

ATTACHMENT 4

TIMELINE CONCERNING DIVORCE/DESTRUCTION OF EVIDENCE

1990:

Respondent married Don Root (Respondent Tr 10/1/18, p 105/4-7)

September 2013:

Root moved out of the marital home (Respondent Tr 10/1/18, p 105/12-17)¹

2014:

In 2014 she was assigned *all* Livingston County divorces without children (Respondent Tr 10/10/18, p 1691/17-22)

Before 12/2/16:

Respondent anticipated Root would file for divorce (Respondent Tr 10/1/18, pp 105/24 – 106/4)

About 12/1/16:

One or two days before the divorce was filed, respondent and Root discussed the status of respondent's cell phone.²

¹ The Master's report includes a reference that Donald Root, respondent's husband, moved out of the marital home in September 2013, "one or two days before Mr. Root filed an action for divorce." As the complaint for divorce was filed on December 2, 2016, that reference was in error. However, it has no impact on the Master's conclusions of misconduct regarding these issues.

² Respondent testified that Root demanded she return the phone. (Respondent Hrg Tr 6, pp 1335/15 – 1336/4) If accurate, her testimony made Root's demand the cause of her eventually obtaining a new cell phone, and is consistent with her self-portrait as a victim of Root. However, text messages between respondent and Root during the period December 2-5 suggest her getting a new phone was a consequence of her wanting to obtain a new cell phone provider plan that was not maintained by Root's business, and that Root did not object to respondent's goal. On December 5 respondent advised Root that she had to obtain a new cell phone because she could not transfer her old phone to a new plan. (Ex. 4-10 p 3 (12/1/16 8:39 p.m.); p 4 (12/2/16 7:14 a.m.); p 6 (12/2/16 2:34 p.m.); p 7 (12/5/16 6:10 p.m.))

12/2/16 (Friday):

At 7:14 a.m. respondent texted Root that “the [divorce] case will Automatically [sic] be assigned to me and I will of course DQ myself.” (Ex 4-10 p 5)

Root filed for divorce later on December 2, 2016. The divorce did not involve children. (Respondent Tr 10/1/18, pp 105/20-23, 106/10-11) Jeannine Pratt, secretary to Chief Judge David Reader, was asked by the clerk how to handle the filing, since respondent’s husband had filed for divorce and respondent was the only judge who handled the docket for divorces without children. (Pratt Tr 10/2/18, p. 316/13-19) Pratt advised the clerk to assign the case to respondent per the court’s administrative order, and it would be up to respondent to disqualify herself. (Pratt Tr 10/2/18, pp 316/13 – 317/1)

Judge Reader informed respondent of the divorce. (Pratt Tr 10/2/18, p 317/3-7; Reader Tr 10/2/18, pp 356/19 – 357/10) He expected respondent to disqualify herself from the case, but did not speak with her about that. (Reader Tr 10/2/18, p 357/18-21) However, respondent made no effort to disqualify herself from her divorce case that day, though knowing it was on her docket. (Respondent Tr 10/1/18, p 108/16-22)

12/5/16 (Monday):

Judge Reader expected to receive respondent’s disqualification from the divorce case, but respondent still made no effort to disqualify herself. (Reader Tr 10/2/18, p 358/3-11; respondent Tr 10/1/18, pp 108/23 – 109/19) Respondent spoke with her divorce attorney for 17 minutes during the afternoon. (Ex 4-6 p 3, call # 190 (the phone number for respondent’s attorney, Michael Quinn, is on Ex 4-8))

12/6/16:

Respondent still did not disqualify herself from her divorce case. (Respondent Tr 10/1/18, p 115/5-8) Late that morning Root filed an emergency ex parte motion to preserve evidence, including all data on respondent's cell phone. (Pratt Tr 10/2/18, pp 319/4 – 320/1; Ex 4-3 p 2 ¶¶ 1, 4) Judge Reader was concerned that respondent had not yet disqualified herself, because the emergency motion had been filed and it was necessary to have respondent's disqualification before the state could reassign the case to someone who could review the motion. (Reader Tr 10/2/18, pp 358/22 – 359/3, 362/2-6)

Judge Reader learned Pratt was going to Brighton that day, so asked her to pick up respondent's order disqualifying herself. (Reader Tr 10/2/18, pp 361/22 – 362/6) Pratt believed the ex parte motion made respondent's disqualification an urgent matter. (Pratt Tr 10/2/18, pp 322/21 – 323/10)

At the direction of Judge Reader, at 11:47 a.m. Pratt informed respondent by phone that the ex parte motion had been filed and respondent needed to sign an order disqualifying herself, so other Livingston County judges could also disqualify themselves and respondent's divorce could be referred to SCAO for reassignment. (Pratt Tr 10/2/18, p 320/11-24, 19-24; Ex. 4-9 p 2) With the approval of Judge Reader, Ms. Pratt read the title and first paragraph to respondent and advised she would email it to her. (Pratt Tr 10/2/18, pp 320/25 – 321/13)

Pratt emailed respondent the ex parte motion and a disqualification order ready for respondent's signature at around 11:57 a.m. (Exs 4-2, 4-3; respondent Tr 10/1/18, pp 119/11 – 120/9; Pratt Tr 10/2/18, p 326/14-22)

Pratt told respondent she would come to respondent's court in the afternoon to pick up the order of disqualification. (Pratt Tr 10/2/18, p 324/15-22) Nothing in the conversation gave

Pratt the impression there would be any problem with her picking up the order that afternoon. Respondent made no statement that she was too busy, or otherwise asking Pratt not to come by. Based on the conversation, Pratt believed respondent would have the signed order for her to pick up. (Pratt Tr 10/2/18, pp 324/23 – 325/9, 326/9-13)

Immediately after getting off the phone with Pratt the morning of December 6, respondent spoke with her divorce attorney again, this time for six minutes. (Ex 4-6 p 3 call # 197) Meanwhile, Pratt emailed respondent the ex parte motion and a disqualification order ready for respondent's signature. (Exs 4-2, 4-3; respondent Tr 10/1/18, pp 119/11 – 120/9; Pratt Tr 10/2/18, p 326/14-22)

After Pratt told respondent, the morning of December 6, that she would come to respondent to pick up the signed disqualification order, she went to the Brighton courthouse that afternoon. (Pratt Tr 10/2/18, p 327/10-22; respondent Tr 10/1/18, pp 120/22 – 121/13) When she arrived, respondent opened the door by her office area, where she was standing with court administrator John Evans. Respondent refused to sign the disqualification order when Pratt presented it to her, stating she had not spoken with her attorney. (Respondent Tr 10/1/18, p 122/2 – 122/23; Pratt Tr 10/2/18, p 328/9-12; Evans Tr 10/2/18, p 407/12-24)) Respondent did not say anything else about the disqualification order. (Pratt Tr 10/2/18 p 328/13-20) It concerned Judge Reader that he did not get respondent's disqualification order on December 6. (Reader Tr 10/2/18, p 362/7-10)

12/6 and/or 12/7 2016:

Robbin Pott saw respondent's secretary, Tammi Morris, make multiple unsuccessful attempts to get respondent to sign the disqualification order. It was sitting on respondent's desk for a couple of days and respondent's refusal to sign it made Ms. Morris uneasy. (Pott Tr

10/2/18, pp 426/9 – 427/6) Based on what she saw, Pott concluded that respondent was avoiding signing the order (Pott Tr 10/2/18, pp 427/24 – 428/3)

12/7/16:

Respondent represented to the Commission that she signed the disqualification order the morning of December 7 and placed it with mail to be transported from the Brighton court to the Howell court. (Respondent Tr 10/1/18, pp 132/9 – 133/14) State Court Administrative Office Regional Administrator Jodi Latuszek informed Judge Reader that she had heard the order was signed and was in “the bucket” (a box used to transport documents from Brighton to Howell). (Reader Tr 10/2/18, p 362/17-22) Judge Reader and Pratt told the afternoon mail clerk, responsible for picking up the mail from the Brighton court, to be on the lookout for the disqualification order. (Reader Tr 10/2/18, pp 362/23 – 363/4; Pratt Tr 10/2/18, p 330/1-14) When the clerk came back, in the late afternoon, the order was not in the mail. (Reader Tr 10/2/18, pp 363/6-9, 365/10-17; Pratt Tr 10/2/18, p 330/22-24)

Respondent told the Commission the reason the disqualification order was not in the December 7 mail run must have been that the mail run was early that day. (Respondent Tr 10/1/18, p 133/10-22; Ex. 16 p 22; Ex. 19 p 30 ¶ 57; Ex. 21 pp 22-23 ¶ 156) However, respondent claimed to have put the signed order in the mail that morning, and Pratt was explicit that the clerk left in the late afternoon to pick up the mail; which was, in any event, after Judge Reader had heard indirectly that the order was signed. (Pratt Tr 10/2/18, p 330/15-21) If respondent was correct that she signed the order and placed it in the mail that morning, it should have arrived in Howell as part of the afternoon mail pickup. On the other hand, if respondent did sign the order in time for the afternoon mail pickup, or signed it but did not put it in the mail, she has not explained why she continued to delay executing the order while December 7 progressed.

Note that respondent's not signing the order until sometime after the mail pickup is more consistent with Pott's observations that respondent rebuffed her secretary's efforts to get her to sign the order on multiple days.

12/8/16:

Between the time Root filed the motion to preserve evidence and December 8, respondent asked people, including her staff and a police officer, for assistance deleting information, including an email account, from her cell phone. (Respondent Tr 10/10/18, p 1699/9-13; Pott Tr 10/2/18, pp 428/15 – 429/7 and 446/24 – 448/12; Milhouse Tr 10/3/18, pp 527/9 – 528/10) At the time she did that she knew she had to give the phone back to Root, and also knew the phone was subject to Root's motion to preserve it. (Respondent Tr 10/10/18, pp 1699/1 – 1700/1)

This day, December 8, respondent asked her court recorder, Felica Milhouse, to try to delete the Hotmail account from her phone. (Milhouse Tr 10/3/18, p 528/5-20) Milhouse could not discover how to do that. (Milhouse Tr 10/3/18, p 528/14-20) After Milhouse assisted respondent to begin the day's court proceedings, respondent instructed her to leave her duty station as court recorder to continue her effort to delete the email account from respondent's phone. (Milhouse Tr 10/3/18, pp 528/21 – 529/9) Respondent told Milhouse she wanted the account deleted because her husband wanted the phone back. (Milhouse Tr 10/3/18, p 532/8-15)

Following respondent's instructions, after Milhouse called the first case on December 8 she left the courtroom and again attempted to delete the account. When that was not successful she conducted a Google search on how to do so. (Milhouse Tr 10/3/18, pp 529/19 – 530/2, 546/20 – 547/22, and 558/10-22) Milhouse believed respondent's request to delete the email account was a matter of urgency that needed to be done right away. (Milhouse Tr 10/3/18, p 529/10-14) She did not believe respondent was joking when she told Milhouse to leave the

courtroom in order to figure out how to delete the email account from respondent's phone. (Milhouse Tr 10/3/18, p 530/12-14) A forensic review of Milhouse's court computer revealed that between 10:00 a.m. and 5:45 p.m. this day, 72 internet searches were made on variations of the phrase "how to terminate [or delete or deactivate] a Hotmail account permanently." (Stipulation of November 2, 2018)

When Robbin Pott first heard respondent ask her staff about deleting information from her cell phone, she assumed respondent must be joking because she could not believe a person would really do such a thing. (Pott Tr 10/2/18 p 429/3-20) It became clear to her respondent was not joking when respondent went so far as to ask the same question of a police officer who came to court seeking a search warrant. Pott also came to believe respondent was serious due to her continuing refusal to sign the disqualification order in her own divorce case. (Pott Tr 10/2/18, p 429/13 -- 430/6) Once Pott understood respondent was serious about deleting the information from her phone, she became so concerned about the impact of respondent's behavior on her own license to practice law that she consulted with an attorney. (Pott Tr 10/2/18 p 430/7 – 431/1)

On or shortly before December 8 respondent bought a new cell phone. When she did that, she had unspecified data copied from her old phone to the new phone, during which some "glitches" occurred. (Respondent Tr 10/8/18, pp 1337/20-21, 1339/18 – 1340/12-18) After having data copied from her old phone to the new phone, she had her old phone reset to its factory settings. (Respondent Tr 10/8/18, pp 1341/22 – 1342/1; Tr 10/10/18, p 1701/8-23). Respondent's doing that removed all data from her old phone. (Stipulation, November 2, 2018) During the formal hearing respondent admitted she knowingly deleted, or caused to be deleted, information from the old phone, knowing the phone was the subject of a motion to preserve

evidence then pending in her divorce case then assigned to her. (Respondent Tr 10/10/18, pp 1700/22 – 1701/23 & 1704/3-6)

On December 8 court administrator Evans went to the Brighton court. Judge Reader asked him to pick up the disqualification order from respondent while he was there. (Evans Tr 10/2/18, pp 405/6 – 406/2) Respondent handed him an envelope and stated: “This is what Dave’s been having a cow about.” (Evans Tr 10/2/18, p 412/1-8) The envelope contained Exhibit 4-5. Respondent did not mention anything to Evans about the order having been intended for, but somehow omitted from, the previous day’s mail. (Evans Tr 10/2/18, p 412/11-16)

12/9/16:

Respondent’s divorce case was reassigned to Hon. Janelle Lawless. (Ex. 1-3)