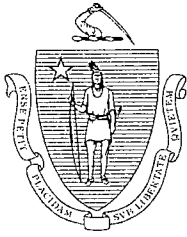


APPENDIX B



The Commonwealth of Massachusetts
COMMISSION ON JUDICIAL CONDUCT

11 BEACON STREET SUITE 525
BOSTON, MASSACHUSETTS 02108
(617) 725-8050
FAX (617) 248-9938
WWW.MASS.GOV/CJC

July 16, 2019

The Honorable Paul Sushchik
163 Princeton Road
Sterling, MA 01564

CONFIDENTIAL

Re: Complaint Number 2019-27

Dear Judge Sushchik:

As a result of the Commission's investigation of the above-numbered complaint against you, the Commission has directed that a Statement of Allegations be prepared. A copy thereof is enclosed.

Please take note of the Notice of Procedures which is attached to the Statement of Allegations. Pursuant to G.L. c. 211C, sec. 5(7) and Commission Rule 6L, you have twenty-one days after your receipt of this Statement of Allegations to file a written answer. During that same twenty-one days, you may also request, in writing, a personal appearance before the Commission at its next regular monthly meeting, which will be on September 10, 2019. If you choose to appear before the Commission, you may speak for twenty minutes. Your statement/appearance before the Commission will be recorded on video and/or audio. The attached notice also details other rights at this stage of the proceedings.

The Commission's statute, Rules, and Annual Reports are available on its website: www.mass.gov/cjc. Please feel free to contact me with any questions at 617-725-8050.

Sincerely,

A handwritten signature in black ink, appearing to read "Howard V. Neff, III".

Howard V. Neff, III
Executive Director

Enclosure

BEFORE THE COMMISSION ON JUDICIAL CONDUCT

Complaint Number 2019-27

STATEMENT OF ALLEGATIONS

The Commission on Judicial Conduct (“the Commission”) makes this Statement of Allegations against the Honorable Paul M. Sushchyk (“Judge Sushchyk”), Associate Justice of the Worcester Division of the Probate and Family Court Department, pursuant to M.G.L. c. 211C, sec. 5(5). This Statement of Allegations incorporates Commission Complaint Number 2019-27.

The Commission alleges that Judge Sushchyk 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 perform the duties of judicial office without bias, prejudice, or harassment, in violation of Rule 2.3(A); by failing, in the performance of judicial duties, to refrain from manifesting bias or prejudice or engaging in harassment, in violation of Rule 2.3(B); 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); and 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).

The Commission specifically alleges the following:

- A. Judge Sushchyk was appointed as a judge in 2018. Judge Sushchyk is an Associate Justice of the Worcester Division of the Massachusetts Probate and Family Court Department.
- B. Ms. Emily Deines (“Ms. Deines”) is employed as a Field Coordinator for the Administrative Office of the Massachusetts Probate and Family Court. Ms. Deines has served in that position for approximately six to seven years. As part of her position, Ms. Deines was responsible for helping to plan a two-day judicial conference for judges of the Probate and Family Court at the Ocean Edge Resort and Golf Club (“Ocean Edge”) in Brewster, Massachusetts on April 25 and 26, 2019. Ms. Deines was required to attend the entirety of that conference. Judge Sushchyk also attended that conference.
- C. On April 25, 2019, Ms. Deines, Judge Sushchyk and other participants in the judicial conference attended a dinner at Ocean Edge, which began at approximately 7:00 p.m. Following that dinner, Ms. Deines left the dining area and entered the Bayzos Pub, which is also part of Ocean Edge. She sat on a bar-height stool at a bar-height table. She was at

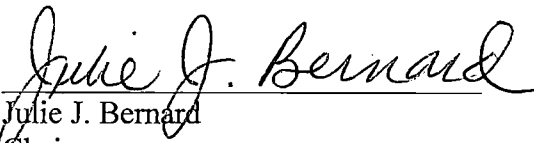
the Bayzos Pub with three co-workers from the Probate and Family Court: Ms. Evelyn Patsos ("Ms. Patsos"), Ms. Jocelynn Welsh, and Ms. Christin Yurgelun.

- D. At approximately 9:00 p.m. on April 25, 2019, Judge Sushchyk approached the table at the Bayzos Pub where Ms. Deines was seated. When he reached the table, Judge Sushchyk proceeded to walk behind Ms. Deines.
- E. As Judge Sushchyk passed behind Ms. Deines, he intentionally, without justification or excuse, and without invitation or consent from Ms. Deines, placed one of his hands under Ms. Deines' buttocks for several seconds and pinched or squeezed her buttocks in violation of the Massachusetts Trial Court's January 7, 2013 "policy and procedure for the elimination of sexual and gender harassment in the workplace."
- F. Judge Sushchyk then continued to walk behind Ms. Deines and toward Ms. Patsos.
- G. Judge Sushchyk then began speaking with Ms. Patsos. While still in the area of the table Ms. Deines was seated at, Judge Sushchyk removed a silver flask from his coat pocket. He stated that the flask contained whiskey.

The Commission alleges that, through the above-described conduct, Judge Sushchyk 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 perform the duties of judicial office without bias, prejudice, or harassment, in violation of Rule 2.3(A); by failing, in the performance of judicial duties, to refrain from manifesting bias or prejudice or engaging in harassment, in violation of Rule 2.3(B); 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); and 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).

The Commission also alleges that the conduct set forth above 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,


Julie J. Bernard
Chair

Date: July 16, 2019

NOTICE OF PROCEDURES PURSUANT TO STATEMENT OF ALLEGATIONS

Complaint Numbers 2019-27

The Commission hereby notifies Judge Sushchyk that, pursuant to M.G.L. c. 211C, sec. 5(7) and Commission Rule 6L, he has twenty-one (21) days following his 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 Sushchyk 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,


Julie J. Bernard
Chair

Date: July 16, 2019