To be Argued by:
LAWRENCE M. MANDELKER
Time Requested: 30 Minutes

Court of Appeals
State of New York

JCR 2016-0001

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

ALAN M. SIMON,

Petitioner,

a Justice of the Spring Valley Village
Court and the Ramapo Town Court,
Rockland County,

- against -

STATE COMMISSION ON JUDICIAL CONDUCT,

Respondent.

REPLY BRIEF FOR PETITIONER

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NEW YORK STATE COURT OF APPEALS

In the Matter of the Review of the Determination by the New York State Commission on Judicial Conduct Pursuant to Section 44, subdivision 7 of the Judiciary Law that

ALAN M. SIMON **JCR 2016-0001**

be removed from the offices of Justice of the Spring Valley Village Court and the Ramapo Town Court, Rockland County.

Preliminary Statement

Petitioner Hon. Alan M. Simon ("Petitioner"), a Justice of the Spring Valley Village Court and the Ramapo Town Court, Rockland County, submits this memorandum in reply to the Brief of Respondent State Commission on Judicial Conduct ("Respondent") and in further support of his request that this Court review Respondent's Determination dated March 29, 2016 finding him guilty of judicial misconduct in connection with his service as a Justice of the Spring Valley Village Court and recommending that he be removed from that office. It also recommended that Petitioner be removed from the office of Justice of the Ramapo Town Court even though there is no evidence in the record that there has ever been a complaint filed against him in connection with his service as a Town Justice and even though he was re-elected as a Justice of the Ramapo Town Court by 99% of the vote in November 2015.

Argument

POINT I

THIS COURT HAS NEVER UPHELD THE REMOVAL OF A JUDGE UNLESS THE JUDGE'S ACTIONS WHILE PRESIDING OVER MATTERS DEPRIVED LITIGANTS OF FUNDAMENTAL RIGHTS OR DEMONSTRATED PERSONAL, FINANCIAL, RACIAL OR OTHER BIAS THAT EITHER DID OR WOULD AFFECT THE DETERMINATION OF MATTERS BEFORE THE COURT

At the end of the day, the fundamental right that citizens can and should expect from the Judiciary is that they will have the right to a full and fair hearing on a matter they bring before a court; and that the determination of that matter will be made according to the Rule of Law and be free from favoritism, personal bias or prejudice on the part of the judge. This Court has described the State's interest in preserving these rights for litigants as "overriding." *Matter of Nicholson*, 50 N.Y.2d 597, 607 (1980). "Litigants have a right under the Due Process Clause to a fair and impartial magistrate and the State, as the steward of the judicial system, has the obligation to create and maintain a system that ensures equal justice and due process." *Matter of Watson*, 100 N.Y.2d 290, 301 (2003), as well as the absence of "bias or favoritism" in the rendering of decisions made by its courts. *Matter of Raab*, 100 N.Y.2d 305, 313 (2003). "The ability to be impartial is an indispensable requirement for a judicial officer" *Matter of Scardino v. State Commission on Judicial Conduct*, 58 N.Y. 2d 286, 290 (1983). "The perception of impartiality is as important as actual impartiality" *Matter of Duckman*, 92 N.Y. 2d 141,153 (1998). Serious violation of these fundamental rights by jurists has been the coda that runs through all of this Court's decisions finding that the

extraordinary sanction of removal should be applied to a sitting judge, especially an elected judge.

It is noteworthy that Petitioner has not even been charged with, let alone found to have committed, any behavior that adversely affected the fundamental rights of any litigant who appeared before him. Likewise, he has not been charged with any actions that demonstrate bias, prejudice or favoritism in presiding over matters being litigated before him. Although Respondent argues that Petitioner committed serious misconduct in *Malcolm Curtis v. Cheryl Scott* when he relieved Legal Services of Hudson Valley (LSHV) as attorney for Mr. Curtis without consulting him. (RB 51),[1] LSHV had expressly declined to appear for Mr. Curtis. The papers drafted by LSHV stated: *Form prepared by Legal Services of Hudson Valley as a courtesy to pro se tenants. No attorney/client relationship exists and none is to be inferred between "Tenant" and Legal Services of Hudson Valley* (R 13). Indeed, it was LSHV's refusal to appear for Mr. Curtis while purporting to advocate on his behalf that caused Petitioner to sanction it. (R 1518-19). As demonstrated in his opening brief, Petitioner protected Mr. Curtis' rights. His failure to afford the LSVH attorneys with whom he dealt an opportunity to be heard constituted misconduct. But not misconduct warranting his removal from office.

Respondent would remove Petitioner for actions having nothing to do with the manner in which he presided over litigated matters in his courtroom or the determination of matters therein -- to wit, his rude and bullying behavior to his co-workers outside the courtroom. Those actions were lamentable, and constitute judicial misconduct. But they do not warrant his removal from elected office. His interpersonal behavior to non-litigants outside the courtroom amounted to poor judgment, but as this Court has

[1] Respondent's Brief page 51

explained, "the extreme sanction or removal . . . is excessive when the misconduct amounts solely to poor judgment, even excessively poor judgment." *Matter of Skinner*, 91 N.Y.2d 142, 143 (1997).[2]

As shown by Petitioner in his initial brief, this Court has never upheld the removal of a judge for actions that do not amount to depriving litigants of fundamental rights while presiding over matters, or to demonstrating a fundamental personal, financial, racial or other bias that did or would affect the determination of matters before the court. Upholding the Commission's sanction of removal herein would be an unprecedented step, and one this Court should not take.

Petitioner challenged the Commission to present this Court with even one of this Court's prior decisions wherein removal was approved on the charges made in this case, and the Commission has not done so, because it cannot. Instead, the Commission chooses to retreat behind the notion that judicial misconduct cases are "sui generis" (RB 57) and that, apparently, for that reason the Commission has the right to have this Court give its imprimatur to a Commission determination of removal because the Commission's judgment as to remedies should not be questioned. That is not the law.

The Commission's failure to present this Court with any precedent upon which removal was found to be mandated on the sole basis of the out-of-court misconduct complained of herein is underscored by its repeated citation to decisions of this Court where it argues that removal was approved on charges involving "inter alia" the ones it

[2] This Court in Skinner explained that among the factors that "suggest the sanction of removal is unduly severe" were that Judge Skinner was "the elected choice of the voters to hold the office of Town Justice" and there was "no evidence of any prior complaints regarding his judicial service" and that, with respect to the Commission's argument regarding discrepancies in the Judge's testimony before the Commission, "its use as an aggravating factor should be approached cautiously.") 91 N.Y.2d at 143-44.

sustained against Petitioner. (RB 48, 50, 52). What is most telling about each one of those decisions (each of which is briefly discussed in Point II, *infra*.) is the "alia" that Respondent does not explain in relying on those decisions. In fact, in every one of the Commission's "inter alia" citations, this Court based the sanction of removal on other and more serious charges involving misconduct involving deprivation of litigants' fundamental rights and/or admitted bias or prejudice, none of which is present here.

Point II

THE COURT SHOULD EXERCISE ITS PLENARY POWERS ON REVIEW AND DO WHAT THE COMMISSION REFUSED TO DO, NAMELY BEFORE DETERMINING THAT PETITIONER BE REMOVED EXAMINE WHETHER THE MISCONDUCT PROVEN DEMONSTRATED FUNDAMENTAL PERSONAL, FINANCIAL, RACIAL OR OTHER BIAS OR PREJUDICE OR DEPRIVATION OF A LITIGANT'S FUNDAMENTAL RIGHTS

In its Determination, Respondent cited *Matter of VonderHeide*, 72 NY 2d 658, 660 (1988) (R34-35) as justifying Petitioner's removal from the bench in that "a pattern of injudicious behavior and inappropriate actions ... cannot be viewed as acceptable conduct by one holding judicial office." *Matter of VonderHeide* was the first, but unfortunately, not the last decision of this Court that Respondent has cited in these proceedings for its language of general application without disclosing that the judicial misconduct to which the language refers was far more serious that Petitioner's misconduct in this matter.

In *VonderHeide*, the pattern of injudicious behavior and inappropriate actions included repeatedly seeking out and interviewing witnesses out of court and making judgments based on their unsworn *ex parte* statements to him, failing to disqualify

himself in two criminal cases in which he was a fact witness and, arraigning a complaining witness and accepting his guilty plea even though no accusatory instrument had been filed and without providing any explanation of the "defendant's" rights. Unlike Petitioner's misconduct, Judge VonderHeide's misconduct went far beyond rude, intemperate or abusive out of court language. He directly and repeatedly deprived numerous litigants of their fundamental right to be heard when appearing in Court.

In order to support its position that, in and of itself, Petitioner's highly intemperate reaction to the corrupt Mayor Jasmin having hired Maxary Joseph to work in the clerk's office over his objection justifies his removal from office, Respondent cites several decisions of this Court of which even a cursory examination of each decision demonstrates that the language of general application on which Respondent relies was based on misconduct that was far more serious that Petitioner's conduct in this matter.

For example, *Matter of Roberts*, 91 N.Y.2d 93 (1977) is cited (RB 47) as authority to remove a jurist who "does not measure or control his conduct." But unlike Petitioner's misconduct, the actual misconduct in *Roberts* deprived litigants of their fundamental rights: Judge Roberts sentenced an elderly woman to 87 days in jail for failure to pay a $1.50 cab fare after she was unable to pay a fine because she lived on her Social Security income. In another matter, he exhibited bias against women when he refused to issue a protective order where one was called for because he "didn't believe in them"; and then stated that "every woman needs a good pounding."

Respondent cites *Matter of Blackburne*, 7 N.Y.3d 213 (2006) (RB 47, 56) for the proposition that removal of a jurist who "exceeded all measure of acceptable judicial

conduct is appropriate." But there is no comparison between Petitioner's rude and intemperate conduct and that of Judge Blackburne. While presiding in court on a criminal matter, Judge Blackburn learned that the police were seeking to arrest a defendant who was appearing before her for another serious felony. In order to thwart the police from carrying out their sworn duty, and without regard to whether she was placing the public at risk, she ordered her court officers to sneak the defendant out of the building by the judge's exit, thereby facilitating the escape of an accused violent felon.

The Commission next cites *Matter of Aldrich*, 58 N.Y.2d 279 (1983) (RB 47, 56) as sanctioning removal where the judge's actions "resulted in an irretrievable loss of public confidence in his ability to properly carry out his judicial responsibilities." The judicial responsibilities in question related to the ability to fairly and impartially preside over matters.

In notable contrast to Petitioner, Justice Aldrich was found to have presided over cases while intoxicated, used racial epithets in court, and used racial slurs and brandished a knife when confronting a guard. See also, *Matter of Quinn*, 54 N.Y.2d 386 (1981) cited in *Matter of Aldrich* (B 47) for the same proposition. Justice Quinn was also an alcoholic who had numerous continuing DUI and dangerous driving arrests, despite having been admonished by the Commission for the same conduct two years before. Neither jurist could be trusted to fairly and impartially preside over matters.[3]

Matter of Restaino, 10 N.Y.3d 577 (2008) was cited as authority for removal of a

[3] Given Petitioner's re-election in Spring Valley in 2013 with almost 50% of the vote in a three-person race and his re-election in Ramapo in 2015 with over 99% of the vote, apparently, there was no loss of public confidence – much less an irretrievable loss of public confidence in his ability to properly carry out his judicial responsibilities.

jurist who "exhibited insensitivity, indifference and a callousness so reproachable that his continued presence on the bench cannot be tolerated." (RB 47, 57). Once again there is no comparison between Petitioner's off the bench intemperate reaction to the hiring of Maxary Joseph and Justice Restaino's misconduct when, upon hearing a cell phone ring in his court, he revoked the bail of all 46 defendants present and had them shackled and taken to jail, a gross violation of their fundamental rights.

Matter of Gibbons, 98 N.Y.2d 448 (2002), was cited as authority for removal of judge who was "totally out of control for only a single day" (RB 56). It involved a judge who, after he signed a warrant for a search of a corporation, telephoned the corporation to alert it before the warranted search could be executed, a show of favoritism to the corporation and bias against the prosecution, which is inimical to the requirement that a jurist be impartial.

Matter of Waltemade, 37 N.Y.2d (nn), 349 N.Y.S.2d 989 (Ct. Judiciary 1975) (RB 48) was cited as authority to discipline a jurist for "poor judicial temperament." However, unlike petitioner, Justice Waltemade engaged in years of abusive behavior toward litigants and counsel while presiding over matters. Unlike Petitioner, Justice Waltemade had received several prior admonitions for doing so. And unfortunately, unlike Petitioner, Justice Waltemade was censured, not removed.

Respondent's next argument for justifying Petitioner's removal from the bench was that Petitioner had repeatedly threatened court personnel and Village officials with summary contempt, citing *Matter of Jung*, 11 N.Y.3d 365 (2008) where the "judge [was] removed, *inter alia,* for misuse of summary contempt." (RB 47, 51). In fact, the "*alia*" was that Judge Jung ran his courtroom by his own "policies" which contradicted statutes

and court rules, denied due process rights to appear, to be heard, or to be represented by counsel for defendants, and repeatedly and improperly sentenced defendants to jail where they served time until they were later released by writs of habeas corpus. *Matter of Hamel*, 88 N.Y.2d 317 (1996), (RB 48), cited for the same proposition, involved a judge found to have deprived litigants before him of due process rights, imposed fines without there being any underlying convictions, and whose disregard of judicial recordkeeping duties resulted in litigants paying double fines or serving double sentences.

Matter of Hart, 2009 AR 97 (2008) (RB 49), was also cited for the proposition (with which Petitioner agrees) that making a baseless threat to hold someone in contempt is misconduct, even when not acted upon. However, unlike Petitioner's misconduct, the underlying misconduct in *Hart* included presiding over cases where disclosure of personal interest and recusal was warranted, delaying a ruling purposefully to "punish" a litigant the judge did not like, and offering to testify for an attorney in a disciplinary matter only if the attorney in turn testified for the judge in his disciplinary matter. Yet for all of that Judge Hart, who had previously been censured, was merely censured again, not removed. See also *Matter of Shkane*, 2009 AR 170 (2008) (RB 49) which involved a judge who, unlike Petitioner, made baseless threats of contempt in court to litigants before him, and was only admonished, not removed.

The Commission's next argument is that Petitioner's use of rude and offensive language justified his removal, citing, *Matter of Assini*, 94 N.Y.2d 26 (1999) as an occasion where "judge [was] removed for offensive language" (RB 49), in fact, the judge's misconduct was far more than the use of offensive language. He presided over

matters where he should have disclosed relationships with litigants and recused himself; he refused to perform judicial duties by ignoring more than 100 cases; he allowing a private individual to sit on the bench with him and provide *ex parte* recommendations for sentencing, and; he repeatedly sentenced defendants to a for-profit driving program run by a friend, all of which occurred after Judge Assini received a prior letter of caution for his behavior.

Matter of Duckman, 92 NY2d 141 (1998) is cited as an authority for removal where "judge [was] removed for, *inter alia,* insulting prosecutors" (RB 50, 53), conduct that occured while he was presiding over matters in court. In fact, the "*alia"* included "willfully disregarding the law" in issuing decisions, dismissing cases without giving prosecution notice or the opportunity to be heard, "willfully disregard[ing] provisions of law that resulted in improper dismissal of criminal charges", displaying "evident bias against the prosecution" while "acting in a manner . . . prejudicial to the fair and proper administration of justice", "knowing disregard of the law", "wrongdoing both in connection with case disposition and in court proceedings generally."

Respondent next cited *Matter of Kuehnel*, 49 N.Y.2d 465 (1980) a decision where the "judge [was] removed for, *inter alia,* outrageous verbal abuse" (RB 50). In that case, the judge, while intoxicated, accosted black youths outside a bar, exhibited racial bias by calling them "niggers", striking two of them and then pressured the youths' families into giving him releases.

Respondent also cited *Matter of LaBombard*, 11 N.Y.3d 294 (2008) as a precedent where a "judge [was] removed for, *inter alia,* using prestige of office to intimidate motorist." (RB 52). Once again, there is no discussion of the "*alia."* It

included the evidence of bias, interest and deprivation of a litigant's fundamental rights based on the judge having presided over and deciding matters involving her relatives where disclosure and recusal would have been proper, changing bail on an *ex parte* request with no notice to the prosecution, and trying to influence another judge who was presiding over a case involving her relatives.

Matter of Mason, 100 N.Y.2d 56 (2003) was cited for a removal of a judge, whose misconduct was "compounded" by lack of candor (RB 52). But there was much more to that case than lack of candor. Judge Mason had for years before becoming a judge, comingled client funds with his own and paid personal expenses from client escrow accounts, conduct that would have justified his disbarment. Incredibly, he continued that misconduct after being elected as a judge. Moreover, Judge Mason did not cooperate with the Commission and offered inconsistent and evasive answers at various times during the hearing. There is nothing in the record about Petitioner that even approaches either the quality or the seriousness of Judge Mason's transgressions or his lack of condor.

Matter of Marshall, 8 N.Y.3d 741 (2007) cited for "lack of candor warrants removal" (RB 52) involved not only in-court misconduct affecting dispositions – the judge dismissed violations without notice to the prosecution after ex parte contacts with defendants – but the "lack of candor" referred to the judge having altered judicial records in trying to conceal his misconduct.

Matter of Kuehnel, supra., was also cited for the proposition that a "'gross lack of candor' was a factor warranting removal." (RB 52). Although the Court mentioned Judge Kuehnel's lack of candor, he was removed from office for having used racial

epithets when confronting four young black men outside a bar, having physically struck two of them, having pressured their families into giving him a release and, according to the opinion, most significantly for having previously been censured for having shown favoritism toward certain defendants.

Respondent cited *Matter of Sims* 61 N.Y.2d 349 (1984), *Matter of Duckman, supra., Matter of Aldrich, supra.* and *Matter of Hart*, 7 N.Y.3d 1 (2008) for the proposition that a judge's failure to recognize the inappropriateness of his actions is a significant aggravating factor on the issue of sanctions. (RB 53). Nevertheless, a review of those decisions demonstrates that it was the character of the judicial misconduct in those cases – overt in-court bias against the prosecution in *Duckman*; and in-court intoxication, use of racial epithets and brandishing a knife in *Aldrich* – and not their failure to recognize how inappropriate their conduct was – that led to their removal.

Matter of Hart, 7 N.Y.3d 1 (2007) demonstrates why Petitioner's misconduct should not result in his removal from the bench. Justice Hart's misconduct was much more serious than Petitioner's and directly implicated the right to a fair trial. Unlike Petitioner, in *Hart*, the judge was found to have improperly threatened attorneys before him with contempt, presided over cases where he had relationships with counsel, denied counsels' requests to make a record, stayed an eviction without basis to "punish" a bank, engaged in bullying tactics on the bench, and offered to testify on behalf of an attorney in a disciplinary matter if that attorney would testify in favor of the judge in his matter before the Commission. For all of this, the Commission in *Hart* imposed a sanction of censure, not removal, even though Judge Hart had *previously been*

censured by the Commission for wrongfully holding a litigant in summary contempt. *See, Matter of Hart*, 2006 AR 171.

Likewise, in *Matter of Sims,* the judge and her husband (and former law partner) continued to act as "team" in that as judge she signed releases for his clients, improperly signed an arrest warrant for a person who had been involved in an accident with her son, and exhibited a pattern of bias in presiding over matters and in dispositions.

Of course, none of these cases are applicable in that as demonstrated in his opening brief, Petitioner has both acknowledged and apologized for the inappropriateness of his actions and has never engaged in such inappropriate actions during his years of service as a town justice in Ramapo, his service during 2014 as acting village justice in Suffern or his service for the 21 months prior to his suspension as a village justice in Spring Valley.

In *Matter of Watson, supra.*, this Court exercised its plenary power and, taking into account two factors that are present in the within proceeding reduced the Commission's determined sanction of removal to a sanction of censure. In Watson, the issue was whether the jurist should be removed from office for having violated the pledge or promises clause during his campaign and created the perception that he would be biased in favor of the prosecution. The Commission believed that his impartiality had been irremediably compromised. This Court disagreed. First, it took into consideration that just as Petitioner had done after the referee had issued his report, Judge Watson "expressed remorse and acknowledged before the Commission that he exercised extremely poor judgment" after the referee had issued its report.

Matter of Watson, supra at 303. Second, the Court noted that during the two years that the Watson investigation had been pending, no additional charges of misconduct had been proffered. *Matter of Watson, supra.* at 305, fn 3

Respondent argues that it was justified in not believing Petitioner's personal expression of remorse to the Commission and his acknowledgment that his actions could not be justified, and invites this Court to disregard the teaching of *Matter of Watson.* It cites *Matter of Bauer*, 3 N.Y.3d 158 (2004) for the argument that contrition cannot "override inexcusable conduct" (RB 54). But Bauer involved 39 sustained charges of misconduct demonstrating the judge's long pattern of refusing to inform criminal defendants before him of their right to counsel, convicting defendants without a trial or a plea, imposing illegal excessive sentences and extreme bail in violation of litigants' rights, exactly the type of bias, prejudice and partiality the absence of which "is an indispensable requirement for a judicial officer" *Matter of Scardino v. State Commission on Judicial Conduct*, 58 N.Y. 2d 286, 290 (1983).

In both *Matter of Going,* 97 N.Y.2d 121 (2001) and *Matter of Collazo*, 91 N.Y.2d 251 (1998) (RB 55), it was the underlying misconduct, not lack of credibility that justified removal. In *Going,* a judge who had already received a prior admonition for his conduct subsequently: pursued a romantic relationship with a court attorney; interfered with her then boyfriend's service as a law guardian; engaged in sexual harassment; appeared disheveled in court; prepared and signed an *ex parte* order for a friend who owed child support; and without notice, did not sit for one week, disrupting the court's calendar and workings.

In *Collazo,* the judge made sexually suggestive comments to an intern in court and asked her to take off clothes. He then failed to disclose pending complaints about the aforesaid to the NY Senate Judiciary Committee evaluating his appointment to another judicial position.

Finally, *Matter of Shilling*, 51 N.Y.2d 397 (1980) cited for the proposition that judge whose conduct "demonstrates blatant lack of judgment and judicial temperament" (RB 56) should be removed notwithstanding an otherwise excellent reputation, concerned a judge already issued an admonition who exhibited favoritism when he sought to have violations issued to a party with whom he had a relationship removed, threatened the issuing agency and made an *ex parte* approach to the judge handling the violations drop the charges. Needless to say, none of the charges proffered against Petitioner involved an attempt to obtain favorable treatment to a party with whom he had a relationship.

Point III

THE PURPOSE OF A JUDICIAL DISCIPLINARY PROCEEDINGS IS NOT PUNISHMENT, BUT THE IMPOSITION OF SANCTIONS WHERE NECESSARY TO SAFEGUARD HE BENCH FROM UNFIT INCUMBENTS

In *Matter of Watson, supra.*, the Court described the process of exercising its plenary review of the facts and circumstances when reviewing a determination by Respondent. The first step is to determine whether a petitioner's actions "violated the Rules Governing Judicial Conduct and constitutes misconduct worthy of sanction." *Matter of Watson, supra.* at 298. Petitioner has accepted the Referee's findings and conclusions and conceded before the Commission that his violations of the Rules

Governing Judicial Conduct could not, as he had argued before the Referee, be justified.

Having determined that misconduct worthy of sanction occurred, the next step is for the Court to address whether the determined sanction – here removal – is the appropriate sanction. *Matter of Watson, supra.* at 303.

It cannot be gainsaid that despite any provocation he may have experienced, Petitioner's failure to act with patience and courtesy to the chief clerk of Spring Valley Village Court, his co-village justice, and other village employees and officials with whom he dealt in an official capacity, his intemperate and abusive reaction to the hiring of a student intern without being consulted or even being given a copy of the intern's resume and his promiscuous threats to hold them and others in contempt constituted serious misconduct for which he should be censured. But except for the manner in which he interacted with the lawyers from Legal Services of Hudson Valley (LSVH) in the *Malcolm Curtis v. Cheryl Scott* matter, none of his intemperance was committed in connection with presiding over a litigated matter; and as to that matter, although he was rude to the attorneys from LSVH, he went out of his way to protect and vindicate Mr. Smith's rights and expeditiously restore him to possession of his apartment from which he had been wrongfully evicted. There was no evidence presented that Petitioner was ever biased or prejudiced against or showed favoritism to any litigant, or that he was incapable of presiding in court with an open mind.

Respondent erred when it determined that removal was called for as there was no basis in the record on which to conclude that Petitioner was unlikely to repeat his misconduct.

Conclusion

THE DETERMINED SANCTION SHOULD BE REJECTED AND THE SANCTION OF CENSURE SHOULD BE IMPOSED

Respectfully submitted,

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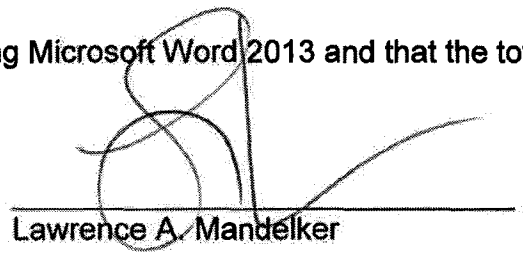
CERTIFICATION PURSUANT TO RULE 500.13 (C) (1)

I certify that this brief was prepared using Microsoft Word 2013 and that the total word count for the body of the brief is 4,647.



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