIMINATION WHERE AN FEP AGENCY WILL INITIALLY PROCESS
(See Attached Information Sheet For Additional Information)

You are hereby notified that a charge of employment discrimination under

- ☒ Title VII of the Civil Rights Act of 1964
☐ The Age Discrimination in Employment Act of 1967 (ADEA)
☐ The Americans Disabilities Act (ADA)

Has been received by

- ☐ The EEOC and sent for initial processing to MCAD
(FEP Agency)

- ☒ The Mass. Commission Against Discrimination
(FEP) Agency and sent to the EEOC for dual filing purposes.

While the EEOC has jurisdiction (upon the expiration of any deferral requirements if this is a Title VII or ADA Charge) to investigate this charge, EEOC may refrain from beginning an investigation and await the issuance of the Agency's final findings and orders. These final findings and orders will be given weight by EEOC in making its own determination as to whether or not reasonable cause exists to believe that the allegations made in the charge are true.

You are therefore encouraged to cooperate fully with the Agency. All facts and evidence provided by you to the Agency in the course of its proceedings will be considered by the Commission when it reviews the Agency's final findings and orders. In many instances the Commission will take no further action, thereby avoiding the necessity of an investigation by both the Agency and the Commission. This likelihood is increased by your active cooperation with the Agency.

- [X] As a party to the charge, you may request that EEOC review the final decision and order of the above named Agency. For such a request to be honored, you must notify the Commission in writing within 15 days of your receipt of the Agency's issuing a final finding and order. If the agency terminates its proceedings without issuing a final finding and order, you will be contacted further by the Commission. Regardless of whether the Agency or the Commission processes the charge, the Recordkeeping and Non-Retaliation provisions of Title VII and the ADEA as explained on the second page of this form apply.

For further correspondence on this matter, please use the charge number(s) shown.

- ☐ An Equal Pay Act Investigation (29 U.S.C 206(d)) will be conducted by the Commission concurrently with the Agency's investigation of the charge.
[X] Enclosure: Copy of the Charge

Basis of Discrimination

() Race () Color (x) Gender () Religion () National Origin
() Age () Disability () Retaliation () Other

Circumstances of alleged violation:

SEE ENCLOSED COPY OF THE CHARGE OF DISCRIMINATION (or EEOC FORM 5)

Date Type Name/Title of Authorized EEOC Official Signature
8/4/2017 Feng An, Director

2017-39

The Commonwealth of Massachusetts
Commission Against Discrimination
436 Dwight Street, Rm. 220, Springfield, MA 01103
Phone: (413) 739-2145 Fax: (413) 784-1056



MCAD DOCKET NUMBER: 17SEM01764
FILING DATE: 8/2/17

EEOC/HUD CHARGE NUMBER: 16C-2017-01821
VIOLATION DATE: 03/17/17

Name of Aggrieved Person or Organization:

Tammy Cagle
705 Georgia Avenue
Glennville, GA 30427
Primary Phone: (413) 475-4745

Named is the employer, labor organization, employment agency, or state/local government agency who discriminated against me:

Behavioral Health Network
attn: Human Resources/Legal Department
417 Liberty Street
Springfield, MA 01104

Executive Office of the Trial Court
attn: Human Resources/Legal Department
One Pemberton Square
Boston, MA 02108

No. of Employees: 25+

Work Location: Springfield, MA

Cause of Discrimination based on:
Sexual Harassment.

The particulars are:

I, Tammy Cagle, the Complainant believe that I was discriminated against by Behavioral Health Network, Executive Office of the Trial Court, on the basis of Sexual Harassment. This is in violation of M.G.L. Chapter 151B, Section 4, Paragraphs 1 and 16A, and Title VII of the Civil Rights Act of 1964, as amended.

1. I am a female. I began working for Respondent Behavioral Health Network (BHN) on or about July 17, 2016. I was hired as a Clinical Coordinator. My work performance has always been satisfactory.
2. Soon after I was hired, I was assigned to a team to work on implementing a specialty Drug Court. This team included among others me, the Probation Department, and Judge Thomas E. I was contracted to this team by the Department of Mental Health (DMH) and Respondent Executive Office of the Trial Court (Trial Court). My pay would come from Respondent BHN, and was paid out from a grant funded by DMH and Respondent Trial Court. Judge Thomas E. was the head of the team and as a result he had control over my tasks and could control my employment status.
3. While working on the team to implement the Drug Court, I worked very closely with Judge Thomas E. and would meet with him regularly.
4. On or about November 16, 2016, I was attending a Drug Court Conference. That night, Judge Thomas E. and I had been drinking alcohol. Judge Thomas E. came to my hotel room to help me with something. Afterwards, Judge Thomas E. was lying on my bed and I ended up performing oral sex on him.
5. The next day, I left the conference early because of what happened the previous night. Judge Thomas E. called me, and we both agreed it was a night of stupidity that happened because of the alcohol involved.
6. About one week later, I met with Judge Thomas E. in his chambers to discuss work. Judge Thomas E. said he wanted to continue what we were doing on or about November 16, 2016. Judge Thomas E. said he would help me with problems I was having with probation with regard to the Drug Court, but he wanted oral sex again; he promised he would not ask again after this because I said no. Accordingly, I again performed oral sex on Judge Thomas E.
7. I continued to perform oral sex on Judge Thomas E. throughout my employment. I would regularly speak with him saying I was uncomfortable with what was happening. I tried to end the relationship a few times, but was unsuccessful.

MCAD Docket Number 17SEM01764, Complaint

8. On or about March 17, 2017, I received a phone call from Julia R., Director of Forensics with Respondent BHN. Julia R. said I could not go to Drug Court anymore. I was not given a reason why. I later called Judge Thomas E. and he said he did not know anything about this. I tried speaking with Respondent BHN's Human Resources department about this, but was still not given an explanation.

9. After being told I could no longer go to Drug Court, I was put into an out-patient position making less money. I began applying elsewhere, and left Respondent BHN's employ on or about April 18, 2017.

10. The sexual relations with Judge Thomas E. continued reluctantly after my employment. Judge Thomas E. would it would be worse for me if someone found out.

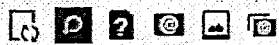
11. On or about July 3, 2017, I met with Judge Thomas E. to try to resolve the situation between us. When Judge Thomas E. met with me in his chambers, I was able to say about two words before he began unbuttoning his pants.

12. For these reasons, I believe I was subjected to sexual harassment.

I hereby verify, under the pains and penalties of perjury, that I have read this complaint and the allegations contained herein are true to the best of my knowledge.


(Signature of Complainant)

EXHIBIT A



95% 9:05 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

10:44 PM I need help with the
tv



Ok 10:45 PM

10:48 PM R u coming up



Yes 10:48 PM

10:48 PM K

Thursday, November 17, 2016



I am going to tell
people that I walked
you to your room, we
talked for a minute
about drug court
and said goodnight.
Sound good?

6:44 AM

📎 Enter message





97% 9:01 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

Friday, November 18, 2016

3:04 PM Hi. Did yiu get my message on Erin

J Yes. Did she get held. 3:19 PM

Yes

3:19 PM Can you talk

J In a minute. 3:40 PM

Monday, November 21, 2016

J I won't know what the day looks like until I get to court. I will let you know. Tell Erin that I am thinking of her and rooting for her. 7:28 AM

Tuesday, November 22, 2016

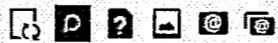
Can you call when you get a minute today except for between two and three I have



Enter message



SEND



95% 9:06 PM



Judge Estes ▼

(413) 320-0077

CALL

MORE

Monday, November 21, 2016



I won't know what the day looks like until I get to court. I will let you know. Tell Erin that I am thinking of her and rooting for her.

7:28 AM

Tuesday, November 22, 2016

7:54 AM

Can you call when you get a minute today except for between two and three I have a meeting

11:11 AM

We are going to have our first African American in drug court



Great!

11:13 AM

Hes being held until march and then he will go residential so you probably wont meet him until next



Enter message



SEND

EXHIBIT B



94% 9:07 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

1:38 PM NO TITLTY

Wednesday, November 30, 2016

3:38 PM It was a fabulous day up
in Pittsfield!

That is simply great
news! I think maybe it is
all coming together. 4:23 PM

4:32 PM You deserve a ☆ for
making this happen.

Ha! That is really funny.

See you tomorrow. 4:34 PM

Thursday, December 1, 2016

9:13 AM Oops

Don't worry. My safety is
literally their job and they



Enter message



SEND

EXHIBIT C



93% 9:13 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

2:59 PM

Thursday, January 26, 2017

7:43 AM Are you on the road

Yes 7:48 AM

10:53 AM I'm in trouble today

What's up? 11:02 AM

11:02 AM Do you have a min

11:04 AM John is having a fit

12:08 PM Nat Green, Alex's boss
at CPCS called me and
asked if you could please
call him at 413-447-7342

1:08 PM Is everything okay?

📎 Enter message





93% 9:13 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

1:08 PM



Yes. Busy. 1:17 PM

2:03 PM

Good work today. You
deserve a gold star.



Thanks. I do it all for the
stars. 2:04 PM

2:05 PM



3:02 PM

You looked sexy today.



I had bad thoughts in
your office. 3:03 PM

3:03 PM

So did I.

3:04 PM

It's been to long



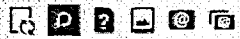
Yes. I wish I could stop
bv but I am short on

📎 Enter message



SEND

EXHIBIT D



94% 9:08 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

11:40 AM

Give yourself about 50
minutes to get there

12:55 PM

Ok. 19 lockhouse?

1:05 PM

Yes it's an apartment
9-3

1:06 PM

Are you on your way
yet?

2:14 PM

No. I will be leaving
around 2:30 maybe
2:40.

2:15 PM

Ok

2:15 PM

I am on the way.

2:47 PM



Enter message



SEND

EXHIBIT E



94% 9:08 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

Monday, December 5, 2016

I had a couple of things i wanted to go over this afternoon. However, we can meet Thursday if your busy.

12:43 PM

Today is fine. Say 3?

12:49 PM

Great

1:06 PM

Tuesday, December 6, 2016

Congratulations you're being sworn in tomorrow. Ill try to make it if i can.

11:47 AM

Thanks.

12:35 PM

📎 Enter message



SEND

Zimbra

thomas.estes@jud.state.ma.us

Re: Drug Court

From : Thomas Estes <thomas.estes@jud.state.ma.us>

Tue, Dec 06, 2016 09:01 AM

Subject : Re: Drug Court**To :** Tammy Cagle <Tammy.Cagle@bhninc.org>

It was nice to meet with you as well. I hope you had a nice evening.
See you Thursday.

From: "Tammy Cagle" <Tammy.Cagle@bhninc.org>**To:** "Thomas Estes" <thomas.estes@jud.state.ma.us>**Sent:** Monday, December 5, 2016 4:49:14 PM**Subject:** Re: Drug Court

Good evening,

Thanks for meeting this afternoon. As always, It was a pleasure.

-Tammy

Tammy Cagle, LCSW

Drug Court Clinical Coordinator

BHN

110 Maple St.

Springfield, MA 01105

(413) 636-8194

From: Thomas Estes <thomas.estes@jud.state.ma.us>**Sent:** Monday, December 5, 2016 12:38 PM**To:** Tammy Cagle**Subject:** Re: Drug Court

I don't have any pressing need to meet, but you are always welcome. I am meeting with the attorney from the Lowell Drug Court at 1 p.m. and that will last at least an hour (maybe longer).

How was your weekend?

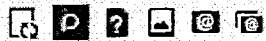
From: "Tammy Cagle" <Tammy.Cagle@bhninc.org>**To:** "Thomas Estes" <thomas.estes@jud.state.ma.us>**Sent:** Monday, December 5, 2016 9:22:21 AM**Subject:** Drug Court

Are we meeting this afternoon?

Tammy Cagle, LCSW

Drug Court Clinical Coordinator
BHN
110 Maple St.
Springfield, MA 01105
(413) 636-8194

EXHIBIT F



94% 9:10 PM



Judge Estes ▼

(413) 320-0077

CALL

MORE



I just realized that I have an appointment that afternoon and I am taking personal time for it so I won't be at work. Will you be at home this Thursday a

fternoon at 4 or so?

4:21 PM

4:32 PM

Yes



I have to be in Belcher-town at 5 for a going away party, but there should be a window of time.

4:33 PM

4:34 PM

Sounds like a plan.

4:36 PM

We need to get done with 2nd st asap



Enter message



SEND



94% 9:10 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

4:37 PM Do you have something
in mind for Thursday

Not specifically. 4:38 PM

4:38 PM You should think about
it.

Ok. Do you? 4:38 PM

4:39 PM Yeah, making you feel
good.

I would like to make you
feel good too. 4:41 PM

4:42 PM :)

Wednesday, January 11, 2017

My supervisor is coming
up to observe court
tomorrow.

📎 Enter message



SEND

EXHIBIT G



93% 9:11 PM



Judge Estes ▼

(413) 320-0077

CALL

MORE

12:53 PM

Umg its beautiful out.

12:54 PM

Do i get have my way
with you tomorrow



Yes and yes.

12:55 PM

1:05 PM

THATS HOT!!

Friday, January 13, 2017

9:04 AM

I woke up thinking about
you and had to take care
of myself.



The gift that keeps on
giving!

9:38 AM

10:01 AM

Yes it does 😊

12:02 PM

Do you have anything
going on next Thursday?



Enter message



EXHIBIT H

From: Tammy Cagle
Sent: Friday, May 12, 2017 11:33 AM
To: Thomas Estes
Subject: Re: Hi From Georgia

Call me at your convenience.

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Thursday, May 11, 2017 3:02:45 PM
To: Tammy Cagle
Subject: Re: Hi From Georgia

Sure.
Maybe sometime in the afternoon or on my commute home?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "thomas estes" <thomas.estes@jud.state.ma.us>
Sent: Wednesday, May 10, 2017 2:01:48 PM
Subject: Hi From Georgia

Good afternoon,
Hope all is well. Would you have time for a phone conversation on Friday?
-Tammy

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>
Sent: Wednesday, May 31, 2017 8:51:44 AM
Subject: Re: Weekend

Good morning,

I spent time in FL with cousins I haven't seen in a while. I love FL and plan on spending more time down there diving. Any interesting court cases? I get to spend time up in Atlanta in a couple of weeks. Have you ever been?

-Tammy

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Tuesday, May 30, 2017 12:02:22 PM
To: Tammy Cagle
Subject: Re: Weekend

Yes.

We went to Newport on Sunday. We walked along the cliffwalk, had lunch with a view of the ocean and toured a mansion. And yesterday, we had a bunch of people over for dinner.

How about you? Anything fun?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "thomas estes" <thomas.estes@jud.state.ma.us>
Sent: Tuesday, May 30, 2017 11:03:16 AM
Subject: Weekend

Hi,

Did you do anything fun over the holiday weekend?

-Tammy

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Tammy Cagle
Sent: Wednesday, May 31, 2017 10:52 AM
To: Thomas Estes
Subject: Re: Weekend

No problem. Lets talk soon!

*Tammy Cagle, LCSW
Program Director: Applying ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Wednesday, May 31, 2017 10:23:32 AM
To: Tammy Cagle
Subject: Re: Weekend

I haven't been to Atlanta in years. It is a great town. I am glad to hear you are enjoying your weekends.

See you who knows when, but someday!

I need to be careful texting, maybe we could always start with you texting me "Hey" and if I respond "Hey" it is a safe time to text. I want to avoid any unfortunate incidents. My family looks at my phone.

EXHIBIT I

**Judge Estes**

+1 413-320-0077



J

I will be in Belchertown in the am and Northampton in the pm. The region is not surprisingly short on judges that day. Will you still be in town?

2:02 PM

Tuesday, June 27, 2017

11:06 AM

I go back Tuesday evening.
Maybe we can meet Monday



J

That sounds great. I will look and see how busy the day appears.

1:43 PM

2:24 PM

Great



J

It is a very light day and a skeleton crew to run the court because so many people are on vacation. I will need to leave by 12 or 12:30 to go cover Northampton.

It is a very light day and a skeleton crew to run the court because so many people are on vacation. I will need to leave by 12 or 12:30 to go cover Northampton.

3:07 PM

4:40 PM

What time should I come by



J

Between 10:30 and 11 if that woks for you.

I mean works not woks.

5:11 PM



Enter message



SEND

EXHIBIT J

< Judge Estes
+1 413-320-0077



9:13 AM

9:14 AM

See you soon

J

Sorry our visit was so short this morning. I did not expect to have to go to North Hampton so early. Have a safe trip tomorrow. Happy Fourth of July.

11:23 AM

11:33 AM

Thanks

11:36 AM

I don't think I want this to happen anymore. its one one sided. I'm not getting anything out of it

J

Believe it or not I was having the same thoughts on my drive back to Northampton. I agree. One sided relationships aren't fair and don't work.

11:50 AM

11:51 AM

No they dont.

11:52 AM

It also doesn't make the other person feel good about themselves

J

I agree



Enter message



SEND



98% 4:37 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

Hampton so early. Have a
safe trip tomorrow. Happy
Fourth of July.

11:23 AM

11:33 AM

Thanks

I don't think I want this to
happen anymore. its one
one sided. I'm not getting
anything out of it

11:36 AM

Believe it or not I was having
the same thoughts on my
drive back to Northampton.
I agree. One sided
relationships aren't fair and
don't work.

11:50 AM

11:51 AM

No they dont.

11:52 AM

It also doesn't make the
other person feel good about
themselves

I agree.

1:07 PM



Enter message



SEND



83% 10:23 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

1:13 PM make an effort?



I just wasn't thinking. 1:21 PM

1:22 PM

LoL you're funny.



Sometimes the truth happens to be funny. Got to go. I will text later. 1:23 PM

Wednesday, July 26, 2017



Can you send me your email address? Somehow I lost it. I hope you are surviving the heat. Summer is half way over. Drug Court is going great. Thanks for

helping to start such a good program. I hope work is treating you well. 11:20 AM

📎 Enter message



SEND

EXHIBIT K

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 8:55:39 AM
To: Tammy Cagle
Subject: Re: Up Coming Visit

I am scheduled to be in Belchertown that day.
Will you be around?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "thomas estes" <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 7:59:17 AM
Subject: Up Coming Visit

Good morning,
How is your week going? Will you be in the office on June 30th?
Tammy

*Tammy Cagle, LCSW
Program Director: Applying ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

Sent: Wednesday, June 7, 2017 10:28:30 AM
Subject: Re: Up Coming Visit

Maybe you can take a longer lunch?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Tammy Cagle
Sent: Wednesday, June 7, 2017 10:12:56 AM
To: Thomas Estes
Subject: Re: Up Coming Visit

How am I suppose to see you?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 9:47:08 AM
To: Tammy Cagle
Subject: Re: Up Coming Visit

If only I could.
How is work?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 9:37:29 AM
Subject: Re: Up Coming Visit

I think so. Take the day off.

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Tammy Cagle
Sent: Thursday, June 8, 2017 11:29:12 AM
To: Thomas Estes
Subject: Re: Up Coming Visit

Hi,
I'm staying in Oxford with a friend.
Tammy

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Thursday, June 8, 2017 10:45:04 AM
To: Tammy Cagle
Subject: Re: Up Coming Visit

That might be the best plan.
Where are you staying?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 4:18:58 PM
Subject: Re: Up Coming Visit

I'm coming in Wed night. Maybe we can meet after Drug Court on Thursday?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 3:01:56 PM
To: Tammy Cagle
Subject: Re: Up Coming Visit

What are your travel plans? Where will you be staying?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>

From: Tammy Cagle
Sent: Friday, June 9, 2017 11:49 AM
To: Thomas Estes
Subject: Re: Up Coming Visit

Hi
Do you have any ideas on where to meet up?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Tammy Cagle
Sent: Thursday, June 8, 2017 12:29:30 PM
To: Thomas Estes
Subject: Re: Up Coming Visit

Can I call you tomorrow?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "thomas estes" <thomas.estes@jud.state.ma.us>
Sent: Monday, June 12, 2017 6:33:22 PM
Subject: Up Coming Visit

Hi,

Do you have trial readiness on Thursday the 29th after Drug Court ?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 31513
(912) 367-1761 ext. 206*

From: Tammy Cagle
Sent: Tuesday, June 13, 2017 5:33 PM
To: Thomas Estes
Subject: Re: Up Coming Visit

I don't think Friday will work for me. I might be leaving with friends for the weekend.
Maybe we can meet in Westfield Thursday afternoon?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 31513
(912) 367-1761 ext. 206*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Tuesday, June 13, 2017 2:35:12 PM
To: Tammy Cagle
Subject: Re: Up Coming Visit

I do and I don't know how long it will take.
I have been thinking about this and given the logistics, maybe we should have lunch on Friday or just catch up here in court late in the afternoon (when I am usually finished).

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>
Sent: Tuesday, June 20, 2017 2:44:53 PM
Subject: Re: Next Week

Good afternoon,
I spend most days inside due to the sun fatigue. I was thinking about getting a room in Westfield. What are your thoughts?
-Tammy

*Tammy Cagle, LCSW
Program Director: Applying ITP
252 West Park Drive
Baxley, GA 31513
(912) 367-1761 ext. 206*



From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Tuesday, June 20, 2017 12:33:39 PM
To: Tammy Cagle
Subject: Re: Next Week

I hope you are having a great day too! How is the heat? It is 80 here and low humidity. Nice weather. I don't like the heat.
I am hoping to see you too. Maybe I should text or call you in the morning once I have a sense of what kind of day it is going to be in court. I wish I wasn't in Pittsfield that day, it would be easier to see each other if I was in Belchertown.
Any thoughts on where to meet up?
Thomas

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "thomas estes" <thomas.estes@jud.state.ma.us>
Sent: Tuesday, June 20, 2017 11:27:15 AM
Subject: Next Week

Hope you are having a great day! Hope to see you next Thursday.
-Tammy

*Tammy Cagle, LCSW
Program Director: Applying ITP
252 West Park Drive*

Baxley, GA 31513
(912) 367-1761 ext. 206



From: Tammy Cagle
Sent: Thursday, June 22, 2017 11:48 AM
To: Thomas Estes
Subject: Re: Next Week

Yes we can talk this afternoon. If you don't get me on my cell try my office number.

*Tammy Cagle, LCSW
Program Director: Applying ITP
252 West Park Drive
Baxley, GA 31513
(912) 367-1761 ext. 206*



From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Thursday, June 22, 2017 10:52:06 AM
To: Tammy Cagle
Subject: Re: Next Week

Sorry to be out of touch. Life has been crazy.
I am worried about committing next week because I don't know what will happen in court. We really took advantage of opportunities when you were here.
We can talk this afternoon.

EXHIBIT 2

BEFORE THE COMMISSION ON JUDICIAL CONDUCT

Complaint Number 2017-39

Introduction

The Respondent, Honorable Thomas Estes, Justice of the District Court Department responds to the STATEMENT OF ALLEGATIONS (hereinafter SA) as set forth in the paragraphs below. In general terms, Judge Estes does not deny that he had an inappropriate sexual relationship with Ms. Cagle, that included sexual acts that took place in the Eastern Hampshire District Courthouse in Belchertown. He emphatically denies that he has engaged in sexual harassment or that his relationship with Ms. Cagle in any way affected the performance of his judicial duties. His responses to the specific allegations follows.

Responses to Specific Allegations

- A. Judge Estes ADMITS the allegations contained in this paragraph.
- B. Judge Estes ADMITS the allegations contained in this paragraph.
- C. Judge Estes ADMITS the allegations contained in this paragraph.
- D. Judge Estes ADMITS the allegations contained in this paragraph.
- E. Judge Estes ADMITS that he had a sexual relationship with Ms. Cagle. He ADMITS that he sent a text message to Ms. Cagle on November 17, 2016, but DENIES that this message encourages her to lie about their encounter. Judge Estes obviously did not want the fact of their sexual encounter to be known to anyone for a variety of reasons, not the least of which was his concern about the damage that it would do to the drug court. The text did not encourage Ms. Cagle to lie, it simply informed her of what he would say if anyone saw him entering or leaving her room. Judge Estes was petrified by the fear that

their sexual encounter would be discovered by someone. Somewhat ironically, Ms. Cagle repeatedly assured him that no one knew, and that no one would ever know.

Judge Estes also ADMITS that text messages were exchanged between Ms. Cagle and him regarding Erin Bristol, a drug court participant. He DENIES that he called probation to prevent her from being taken into custody as Ms. Cagle asked him to do in in November 17, 2016 text message as set forth in ¶ E.1 of the SA. Judge Estes found her suggestion inappropriate.

The text messages between Judge Estes and Ms. Cagle regarding Erin Bristol took place within a month of getting the Pittsfield Drug Court up and fully functional. Everyone was new at understanding the boundaries of the collaborative approach which is the essence of drug courts. Initially Judge Estes thought that messages such as this were consistent with that shared caring about participants in the drug court. (See, e.g., his response to Ms. Cagle in which he tells Ms. Cagle to "Tell Erin that I am thinking of her and rooting for her," found in Exhibit A to the SA). Shortly after this however, Judge Estes decided that such discussions about individual participants in the drug court were inappropriate, and advised Ms. Cagle and the other stakeholders of his view.

Judge Estes does not believe that there was an incident such as described in subparagraph E.2. during November of 2016. He adamantly DENIES that Ms. Cagle expressed a reluctance to continue in a sexual relationship with him on this date, or on any other date, prior to the text messages she sent after their July 3 sexual encounter. What she did express dissatisfaction with on more than one occasion, was that it was too "one-sided," meaning that while she was performing oral sex on Judge Estes, he was not reciprocating. Other forms of sexual intimacy were simply not practical in the

courthouse, but even at her apartment Judge Estes had enough qualms about his relationship with Ms. Cagle, to cause him to be psychologically unable to engage in anything other than oral sex.

Judge Estes DENIES that on this date or any other date, he ever offered to help Ms. Cagle with difficulties that she was having with the probation department in exchange for sex.

Judge Estes DENIES that he ever took steps specifically to assist Ms. Cagle with her relationship with the Pittsfield Probation Department. He does not deny that he had a strong desire to see that the new drug court was running smoothly, and that he briefly attempted, albeit unsuccessfully, to mediate some disputes between probation officers, clerks and court officers, all of whom had complaints about Ms. Cagle. He abandoned these efforts quickly, after calling Judge Mary Sullivan, Chief of Specialty Courts. Judge Estes believes he called Judge Sullivan in late December, and inquired as to whether he had any obligation to try to mediate differences between Ms. Cagle and the other players in the drug court. When Judge Sullivan told him that he did not, he ceased all efforts to mediate. He really felt that it was impractical as well as inappropriate for him to mediate, as he was only in Pittsfield one day a week.

Judge Estes DENIES that the text message attached to the SA as Exhibit B, reflects Ms. Cagle thanking Judge Estes for talking to probation officers on her behalf. As indicated above, as well as in Judge Estes' earlier letter to this Commission, Ms. Cagle had complaints about probation, but probation and many others had complaints about Ms. Cagle. While Judge Estes had a strong interest in the drug court running smoothly, and met with participants to facilitate that during the first few months, he undertook no

special effort to advocate on behalf of Ms. Cagle with other stakeholders. Judge Estes believes that no one who has been interviewed has suggested otherwise.

Judge Estes DENIES that Exhibit C reflects a text message exchange pertaining to Judge Estes speaking to Assistant Chief Probation Officer (ACPO) John Lander on Ms. Cagle's behalf. The plain language of this message demonstrates that in the first part of this Exhibit, Ms. Cagle was asking Judge Estes to call *her*—not probation officer Lander. Judge Estes cannot recall whether he called Ms. Cagle on this occasion, but he is certain that he did not call Mr. Lander. Somewhat ironically, Judge Estes believes that ACPO Lander got along with Ms. Cagle better than most in the drug court.

The second part of Exhibit C pertains to an issue that arose regarding the probation department's unwillingness to share certain materials with the social worker for The Committee for Public Counsel Services (CPCS), who was participating in staffings, along with other stakeholders in the drug court. The Supervising Attorney for the Pittsfield CPCS office, Nathaniel Green, asked Ms. Cagle to have Judge Estes call him to discuss this. Judge Estes recalls that he did so, and that the problem was resolved. Again, the court was new, and everyone was feeling their way along as to what was, and was not expected from the various stakeholders.

Judge Estes ADMITS that Ms. Cagle continued to perform fellatio on him and that before and after their encounters they would at times talk about drug court *in general terms*. However, very shortly after the discussions regarding Erin Bristol, Judge Estes informed Ms. Cagle that they could not discuss individual drug court participants.

Judge Estes ADMITS that he had a sexual encounter with Ms. Cagle at her home on December 1 as alleged in ¶ 3.a. This took place during his lunch break, while he was

sitting in Westfield District Court. He did not leave court early, nor return late to engage in this encounter with Ms. Cagle.

Judge Estes DENIES that he had a sexual encounter with Ms. Cagle on December 5. Judge Estes is quite certain that while Ms. Cagle visited him in his chambers on December 5, there was no sex. He remembers this day because Ms. Cagle arrived while the Judge was with a CPCS lawyer/social worker from the Lowell Drug Court. For some time, the three of them chatted in his lobby. Eventually the social worker from Lowell left. While he was alone with Ms. Cagle for a short period of time thereafter, he does not believe that they engaged in sex. It should also be noted that the emails and text messages indicate that it was Ms. Cagle who wanted to meet on this date, and that Judge Estes initially said that he had "no pressing need to meet." Ms. Cagle's emails make clear that at 4:49, after their encounter, she thanked him for meeting, noting that, "As always, it was a pleasure." *See, SA, Exhibit E.*

Judge Estes DENIES that there was any sex on January 3, 2017 as alleged in ¶ 3.c. By way of explanation, it is perhaps obvious that Judge Estes did not have a lot of time to engage in this secret relationship, without jeopardizing his marriage or his job, which he did not want to do. Both he and Ms. Cagle agreed that the best place for their trysts was her apartment in Westfield, but it was difficult for Judge Estes to get there. The alternative that they came up with was Tuesday afternoons at the Belchertown District Courthouse, after everyone left. Judge Estes could work this temporally because he taught a Tuesday evening class at the law school at Western New England University. The plan was that he would simply stay at the courthouse at the conclusion of court business, and that Ms. Cagle would join him in the late afternoon. After 4:30 when

everyone had left the building, they would then be free to engage in sexual activity for about thirty minutes, before he would have to leave for his teaching commitment.

January 3 is a Monday, not a Tuesday, so Judge Estes feels confident that there was no sex on this date, if she indeed did come by his lobby. With the exception of their final sexual encounter on July 3, Judge Estes does not believe he had sex with Ms. Cagle while others were in the courthouse, for the simple reason that clerks, probation officers and court officers would often drop by his chambers without an appointment.

Judge Estes ADMITS the allegations contained in ¶ 3.d.

Judge Estes DENIES the allegations contained in ¶ 3.e. Again, January 12 was not a Tuesday, so no sex would have taken place, if indeed Ms. Cagle came to his lobby on that day. Judge Estes does not deny that he continued to have sexual encounters with Ms. Cagle. He disagrees on the dates, and to an extent on the frequency. Ms. Cagle seems to suggest that every time she came to Belchertown they engaged in sex, which Judge Estes DENIES.

Judge Estes DENIES the allegations contained in ¶ 3.f.

Judge Estes ADMITS the allegations contained in ¶ 3.g.

Judge Estes DENIES the allegations contained in ¶ 3.h. Again, February 13, 2017 was also a Monday, and therefore Judge Estes does not believe that any sexual activity took place on this date, assuming that Ms. Cagle did indeed visit him in his lobby on this occasion.

Judge Estes ADMITS the allegations contained in ¶ 3.i.

Judge Estes ADMITS the allegations contained in ¶ 3.j. with a slight modification. April 5 was a Wednesday. Judge Estes believes that Ms. Cagle is mistaken

and that she was in his lobby at 4:30 on the previous day, April 4. He does not deny that sexual activity may have taken place on this date, although he has no specific recollection.

Judge Estes ADMITS the allegations contained in ¶ 3. k., although the primary purposes of these exchanges was not to find an approach to text messaging that would keep his extra-marital affair from his family. He notes that there was no inappropriate language in the email exchanges and that these contacts were initiated by Ms. Cagle, long after she had moved to Georgia, and at a time when Judge Estes assumed that their sexual relationship was over.

Judge Estes ADMITS the allegations contained in ¶ 3.l.

Code of Judicial Conduct

Judge Estes certainly acknowledges that he has engaged in serious misconduct, for which he has great shame and remorse, and for which some sanctions are certainly appropriate. In the interest of brevity, his position is as follows:

1. ***Rule 1.2 of the Code of Judicial Conduct (CJC Rule)***. Judge Estes ADMITS that he has behaved in a manner that undermines public confidence in the judiciary and that he failed to avoid the appearance of impropriety, all as required by Rule 1.2. His admission to a violation of this Rule is limited to his acknowledgement that he had sex with Ms. Cagle in his lobby at the Belchertown District Court on more than one occasion.
2. ***CJC Rule 1.3***. Judge Estes DENIES that he violated this rule. The statement of allegations refers to “abusing the prestige of judicial office.” We do not dispute that Judge Estes “abused the prestige of the judicial office” in a generic sense, but a violation

of CJC Rule 1.3 contemplates more than that. Judge Estes DENIES that he abused the prestige of his office “*to advance the personal or economic interests of himself or others*” which is what is required to be in violation of this rule. Again, we feel that the facts speak for themselves. Judge Estes made no effort to advance his or Ms. Cagle’s interests by seeking to prevent her from being removed, protesting her removal, or in any way assisting her in advancing her career, with regard to her position with the Pittsfield Drug Court.

3. **CJC Rule 2.1.** Judge Estes DENIES that he at any time failed to give precedence to his judicial duties as required by CJC Rule 2.1. He never left the courthouse unattended or returned late to a session, as a result of his sexual relationship with Ms. Cagle. His trysts with Ms. Cagle were brief, and had no effect whatsoever on his ability to perform his work with the court.
4. **CJC Rules 2.2 and 2.3.** Judge Estes DENIES that he failed to uphold and apply the law, or that he has failed to perform his judicial duties without bias or prejudice as required by CJC Rules 2.2 and 2.3. Judge Estes believes that there were very few instances where the stakeholders did not reach consensus as to their position with a drug court participant.
5. **CJC Rule 2.4.** The Statement of Allegations references a violation of CJC Rule 2.4 in that Judge Estes allegedly failed to prevent judicial decision-making from being perceived as subject to inappropriate outside influences. He DENIES that anyone would have perceived any decision that he made as having been influenced by his relationship with Ms. Cagle. Not one single person interviewed by the Executive Director in the course of this investigation could recall a single occasion on which Judge Estes’ performance as a judge was impacted by his relationship with Ms. Cagle. Nor was there

any perception by anyone that his decision-making was affected by his relationship with Ms. Cagle. Judge Estes' Judicial Performance Evaluation, which was conducted during the same time frame as his inappropriate relationship with Ms. Cagle, reveals not a single comment which would suggest that he was subject to an outside influence.¹

6. **CJC Rule 2.8(B).** This rule requires a judge to be patient, dignified and courteous to everyone with whom he deals in an official capacity. Judge Estes DENIES that he treated anyone in an undignified, discourteous or impatient manner, including Ms. Cagle. His sexual relationship with Ms. Cagle was not undignified, as it was at all times not only consensual, but actively pursued by her. When she indicated a desire to discontinue their relationship after the July 3 tryst, Judge Estes readily agreed with her, and indicated that he felt the same way. This is well documented by the text message and email exchanges appended to the SA as *Exhibit J*.
7. **CJC Rule 3.1 (C).** This rule forbids a judge from participating in activities that would appear to a reasonable person to undermine the judge's independence, integrity or impartiality. Although Judge Estes adamantly DENIES that his independence, integrity and impartiality were *actually affected* by his relationship with Ms. Cagle, he ADMITS that a reasonable person might question this. He therefore acknowledges a violation of Rule 3.1(C).
8. **CJC Rule 3.1 (E).** Judge Estes ADMITS that he has violated Rule 3.1 (E) by the fact that he engaged in sexual activity on courthouse premises.

¹ Judge Estes' Judicial Performance Evaluation from 2017 is appended as Exhibit 1 to this Response.

Discussion

The Sexual Encounters Between Judge Estes and Ms. Cagle Were Neither Unwanted Nor Did They Take Place in Her Workplace

In summary, Justice Estes admits to having a sexual relationship with Tammy Cagle. He further admits that their sexual activity took place at the Belchertown District Court on more than one occasion. He adamantly denies that this relationship constituted sexual harassment as that term is used in Massachusetts law, or in any generic understanding of the term. The gravamen of sexual harassment is unwanted sexual conduct. *See, Position Statement, Executive Office of the Massachusetts Trial Court, appended as Exhibit 2 to this Response at 12.* The evidence, even at this early stage of the MCAD proceedings establishes plainly that this conduct was not unwanted, but was in fact aggressively pursued by Ms. Cagle from start to finish.

On the evening of their first encounter at the hotel, Ms. Cagle asked Judge Estes to walk her to her room. Obviously, her intentions were clear from that moment forward, since no one needs to be walked to their room in a modern hotel, in a very safe part of the world. In one of her interviews with Mr. Neff, Ms. Cagle agreed that Judge Estes got off on his floor of the hotel, not hers. She told Mr. Neff (according to his notes) that Judge Estes then texted her to see if she got to her room okay. Judge Estes denies sending such a text. And in fact, the text messages produced by Ms. Cagle corroborate Judge Estes' account of the incident, that she lured him to her room on the pretext that she needed help with her TV. *See SA, Exhibit A.* To his great regret, Judge Estes went to her room, where he found Ms. Cagle lying on her bed, clad only in panties and a tee shirt. The television was on.

The evidence of Ms. Cagle's active pursuit of a sexual relationship continues in SA Exhibit C. These text messages initially talk about problems at the court but then Ms. Cagle

texts, "You looked sexy today." Judge Estes responds in kind and then Ms. Cagle states, "it's been too long." Again, the sexualized exchange is initiated by Ms. Cagle.

SA Exhibit D reflects Ms. Cagle's desire for Judge Estes to come to her apartment. This is significant because the essence of sexual harassment is conduct that takes place in the workplace. The fact is that Ms. Cagle never had sex in her workplace, which was the Pittsfield District Court. She readily hosted sexual activity in her home with Judge Estes, and traveled on each and every occasion she had sex outside her home, to the Belchertown District Court, which is 63 miles from her place of work and 23 miles from her home.

SA Exhibit E provides further documentation of Ms. Cagle's pursuit of this relationship.² Exhibit E contains both emails and texts pertaining to a purported sexual encounter at the Belchertown District Court on December 5. The first contact is from Ms. Cagle by email at 9:22 a.m. in which she asks if they are meeting that afternoon. Judge Estes does not respond until 12:38 p.m. and says, "I don't have any pressing need to meet, but you are always welcome." He goes on to say that he will be tied up for at least an hour "maybe longer" with an attorney from the Lowell Drug Court. At 12:43, Ms. Cagle texts Judge Estes that she had a "couple of things" she wanted to go over this afternoon." Judge Estes then responds that "today is fine. Say 3?" Any question about whether anything unwanted happened on this day is resolved by Ms. Cagle's email at 4:49 in which she says, "Thanks for meeting this afternoon. As always, it was a pleasure."

SA Exhibit F also demonstrates Ms. Cagle's continuing willingness and even eagerness to engage in sex with Judge Estes. When Judge Estes hints that he might have a short time to

² Exhibit E pertains to December 5. Again, Judge Estes does not believe he engaged in sex with Ms. Cagle on December 5, but if he did it was clearly by her initiation.

meet with her on that day, Ms. Cagle asks what he has in mind, and indicates that what *she* has in mind is “making you feel good.” SA Exhibit G continues in this vein, with Ms. Cagle asking, “Do I get to have my way with you tomorrow.” She later references having had to masturbate because she woke up thinking about him.

SA Exhibit K is also instructive on whether Ms. Cagle continues to be a willing and eager participant in sexual activity, even nearly three months after she moved 1500 miles away. On June 7, Ms. Cagle exchanges emails with Judge Estes during which she encourages him to take the day off work when she visits on June 30. When he replies, “I wish I could,” and rejects that idea, she urges him to take a long lunch. A couple of weeks later when they are still discussing how and when to meet during her visit, Ms. Cagle suggests that she could get a hotel room. Two days after this suggestion, Judge Estes emails in response that he is “worried about committing next week because I don’t know what will happen in court. We really took advantage of opportunities when you were here.” This ultimately led to their brief meeting at the Belchertown District Court on July 3. Judge Estes had made it clear that he would have little time, as he was working a morning session in Belchertown and an afternoon session in Northampton and it is a half hour drive at least, in between. While Ms. Cagle apparently told Mr. Neff that Judge Estes treated her badly that day, and immediately pulled down the shades and unzipped his pants, she omits some crucial facts. First, Judge Estes made it clear that he would have no more than twenty minutes within which to see her, due to his court responsibilities in two different courthouses. Second, shortly before arriving, Ms. Cagle texted Judge Estes words to the effect that her “panties were wet in anticipation of their meet up.”³ Judge Estes informed Mr. Neff of

³ Judge Estes does not deny that he responded in kind.

this text through counsel in his first communication to the Commission.⁴ It is interesting that Ms. Cagle declined to produce this text message, although Mr. Neff's notes reveal that in one of her later interviews she acknowledged that she had sent one "explicit" text message, of which she was embarrassed.

July 3 was the first in-person meeting between Judge Estes and Ms. Cagle after her move to Georgia, but it was not due to lack of trying on the part of Ms. Cagle. There are text messages that document her efforts to get Judge Estes to attend a conference in Atlanta or Savannah, so that they could spend time together. According to his notes, when she was interviewed by Mr. Neff, she said that she "would be lying if she said that she didn't want to see him again." This is hardly the stuff of sexual harassment.

The Sexual Relationship Between Judge Estes and Ms. Cagle Had No Effect on His Work as a Judge

While fully admitting the impropriety of his relationship with Ms. Cagle, Judge Estes maintains that his work as a judge was not impacted by it. More importantly, each and every person that Mr. Neff, and/or counsel spoke to confirms this fact. Matt Stracuzzi is the Chief Probation Officer (CPO) in Pittsfield District Court. He played an active role in the drug court. According to Mr. Neff's notes of his interview with Mr. Stracuzzi, he said that Judge Estes did a really good job and that he saw no indication that Ms. Cagle had any more sway with him than any other member of the drug court.

⁴ One of the first things that Judge Estes did upon retaining counsel for this matter was to voluntarily submit his cell phone for forensic analysis. He had deleted all communications from Ms. Cagle for obvious reasons. Unfortunately, the forensic analyst could not recover a lot of the deleted material. The analyst explained to counsel that i-phone's are not really designed to retain deleted content. He was able to recover only some of the texts. All pertinent text messages that were recovered were provided to Mr. Neff.

Assistant District Attorney Kyle Christenson also confirmed to Mr. Neff that Ms. Cagle did not appear to have any more sway with Judge Estes than anyone else.

Thomas Sanford of the Brien Center, a treatment provider for the drug court, also said that Ms. Cagle did not have any sway with Judge Estes, who he described as a good guy with a good demeanor, who really cared about the drug court, and was a neutral in resolving any differences in the drug court team.

Ryan Bausch of CPCS was the defense lawyer for many of the cases before the drug court. In a statement given to counsel for Judge Estes, he indicated that he never saw any indication that Ms. Cagle held more sway with Judge Estes than anyone else. In fact, he was able to immediately recall two disagreements that he had with Ms. Cagle that were hashed out in front of the judge. In each case, Judge Estes sided with him over Ms. Cagle.

Judge Estes Was Not Ms. Cagle's Employer, Had No Authority Over Her, and Had No Role in Her Removal From the Pittsfield Drug Court

Judge Estes was neither asked for, nor did he offer any opinion on whether Ms. Cagle should be removed from the drug court. In fact, he did not feel he had any authority to remove Ms. Cagle. He participated in the hiring of Ms. Cagle only to the extent that Welli Yeh, of Behavioral Health Network brought Ms. Cagle to introduce to him. While this was apparently done in some sense to obtain his approval of her, Judge Estes felt that it was *pro forma* and that he had no basis to either accept or reject her. He believes that he informed Ms. Yeh of this fact. Judge Estes was at all times up until recently, confused as to who actually was Ms. Cagle's employer.

Ms. Cagle appears to have been removed from the Pittsfield Drug Court by John Barber of the Department of Mental Health and Julianna Reiss, of the Behavioral Health Network, after

a meeting with the probation department. Mr. Barber told Mr. Neff, according to his notes, that after this meeting, he and Dr. Reiss were “impressed with their concerns” and believed that the problems were irreparable. Further information regarding Ms. Cagle’s shortcomings at work can be found in the *EOTC Position Statement, Exhibit 2* to this Response.

In reviewing Mr. Neff’s notes of his conversation with Mr. Barber, Judge Estes believes that Mr. Barber has conflated two conversations that he had with him regarding Ms. Cagle—one before she was removed, and one after. Judge Estes recalls Mr. Barber calling to get his thoughts on Ms. Cagle before he met with probation—the day before she was removed. When asked his opinion of her, he recalls saying that he felt she was a very good clinician, but that she could not get along with anyone. Judge Estes does not recall Mr. Barber telling him that she would likely not remain in the drug court.

Judge Estes recalls a second call from Mr. Barber, after Ms. Cagle was removed. He was quite surprised that she had been removed, and may well have said that she is a “sweet person” but at the same time acknowledged her tendency to irritate people. Most importantly, Mr. Barber confirms that Judge Estes at no time tried to intervene on behalf of Ms. Cagle. Mr. Neff’s notes indicate that Barber did not feel that Judge Estes was trying to either talk him into retaining her, or out of removing her.

Ms. Cagle’s Credibility

To a certain extent, the Commission must make some credibility determinations as to Ms. Cagle and Judge Estes. As indicated above, every person contacted by Mr. Neff confirms that she did not appear to have held any particular sway over Judge Estes. Everyone praised Judge

Estes' work in the drug court, finding him principled, fair and committed to making the drug court a success.

Ms. Cagle on the other hand, has created an *ex post facto* version of her sexual pursuit of Judge Estes, recasting herself as a victim, in an effort to explain her poor performance and inability to work with others. Again, the opinions of the drug court participants are universally consistent.

John Barber spoke with her on several occasions and described her as "a little uncorked."

CPO Matt Stracuzzi found her reports to be unreliable and contradicted by others. She would speak to an agency and report the conversation to probation but when probation spoke to the agency, they would get a different story. He said that probation just could not work with her.⁵

Assistant District Attorney Kyle Christiansen found her difficult to work with and confused about her role. He indicated that she "ruffled feathers."

Ryan Bausch, the CPCS lawyer, told counsel that Ms. Cagle was "confrontational with everyone." He elaborated by saying that her proposals often made no sense and that she encroached on the job of the probation officer.

The most pointed criticism of Ms. Cagle came from her supervisor at BHN, Dr. Julianna Reiss. According to Mr. Neff's notes, Dr. Reiss described Ms. Cagle as a "disgruntled employee" who had complaints about BHN as well. Indeed, Ms. Cagle's interviews seem to suggest that she blames Dr. Reiss for all of her problems in drug court. Dr. Reiss apparently went on to say that Ms. Cagle has "poor self-awareness," is abrasive and "really, really

⁵ For further information on probation's difficulties with Ms. Cagle, see the EOTC position statement, Exhibit 2.

problematic.” She described Ms. Cagle as not a well person. “She is not happy.” She indicated that she would have a lot of doubt about anything that she says.⁶ The credible evidence is overwhelming that Ms. Cagle was a poor employee who was removed from the drug court due to an inability to work with others. Her inability to accept this, and her fabrication of a false narrative in which she is the victim leaves her without and credibility before this Commission.

Conclusion

In conclusion, Judge Estes admits that he had an inappropriate sexual relationship with Tammy Cagle, that included fellatio at the Belchertown District Court on more than one occasion. He admits that this behavior violates Code of Judicial Conduct Rule 1.02, 1.03??, 3.01C and 3.01E. While he is desirous of reaching an agreement on facts and conclusions regarding violations of the CJC, and proceeding under RCJC 13A, he cannot and will not admit to any allegation that suggests that his performance as a judge was impacted. There is simply no evidence that it was.

He also cannot agree to the earlier proposal of an indefinite suspension. Frankly, if he was guilty of sexual harassment or if there was evidence of his decision-making being affected by his relationship with Ms. Cagle, such a result might be appropriate. But without such evidence the Commission should agree to resolve this matter by:

- a public censure;
- a letter of apology to Pittsfield and Belchertown District Court staff;
- a suspension without pay of thirty days;

⁶ Dr. Reiss also submitted an affidavit in support of BHN’s Motion to Dismiss at the MCAD which further documents Ms. Cagle’s poor work performance and her problems with the probation department. It is attached as Exhibit *

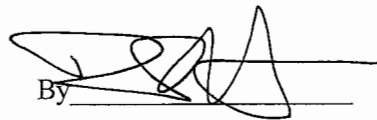
- permanent ban on sitting in a specialty court;
- reassignment to Region 5 for a period of one year⁷

The credible evidence is that this is a good judge who made a bad decision to engage in a sexual relationship with Ms. Cagle, but who has not in any way engaged in sexual harassment, or allowed his relationship to spill over into the essentials of his judicial decision-making. He understands that he has damaged not only himself but the court as well. The above proposed resolution takes all of this into account and is appropriate under all the circumstances.

Request to Appear

Pursuant to RJCJ 7 A., Judge Estes requests the opportunity to address the Commission in person at its November 14, 2017 meeting. Judge Estes will address the allegations against him, the impact that his decision to engage sexually with Ms. Cagle has had on him professionally and personally, and be prepared to answer questions from the Commissioners.

THE RESPONDENT JUDGE THOMAS ESTES

By 

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⁷ Judge Estes has already been punished by having been removed as Presiding Justice of the Eastern Hampshire District Court.

COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION

DOCKET NO. 17-SEM-01764

TAMMY CAGLE,

Complainant,

v.

BEHAVIORAL HEALTH NETWORK
AND THE EXECUTIVE OFFICE OF
THE TRIAL COURT,

Respondents.

POSITION STATEMENT

I. INTRODUCTION

Pursuant to 804 CMR 1.10(8)(a), the Executive Office of the Massachusetts Trial Court ("Trial Court") submits this position statement in response to the complaint of Tammy Cagle, received by the Trial Court on August 7, 2017.¹ In her complaint, Ms. Cagle charges Behavioral Health Network and the Trial Court with discrimination on the basis of sexual harassment in violation of G.L. c. 151B, § 4(1)(16A). More specifically, Ms. Cagle contends that, while employed by BHN as a Court Clinician assigned to the Pittsfield Drug Court, she was subjected to *quid pro quo* sexual harassment by the presiding judge of this Court.

The Trial Court unequivocally denies these claims. In the first instance, the Trial Court had neither actual nor apparent authority over Ms. Cagle, and did not direct her removal from the Pittsfield Drug Court. Moreover, Chapter 151B does not prohibit consensual, sexual relationships between individuals in the same workplace. Here, the evidence will demonstrate that Ms. Cagle initiated this relationship with the presiding judge, welcomed the behavior, and continued to pursue this relationship even after she moved out of state. Only after the relationship was ended, and not until the filing of this complaint, did Ms. Cagle claim, for the first time that she felt otherwise.

Accordingly, the Trial Court maintains that no probable cause should issue in this case because Ms. Cagle has failed to produce sufficient evidence to support her harassment claim. Based on this record, the Commission should find that the Trial Court did not violate any provision of Chapter 151B. Additionally, in filing this Position Statement, the Respondent does not waive any rights, defenses or objections, procedural or substantive.

¹ The Commission granted an extension of time to file this position statement until September 25, 2017.

II. FACTUAL SUMMARY

The Trial Court Organizational Structure:

1. The Massachusetts Trial Court was created by Chapter 478 of the Acts of 1978, and operates under the general superintendence of the Supreme Judicial Court.
2. The Trial Court has two leadership positions: the Chief Justice of the Trial Court, who is the policy and judicial head of the Trial Court and the Court Administrator, who is responsible for court personnel, security and facilities.
3. The Trial Court includes seven court departments- Boston Municipal Court, District Court, Housing Court, Juvenile Court, Land Court, Probate and Family Court, and Superior Court- and several administrative departments under the Office of Court Management, including the Office of the Commissioner of Probation ("OCP").

Massachusetts Specialty Courts:²

4. Beginning in 2013, the Trial Court of the Commonwealth of Massachusetts undertook a comprehensive review of its systems and policies. With input from court employees and stakeholders in the judicial system, the Trial Court developed a strategic plan to establish specialty courts across the state.
5. Specialty courts are problem-solving courts sessions that provide court-supervised probation and mandated treatment focused on treating the mental health or substance abuse issues underlying criminal behavior.
6. The mission of these specialty courts is to provide innovative judicial processes, practices and collaborations that increase public safety by reducing recidivism for targeted populations for whom traditional deterrence methods have not been effective.
7. A hallmark of a specialty court is the integration of treatment and services with judicial case oversight and intensive court supervision.
8. Massachusetts has several types of specialty court sessions: adult drug court, juvenile drug court, mental health courts, veterans' treatment courts, and homeless court; as well as specialized sessions focused on firearms and business litigation.
9. New specialty court sessions may be initiated by the Chief Justice of the Trial Court, the Chief Justice of one of the seven court departments, or upon

² Much of the information relative to drug courts can be found in the *Adult Drug Court Manual* (2015) available on www.mass.gov/court/docs/specialty-courts/adult-drug-court-manual.

submission of a written plan by a First Justice of a particular court after consultation with the clerk or register, chief probation officer and chief court officer.

10. Currently, there are twenty-seven (27) adult drug courts, and three juvenile drug courts. Twenty-three (23) of the adult drug courts operate in the District Court Department of the Trial Court.
11. All drug courts operate as a team of professionals, who are responsible for overseeing the operations of the drug court and managing the supervision of the drug court participants.
12. A drug court team is comprised of a judge, assistant district attorneys, defense attorneys, probation officers, a specialty court clinician, treatment providers and local law enforcement representatives.
13. Although drug court teams work collaboratively, each member has a specific role and responsibilities.
14. The drug court judge will preside over the drug court session and makes all case decisions, including the imposition of incentives or sanctions. Additional duties include:
 - Ensures that the drug court team meets regularly to review participant progress and participant needs.
 - After considering input from team members, makes final decision on participant eligibility.
 - Effectively leads the team to develop and continuously improve all the protocols and procedures of the program.
15. The probation officer plays a crucial role in the success of drug courts. The probation officer actively monitors drug court participants inside and outside of the drug court setting. In addition, the probation staff:
 - Assess and recommend participant eligibility.
 - Complete intake process, which includes informing participants and their defense counsel of the drug court conditions and responsibilities, as well as the consequences of non-compliance.
 - Monitor adherence with treatment and probation conditions.
 - Develop partnerships and close working relationships with the treatment community.
 - Coordinate the utilization of community-based services such as housing, entitlements, transportation, education, vocational training, job skills training and placement to provide a strong foundation for recovery.
 - Develop post program services, client outreach, mentor programs and alumni associations when appropriate or feasible.

- Pursue working relationships with a variety of gender, race, age, and culturally specific treatment services, to make them available as needed.
 - Ensure random and comprehensive drug and alcohol testing.
 - Collect all relevant data on participants.
 - Discuss with participants their progress in meeting treatment goals.
 - Make suggestions for changes in services needed for an effective case plan.
16. The specialty court clinician works through the Department of Mental Health Court Clinic system and will be assigned to the drug court by Behavioral Health Network. Where available, the specialty court clinician is responsible for supporting probation in making sure participants are referred to the appropriate level of care. The specialty court clinician is responsible for:
- Completing a biopsychosocial assessment including clinical level of care assessment to determine level of care needs.
 - Recommending appropriate treatment options for participants, typically in staffings.
 - Engaging treatment providers to best meet participant needs.
 - Referring participants to treatment and assist in care coordination.
 - Discussing treatment progress with treatment providers and participants in preparation for staffings.
 - Providing direct support to participants.
 - Informing drug court team on clinical perspectives.
 - Expanding and maintaining relationships with treatment providers.

Pittsfield District Court Drug Court:

17. In October 2016, the third drug court in Western Massachusetts, and the first such court in Berkshire County, opened in the Pittsfield District Court.
18. Judge Thomas Estes, then the First Justice of the Eastern Hampshire District Court in Belchertown, was designated to preside in the Pittsfield Drug Court. Drug court sessions are only held on Thursdays.
19. The Probation Department staff assigned to the Pittsfield District Court also participated in this drug court team. This staff includes Chief Probation Officer ("CPO") Matthew Stracuzzi, Assistant Chief Probation Officer ("ACPO") John Lander and Probation Officer ("PO") Marc Carnevale. With issues regarding the drug court, these probation officers report to Michael Coelho, Deputy Commissioner of Probation.
20. The Trial Court has an Interagency Service Agreement with the Department of Mental Health ("DMH") (See, Affidavit of Matthew Broderick, DMH, attached as Exhibit A). DMH contracts with BHN to place clinical professionals in the various specialty courts (EX A).

21. Tammy Cagle was hired and designated by BHN to serve as the drug court clinician in Pittsfield (EX A).
22. Ms. Cagle was not screened, interviewed, or selected by the Trial Court. The Court did not direct her work or any other terms and conditions of her employment (EX A).
23. Other members of the Pittsfield drug court team included Ms. Cagle's supervisors from BHN, Dr. Juliana Reiss and David Disessa. Additionally, an assistant district attorney, defense attorneys, representatives from local treatment facilities, jails and police departments, also contribute to this team.
24. The Pittsfield Drug Court team meets every Thursday morning at 8:30 a.m., before the court session began at 10:00 a.m.
25. As drug court is an alternative to traditional criminal court with the goal of getting people with substance abuse issues clean, sober, safe and out of jail.
26. Participation in drug court is voluntary, but potential candidates are identified and assessed to determine if they have an addiction issue that could be curbed by completing the court's requirements. Those findings are then brought to an assessment team, which decides whether the candidates are appropriate for the program.
27. The assessment usually begins after a potential candidate is arraigned; drug court is normally presented as a sentencing option if the defendant is willing to abide by its conditions. The drug court will accept participants from throughout the county.
28. There are five phases in drug court. In the first phase, there is an assessment period to see what kind of treatment and programs might be most appropriate. The second phase involves daily intensive treatment, reporting each week to court and submitting to drug testing on a random, but weekly basis. The third phase allows participants to begin to develop their own plan to remain clean and sober. In the fourth phase, participants keep up with their treatment and regularly meet with a probation officer assigned to their case and their attendance is relaxed to every other week and they must be in stable, substance-free housing. Those who reach the fifth phase maintain their sobriety and keep working to find employment or education opportunities along with continuing with their treatment regimen.
29. A drug court participant could be in the program for up to 18 months before graduation, which involves completing all five phases and remaining drug-free for one year.

Probation Concerns:

30. As detailed above, the success of the drug court depends on the collaborative efforts between the team members. Although Judge Estes would often promote

the concept that each team member had distinct duties and was to "stay in their own lane," the responsibilities of the probation officers and court clinician were closely related.

31. When a defendant was referred to drug court, he or she would be interviewed and assessed by Ms. Cagle and the probation department. If the individual was accepted, then Ms. Cagle was responsible for developing a treatment plan. Once the treatment plan was approved by the whole team, probation would take over to supervise the person's adherence to the terms of the treatment plan.
32. Almost from the beginning, there were challenges between the drug court probation team and Ms. Cagle.
33. The probation officers tried to implement protocols for the referral process, which they believed that Ms. Cagle disregarded. There was no team unity, and this led to a lack of trust.
34. The probation department believed that the Pittsfield Drug Court was stalling.
35. When questioned about decisions made by Ms. Cagle, she would tell the probation officers that she had spoken to providers about plans, only to find out from the providers that they never spoke to Ms. Cagle.
36. The probation officers would receive calls from treatment providers complaining about demands made by Ms. Cagle, and suggesting that they did not want to collaborate on the drug court cases.
37. The probation staff brought their concerns to Michael Coelho, Deputy Commissioner of Probation. Mr. Coelho, in turn, reported these issues to Matthew Broderick, Acting Commissioner of Forensic Health Services, DMH, in November 2016 and again in March 2017 (EX A).
38. By the late winter 2017, the relationship between the probation staff and Ms. Cagle had not improved. The probation department believed that Ms. Cagle was undermining their efforts to refer probationers to the Office of Community Corrections. Later, they also reported that Ms. Cagle had been untruthful regarding the availability of a bed in a residential facility, prolonging a probationer's incarceration.
39. These issues were once again brought to Mr. Coelho's attention, and he contacted DMH (EX A). The probation staff did not request that Ms. Cagle be removed from the drug court, rather they requested that their concerns be addressed with her (EX A).
40. As a result, DMH contacted BHN to detail the probation department's frustrations with Ms. Cagle. DMH did not request or direct BHN to remove Ms. Cagle from

the Pittsfield Drug Court (EX A). The probation department believed that the situation could be remedied through supervision.

41. BHN, along with John Barber of DMH, went out to the Pittsfield District Court to speak to the probation staff (EX A). BHN concluded that the relationship was untenable and decided to remove Ms. Cagle as the court clinician in Pittsfield (EX A).
42. Upon information and belief, BHN offered Ms. Cagle a different position in March 2017³, which she held until taking a position in Georgia (Complaint at ¶ 9).
43. The probation department did not involve Judge Estes in their complaints.⁴

Consensual Relationship:

44. Judge Estes first met Ms. Cagle in July 2016.
45. The drug court was scheduled to open in October 2016, and one of Ms. Cagle's duties was to prepare a manual for that court.
46. Prior to the court's opening, Ms. Cagle and Judge Estes often met once a week to discuss progress on this manual and other operating issues, such as the types of residential programs available for use. Once the court opened, these work meetings tapered off, and by the end of the year, ceased.
47. Other than these meetings, Judge Estes and Ms. Cagle would also see one another on Thursdays, while drug court was in session.
48. On November 16, 2016, several members of the Pittsfield drug court team attended a two day drug court conference.
49. After an evening cocktail reception, Ms. Cagle asked Judge Estes to accompany her upstairs as she had been drinking. Judge Estes' room, however, was on a lower floor and he said good night to Ms. Cagle in the elevator.
50. Soon thereafter, Ms. Cagle sent text messages to Judge Estes claiming that her television remote control was not working and asking him if he could fix it.
51. Judge Estes agreed to try, and he went upstairs to Ms. Cagle's room. When he arrived, he noticed that she was only wearing a t-shirt and underwear, was watching television, and using the remote control. When Judge Estes mentioned

³ In a text message from Ms. Cagle to Judge Estes in January 2017, she informed him that she had been offered a position in the Franklin County Probate and Family Court in Greenfield, MA.

⁴ On or about March 16, 2017, John Barber, DMH, contacted Judge Estes to ask for his general impressions of Ms. Cagle's work performance. Judge Estes replied that he believed she was a top-notch clinician.

the controller, Ms. Cagle replied that he was a fool if he thought that was why she really asked him to her room.

52. That evening, Ms. Cagle and Judge Estes engaged in sexual relations.
53. Ms. Cagle and Judge Estes continued their relationship from November 2016 through March 2017. They met on a few occasions in the judge's office after work hours, and at least three times at Ms. Cagle's apartment.
54. In fact, Judge Estes and Ms. Cagle were together intimately on March 17, 2017, the day that Ms. Cagle was removed from the Pittsfield Drug Court by BHN.
55. Judge Estes had no knowledge of, or involvement, in BHN's decision to remove Ms. Cagle (Complaint at ¶ 8).
56. Ms. Cagle continued to maintain contact with Judge Estes after she was removed by BHN from Pittsfield and after she left BHN's employ on or about April 18, 2017 (Complaint at ¶ 9).
57. On March 23, 2017, Ms. Cagle sent Judge Estes a text message stating "Missed seeing you today. Hope all went well."
58. In fact, Ms. Cagle listed Judge Estes as her reference on an employment application with the company that she currently works for in Georgia. Ms. Cagle sent Judge Estes a text message on April 18, 2017, notifying him that she provided his contact information for a job reference.
59. On May 1 and 4, 2017, Ms. Cagle sent Judge Estes text messages stating "I'm missing you today;" and "We could face time. I miss our conversations."
60. On May 23, 2017, Ms. Cagle sent Judge Estes a text message asking him if he had figured out a way to visit Savanna.
61. In June 2017, Ms. Cagle contacted Judge Estes by electronic mail to inform him that she would be returning to Massachusetts and would like to see him. Specifically, she said "I was thinking about getting a room in Westfield. What are your thoughts?"
62. Eventually, Judge Estes informed Ms. Cagle that he only had a small window of time that he could see her on July 3, 2017. She agreed to meet him at the courthouse in Belchertown, where they were intimate. This was the last time that Judge Estes had any contact with Ms. Cagle.

III. RESPONDENT TRIAL COURT'S ANSWER TO COMPLAINANT'S COMPLAINT

1. The Respondent Trial Court admits that Ms. Cagle was an employee of Respondent Behavioral Health Network, and assigned to the Pittsfield Drug Court as a Clinical Coordinator. The Respondent Trial Court, as it was not the Complainant's employer, lacks sufficient information to form a belief as to the truth of the remaining allegations contained in paragraph 1 of this complaint.
2. The Respondent Trial Court admits that: the Complainant was assigned by BHN to serve as the Clinical Coordinator for the Pittsfield Drug Court; Complainant's salary was not paid by the Trial Court; and that the Drug Courts in Massachusetts are a collaboration of stake holders (as detailed herein). The Respondent denies the remaining allegations contained in paragraph 2 of this complaint, particularly the assertion that a Trial Court judge exercised control over the Complainant's tasks or employment status.
3. The Respondent Trial Court admits that all of the stake holders in the Drug Court worked together closely, and that prior to the opening of this Court, the presiding judge and the complainant held meeting to discuss the operations of this program. The Respondent Trial Court denies the remaining allegations contained in paragraph 3 of this complaint.
4. The Respondent Trial Court admits that Judge Estes attended a drug court conference along with the complainant, a probation officer and other stake holders, on or about November 16, 2016, and that Judge Estes consumed alcoholic beverages at the evening reception. The Respondent Trial Court further admits that after having retired to his own hotel room, the complainant contacted Judge Estes and asked him to come to her room. Further, the Respondent admits that the complainant and Judge Estes engaged in consensual sexual relations that evening. The Respondent Trial Court denies the remaining allegations contained in paragraph 4 of this complaint.
5. The Respondent Trial Court denies the allegations contained in paragraph 5 of this complaint.
6. The Respondent Trial Court admits that the complainant traveled to Belchertown on a number of dates to meet with Judge Estes to discuss issues relative to the Drug Court, including her complaints about Trial Court probation staff. The Trial Court further admits that Judge Estes and the complainant had consensual sexual relations in the judge's office after Court business had closed. The Respondent denies the allegations contained in paragraph 6 of this complaint.
7. The Respondent Trial Court denies the allegations contained in paragraph 7 of this complaint.

8. The Respondent Trial Court lacks sufficient information to form a belief as to the truth of the allegations regarding complainant's conversations with Respondent BHN. Further answering, Respondent Trial Court admits that after having been removed from her position as a Court Clinician by BHN, complainant contacted Judge Estes, who was unaware of, and not involved in this employment decision.
9. The Respondent Trial Court lacks sufficient information to form a belief as to the truth of the allegations contained in paragraph 9 of this complaint. Of note, the complainant admits in this paragraph that she was employed by Respondent BHN.
10. The Respondent Trial Court denies the allegations made in paragraph 10 of this complaint. Further answering, the Trial Court again submits that this was a consensual sexual relationship, which the complainant pursued after she ceased employment with BHN.
11. The Respondent Trial Court admits that the complainant made advance arrangement with Judge Estes to travel from Georgia to visit him and suggested that she book a hotel room. Due to the judge's schedule, the complainant drove all the way out to Belchertown to rendezvous with the judge. The Respondent Trial Court denies any remaining allegations in paragraph 11 of this complaint.
12. The Respondent Trial Court denies the allegations contained in paragraph 12 of this complaint.

IV. ARGUMENT

A. Standard of Review

The Commission shall not issue a finding in favor of Ms. Cagle unless she establishes sufficient evidence upon which the Commission can form a reasonable belief that it is more probable than not that the Trial Court committed an unlawful practice. 804 CMR 1.15 (7)(a). In bringing a claim for discrimination, Ms. Cagle bears the initial burden of establishing a prima facie case. *City of Boston v. Massachusetts Comm'n Against Discr.*, 47 Mass. App. Ct. 816, 821 (1999). In this complaint, Ms. Cagle alleges that she was subjected to sexual harassment. As discussed below, however, Ms. Cagle cannot satisfy her burden as she was involved in a consensual relationship with a Trial Court employee who had no authority over the terms and conditions of her employment.

When one strips away the conclusory claims that Ms. Cagle's rights have been violated, reviews facts presented herein, it becomes clear that the Trial Court employee, with whom she had a consensual relationship, exercised no authority over her work duties or assignment. Based on this record, the Commission should find that the Trial Court did not engage in unlawful discrimination or retaliation.

B. The Presiding Judge of the Drug Court Had Neither Actual Nor Apparent Authority Over Ms. Cagle

The Supreme Judicial Court has held that the Massachusetts Legislature "intended that an employer be liable for discrimination committed by those on whom it confers authority." *College-Town v. MCAD*, 400 Mass. 156, 165 (1987); *Johnson v. Plastic Packaging, Inc.*, 892 F. Supp. 25 (D. Mass. 1995). Accordingly, under Chapter 151B, an employer is unconditionally liable for sexual harassment by its supervisors, to include quid pro quo harassment. *College Town v. Massachusetts Comm'n Against Discrimination*, 400 Mass. at 165. Whether a particular employee exercises supervisory authority over another is a question of fact. *Johnson*, supra; see also *Messing v. Araserve, Inc.*, 906 F. Supp. 34 (D. Mass. 1995), citing *Przybcien v. AID Maintenance Co.*, 13 MDLR 1266 (1991) (finding accused was plaintiff's "supervisor" even though not formally designated as such in company hierarchy). Factors considered in making such a determination include whether the employee undertakes or recommends tangible employment actions, directs an employee's activities or controls work flow, impacts an employee's compensation, or monitors and evaluates an employee's work performance. See *Robinson v. Haffner's Service Stations, Inc.*, 23 MDLR 283 (2001).

In the instant case, it cannot be argued that Judge Estes or any staff at the Trial Court exercised this type of authority over Ms. Cagle. Ms. Cagle was a BHN employee. She was interviewed, screened and hired by BHN. They had the sole authority to reassign or terminate her employment. Neither Judge Estes, nor the probation staff, monitored Ms. Cagle's arrival or departure at the court; use of personal, vacation, or sick time; monitored or were even aware of her payroll information; administered her benefits; or were involved in any performance evaluations. Probation staff, in fact, were initially at a loss as to whom they could express concern regarding Ms. Cagle's work performance. Unlike a Trial Court employee for whom work performance issues would be documented in a performance review and addressed through a progressive disciplinary policy, Ms. Cagle's work performance issues had to be communicated to BHN for resolution. As the affidavit from Matthew Broderick makes evident, the Trial Court never expressed to him their desire to have Ms. Cagle separated from employment or even removed from the Drug Court team. This is because, as a functional reality, they lacked the authority to do so. Similarly DMH never asked BHN to remove Ms. Cagle. BHN made this decision independently. The Trial Court could not confer supervisory authority on either Judge Estes or the Probation staff because the Trial Court is not Ms. Cagle's employer; BHN is her employer.

Ms. Cagle appears to argue that Judge Estes had apparent authority over her, because he controlled her assignments. Under Massachusetts law, apparent authority is created when "written or spoken words or any other conduct of the principal which, reasonably interpreted, causes a third person to believe that the principal consents to have the act done on his behalf by the person purporting to act for him." *Zortman v. Bildman*, 1999 WL 1318959 (Mass. Super. Ct. Jan. 15, 1999) quoting *Weisman v. Saetz*, 11 Mass. App. Ct. 440, 442 (1981); see also Restatement (Second) of Agency §§ 7, 8 (1957) ("Apparent authority is the power to affect the legal relations of another person by transactions with third persons, professedly as agent for the other, arising from and in accordance with the other's manifestations to such third persons."). Ms. Cagle's assertion that Judge Estes assigned cases is factually incorrect. The drug court

operates as a collaborative team. As the only court clinician, Ms. Cagle would have had a role in every matter being handled by the Drug Court. The clinical nature of the work Ms. Cagle engaged in would not and could not be supervised by Judge Estes; he lacks the necessary licensure. Even assuming that Judge Estes did have apparent authority over Ms. Cagle, the principal in this matter is still BHN. They are the employer and the only persons who had actual authority over Ms. Cagle.

C. Ms. Cagle Initiated a Consensual Sexual Relationship. She was Not Subjected to Sexual Harassment.

General laws Chapter 151B does not prohibit consensual sexual relationships in the workplace. Rather, this statute provides that one's terms and conditions of employment cannot be predicated on consent to sexual acts, and that one's work environment cannot be subjected to sexually demeaning conduct, resulting in a hostile work environment. The former is known as *quid pro quo* sexual harassment. *MCAD & Ramos v. New World Security Associates, Inc.*, 2004 Mass. Comm. Discrim. LEXIS 37 [*20]. The latter is known as hostile work environment harassment. *Id.* In her complaint, Ms. Cagle disingenuously claims that she submitted to a sexual relationship with Judge Estes in November 2016 so that he would "help [her] with problems [she] was having with probation with regard to the Drug Court" (Complaint at ¶ 6). Ms. Cagle's problematic relationship with the probation department was the result of her own actions, and thus something that she could fix on her own, without assistance from Judge Estes. Moreover, Judge Estes had no control over the relationship between Ms. Cagle and the probations officers, nor could she have legitimately expected that he could restore the trust that had been broken between she and probation.

Quid pro quo harassment occurs when an employee with authority or control over the terms and conditions of another's work, offers her a work benefit or advantage in exchange for sexual favors or gratification. *Sexual Harassment in the Workplace*, MCAD Guidelines, citing *Richards v. Walter Fernald State School*, 2000 WL 1473024, *3 (2000). In order to prevail on a *quid pro quo* sexual harassment claim, Ms. Cagle must establish by credible evidence that: (1) the alleged harasser made sexual advances or sexual requests or otherwise engaged in conduct of a sexual nature; (2) the sexual conduct was unwelcome; (3) she submitted to such advances, requests or conduct; and (4) when she submitted to the unwelcome sexual conduct, she did so in reasonable fear of an adverse employment action. *Id.*

Ms. Cagle cannot satisfy her burden of proof. Although Judge Estes and Ms. Cagle engaged in sexual acts, this relationship was initiated and pursued by Ms. Cagle. On the evening of November 16, 2016, Judge Estes said good night to Ms. Cagle and retired to his hotel room. Soon thereafter, Ms. Cagle, under the pretense of needing help fixing the television remote control, invited Judge Estes upstairs to her room. She specifically remarked that if he really thought she called him to fix a remote control, then he was a fool. From November through March, Judge Estes and Ms. Cagle continued to meet on occasion, followed by e-mails from Ms. Cagle stating: "[T]hanks for meeting this afternoon. As always, a pleasure." The fact that Ms. Cagle continued this relationship after having been removed by BHN from the Drug Court further demonstrates that it was a welcome, consensual relationship. Ms. Cagle listed Judge Estes as a reference for her current position, she maintained contact with him, often asking how

he was doing and saying how much she missed him, asking him to find a way to visit her in Georgia, and then suggesting she get a hotel room for them upon her return in July. All of these facts undermine Ms. Cagle's position that she stayed in this relationship reluctantly. The MCAD has found, on numerous occasions, that where the relationship was welcome or consensual, the complainant was not sexually harassed. *See, Tremblay and MCAD v. Fortunato Food Co., Inc.*, 34 MDLR 1, *20 (2011)(finding that because the relationship between the parties was consensual, the conduct did not constitute prohibited workplace harassment); *Slattery v. 101 Country Workshop*, 22 MDLR 90, *19 (2000)(long-term consensual sexual relationship was not sexual harassment); *Socarides v. Camp Edwards Troop Welfare Council, Inc.*, 21 MDLR 173, *20 (1999)(finding that the conduct of which complaint complained was not unwelcome but, rather, entirely consensual and invited).

Moreover, Ms. Cagle could not have had a "reasonable" fear that discontinuing this relationship would have resulted in an adverse employment action where Judge Estes did not have authority or control over the terms and conditions of her work. Interestingly, in January 2017, Ms. Cagle texted Judge Estes reporting that she had been offered a job in the Franklin Probate and Family Court. If she had a legitimate concern about Judge Estes adversely impacting her work in Pittsfield, why not take this position in another court? The Trial Court submits that she did not have such a fear, and welcomed their on-going relationship.

Ms. Cagle was a court clinician responsible for assessing probationers for participation in drug court, creating treatment plans, and cultivating relationships with providers to ensure the success of these treatment plans. Judge Estes played no role in any of these duties. Judge Estes was not Ms. Cagle's supervisor, and did not direct how she performed her job. Most importantly, Judge Estes did not seek her removal, or participate in BHN's decision to remove her from the Pittsfield Drug Court. As Ms. Cagle cannot establish the necessary elements of a sexual harassment claim, then this complaint should be dismissed.

V. DEFENSES ASSERTED BY THE RESPONDENT

In compliance with 804 CMR 1.10(8)(d), the Respondent Trial Court formally asserts the following defenses in response to the allegations in this complaint:

1. Ms. Cagle has failed to establish a *prima facie* case with respect to claims made that she was treated unlawfully based upon sex in violation of G.L. c. 151B, § 4.
2. The relationship between Ms. Cagle and Judge TE involved welcome sexual conduct.
3. Judge TE had neither actual nor apparent authority over Ms. Cagle.
4. The terms and conditions of Ms. Cagle's employment were not impacted by Judge TE.

Finally, the Respondent reserves its right to supplement or amend the defenses raised above and reserve its right to a jury trial.

VI. CONCLUSION

For the above reasons, Ms. Cagle's complaint against the Respondent Trial Court is unsupported by facts or law and a lack of probable cause finding must therefore issue.

Respectfully submitted,

**EXECUTIVE OFFICE OF THE
MASSACHUSETTS TRIAL COURT,**

By their attorneys,

Eamonn Gill
Labor Counsel
BBO No. 652111

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Deputy Labor Counsel
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Dated: September 25, 2017

CERTIFICATE OF SERVICE

I, Elizabeth Day, hereby certify that on this 25th day of September 2017, I served a copy of the Respondent Trial Court's Position Statement by first class mail, postage prepaid, on the Complainant, Tammy Cagle, 705 Georgia Avenue, Glennville, GA 30427.

Elizabeth Day, Esq.

COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION

DOCKET NO. 17-SEM-01764

TAMMY CAGLE,

Complainant,

v.

BEHAVIORAL HEALTH NETWORK
AND THE EXECUTIVE OFFICE OF
THE TRIAL COURT,

Respondents.

AFFIRMATION

I hereby certify and affirm, under oath, and consistent with 804 CMR 1.10(8)(e), that I have reviewed the Position Statement filed by the Massachusetts Trial Court in the matter of *Tammy Cagle v. Behavioral Health Network and the Executive Office of the Trial Court* (MCAD Docket No. 17-SEM-01764), and that the factual information contained herein is supported by the business records of the Trial Court and therefore truthful to the best of my knowledge.

Signed under the penalties of perjury this 25th day of September 2017.

Thomas Estes
Massachusetts Trial Court

COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATIONMCAD DOCKET NO. 17SEM01764
EEOC/HUD DOCKET NO. 16C-2017-01821TAMMY CAGLE,
Complainant

v.

AFFIDAVIT OF JULIANA REISS,
PSY. D.BEHAVIORAL HEALTH NETWORK,
INC.,

Respondent

NOW COMES Juliana Reiss, Psy. D., who, making this Affidavit under the penalties of perjury, states that the allegations made below are true of her own knowledge, information, and belief, and so far as the facts are stated upon information and belief, she believes such information to be true.

1. My name is Juliana Reiss; I hold a Doctor of Psychology (Psy.D.) degree, and I am a licensed psychologist in the Commonwealth of Massachusetts. I am employed by Behavioral Health Network, Inc. as the Director of the Forensic Services program. In this role, I oversee the Adult Court Clinics in the Western Massachusetts Courts, and the court clinicians employed by BHN, Inc. within the Springfield Mental Health Court, and the Drug Courts in Pittsfield, Springfield, and Franklin County. I work within the Massachusetts Trial Courts through a contract BHN has with the Department of Mental Health (DMH).
2. I worked in this capacity during all times relevant to Tammy Cagle's MCAD complaint.
3. Tammy Cagle did not raise a complaint of sexual harassment to me at any time during her tenure with the Pittsfield Drug Court. At no time did Tammy Cagle mention any sexual impropriety at all at the Pittsfield Drug Court. To my knowledge, she did not complain of sexual harassment or any other impropriety to anyone affiliated with the Drug Court or BHN during her tenure with the Pittsfield Drug Court. I was not aware of any sexual relationship between Tammy Cagle and any member of the trial court during her tenure with the Pittsfield Drug Court.
4. In July, 2017, BHN hired Tammy Cagle as the Drug Court Coordinator within the Pittsfield Drug Court. She was assigned to work in the Pittsfield Drug Court, based on

BHN's contractual relationship with DMH. As the Program Director for Forensic Services, I oversee the Drug Court Clinicians, including Tammy Cagle.

5. As early as the beginning of September, 2017, Tammy Cagle had difficulty in her relationships with the Probation Department and with other stakeholders in the Pittsfield Drug Court. During September, 2016, I met with Tammy and other Drug Court clinicians and discussed Tammy's difficulties integrating within the Drug Court, and with the probation department, specifically.
6. Over the following months, I became aware of Tammy's problematic behavior in her position as the Pittsfield Drug Court Clinician. Probation, courthouse staff, and other clinicians working with her found Tammy to be outspoken, self-righteous, and politically insensitive. The DMH Area Forensic Director, John Barber, who manages the BHN, Inc. Forensic Services contract, informed me that at a Community Justice Workshop, Tammy spoke out against corrections employees, stating that the corrections community in Pittsfield did not want a Drug Court. At the annual Massachusetts Drug Court Conference, Tammy spoke out inappropriately in front of the Deputy Commissioner for Probation in Massachusetts, Mike Coello, regarding DMH's position relative to the Community Corrections program in Pittsfield, and this agency's work with Pittsfield Drug Court clients. Perhaps most significantly, Pittsfield Probation ultimately complained that Tammy created problems within the Drug Court that led to drug court participants spending long periods of time in jail while waiting for other drug treatment options.
7. In March, 2017, John Barber of DMH told me he had heard from probation officials that Tammy Cagle's behavior had become so problematic that she was compromising the success of the Pittsfield Drug Court Program. On March 17, 2017, in a meeting with John Barber and several members of Pittsfield Probation regarding their difficulty working with Tammy, John Barber said that Tammy would no longer work within the Pittsfield Drug Court. Later that day, I called Tammy and told her that she should not report to work at the Pittsfield Drug Court the following week. In the days that followed, I met twice with Tammy and Claudia Muradian-Brubach of Human Resources at BHN, Inc. and arranged for her reassignment to a another clinical position within BHN, Inc.
8. Ultimately, the Department of Mental Health requested that Tammy Cagle no longer work within the Pittsfield Drug Court, due to her difficulties working with the probation department and Drug Court stakeholders, and not for any other reason.
9. Signed under the pains and penalties of perjury, this 19 day of September, 2017.

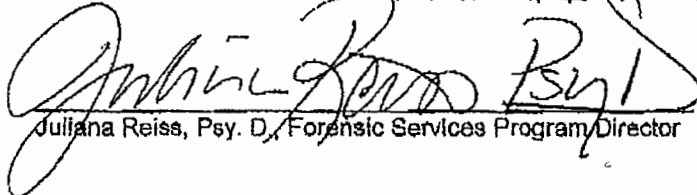

Juliana Reiss, Psy. D., Forensic Services Program Director

EXHIBIT 3

I first want to say how humiliated I am to have to appear before you today. I hardly have the words to express the shame and sorrow that I feel. I have been unfair to my wife and fear that my affair with Ms. Cagle may well cost me my marriage. At my wife's request, I have moved out of my home. Leaving my wife and sons to live in an apartment has been the most heartbreaking experience of my life.

Professionally, I have been unfair to the court and my colleagues. I've brought disrepute to the bench that I am so proud to be a part of. I have been stripped of my positions as First Justice of the Belchertown District Court and Presiding Judge of Pittsfield Drug Court and put my career in peril.

I have also disappointed countless friends and colleagues, who are astonished that I could have been so foolish. I am truly sorry for the choice I made to be involved with Ms. Cagle. I will regret it for the rest of my life.

As you already know, I admit that I had an inappropriate sexual relationship with Ms. Cagle that included having sex in the courthouse in Belchertown. I accept responsibility for this and I know that I must face the consequences for my actions.

However, I am also accused of things I did not do. I want you to know, indeed I want the world to know, that I never engaged in sexual harassment of Ms. Cagle, in fact or in law. I never offered anything as a quid pro quo for sex and I never asked her to continue anything she did not want to do. And I never had improper *ex parte* communications with her.

Ms. Cagle never once said she wanted to end the relationship or that she had any qualms about continuing our sexual relationship. She knew that the relationship did not have much of a future, as I had no intention of leaving my wife and had expressly told her this very early on. Despite this, we chose to continue.

The only complaint or reservation that she ever expressed about our sexual relationship was the one that is contained in her text message to me on July 3. She felt our sexual encounters at the courthouse were too one-sided and I agreed. She had said this at least one other time in the course of our relationship, and I agreed with her then too.

I met Ms. Cagle in the summer of 2016. I think that it was in June that I got an email from Dr. Welli Yeh indicating that she had found a clinician that she wanted to hire to work in the Pittsfield Drug Court. I have no idea how many people applied, nor do I have any idea how many people Dr. Yeh interviewed. Dr. Yeh said that she wanted to set up an interview, so that I could meet this person. While I had known Dr. Yeh for years in her capacity as a forensic psychologist, I had no idea that it was her job to interview and hire a clinician for the drug court. In fact, until then, I did not know that Dr. Yeh was the regional supervisor. Dr. Yeh and I arranged for the three of us to meet sometime in late June or early July. While I thought it was a good idea for me to meet Ms. Cagle, I told Dr. Yeh that I did not feel that I had the background or experience to evaluate Ms. Cagle's credentials as a clinician. Dr. Yeh told me that Ms. Cagle was well-qualified and that her references all spoke very highly of her. While Dr. Yeh told me that she needed my approval to hire Ms. Cagle, I did not have the impression that I had the authority to reject Ms. Cagle because I would have had no basis upon which to do so. I played no role in the interview process or the selection of Ms. Cagle. My impression of our meeting was that it was basically a formality.

In setting up and preparing to open drug court, Ms. Cagle had several responsibilities. She needed to become well-versed in Drug Court Best Practices. Abiding by Best Practices is a proven way to ensure the success of a drug court. She had to travel to Pittsfield to become familiar with the major substance abuse treatment providers in the area and to meet with the key players in those organizations. And she had to write the Pittsfield Drug Court manual.

In September of 2016, we were in the final planning stages of a process that began in the spring. Early in the process, I met with people in the Pittsfield District Court to explore the day-to-day logistics of how drug court would run. We had to figure out the basics. Obviously, we would need a court room. We also need a place to have our staffings. We had to figure out what day of the week would work with the court's schedule and with the regional office, who scheduled judges. We had to decide what time of day would work best. Significantly, we also had to address how drug court would affect staffing within the probation office, and courthouse security. With the assistance of the Presiding Judge in Pittsfield and Judge Sullivan, the head of the specialty courts in Massachusetts, I met with the stakeholders in the Pittsfield District Court and the region to plan the drug court. In September, I was still meeting with these individuals, as we hammered out the final details.

Prior to opening the drug court in October, I arranged for a bench bar meeting to discuss drug court. About 100 people attended, including members of the bar, the District Attorney's office, court staff and local treatment providers. At the meeting, I gave a short description of my vision of how the Pittsfield Drug Court would work, and then answered questions for about an hour. The community was very enthusiastic about having a drug court in Pittsfield.

In September, I also began meeting regularly with Ms. Cagle. She helped to educate me on Drug Court Best Practices, and who the local treatment providers are in Pittsfield. She also began drafting the Pittsfield Drug Court Manual. I would regularly review her progress and make suggestions or ask questions. Our meetings were entirely professional. There was never any flirting or any suggestion of anything inappropriate.

The Pittsfield Drug Court opened in October, but there were no participants for a few weeks. I began travelling to Pittsfield every Thursday and meeting with the stakeholders at our morning staffings. In these meetings, we began creating the policies of the Pittsfield Drug Court. For example, one of the first things we had to do was develop the referral process. There were also logistical issues. We had so many interested parties attending our staffings we needed a larger room.

We only added a few participants in October. The referral process takes time and finding beds in treatment facilities also takes time. By early November, I think we had three participants. Ms. Cagle and I were still meeting regularly at this time. During our meetings, Ms. Cagle would give me updates on how the participants were faring in treatment. None of these participants had open probation violations before the court or assigned attorneys. Also, anything Ms. Cagle and I discussed was presented at the weekly drug court staffing. I think sometime in late November, I had a conversation with Judge Sullivan. She explained to me that the way drug courts traditionally work, I should be getting any updates on how participants are progressing from the probation officer assigned to drug court, in this case, Mark Carnavale or one of his superiors. She also said that there was a danger that my conversations with Ms. Cagle could be construed as *ex parte* communications, despite the fact that the participants did not have open matters before the

Court, and Ms. Cagle was not a litigant advocating a position. Based on this advice, I stopped all conversations with Ms. Cagle about individual participants outside of the drug court staffings. Any messages of support I wanted to send to a participant, I sent through the probation office. As we accepted more defendants into drug court, I met less frequently with Ms. Cagle. The Drug Court manual was written, and she was busy with the day-to-day demands of drug court. I do not feel that my conversations with Ms. Cagle were *ex parte* communications, although with the benefit of hindsight I agree that the better practice would have been not to have them. While not an excuse, I think it is important to note that no one on the Pittsfield Drug Court team had any experience whatsoever with Drug Court. We had to create our own policies and procedures, and we all learned as we went along. And of course we all made mistakes, especially in the beginning.

My meetings with Ms. Cagle in October and early November remained entirely professional. There was no flirting or any suggestion of anything of a sexual nature.

As you know, my first sexual encounter with Ms. Cagle occurred at a conference last November. After the end of the first day, many of the participants met at the hotel bar for dinner and drinks. I think that all of the participants from Pittsfield were there as well as members of drug courts from across the state. It was a good time to talk informally and to get to know one another. At the time, I thought of it as a good bonding experience for the team. At the end of the evening, Ms. Cagle asked me to walk her to her room. I didn't really understand why Ms. Cagle wanted someone to walk her to room, but we were friends and I was ready to call it a night anyway. We had never engaged in any flirtatious behavior in the past, so at first I really thought nothing of her request. However, on the way up the elevator, it occurred to me that Ms. Cagle

might be suggesting something. At this point, I realized that it would be inappropriate for me to accompany Ms. Cagle to her room and I started to feel uncomfortable. I had no intention of getting involved with Ms. Cagle, or cheating on my wife. I got out on my floor and went to my room. Within minutes, Ms. Cagle began texting me, complaining that the remote control to her television wasn't working, and asking for my help. At this point, it was clear to me what Ms. Cagle wanted. I really don't know why I left my room that night. I knew it was fraught with peril, but I did it anyway. As if to erase any doubt, on the way to her room, Ms. Cagle texted me that the door would be unlocked. To my never ending regret, I succumbed to her enticement.

The next day was a terrible day. I woke up wracked with guilt, and petrified that someone had seen me near her room, or suspected what had taken place. I couldn't believe what I had done. With great trepidation, I went down to the conference to find the Pittsfield table. Ms. Cagle tried to reassure me. She said that no one suspected a thing. She said I should relax because "No one knows. And no one will ever know." Heading home at the end of the day, I felt like I was escaping a bad dream.

I have asked myself many times how I got involved with Ms. Cagle. I was married with two teen-age boys and I had no intention of leaving my wife. Having given it some thought, I can only say that I think this relationship started because Ms. Cagle and I genuinely liked each other. We had bonded over our shared interest in establishing a well-run drug court and our shared concern for people who suffer from substance use disorders. We had interesting discussions about how the criminal justice system is adapting to the fact that the medical community now defines addiction as a disease. Working together, we had become friends. I was also having some

minor marital issues, that in hindsight were perhaps more significant than I realized, and I think Ms. Cagle was just lonely.

After our first encounter, I told myself that I cannot do this again. I couldn't risk my marriage. Nor did I want to ruin the drug court I had worked so hard to create. I shared my concerns with Ms. Cagle who sought to assuage them. She wanted to continue the relationship. She told me that I could trust her, and that she would never do anything to hurt my wife or children, whom she viewed as innocents. She also said it would be terrible for her if someone found out about us, because she loved being a part of drug court, and she would probably not be allowed to work in a drug court again if we were discovered. Honestly, I don't know why I chose to continue the relationship. At the time, I guess I trusted her and enjoyed our time together.

My second sexual encounter with Ms. Cagle did not occur at the courthouse as she suggests. It occurred in December at her apartment in Westfield. I was assigned to sit in the Westfield District Court that day. Her apartment was less than a 10 minute drive from the court.

After breaking for lunch at approximately 1 p.m., I drove to her apartment and stayed for about half an hour. I did not leave court early. I also was back at the courthouse to start the afternoon session on time. This occurred one other time when I was assigned to sit in Westfield. We also had sex at her apartment after court on two other occasions. Each time was by prior arrangement and at her invitation. In fact, after the first time at her apartment, she left the door unlocked and had me meet her in the bedroom.

We both felt that it was preferable to meet at her apartment for sex, however, it was logistically difficult for me to get there without the risk of being caught, so our sexual encounters

there were infrequent. Incidentally, even at her apartment, our relationship never reached the point of intercourse, probably due to guilt and shame on my part.

When I started teaching a class on Tuesday nights in the spring, Ms. Cagle had the idea that I could travel to her apartment for sex before I had to teach. However, the distances between Belchertown, Westfield and the law school made this impractical and we ultimately decided to meet at the courthouse in Belchertown.

On approximately 3 occasions, Ms. Cagle and I engaged in sex at the Belchertown courthouse. As far as I recall, except for the last time, our sexual encounters in the courthouse occurred after court had closed for the day and the staff had left. I taught a class on Tuesday nights in the spring of 2017. A couple of times, Ms. Cagle came to the courthouse late in the day and stayed until court closed and the staff parking lot was empty. At that point, as far I knew, the building was empty. We did this for the perhaps obvious reason that we were attempting to limit our chances of getting caught. Ms. Cagle seems to suggest we had many sexual encounters during the work day. This simply did not happen for the most basic of reasons—we would surely have been caught. During a normal day, court staff came and went from my lobby all the time. If my door was closed, people knocked. The staff knew I was available for questions or help at any time, and that I welcomed unannounced visits. Anyone at the courthouse would verify this. While my behavior was foolish, I was not so foolish as to carry on when there would have been such a high likelihood that our sexual encounters could be discovered.

I want to explain my efforts to mediate the problems that arose between Ms. Cagle and the Pittsfield Probation Office. From the beginning, I tried to help Ms. Cagle navigate her difficulties with the probation office. I also helped various probation officers navigate their difficulties with Ms. Cagle. Ms. Cagle's relationship with the Pittsfield Probation Office was troubled from the time drug court opened in October. As conflicts arose, I would meet with Ms. Cagle and I would meet with probation. Sometimes, we all met together. I made these efforts because I wanted the drug court to run smoothly. I thought that Ms. Cagle was a good clinician and I was impressed with the probation office's commitment to having a successful well-run drug court. Logistically, it was difficult for me to really help however. I was only in Pittsfield once a week, so most of the conflicts arose when I wasn't in the courthouse. To be clear, I never conditioned my help on anything. Ms. Cagle's claim that I told her I would help her with her problems with probation in exchange for sex is simply not true. It also really doesn't make sense because I had been working to help resolve conflicts between Ms. Cagle and probation for weeks before we became sexually involved.

In spite of the conflicts between Ms. Cagle and probation, the Pittsfield Drug Court was running quite well through the fall. The staffings were well attended which led to robust discussions and good ideas. The participants benefited from this and were making progress. And we all got better at our various roles in drug court over time. There were definitely some natural growing pains, but in the winter of 2017, the Pittsfield Drug Court was running smoothly.

I think that sometime in December I had conversation with Judge Sullivan about the problems between Ms. Cagle and probation. It was her position that, as professionals, it was up to Ms. Cagle and the probation officers to figure out their differences on their own. Based on that conversation, I decided that it was not my role to mediate the disputes between Ms. Cagle and

probation and I ceased trying to do so. In some ways this was a relief, because mediating these disputes was outside of my skill set and sometime I didn't feel I was making much progress.

To be perfectly clear, I never intervened with probation at Ms. Cagle's request to solve a problem. I worked with Ms. Cagle and probation to improve their relationship, but I never intervened at her urging. Statements made by members of the Office of Probation during the investigation of this matter corroborate me on this.

I had nothing to do with Ms. Cagle's removal from the Pittsfield Drug Court and, at the time, I had no idea how contentious the relationship between Ms. Cagle and probation had become. The day before her removal, on my drive home from Pittsfield, I got a call from John Barber, who I believe is the Regional Director for the Department of Mental Health. He asked to have a confidential conversation with me about Ms. Cagle, and I agreed. He told me that he was travelling to Pittsfield the next day to speak with members of the probation office about problems they were having with Ms. Cagle. When he asked about Ms. Cagle's performance as the drug court clinician, I was truthful. I told him that she was a good clinician but that she could not get along with others. He did not ask me if I thought she should be removed from drug court, nor did I offer any opinion on the subject. Mr. Barber told me that he would call me the next day and tell me the result of his meeting with probation.

Ironically, I was at Ms. Cagle's apartment during my lunch break that Friday. Shortly after leaving Ms. Cagle's apartment she called me. She was very upset. She said that she had just received a call, I believe from Dr. Reiss, who told her that she was not to report to drug court anymore. Ms. Cagle was given no explanation as to why, but was told she would have a meeting with Dr. Reiss sometime during the following week. Ms. Cagle asked me if I knew why she had

been removed from drug court. I honestly told her that I did not. Ms. Cagle never asked me to intervene. She correctly believed that I had no role in her removal, and no authority to change anything.

According to Ms. Cagle, her meeting with Dr. Reiss the following week did not go well. Ms. Cagle told me that she was not given a reason for her removal from drug court and thus, by definition, no opportunity to defend herself. She felt as though she was being treated very unfairly. I was somewhat sympathetic, but again, she neither asked nor did I offer to intervene on her behalf.

When I learned that Ms. Cagle had been removed from drug court, I was genuinely surprised. I didn't realize how serious probation's complaints about her had become. I also did not know that probation had complained about Ms. Cagle to Dr. Reiss in September and to their superiors in the Office of Probation in November. I only learned this when I read the pleadings in the MCAD case.

As promised, late in the afternoon on the Friday that Ms. Cagle was removed from drug court, I received a second call from Mr. Barber. He informed me that due to the concerns expressed by the probation office, Ms. Cagle had been removed from drug court. He did not share with me what occurred in his meeting with the Pittsfield Probation Office, or the nature of the problem. I did not ask him to reverse his decision or even for an explanation. The statement given by Mr. Barber in the course of this investigation corroborates me on this point.

After Ms. Cagle was removed from drug court, we stayed in touch. She would call me and talk about her new position with BHN. She also called me for advice when the position she now holds became available. Specifically, she was concerned about the cost of travelling to

Georgia for an interview, but she said it would be the perfect position for her, and a big step forward in her career. I encouraged her to apply and agreed to be a reference. Within a matter of days of her interview, she was hired and quickly moved to Georgia.

Once Ms. Cagle moved out of the area, I experienced a sense of relief. I assumed the relationship was over. As I've said, we both knew that it never had much of a future anyway, because she knew that I had no intention of leaving my wife. With Ms. Cagle living in Georgia, I was confident that this chapter of my life was over.

Even after moving however, Ms. Cagle continued to contact me; telling me about her new job, the culture shock she experienced moving to the South, and most importantly indicating that she wanted to continue our sexual relationship. She encouraged me to travel to or attend a training somewhere in the South so we could be together. I had no intention of doing so. I was relieved and glad that the relationship was over. But, as I've said, I liked Ms. Cagle and was happy to be on friendly terms.

Last May or June, Ms. Cagle let me know that she was returning to Massachusetts at the end of June for a visit, and that she wanted to get together on Friday, June 30. She told me I should take the day off or take a long lunch so we could be together. I told her I couldn't do that. She went so far as to offer to get us a hotel room, which I rejected. I suggested that we meet for coffee or lunch. Eventually, Ms. Cagle informed me that she and some friends were travelling to Maine for the weekend, and that she was no longer free on Friday. I thought that was the end of it. However, Ms. Cagle later contacted me, and said that she would like to meet on July 3 at the courthouse. When I learned she was driving from some 45 minutes away, I made it clear to Ms.

Cagle that I wouldn't have much time to meet. I explained that because the region was short on judges that day, I had to cover two courthouses, Belchertown in the morning, and Northampton in the afternoon. I told her I would only be available for 20 or 30 minutes. Despite this she still wanted to visit. Ms. Cagle arrived at the courthouse either shortly before or just after the business for the day in Belchertown was complete, and as I was preparing to drive to Northampton. It is disingenuous of her to say as she did in her MCAD complaint that I almost immediately engaged in sex with her when I had made it clear that I had only 20 or 30 minutes and given that while she was on her way to the courthouse, she sent me a sexually explicit text message: "my panties are wet thinking about seeing you." That day, in my lobby, we engaged in our final sexual encounter.

I believe that I now know why she was so insistent on seeing me that day. In her interview with Mr. Neff, she apparently told him that she had my DNA on her clothing. I believe that she already had a plan to file her complaint with MCAD, and wanted to be able to prove that we had a sexual relationship, in case I denied it. Without that, there would be very little evidence to establish that the relationship occurred at all, if I had simply been untruthful and denied it.

Shortly after our final sexual encounter, while driving to Northampton, Ms. Cagle texted me, saying she didn't want to have these one-sided sexual encounters anymore. I agreed with her. In truth, I thought our relationship was over long before that day.

Although I have made a tremendous error in judgement, fundamentally, I still believe that I am a good person and a good judge. I have been married for almost 20 years and I have two high school aged sons of whom I am very proud. I am a good father; I have always been very involved in the lives of my children, from helping with homework to chaperoning field trips. I

also coached both of their soccer teams from the time they were in kindergarten until they reached high school. I am proud of the close relationships I have with my sons,

Also, I am proud to say that my career has been dedicated to public service. I was a public defender for 16 years before becoming a judge. As a public defender, I earned a reputation for being diligent, reasonable, and honest. I loved my job. I truly felt I was helping to make the world a better place one person at a time. When I was nominated to become a judge, I had the support of the District Attorney's office, the defense bar, and many others in the legal community. During my first three years as a judge, I developed a reputation for being a fair and thoughtful judge who is respectful of all those who appear before me. I am extremely proud of my superlative performance evaluations which, coincidentally, were done at the same time I was involved with Ms. Cagle.

Just after Ms. Cagle made her allegations against me last August, and my life began to fall apart, I started seeing a therapist. In therapy, I have developed insights into how and why I made such a destructive decision to become involved with Ms. Cagle. Discussing and analyzing my behavior with my therapist has forced me to face and accept the mistakes I have made as a husband. This has been a painful but slowly productive process. With the help of my therapist, I am determined to try and save my marriage. And if I can't save it, I want to have as positive a relationship with my wife as possible. My lawyer has brought a letter from my therapist, Dr. Frank Marotta, which describes the work that I have been doing with him.

As I said at the outset, I understand that my behavior was highly inappropriate and that I have cast a shadow of disrepute on the entire judiciary by my actions. I admit that I have violated Rules 1.2 and 3.1C and E. I am also confident however, that I have never treated anyone

rudely, unfairly or inappropriately. I am further confident that not a single decision that I made or action that I took as a judge was affected by my sexual relationship with Ms. Cagle.

I am happy to answer any questions you may have.

EXHIBIT 4

BEFORE THE COMMISSION ON JUDICIAL CONDUCT

Complaint Number 2017-39

STATEMENT OF ALLEGATIONS

The Commission on Judicial Conduct ("the Commission") makes this Statement of Allegations against the Honorable Thomas Estes ("Judge Estes"), Justice of the District Court Department, pursuant to M.G.L. c. 211C, sec. 5(5). This Statement of Allegations incorporates Commission Complaint Number 2017-39 and all of the referenced exhibits.

The Commission alleges that Judge Estes has engaged in judicial misconduct that brings the judicial office into disrepute, as well as conduct prejudicial to the administration of justice and unbecoming a judicial officer, in violation of M.G.L. c. 211C, sec. 2(5). This misconduct includes willful misconduct in office (M.G.L. c. 211C, sec. 2(5)(b)) and the following violations of the Code of Judicial Conduct (Supreme Judicial Court Rule 3:09): failure to act, at all times, in a manner that promotes public confidence in the independence, integrity, and/or impartiality of the judiciary, and failure to avoid impropriety and/or the appearance of impropriety, in violation of Rule 1.2; abusing the prestige of judicial office, in violation of Rule 1.3; failure to give precedence to judicial duties, in violation of Rule 2.1; failure to uphold and apply the law, and perform all duties of judicial office fairly and impartially, in violation of Rule 2.2; failure to perform judicial duties without bias or prejudice, in violation of Rule 2.3; failure to prevent judicial decision-making from being perceived as subject to inappropriate outside influences, in violation of Rule 2.4; failure to be patient, dignified, and/or courteous to litigants, witnesses, lawyers, court personnel, and others with whom he deals in an official capacity, in violation of Rule 2.8(B); engaging in improper ex parte communications, in violation of Rule 2.9; failure to disqualify himself from a proceeding in which he cannot be impartial or his impartiality might reasonably be questioned, in violation of Rule 2.11(A); participation in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality, in violation of Rule 3.1(C); and making improper use of court premises, staff, stationery, equipment or other resources, in violation of Rule 3.1(E).

The Commission specifically alleges the following:

- A. Judge Estes was appointed as a judge in 2014. Judge Estes served as First Justice of the Eastern Hampshire Division of the District Court Department (Belchertown District Court) from December 7, 2016 through August of 2017. From October of 2016 through August of 2017, Judge Estes presided over a Drug Court session in the Pittsfield Division of the District Court Department (Pittsfield District Court).
- B. Ms. Tammy Cagle (Ms. Cagle) worked with Judge Estes as a member of the Pittsfield District Court Drug Court team from July of 2016 through March 17, 2017. The Trial Court has an interagency agreement with the Department of Mental Health (DMH), and DMH contracted with the Behavioral Health Network (BHN) to place clinical

professionals in specialty courts in Massachusetts. Pursuant to that arrangement, BHN placed Ms. Cagle, who was an employee of BHN, with the Pittsfield Drug Court.

- C. From July of 2016 through March of 2017, the Pittsfield Drug Court team consisted of Judge Estes, Ms. Cagle, staff from the Pittsfield Probation Department, law enforcement, members of the criminal defense bar, and other interested parties.
- D. As a member of the Pittsfield Drug Court team, from July of 2016 through March 17, 2017, Ms. Cagle participated in discussions regarding whether persons facing criminal charges and/or probation violation hearings would be admitted into the Drug Court. She also participated in discussions regarding whether persons being considered for admission into the Drug Court, or persons already in the Drug Court, should be referred for drug and/or alcohol treatment, or should be incarcerated. In those discussions, the final decisions regarding a current or prospective participant in the Pittsfield Drug Court were always Judge Estes' responsibility.
- E. From November of 2016 through July of 2017, Judge Estes engaged in a sexual relationship with Ms. Cagle, which included Ms. Cagle performing fellatio on Judge Estes in his lobby at the Belchertown District Court on at least two occasions over that period, while she was an active member of the Pittsfield Drug Court. Judge Estes also engaged in additional sexual encounters with Ms. Cagle, violating M.G.L. c. 211C and the Code of Judicial Conduct (Supreme Judicial Court Rule 3:09), as follows:
 - 1. On November 16, 2016, while attending the New England Association of Drug Court Professionals conference at the Best Western hotel in Marlboro, Massachusetts, Judge Estes engaged in a sexual encounter with Ms. Cagle during which Ms. Cagle performed fellatio on him in her hotel room.

On November 17, 2016, Judge Estes sent a text message to Ms. Cagle encouraging her to lie about their sexual encounter.

On November 17, 2016, Ms. Cagle sent the following text messages to Judge Estes regarding a participant in the Pittsfield Drug Court, Ms. Erin Bristol (Ms. Bristol), asking Judge Estes to try to prevent Ms. Bristol from being taken into custody by the Pittsfield Probation Department and/or the judge sitting in Belchertown District Court on or about November 17, 2016:

"I found erin and shes on her way to probation.
She starts her iop tomorrow. Please call
probation and ask them.not to.hold her.

"She saud she didn't think there was court
today and she hasn't used

“She had a clean urine”

On November 18, 2016 and November 21, 2016, Judge Estes and Ms. Cagle exchanged additional text messages regarding Ms. Bristol.

(An image of the November 16, 2016 text message exchange which led to the November 16, 2016 sexual encounter and of the November 17, 2016 text message Judge Estes sent to Ms. Cagle encouraging her to lie about the sexual encounter; and images of the November 18, 2016 and November 21, 2016 text message exchanges between Judge Estes and Ms. Cagle regarding Ms. Bristol are all attached as Exhibit A.)

2. On a later date in November of 2016, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place in Judge Estes’ lobby in the Belchertown District Court at approximately 2:30 p.m.

During this encounter, Ms. Cagle expressed reluctance to continue a sexual relationship with Judge Estes, and he offered to assist her with difficulties she was having in her work relationship with the Pittsfield Probation Department. Judge Estes then took steps to assist Ms. Cagle with her relationship with the Pittsfield Probation Department.

(An image of a November 30, 2016 text message exchange between Judge Estes and Ms. Cagle in which Ms. Cagle thanked Judge Estes for talking to a person, or persons, employed in the Pittsfield Probation Department on her behalf is attached as Exhibit B. Images of a January 26, 2017 text message exchange between Judge Estes and Ms. Cagle in which Ms. Cagle asked Judge Estes to talk with a member of the Pittsfield Drug Court team, Probation Officer John Lander, on her behalf and then thanked him for doing so are attached as Exhibit C.)

3. Following these initial two sexual encounters, Judge Estes and Ms. Cagle continued to have sexual encounters during which Ms. Cagle would perform fellatio on Judge Estes. During some of these encounters, Judge Estes and Ms. Cagle would discuss the Pittsfield Drug Court and its participants before or after their sexual activity. These subsequent sexual encounters between Judge Estes and Ms. Cagle included the following:

- a. On December 1, 2016, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place at Ms. Cagle’s home. (An image of the December 1, 2016 text message exchange between Judge Estes and Ms. Cagle to arrange this encounter is attached as Exhibit D.)
- b. On December 5, 2016, Judge Estes had another sexual encounter with Ms.

Cagle during which she performed fellatio on him. This encounter took place in Judge Estes' lobby in the Belchertown District Court at approximately 3:00 p.m. This encounter was arranged between them by text message and through an email exchange using Judge Estes' official judicial email account. (An image of the December 5, 2016 text message exchange between Judge Estes and Ms. Cagle to arrange this encounter and copies of December 5-6, 2016 emails between Judge Estes and Ms. Cagle regarding this encounter are all attached as Exhibit E.)

- c. On January 3, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place in Judge Estes' lobby in the Belchertown District Court.
- d. On January 12, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place at Ms. Cagle's home. (Images of the January 10, 2017 text message exchange between Judge Estes and Ms. Cagle to arrange this encounter are attached as Exhibit F. An image of a January 11, 2017 text message exchange between Judge Estes and Ms. Cagle to further arrange this encounter and of a January 13, 2017 text message exchange between Judge Estes and Ms. Cagle regarding this encounter is attached as Exhibit G.)
- e. On January 30, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place in Judge Estes' lobby in the Belchertown District Court.
- f. On February 6, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place in Judge Estes' lobby in the Belchertown District Court.
- g. On February 8, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place at Ms. Cagle's home.
- h. On February 13, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place in Judge Estes' lobby in the Belchertown District Court.
- i. On March 17, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place at Ms. Cagle's home.
- j. On or about April 4, 2017 or April 5, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This

encounter took place in Judge Estes' lobby in the Belchertown District Court at approximately 4:30 p.m.

- k. From May 10, 2017 through May 31, 2017, Judge Estes used his official judicial email account to engage in a continuing email exchange with Ms. Cagle about his and her personal lives and to discuss an approach to text messaging each other so that Judge Estes' family would not learn of his extramarital affair with Ms. Cagle. (Copies of email exchanges between Judge Estes and Ms. Cagle from May 10, 2017 through May 31, 2017 are attached as Exhibit H.)
- l. On July 3, 2017, Judge Estes had another sexual encounter with Ms. Cagle during which she performed fellatio on him. This encounter took place in Judge Estes' lobby in the Belchertown District Court between approximately 9:00 a.m. and 11:00 a.m. This encounter was arranged between them by text message and through an email exchange using Judge Estes' official judicial email account. (An image of a June 27, 2017 text message exchange between Judge Estes and Ms. Cagle to arrange this encounter is attached as Exhibit I. Images of a July 3, 2017 text message exchange between Judge Estes and Ms. Cagle regarding this encounter are attached as Exhibit J. Copies of emails between Judge Estes and Ms. Cagle to arrange the July 3, 2017 encounter are all attached as Exhibit K.)

By engaging in an undisclosed sexual relationship with Ms. Cagle from November 16, 2016 through March 17, 2017, while she continued in her above-described role as a member of the Pittsfield Drug Court over which he presided, Judge Estes failed to act, at all times, in a manner that promotes public confidence in the independence, integrity, and/or impartiality of the judiciary, and failed to avoid impropriety and/or the appearance of impropriety, in violation of Rule 1.2; failed to give precedence to his judicial duties, in violation of Rule 2.1; failed to uphold and apply the law, and perform all duties of judicial office fairly and impartially, in violation of Rule 2.2; failed to perform judicial duties without bias or prejudice, in violation of Rule 2.3; failed to prevent his judicial decision-making from being perceived as subject to inappropriate outside influences, in violation of Rule 2.4; failed to be patient, dignified, and/or courteous to litigants, witnesses, lawyers, court personnel, and others with whom he deals in an official capacity, in violation of Rule 2.8(B); failed to disqualify himself from a proceeding in which he cannot be impartial or his impartiality might reasonably be questioned, in violation of Rule 2.11(A); and participated in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality, in violation of Rule 3.1(C).

By engaging in sexual encounters with Ms. Cagle in the judge's lobby at the Belchertown District Court, Judge Estes failed to act, at all times, in a manner that promotes public confidence in the independence, integrity, and/or impartiality of the judiciary, and failed to avoid impropriety and/or the appearance of impropriety, in violation of Rule 1.2; failed to give precedence to his judicial duties, in violation of

Rule 2.1; failed to be patient, dignified, and/or courteous to litigants, witnesses, lawyers, court personnel, and others with whom he deals in an official capacity, in violation of Rule 2.8(B); participated in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality, in violation of Rule 3.1(C); and made improper use of court premises, staff, stationery, equipment or other resources, in violation of Rule 3.1(E).

By using his official judicial email to facilitate sexual encounters with Ms. Cagle, Judge Estes failed to act, at all times, in a manner that promotes public confidence in the independence, integrity, and/or impartiality of the judiciary, and failed to avoid impropriety and/or the appearance of impropriety, in violation of Rule 1.2; failed to give precedence to his judicial duties, in violation of Rule 2.1; participated in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality, in violation of Rule 3.1(C); and made improper use of court premises, staff, stationery, equipment or other resources, in violation of Rule 3.1(E).

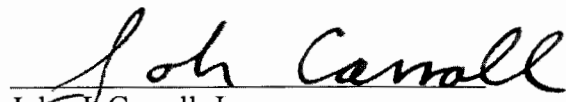
By using his judicial office to encourage Ms. Cagle to continue to engage in sexual encounters with him during an encounter in November of 2016, and/or by then, subsequently, speaking with a member or members of the Pittsfield Probation Department on her behalf, Judge Estes failed to act, at all times, in a manner that promotes public confidence in the independence, integrity, and/or impartiality of the judiciary, and failed to avoid impropriety and/or the appearance of impropriety, in violation of Rule 1.2; abused the prestige of judicial office, in violation of Rule 1.3; failed to give precedence to his judicial duties, in violation of Rule 2.1; participated in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality, in violation of Rule 3.1(C); and made improper use of court premises, staff, stationery, equipment or other resources, in violation of Rule 3.1(E).

Finally, by engaging in private, one-on-one communications with Ms. Cagle regarding current and/or prospective participants in the Pittsfield Drug Court concurrent with his sexual relationship with her, Judge Estes failed to act, at all times, in a manner that promotes public confidence in the independence, integrity, and/or impartiality of the judiciary, and failed to avoid impropriety and/or the appearance of impropriety, in violation of Rule 1.2; failed to give precedence to his judicial duties, in violation of Rule 2.1; failed to uphold and apply the law, and perform all duties of judicial office fairly and impartially, in violation of Rule 2.2; failed to perform judicial duties without bias or prejudice, in violation of Rule 2.3; failed to prevent his judicial decision-making from being perceived as subject to inappropriate outside influences, in violation of Rule 2.4; failed to be patient, dignified, and/or courteous to litigants, witnesses, lawyers, court personnel, and others with whom he deals in an official capacity, in violation of Rule 2.8(B); engaged in improper ex parte communications, in violation of Rule 2.9; failed to

disqualify himself from a proceeding in which he cannot be impartial or his impartiality might reasonably be questioned, in violation of Rule 2.11(A); and participated in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality, in violation of Rule 3.1(C).

The Commission also alleges that the conduct set forth above, if true, constitutes willful judicial misconduct, conduct prejudicial to the administration of justice and unbecoming a judicial officer, and brings the judicial office into disrepute, in violation of M.G.L. c. 211C.

For the Commission on Judicial Conduct,


John J. Carroll, Jr.
Chair

Date: 15 Nov 17

COMPLAINT
NUMBER
2017-39



SUPREME JUDICIAL COURT
JOHN ADAMS COURTHOUSE

2017-39

Received
AUG 15 2017
Commission on
Judicial Conduct

RALPH D. GANTS
CHIEF JUSTICE

August 15, 2017

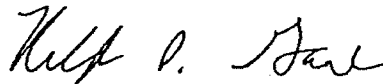
CONFIDENTIAL
Hand Delivery

John J. Carroll, Jr., Esq.
Chair, Commission on Judicial Conduct
11 Beacon Street, Suite 525
Boston, MA 02108

Dear Attorney Carroll:

The Massachusetts Commission Against Discrimination sent the Executive Office of the Trial Court the enclosed complaint and accompanying transmittal. The allegations in the complaint refer to a judge in the District Court Department, Judge Thomas Estes. I forward this material to you for such action as the Commission on Judicial Conduct deems appropriate.

Sincerely,


Ralph D. Gants

Enclosures

cc: Howard V. Neff, III, Esq., Executive Director, CJC (w/ enclosures) (Hand Delivery)
Chief Justice Paula M. Carey (w/o enclosures)
Chief Justice Paul C. Dawley (w/o enclosures)

2017-39

The Commonwealth of Massachusetts
Commission Against Discrimination
436 Dwight Street, Rm. 220, Springfield, MA 01103
Phone: (413) 739-2145 Fax: (413) 784-1056

Received
AUG 15 2017

Commission on
Judicial Conduct

OFFICE OF THE TRIAL COURT
8/4/2017

Executive Office of the Trial Court
attn: Human Resources/Legal Department
One Pemberton Square
Boston, MA 02108

RE: Tammy Cagle vs. Behavioral Health Network, Executive Office of the Trial Court
MCAD Docket Number: 17SEM01764
EEOC/HUD Number: 16C-2017-01821

Dear Respondent Party:

The Massachusetts Commission Against Discrimination (MCAD) has received the above complaint of discrimination which alleges that you have committed an act of discrimination against the complainant. A copy of that complaint is enclosed.

State law requires the Commission to impartially review the allegations in that complaint. The Commission has assigned one of its staffs, Melvin Arocho, to investigate the complaint. This MCAD investigator will keep the parties informed of the course of the investigation.

State law requires that you submit a formal written answer to the complaint, called a Position Statement. This Position Statement must be submitted within twenty-one (21) days of receipt of this notification. The Position Statement must be signed under the pains and penalties of perjury. A copy must also be forwarded to the Complainant at the address listed on the enclosed complaint. Failure to file a Position Statement or other response within the prescribed time may result in sanctions being imposed in accordance with 804 CMR 1.16.

It is our policy to determine whether the parties are willing to consider a rapid, informal and voluntary resolution of this dispute. The Commission encourages such resolutions as an alternative to the often lengthy and expensive litigation process. To discuss the possibility of settlement, please contact the Investigator named below.

Please be advised that Position Statements are to be addressed to Carol Murchison, 1st Assistant Clerk to the Commission. If you have any questions concerning Position Statements please call (413) 314-6129.

If you have any questions pertaining to the investigation, please contact Melvin Arocho at (413) 314-6131.

Sincerely,

Melvin Arocho
Investigator

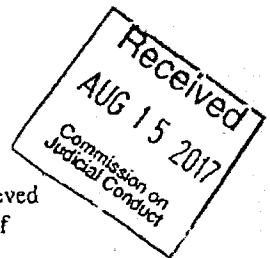
MCAD Docket Number 17SEM01764, Serve Respondent - Without Investigative Conference

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Behavioral Health Network
attn: Human Resources/Legal Department
417 Liberty Street
Springfield, MA 01104

Executive Office of the Trial Court
attn: Human Resources/Legal Department
One Pemberton Square
Boston, MA 02108

Person Filing Charge: Tammy Cagle
This Person (Check One): (x) Claims to be aggrieved
() Is filing on behalf of
Date of Alleged Violation: 03/17/17
Place of Alleged Violation: Springfield, MA
EEOC Charge Number: 16C-2017-01821
MCAD Docket Number: 17SEM01764



NOTICE OF CHARGE OF DISCRIMINATION WHERE AN FEP AGENCY WILL INITIALLY PROCESS
(See Attached Information Sheet For Additional Information)

You are hereby notified that a charge of employment discrimination under

- ☒ Title VII of the Civil Rights Act of 1964
☐ The Age Discrimination in Employment Act of 1967 (ADEA)
☐ The Americans Disabilities Act (ADA)

Has been received by

- ☐ The EEOC and sent for initial processing to MCAD
(FEP Agency)

- ☒ The Mass. Commission Against Discrimination
(FEP) Agency and sent to the EEOC for dual filing purposes.

While the EEOC has jurisdiction (upon the expiration of any deferral requirements if this is a Title VII or ADA Charge) to investigate this charge, EEOC may refrain from beginning an investigation and await the issuance of the Agency's final findings and orders. These final findings and orders will be given weight by EEOC in making its own determination as to whether or not reasonable cause exists to believe that the allegations made in the charge are true.

You are therefore encouraged to cooperate fully with the Agency. All facts and evidence provided by you to the Agency in the course of its proceedings will be considered by the Commission when it reviews the Agency's final findings and orders. In many instances the Commission will take no further action, thereby avoiding the necessity of an investigation by both the Agency and the Commission. This likelihood is increased by your active cooperation with the Agency.

- [X] As a party to the charge, you may request that EEOC review the final decision and order of the above named Agency. For such a request to be honored, you must notify the Commission in writing within 15 days of your receipt of the Agency's issuing a final finding and order. If the agency terminates its proceedings without issuing a final finding and order, you will be contacted further by the Commission. Regardless of whether the Agency or the Commission processes the charge, the Recordkeeping and Non-Retaliation provisions of Title VII and the ADEA as explained on the second page of this form apply.

For further correspondence on this matter, please use the charge number(s) shown.

- ☐ An Equal Pay Act Investigation (29 U.S.C 206(d)) will be conducted by the Commission concurrently with the Agency's investigation of the charge.
☒ Enclosure: Copy of the Charge

Basis of Discrimination

☐ Race ☐ Color ☒ Gender ☐ Religion ☐ National Origin
☐ Age ☐ Disability ☐ Retaliation ☐ Other

Circumstances of alleged violation:

SEE ENCLOSED COPY OF THE CHARGE OF DISCRIMINATION (or EEOC FORM 5)

Date 8/4/2017 Type Name/Title of Authorized EEOC Official Signature
Feng An, Director

2017-39



The Commonwealth of Massachusetts
Commission Against Discrimination
436 Dwight Street, Rm. 220, Springfield, MA 01103
Phone: (413) 739-2145 Fax: (413) 784-1056

MCAD DOCKET NUMBER: 17SEM01764
FILING DATE: 8/2/17

EEOC/HUD CHARGE NUMBER: 16C-2017-01821
VIOLATION DATE: 03/17/17

Name of Aggrieved Person or Organization:

Tammy Cagle
705 Georgia Avenue
Glennville, GA 30427
Primary Phone: (413)475-4745

Named is the employer, labor organization, employment agency, or state/local government agency who discriminated against me:

Behavioral Health Network
attn: Human Resources/Legal Department
417 Liberty Street
Springfield, MA 01104

Executive Office of the Trial Court
attn: Human Resources/Legal Department
One Pemberton Square
Boston, MA 02108

No. of Employees: 25+

Work Location: Springfield, MA

Cause of Discrimination based on:
Sexual Harassment.

The particulars are:

I, Tammy Cagle, the Complainant believe that I was discriminated against by Behavioral Health Network, Executive Office of the Trial Court, on the basis of Sexual Harassment. This is in violation of M.G.L. Chapter 151B, Section 4, Paragraphs 1 and 16A, and Title VII of the Civil Rights Act of 1964, as amended.

1. I am a female. I began working for Respondent Behavioral Health Network (BHN) on or about July 17, 2016. I was hired as a Clinical Coordinator. My work performance has always been satisfactory.
2. Soon after I was hired, I was assigned to a team to work on implementing a specialty Drug Court. This team included among others me, the Probation Department, and Judge Thomas E. I was contracted to this team by the Department of Mental Health (DMH) and Respondent Executive Office of the Trial Court (Trial Court). My pay would come from Respondent BHN, and was paid out from a grant funded by DMH and Respondent Trial Court. Judge Thomas E. was the head of the team and as a result he had control over my tasks and could control my employment status.
3. While working on the team to implement the Drug Court, I worked very closely with Judge Thomas E. and would meet with him regularly.
4. On or about November 16, 2016, I was attending a Drug Court Conference. That night, Judge Thomas E. and I had been drinking alcohol. Judge Thomas E. came to my hotel room to help me with something. Afterwards, Judge Thomas E. was lying on my bed and I ended up performing oral sex on him.
5. The next day, I left the conference early because of what happened the previous night. Judge Thomas E. called me, and we both agreed it was a night of stupidity that happened because of the alcohol involved.
6. About one week later, I met with Judge Thomas E. in his chambers to discuss work. Judge Thomas E. said he wanted to continue what we were doing on or about November 16, 2016. Judge Thomas E. said he would help me with problems I was having with probation with regard to the Drug Court, but he wanted oral sex again; he promised he would not ask again after this because I said no. Accordingly, I again performed oral sex on Judge Thomas E.
7. I continued to perform oral sex on Judge Thomas E. throughout my employment. I would regularly speak with him saying I was uncomfortable with what was happening. I tried to end the relationship a few times, but was unsuccessful.

MCAD Docket Number 17SEM01764, Complaint

8. On or about March 17, 2017, I received a phone call from Julia R., Director of Forensics with Respondent BHN. Julia R. said I could not go to Drug Court anymore. I was not given a reason why. I later called Judge Thomas E. and he said he did not know anything about this. I tried speaking with Respondent BHN's Human Resources department about this, but was still not given an explanation.

9. After being told I could no longer go to Drug Court, I was put into an out-patient position making less money. I began applying elsewhere, and left Respondent BHN's employ on or about April 18, 2017.

10. The sexual relations with Judge Thomas E. continued reluctantly after my employment. Judge Thomas E. would it would be worse for me if someone found out.

11. On or about July 3, 2017, I met with Judge Thomas E. to try to resolve the situation between us. When Judge Thomas E. met with me in his chambers, I was able to say about two words before he began unbuttoning his pants.

12. For these reasons, I believe I was subjected to sexual harassment.

I hereby verify, under the pains and penalties of perjury, that I have read this complaint and the allegations contained herein are true to the best of my knowledge.



(Signature of Complainant)

EXHIBIT A



95% 9:05 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

10:44 PM I need help with the
tv



Ok 10:45 PM

10:48 PM R u coming up



Yes 10:48 PM

10:48 PM K

Thursday, November 17, 2016



I am going to tell
people that I walked
you to your room, we
talked for a minute
about drug court
and said goodnight.
Sound good?

6:44 AM

📎 Enter message





97% 9:01 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

Friday, November 18, 2016

3:04 PM Hi. Did yiu get my message on Erin

J Yes. Did she get held. 3:19 PM

Yes

3:19 PM Can you talk

J In a minute. 3:40 PM

Monday, November 21, 2016

J I won't know what the day looks like until I get to court. I will let you know. Tell Erin that I am thinking of her and rooting for her. 7:28 AM

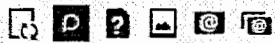
Tuesday, November 22, 2016

Can you call when you get a minute today except for between two and three I have

📎 Enter message



SEND



95% 9:06 PM



Judge Estes ▼

(413) 320-0077

CALL

MORE

Monday, November 21, 2016



I won't know what the day looks like until I get to court. I will let you know. Tell Erin that I am thinking of her and rooting for her.

7:28 AM

Tuesday, November 22, 2016

7:54 AM

Can you call when you get a minute today except for between two and three I have a meeting

11:11 AM

We are going to have our first African American in drug court



Great!

11:13 AM

Hes being held until march and then he will go residential so you probably wont meet him until next



Enter message



SEND

EXHIBIT B



94% 9:07 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

1:38 PM NO TITTY

Wednesday, November 30, 2016

3:38 PM It was a fabulous day up
in Pittsfield!

That is simply great
news! I think maybe it is
all coming together. 4:23 PM

4:32 PM You deserve a ☆ for
making this happen.

Ha! That is really funny.

See you tomorrow. 4:34 PM

Thursday, December 1, 2016

9:13 AM Oops

Don't worry. My safety is
literally their job and they



Enter message



SEND

EXHIBIT C



93% 9:13 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

2:59 PM

Thursday, January 26, 2017

7:43 AM Are you on the road

Yes 7:48 AM

10:53 AM I'm in trouble today

What's up? 11:02 AM

11:02 AM Do you have a min

11:04 AM John is having a fit

12:08 PM Nat Green, Alex's boss
at CPCS called me and
asked if you could please
call him at 413-447-7342

1:08 PM Is everything okay?

📎 Enter message





93% 9:13 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE



Yes. Busy. 1:17 PM

2:03 PM

Good work today. You
deserve a gold star.



Thanks. I do it all for the
stars. 2:04 PM

2:05 PM



3:02 PM

You looked sexy today.



I had bad thoughts in
your office. 3:03 PM

3:03 PM

So did I.

3:04 PM

It's been to long



Yes. I wish I could stop
bv but I am short on



Enter message



SEND

EXHIBIT D



94% 9:08 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

11:40 AM

Give yourself about 50
minutes to get there

12:55 PM

Ok. 19 lockhouse?

1:05 PM

Yes it's an apartment
9-3

1:06 PM

Are you on your way
yet?

2:14 PM

No. I will be leaving
around 2:30 maybe
2:40.

2:15 PM

Ok

2:15 PM

I am on the way.

2:47 PM



Enter message



EXHIBIT E



94% 9:08 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

Monday, December 5, 2016

I had a couple of things i wanted to go over this afternoon. However, we can meet Thursday if your busy.

12:43 PM

Today is fine. Say 3?

12:49 PM

Great

1:06 PM

Tuesday, December 6, 2016

Congratulations you're being sworn in tomorrow. Ill try to make it if i can.

11:47 AM

Thanks.

12:35 PM



Enter message



SEND

Zimbra

thomas.estes@jud.state.ma.us

Re: Drug Court

From : Thomas Estes <thomas.estes@jud.state.ma.us>

Tue, Dec 06, 2016 09:01 AM

Subject : Re: Drug Court**To :** Tammy Cagle <Tammy.Cagle@bhninc.org>

It was nice to meet with you as well. I hope you had a nice evening.
See you Thursday.

From: "Tammy Cagle" <Tammy.Cagle@bhninc.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>
Sent: Monday, December 5, 2016 4:49:14 PM
Subject: Re: Drug Court

Good evening,
Thanks for meeting this afternoon. As always, It was a pleasure.
-Tammy
Tammy Cagle, LCSW
Drug Court Clinical Coordinator
BHN
110 Maple St.
Springfield, MA 01105
(413) 636-8194

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Monday, December 5, 2016 12:38 PM
To: Tammy Cagle
Subject: Re: Drug Court

I don't have any pressing need to meet, but you are always welcome. I am meeting with the attorney from the Lowell Drug Court at 1 p.m. and that will last at least an hour (maybe longer).
How was your weekend?

From: "Tammy Cagle" <Tammy.Cagle@bhninc.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>
Sent: Monday, December 5, 2016 9:22:21 AM
Subject: Drug Court

Are we meeting this afternoon?
Tammy Cagle, LCSW

Drug Court Clinical Coordinator
BHN
110 Maple St.
Springfield, MA 01105
(413) 636-8194

EXHIBIT F



94% 9:10 PM



Judge Estes ▼

(413) 320-0077

CALL

MORE



I just realized that I have an appointment that afternoon and I am taking personal time for it so I won't be at work. Will you be at home this Thursday a

fternoon at 4 or so?

4:21 PM

4:32 PM

Yes



I have to be in Belcher-town at 5 for a going away party, but there should be a window of time.

4:33 PM

4:34 PM

Sounds like a plan.

4:36 PM

We need to get done with 2nd st asap



Enter message



SEND



94% 9:10 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

4:37 PM Do you have something
in mind for Thursday

Not specifically. 4:38 PM

4:38 PM You should think about
it.

Ok. Do you? 4:38 PM

4:39 PM Yeah, making you feel
good.

I would like to make you
feel good too. 4:41 PM

4:42 PM :)

Wednesday, January 11, 2017

My supervisor is coming
up to observe court
tomorrow.

📎 Enter message



SEND

EXHIBIT G



93% 9:11 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

12:53 PM Umg its beautifui out.

12:54 PM Do i get have my way
with you tomorrow

Yes and yes. 12:55 PM

1:05 PM THATS HOT!!

Friday, January 13, 2017

9:04 AM I woke up thinking about
you and had to take care
of myself.

The gift that keeps on
giving! 9:38 AM

10:01 AM Yes it does 😊

12:02 PM Do you have anything
going on next Thursday?

📎 Enter message



SEND

EXHIBIT H

From: Tammy Cagle
Sent: Friday, May 12, 2017 11:33 AM
To: Thomas Estes
Subject: Re: Hi From Georgia

Call me at your convenience.

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Thursday, May 11, 2017 3:02:45 PM
To: Tammy Cagle
Subject: Re: Hi From Georgia

Sure.
Maybe sometime in the afternoon or on my commute home?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "thomas estes" <thomas.estes@jud.state.ma.us>
Sent: Wednesday, May 10, 2017 2:01:48 PM
Subject: Hi From Georgia

Good afternoon,
Hope all is well. Would you have time for a phone conversation on Friday?
-Tammy

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>
Sent: Wednesday, May 31, 2017 8:51:44 AM
Subject: Re: Weekend

Good morning,

I spent time in FL with cousins I haven't seen in a while. I love FL and plan on spending more time down there diving. Any interesting court cases? I get to spent time up in Atlanta in a couple of weeks. Have you ever been?

-Tammy

*Tammy Cagle, LCSW
Program Director: Applying ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Tuesday, May 30, 2017 12:02:22 PM
To: Tammy Cagle
Subject: Re: Weekend

Yes.

We went to Newport on Sunday. We walked along the cliffwalk, had lunch with a view of the ocean and toured a mansion. And yesterday, we had a bunch of people over for dinner.

How about you? Anything fun?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "thomas estes" <thomas.estes@jud.state.ma.us>
Sent: Tuesday, May 30, 2017 11:03:16 AM
Subject: Weekend

Hi,

Did you do anything fun over the holiday weekend?

-Tammy

*Tammy Cagle, LCSW
Program Director: Applying ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Tammy Cagle
Sent: Wednesday, May 31, 2017 10:52 AM
To: Thomas Estes
Subject: Re: Weekend

No problem. Lets talk soon!

*Tammy Cagle, LCSW
Program Director: Applying ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Wednesday, May 31, 2017 10:23:32 AM
To: Tammy Cagle
Subject: Re: Weekend

I haven't been to Atlanta in years. It is a great town. I am glad to hear you are enjoying your weekends.

See you who knows when, but someday!

I need to be careful texting, maybe we could always start with you texting me "Hey" and if I respond "Hey" it is a safe time to text. I want to avoid any unfortunate incidents. My family looks at my phone.

EXHIBIT I

< Judge Estes
+1 413-320-0077



J

I will be in Belchertown in the am and Northampton in the pm. The region is not surprisingly short on judges that day. Will you still be in town?

2:02 PM

Tuesday, June 27, 2017

11:06 AM

I go back Tuesday evening.
Maybe we can meet Monday

J

That sounds great. I will look and see how busy the day appears.

1:43 PM

2:24 PM

Great

J

It is a very light day and a skeleton crew to run the court because so many people are on vacation. I will need to leave by 12 or 12:30 to go cover Northampton.

It is a very light day and a skeleton crew to run the court because so many people are on vacation. I will need to leave by 12 or 12:30 to go cover Northampton.

3:07 PM

4:40 PM

What time should I come by

J

Between 10:30 and 11 if that woks for you.

I mean works not woks.

5:11 PM



Enter message



SEND

EXHIBIT J

< Judge Estes
+1 413-320-0077



9:13 AM

9:14 AM

See you soon

J

Sorry our visit was so short this morning. I did not expect to have to go to North Hampton so early. Have a safe trip tomorrow. Happy Fourth of July.

11:23 AM

11:33 AM

Thanks

11:36 AM

I don't think I want this to happen anymore. its one one sided. I'm not getting anything out of it

J

Believe it or not I was having the same thoughts on my drive back to Northampton. I agree. One sided relationships aren't fair and don't work.

11:50 AM

11:51 AM

No they dont.

11:52 AM

It also doesn't make the other person feel good about themselves

J

I agree

Enter message



SEND



98% 4:37 PM



Judge Estes ▼

(413) 320-0077

CALL

MORE

Hampton so early. Have a safe trip tomorrow. Happy Fourth of July.

11:23 AM

11:33 AM

Thanks

I don't think I want this to happen anymore. its one one sided. I'm not getting anything out of it

11:36 AM

Believe it or not I was having the same thoughts on my drive back to Northampton. I agree. One sided relationships aren't fair and don't work.

11:50 AM

11:51 AM

No they dont.

It also doesn't make the other person feel good about themselves

11:52 AM

I agree.

1:07 PM



Enter message



SEND



83% 10:23 PM

← Judge Estes ▼
(413) 320-0077

CALL MORE

1:13 PM make an effort!



I just wasn't thinking. 1:21 PM

1:22 PM LoL you're funny.



Sometimes the truth happens to be funny. Got to go. I will text later. 1:23 PM

Wednesday, July 26, 2017



Can you send me your email address? Somehow I lost it. I hope you are surviving the heat. Summer is half way over. Drug Court is going great. Thanks for

helping to start such a good program. I hope work is treating you well. 11:20 AM

📎 Enter message



EXHIBIT K

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 8:55:39 AM
To: Tammy Cagle
Subject: Re: Up Coming Visit

I am scheduled to be in Belchertown that day.
Will you be around?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "thomas estes" <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 7:59:17 AM
Subject: Up Coming Visit

Good morning,
How is your week going? Will you be in the office on June 30th?
Tammy

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

Sent: Wednesday, June 7, 2017 10:28:30 AM
Subject: Re: Up Coming Visit

Maybe you can take a longer lunch?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Tammy Cagle
Sent: Wednesday, June 7, 2017 10:12:56 AM
To: Thomas Estes
Subject: Re: Up Coming Visit

How am I suppose to see you?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 9:47:08 AM
To: Tammy Cagle
Subject: Re: Up Coming Visit

If only I could.
How is work?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 9:37:29 AM
Subject: Re: Up Coming Visit

I think so. Take the day off.

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Tammy Cagle
Sent: Thursday, June 8, 2017 11:29:12 AM
To: Thomas Estes
Subject: Re: Up Coming Visit

Hi,
I'm staying in Oxford with a friend.
Tammy

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Thursday, June 8, 2017 10:45:04 AM
To: Tammy Cagle
Subject: Re: Up Coming Visit

That might be the best plan.
Where are you staying?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 4:18:58 PM
Subject: Re: Up Coming Visit

I'm coming in Wed night. Maybe we can meet after Drug Court on Thursday?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Wednesday, June 7, 2017 3:01:56 PM
To: Tammy Cagle
Subject: Re: Up Coming Visit

What are your travel plans? Where will you be staying?

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>

From: Tammy Cagle
Sent: Friday, June 9, 2017 11:49 AM
To: Thomas Estes
Subject: Re: Up Coming Visit

Hi
Do you have any ideas on where to meet up?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: Tammy Cagle
Sent: Thursday, June 8, 2017 12:29:30 PM
To: Thomas Estes
Subject: Re: Up Coming Visit

Can I call you tomorrow?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 30151
(912) 367-1761*

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "thomas estes" <thomas.estes@jud.state.ma.us>
Sent: Monday, June 12, 2017 6:33:22 PM
Subject: Up Coming Visit

Hi,

Do you have trial readiness on Thursday the 29th after Drug Court ?

*Tammy Cagle, LCSW
Program Director: Applying ITP
252 West Park Drive
Baxley, GA 31513
(912) 367-1761 ext. 206*

From: Tammy Cagle
Sent: Tuesday, June 13, 2017 5:33 PM
To: Thomas Estes
Subject: Re: Up Coming Visit

I don't think Friday will work for me. I might be leaving with friends for the weekend.
Maybe we can meet in Westfield Thursday afternoon?

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 31513
(912) 367-1761 ext. 206*

From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Tuesday, June 13, 2017 2:35:12 PM
To: Tammy Cagle
Subject: Re: Up Coming Visit

I do and I don't know how long it will take.
I have been thinking about this and given the logistics, maybe we should have lunch on Friday or just catch up here in court late in the afternoon (when I am usually finished).

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "Thomas Estes" <thomas.estes@jud.state.ma.us>
Sent: Tuesday, June 20, 2017 2:44:53 PM
Subject: Re: Next Week

Good afternoon,
I spend most days inside due to the sun fatigue. I was thinking about getting a room in Westfield. What are your thoughts?
-Tammy

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive
Baxley, GA 31513
(912) 367-1761 ext. 206*



From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Tuesday, June 20, 2017 12:33:39 PM
To: Tammy Cagle
Subject: Re: Next Week

I hope you are having a great day too! How is the heat? It is 80 here and low humidity. Nice weather. I don't like the heat.
I am hoping to see you too. Maybe I should text or call you in the morning once I have a sense of what kind of day it is going to be in court. I wish I wasn't in Pittsfield that day, it would be easier to see each other if I was in Belchertown. Any thoughts on where to meet up?
Thomas

From: "Tammy Cagle" <Tammy.Cagle@spectrumhealthsystems.org>
To: "thomas estes" <thomas.estes@jud.state.ma.us>
Sent: Tuesday, June 20, 2017 11:27:15 AM
Subject: Next Week

Hope you are having a great day! Hope to see you next Thursday.
-Tammy

*Tammy Cagle, LCSW
Program Director: Appling ITP
252 West Park Drive*

Baxley, GA 31513
(912) 367-1761 ext. 206



From: Tammy Cagle
Sent: Thursday, June 22, 2017 11:48 AM
To: Thomas Estes
Subject: Re: Next Week

Yes we can talk this afternoon. If you don't get me on my cell try my office number.

*Tammy Cagle, LCSW
Program Director: Applying ITP
252 West Park Drive
Baxley, GA 31513
(912) 367-1761 ext. 206*



From: Thomas Estes <thomas.estes@jud.state.ma.us>
Sent: Thursday, June 22, 2017 10:52:06 AM
To: Tammy Cagle
Subject: Re: Next Week

Sorry to be out of touch. Life has been crazy.
I am worried about committing next week because I don't know what will happen in court. We really took advantage of opportunities when you were here.
We can talk this afternoon.

IMPOUNDED

EXHIBIT 5

EXHIBIT 6

If this were a case where Judge Estes had engaged in nonconsensual sexual activity, or had sexually harassed Ms. Cagle either in law or in fact, the Commission's recommendation would be warranted, and frankly we would not waste the Court's time in seeking something less than the end of his judicial career. But it is not such a case. The offense to which he readily admits his responsibility, is having engaged in a consensual sexual relationship with a member of the drug court team, at times in his lobby at the Belchertown District Court. Two other aspects of his conduct make his offense one which should not result in his removal from office.

First, the sexual relationship was not only initiated by Ms. Cagle, it was aggressively pursued by her, even after she moved 1500 miles away, and after Judge Estes assured her that the relationship held no future for her. Ms. Cagle re-cast herself as a "victim" only after deciding that Judge Estes must have had something to do with her removal from the drug court. He did not. Ms. Cagle has been unable to accept that she was removed from her job in the drug court due to her inability to work with others.

Second, no one who has been interviewed can recall a single instance where a decision made by Judge Estes appeared to have been influenced by his relationship with Ms. Cagle. Indeed, all those interviewed establish that quite the contrary is true.

Due to the current political environment, the Court should permit full briefing and oral argument as to the appropriate disposition in this case. It is imperative that Judge Estes be disciplined for what he has done and no more. It would be patently unfair for him to be lumped together with the many men that we read about almost daily in the media, who have been rightfully forced from their employment or positions of prestige, due to unwanted sexual contact or harassment.

EXHIBIT 7

**COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT**

SUFFOLK, ss.

COMMISSION ON JUDICIAL CONDUCT
COMMISSION COMPLAINT NUMBER 2017-39

IN THE MATTER OF THOMAS ESTES

UNDER SEAL

**DISPOSITIONAL ARGUMENT OF THE COMMISSION IN CONNECTION WITH
FINAL SUBMISSION TO THE SUPREME JUDICIAL COURT UPON AGREED FACTS
PURSUANT TO G.L. C. 211C AND COMMISSION RULE 13A
ON COMMISSION COMPLAINT NUMBER 2017-39**

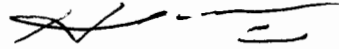
The Commission on Judicial Conduct (the Commission) respectfully submits that, as established by the Stipulation of Facts in Section 2 of the Commission Rule 13A Direct Submission to this Court and the agreed-upon violations of the Code of Judicial Conduct (SJC Rule 3:09) in Section 3 of the Rule 13A Direct Submission, Judge Estes has engaged in willful and egregious judicial misconduct that brings the judicial office into disrepute, as well as conduct prejudicial to the administration of justice and unbecoming a judicial officer.

The Commission also respectfully submits that the gravity and nature of Judge Estes' misconduct is such that it renders him permanently unable to command the respect and moral authority essential to serve as a judge.

Accordingly, the Commission respectfully recommends that the Court adopt its recommendation for discipline, as described in Section 4(a) of the Rule 13A Direct Submission.¹

Respectfully Submitted,
For the Commission on Judicial Conduct

by:



Howard V. Neff, III,
Executive Director,
Commission on Judicial Conduct
BBO #640904

Dated:

¹ The Commission's recommendation for discipline uses language taken directly from In the Matter of Robert M. Bonin, 375 Mass. 680 (1978). The Commission's recommendation is based in part on the Supreme Judicial Court's holding in Bonin that removal of a judge is not within the Constitutional authority of either the Commission or the Supreme Judicial Court:

"We recognize that the question whether the Chief Justice should continue to serve and to receive compensation as such is one which is not assigned to the judicial department under the Constitution of the Commonwealth. See Matter of Troy, 364 Mass. 15, 21-22 (1973); Matter of DeSaulnier (No. 4), 360 Mass. 787, 807-809 (1972). But we deem it appropriate, pursuant to our constitutional and statutory powers of supervision over the courts of the Commonwealth, that the suspension of the Chief Justice should extend for a reasonable time to permit the executive and legislative branches to consider, if they wish, the question of the continuance of the Chief Justice in office, on the basis of such factors as they think appropriate, including, perhaps, the record before us and the conclusions we have drawn from it. A transcript of this proceeding and the exhibits are available to the Governor and the Legislature on request. The order of suspension shall continue in effect until further order of this court, but that order will be continued only for a reasonable period, as described above." Matter of Bonin, at 711-712.