

AFFIDAVIT OF JENNIFER ETHEL BETTS

I JENNIFER ETHEL BETTS, [REDACTED], magistrate, make oath and say:

INTRODUCTION

1. I make this Affidavit in response to the Complaints currently being considered, and which have been referred for hearing, by the Conduct Division of the Judicial Commission of New South Wales. Where I refer in my Affidavit to an Exhibit, I refer to the Tab of the separate Exhibit Bundle marked "JEB-1" accompanying this Affidavit, behind which that document can be found.
2. I was appointed a Magistrate for the State of New South Wales on Monday, 24 October, 1994. I have worked as a magistrate continuously since that appointment.
3. I have been presiding at Parramatta Local Court since January, 2010 and will do so until at the end of 2012.
4. The policy of the Chief Magistrates Office is to rotate suburban magistrates every three years with country magistrates being rotated after 5 years service. Exhibited hereto and marked "A" is the list of appointments I have had as a Magistrate.

BACKGROUND

Education and Employment History

5. I obtained my Higher School Certificate in 1973 from Randwick North High School. I was Vice Captain of that school. I had earlier obtained my School Certificate from Marrickville Girls Junior High in 1971. I was also Vice Captain of that school. I continued my education and went onto Sydney University to study an Arts degree. I completed first year but then commenced work at the end of 1974 in Local Courts due to family circumstances.
6. Exhibited hereto and marked "B" are references from my prior working and school life.

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7. I commenced legal studies doing the Solicitors Admissions Board course but then transferred the Legal Studies degree at Macquarie University which I completed in 1983. I then completed the College of Law practical training course.
8. From November, 1974 until 1981 I worked as a clerk in the then Petty Sessions Branch of the Attorney General's Department, working at various Local Courts including Redfern, Central, Queanbeyan, Paddington, Parramatta, Bathurst, Oberon, Albury and most Sydney suburban courts.
9. From 1981 to 1984 I worked in the Department of Attorney General's office firstly in the Secretariat and then in the Legislative, Policy Division.
10. I was admitted as a Non Practising Barrister in May 1984 and then as a Solicitor in May 1985.
11. From November 1984 until May 1992 I was employed as a Principal Solicitor in the Office of Director of Public Prosecutions. I was granted six months leave without pay upon going to Hong Kong but this was not extended by the then Director of Public Prosecutions, Reg Blanch. I then had to formally resign from the NSW Public Service.
12. Prior to my appointment as a Magistrate I was employed by the Hong Kong Government as a Crown Counsel and then Senior Crown Counsel conducting trials in the District Court and the High Court and prosecuting Police in the Magistrates Court. This employment was from May 1992 until October 1994. I was then appointed and have served as a Magistrate as referred to at paragraph 4 and Annexure "A".

Family Situation

13. I was born at Crown Street Womens Hospital on 9 July 1955 the elder born of twins.
14. My twin sister [REDACTED] is currently employed with [REDACTED] as a Systems Analyst.
15. I have two elder brothers. My oldest brother [REDACTED] is an actuary and is semi retired.
16. My other brother [REDACTED] has had difficulties with alcohol throughout his adult life and works as a forklift driver.

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17. My mother passed away on 17 July, 1979 of Hypertensive Cardiovascular disease at age 57 years. At the time of her death I was working at Bathurst Local Court.
18. My father, William (d.o.b. 23.1.22) still resides in the family home at 169 George Street, Redfern on his own. My sister and I keep in touch with him on a regular basis. He is generally in good health although he has for the past four years had regular treatment at Royal Prince Alfred Hospital for [REDACTED]
[REDACTED]
19. My health is generally good although I have had recurrent surgery over the years for an Haemangioma on my right hand and for Ovarian cysts.
20. I am on medication for High Blood Pressure and for Depression. This will be addressed in more detail below.

MEDICAL ISSUES

21. I am the mother of a 17 year old son, [REDACTED] born in Sydney on 9 August, 1993.
22. My son was aged 14 months when I was sworn in as a Magistrate.
23. My son's father resided in Hong Kong until 2000 and now lives in his home town of Adelaide. He is [REDACTED] married with a 12 year old daughter.
24. Our relationship ended in Hong Kong before I found out that I was pregnant,
25. At the time I owned a two bedroom house at Bexley and upon returning to Australia I had to look for a bigger house and to engage some form of child care. I did my own conveyancing.
26. I subsequently sold my house at Bexley and purchased a 3 bedroom house at Sans Souci. I also engaged a nanny to look after my son pending a vacancy becoming available at Family Day Care.
27. My son and I moved into the new house in January 1995. By that time [REDACTED] was in family day care at Monterey and then later at Sans Souci.
28. At this time I was working at Parramatta Local Court and then at Burwood Local Court.

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29. It was towards the end of 1995 that I first sought assistance in coping with single motherhood as well as a challenging career.
30. I attended my Local GP Dr Peng Chan at Sans Souci and was prescribed Tryptanol, an anti depressant. My solicitors have sought to obtain Dr Chan's records of this prescription without success. Exhibited hereto and marked "C" is a copy of a letter from McLachlan Thorpe Partners to Dr Chan dated 14 July 2010.
31. From my diary I have noted that I saw Mr Garry Morton, Psychologist at Kogarah on three occasions, namely on 14 December 1995, 21st December 1995 and on 4 January, 1996. I have endeavoured to obtain file notes of these consultations however they have since been destroyed. Exhibited hereto and marked "D" are copies of diary notes and letter dated 23 July 2010 from Garry Morton, psychologist.
32. At that time I was experiencing difficulties with coping as a single mother as well as the challenges of a Judicial career. I recall one morning on the way to Burwood Court I had to pull over the car as I was in an anxiety state. I telephoned Peter Norton, then coordinating magistrate at Burwood. It was after this that I sought professional help
33. From my diary I note that I took leave from 20 November, 1995 to 1 December 1995. From memory Dr Chan provided a Medical Certificate that I was suffering from Anxiety. I provided this to the Chief Magistrates Office.
34. My son had many illnesses at the time, mainly ear infections. He eventually had grommets put into his ears which assisted greatly.
35. At age 3 weeks he had inguinal hernias repaired at Prince of Wales Hospital, Randwick. He subsequently suffered an internal infection requiring further hospitalization. He was released from hospital two days before our return to Hong Kong in 1993.
36. Exhibited hereto and marked "E" is a Chronology compiled from my work diaries to show the occasions that my son was sick and the occasions that my sister [REDACTED] had "alcohol" issues. Exhibited hereto and marked "F" is a copy of an email from my sister [REDACTED] to myself outlining her hospital admissions.

37. My medication was subsequently changed to Cipramil and then Citalopram, which is also an antidepressant medication. I took this medication continuously in the prescribed dose until the end of 2008 when I began weaning myself off them. I did not obtain medical advice in making the decision to cease taking the medication.
38. I ceased taking the anti-depressants in January, 2009. Exhibited hereto and marked "G" is a copy of the last prescription box dated 6 January 2009.
39. I did this as I was concerned about my weight gain and I thought that I was in a better position to cope with my son who was then entering Year 10 at [REDACTED]. He was still an extended day boy. He commenced weekly boarding in 2010 and will continue as a weekly boarder in 2011 when he will complete his HSC.

OCCUPATIONAL HEALTH AND SAFETY ISSUES

40. I have experienced a significant degree of judicial stress. This includes the general stresses associated with carrying out normal judicial duties. I have also dealt with the following specific issues which have contributed to my professional and personal anxiety.

Bankstown Death Threat

41. In 2002 I was subject to a death threat whilst presiding at Bankstown Local Court. In those days the courthouse at Bankstown had no security at all. That building has since been demolished.
42. My diary records that on 13 March 2002 Mr David Trotter, Registrar, came and got me off the bench. I was then advised that a female Detective had seen him about information she had received from an informant about a "*drive by shooting to be done on the female magistrate*". I believe that my name was used.
43. At that time I was working at Bankstown Court with Magistrate Mark Shepherd.
44. I immediately contacted Mr Les Mabbutt, then Executive Officer for the Chief Magistrate Staunton, who advised me to leave the building and go home.

45. I was then contacted by the Sheriff who advised me to take precautions and drive a different way home. At that time I was living with my son in Fraters Avenue, Sans Souci.
46. I was rostered to sit at Sutherland the next day and I did not return to Bankstown again in 2002. I eventually returned to sit at Burwood Local Court.
47. I saw Chief Magistrate Staunton in her chambers in relation to the death threat. I advised her that a female Superintendent had visited me at home the evening before to discuss the matter. Police patrols were made of the area around my townhouse for the next few weeks. I was upset and worried about the situation as my son was only aged 8 at the time and we lived alone.
48. By way of confirmation, Exhibited hereto and marked "H" is a copy of the Incident Report.

Security At Ryde

49. I commenced sitting at Ryde on 5 February 2007.
50. At this time Ryde Local court sat on Wednesdays, Thursdays and Fridays.
51. Wednesday was criminal list day which was the busiest day of the week.
52. Friday was apprehended violence, civil, licence appeals, traffic list day and, from 12 noon, 2 hours of hearings would be listed.
53. Thursdays was a defended hearing day.
54. Ryde Local Court is an old building built in 1922 which does not have any security to speak of. On list days a Sheriffs Officer is rostered to assist at Ryde from Parramatta.
55. There are no security cameras and no scanners
56. The building is a one court room complex with the court office on the eastern side of the building with my chambers on the western side of the building. Also on the western side of the building are two rooms used by members of the legal profession.

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57. Bathroom facilities for members of the public are at the rear of the property adjacent to the staff car parking area.
58. Also down the back is the room which is used by the Probation and Parole Officer on a Wednesday and by the AVO Liaison Officers on a Friday.
59. There were a number of occasions that I was approached by defendants when I got out of my car.
60. On one occasion a note was left in the drivers side door of my car from a defendant.
61. On two occasions officers from the Attorney General's Department came out to discuss security issues and the provision of cameras was discussed. It never eventuated. After the note incident it was proposed that a fence be built to block off the Magistrates car from members of the public. That was never implemented.
62. During my time at Ryde there was also a problem with the air conditioning which broke down a lot. For 6 months there was no air conditioning on the western side of the building. A \$3000 sensor was required to repair the air conditioning but the Department decided it was cheaper to install a split system air conditioner in my chambers for \$1900 instead. The legal aid rooms went without.
63. It was some 12 months later that the western side air conditioning was repaired with a new sensor being purchased. That meant that the Magistrates chambers had two forms of air conditioning available to it.
64. There was also an incident involving members of the media which was reported to Police. Exhibited hereto and marked "I" is a copy of the incident report prepared by the Registrar.
65. The work load at Ryde was quite heavy. I have obtained the following statistics from the Chief Magistrates Annual Review.
- | | |
|------|--|
| 2006 | 2691 new matters commenced. Ryde was 3 days a week. |
| 2007 | 2742 new matters commenced, Ryde was 3 day a week court. |
| 2008 | 2991 new matters commenced. Ryde was by then a 4 day a week court. |

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66. From records held at Ryde I ascertained that for the period March 2009 until end June 2009, 260 Hearings were listed at Ryde. This averages 86.6 hearings a month for that period.

Blacktown Asbestos Problem

67. In 2004 I began to sit at Blacktown Local Court with Magistrate Dennis Burdett.

68. Neither of us were aware of the proposal to build a third court room at Blacktown when we arrived.

69. It was a term of the building contract that the Court would remain operational during the building works. This decision resulted in many difficulties.

70. From the outset there were noise problems and the contractors were advised to work outside court sitting times.

71. Initially there was no departmental site manager on site and the Registrar bore the brunt of all complaints.

72. Problems which arose during the building work included the following:-

- (a) a digger penetrating the wall into the court foyer at 9am in three different places;
- (b) carbon monoxide fumes enveloping court rooms one and two on many occasions;
- (c) paint fumes penetrating the entire building when the painting contractors failed to turn up on the weekend and did the painting on a Monday night;
- (d) continual drilling noises during court time;
- (e) breaking of sewer pipes under my ensuite causing me not to have access to a bathroom for a number of days;
- (f) Access to the car park being blocked on a couple of occasions due to materials being placed in the car park;

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- (g) The main problem was the incomplete removal of asbestos in the ceiling of the magistrates chambers in September 2004;
- (h) The failure of the original removal was discovered by me in July 2005. For 10 months both Magistrate Burdett and I worked with asbestos hanging over our heads. The concern that we both had was with the building work that was conducted in January, 2005 in the area of the ceiling when new ensuites were built in our chambers. We will never know if we were exposed to asbestos fibres in that time because monitoring was only done in July 2005.
- (i) A subsequent Workcover inquiry failed to look at the 2004 "removal" and only concentrated on the 2005 removal.
- (j) Exhibited hereto and marked "J" is a copy of the Department's independent investigation into the asbestos problem in which it was found that there were many failures on behalf of the Department;
- (k) As a result of the asbestos problem both Mr Burdett and I have undergone a medical examination. We were both told that these examinations would take place every five years. I have since been advised that this will not be done. We have never had a chest x ray.
- (l) It appears that the Attorney Generals Department did not take up the recommendation in the Hibbs Report that a Clearance examination be done in 2004 prior to the building being reoccupied after the first asbestos "removal". I assume that decision was made for economic reasons. No testing was done in accordance with the legislation.
- (m) As a result of the continual problems during the building work I asked Chief Magistrate Derek Price that I be moved elsewhere. I went to Parramatta and Magistrate Gordon Lerve sat at Blacktown. I returned to Blacktown after the building work was complete.
- (n) The Chief Magistrate Mr D. Price wrote to Mr Laurie Glanfield in relation to the asbestos problem and remarked on the "systemic failures" of the Department. A copy of that letter should be at the CMO.

Problems With Practitioners And Litigants.

73. There have been many occasions where there has been robust discussion between legal representatives at the bar table and myself. This is to be expected. But I believe that I have a very effective record of harmonious professional relationships with the practitioners who regularly appear before me.
74. I have been subject to occasional verbal abuse from defendants and relatives of defendants. This happens often to all magistrates. I have never taken action for contempt of court and do not engage in the practice (as some of my colleagues do) of putting a person in the cells over lunch.
75. I recall that I was verbally threatened by a defendant in the old court three at Bankstown Court. The chap then ran out of the court room and was chased by the Police Prosecutor who arrested him. He was taken to the Police Station. I did not wish to take the matter any further and the man was released by Police. He threatened to kill me after I finalized his matter. This was some time in the period 2001 to August 2002. I cannot recall his name.
76. I have lost count how many times I have been sworn at over the years by members of the public.
77. As recently as 27 August 2010 Mr Ian Dawson appeared before me at Parramatta in relation to a matter. Exhibited hereto and marked "K" is a copy of the transcript of that hearing.
78. I was advised that after his brief appearance before me he went down to the court office and wished to make a complaint about me being "*corrupt*". I was told that he spoke to someone at the Chief Magistrate's Office and to the Judicial Commission. As can be seen from the transcript (CD available) there is nothing in my conduct of his matter which is of concern. It is clear that Mr Dawson suffers from a mental illness. I have since spoken to Mr Prior, mental health nurse, who advised me that he and Dr Zhang were notified by the community mental health team that Mr Dawson's matter was at court for that day and they wished to speak to him. A note was on the Bench that Mr Prior requested that Mr Dawson speak to him. I assumed it was because of

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mental health issues and after briefly speaking to Mr Dawson it became apparent that this was the case.

79. He was subsequently scheduled to Cumberland Hospital. He was facing, from memory, at least two allegations of menacing driving.
80. On Tuesday, 14 December 2010 I dealt with an AVO involving a lady named Toni Foster. She clearly has mental health issues. Exhibited hereto and marked "L" is a copy of the transcript of this hearing which demonstrates how I dealt with her matter.

SPECIFIC RESPONSE TO THE PARTICULARS OF EACH COMPLAINT

Passas/O'Regan Complaints

81. These two complaints were summarily dismissed by the Judicial Commission on 11th October, 2004. In its letter to the two complainants the Judicial Commission stated *"there was no misconduct on the part of the Magistrate Betts...While the Commission might not agree with the comments made by Her Honour during the hearing ...it does not consider that what was said was capable of being regarded as judicial misconduct under the Judicial Officers Act."*
82. The letter I received from the Judicial Commission dated 16 October, 2004 simply stated that the respective complaints were *"summarily dismissed"*. No other detail was given.

Background of Proceeding and Complaint

83. On 7 March 2003 Ms Passas consented to an AVO against her (without admission) in favour of Ms Brooks-Maher. I did not make that order and was not involved in that application. The application that I was involved in, giving rise to the complaint, came before me at Burwood Local Court on 15 August 2003. It was an application by Ms Passas to revoke the AVO which she had consented to on 7 March 2003.
84. The complainant, Julie Passas, at the time the matter was before me on 15 August 2003 was a Councillor on Ashfield Council.
85. Ms Passas was not re-elected at the elections on 27 March, 2004.

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86. Mr Jack O'Regan was a Community Worker and Secretary of the Thomas Street Ashfield Traffic Action Group.
87. At the time I dealt with Ms Passas's application to revoke the apprehended personal violence order that she consented to on 7 March 2003 I was not aware of the circumstances of the original complaint.
88. I had no prior dealings with her at all and was not aware of the problems that were happening at Ashfield Council.
89. Mr O'Regan's complaint was dated 20 July 2004.
90. In it he states "*Magistrate Betts adopted a hostile attitude towards Ms Passas...*"
91. He also claims that "*Ms Passas observed normal courtesies. Magistrate Betts ridiculed and humiliated Ms Passas and brought discredit on herself and the Court.*"
92. The other material in the Crown brief has never been shown to me before and clearly shows that Mr O'Regan has made what can only be described as outlandish claims in relation to Ms Passas's court matters.
93. Ms Passas's complaint is dated 22 July, 2004.
94. My responses to the Judicial Commission of 24 August 2004 and 14 September, 2004 still apply.
95. From the material supplied (not seen before) the original complaint was made by Police on behalf of Mrs Emma Brooks-Maher, a Councillor of Ashfield Council.
96. A telephone interim order was issued at 2.50am by Ashfield Police against Ms Passas in standard orders A, B and 1.
97. The Reasons for Application state: "*Parties were at a council meeting tonight. As defendant has passed within 10cm of the PINOP the defendant has said "You're dead". Victim distraught and very upset as observed by applicant. Previously the defendant has followed the PINOP home.*"
98. The complaint was listed for mention at Burwood Local Court on 7 March, 2003.

99. The complaint was served upon Ms Passas at 2.10pm on 26 February, 2003 at her residential premises.
100. At the time of service Ms Passas said *"I'm not accepting this (she then phoned her solicitor)."*
101. When the matter came before the Court on 7 March, 2003 the defendant consented to an order without admissions for a period of 12 months. She was legally represented at the time by a Mr Webb.
102. The matter I dealt with on 15 August 2003 was Ms Passas' application to revoke the AVO.
103. This application was made on 25 July 2003 and was made on the grounds of *"I am being harassed by Emma Brooks-Maher see annexure "A" attached"*.
104. Annexure "A" was the Police cops event E20182386.
105. The CD of the matter before me on 15 August 2003 clearly shows that the demeanour of Ms Passas was excitable.
106. Mrs Brooks-Maher was legally represented by a Mr McLaughlin, Solicitor.
107. Ms Passas was unrepresented and was accompanied by Mr O'Regan.
108. Mr McLaughlin at the outset indicated that his client would oppose Ms Passas's application.
109. My immediate question of Ms Passas was *"The application to revoke the order now is on the grounds set out in the application. Have you sought to take any complaint out against Mrs Brooks-Maher yourself"*.
110. Ms Passas's reply was not responsive at all. She stated, *"Your worship, I don't know if you're aware that I'm a local government counsellor and it's been very stressful..."*.
111. Ms Passas then went on to express her surprise at the fact that police were not acting for Mrs Brooks-Maher and was of the view that she had sufficient evidence with her on the day. She said *"I have a witness here I have paperwork from the police officers,*

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what occurred on the day, that should prove that this lady is dishonest and has no fear of me whatsoever. I am not here to take up hours and days off busy courts and I do not have any more finances to pay barristers”.

112. It was then that Mr McLaughlin submitted to me that he would be opposing the application and any hearing would be in the order of 4 days. He correctly submitted that Section 562F required the applicant to show that there was a change in circumstances. He submitted that the application be struck out. He also indicated that in the event of any unsuccessful hearing he would be applying for costs.
113. I then said to Ms Passas, *“Ms Passas, your application says that you’re seeking to have the order made by consent in March revoked on the basis, “I am being harassed by the complainant”. That is a COPS entry in relation to what happened at the Downing Centre and really there’s nothing there that I can see apart from a perceived smirk.”*
114. It is clear that Ms Passas was not listening either to Mr McLaughlin’s submission or to what I said. She appeared to be focusing on the fact that the Police were now not involved in the matter which was not a relevant matter for the court to consider.
115. She raised her voice to me when she said *“I understand that, but, your worship, this lady said she fears me, she’s terrified of me, and she comes down to an area in a place that she knows I will be there. She was not a witness. She wasn’t a party to that proceedings. And I am somewhat shocked and so upset that I’m hearing of costs hearings. I believe that the police rang through the interim order. How come this is a civil case between Mrs Brooks-Maher and myself? That’s why I have no legal representation. What is happening here your worship? I do not understand this. Why have police washed their hands of this issue? They initially....”*

My Response to the Particulars of Complaint

116. Particulars of complaint 1(a) alleges that my response *“Probably because they’ve got better things to do, Ms Passas”* was intemperate.

“Intemperate” is defined in the Macquarie Dictionary as being, inter alia, *“not temperate, unrestrained, unbridled, lack of moderation or due restraint”*. I deny that my response was in anyway intemperate.

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117. 1(b) of the Particulars of complaint alleges that my response, "Look, I'm not here to answer your questions. This is not a government forum okay" was intemperate. I deny that it was.
118. It is important to put this remark by me into context.
119. It was immediately after the "Probably because they've got better things to do" remark that Ms Passas said,

"I can understand that. Well, why did not the police advise Mrs Brooks-Maher to take out a civil avo? Now the Police have washed their hands of it."

I replied "look, I'm not here to answer your questions. This is not a government forum, ok?"

120. The matters raised by Ms Passas were not relevant for the court to consider at all. She appears to have been focusing on the fact that the court list stated that Police were acting for Mrs Brooks-Maher and was shocked that this wasn't the case. It does not really matter.
121. The glc computer system listed the matter as involving the Police but since it was Ms Passas's application to revoke it is not normal practice for Police to appear for the respondent. The fact that Mrs Brookes-Maher obtained legal representation is her business.

Ms Passas then went on to ask "Who answers them, Your worship?"

I replied, "Just listen to me, ma'am. I'm suggesting that your grounds for revocation do not comply with what is required. There's no change in circumstances, okay? The incident complained of is nothing. If you have genuine concerns about the other lady, you can take your own complaint."

122. It appears that Ms Passas did not want to understand what I said to her.
123. Ms Passas then interrupted me on a number of occasions when I was endeavouring to explain the situation again to her and it was then that she, in a loud voice, said

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"So, your worship, she can follow me and come to where I am. Where is the fear? This is not the Australia I know. This is not the justice that I was brought up with. Thank you, your worship."

124. In particulars 1(c) it is claimed that my response was intemperate. I said

"Look, there's no votes to be gained by making your little speech from your platform there, ma'am:

125. I dispute that I was intemperate.

126. Ms Passas comments were an overreaction and hysterical in the circumstances.

127. The rest of Particular 1(c) sets out the entire exchange.

128. I deny that my responses were intemperate.

129. The exchange shows that Ms Passas kept interrupting me.

130. I then dealt with Mr McLaughlin's application for costs and refused it. It was open for me to award costs against Ms Passas if the court was satisfied that the application was *"frivolous or vexatious"*. I declined to do so. I am of the view that the application in the circumstances was frivolous. I exercised my discretion in refusing the application for costs.

131. It was after this that Mr O'Regan yelled out *"You've been denied justice"*.

132. In particulars 1(d) it is contended that my response to Mr O'Regan was intemperate.

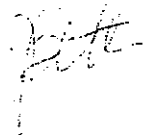
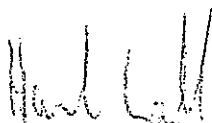
133. I deny that I used any intemperate language towards Mr O'Regan.

134. It was Mr O'Regan who interrupted the court proceedings after I had finalized Ms Passas' matter and excused the parties. Mr O'Regan had no status in the proceedings, or any other matter in the Court list. He had not been granted, and did not seek leave to address the Court. His comment was disrespectful.

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135. In retrospect, I accept that I could have used more felicitous language with Ms Passas. I was of the opinion that she was engaging in a frivolous waste of the Court's time. I was irritated by her conduct. But I do not accept that I spoke or acted intemperately.
136. From memory this matter was dealt with early in the AVO list (which commenced at 9.30am). At no time did I raise my voice to Ms Passas. She became very intemperate to me.
137. My practice is to ensure that any interruptions such as the one that Mr O'Regan made are dealt with immediately. Security of all court users and parties is paramount.
138. He was present throughout the proceedings and was in a position to hear what was said. It appears from his outburst that he did not really hear what was said either.
139. At the time I dealt with this matter I was ignorant of the problems that were occurring at Ashfield Council.
140. On 8 April 2004, almost 8 months after my determination of Ms Passas' application to revoke, I was rostered at Burwood Local Court. By that stage I was working at Blacktown and had been since January of that year. One of the matters listed before me on that date was an application by Ms Brooks-Maher to extend the application against Ms Passas for 5 years. The application was withdrawn by Ms Brooks-Maher prior to being heard. Ms Passas was represented by a solicitor. There was no application made by her solicitor for me to disqualify myself. I declined Ms Passas' application for costs on that occasion.
141. I am aware from reading Mr O'Regan's various letters of complaint to different bodies that Ashfield Council also declined an application by Ms Passas to pay her professional costs on about June 2004. The complaints made by Ms Passas, and subsequently Mr O'Regan, were formally lodged in July 2004. In other words, it appears that it was not until after I dismissed Ms Passas' application for costs in April 2004, and Council refused to compensate her in June 2004, that a formal complaint was made about the manner in which I handled the application to revoke in March 2003.



Farago Complaint

142. I rely upon my response to the Judicial Commission of 17 October, 2007 and 5th February, 2008.

143. The transcript of 1 June, 2007 shows that Mr Farago had the authorities with him on that day. He was requested by me to forward a copy to me before the hearing on 22 June, 2007:

Bench: "Have you got copies, are you able to provide copies?"

Farago: "I haven't got spare copies."

Bench: "Well, if you are able to get copies to me before the next occasion."

Farago: "I certainly will".

Bench: "What I will do is put it in to Friday, 22 June, only another couple of weeks. It shouldn't take too long".

SGT Williamson: "That's suitable".

Farago: "Excuse me, that's suitable".

Bench: "Ok, it will be 12 noon. Yes, the matter will be adjourned before me on Friday 22 June at 12 noon. It is noted legal argument in relation to the issue of road related area, if copies can be provided to the court before that date".

Farago: "Yes".

Bench: "Yes, thank you".

144. The matter was able to be listed within 3 weeks but only on the basis that the hearing would be restricted to a legal argument and that there would be no dispute about the facts. Court time was to be saved by me reading the authorities beforehand. There already was a hearing listed in the diary for 22 June, 2007.

145. At that time the delay in the listing of hearings at Ryde Local Court was in the order of 16 weeks. I believe that I was acting in good faith in trying to deal with Mr Farago's matter sooner rather than later. Exhibited hereto and marked "M" is a copy of the Management Information Statistical Return – Single Court document for Ryde Court for the month of March 2009. The hearing was fast-tracked, for a limited prima facie case hearing, conditional upon Mr Farago providing the submissions before that date. Mr Farago failed to meet that condition.
146. The workload in Local Courts does not allow for magistrates to spend substantial periods of time researching unusual point of law. I rely heavily on the advocates to diligently research and present their arguments.
147. The Particulars of Complaint claims that I was discourteous to Mr Farago.
148. I deny that I was discourteous in any way to Mr Farago.
149. I was not "*lacking courtesy, impolite, uncivil, or rude*" (as per the definition of "*discourteous*" in the Macquarie Dictionary).
150. In particulars of complaint 2 I was not discourteous in any way to Mr Farago. It is open to the Court to enter into discussions with legal representative especially when the point they are trying to make is not helped by authorities being relied upon which are not on point.
151. As I indicated on 22 June, 2007 I was not helped by the front page and other pages of a text book that Mr Farago handed up which did not show whether it was applicable to the law in force at the time. I don't believe that my comments in relation to that matter were discourteous in any way. I was direct and, blunt but not discourteous.
152. I accommodated Mr Farago and his client by hearing the matter that day despite him having failed to comply with the direction that the authorities had provided to the Court in advance. After hearing submissions I upheld Mr Farago's argument. I held that the area in which the accident happened was not a road related area and accordingly dismissed the matter.

Maresh Complaint

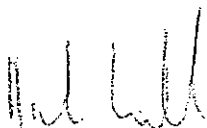
Paul Will

Paul Will

153. I was requested to respond to a letter from Mr Maresh before it became a complaint.
154. I was then asked to respond once the complaint was put in proper form without the benefit of any transcript.
155. This matter was "fast tracked" by the Judicial Commission.
156. I rely upon my responses to the Judicial Commission of 17 November 2009 and my response received on 1 December 2009.
157. I received a CD from the Judicial Commission and replied on 4 December 2009. I rely upon the contents of that reply.
158. By letter of 9th December 2009 I advised the Judicial Commission of the result of the 8 December hearing. This was only received by the Judicial Commission on 24 December, 2009.
159. From the outset I accept that I should not have said to Mr Maresh "*I have had a gutful of people like...*".
160. The Particulars of Complaint claims at 1 (a) that I prejudged the matter.
161. I deny that there was any prejudgment of the matter by me at any time.
162. What I said earlier was this:

Maresh: "Well I object to the admission of the photographs on the basis".

Bench: "No, it's not being admitted. I mean, I was not going to list it for hearing until we found out what the situation was, that's the only reason because if the trailer was there, the sergeant has the power to withdraw it, without you having to come back ok. She's got the photographs, they're not in colour, she hasn't spoken to the officer who issued the ticket, and photograph doesn't show the sign, that officer will be able in any hearing to give evidence of where the sign is, but that photograph clearly shows no trailer, ok, so your defence of using a trailer is not going to take you very far. Ok, so really I want you to come to court to tell me what is your defence,



you've done that and it appears that the prosecution evidence is there was no trailer attached to it. Ok."

I then went on to say *"So, if your vehicle was parked there as a sedan in a loading zone you'd be found guilty, ok."*

163. I then intended to explain that the offence was an offence of strict liability and Mr Maresh kept interrupting me.

164. I should not have said *"I've had a gutful of people such as yourself coming to court pleading not guilty, having a hearing and being found guilty as soon as they open their mouth."*

165. I said this out of frustration because of the sharp increase in hearings at Ryde Local Court at the time. I apologise to Mr Maresh for that comment.

166. I then went on to say *"That incurs costs on the community, having the officers here, court time taken up, so that's why I wanted you to come today to give me your explanation why you're pleading not guilty."*

167. Mr Maresh then interrupted again, *"with respect to you"*.

168. I then continued:

"Just listen to me, I'm not. I haven't finished yet, ok. I'm trying to save you time, if that matter is set down for hearing and you're found guilty after all the evidence is given, the fine will be far greater than it was issued to you by the officer, ok. I can fine up to \$2200. The fact that you have a particular view is your own business, ok. I'm trying to assist you because you haven't got any legal representation. I'm not going to list a matter for hearing unless there's a valid defence, that's what you've told me, I had a trailer attached, the prosecution have obtained a photograph that clearly shows not trailer so that defence may not be available to you. You've now had the option of seeing the photograph, it may refresh your memory as to the circumstances of you being in that position on the 21st April. If you wish to plead guilty I can deal with it now, if you wish to

Not will

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plead not guilty and subsequently found guilty it may well and truly be a lot bigger fine, I don't know."

169. The Particulars of Complaint 2 claims that I used intemperate language to Mr Maresh.

170. I accept that I used intemperate language when I said "*I have had a gutful...of people such as yourself...*" I apologise to Mr Maresh for doing so.

171. Particular 3 claims "*without justification the Judicial Officer threatened the defendant with, firstly, having to wait for his matter to be heard and secondly, with contempt.*"

172. I deny I did this. The transcript clearly shows that Mr Maresh continually interrupted me. This caused me to say "*Don't interrupt me, otherwise you will wait until after I do the other hearing ok. Do not interrupt me again, thank you.*" I do not believe this was intemperate language. I was trying to exercise some control in the courtroom.

173. Mr Maresh then interrupted me again.

174. I then said "*I'm trying to assist you. You can wait.*"

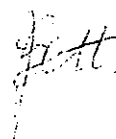
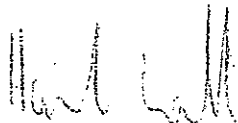
175. Mr Maresh interrupted me 6 times in this exchange. This taxed my patience. This mention was proving more difficult than it ought to have been. The matter had already been adjourned until after morning tea to enable the prosecutor to obtain a copy of the photograph to show to Mr Maresh. I did this on the basis that I wanted to afford Mr Maresh the opportunity to properly consider his plea of not guilty. The prosecution had informed me that such a photograph existed; they often do in these parking matters. Unrepresented litigants are often unaware that if they are convicted of parking matters that the fine can be significantly increased. The bench's hands are then tied, as there is no real prospect to allow any leniency. Often these are matters where a plea of guilty with an explanation would be in the Defendant's best interest. The matter transcribed at Exhibit "N" of Police v Michael Kelleher, is an example of this. I did not seek a copy of the photograph for any reason other than to give Mr Maresh an opportunity to avoid entering a plea that may have been doomed to failure. It was not that I had formed a particular view of Mr Maresh's case, but rather that, in my experience, unrepresented litigants regularly contest parking matters in which the prosecutors generally have significant forensic advantages, including photographic

Neil Wells

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evidence, and the ability to call witnesses who are experienced in giving evidence in Local Court matters. Many of the parking matters that are defended before me ultimately prove to have had no real prospect of success. Once I had been advised by the prosecutor that such a photograph existed, I felt that it was necessary in the interest of fairness to Mr Maresh that he be given an opportunity to see that photograph.

176. I did not stand the matter down in the list. I adjourned it for hearing after I refused to deal with Mr Maresh's plea of guilty under duress.
177. Although I deny that I expressly threatened Mr Maresh with the prospect of contempt proceedings, in retrospect, I accept that I could have used different language. As I have stated at paragraph 72 above, I have never taken any action for contempt in my entire career as a Magistrate. In the extract from the transcript referred to in particulars of Complaint 3, it was not my intention to threaten Mr Maresh. I was intending to warn him that the tone of his language towards the bench needed to be respectful. I accept that my own tone could, and should, have been more moderate.
178. In Particulars of Complaint 4. The Crown contends that the "*Judicial Officer did not conduct the hearing fairly*".
179. I deny this. Mr Maresh was being argumentative. As I stated above, I went to some lengths to afford him the opportunity of viewing the prosecution photograph prior to entering his plea. I repeat my statement above that the only basis for doing so was to ensure fairness to him in considering the prosecution case against him before being required to enter a plea. His comments were becoming increasingly less respectful and his demeanour was becoming more emotional. He was making comments which inferred that I was somehow forcing him to plea guilty. When he indicated that he wanted to plead guilty under duress it would have been improper to deal with it on that basis. The decision to adjourn the matter for a hearing preserved all of his legal rights, including the option of pleading guilty subsequently if he so chose. I say that the conduct of this mention was not unfair. I note that Mr Maresh subsequently maintained the plea of not guilty and the offence was proven. He was nonetheless granted the benefit of the Court's discretion and no conviction was recorded pursuant to Section 10 of the *Crimes Sentencing Procedure Act (1999)*. t



180. There was no hearing as such. The matter was listed for mention only to ascertain Mr Maresh's defence. That is clear from the earlier exchange.
181. It would have been improper for me to accept his plea of guilty under duress.
182. When Mr Maresh said "*And will you be hearing the matter your worship?*" I replied "*yes, I will*".
183. He then said "*Well I guess I may as well plead guilty you know.*"
184. Ryde Local Court is a single court complex with only one magistrate. That is the reason I replied "*Yes, I will.*"
185. It is not uncommon to deal with people on more than one occasion in a single court complex. I deal with each matter on its respective merits, regardless of what I may know about a defendant. I have no choice but to put it out of my mind.

Castle Complaint

186. I rely upon my responses to the Judicial Commission dated 3 August, 2009 and 28th November, 2009.
187. As a result of listening to the CD I was appalled by some of the things that I said and still am.
188. I apologise unreservedly to Mr Castle and to his client Ms Amy Cooper.
189. I took myself back to my GP in early November, 2009 and recommenced the anti depressant medication.
190. I now appreciate that the diagnosis of Dr Phillips of biological depression will require me to take anti depressant medication for the rest of my life. I undertake to do that. I also undertake to continue with the treatment plan by seeing Dr Klug regularly and any other organisation as the Conduct Division thinks fit.
191. In the Particulars of Complaint it claims that I prejudged the matter.
192. I deny that claim. The quoted passage from the transcript is taken out of context. The "*it*" I referred to is the application for adjournment. At the outset Mr Castle said:

And will

fit

"Your Honour, this is referral to the traffic rehabilitation offenders program.

The transcript does not record what I said but I recall saying words to the effect, *"Before I consider that I would like to hear evidence from the appellant".*

193. Mr Castle then requested an adjournment for two weeks without indicating why:

I then said to Mr Castle "I'll hear evidence from Ms Cooper to tell me exactly the situation behind these offences. Then I may consider any further application you wish to make."

194. I did not prejudge the case. The case, like all applications to appeal the determination of the RTA, was listed for hearing on the first return date. It is not my practice to routinely grant an adjournment of a hearing of this nature for an appellant to attend the Traffic Offenders Program. Although the Traffic Offenders Program can be an extremely useful tool for certain drivers, especially younger drivers who demonstrate a willingness to assess the reasons for their offending behaviour and embrace an opportunity to improve their driving habits, I do not believe it should be used as a *"rubber stamp"* to allow offenders to automatically avoid the consequences that parliament has attributed to traffic offences. I usually require some evidence, or strong submission, to persuade me to allow an offender or appellant to participate in the Traffic Offenders Program. I was prepared to hear evidence from Ms Cooper to determine whether it was appropriate to make an order that she attend the Traffic Offenders Program and adjourn the hearing.

195. In 1(b) it is again claimed that I prejudged the evidence. I deny that I did so. I was merely putting to her the rationale behind the demerit point system. I then said

"She will need to explain to me why she (blatantly) committed those two offences and disregarded her need for a licence, because that's exactly what she has done."

196. I acknowledge that the word *"blatantly"* should not have been said by me. However, I stress that the fact of the offences having been committed was not itself an issue in the

Neil Williams

John Betts

case. There was no dispute that the offences had been committed. The only issues to determine were:

- (a) Whether an adjournment should be granted to allow participation in the Traffic Offenders Programme; or
- (b) The discretionary question of whether the decision of the RTA should be confirmed, or set aside.

The Appellant's evidence about why she committed the offences was relevant to the exercise of (b) in particular.

- 197. In 1(c) it is claimed by that I had formed a view of the appellant's evidence. I refute that assertion.
- 198. Ms Cooper says "*I don't know*" to the question of whether she saw the speed advisory signs. I was not impressed by this evidence. Her evidence tended to suggest that her attitude to the offences was not of the type that I would view as likely to have rendered her an appropriate person to benefit from the Traffic Offenders Program. Further, it tended to suggest to me that there was no real merit to the application to review the determination of the RTA.
- 199. It should not be forgotten that this was a Licence appeal and not a speeding hearing. In any such appeal the onus is upon the appellant to establish that the RTA made the wrong decision.
- 200. Ms Cooper's appeal was pursuant to Clause 17 and 18 of the Road Transport (General) Regulation 2005.
- 201. The Court's power comes from Regulation 20 which states:
- 202. The Local Court must hear and determine an appeal made to it under clause 18 and may confirm (with or without variation) or disallow the decision appealed against, or make such other order in the circumstances as to the Court seems just."
- 203. Subclause (6) provides. "*The decision of the Local Court in respect of an appeal made under clause 18 is final and binding on the appellant and the Authority.*"

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204. Ms Cooper's P2 license was suspended due to the incurring of 9 demerit points. As a P2 license holder incurring 7 points or more would see her licence suspended.
205. I told Ms Cooper *"You are the one who has lodged an appeal. You have to establish that you are a fit and proper person to have your license restored to you."*
206. In 1 (d) it is claimed that I *"did not accept the tender of testimonials and decided the matter without giving the defendant a reasonable opportunity at a later time to tender those documents."* I refute that claim.
207. The Transcript clearly shows that before Ms Cooper was sworn to give evidence Mr Castle said *"Can I tender some testimonials, Your Honour?"*: I replied *"Not at the moment."* Ms Cooper was then sworn in to give evidence.
208. My normal practice is to hear evidence from an appellant in relation to the grounds of appeal, and any explanation for the offences which incurred the demerit points and then consider any other evidence such as references.
209. It seems that Mr Castle forgot to mention the references again. There was plenty of opportunity for Mr Castle to seek to tender them later and he did not. He made submissions to me then he repeated his client's offer to attend the Traffic Offenders Programme.
210. In the Particulars of Complaint (2) it is claimed that I used intemperate language.
211. I agree that my comment, *"Big deal"* was uncalled for and intemperate.
212. My motive for saying the matters extracted in this particular was revealed later when I said *"I am playing the devil's advocate here, because the community have a right just as much as you do in relation to your appeal. They want me to consider carefully what you are saying to me, not have somebody who willingly, knowingly commits two speeding offences within a month to be back on the streets because she lives at Linley Point and works at Gladesville...."*
213. In Particulars 3 (Bullying) I accept that I certainly should not have said to her *"shut up"* and *"You think your God's gift, do you?"*

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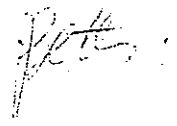
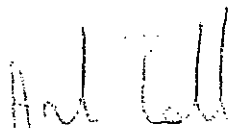
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214. I have listened to this exchange and, as earlier stated, am appalled by what I said. All I can say is that I am sincerely sorry for taking this approach towards this appellant.
215. In Particulars 3(c) it is claimed that I bullied the defendant by implying that she could not be trusted not to drive her car.
216. I deny this claim.
217. After I made my decision in relation to the appeal Mr Castle said *"Your Honour, may I ask that the suspension start..."*
218. I then said *"The appeal is dismissed now, now, 5 to 10. If she has driven to court today, she is a very, very foolish young lady."*
219. I then went on to say *"She'll have to arrange somebody else to drive the car. It's taking place as of now, 5 to 10."*
220. I then said *"Ms Cooper, where did you park your car? We'll escort you to make sure you don't drive it."* I admit I should not have said this.
221. Mr Castle then said *"I don't think that will be necessary."*
222. I then replied *"Well, I hope not. The police around here always catch the persons who only drive for the first time and only time, driving while suspended. Ms Cooper, you are not to drive as of now."*
223. I then went on to warn her not to drive whilst suspended which is what I tell all unsuccessful license appellants.
224. After warning Ms Cooper I said *"Okay, now, why you drove to court today when this appeal was pending I do not know., but certainly do not be tempted to drive home. You'll have to make other arrangements."*
225. In my experience there have been a number of occasions that defendants in traffic offences who I have disqualified go out and drive. There is a duty upon all Judicial Officers to warn such persons of the consequences of driving whilst disqualified. Likewise in an appeal such as Ms Cooper's the responsibility is upon the Court to warn her not to drive whilst suspended. This is noted on the court papers by me.

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226. It is clear from the fact that the appellant drove to Court that she was led to believe that she would be granted an adjournment to attend the Traffic Offenders Programme. The only person who could have given her that belief was her Solicitor, Mr Castle.
227. I have never met Mr Castle nor has he, in my memory, ever appeared before me in my 16 years on the Bench.
228. As I explained in my reply to the Judicial Commission, it is not my normal practice to send licence appellants off to the Traffic Offenders Programme at first instance. In all the appeals I have dealt with, I have only sent a handful of appellants and only after they have demonstrated a real need for a license and that the demerit points deducted were for offences which did not put public safety at risk.
229. To do otherwise, in my view, would circumvent Parliament's intention with the demerit point system.
230. In Particulars (4) it is claimed that I "*did not permit the defendant's solicitor an adequate opportunity to make submissions*".
231. I deny this.
232. Mr Castle did make submissions to me. I asked him clearly "*What merit is there?*"
233. He was in a position to hear the explanation given by his client that she was not aware that she was speeding on the two occasions that she was caught by Police. He submitted that they "*were an aberration*". I respectfully disagree.
234. In Particulars 5 it is claimed that I "*did not conduct the hearing fairly*". I gave the appellant the opportunity to give any evidence she desired.
235. I did think that I was acting fairly. In retrospect, I acknowledge that my use of intemperate language and the way I questioned the appellant was inappropriate.
236. As earlier explained I acknowledge that the conduct of this appeal by me was not satisfactory. I subsequently recommenced antidepressant medication and undertake to take it for as long as it is required, and to obtain regular medical advice in relation to whether it is.



237. Most licence appellants come before the court unrepresented. I normally ask the appellants questions before they are cross examined by the representative from the RTA.
238. When I commenced as a Magistrate the only guidance I received in relation to the conduct of licence appeals was from Mr Neil Milson, Magistrate at Parramatta who advised me that the appellant should give evidence to explain the offences. This is the approach I have taken over the years.
239. There is absolutely nothing in the Local Courts Bench Book in relation to the conduct of licence appeals.
240. At the end of dealing with 16 licence appeals at Parramatta in 2010 Mr Chris Outzen Solicitor who appeared for the RTA mentioned to me that only a handful of magistrates still require an appellant to give evidence in a licence appeal. I was very surprised by this. It takes time to hear evidence however in my view such an appeal requires an appellant to give evidence on oath to substantiate the grounds of appeal. Those 16 appeals finished at 5.10pm.
241. In conclusion, I am very embarrassed by what I said to Ms Cooper. Much of what I said should not have been said. By playing the "devils advocate" I was endeavouring to impart upon her the seriousness of the licensing demerit point system and the need for all of us as license holders to comply with all road rules at all times as reasonable and prudent drivers, for public safety reasons.
242. I am sure that I will never say such things again.

CONCLUSION

Insight into My Medical Condition and its effect on my judicial performance

243. In my response to the Judicial Commission I made reference to Judicial Stress being the primary reason for my conduct in the Maresh and Castle matters.
244. The Castle and Maresh complaints arose within the time that I was not on any anti depressant medication.

Neil Hall

J. Betts

245. As a result of these two complaints I sought professional assistance from my GP as I was concerned about them and recommenced the anti depressant medication in early November, 2009. I have had no problems at work since.
246. I have come to the realisation that I will need to take this medication for the rest of my working life to ensure that I am in a position to cope better with my judicial duties.
247. I firmly believe that if I continued with the medication I would not be in the position I am now in. I understand Dr Phillips to have expressed a similar view in my consultations with him, and in his subsequent report to the Conduct Division.
248. In Dr Phillips' opinion I am suffering from biological depression. I have great insight into my illness and am aware that I will have to take medication for the rest of my life to ensure that I remain well.
249. In 2010 I have continued at work sitting at Parramatta which is a five court complex. I enjoy the camaraderie of my colleagues and we all work very well together. It is a very busy workplace and a very happy workplace. We assist one another at all times.
250. I am enjoying my work as a magistrate as much, if not more, than any other time in my career, despite this year being extremely demanding both professionally and personally, by reason of dealing with these Complaints.

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Performance Since January 2010

251. I believe my performance since January 2010 confirms that I have gained insight into the link between managing my depressive illness through medication and other treatment, and performing appropriately as a judicial officer.
252. I have been sitting at Parramatta Local Court since January, 2010. Parramatta is a five court complex. I have dealt with a number of difficult defendants in 2010 whilst at Parramatta and have not had any difficulties.
253. There have been no complaints made against me at all in this time.
254. I have been in numerous situations which have been challenging to say the least dealing with defendants with mental health issues as well as rude legal practitioners and abusive defendants. That is the daily load of all magistrates.
255. I enclose copy of transcript of Police –v- Michael Kelleher which shows what I say to unrepresented defendants. This matter was dealt with by me on 7 June, 2010 at Parramatta. Exhibited hereto and marked "N" is a copy of the transcript of that hearing. The transcripts of Dawson and Foster exhibited at "K" and "L" demonstrate that I am able to deal patiently, courteously, and temperately even in the most trying of circumstances.
256. I have no criminal record nor have I ever been involved in any incidents involving Police.
257. I have three speeding matters on my traffic record, being licensed for over 36 years.
258. I have never been subject to any adverse domestic situation or neighbourhood dispute in my life.
259. I do not smoke cigarettes nor drink alcohol other than one glass of wine at Christmas, if even then.
260. I live a quiet existence in the suburbs. I enjoy going to watch cricket and watching St George play in rugby league. I occasionally play golf.

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261. I am not a member of any political party nor have I ever been so.
262. I have not had any decisions I have made in the Local Court criticized in a higher jurisdiction to my knowledge.
263. I have never had my photograph taken by the media during my career and avoid such attention.
264. I always go onto the bench punctually at 10am. I take no more than one hour for lunch. I do sit after four o'clock if the circumstances require it.
265. On average a magistrate deals with approximately 3000 matters a year.
266. In my 16 years on the bench I have dealt with over 48,000 matters.
267. Upon my appointment I had a reputation of being a hardworking person.
268. Exhibited hereto and marked "O" are references from my time at the DPP which confirm this.
269. I have worked with senior Magistrates in the past who can vouch for me being a hardworking person who on many occasions has taken on extra work. This continues to this day. I put myself part heard in matters where briefs have to be read and also legal argument has been foreshadowed to save other magistrates the time in reading. On 26 November 2010 I dealt with such a matter at Parramatta.
270. I have sat in one court complexes at Goulburn (1998 to 1999) and then at Ryde (2007 to 2009). No one was available to assist me at either of those courts. On the occasions that I finished by lunchtime at Ryde I offered assistance to Burwood Court. Work was sent over from Burwood to Ryde on a number of occasions. I stayed at Ryde until at least 3pm for any late custodies as that was the cut off time for Police.
271. At no time in my three years at Ryde did any other court offer assistance to me. The latest I sat at Ryde was on a Wednesday list day to 7.20pm. It was uncommon to finish the Wednesday list before 4pm.
272. My philosophy has been and always will be, "if there is work to be done I will do it."

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273. I have in the past finished early and assisted other courts. At Bankstown in 2001 I went to Burwood to help Magistrate Brennan with his list. I sat from 1.30pm to 5pm and did not have lunch.
274. I have also attended the Downing Centre on two occasions when I finished early at Balmain.
275. I have had this matter hanging over my head for over twelve months and have continued to preside in the Local Court, without any difficulties.
276. I have been put under great stress due to this matter and the fact that the matter has been protracted through no fault of my own.
277. It has cost me both physically, mentally and financially and in effect has resulted in a "lost year".
278. I have not disclosed this matter to any family member apart from my sister who I only advised in July 2010.
279. Only a handful of colleagues are aware of this matter.
280. I am a private person and have never sought publicity in any way, shape or form. I keep my private life private and leave whatever happens at work, at work. The only positive thing to come out of this is that it is now out in the open and puts my behaviour in 2009 in perspective.
281. I will continue treatment with Dr Klug and comply faithfully with his recommendations. I will assist him in providing a full report to the Conduct Division about my treatment and prognosis.

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282. I respectfully request that I be given the opportunity to continue in my role as Local Court Magistrate. I note that Dr Phillips' expert opinion concurs with this.

SWORN at SYDNEY

ON 20TH JANUARY January 2011

Signature of deponent *Betts.*

Signature of witness *Hamish Coakburn*

Name of witness HAMISH COAKBURN

Capacity of witness Justice of the peace / Solicitor

INDEX
EXHIBITS FOLDER

TAB	DOCUMENT DESCRIPTION	DATE
A	Personal Record of Jennifer Ethel Betts	26 June 2008
B	Personal references for Jennifer Betts	15 November 1971 – 9 April 1992
C	Facsimile from MTP to Dr Peng Chang	14 July 2010
D	Letter from Garry W Morton to Jennifer Betts together with photocopied diary entries	23 July 2010
E	Chronology of personal events	24 October 1994 – 8 June 2010
F	Email chain from [REDACTED] to Jennifer Betts	7 December 2010
G	Colour photocopy of prescription medicine Talohexal prescribed to Jennifer Betts	6 January 2009 (prescription date)
H	Judicial Officers Security Plan: Persons Under Threat Information Sheet	13 August 2002
I	Incident Report of alleged assault on Jennifer Betts	23 December 2009
J	Letter from Helen Kidston of the New South Wales Attorney General's Department to Jennifer Betts	28 May 2008
K	Parramatta Local Court Transcript: R v Dawson	27 August 2010
L	Parramatta Local Court Transcript: R v Foster	13 December 2010
M	Management Information Statistical Return – Ryde Court	March 2009, June 2009, July 2009, October 2009, and November 2009.
N	Parramatta Local Court Transcript: R v Kelleher	7 June 2010
O	Various ODPP references for Jennifer Betts	8 July 1987 – 11 November 1992

CASTLE

Date	Description	Material Available	Extract	Reference
3 August 2009	Initial response to Judicial Commission upon receipt of complaint	No access to transcript	"The transcript will clearly show what was said in Court"	Tender Bundle pages 12-19
28 November 2009	Second response to Judicial Commission	After opportunity of listening to CD of Court proceedings	"I have had the opportunity of listening to the CD of the Court proceedings...and at the outset I can only say that it clearly shows that I, at times, was rude and discourteous to her. I regret this sincerely"	Tender Bundle pages 20-22 Para 1:
			"I made some comments during Ms Cooper's evidence that clearly should not have been made at that time, if at all. I regret that also.	Para 2:
			"Of concern to me are the words I used. I was shocked when I heard the CD and am very embarrassed by it. I have since taken steps to ensure that nothing like this ever happens again. I have sought professional help in relation to dealing with the stress of being a Judicial Officer and have put in place procedures and changes to how I run the Court."	Para 12:
			"I have no explanation from my words other than I succumbed to the accumulation of 'Judicial Stress'".	Para 13:
			"In considering my remorse at the words used and the efforts I have	Para 16:

Date	Description	Material Available	Extract	Reference
			made to ensure that this never happens again I ask that the Commission dismiss the complaint summarily pursuant to Section 20. If this is not appropriate, then I would respectfully submit that it is a proper matter for referral to the Head of Jurisdiction..."	
26 August and 16 September 2010	Consultations with Dr Jonathon Phillips	After receipt of CD, Transcript, Tender Bundle, Particulars of Complaint	"She is aware that she intervened on several occasions and may have taken over the process"	Tender Bundle page (p.322
			"She subsequently read a transcript of the transaction and described it as being "horrible". She accepts that she used words which were "rude...discourteous"	P322
			The Magistrate attended her general practitioner (Keane) in November 2009...she was re-medicated with Cipramil. She thinks that she began to improve 6 weeks later."	P324
			"I note however that she does not agree with the substance of the complaints in their entirety. Ms Betts accepts, however, that her way of interacting with others (particularly in the Castle matter) had been inappropriate and that the words used had been unnecessary, rude and discourteous."	P332

Date	Description	Material Available	Extract	Reference
			<p>"Ms Betts has better recall for changes in her emotional feelings during 2009..(the year in which she weaned herself from antidepressant medication)...however Ms Betts lacked proper insight into her changed and somewhat unprofessional behaviour at that time."</p>	P333
			<p>"She had reasonable insight into her recent problems"</p>	P327
			<p>"She only recently developed insight into her aberrant behaviour. She expressed distress and remorse that she acted as she did"</p>	P335
			<p>"She is now aware of her episodic aberrant behaviour. She apologises for her behaviour, but in specific rather than general terms"</p>	P336
20 January 2001	Affidavit of Jennifer Ethel Betts	After receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, Conferences with Dr Phillips and having commenced treatment with Dr Klug	<p>"As a result of listening to the CD I was appalled by some of the things that I said and still am."</p>	Magistrate's Bundle Tab 1 Para 187
			<p>"I apologise unreservedly to Mr Castle and to his client Ms Aimee Cooper."</p>	Para 188

Date	Description	Material Available	Extract	Reference
			"I took myself back to my GP in early November 2009 and recommenced the antidepressant medication."	Para 189
			"I now appreciate that the diagnosis of Dr Phillips of biological depression will require me to take antidepressant medication for the rest of my life. I undertake to do that. I also undertake to continue with the treatment plan by seeing Dr Klug regularly and any other organisation as the Conduct Division thinks fit".	Para 190
			"I acknowledge that the word "blatantly" should not have been said by me."	Para 196
			"I agree that my comment, "big deal" was uncalled for an intemperate."	Para 211
			"In particulars 3 "bullying" I accept that I certainly should not have said to her "shut up" and "you think you are God's gift do you".	Para 213
			"I have listened to this exchange as earlier stated, am appalled by what I said. All I can say is that I am sincerely sorry for taking this approach towards this Appellant."	Para 214
			"I did think that I was acting fairly. In retrospect, I acknowledge that my use	Para 235

Date	Description	Material Available	Extract	Reference
			of intemperate language and the way I questioned the Appellant was inappropriate."	
			"As earlier explained, I acknowledged that the conduct of this appeal by me was not satisfactory. I subsequently recommenced antidepressant medication and undertake to take it for as long as is required and to obtain regular medical advice in relation to whether it is."	Para 236
			"As earlier explained, I acknowledged that the conduct of this appeal by me was not satisfactory. I subsequently recommenced antidepressant medication and undertake to take it for as long as is required and to obtain regular medical advice in relation to whether it is."	Para 236
			"In conclusion I am very embarrassed by what I said to Ms Cooper. Much of what I said should not have been said."	Para 241
			"I am sure that I will never say such things again."	Para 242
			"In my response to the Judicial Commission I made reference to Judicial stress being the primary reason for my conduct in the Maresch and Castle matters."	Para 243

Date	Description	Material Available	Extract	Reference
			"The Castle and Maresch Complaints arose within the time that I was not on any antidepressant medication."	Para 243
			"As a result of these two complaints I sought professional assistance from my GP as I was concerned about them and recommenced the antidepressant medication in early November 2009. I have had no problems at work since".	Para 245
			"I have come to the realisation that I will need to take this medication for the rest of my working life to ensure that I am in a position to cope better with my Judicial duties".	Para 246
			"I firmly believe that if I continued with the medication I would not be in the position I am now in. I understand Dr Phillips to have expressed a similar view in my consultations with him and in his subsequent report to the Conduct Division."	Para 247
			"In Dr Phillips' opinion I am suffering from biological depression. I have great insight into my illness and I am aware that I will have to take medication for the rest of my life to ensure that I remain well."	Para 248
			"I will continue treatment with Dr Klug and comply faithfully with his	Para 281

Date	Description	Material Available	Extract	Reference
			recommendations. I will assist him in providing a full report to the Conduct Division about my treatment and prognosis."	
9 March 2011	Supplementary Report of Dr Phillips	After receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, Conferences with Dr Phillips and having commenced treatment with Dr Klug	"She feels generally improved on medication. She noted also that she is better able to deal with situations when medicated".	Magistrate's Tender Bundle, Tab 4, Para 4
			"Ms Betts was symptomatically improved at the time of the recent consultation. I doubt that she now has symptoms of breadth or depth sufficient to warrant a diagnosis of adjustment disorder with depressed mood, or any other psychiatric disorder. However she is attending Dr Klug and she is compliant with her current anti-depressant medication."	Para 8:
			"...she remains at some risk for future psychological symptoms. In keeping with this, she should attend Dr Klug at a frequency to be determined by him, and she should continue to take antidepressant medication, probably indefinitely."	Para 10
11 March 2011	Affidavit of Anthony	Presumably after	"I have also observed that Ms Betts	Magistrate's Bundle , Tab

Date	Description	Material Available	Extract	Reference
	Marsden	receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, Conferences with Dr Phillips and having commenced treatment with Dr Klug	has been significantly affected by the experience of being the subject of this inquiry. I am confident that she is highly conscious of the need to curb any of the type of behaviour which has attracted these complaints. I believe, based on my discussions of these matters with her, that she has insight into the need to regulate her behaviour and be constantly vigilant to avoid (for example) any intemperate behaviour, as do all of we Magistrates".	5, Para 39
18 March 2011	Report by Dr Peter Klug	After receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, Conferences with Dr Phillips and having commenced treatment with Dr Klug	: "...her use of language, she accepts was rude and discourteous"	Magistrate's Bundle Tab 6, p2
			: "She spontaneously acknowledged the inappropriateness of her behaviour in Court and expressed intense remorse about the comments she made - "...when I heard the tape of myself I was horrified". She added "...I know the issue was about it never re-occurring, so I will ensure it".	p6
			"Ms Betts added, however, that with	p6

Date	Description	Material Available	Extract	Reference
			the death of her uncle in a motor vehicle accident on 4 June 2009 with the involvement of a learner driver who was apparently at fault probably exacerbated a particular situation in Court. "	
			"She described adhering to her antidepressant and said that she plans on remaining on an antidepressant for the foreseeable future, given the deterioration in her mood when it was withdrawn..."	p6
			"In the section entitled Opinion, Dr Phillips notes the following... Ms Betts does not challenge that her manner had become offensive at various times."	
21 March 2011	Examination in Chief Dr Phillips	After receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, Conferences with Dr Phillips and having commenced treatment with Dr Klug	"Well, like many people Ms Betts has had a degree of problem with reflection, self reflection, and if I recall the outstanding example of when she had the a-ah experience, it was when she actually had the opportunity to listen to a tape or look at the transcript of an interaction with, I think ... Mr Castle. It was the last case anyway where she was very distressed about the comments she had made and this	Transcript T.23.40-48

Date	Description	Material Available	Extract	Reference
			<p>caused her to undertake a reflective process and to understand that there had been times when her language had been less than felicitous and where she had acted in a manner which was somewhat different to her usual demeanour."</p>	
			<p>"She described, and I think albeit it is in my handwritten notes, quiet clearly her distress at the time and very often insight starts with a moment of distress where suddenly there is no escape. We all look for psychological escapes and suddenly there is no escape"</p>	T.24.1-4
			<p>"... She is saying look, these are the areas where I believe my actions or reactions were entirely inappropriate but I do not believe that in general I have been discourteous or not carried out my duties as a Magistrate should..."</p>	(T.32.37-40)
22 March 2011	Oral Evidence of Dr Klug	After receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, Conferences with Dr Phillips and having commenced treatment with Dr Klug	<p>"I think she is quite aware of her symptoms in retrospect and the relationship between cessation of the antidepressant and recurrence of her symptoms. She seems to be very accepting of the fact that she needs to remain on antidepressant medication for the foreseeable future and to accept any treatment or monitoring that might be necessary, so I believe</p>	(T.57-.47-50, 58.1-2)

Date	Description	Material Available	Extract	Reference
			that generally her prognosis is very good."	
			<p>"Insight is a, a difficult issue. Nobody has perfect insight into themselves I might add, but there are two types of insight. There is intellectual insight and there is emotional insight. Emotional insight is required for change. So intellectual insight does not imply change, it just implies understanding that there is a problem. I think that, talking to Ms Betts over the sessions that I have seen her, I believe that there is substantial emotional insight. I think that she is very distressed about what has occurred. I think she said to me that she was horrified when she heard the tape of herself and she has said that she is determined that issues like this won't recur on the basis of remorse and contrition. So I would regard that as a fair degree of emotional insight."</p>	(T.65.34-45).
			<p>"My overall impression is that she is remorseful about her behaviour and that she wants to do whatever is necessary to ensure that it does not recur"</p>	(T.66.25-27).
			<p>"It depends on degree. Even if there is a discrepancy there [<i>between what Ms Betts understood to be correct behaviour and objectively correct</i></p>	T.67.14-20

Date	Description	Material Available	Extract	Reference
			<p><i>behaviour</i>] if she is still nevertheless prepared to accept that that is the judgment of others and that she needs to monitor her behaviour to that degree, ultimately in terms of treating her I do not regard that as a problem. It, it's a matter of degree."</p>	
			<p>(In answer to a question from the bench, "We don't know what Ms Betts thought immediately after this or even in the weeks or month after this, or do we?") "I don't know for certain, but I know now that certainly she expresses spontaneous remorse"</p>	(T.76.44-47)
			<p>In fact she said to me she was horrified</p>	T.76.50
			<p>(In answer to a question "It would suggest, would it not, that Ms Betts herself is having difficulty accepting her wrong doing?") "That is, if what you are saying is correct yes, the answer is. But that has not been my experience in sessions that I have had been with her. In fact quiet to the contrary."</p>	T.78.28-32
			<p>"Well, she said that her behaviour was inappropriate and that it was excessive and that it was out of character for her and also that she spontaneously talked about why she</p>	T.79.23-25

Date	Description	Material Available	Extract	Reference
			thought she might have been in that state at the time	
			Yes, I thought she had good insight	T.79.30
			Emotional insight. I thought she was very remorseful and ashamed of her behaviour	(T.79.33-34)
			(In answer to two questions: "Does her response about the Appellants conduct undermine your confidence about her future conduct" and "Why Not?"): "Because she I think is extremely remorseful about her behaviour in a general sense and feels very much ashamed and said she will do whatever is in her power to prevent such things from recurring	(T.81.1-9)
22-23 March 2011	Oral Evidence Of Magistrate Betts	After receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, Conferences with Dr Phillips and having commenced treatment with Dr Klug	(In answer to a question "What did you do about your health following that review, your own review of your performance in that case?") "Well, I appreciated that perhaps the time to wean myself off was a bit premature, so I took myself back to the doctor, but I did have the original box, the last repeat from the January and there were still a few, about 1 tablet...so I commenced starting on 1 tablet and on 8 November I went back to my GP and recommenced the medication. In	(T.87.1-30)

Date	Description	Material Available	Extract	Reference
			<p>relation to procedural matters and changes I put in place, I now conduct licence appeals completely differently. I don't get myself involved as much as I did because most licence appeals that come before the Court are unrepresented persons and as a Judicial Officer I generally ask them is your appeal on what grounds, things like that. I appreciate I went well and truly over the top in relation to the Castle matter, but I have certainly changed the way I conduct those sorts of matters and every other matter in Court, being more aware of my own difficulties and becoming more appreciative of the signs of lack of patience, and that is a real skill, I must say, because you are tested every day.</p>	
			<p>"...I am aware of the non-mediation during that period (the time of Maresch and Castle instance) contributed quiet substantially to my behaviour in those two matters and that it will never happen again as far as I am concerned, but the medication has assisted getting the mood back, no irritability whatsoever..."</p>	<p>(T89.7-11)</p>
			<p>"In response to a question [What do you think he (Dr Klug) can do to help you in the future?]. Well as he explained himself, a monitoring role</p>	<p>(T89.31-36)</p>

Date	Description	Material Available	Extract	Reference
			and also he has advised me to contact him if I ever feel the need that I am sought of loosing the balanced mind, so to speak. I have not had to do that at all, and that is the relationship we have at the moment."	
			(In response to a question "It is that tape (Cooper) that you describe to Dr Klug as having appalled you and horrified you?") Yes	T.104.7-9
			I immediately did (apologise to Mr Castle and Ms Cooper) in my response to the Judicial Commission. It was upon hearing the CD I realised the gravity with which I overtook the proceedings and the terminology I used was totally unacceptable	T104.36-38
			(In response to a question "What do you think of the use of the language that you made?") Which adjective do you want me to use first? Horrible, it was terrible, it really is... <i>[interruption]</i> I should not have used the word blatant, that was inappropriate. I should not have used the words – told her to shut up, that was totally inappropriate"	T107.49-50 and T108.1-9
			Well, without going word by word I think it is pretty obvious which is intemperate and what I am conceding. It is there for all of us to hear and other flippant comments, if you can call it	T111.3-14

Date	Description	Material Available	Extract	Reference
			that, which were totally inappropriate. If they can be described as intemperate, I accept that... I used that to explain the approach I was taking. Unfortunately the approach I was taking was, included in the intemperate language, which I must say I have, never had a matter like this before or since and that is why I	
			I think I was overbearing... definitely. If that can be attributed or akin to bullying, yes	T111.21-25
			Possibly not on occasion (Judicial) – definitely not on occasion I should say	T111.27-28
			On occasion I was (temperate) a lot of occasion I wasn't and I conceded that	T111.30-31
			He (Mr Castle) was given an opportunity to make submissions and he did so. The question of adequate, well, we have to bear in mind the Court room setting, what was happening at the time. We do not have the luxury of a whole day	T111.35-37
			I see the question of fairness in two different ways. Certainly my language, the words I used and even the tone was inappropriate on a lot of occasion. But the perception of others may be that the proceedings were unfair	T111.41-43

Date	Description	Material Available	Extract	Reference
			<p>As I said before and I will continue to say, I was horrified when I heard the CD, and I still am. I have only heard it four times, twice here and twice myself. It is not something I am proud of. It was a salutary lesson to me to fully appreciate goodness, you don't realise your demeanour in Court until you hear it. ... But I certainly will never, ever do anything like this ever again. It is well and truly over the top and I have conceded that point already</p>	T112.5-14
			<p>I have put in place ways and means to make sure I am calm when I am in Court. I understand Mr Marsden puts the post it notes. I don't do that. But whatever happens in Court happens. We can't control things. Up to a point we can but as far as my own behaviour is concerned I am highly conscious of the ramifications so the deterrent aspect alone has been immense, let alone the psychological and psychiatric assistance of the medication</p>	T114.7-12
			<p>The benefit of hindsight is a wonderful thing, as I said yesterday. I look at this and I am appalled, absolutely appalled. Now these things happen. In a Court room full of people you have the pressure of what is coming next, you want to try and resolve the matter and complete it as soon as</p>	T.164.47-50 to T165.1-6

Date	Description	Material Available	Extract	Reference
			possible. That is why I commenced asking the questions because Mr Castle was getting the factual situations wrong in his first question. I didn't have the luxury of half an hour to deal with the licence appeal on that sort of thing, and that is the reason why I overtook proceedings. I appreciate I should not ever have done that, and things just went from bad to worse throughout the whole proceeding. I concede that	
			(In answer to a question "What you had done up to that point was quiet inappropriate, wasn't it?") The majority of it was, definitely	T175.6-7
			(In answer to a question "I think you have conceded that was an inappropriate thing to say?") Oh gosh yes	T.176.19-20
			... Shut up Mr Gormly, is that an appropriate thing for me to say to you? Of course not. It is a totally inappropriate thing to say in any Court room	T.176.19-25

Date	Description	Material Available	Extract	Reference
			(In answer to a question "Do you agree that that was in breach of your judicial obligations?" I agree that it was totally inappropriate at the time. Things were going ahead and I did not give any thought whatsoever at the time, it came out	T177.16-24
			(In answer to a question "Do you agree that to stop Ms Cooper at that point was in breach of your judicial obligations?" Well, that is another difficult question to answer, what are judicial obligations? Yes, by being rude, totally inappropriate, yes definitely	T177.26-29
			(In answer to a question "What about by stoping somebody from responding to some criticism that you have just made of them?" In this case, yes) T177.31-33	
			(In answer to a question "That it is in breach of your judicial obligations?") In relation to this matter, definitely. ...but yes I do concede it was totally inappropriate and not in accordance with my judicial obligations.	T177.38-45
			<i>Further concessions in relation to judicial obligations</i>	T177 and T178

Date	Description	Material Available	Extract	Reference
			That was totally inappropriate (in response to the comment about "god's gift"	T.178.20-22
			(In answer to two questions "Ms Betts in saying your explanations are pitiful I suggest to you that you are passing a judgment there on Ms Cooper's answers to your questions at a time when you had not heard any submissions from her legal representative "and "Would you accept that that is in breach of your judicial obligations?): "Yes I do... It is giving an indication that I took an adverse view of her answers, which I did, but it was not the appropriate time to say anything like that	T.178.30-40
			(In answer to a follow-up question "I do not understand that that concession has ever been made in your Affidavit or anywhere else?) I indicated they were words I said. I did not go syllable by syllable through the transcript. I took enough time to deal with this matter. I have indicated that the majority of the words I said should not have been said and that is part of it.	T.178.41-46

Date	Description	Material Available	Extract	Reference
			I agree that I have contributed to the thing deteriorating to an extent that I should not have said those words. How she felt, I don't know, either to the extent that I should not have said those words..."	T181.40-41
			In answer to a question (I think you have conceded that that was an inappropriate question. Is that right?) Yes it was, but there was a good reason why I said it but I should not have said it in those terms...I certainly should not have said, look we will escort you because that was silly. It was totally inappropriate	T184.50 & T185.1-7
			(In answer to a question "It would have been, would you agree, completely outside your role as a Judicial Officer ever to direct some police officer to do it?) Not necessarily. There has been occasions where we have had to get police assistance in relation to matters, perhaps not in this sought of case, no, I agree with that.	T186.45-49
			(In answer to a question "I have understood you to blame Mr Castle entirely for the nontender of the testimonials? Not blaming anybody, he forgot. That is the only interpretation I can put on it. I know I did.(T190.10-13

Date	Description	Material Available	Extract	Reference
			I made those comments (very critical personal comments about Ms Cooper in the course of cross-examination) which were totally inappropriate at the time.	T192.11

MARESCH COMPLAINT

Date	Description	Material Available	Extract	Reference
17 November 2009	Initial response to Judicial Commission on complaint by Mr Maresch	No transcript, no CD	"I apologise for any upset that Mr Maresch feels as a result of our discussion on 9 October 2009.	Tender Bundle 59
			In the future, I will list everything for hearing and let the hearings take their course."	P59
28 November 2009	Further response to Judicial Commission on complaint by Mr Maresch	Still without benefit of transcript or CD	"I have disqualified myself from hearing Mr Maresch's matter on 8 December 2009"	Tender Bundle 83-84 Paragraph 4 –
			"The Registrar at Ryde has sent a letter to Mr Maresch advising him of this fact and advising him that if he wishes to plead guilty then he should advise the Court as soon as possible..."	Paragraph 5 –
			"I have no memory of what I said to him due to the effluxion of time and the many hundreds of matters I have dealt with since. If I did use the words he says I did I regret doing so. I just don't remember."	Paragraph 12

Date	Description	Material Available	Extract	Reference
			"I have disqualified myself from dealing with Mr Maresch's matter so he is not being inconvenienced in any way."	Paragraph 26
			"It was indeed timely for the judicial commission to have a session on Dealing with Unrepresented Defendants at the latest Metropolitan Seminar for Magistrates last week. I found it very helpful."	Paragraph 30
4 December 2009	A third response to Judicial Commission	Access to CD recording; self typed transcript	I did, regrettably, make the comment "I've had a gut full of people such as yourself coming to Court pleading not guilty". I regret this.	Tender Bundle 91-92
18 November 2009	Consultation with Dr Keane		History: ...short tempered, stop Cipramil earlier this year.	Tender Bundle 312
26 August & 16 September 2010	Consultations with Dr Jonathan Phillips	After receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, and having commenced treatment with Dr Klug	"She described herself as having been "forthright" in the way she made this point";	Tender Bundle 322 para21
			"She recognises that she treated the Defendant in a discourteous manner"	p322 para21

Date	Description	Material Available	Extract	Reference
			"I note an undated response by Ms Betts to the Complainant, Mr Maresch (Tab e (v)). This is a technical response";	p330 para 77
			"Ms Betts does not challenge that her manner had become offensive at various times."	p331 para 87
			"She has apologised in relation to at least one of the matters in a letter which she sent to the Chief Executive Judicial Commission of NSW".	p331 para 87
20 January 2011	Affidavit of Jennifer Betts	After receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, Conferences with Dr Phillips and having commenced treatment with Dr Klug	"From the outset I accept that I should not have said to Mr Maresch "I have had a gutful of people like..."	Magistrates Bundle Tab.1 Paragraph 159
			"I should not have said "I've had a gutful..."	Paragraph 164
			"I said this out of frustration because of the sharp increase in hearings at Ryde Local Court at the time. I apologise to Mr Maresch for that comment".	Paragraph 165

Date	Description	Material Available	Extract	Reference
			"I accept that I used intemperate language when I said ... I apologise to Mr Maresch for doing so".	Paragraph 170
			"Although I deny that I expressly threatened Mr Maresch with the prospect of contempt proceedings, in retrospect, I accept that I could have used a different language... I accept that my own tone could, and should, have been more moderate".	Paragraph 177
22 & 23 March 2011	Oral evidence Magistrate	After receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, Conferences with Dr Phillips and having commenced treatment with Dr Klug	(In answer to a question "Why did you say it?") – "Out of frustration for a number of reasons... so it was, unwisely, myself echoing frustration. It was not directed personally to Mr Maresch but it is certainly to be regretted. It should not have been said."	T100.24-36
			(In answer to a question "You accept that your own tone could and should have been more moderate?" – Yes I do."	T102.9-11
			"The words I said "You show respect to Court, otherwise you will be held in contempt". That is not a threat. It is just a statement trying to control the matter... I agree I shouldn't have said that".	T102.14-19

Date	Description	Material Available	Extract	Reference
			(In answer to a question "And given that some of the language that you used was not appropriate that it might given the perception that you were being unfair?). I accept that".	T102.48-50
			(In answer to a question "Doesn't the use of the word blatantly mean that you think he is here and now guilty of the offence?"). It gives that impression, I accept that".	T204.13-15
			(In answer to a question "I put it to you the use of the word blatantly in that sentence in that way is a pre judging of his guilt?). – I don't accept that in that form. I accept it certainly should not have been said".	T204.23-26
			(In answer to a question about the statement "and I have had a gutful..."). – "That was thinking out aloud that should not have been said".	T204.28-36
			(In answer to a question "Do you think there is anything wrong with what you did at Line 21?" – It depends what you mean by wrong".	T205.45-46

Date	Description	Material Available	Extract	Reference
			<p>(In answer to a question "With the benefit of hindsight now, do you think that you were doing the wrong thing?") – "No I don't. I think it turned out worse than it should have because I lost control by making that comment".</p>	T208.18-21
			<p>(In answer to a question "Can you tell us why you regard it as having been something you should not have said? Why are you laughing?") – I find the question, after all the answers I have given in relation to this, to be repetitive. I have already answered that question sir.</p>	T208.27-31
			<p>(In answer to a question "...If you had your time over again, I take it that you would not have used the word "gutful" used that expression?") – Definitely not.</p>	T210.9-10
			<p>(In answer to a question "But otherwise you would substantially have conducted the matter as it was conducted here?") – Not necessarily</p>	T210.9-15
			<p>(In answer to a question "In what way would you change the way you had run this matter?") – "I was clearly irritated by the listings and concerned about the listings...in an endeavour to try and have some impact on that I took the course that I took in this case and nothing deteriorated in any of the</p>	T210. 18-35

Date	Description	Material Available	Extract	Reference
			other matters such as this. The reason why for that, I cant give an answer to apart from the fact that obviously I was quick to irritation in relation to this type of stress of a judicial nature...I think to avoid any further complication, I would say a written plea of not guilty, then its listed for hearing and have a hearing".	
			(In answer to a question "Is there anything else you want to add as to how you would run matters differently now, other than just making everything go into a full defence?") – "To protect myself I would just list it and the Registry list these matters and it doesn't come before the Court because generally there is a call-over in traffic matters...I would say it is a written plea of not guilty, I would list it for hearing. (T211.11-18
			(In answer to a question "Ms Betts at the conclusion of this matter when submissions are to be made I propose making a submission that you do not have an insight into the nature of your conduct in these four matters...?") – I don't agree that it can be put that I have blanket no insight because there is no evidence, in my view, to say that. I certainly have insight in relation to what occurred in 2009, I have insight in relation to my own ways of doing	T221.20-32

Date	Description	Material Available	Extract	Reference
			things and I have put in place matters in relation to conduct of matters since this matter came to light to ensure nothing like this ever happens again. Now that to my mind is a demonstration of insight and there is no suggestion of any other impropriety in my matters at all.)	

FARAGO

Date	Description	Material Available	Extract	Reference
17 October 2007	Initial response to Judicial Commission on receipt of complaint	No transcript available	Nil	Nil
5 February 2008	Further response to Judicial Commission	CD recording available	"I concede there was robust discussion between Mr Farago and myself in relation to the matter".	Tender Bundle.246
26 August and 16 September 2010	Consultations with Dr Jonathon Phillips	After receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, Transcript of 1 June was not available.	"The Magistrate accepts that she may have been "short" in her interaction with Mr Farago"	Tender Bundle 320-321
20 January 2011	Affidavit of Magistrate	After receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, Conferences with Dr Phillips and having commenced treatment with Dr Klug. Transcript of 1 June now available.	"...I don't believe that my comments in relation to that matter were discourteous in any way. I was direct and blunt but not discourteous".	Magistrate's Bundle Tab 1 page 19 para151

Date	Description	Material Available	Extract	Reference
22-23 March 2011	Oral Evidence of Magistrate	After receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, Conferences with Dr Phillips and having commenced treatment with Dr Klug. With access to the transcript of 1 June	(In answer to a question "Do you think you were discourteous?) No I don't. I was being certainly direct to him because the whole purpose of requesting the authorities beforehand was not really being met "	T97.17-20
			(In answer to a question "Would you agree firstly that you had not required him to have them well before today?) Yes I agree with that. I thought it was, I did say well before. But I didn't. That was certainly my intention, to have it before the day and give adequate time for me to read them before hearing day. I thought that was pretty obvious".	T134.35-40
			(In answer to a question "I don't see anything in your Affidavit between paragraphs 142 and 152 which acknowledge that Mr Farago was correct in his interpretation of your direction. Do you agree?) I agree with that "	T140.50-T141.1-3
			(In answer to a question "Ms Betts, as I understand it you maintain your	T142.1-6

Date	Description	Material Available	Extract	Reference
			<p>denial that you were discourteous to Mr Farago. Is that correct?) I do deny using the word – of the description of how I dealt with the matter as being discourteous, I certainly concede I was direct and quite forthright in my displeasure in the use of Court time that day”.</p>	
			<p>(In answer to a question "...Are you able to direct the Conduct Division's attention to any aspect of this matter which would explain why you may have been discourteous to Mr Farago if in fact that were held to be the case?) I was disappointed that he didn't feel the – or didn't appreciate the reason behind my request to have those submissions – not submissions, those authorities provided to the Court because it circumvented the Court's listing and all good intense and purposes were flying out the window after the afternoon went on, and that was a frustration to me, and I assumed he was a practitioner of some experience</p>	T144.44-50 – T145.1-3

Date	Description	Material Available	Extract	Reference
			<p>(In answer to a question "...I formally put to you Ms Betts that in your treatment of Mr Farago on the delivery of the authorities issue you were discourteous?) I was disappointed in him. Whether you would describe it as discourteous, the words are as they are.</p>	T145.5-9
			<p>(In answer to a question from the bench, "Ms Betts, do you now accept that your direction may have been better expressed -) Oh, definitely,</p>	T145.13-15
			<p>(-in order to achieve what you sought to achieve?) Definitely, your Honour, because it was only as a result of this that I now make – and we don't have them very often, to ensure at least a week before and everyone can raise what the issues are so Court time is not going to be used up in looking at the authorities, because we don't have that luxury. We don't have any assistance in relation to legal research, it is just us, but no, I do appreciate that, your Honour. I should have well and truly expressed it in a better way – you have got them now, can you have them with me within 7 days. That would have been a more appropriate way of dealing with it, I agree with that.</p>	T145.13-26

Date	Description	Material Available	Extract	Reference
			<p>(In answer to a question "I simply put to you that you were discourteous to Mr Farago when he was making his submissions in the matter on 22 June. Do you accept that or not?") I do not accept the word discourteous. I certainly was strong in my words with him to direct him in relation to where he should be making his submissions.</p>	T147.15-19
22 March 2011	Examination of Dr Phillips	After receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, Conferences with Dr Phillips and having commenced treatment with Dr Klug With access to the transcript of 1 June	<p>(In answer to questions: "...in the Farago matter ...the Magistrate refers to an admission that she may have been short in her interaction with Mr Farago" and "so that she was really talking there about her response to Mr Farago in terms of courtesy?") Yes</p>	T30.41-49

PASSAS/O'REGAN

Date	Description	Material Available	Extract	Reference
24 August 2004	Initial response to complaints by Passas/O'Regan	No Court papers or transcript	"No doubt the transcript will record what was said. I note that the one of the proceedings is not recorded and it would be better to have a tape of what went on in a full Court."	Tender Bundle 153
14 September 2004	Second response to complaint by Julie Passas	Court papers and transcript available	"I concede that my choice of words could have been better in the circumstances".	Tender Bundle 192
			"In hindsight it would have been better to take 20 minutes to explain to her, quoting legislation, for her to understand what was happening, which is not practical in a busy list Court which had been full of people. That is why I requested that she be taken downstairs for the Court staff to explain it to her. In future I will ensure that all explanations are done in Court	Tender Bundle 192-192
26 August and 16 September 2010	Consultations with Dr Jonathon Phillips	Access to Court papers, transcript, CD, treatment, medication	The Magistrate said that there had been "tension" in the exchange with Ms Passas	Tender Bundle 320
			The Magistrate said that the matter was considered by the Judicial Commission at a later time. She holds that the commission may have been unhappy about some of the words which she used from the bench	Tender Bundle 320
20 January 2011	Affidavit of Magistrate	After receipt of	In retrospect, I accept that I could	Magistrates Bundle Tab 1,

Date	Description	Material Available	Extract	Reference
		Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, Conferences with Dr Phillips and having commenced treatment with Dr Klug	have used more felicitous language with Ms Passas. I was of the opinion that she was engaging in a frivolous waste of the Courts time. I was irritated by her conduct. But I do not accept that I spoke or acted intemperately.	para 135 –
21 March 2011	Examination of Dr Phillips	After receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication, Conferences with Dr Phillips and having commenced treatment with Dr Klug	(In response to a question "If you go to paragraph 10 of your report you will see there that you are in the introductory phrase of obviously taking and she has made a fairly summary statement to you it would seem, that the Commission may have been unhappy about some of the words which she had used from the bench in the Passas matter?") Yes".	T30.34-39
			(In answer to a question which was subsequently rejected to and amended)"...it would seem to me perfectly fair that if a Judicial Commission was to say there was nothing wrong that the Magistrate would be entitled to go away and think, well that is so and I was right anyway in my view	T38.15-18
22 March 2011	Oral evidence of Magistrate	After receipt of Transcript, CD, Tender Bundle, Particulars of Complaint, Resumption of Medication,	(In response to a question "Did you think at the time that what you said to Mr O'Regan was disproportionately short or angry or, as pleaded in the complaint, intemperate?") It could	T92.48-50 and T93.1-2

Date	Description	Material Available	Extract	Reference
		Conferences with Dr Phillips and having commenced treatment with Dr Klug	have been better worded. I was endeavouring to nip it in the bud by saying the words I used because it was quiet clear from his interjection that he didn't really listen either to what was being said	
			(In answer to a question "Do you still think that you actually didn't do anything too bad here?") Look, the benefit of hind sight of course is a wonderful thing...after seeing the letter from Mr Schmatt it gave me a better idea of what is required. I don't know why they don't forward my information to Judicial Officers when matters are summarily dismissed. It is not helpful	T94.40-50
			(In response to a question "Would you accept that those comments were inappropriate and sarcastic?") Yes	T120.5-6
			(In response to a question "Would the same rely to line 12 where you have referred to making a political statement?") Yes, I do, because she kept interrupting and that was a comment I should not have made in retrospect	T120.12-15
			(In response to a question "What	T120.17-19

Date	Description	Material Available	Extract	Reference
			<p>about line 17, where you refer to the whinging?" I could have used another word – if you wish to complain, complain outside. That would have been a more appropriate word.</p>	
			<p>(In response to a question "Do you see at line 22 where you have referred to resenting spending one more second on your matter?") That was an utter frustration of the fact I was going nowhere trying to deal with the matter, and that was not appropriate.</p>	T120.21-24
			<p>"...it was not my role to explain any further after that matter had been completed. I don't accept – I do accept that perhaps I should have phrased that a bit better, saying look, your matter is finalised, please leave you are accused, or words to that effect</p>	T120.50-121.1-3
			<p>(In response to a question "I will put this to you, that in your handling of Ms Passas on this occasion, 15 August 2003, that your comments were intemperate towards Ms Passas. Would you agree with that?") Inappropriate I would be more acceptable to agree to</p>	T121.15-18
			<p>(In response to a question including</p>	T125.1-8

Date	Description	Material Available	Extract	Reference
			<p>"You have denied being intemperate in relation to the words that were used in the first two lines of paragraph 16..." Yes. I deny it being intemperate but I don't feel it is appropriate. I used the words differently because I guess it is a question of degree, what is intemperate.</p>	
			<p>It may not have been appropriate to say "this is not a government forum".</p>	T125.14-15
			<p>(In response to a question "Have you altered your position in relation to whether or not you used intemperate language in the Passas matter?") No. I would call it more inappropriate than intemperate. It is a question of semantics, I guess.</p>	T126.8-11
			<p>(In answer to two questions including: "...you deny any intemperate language in relation to Mr O'Regan...but subject to the qualification in section 135 that perhaps it could have been more felicitous?") Definitely I agree with that</p>	T126.39-48
			<p>(In response to a question including "...At the top of page 129, that is the second page, you will see that there is concession that your choice of words could have been better?") Yes, I definitely accept that.</p>	T129.35-38

Date	Description	Material Available	Extract	Reference
			<p>(In response to a question "Is it because of something you read in the transcript?") Yes. That refreshed my memory as to what I actually said and what Ms Passas said. The tone of course is not in the transcript and it was only able to be heard in the CD</p>	T129.44-47
			<p>(In answer to a question "What was it that you read in the transcript...which you considered could have been better expressed or where you would have used a better choice of words?") The same words I am saying today were inappropriate. The mention of "this is not a government forum" "wing outside" and the way I asked her to leave the Court room was probably excessive.</p>	T129.50 -130.1-6
			<p>(In answer to two questions: "When you said, "In future I will ensure that all explanations are done in Court"... and "Is it a practice you actually followed") I have since then when time has allowed it to be done.)</p>	T130.26-40
			<p>(In answer to a question "So you do not take exception to the fact that the Judicial Commission might not agree with what you said". They are not saying that. They are saying they might not agree with the comments. What those comments are I still do not know, with respect, and I am agreeing</p>	T133.1-7

Date	Description	Material Available	Extract	Reference
			that some of the words I used were inappropriate	
			"I am not conceding it was intemperate because I believe it should all be put into context in relation to what I said ... I guess you can suggest it is intemperate, it is unrestrained, unbridled or without due restraint, but I do concede it is inappropriate.	T133.17-23
			(In answer to a question "Are you accepting that the comments, that the complaint involved intemperate comments or not?") I am conceding they were inappropriate at the time... I am agreeing they were inappropriate at the time... I rely upon the contents of my Affidavit	T133.27-40