

STATE OF MICHIGAN
BEFORE THE JUDICIAL TENURE COMMISSION

COMPLAINT AGAINST

Hon. Tracy E. Green
Third Circuit Court
Detroit, MI

Complaint No. 103

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ANSWER TO COMPLAINT

Respondent, Honorable Judge Tracy E. Green (“Judge Green”), through her attorneys, Plunkett Cooney, and pursuant to MCR 9.230(B)(2), provides the following answer to the Complaint filed by the Michigan Judicial Tenure Commission (“The Commission”):

1. Respondent has been a licensed lawyer and a member of the State Bar of Michigan since 1997.

ANSWER: Judge Green admits that she is and has been a licensed lawyer and member of the State Bar of Michigan since May 28, 1997.

2. Respondent is, and since January 2019 has been, a judge of the Third Circuit Court, County of Wayne, State of Michigan.

ANSWER: Judge Green admits that she is and has been a judge of the Third Circuit Court, County of Wayne, State of Michigan since January 2019.

3. As a judge, respondent has been, and still is, subject to the duties and responsibilities imposed on her by the Michigan Supreme Court, and is subject to the standards for discipline set forth in MCR 9.104 and 9.202.

ANSWER: Judge Green admits that she is and has been subject to the duties and responsibilities imposed on her by the Michigan Supreme Court, and is subject to the

standards for discipline set forth in MCR 9.104 and MCR 9.202, as a judge of the Third Circuit Court, County of Wayne, State of Michigan.

BACKGROUND INFORMATION

4. Respondent has a son named Gary Davis-Headd.

ANSWER: Judge Green admits that she has a son named Gary Davis-Headd.

5. Respondent has two grandsons, Gary Davis-Headd, Jr. and Russell Davis-Headd, who are Gary Davis-Headd's children.

ANSWER: Judge Green admits that she has two grandsons, Gary Davis-Headd, Jr. and Russell Davis-Headd, who are the children of her son, Gary Davis-Headd.

6. At all relevant times, Gary Davis-Headd, Jr. and Russell Davis-Headd were under eleven years of age.

ANSWER: Judge Green admits that, with regard to the time period between July 2014 and June 2018 as defined in Paragraph 9 of the Complaint, her grandsons, Gary Davis-Headd, Jr. and Russell Davis-Headd, were under the age of eleven years.

7. In 2019 Gary Davis-Headd was convicted of two counts of felony child abuse second degree, MCL 750.136b, in Wayne County Circuit Court case no. 18-009282-01-FH.

ANSWER: Judge Green admits that her son, Gary Davis-Headd, was convicted of two counts of Child Abuse - 2nd Degree, a felony pursuant to MCL 750.136b(3), on September 27, 2019.

8. The victims in the criminal case were respondent's grandsons, Gary Davis- Headd, Jr. and Russell Davis-Headd.

ANSWER: Judge Green admits that her grandsons, Gary Davis-Headd, Jr. and Russell Davis-Headd, were the described victims in Wayne County Circuit Court, Case No. 18-009282-01-FH.

COUNT ONE – COVERING UP EVIDENCE OF CHILD ABUSE

9. Between July of 2014 and June 24, 2018, respondent was aware that on multiple occasions her son had been abusive to his then-wife, Katy Davis-Headd, by slapping her and choking her. That is, respondent was aware that her son was prone to abusive behavior.

ANSWER: Judge Green categorically denies as untrue that she was aware that on multiple occasions her son had been abusive to his then-wife, Katy Davis-Headd, between July of 2014 and June 24, 2018 or that her son was prone to abusive behavior.

10. For the reasons stated below, between May 29, 2015 and June 24, 2018, respondent was aware that her son, Gary Davis-Headd, was abusing her grandchildren, Gary Davis-Head, Jr., and Russell Davis-Headd:

- a. Respondent was aware that her son was a very “stern” or “strong” disciplinarian.
- b. Respondent was aware that her son used corporal punishment on his children.
- c. Respondent was aware that her son hit his children with a belt.
- d. Respondent’s grandsons told respondent that they had been spanked by their father on numerous occasions.

- e. Respondent's grandsons expressed to her their concern about what would happen to them physically if their father learned they had misbehaved at her home.
- f. Respondent was aware her son had slapped Gary, Jr. across the face hard enough to leave a handprint.
- g. Respondent saw other marks on Gary, Jr.'s face on other occasions that Gary, Jr. told her had been inflicted by his father.
- h. At least one time, in 2016 or 2017, respondent saw her son hit Gary Jr. on his face and chest while she was in the kitchen of her home and they were at the back door.
- i. On more than one occasion, Russell showed respondent bruises on his body and told respondent they had been inflicted by his father.
- j. Russell, at around age eight, told respondent he was about to be "spanked" by his father. Respondent left the home as the "spanking" was about to take place.
- k. Respondent's grandsons told her they had been "spanked" by their father on other occasions.
- l. When Russell was around eight years old, respondent saw an injury under his eye that he informed her had been inflicted by his father.
- m. On four occasions, respondent saw injuries on Gary, Jr's face that he told her were inflicted by his father.

ANSWER: Judge Green categorically denies as untrue that she was aware, between May 29, 2015 and June 24, 2018, that her son, Gary Davis-Headd, was abusing her grandchildren, Gary Davis-Head, Jr., and Russell Davis-Headd:

- a. Judge Green admits that she was aware that her son was a very “stern” disciplinarian.**
- b. Judge Green admits that, prior to April 30, 2015, she was aware that her son had used corporal punishment on his children.**
- c. Judge Green became aware that her son and his former wife used corporal punishment with their children by way of their divorce proceedings. Judge Green denies as untrue that she was aware that her son disciplined his children with a belt at any time following April 30, 2015, when the Court prohibited her son and his former wife from using corporal punishment.**
- d. Judge Green admits that, during the divorce proceedings, she learned her son had used corporal punishment on the children; however, Judge Green denies as untrue that the children ever told her about any instance of her son disciplining them with a belt before or after April 30, 2015.**
- e. Judge Green denies that her grandsons expressed to her their concern about what would happen to them physically if their father learned they had misbehaved at her home.**
- f. Judge Green admits that she was aware her son had, on a single occasion, slapped Gary, Jr. across the face hard enough to leave a handprint. Judge Green advised Child Protective Services of this fact, and that she applied some foundation to the cheek of Gary, Jr., during a CPS interview, clearly**

demonstrating that she was not attempting to cover up alleged evidence of child abuse or making a false statement about her knowledge.

g. Judge Green categorically denies as untrue that she saw other marks on the face of Gary, Jr. on other occasions that Gary, Jr. told her had been inflicted by his father.

h. Judge Green categorically denies as untrue that, at least one time, in 2016 or 2017, she saw her son hit Gary Jr. on his face and chest while she was in the kitchen of her home and they were at the back door.

i. Judge Green categorically denies as untrue that, on more than one occasion, Russell showed her bruises on his body and told her they had been inflicted by his father.

j. Judge Green categorically denies as untrue that Russell, at around age eight, told her he was about to be “spanked” by his father and she left the home as the “spanking” was about to take place. Judge Green admits that she recalls a single incident from the past, without being able to recall a date, in which Russell told her that he was in trouble and was going to get a ‘whoppin.’ Judge Green then asked her son about the statement and his response was to admit that he had made that threat but promised that he would not do so.

k. Judge Green admits that, during the divorce proceedings, she learned her son had used corporal punishment on the children; however, Judge Green denies as untrue that the children ever told her about any instance of her son disciplining them with a belt before or after April 30, 2015.

l. Judge Green categorically denies as untrue that, when Russell was around eight years old, she saw an injury under his eye that he informed her had been inflicted by his father.

m. Judge Green categorically denies as untrue that, on four occasions, she saw injuries on the face of Gary, Jr. that he told her were inflicted by his father.

11. During the period of May 2015 through June 2018, respondent was aware that her son was under a court order not to use corporal punishment on his children.

ANSWER: Judge Green admits that she was aware, during the period May 2015 through June 2018, that her son was under a court order not to use corporal punishment on his children.

12. Despite various indicia of abusive punishments, respondent did not inquire into the nature of her grandsons' corporal punishments.

ANSWER: Judge Green categorically denies as untrue that she was aware of any indicia of abusive punishments of her grandsons at the hand of her son.

13. The totality of the evidence shows that respondent was aware that her grandsons were being abused by her son.

ANSWER: Judge Green categorically denies as untrue that she was aware of any evidence that her grandsons were being abused by her son.

14. Respondent put makeup on the injury under Russell's eye that he showed her as described in paragraph 10(l), and put makeup on Gary, Jr.'s facial injuries that are described in paragraph 10(m). She did so for the purpose of attempting to conceal the injuries.

ANSWER: Judge Green categorically denies as untrue that she ever put makeup on the face of Russell. Judge Green further denies as untrue that she ever put makeup on injuries on the face of Gary, Jr. Judge Green admits that, on a single occasion when Gary, Jr. and Russell were at an age where they were constantly teasing one another, Gary, Jr. told her that Russell was making fun of him for being slapped by his father and the mark on his cheek. She told Gary, Jr. that she could apply some lotion to his cheek to make the mark go away. She applied some foundation to the cheek of Gary, Jr., but it was not successful in covering up the mark.

15. By concealing evidence that her son had abused her grandsons, respondent committed misconduct in violation of:

- a. MCR 9.104(1) and Michigan Rule of Professional Conduct (MRPC) 8.4(c), by engaging in conduct prejudicial to the proper administration of justice;
- b. MCR 9.104(2), by engaging in conduct that exposes the legal profession or the courts to obloquy, contempt, censure or reproach;
- c. MCR 9.104(3), by engaging in conduct that is contrary to justice, ethics, honesty, or good morals;
- d. MRPC 8.4(b), which deems it professional misconduct if a lawyer engages in conduct involving violation of the criminal law, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer;
- e. MCL 750.483a(5)(a), which prohibits tampering with evidence;
- f. MCL 750.505, for being an accessory after the fact to child abuse; and
- g. MCR 9.104(5), by engaging in conduct that violated a criminal law of the State of Michigan.

ANSWER: Judge Green categorically denies as untrue that she ever concealed evidence that her son had abused her grandsons or committed misconduct, including the alleged violations of sub-paragraphs a. – g., at any time.

**COUNT TWO - FALSE STATEMENTS ABOUT
KNOWLEDGE OF CHILD ABUSE**

16. This count incorporates paragraphs nine through fourteen of Count One.

ANSWER: Respondent incorporates here by reference Paragraphs nine through fifteen of this Answer.

17. As described below, respondent made false statements about her knowledge that her son abused her grandsons, and about her actions with respect to that abuse.

ANSWER: Judge Green categorically denies as untrue that she was aware that her son abused her grandsons, made false statements about her lack of knowledge, and made false statements about her actions in any respect.

18. The Judicial Tenure Commission sent respondent requests for comment dated September 17 and October 30, 2019.

ANSWER: Judge Green admits that the Michigan Judicial Tenure Commission, as part of a Request for Investigation, sent her requests for information on September 17, 2019 and October 30, 2019.

19. In her November 21, 2019 answer to the Commission's question 17 in the September 17, 2019 request for comment, respondent stated that none of her grandchildren had ever told her that they had been abused.

ANSWER: Question No. 17 asked: "If one or both of the children told you they had been abused, but you did nothing to prevent future acts of abuse against them,

please explain how your inaction was not an impropriety under Michigan Code of Judicial Conduct Canon 2(A), and how it complied with your obligation to observe the law as required by Canon 2(B).” Judge Green admits that, in response to Question No. 17, she stated: “None of my grandchildren has ever told me that they had been abused.”

20. In her November 21, 2019 answer to the Commission’s question 19 in the September 17, 2019 request for comment, respondent stated, “I was, and remain, unaware of any alleged ‘abuse’ of my grandchildren by my son.”

ANSWER: Question No. 19 asked: “If you did put make-up on injuries to prevent others from detecting abuse by your son, please explain how doing this did not violate Canons 2(A) and 2(B).” Judge Green admits that, in response to Question No. 19, she stated: “I did not, in any respect, apply make-up to ‘injuries’ to prevent others from detecting ‘abuse’ by my son. The extent of my involvement was specific and limited. Because Gary, Jr. and Russell were at an age where they were constantly teasing one another, Gary, Jr. told me that Russell was making fun of him for being slapped by his father and the mark on his cheek. I told Gary, Jr. that I could apply some liquid foundation to his cheek to make the mark go away. I applied some foundation to the cheek of Gary, Jr., but it was not successful in covering up the mark. In addition, after being made aware of the slapping incident, seeing what looked like a handprint on the face of Gary, Jr., and considering it totally inappropriate and unacceptable, I immediately contacted my son and scolded him for doing so. I was satisfied that the issue had been resolved and appropriately remediated as improper and never to be repeated. I was never made aware of any subsequent corporal

punishment. I did not consider that single incident as something that should be reported to law enforcement, CPS, or any other entity. I was, and remain, unaware of any alleged 'abuse' of my grandchildren by my son. In addition, and for purposes of specificity, Judge Green admits that, while she was unaware of any alleged 'abuse' prior to June 24, 2018, she did become aware by November 2019 that abuse had been alleged.

21. In her November 21, 2019 answer to the Commission's question 38 in the September 17, 2019 request for comment, respondent stated, "I was never, under any circumstances or in any respect aware of, or told by anyone, the details of alleged abuse of my grandsons at the hand of their father. Specifically, I was never advised about alleged abuse by my grandsons."

ANSWER: Question No. 38 asked: "Please explain whether not inquiring into the details of abuse about which your grandchildren informed you, and not protecting your grandchildren from future abuse, was irresponsible or improper conduct in violation of Canon 2(A), and failed to promote confidence in the judiciary in violation of Canon 2(B)." Judge Green admits that, in response to Question No. 38, she stated: "I was never, under any circumstances or in any respect, aware of, or told by anyone, the details of alleged abuse of my grandsons at the hand of their father. Specifically, I was never advised about alleged abuse by my grandsons. Once in the past, Gary, Jr. told me that he had been slapped in the face by his father. I saw what looked like a handprint on his cheek at that time. During that discussion, Russell confirmed that Gary, Jr. had been slapped by their father. My grandsons had also mentioned in the past that they had been spanked by their father for misbehaving. After being made

aware of the slapping incident, seeing what looked like a handprint on the face of Gary, Jr., and considering it totally inappropriate and unacceptable, I immediately contacted my son and scolded him for doing so. I was satisfied that the issue had been resolved and appropriately remediated as improper and never to be repeated. I was never made aware of any subsequent corporal punishment. I did not consider that single incident as something that should be reported to law enforcement, CPS, or any other entity. As related to being spanked, I have no recall of any specific occasion that this was mentioned by my grandsons. I was not, however, aware of any specific situation or complaint from my grandchildren concerning being spanked for misbehavior. Further, I never saw any signs that my grandchildren had been spanked by their father.” In addition, and for purposes of specificity, Judge Green admits that, with the April 30, 2015 prohibition of corporal punishment issued by the Court, she had no knowledge of, nor reason to suspect, corporal punishment continued.

22. In her November 21, 2019 answer to the Commission’s question 38 in the September 17, 2019 request for comment, respondent stated: “As related to being spanked, I have no recall of any specific occasion that this was mentioned by my grandsons. I was not, however, aware of any specific situation or complaint from my grandchildren concerning being spanked for misbehavior. Further, I never saw any signs that my grandchildren had been spanked by their father.”

ANSWER: Question No. 38 asked: “Please explain whether not inquiring into the details of abuse about which your grandchildren informed you, and not protecting your grandchildren from future abuse, was irresponsible or improper conduct in

violation of Canon 2(A), and failed to promote confidence in the judiciary in violation of Canon 2(B).” Judge Green admits that, in response to Question No. 38, she stated: “I was never, under any circumstances or in any respect, aware of, or told by anyone, the details of alleged abuse of my grandsons at the hand of their father. Specifically, I was never advised about alleged abuse by my grandsons. Once in the past, Gary, Jr. told me that he had been slapped in the face by his father. I saw what looked like a handprint on his cheek at that time. During that discussion, Russell confirmed that Gary, Jr. had been slapped by their father. My grandsons had also mentioned in the past that they had been spanked by their father for misbehaving. After being made aware of the slapping incident, seeing what looked like a handprint on the face of Gary, Jr., and considering it totally inappropriate and unacceptable, I immediately contacted my son and scolded him for doing so. I was satisfied that the issue had been resolved and appropriately remediated as improper and never to be repeated. I was never made aware of any subsequent corporal punishment. I did not consider that single incident as something that should be reported to law enforcement, CPS, or any other entity. As related to being spanked, I have no recall of any specific occasion that this was mentioned by my grandsons. I was not, however, aware of any specific situation or complaint from my grandchildren concerning being spanked for misbehavior. Further, I never saw any signs that my grandchildren had been spanked by their father.” Judge Green became aware that her son and his former wife used corporal punishment with their children by way of their divorce proceedings. Judge Green denies as untrue that she was aware that her son spanked his children at any time following April 30, 2015, when the Court prohibited her son

and his former wife from using corporal punishment. Judge Green advised Child Protective Services of the slapping incident, and that she applied some foundation to the cheek of Gary, Jr., during a CPS interview, clearly demonstrating that she was not attempting to cover up alleged evidence of child abuse or making a false statement about her knowledge.

23. In her November 21, 2019 answer to the Commission's questions 16(k), 17, and 38 in the September 17, 2019 request for comment, respondent denied she was made aware of "corporal punishment" her son administered to her grandsons, and claimed she was only told about one incident in which Gary, Jr. was slapped across the face, plus additional spankings.

ANSWER: Question No. 16(k) asked: "Did you report what the children told you to the police, child protective services, or any other entity? If so, please explain to whom you did so, and when. If you did not, please explain why you did not." Judge Green admits that, in response to Question No. 16(k), she stated: "No, it was not necessary to do so. After being made aware of the slapping incident, seeing what looked like a handprint on the face of Gary, Jr., and considering it totally inappropriate and unacceptable, I immediately contacted my son and scolded him for doing so. I was satisfied that the issue had been resolved and appropriately remediated as improper and never to be repeated."

Question No. 17 asked: "If one or both of the children told you they had been abused, but you did nothing to prevent future acts of abuse against them, please explain how your inaction was not an impropriety under Michigan Code of Judicial Conduct Canon 2(A), and how it complied with your obligation to observe the

law as required by Canon 2(B).” Judge Green admits that, in response to Question No. 17, she stated: “None of my grandchildren has ever told me that they had been abused.”

Question No. 38 asked: “Please explain whether not inquiring into the details of abuse about which your grandchildren informed you, and not protecting your grandchildren from future abuse, was irresponsible or improper conduct in violation of Canon 2(A), and failed to promote confidence in the judiciary in violation of Canon 2(B).” Judge Green admits that, in response to Question No. 38, she stated: “I was never, under any circumstances or in any respect, aware of, or told by anyone, the details of alleged abuse of my grandsons at the hand of their father. Specifically, I was never advised about alleged abuse by my grandsons. Once in the past, Gary, Jr. told me that he had been slapped in the face by his father. I saw what looked like a handprint on his cheek at that time. During that discussion, Russell confirmed that Gary, Jr. had been slapped by their father. My grandsons had also mentioned in the past that they had been spanked by their father for misbehaving. After being made aware of the slapping incident, seeing what looked like a handprint on the face of Gary, Jr., and considering it totally inappropriate and unacceptable, I immediately contacted my son and scolded him for doing so. I was satisfied that the issue had been resolved and appropriately remediated as improper and never to be repeated. I was never made aware of any subsequent corporal punishment. I did not consider that single incident as something that should be reported to law enforcement, CPS, or any other entity. As related to being spanked, I have no recall of any specific occasion that this was mentioned by my grandsons. I was not, however, aware of any specific

situation or complaint from my grandchildren concerning being spanked for misbehavior. Further, I never saw any signs that my grandchildren had been spanked by their father.” Judge Green became aware that her son and his former wife used corporal punishment with their children by way of their divorce proceedings. Judge Green denies as untrue that she was aware that her son spanked his children at any time following April 30, 2015, when the Court prohibited her son and his former wife from using corporal punishment. Judge Green advised Child Protective Services of the slapping incident, and that she applied some foundation to the cheek of Gary, Jr., during a CPS interview, clearly demonstrating that she was not attempting to cover up alleged evidence of child abuse or making a false statement about her knowledge.

24. In her November 21, 2019 answer to the Commission’s question 15 in the September 17, 2019 request for comment, respondent denied knowing that Gary, Jr. and Russell had been hit by their father. She also denied witnessing Gary, Jr. being hit.

ANSWER: Question No. 15 asked: “If you witnessed your son strike either of the children and you did not stop it, report it to the authorities, or take any action to protect the children from future violence, please explain how your inaction was not an impropriety under Michigan Code of Judicial Conduct Canon 2(A).” Judge Green admits that, in response to Question No. 15, she stated: “I never witnessed my son, nor anyone for that matter, strike one of my grandsons. After being made aware of the slapping incident, seeing what looked like a handprint on the face of Gary, Jr., and considering it totally inappropriate and unacceptable, I immediately contacted my

son and scolded him for doing so. I was never made aware of any subsequent corporal punishment. I did not consider that single incident as something that should be reported to law enforcement, CPS, or any other entity. I directly addressed the incident and was satisfied that the issue had been resolved and appropriately remediated as improper and never to be repeated.” Judge Green became aware that her son and his former wife used corporal punishment with their children by way of their divorce proceedings. Judge Green denies as untrue that she was aware that her son spanked his children at any time following April 30, 2015, when the Court prohibited her son and his former wife from using corporal punishment. Judge Green advised Child Protective Services of the slapping incident, and that she applied some foundation to the cheek of Gary, Jr., during a CPS interview, clearly demonstrating that she was not attempting to cover up alleged evidence of child abuse or making a false statement about her knowledge. Judge Green admits that, while she considered the slapping incident totally inappropriate and unacceptable, she did not consider it abuse or illegal. The Detroit Police Department and Child Protective Services both knew about the slapping incident, that was undisputed, and neither charged Gary Davis-Headd with child abuse related to the incident. Further, CPS did not include or otherwise cite the incident in the Petition filed against Gary Davis-Headd.

25. In her November, 21, 2019 answers to the Commission’s questions 14(b)(v), 18, 18(a) and 38 in the September 17, 2019 request for comments, respondent stated that she did not see marks on her grandsons’ bodies, excluding the slap mark she once saw on Gary, Jr.’s face.

ANSWER: Question No. 14(b) asked: “Did you ever witness your son strike the children? If so:

i. How many times did you see this?

ii. Which children were struck?

iii. Describe the corporal punishment you witnessed.

iv. Did your son use an instrument besides his open hand to strike the children? If so, name the instrument(s) he used.

v. Did your son leave marks on any parts of the childrens' bodies? If so, state when he did so, name which child, and describe where the marks were located.

vi. Did you do anything to stop your son from striking the children? If so, please explain what you did to stop him. If you did not try to stop him, please explain why you did not.

vii. Did you do anything to protect the children from future corporal punishment? If so, please explain what you did to protect them. If you did not try to protect them from future corporal punishment, please explain why you did not.

viii. Did you believe any corporal punishment you witnessed constituted reasonable parental discipline?

ix. Did you ever report any corporal punishment to the police, child protective services, or any other entity? If so, please explain to whom you did so, and when. If you did not, please explain why you did not.”

Judge Green admits that, in response to Question No. 14(b), she stated: “No, I never saw my son, nor anyone for that matter, strike one of my grandsons.

i. Not applicable

ii. Not applicable

iii. Not applicable

iv. Not applicable

v. While I did not witness my son slap Gary, Jr., as Gary, Jr. had told me, I did see what looked like a handprint on his cheek. Other than that single occurrence, I never saw a mark, nor was I advised that a mark had been left, on the bodies of any of my grandchildren.

vi. I never witnessed my son strike one of my grandchildren. After Gary, Jr. told me he had been slapped, and seeing what looked like a handprint on his cheek, I immediately contacted my son and scolded him for doing so as totally inappropriate and unacceptable.

vii. After Gary, Jr. told me he had been slapped, and seeing what looked like a handprint on his cheek, I immediately contacted my son and scolded him for doing so as totally inappropriate and unacceptable. After this incident, I never again heard of another situation involving physical discipline.

viii. I never witnessed my son, nor anyone for that matter, strike one of my grandsons. While I was made aware of the slapping incident, seeing what looked like a handprint on his cheek, and considering it totally inappropriate and unacceptable, I immediately contacted my

son and scolded him for doing so. I did not, and do not, consider that reasonable parental discipline.

ix. No, I did not. After being made aware of the slapping incident, seeing what looked like a handprint on the face of Gary, Jr., and considering it totally inappropriate and unacceptable, I immediately contacted my son and scolded him for doing so. I was never made aware of any subsequent corporal punishment. I did not consider that single incident as something that should be reported to law enforcement, CPS, or any other entity.

Question No. 18 asked: "Did you ever see marks on the children's bodies? If so:

a. Approximately when did you see the marks?

b. Which child/children had marks?

c. What part(s) of each child's body had marks?

d. Did they tell you that their father put the marks on their bodies?

e. Did you see their father put the marks on their bodies?

f. Did you do anything to provide medical care to the children?

g. Did you do anything to cover up the marks so they would be less visible to others?

Judge Green admits that, in response to Question No. 18, she stated: "Yes. While I did not witness my son slap Gary, Jr., as Gary, Jr. had told me, I did see what looked like a

handprint on his cheek. Other than that single occurrence, I never saw a mark, nor was I advised that a mark had been left, on the bodies of any of my grandchildren.

a. I did not see “marks” but did see what looked like a handprint on the cheek of Gary, Jr. I do not recall exactly when.

b. Gary, Jr., as detailed above.

c. His cheek.

d. Yes, Gary, Jr., as detailed above.

e. No.

f. No, it was not necessary. What looked like a handprint went away shortly after it was brought to my attention.

g. Yes. Because Gary, Jr. and Russell were at an age where they were constantly teasing one another, Gary, Jr. told me that Russell was making fun of him for being slapped by his father and the mark on his cheek. I told Gary, Jr. that I could apply some liquid foundation to his cheek to make the mark go away. I applied some foundation to the cheek of Gary, Jr., but it was not successful in covering up the mark.”

Question No. 38 asked: “Please explain whether not inquiring into the details of abuse about which your grandchildren informed you, and not protecting your grandchildren from future abuse, was irresponsible or improper conduct in violation of Canon 2(A), and failed to promote confidence in the judiciary in violation of Canon 2(B).” Judge Green admits that, in response to Question No. 38, she stated: “I was never, under any circumstances or in any respect, aware of, or told by anyone, the details of alleged abuse of my grandsons at the hand of their father. Specifically, I

was never advised about alleged abuse by my grandsons. Once in the past, Gary, Jr. told me that he had been slapped in the face by his father. I saw what looked like a handprint on his cheek at that time. During that discussion, Russell confirmed that Gary, Jr. had been slapped by their father. My grandsons had also mentioned in the past that they had been spanked by their father for misbehaving. After being made aware of the slapping incident, seeing what looked like a handprint on the face of Gary, Jr., and considering it totally inappropriate and unacceptable, I immediately contacted my son and scolded him for doing so. I was satisfied that the issue had been resolved and appropriately remediated as improper and never to be repeated. I was never made aware of any subsequent corporal punishment. I did not consider that single incident as something that should be reported to law enforcement, CPS, or any other entity. As related to being spanked, I have no recall of any specific occasion that this was mentioned by my grandsons. I was not, however, aware of any specific situation or complaint from my grandchildren concerning being spanked for misbehavior. Further, I never saw any signs that my grandchildren had been spanked by their father.”

26. In her November 21 answer to question 14(b)(v) in the September 17, 2019 request for comments, respondent stated she was not “advised” that any marks had been left on her grandsons’ bodies by her son, excluding the slap mark that she saw on Gary, Jr.’s face.

ANSWER: Question No. 14(b) asked: “Did you ever witness your son strike the children? If so:

i. How many times did you see this?

ii. Which children were struck?

iii. Describe the corporal punishment you witnessed.

iv. Did your son use an instrument besides his open hand to strike the children? If so, name the instrument(s) he used.

v. Did your son leave marks on any parts of the childrens' bodies? If so, state when he did so, name which child, and describe where the marks were located.

vi. Did you do anything to stop your son from striking the children? If so, please explain what you did to stop him. If you did not try to stop him, please explain why you did not.

vii. Did you do anything to protect the children from future corporal punishment? If so, please explain what you did to protect them. If you did not try to protect them from future corporal punishment, please explain why you did not.

viii. Did you believe any corporal punishment you witnessed constituted reasonable parental discipline?

ix. Did you ever report any corporal punishment to the police, child protective services, or any other entity? If so, please explain to whom you did so, and when. If you did not, please explain why you did not."

Judge Green admits that, in response to Question No. 14(b), she stated: "No, I never saw my son, nor anyone for that matter, strike one of my grandsons.

i. Not applicable

ii. Not applicable

iii. Not applicable

iv. Not applicable

v. While I did not witness my son slap Gary, Jr., as Gary, Jr. had told me, I did see what looked like a handprint on his cheek. Other than that single occurrence, I never saw a mark, nor was I advised that a mark had been left, on the bodies of any of my grandchildren.

vi. I never witnessed my son strike one of my grandchildren. After Gary, Jr. told me he had been slapped, and seeing what looked like a handprint on his cheek, I immediately contacted my son and scolded him for doing so as totally inappropriate and unacceptable.

vii. After Gary, Jr. told me he had been slapped, and seeing what looked like a handprint on his cheek, I immediately contacted my son and scolded him for doing so as totally inappropriate and unacceptable. After this incident, I never again heard of another situation involving physical discipline.

viii. I never witnessed my son, nor anyone for that matter, strike one of my grandsons. While I was made aware of the slapping incident, seeing what looked like a handprint on his cheek, and considering it totally inappropriate and unacceptable, I immediately contacted my son and scolded him for doing so. I did not, and do not, consider that reasonable parental discipline.

ix. No, I did not. After being made aware of the slapping incident, seeing what looked like a handprint on the face of Gary, Jr., and considering it totally inappropriate and unacceptable, I immediately contacted my son and scolded him for doing so. I was never made aware of any subsequent corporal punishment. I did not consider that single incident as something that should be reported to law enforcement, CPS, or any other entity.

Judge Green became aware that her son and his former wife used corporal punishment with their children by way of their divorce proceedings. Judge Green denies as untrue that she was aware that her son spanked his children at any time following April 30, 2015, when the Court prohibited her son and his former wife from using corporal punishment. Judge Green advised Child Protective Services of the slapping incident, and that she applied some foundation to the cheek of Gary, Jr., during a CPS interview, clearly demonstrating that she was not attempting to cover up alleged evidence of child abuse or making a false statement about her knowledge. Judge Green admits that, while she considered the slapping incident totally inappropriate and unacceptable, she did not consider it abuse or illegal. The Detroit Police Department and Child Protective Services both knew about the slapping incident, that was undisputed, and neither charged Gary Davis-Headd with child abuse related to the incident. Further, CPS did not include or otherwise cite the incident in the Petition filed against Gary Davis-Headd.

27. Respondent's statements identified in paragraphs nineteen through twenty-six, above, falsely denied her knowledge, as described in part below, that her son had abused her grandsons:
- a. Respondent saw Gary, Jr. and Russell frequently and on several occasions Gary, Jr. told her about the abuse while she was driving them in her car and he was around nine or ten years old. Russell also told respondent that he was being hit by his father.
 - b. Respondent witnessed Gary, Sr. hit Gary, Jr., as summarized in paragraph 10(h), above.
 - c. On at least one occasion, when Russell was around eight years old and while at respondent's house, he showed respondent bruises on his face, neck, arms, legs, and back that he told respondent had been inflicted by her son. He showed respondent bruises that he told respondent had been inflicted by her son on other occasions as well.
 - d. In the bathroom of her house, when Russell was under nine years old, respondent put makeup on an injury under his eye that she was informed had been inflicted by her son;
 - e. In the bathroom of her house, when Gary, Jr. was nine or ten years old, respondent put makeup on his face four times to cover marks that, as she was informed, had been inflicted by her son.

ANSWER: Judge Green categorically denies as untrue that she, in Paragraphs nineteen through twenty-six, above, or in any other context or at any other time, had knowledge that her son had abused her grandsons, had knowledge of the

information alleged in sub-paragraphs a. – e., or, in any other context or at any other time, falsely denied knowledge that her son had abused her grandsons.

28. Respondent's November 21, 2019 answers to questions 14(b), 14(b)(viii), and 15 from the September 17, 2019 request for comment asserted that she never witnessed her son strike Gary, Jr. Her answers were false or misleading, in that she did see her son strike Gary, Jr. multiple times. One specific occurrence is described in paragraph 10(h), above.

ANSWER: Judge Green categorically denies as untrue that she, in her November 21, 2019 responses to the September 17, 2019 requests for information from the Michigan Judicial Tenure Commission, or at any other time or on any other occasion, as part of a Request for Investigation or otherwise, provided false or misleading information or had knowledge that her son had abused her grandsons. In addition, and for purposes of specificity, Judge Green categorically denies as untrue that, at least one time in 2016 or 2017, she saw her son hit Gary Jr. on his face and chest while she was in the kitchen of her home and they were at the back door, as alleged in Paragraph 10(h), above.

29. Respondent's November 21, 2019 answers to questions 18(g) and 19 from the September 17, 2019 request for comments asserted that she put makeup on Gary, Jr. because Russell was making fun of him for being slapped by his father and for the mark on his cheek. Her answers were false or misleading because Russell never teased Gary about being slapped by their father or having a mark on his cheek, and neither of the boys ever told respondent or anyone else that Russell teased Gary, Jr. for this reason.

ANSWER: Judge Green categorically denies as untrue that she, in her November 21, 2019 responses to the September 17, 2019 requests for information from the Michigan Judicial Tenure Commission, or at any other time or on any other occasion, as part of a Request for Investigation or otherwise, provided false or misleading information or had knowledge that her son had abused her grandsons.

30. Respondent's November 21, 2019 answer to question 18 from the September 17, 2019 request for comments asserted that she put makeup on Gary, Jr.'s face on one occasion when she saw what looked like a handprint on his cheek. In context, her answer to question 18g asserted that she put makeup on Gary, Jr.'s face on only one occasion. Her answer was false and misleading, in that she put makeup on Gary, Jr.'s face four times to cover marks inflicted by her son.

ANSWER: Judge Green categorically denies as untrue that she, in her November 21, 2019 responses to the September 17, 2019 requests for information from the Michigan Judicial Tenure Commission, or at any other time or on any other occasion, as part of a Request for Investigation or otherwise, provided false or misleading information or had knowledge that her son had abused her grandsons. In addition, and for purposes of specificity, Judge Green categorically denies as untrue that she put makeup on the face of Gary, Jr. four times to cover marks inflicted by her son.

31. Respondent's November 21, 2019 answers to questions 18 and 19 from the September 17, 2019 request for comments asserted that she put makeup on Gary, Jr. on one occasion, but did not mention that she had also put makeup on Russell to cover abuse. This omission was false and misleading, in that she put makeup on Russell to cover an injury inflicted by her son.

ANSWER: Judge Green categorically denies as untrue that she, in her November 21, 2019 responses to the September 17, 2019 requests for information from the Michigan Judicial Tenure Commission, or at any other time or on any other occasion, as part of a Request for Investigation or otherwise, provided false or misleading information or had knowledge that her son had abused her grandsons. In addition, and for purposes of specificity, Judge Green categorically denies as untrue that she ever put makeup on the face of Russell to cover an injury inflicted by her son.

32. Respondent testified at a juvenile court hearing on March 13, 2019 as a witness on behalf of Gary Davis-Headd.

ANSWER: Judge Green admits that she testified as a witness on March 13, 2019 pursuant to subpoena.

33. Respondent made several false statements during her testimony including:

- That there were not times that Gary, Jr. showed her bruises on his body (transcript p. 63)
- That she did not use makeup to cover up Gary and Russell's bruises (transcript, p. 65)
- That Gary's testimony that respondent did cover up bruises on his face with makeup was a lie (transcript, p. 66)

ANSWER: Judge Green categorically denies as untrue that she ever observed, or was told about, bruises on the bodies of her grandsons at the hand of their father. Further, Judge Green categorically denies as untrue that she, while testifying under oath on March 13, 2019, or at any other time or on any other occasion, as a witness in a hearing or otherwise, made false or misleading statements. In addition,

and for purposes of specificity, Judge Green categorically denies as untrue that the statements referenced in pages 63, 65, and 66 of the March 13, 2019 hearing transcript were false or misleading in any respect.

34. Respondent's testimony at juvenile court that is cited in paragraph 33 contradicts her November 21, 2019 answer to question number 18 in the September 17, 2019 request for comments that she put makeup on Gary, Jr.'s face one time "Because Gary, Jr. and Russell were at an age where they were constantly teasing one another, Gary, Jr. told me that Russell was making fun of him for being slapped by his father and the mark on his cheek. I told Gary, Jr. that I could apply some liquid foundation to his cheek to make the mark go away. I applied some foundation to the cheek of Gary, Jr., but it was not successful in covering up the mark." (Q 18). Respondent's testimony in juvenile court and her statement to the Commission cannot reasonably both be true.

ANSWER: Judge Green categorically denies as untrue that she, while testifying under oath on March 13, 2019, in her November 21, 2019 responses to the September 17, 2019 requests for information from the Michigan Judicial Tenure Commission, or at any other time or on any other occasion, as a witness in a hearing or otherwise, made false or misleading statements. In addition, and for purposes of specificity, Judge Green categorically denies as untrue that the statements referenced in pages 63, 65, and 66 of the March 13, 2019 hearing transcript, and her response to Question 18 from the September 17, 2019 requests for information from the Michigan Judicial Tenure Commission, were false or misleading in any respect, or cannot reasonably both be true. One references bruises on the face of Gary, Jr., while

the other references a handprint on the face of Gary, Jr., which are in no way the same.

35. Respondent's testimony at juvenile court that is cited in paragraph 33, and respondent's November 21, 2019 answer to question number 18 in the September 17, 2019 request for comments, are both false, in that respondent put makeup on Gary, Jr., multiple times, and did not do so to prevent Russell from teasing him.

ANSWER: Judge Green categorically denies as untrue that she, while testifying under oath on March 13, 2019, in her November 21, 2019 responses to the September 17, 2019 requests for information from the Michigan Judicial Tenure Commission, or at any other time or on any other occasion, as a witness in a hearing or otherwise, made false or misleading statements. In addition, and for purposes of specificity, Judge Green categorically denies as untrue that the statements referenced in pages 63, 65, and 66 of the March 13, 2019 hearing transcript, and her response to Question 18 from the September 17, 2019 requests for information from the Michigan Judicial Tenure Commission, were false or misleading in any respect - - Judge Green categorically denies as untrue that she ever put makeup on the face of Gary, Jr. multiple times.

36. Each of the false statements described in paragraphs nineteen through thirty-five was misconduct, in violation of:

- a. MCR 9.202(B), which prohibits false or misleading statements to the Commission;
- b. MCR 9.104(2), which prohibits conduct that exposes the legal profession or the courts to obloquy, contempt, censure or reproach;

- c. MCR 9.104(3), which prohibits conduct that is contrary to justice, ethics, honesty, or good morals;
- d. Michigan Code of Judicial Conduct (MCJC) Canon 2(A), which requires that a judge avoid all impropriety and appearance of impropriety;
- e. MCJC Canon 2(B), which requires a judge to act in a way that promotes confidence in the integrity of the judiciary; and
- f. MRPC 8.4(b), which prohibits a lawyer from conduct involving dishonesty, deceit, or misrepresentation, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer.

ANSWER: Judge Green categorically denies as untrue that she was aware that her son had abused her grandsons, ever concealed evidence that her son had abused her grandsons, or, while testifying under oath on March 13, 2019, in her November 21, 2019 responses to the September 17, 2019 and October 30, 2019 requests for information from the Michigan Judicial Tenure Commission, or at any other time or on any other occasion, as a witness in a hearing or otherwise, made false or misleading statements. In addition, and for purposes of specificity, Judge Green categorically denies as untrue any alleged misconduct, including the alleged violations of sub-paragraphs a. - f., at any time.

Judge Green respectfully requests that the Complaint filed by the Michigan Judicial Tenure Commission be dismissed with prejudice for the reason that the allegations contained in the Complaint lack both factual and legal bases.

Respectfully submitted,

PLUNKETT COONEY

/s/ Michael P. Ashcraft, Jr.
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Dated: December 31, 2020

AFFIRMATIVE AND OTHER DEFENSES

Respondent, Honorable Judge Tracy E. Green (“Judge Green”), through her attorneys, Plunkett Cooney, and pursuant to MCR 9.230(B)(3), identifies the following affirmative and other defenses to the Complaint filed by the Michigan Judicial Tenure Commission (“the Commission”):

1. The Commission has failed to state a cause of action upon which relief can be granted as to Judge Green;
2. The Complaint has presented no genuine issue as to any material fact and Judge Green is entitled to judgment as a matter of law;
3. The Complaint is barred by laches;
4. The Complaint is barred by estoppel;
5. The Complaint is barred by lack of conditions precedent;
6. At all times referenced in the Complaint, Judge Green acted in a reasonable, prudent, and proper manner, in accordance with the laws of the State of Michigan, and in accordance with the standards, guidelines, rules of professional conduct and ethics, including the Michigan Code of Judicial Conduct and the ethics opinions interpreting the Michigan Code of Judicial Conduct, which govern judges presiding in the State of Michigan;

7. At all times referenced in the Complaint, Judge Green acted in a reasonable and proper manner, in accordance with the laws of the State of Michigan, and in accordance with the standards, guidelines, rules of professional conduct and ethics, including the Michigan Rules of Professional Conduct and the ethics opinions interpreting the Michigan Rules of Professional Conduct, which govern lawyers practicing in the State of Michigan;

8. At all times referenced in the Complaint, Judge Green acted in good faith;

9. The allegations in the Complaint pre-date both the election and investiture of Judge Green to the Third Circuit Court bench;

10. The allegations in the Complaint pre-date the alleged June 24, 2018 actions of Gary Davis-Headd charged by the Wayne County Prosecutor in the case of *People of the State of Michigan v Gary Lawrence Davis-Headd*, Wayne County Circuit Court, Case No.18-009282-01-FH;

11. The interviews of Gary Davis-Headd, Jr. and Russell Davis-Headd were improperly conducted in contravention of recognized standards and, as a result, are not credible;

12. Judge Green has never committed or been charged with a crime;

13. At all times referenced in the Complaint, Judge Green was unaware of any actions of Gary Davis-Headd that were in violation of MCL § 750.136b;

14. At all times referenced in the Complaint, Judge Green was unaware of any actions of Gary Davis-Headd that were in violation of MCL § 722.622;

15. Corporal discipline of a child is not prohibited by the civil or criminal laws of the State of Michigan;

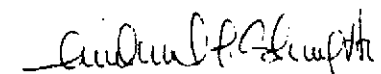
16. The use of force to discipline a child is not prohibited by the civil or criminal laws of the State of Michigan;

17. At all times referenced in the Complaint, Judge Green was unaware of any actions of Gary Davis-Headd that were contrary to the scope of reasonable parental discipline as described by M Crim JI 17.24; and,

18. Judge Green reserves the right to file additional affirmative and other defenses which may become known through the course of discovery.

Respectfully submitted,

PLUNKETT COONEY

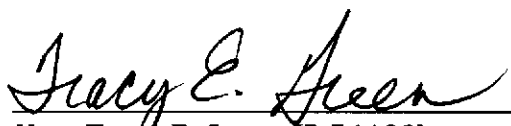


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Dated: December 31, 2020

VERIFICATION OF JUDGE TRACY E. GREEN

Under the penalty of perjury, Judge Tracy E. Green verifies that the information contained in the above Answer to Complaint, Affirmative Defenses, and Other Defenses, is true and accurate to the best of my knowledge and information and, as to those matters based upon my belief, I believe those matters to true.



Hon. Tracy E. Green (P 56488)
Third Circuit Court
Wayne County
State of Michigan

Dated: December 31, 2020

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