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IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

No. 29,508

IN THE MATTER OF HON. JAMES LOCATELLI  
Municipal Court Judge, Las Cruces, New Mexico

INQUIRY CONCERNING HON. JAMES LOCATELLI  
Inquiry No. 2010-135

FILED UNDER SEAL  
PURSUANT TO 27-104(B) NMRA

**VERIFIED PETITION FOR IMMEDIATE TEMPORARY SUSPENSION**

JUDICIAL STANDARDS  
COMMISSION  
Post Office Box 27248  
Albuquerque, New Mexico 87125-7248  
(505) 222-9353

HON. JAMES LOCATELLI  
Las Cruces Municipal Court  
PO Drawer 20000  
Las Cruces, NM 88004  
(575) 541-2224,  
*Respondent*

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

ROBIN S. HAMMER  
*Senior Investigative Trial Counsel,  
Counsel for Petitioner*

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The Judicial Standards Commission of the State of New Mexico ("Petitioner"), through the undersigned counsel, hereby petitions under seal pursuant to Rule 27-104(B) NMRA the New Mexico Supreme Court for an order that immediately and temporarily suspends Respondent Hon. James Locatelli from judicial office pending completion of the Petitioner Judicial Standards Commission's proceedings. The Commission hereby requests, pursuant to Rule 27-104(B) NMRA, that this Petition and all Responses thereto should be unsealed upon an Order of the Court. As grounds for this verified petition, Petitioner states:

1. Petitioner invokes its jurisdiction and files this *Verified Petition for Immediate Temporary Suspension* pursuant to Petitioner's power to recommend the discipline of judges and the Supreme Court's power to discipline judges under N.M. Const. art. VI, §32; the Supreme Court's power of superintending control under N.M. Const. art. VI, §3; Rule 27-201(A)(4)(a) NMRA 1996 of the Rules Governing Review of the Judicial Standards Commission Proceedings, and Rule 32(A)(4)(a) NMRA 2010 of the Judicial Standards Commission Rules.

2. The Respondent, Hon. James Locatelli, is a full-time Municipal Court Judge for the Las Cruces Municipal Court, Las Cruces, New Mexico.

3. Respondent is alleged to have committed acts that may constitute willful misconduct in office and/or persistent failure or inability to perform judicial duties. The alleged acts are fully set forth in the Commission's *Notice of Preliminary Investigation* based upon verified complaint from the Presiding Las Cruces Municipal Judge. The allegations are summarized as follows:

A. Respondent has said that he wanted to inflict bodily injury on Municipal Court Judicial Manager, Lisa Alamaguer, in retaliation for her cooperation with the Judicial Standards Commission (JSC)'s pending inquiries against him. Respondent admitted to staff that he knew battering Ms. Alamaguer would be wrong, and that he would probably spend time in jail for this crime, but spending time in jail "would be worth it." (See attached Exhibit A, *Affidavit of Lead Court Clerk, Sandra Olayo*; see also Exhibit B, *Affidavit of Presiding Judge Melissa Miller-Byrnes*.)

B. In response to fear of possible retaliation and injury to Judicial Manager, Lisa Alamaguer, the Las Cruces Municipal Court has changed the lock on the exterior courthouse door adjacent to Ms. Alamaguer's office, preventing Respondent from entering the courthouse through this door. (See attached Exhibit C, *Affidavit of Judicial Manager Lisa Alamaguer*.)

C. Respondent's threats of retaliation stem from Judicial Manager Alamaguer's role as a witness in Petitioner's on-going Inquiry into Respondent's improper *ex parte* dismissal of criminal, traffic and other cases.

D. To set the Respondent's actions in context, the Petitioner submits the facts and circumstances leading up to Respondent's threats. In early 2010, Ms. Alamaguer filed a verified complaint with the Petitioner alleging that Respondent had improperly dismissed one traffic case to benefit a social friend of the Respondent. Petitioner issued a *Notice of Formal Proceedings, Inquiry No. 2010-017* to the Respondent in this matter. A copy of the Commission's *Notice of Formal Proceedings, Inquiry No. 2010-017* is attached hereto as **Exhibit D**. After conducting a limited investigation, Petitioner amended the *Notice of Formal Proceedings Inquiry* to include two additional cases which Respondent improperly dismissed for the same individual. A

copy of the Commission's *Order Amending Notice of Formal Proceedings* in Inquiry No. 2010-017 is attached hereto as **Exhibit E**.

E. In June 2010, Petitioner's staff continued to investigate the Respondent's dismissal of criminal cases at arraignment. Petitioner's staff traveled to Las Cruces, New Mexico and met with Judicial Manager Alamaguer. At Petitioner staff's request, Ms. Alamaguer provided court-database-generated spreadsheets indicating which criminal and traffic cases Respondent had dismissed at arraignment *without both parties* present for the year 2009 and January through June 2010.

F. Staff reviewed this information and determined that Respondent improperly dismissed more than 650 criminal and traffic cases in 2009 without giving the prosecuting party the opportunity to be heard, and that Respondent improperly dismissed more than 150 criminal and traffic cases from

January through June 2010 without giving the prosecuting party the opportunity to be heard. Through investigation, Petitioner's staff determined that Respondent also dismissed *ex parte* several criminal or traffic cases for family members of his Las Cruces Municipal Court bailiff from 2007 until 2010.

G. On August 25, 2010, on its own motion, Petitioner issued a *Notice of Preliminary Investigation* in Inquiry No. 2010-119. A copy of the Commission's *Notice of Preliminary Investigation* in Inquiry No. 2010-119 is attached hereto as **Exhibit F**.

H. Based on Respondent's statement to court clerk Sandra Olayo, he incorrectly believed that Ms. Almaguer had filed a second complaint against him with the Petitioner to form the basis for the Petitioner's *Notice of Preliminary Investigation* issued on August 25, 2010. See **Exhibit A**, *Affidavit of Lead Court Clerk, Sandra Olayo* at ¶ 10. Respondent became outraged on the belief that Judicial Manager Almaguer had filed a second

complaint against him with Petitioner. Because of her cooperation with Petitioner, Respondent threatened to harm Ms. Almaguer.

I. Because of Respondent's current statements and prior displays of improper demeanor and intimidation, Judicial Manager Almaguer is afraid for her personal safety. See Exhibit C, *Affidavit of Judicial Manager Lisa Almaguer* at ¶¶ 11 and 12.

4. Petitioner is conducting an investigation into Respondent's conduct. A copy of the Commission's *Notice of Preliminary Investigation* in Inquiry No. 2010-135 is attached hereto as Exhibit G.

5. Respondent's acts may constitute willful misconduct in office and/or persistent failure or inability to perform judicial duties, as set forth in Article VI, §32 of the New Mexico Constitution.

6. Petitioner certifies that Respondent's immediate temporary suspension from judicial office is necessary pending termination of the

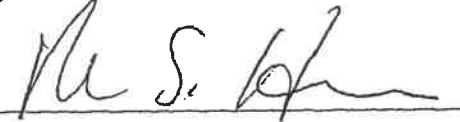


Petitioner Judicial Standards Commission's proceedings. Petitioner's Certificate to this Supreme Court is attached hereto as Exhibit H. Petitioner defers to this Supreme Court as to whether Respondent's temporary suspension shall be with or without pay.

WHEREFORE, Petitioner prays for an Order from the Court that immediately and temporarily suspends Respondent Hon. James Locatelli from judicial office pending completion of the Petitioner's proceedings.

Respectfully Submitted,

JUDICIAL STANDARDS COMMISSION



RANDALL D. ROYBAL  
*Executive Director & General Counsel*

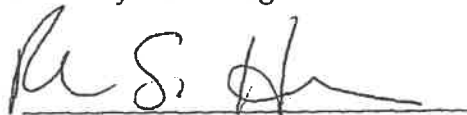
ROBIN S. HAMMER  
*Senior Investigative Trial Counsel*

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VERIFICATION

STATE OF NEW MEXICO )  
COUNTY OF BERNALILLO) ss.


I, Robin S. Hammer, having been duly sworn, do hereby state that I have read and understand the Petition and that the statements contained in the Petition are correct and true to the best of my knowledge.



ROBIN S. HAMMER  
*Senior Investigative Trial Counsel*  
*Judicial Standards Commission*

SUBSCRIBED AND SWORN TO before me by Robin S. Hammer, this

10<sup>th</sup> day of September 2010.

  
Notary Public

My Commission expires: 02-08-2011