

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

GENINE D. EDWARDS,

a Justice of the Supreme Court,
Kings County.

**AGREED
STATEMENT OF FACTS**

Subject to the approval of the Commission on Judicial Conduct

("Commission"):

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission, and Honorable Genine D. Edwards ("Respondent"), who is represented in this proceeding by Roger Bennet Adler, Esq., that further proceedings are waived and that the Commission shall make its determination upon the following facts, constituting the entire record in lieu of a hearing.

1. Respondent was admitted to the practice of law in New York in 1993. She has been a Justice of the Supreme Court, Kings County, since 2016, having previously served as a Judge of the New York City Civil Court, Kings County, from 2006 to 2015. Respondent's term expires on December 31, 2029.

2. Respondent was served with a Formal Written Complaint dated May 21, 2019. She enters into this "Agreed Statement of Facts" in lieu of filing an Answer.

As to the Charge

3. On March 9, 2017, while presiding over *Carolyn Thomas v Quest Livery Services, LLC et al.*, Respondent threatened to file a professional grievance against a defense attorney, Michael L. Tawil, Esq., unless his client immediately offered to settle the case for \$25,000.

As to the Specifications to the Charge

4. On March 8 and March 9, 2017, Respondent presided over the liability portion of a bifurcated trial in *Carolyn Thomas v Quest Livery Services, LLC D/B/A Bee Bee Car Services, Pedro Roberto Batista, Nelson J. Urbina and Methuran Bahiro*, an action to recover damages for personal injuries sustained by the plaintiff in a car accident.

5. On March 8, 2017, the attorney for defendants Urbina and Bahiro, Michael L. Tawil, Esq., delivered a summation in which he made the following statement:

On the other hand, you have Mr. Batista. He's on the phone talking to his female girlfriend or someone. He's selling cell phones to his passenger, he's listening to the radio, he said they're having a good time in the car. They're having a good time and he's paying attention to the passenger, to his girlfriend, probably to the radio. For all we know, he could be frying up some platanos in the front seat. We don't know. But he's not paying attention to the road, what's going on around him, okay.

6. The next day, March 9, 2017, before the jury was charged, Respondent conducted an off-the-record conference in chambers with both Mr. Tawil and his client's insurance adjuster for the purpose of settling the case, and addressing Mr. Tawil's summation remark.

7. During the off-the-record conference, Respondent said that Mr. Tawil's statement during summation about platanos was "racist" and that she and her court staff were offended by his remark. Respondent then told Mr. Tawil, "What's going to happen now is your client is going to pay \$25,000 to settle this case right now or I am going to report you to the Appellate Division Second Department. That's your license counselor."

8. The insurance adjuster called his supervisor and then advised Respondent that his client refused to settle the case for \$25,000.

9. Respondent thereafter charged the jury, and while the jury was deliberating, Respondent placed on the record the substance of the conference with Mr. Tawil and the insurance adjuster, stating as follows:

I'd like to indicate that I had a[n] off the record conversation with defendant Bahiro's counsel as well as the adjuster for defendant Bahiro regarding statements made by counsel during his summations which I was offended by and I thought they were totally culturally insensitive statements. And during that conversation I indicated to counsel and the adjuster that they should, to resolve this matter for \$25,000. A call was made, fifteen was offered, plaintiff declined it. But, and so we went forward. And I indicated to counsel that if we couldn't resolve the matter, that I would be taking the entire transcript and making a complaint as it is my duty as not only a[n] officer of the court, but also as a duly elected Supreme Court justice, and I'm complaining to the Appellate Division regarding this statement.

10. The jury returned a verdict finding that defendants Bahiro and Batista were negligent and equally responsible for the accident. The verdict sheet from the damages portion of the trial shows that the jury awarded the plaintiff \$200,000 for past pain and suffering. Before the jury finished deliberating, the plaintiff settled her claim against defendant Bahiro for \$65,000.

11. Respondent did not report Mr. Tawil's conduct to disciplinary authorities.

12. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that she failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that she failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules.

Additional Factors

13. Respondent has been cooperative, candid and contrite throughout the Commission's inquiry.

14. Respondent acknowledges that it was improper to state that she would file a professional grievance against Mr. Tawil unless his client settled the case for a specific sum, even if she believed that Mr. Tawil committed an ethical violation. She recognizes that her words may have created the appearance that she was attempting to use Mr. Tawil's alleged misconduct as leverage to induce his client to settle the case.

15. Respondent recognizes that if she believed that Mr. Tawil had committed a "substantial violation" of ethical rules, she was obliged to report his conduct to the

attorney grievance committee regardless of whether a settlement was reached.

16. Respondent appreciates that she is obliged to discharge her judicial duties in a fair and judicious manner, and that her threat to report Mr. Tawil if his client did not settle the case undermined public confidence in the courts.

IT IS FURTHER STIPULATED AND AGREED that the parties to this Agreed Statement of Facts respectfully recommend to the Commission that the appropriate sanction is public Admonition based upon the judicial misconduct set forth above.

IT IS FURTHER STIPULATED AND AGREED that if the Commission accepts this Agreed Statement of Facts, the parties waive oral argument and waive further submissions to the Commission as to the issues of misconduct and sanction, and that the Commission shall thereupon impose a public Admonition without further submission of the parties, based solely upon this Agreed Statement. If the Commission rejects this Agreed Statement of Facts, the matter shall proceed to a hearing and the statements made herein shall not be used by the Commission, the Respondent or the Administrator and Counsel to the Commission.

Dated:

7/9/19



Honorable Genine D. Edwards
Respondent

Dated:

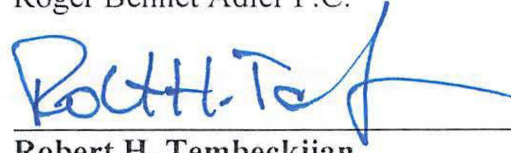
7/9/19



Roger Bennet Adler
Roger Bennet Adler P.C.

Dated:

7/9/2019



Robert H. Tembeckjian
Administrator & Counsel to the Commission
(Melissa DiPalo, Of Counsel)