

# BEFORE THE STATE COMMISSION ON JUDICIAL CONDUCT

CJC Nos. 22-1347, 24-0448, 24-0508 & 24-0625

### PUBLIC REPRIMAND

# HONORABLE MARY LOU ALVAREZ 45<sup>th</sup> DISTRICT COURT SAN ANTONIO, BEXAR COUNTY, TEXAS

During its meeting on April 2-3, 2025, the State Commission on Judicial Conduct concluded a review of the allegations in these matters against the Honorable Mary Lou Alvarez, the judge of the 45<sup>th</sup> District Court in San Antonio, Bexar County, Texas. Judge Alvarez was advised by letter of the Commission's concerns and provided written responses.

After considering the evidence before it, the Commission enters the following Findings and Conclusion:

#### FINDINGS OF FACT

1. At all relevant times, the Honorable Mary Lou Alvarez served as judge of the 45<sup>th</sup> District Court in San Antonio, Bexar County, Texas.

#### CJC No. 22-1347

- 2. Family law attorney, Kate Soulsby ("Soulsby") represented an intervenor, Ivonne Perkins ("Perkins"), in the case styled *In the Interest of E.R.S., a Child*, Cause No. 2019-CI-23835 (the "E.R.S. Case") set in the 45<sup>th</sup> District Court with Judge Alvarez presiding.
- 3. In preparation for an upcoming hearing, Soulsby issued a subpoena requesting the custodian of records at a medical facility to appear with the Respondent Mother, J'lee Plumlee's ("Plumlee") medical records at the hearing. However, the custodian of records provided Soulsby with copies of the medical records directly. Soulsby denied reviewing the records and instead deleted them.
- 4. Soulsby issued a second subpoena, again directing the custodian of records to appear in court with the records. In response to the second subpoena, the custodian of records sent a

link to the medical records to Soulsby. At the next hearing, Soulsby informed Plumlee's counsel of the situation and deleted the link with the medical documents in front of them.

- Due to issues with the subpoena and medical records, Plumlee's counsel filed a *Motion for Sanctions and a Motion for Protective Order* seeking monetary damages against Soulsby. On March 7, 2022, Judge Alvarez heard the motion and not only granted monetary damages but also *sua sponte* ordered Soulsby to be removed as counsel from the case, preventing Soulsby from communicating with Perkins' future counsel, and prohibiting Soulsby from taking an adverse position against Plumlee.
- 6. Soulsby filed a *Motion for Reconsideration*, which Judge Alvarez denied. As a result, Soulsby filed a *Petition for Writ of Mandamus* with the Fourth Court of Appeals. The Fourth Court of Appeals granted the Petition for Mandamus because the record did not "support a conclusion that disqualification was a proper remedy."
- 7. The Fourth Court of Appeals ordered Judge Alvarez to vacate its rulings disqualifying Soulsby and prohibiting Soulsby from conferring with other attorneys, but permitted the non-disqualification remedies to be re-urged as sought in the motion for sanctions ("4<sup>th</sup> COA Mandamus Ruling").<sup>2</sup> The Fourth Court of Appeals stated the writ of mandamus would only be issued if the trial court failed to comply within ten days of the opinion date, which was June 22, 2022.<sup>3</sup>
- 8. Judge Alvarez issued her *Order Vacating Ruling from the March 7, 2022 Hearing* on July 20, 2022, which failed to meet the deadline issued by the Fourth Court of Appeals. In this order, Judge Alvarez noted that if the motion for sanctions were re-urged, it would be considered by submission.
- 9. On August 4, 2022, Soulsby filed a *Motion for Recusal* seeking Judge Alvarez's removal from the E.R.S. Case.
- 10. On August 24, 2022, Administrative Regional Presiding Judge Sid Harle heard the recusal motion and found that Judge Alvarez exceeded the scope of the 4<sup>th</sup> COA Mandamus Ruling by setting the rehearing on the *Motions for Sanctions* by submission. Therefore, Judge Harle granted the recusal as to the pending sanctions hearing only, but denied the recusal request for the entire case.
- 11. On September 14, 2022, Judge Rosie Alvarado, the presiding judge of the 438<sup>th</sup> District Court, heard the re-urged *Motion for Sanctions*. Judge Alvarado denied the *Motion for Sanctions* and required Plumlee's counsel to pay attorney fees of \$5,037.50 and expert witness fees of \$5,520.00, which was in direct contrast with Judge Alvarez's previous rulings.
- 12. Following the E.R.S. Case, Soulsby and her associate represented Ms. Lindner ("Lindner"), in the Lindner Matter, Cause Number 2020-CI-24348 (the "Lindner Case") for a sevenday trial set in the 45<sup>th</sup> District Court with Judge Alvarez presiding. After Judge Alvarez heard the opposing parties' testimony on the first day of trial, Judge Alvarez modified the

<sup>&</sup>lt;sup>1</sup> In re Soulsby, No. 04-22-00173-CV, 2022 Tex. App. LEXIS 4210, at \*12-13 (Tex. App.—San Antonio June 22, 2022, no pet.)

<sup>&</sup>lt;sup>2</sup> *Id*.

<sup>&</sup>lt;sup>3</sup> *Id*.

- opposing parties' visitation from supervised to unsupervised without hearing any testimony from Lindner or hearing Soulsby's concerns before making this order, which included ten witnesses ranging from lay people to experts.
- 13. In her written responses to the Commission, Judge Alvarez admitted that the Fourth Court of Appeals found that she abused her discretion in the E.R.S. Case when she improperly analyzed the harm prong of the test to disqualify Soulsby, and that she failed to timely comply with the Fourth Court of Appeals decision within the ten-day time frame as she "did not learn of the need to do so until after the expiration of the ten-day period."
- 14. Judge Alvarez stated Bexar County Civil District Courts General Counsel Ryan Anderson ("Anderson") is responsible for monitoring the Fourth Court's daily mandamus orders and failed to inform her of the mandamus order, which is why she failed to comply in a timely manner.
- Judge Alvarez disagreed with Judge Harle's finding that she exceeded the scope of the 4<sup>th</sup> COA Mandamus Ruling when she set the *Motion for Sanctions* to be heard by submission. Judge Alvarez believed that since she had already had an in-person hearing, there was nothing improper about issuing a new ruling without another hearing. Judge Alvarez acknowledged she was recused from hearing the *Motions for Sanctions* in the E.R.S. Case, and Judge Alvarado made the opposite decision, denying the motion.
- Regarding the Lindner Case, Judge Alvarez stated the unsupervised visitation she ordered was a single two-hour dinner in a public place. Judge Alvarez said she was "simply exercising [her] continuing authority under the Texas Family Code to amend temporary orders concerning supervision and access." However, Judge Alvarez conceded the case had been assigned to her for a five-day bench trial. Judge Alvarez asserted that no objection was made when Judge Alvarez made the order in open court.
- 17. Judge Alvarez asserted she complied with the law and maintained professional competence in the law even though she did not timely comply with the Fourth Court of Appeals Order.
- 18. Judge Alvarez further denied failing to allow Lindner to be heard in the Lindner Case because she was only making an interim change to existing temporary orders based on evidence she heard on the first day of trial, and Soulsby failed to object.

## CJC Nos. 24-0448 & 24-0625

- 19. Justice Patricia O'Connell Alvarez ("Justice P. Alvarez") cited her "ethical obligation to report Judge Mary Lou Alvarez's conduct, one that is a clear disregard of our Judicial Code," as Judge Alvarez "continuously disregarded mandatory precedent and unduly interfered with the powers of the legislative branch."
- 20. An Anonymous Complainant supported Justice P. Alvarez's concerns as Judge Alvarez issued "unconstitutional orders to harass the Department of Family Protective Services, its employees, and the children within its custody."
- 21. Based on Judge Alvarez's rulings, nineteen cases were appealed. In all nineteen cases, the Fourth Court of Appeals granted the petition, at least in part, and therefore reversed a portion, if not the entire ruling, by Judge Alvarez.

- 22. The Fourth Court of Appeals issued its first decision on June 1, 2022 (the "June 1, 2022 Mandamus Case"). Judge Alvarez ordered the Department of Family Protective Services (the "Department") to submit a written offer for the placement of a child for \$2,000 per day, with an additional \$500.00 subsidy for the first nine months, to certain child-placing agencies. The Fourth Court of Appeals found that ordering the Department to enter a child-specific contract violated the Separation of Powers Clause of the Texas Constitution.
- The June 1, 2022 Mandamus Case was relied on in thirteen other opinions regarding the Department issued by the Fourth Court of Appeals as a result of Judge Alvarez's rulings: (1) 2<sup>nd</sup> June 15, 2022 Mandamus Case<sup>5</sup>; (2) June 22, 2022 Mandamus Case<sup>6</sup>; (3) 2<sup>nd</sup> June 22, 2022 Mandamus Case<sup>7</sup>; (4) 2<sup>nd</sup> July 20, 2022 Mandamus Case<sup>8</sup>; (5) August 3, 2022 Mandamus Case<sup>9</sup>; (6) August 10, 2022 Mandamus Case<sup>10</sup>; (7) 2<sup>nd</sup> August 10, 2022 Mandamus Case<sup>11</sup>; (8) August 17, 2022 Mandamus Case<sup>12</sup>; (9) October 12, 2022 Mandamus Case<sup>13</sup>; (10) August 23, 2023 Mandamus Case<sup>14</sup>; (11) October 11, 2023 Mandamus Case<sup>15</sup>; (12) March 27, 2024 Mandamus Case<sup>16</sup>; and (13) April 24, 2024 Mandamus Case<sup>17</sup>.
- 24. Judge Alvarez made six of these trial rulings after the June 1, 2022 Mandamus Case was published: (1) October 12, 2022 Mandamus Case; (2) August 23, 2023 Mandamus Case; (3) October 11, 2023 Mandamus Case; (4) March 27, 2024 Mandamus Case; (5) April 24, 2024 Mandamus Case; and (6) May 6, 2024 Mandamus Case.
- 25. In the October 11, 2023 Mandamus Case, the Fourth Court of Appeals mentioned that Judge Alvarez acknowledged she was aware of the Fourth Court of Appeals' previous decision regarding child-specific contracts.<sup>18</sup>
- 26. During the *de novo* hearing discussed by the October 11, 2023 Mandamus Case, Judge Alvarez stated, "I am familiar with the Forth [sic] Court opinion in -- I have all these tabs open on my second screen -- the Forth [sic] Court opinion under Court of Appeals No. 4-- nope. That's the wrong tab. *In the Interest of N.P.*, the opinion that's attached to your e-mail, Ms. Argabright. I'm familiar with it." Nonetheless, Judge Alvarez still ordered the

<sup>&</sup>lt;sup>4</sup> In Re the Texas Department of Family and Protective Services, 660 S.W.3d 161, Cause No. 04-22-00040-CV.

<sup>&</sup>lt;sup>5</sup> In Re the Texas Department of Family and Protective Services, 2022 WL 2135534, Cause No. 04-22-00165-CV.

<sup>&</sup>lt;sup>6</sup> In Re the Texas Department of Family and Protective Services, 2022 WL 2230719, Cause No. 04-22-00092-CV.

<sup>&</sup>lt;sup>7</sup> In Re the Texas Department of Family and Protective Services, 2022 WL 2230720, Cause No. 04-22-00091-CV.

<sup>&</sup>lt;sup>8</sup> In Re the Texas Department of Family and Protective Services, 2022 WL 2820937, Cause No. 04-22-00085-CV.

<sup>&</sup>lt;sup>9</sup> In Re the Texas Department of Family and Protective Services, 660 S.W.3d 175, Cause No. 04-22-00175-CV.

<sup>&</sup>lt;sup>10</sup> In Re the Texas Department of Family and Protective Services, 2022 WL 3219596, Cause No. 04-22-00087-CV.

<sup>&</sup>lt;sup>11</sup> In Re the Texas Department of Family and Protective Services, 2022 WL 3219924, Cause No. 04-22-00094-CV.

<sup>12</sup> In Re the Texas Department of Family and Protective Services, 2022 WL 3372425, Cause No. 04-22-00166-CV.

<sup>&</sup>lt;sup>13</sup> In Re the Texas Department of Family and Protective Services, 2022 WL 6815172, Cause No. 04-22-00341-CV.

<sup>&</sup>lt;sup>14</sup> In Re the Texas Department of Family and Protective Services, 2023 WL 5418313, Cause No. 04-23-00382-CV.

<sup>&</sup>lt;sup>15</sup> In Re the Texas Department of Family and Protective Services, 679 S.W.3d 266, Cause No. 04-23-00594-CV.

<sup>&</sup>lt;sup>16</sup> In Re the Texas Department of Family and Protective Services, 2024 WL 1289597, Cause No. 04-23-00865-CV.

<sup>&</sup>lt;sup>17</sup> In Re the Texas Department of Family and Protective Services, 2024 WL 1748050, Cause No. 04-24-00016-CV.

<sup>&</sup>lt;sup>18</sup> In Re the Texas Department of Family and Protective Services, 679 S.W.3d 266, 278.

Department to pay arrears after the statutory time frame expired and to continue making monthly cash payments to S.C. at a specific rate.

- 27. In the June 15, 2022 Mandamus Case<sup>19</sup> and the July 6, 2022 Mandamus Case<sup>20</sup>, the Fourth Court of Appeals stated Judge Alvarez further violated the Separation of Powers Clause of the Texas Constitution when she ordered the removal and/or discipline of specific Department caseworkers, specifically stating Judge Alvarez "figuratively removed her judicial robe and stepped into the role of directing Department operations."<sup>21</sup>
- 28. In the June 20, 2024 Mandamus Case<sup>22</sup>, the Fourth Court of Appeals found that Judge Alvarez acted as an advocate instead of a "neutral, detached, and fair judiciary" in an Order they issued on May 6, 2024 (the "May 6<sup>th</sup> Order").<sup>23</sup> The Fourth Court of Appeals explained, on April 11, 2024, they issued a stay in the underlying matter to prevent Judge Alvarez "from continuing the use of her judicial office beyond the legitimate exercise of her authority."<sup>24</sup>
- 29. However, on April 29, 2024, Judge Alvarez filed a motion to temporarily lift the stay to conduct additional permanency hearings. In granting the limited, temporary lift of the stay, the Fourth Court of Appeals noted they "are deeply concerned with the trial judge's conduct in the underlying matter" and took the opportunity "to remind the trial court that it is a servant of the law and not an advocate for any party."<sup>25</sup>
- 30. Also, in the May 6<sup>th</sup> Order, the Fourth Court of Appeals noted Judge Alvarez had previously filed a motion requesting the Court to partially lift its stay to allow a chambers conference, as Judge Alvarez asserted the conference was necessary to provide her with the opportunity to evaluate the child's well-being in response to him contacting the court in a state of crisis. Based on Judge Alvarez's assertions, the Court granted the motion and allowed the chambers conference, but expressly stated the Department "may attend the chambers conference but is not required to do so." Judge Alvarez violated the limited parameters for the stay, as she excluded the Department from the chambers conference and held an additional, unauthorized hearing, in which she overruled multiple objections by the Department, made findings of fact, and ordered the Department to prepare an order of the findings.
- 31. In the nineteen cases outlined, Judge Alvarez failed to timely vacate her order within the time limit required by the Fourth Court of Appeals in seven cases: (1) June 22, 2022 Mandamus Case; (2) 2<sup>nd</sup> June 22, 2022 Mandamus Case; (3) July 20, 2022 Mandamus Case; (4) October 12, 2022 Mandamus Case; (5) October 11, 2023 Mandamus Case;

<sup>&</sup>lt;sup>19</sup> In Re the Texas Department of Family and Protective Services, 2022 WL 2135572, Cause No. 04-22-00096-CV.

<sup>&</sup>lt;sup>20</sup> In Re the Texas Department of Family and Protective Services, 2022 WL 2442169, Cause No. 04-22-00196-CV.

<sup>&</sup>lt;sup>21</sup> Id.

<sup>&</sup>lt;sup>22</sup> In Re the Texas Department of Family and Protective Services, 696 S.W.3d 240, Cause 04-24-00219-CV.

<sup>&</sup>lt;sup>23</sup> In Re the Texas Department of Family and Protective Services, Cause No. 04-24-00219-CV (Tex. App. – San Antonio May 6, 2024, order).

<sup>&</sup>lt;sup>24</sup> Id.

<sup>&</sup>lt;sup>25</sup> Id.

<sup>&</sup>lt;sup>26</sup> Id.

<sup>&</sup>lt;sup>27</sup> In Re the Texas Department of Family and Protective Services, 2022 WL 2821251, Cause 04-22-00163-CV.

- (6) March 27, 2024 Mandamus Case; and (7) April 24, 2024 Mandamus Case. This is approximately a 36% failure rate.
- 32. In her written responses to the Commission, Judge Alvarez acknowledged rulings from the Fourth Court of Appeals are binding precedents for the 45<sup>th</sup> District Court but denied continuously disregarding mandatory precedent. Judge Alvarez asserted she signed more of her orders "before having the benefit of the earliest mandamus opinion by the court of appeals." Judge Alvarez believed she fashioned different orders to comply with the Fourth Court of Appeals after receiving the earliest mandamus, but the Court stated she had no authority to sign orders directing changes to permanency plans.
- Judge Alvarez had not done any additional education or research on her judicial authority under Texas Family Code section 263.5031(4) or the Separation of Powers Clause under the Texas Constitution since receiving multiple mandamus opinions declaring her orders void, as she believed the opinions of the court of appeals addressed the issues. Judge Alvarez asserted she met with her general counsel to discuss how she "might retool [her] future orders to comply with the appellate court's directives."
- 34. Judge Alvarez did not know if any other mandamuses and/or appeals had been filed based on her rulings that were granted or conditionally granted by the Fourth Court of Appeals and does not know how to obtain the information.
- 35. When asked why she failed to comply in a timely manner, Judge Alvarez stated that Anderson "overlooked the order from the court of appeals, and [she] did not know of the need to sign a vacating order." Judge Alvarez stated her failures were not intentional but an oversight. Judge Alvarez also blamed the failure to timely vacate an order on being out of the office for vacation or judicial training. Judge Alvarez stated that "as a result of this experience," she has begun to review the weekly orders of the court of appeals and also has a friend who specializes in appellate law review them each week." Judge Alvarez stated she hopes this "triple-backstop" process eliminates the possibility of mistakes in the future.
- Regarding the May 6<sup>th</sup> Order, Judge Alvarez denied abandoning her role as a neutral judge or improperly serving as an advocate for the child. Judge Alvarez further acknowledged she did not invite the Department to attend the chambers conference, despite the Fourth Court of Appeals order, because she followed her standard practice, which excludes the Department from chambers conferences. Judge Alvarez stated she did not interpret the statement from the Court to mean they were commanding her to permit the Department's attendance. Judge Alvarez denied holding an "additional hearing" in this matter and violating the limited parameters for the stay from the Fourth Court of Appeals. Judge Alvarez stated open court hearings are standard practice after a conference in chambers.
- Judge Alvarez denied harassing the Department, its employees, and/or the children within its custody. Judge Alvarez asserted she has handled dozens of cases with the Department "without rancor or incident." Judge Alvarez asserted her decisions were all made to protect children in these cases.

#### CJC No. 24-0508

Family law attorney Diane Martinez ("Martinez") consistently worked as an appointed Amicus Attorney in Bexar County. However, on December 13, 2023, and February 8,

- 2024, Judge Alvarez made statements to attorneys in her courtroom that she would not appoint Martinez as an Amicus Attorney and would not sign an order appointing her as such, despite an agreement by the parties.
- As a result of Judge Alvarez's actions, Martinez filed a *Motion to Recuse* when the case, *In the Interest of A.M.C.*, a Minor Child, Cause No. 2010-CI-14827 (the "A.M.C. Case") was set in Judge Alvarez's court for a three-day hearing. Judge Alvarez timely referred the *Motion to Recuse* to the regional presiding judge after declining to recuse herself. Judge Harle heard the *Motion to Recuse*, signed an *Order Granting Motion to Recuse*, and reassigned the A.M.C. Case to the Bexar County Monitoring Court.
- 40. On May 1, 2024, Judge Alvarez had a trial setting in a case in which Martinez was appointed as Amicus Attorney, but Martinez had not been made aware of such appointment. When the other attorneys appeared for trial, they stated that they believed Martinez was appointed as amicus, but she had not done any work on the case. Judge Alvarez responded, "I'm not appointing Diane Martinez. But that's not before me" and "I'm shocked" when she heard Martinez had not done any work. Judge Alvarez continued to make comments about Martinez throughout the hearing, including:
  - "So you do not believe Ms. Martinez has done any work on this case in five months?"
  - "You don't even have the amicus attorney that was appointed almost five months ago present and ready for trial."
  - "I do have concern that the amicus attorney was appointed by a court and is not present, nor does there seem to be any engagement over the last five months of the amicus on the Odyssey system. I don't know if she has indeed done any work."

Judge Alvarez wrote the following in her docket notes: "Amicus atty failed to appear' and 'Amicus atty D. Martinez not even present for final trial setting."

- 41. On June 21, 2024, Judge Alvarez had a hearing in which one of the attorneys informed her that Martinez was unaware of her appointment, so she was absent and had not conducted any work. When the attorney asked for a reset, Judge Alvarez granted it and stated, "I've made a note that it's in part because there is no amicus here or work completed." Judge Alvarez added in her docket notes, "D. Martinez appointed and did not appear and did not do any work" and "TRO extended in part b/c no amicus appearance or work by."
- 42. On October 9, 2024, when Martinez was out of the country and had a vacation letter on file, one of Martinez's cases had a setting. The other attorneys informed Judge Alvarez that Martinez would not be appearing, but she was announcing "ready for trial" for the trial set on October 14, 2024. Judge Alvarez responded, "How am I to hear her position if she is not here? So what do I do?" Judge Alvarez further added, "All Right. I wish I would have known when I was practicing law, that I could have practiced law by proxy, as Ms. Martinez appears to be doing. But you know, who knew?" Those in the courtroom laughed in response, which is noted in the record.
- 43. In December 2024, Martinez was set before Judge Salinas for a jury trial. During jury selection, one of the jurors stated he knew Martinez as the amicus attorney from his previous case and would be biased. Judge Alvarez contacted Debra Jimenez ("Jimenez"), the court reporter for Judge Salinas, to order the transcript from jury selection to provide

- to the Commission. Judge Alvarez informed Jimenez that Bexar County would pay for the transcript, which cost \$712.50.
- 44. In her written responses to the Commission, Judge Alvarez admitted she refuses to appoint Martinez as an amicus attorney in any case where she is the judge. Judge Alvarez denied any personal bias or animus, but asserted she is concerned about Martinez's deficient performance as an amicus attorney in previous cases.
- 45. Judge Alvarez asserted that when she made the statement, "I'm shocked," it was not said in sarcasm, but that the allegation that Martinez had not done anything in five months shocked her, despite her serious concerns about Martinez.
- 46. Judge Alvarez denied Martinez's missed appearance was an announcement docket, but that it was a *Motion for Continuance* hearing.
- 47. Judge Alvarez admitted Bexar County paid for the \$712.50 transcript from jury selection and two other transcripts, for which Judge Alvarez failed to disclose the cost to the Commission. Judge Alvarez thought the "county could pay for the transcript because it supported [her] defense against allegations concerning [her] role as a judge." Judge Alvarez said she would be willing to repay the funds to the county, and she "anticipates having the funds to do so within the next two or three months."

#### RELEVANT STANDARDS AND AUTHORITIES

- 1. Canon 2A of the Texas Code of Judicial Conduct provides, in relevant part: "A judge shall comply with the law..."
- 2. Canon 2B of the Texas Code of Judicial Conduct provides, in relevant part: "A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others."
- 3. Canon 3B(2) of the Texas Code of Judicial Conduct provides, in relevant part: "A judge...shall maintain professional competence in [the law]."
- 4. Canon 3B(5) of the Texas Code of Judicial Conduct provides: "A judge shall perform judicial duties without bias or prejudice."
- 5. Canon 3B(8) of the Texas Code of Judicial Conduct states, in relevant part: "A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law."
- 6. Article V, Section 1-a(6)A of the Texas Constitution provides, in relevant part, a judge shall not engage in "willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice."

#### CONCLUSION

Based upon the record before it and the factual findings recited above, the Texas State Commission on Judicial Conduct has determined that the Honorable Mary Lou Alvarez, the judge of the 45<sup>th</sup> District Court, in San Antonio, Bexar County, Texas, should be publicly reprimanded for: (1) failing to comply with the law and maintain professional competence in the law when she

failed to timely file an Order Vacating Ruling from the March 7, 2022 Hearing pursuant to the Fourth Court of Appeals order in the E.R.S. Case; (2) failed to accord every person with a legal interest in a proceeding the right to be heard when she made a ruling granting unsupervised visitation during a final trial before allowing Lindner to be heard on the issue in the Lindner Case; (3) failing to comply with the law and maintain professional competence in the law when she: (a) received sixteen (16) opinions from the Fourth Court of Appeals finding that she violated the Separation of Powers Clause of the Texas Constitution after the Fourth Court of Appeals had previously made rulings regarding this issue in same or similar cases from her court; and (b) failed to follow orders issued by the Fourth Court of Appeals in a timely fashion seven times; (4) failing to perform her judicial duties without bias or prejudice when nineteen (19) of her orders directed at the Department were found to be void or overturned by the Fourth Court of Appeals; (5) engaging in willful and persistent conduct that is clearly inconsistent with the proper performance of her duties and cast public discredit upon the judiciary or the administration of justice when her actions and conduct: (a) resulted in seven (7) mandamuses in the J.D. Case; (b) resulted in at least nineteen (19) mandamuses regarding case involving the Department of Family and Protective Services; and (c) acknowledged the Fourth Court of Appeals opinions but then disregarded the binding precedent in those opinions; (6) failing to perform her judicial duties without bias or prejudice when she: (a) made several disparaging comments regarding Martinez in open court; (b) refused to sign any orders appointing Martinez as an Amicus Attorney; and (c) requested a transcript from a different court regarding a case in which Martinez, a party's attorney, was mentioned by a potential juror while Martinez had an active judicial complaint filed against her at the time; and (7) lending the prestige of her judicial office to advance her own private interests when she had Bexar County pay for multiple transcripts to use in her defense to the Commission; in violation of Canons 2A, 2B, 3B(2), 3B(5) and 3B(8) of the Texas Code of Judicial Conduct and Article V, Section 1-a(6)A of the Texas Constitution.

The Commission has taken this action pursuant to the authority conferred on it in Article V, Section 1-a(8) of the Texas Constitution in a continuing effort to promote confidence in and high standards for the judiciary.

Issued this the 12 day of May, 2

Ken Wise

Vice-Chair, State Commission on Judicial Conduct