

STATE OF MICHIGAN
IN THE SUPREME COURT

COMPLAINT AGAINST

Hon. Byron J. Korschuh
40th Circuit Court
255 Clay Street
Lapeer, Michigan 48446

Docket No. 159088
Formal Complaint No. 100

THE HONORABLE BYRON J. KORSCHUH'S AFFIRMATIVE DEFENSES

The Hon. Byron J. Korschuh, by and through his attorneys, Collins Einhorn Farrell PC, and states as follows for his affirmative defenses:

1. The Judicial Tenure Commission's unitary structure of investigation, prosecution, and adjudication violates Judge Korschuh's right to due process.
2. The allegations against Judge Byron Korschuh are barred in whole or in part, by the application of the doctrine of laches.
3. The Lapeer County policies and procedures that the Judicial Tenure Commission now rely upon were never published, enforced or made known to Judge Korschuh or the Lapeer County Prosecutor's Office during the relevant time period, and as a result, cannot be used to against Judge Korschuh.
4. The funds from the BounceBack program, LEORTC and the City of Lapeer District Court Attorney are not public funds and consequently, are not subject to the requirement that they be submitted to the appropriate county departments.

5. The funds from the Transmodus program, the BounceBack program, LEORTC and the City of Lapeer District Court Attorney were not used for Judge Kenschuh's personal gain, but for the benefit of the Lapeer County Prosecutor's Office.

6. Judge Kenschuh did not incur a personal gain as his personal contributions toward office expenses for the Lapeer County Prosecutor's office exceeded any amounts realized from a third-party source and collections from LCPO staff.

7. In the matter of *People v Kenschuh*, Judge Kenschuh believed he was pleading nolo contendere to MCL 21.44 was stipulated to in conjunction with the March 8, 2016 stipulation and agreement that provided, in part, that "Judge Kenschuh will plead 'no contest' that there may be an interpretation of MCL 21.44 that supports the argument that he should have reported the collection of these funds to the State or other appropriate entity for accounting purposes."

8. The allegations against Judge Byron Kenschuh concerning reimbursements from the Corelogic funds are barred in whole or in part, due to the fact that all reimbursements were approved by Lapeer County Controller John Biscoe.

9. The allegations against Judge Byron Kenschuh of misrepresentations are based on incomplete, misconstrued and/or misstatements of facts and prior representations, and should be dismissed.

10. Judge Kenschuh was not required to recuse or disqualify himself in cases involving Michael Sharkey and David Richardson, and allegations contrary to this should be dismissed.

11. Judge Kenschuh provided oral and written disclosures to litigants and their counsel concerning his relationship with Michael Sharkey and obtained acknowledgement and waivers from defendants and their counsel. Allegations contrary to this should be dismissed.

COLLINS EINHORN FARRELL P.C.

By: /s/ Donald D. Campbell
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Dated: April 2, 2019