

IN THE SUPREME COURT OF KANSAS
BEFORE
THE KANSAS BOARD FOR DISCIPLINE OF ATTORNEYS

FILED
SEP 05 2023
KANSAS BOARD FOR
DISCIPLINE OF ATTORNEYS

IN THE MATTER OF

SUZANNE VALDEZ
Respondent

Case No. DA 13,674

RESPONDENT'S ANSWER TO FORMAL COMPLAINT

Comes now District Attorney Suzanne Valdez, Respondent, by and through her attorney Stephen B. Angermayer of Angermayer Law, LLC and for her answer to the Formal Complaint states:

1. District Attorney Valdez admits the allegations contained in paragraph 1 of the Formal Complaint.
2. District Attorney Valdez admits the allegations contained in paragraph 2 of the Formal Complaint.
3. District Attorney Valdez admits the allegations contained in paragraph 3 of the Formal Complaint.
4. District Attorney Valdez admits the allegations contained in paragraph 4 of the Formal Complaint. The District Court scheduled four criminal jury trials to begin the day that District Attorney Valdez took office, January 11, 2021, which was the peak of the Covid-19 pandemic. The outgoing District Attorney did not allow access to any case files prior to her taking office. Shortly before District Attorney Valdez took office, Deputy

District Attorney David Melton had advised District Attorney Valdez that these jury trials would not occur.

5. District Attorney Valdez admits the allegations contained in paragraph 5 of the Formal Complaint insofar that a meeting with Chief Judge McCabria occurred on February 24, 2021 in his chambers. Deputy District Attorney David Melton and Deputy District Attorney Joshua Seiden also attended the meeting. Mr. Melton and Mr. Seiden sat in chairs directly facing Judge McCabria. District Attorney Valdez sat in a chair in the corner of the judge's chambers and said very little due to her belief that Judge McCabria would be dismissive of her concerns. She allowed Mr. Melton and Mr. Seiden to speak about probation violation matters and the Covid-19 jury trial plan.

Mr. Melton and Mr. Seiden expressed serious concern with the District Court's month-to-month manner of determining whether jury trials would proceed, which created uncertainty in scheduling and imposed heavy personnel costs upon the District Attorney's Office. Prosecutors continued to prepare for jury trials uncertain if the trial would proceed. The matter was compounded by the difficulty of transitioning into a new administration during a global pandemic, where the District Attorney's office was thinly staffed due to Covid illnesses and an unvaccinated staff. The remaining allegations are denied.

6. District Attorney Valdez admits the allegations contained in paragraph 6 of the Formal Complaint insofar that there was a meeting with Chief Judge McCabria and Judge Hanley on March 5, 2021, at District Attorney Valdez's request. Parties present included Chief Judge McCabria, Judge Hanley, District Attorney Valdez, Mr. Melton, Mr. Seiden, Director of Administration Dorothy Kliem, and Lieutenant Richard Qualls and

Sergeant Dale Flory from the Douglas County Sheriff's Office. District Attorney Valdez presented her concerns as to health and public safety, as well as the lack of input from her office as to jury trial protocols. The remaining allegations are denied.

7. District Attorney Valdez admits the allegations contained in paragraph 7 of the Formal Complaint. District Attorney Valdez was a stakeholder in the resumption of jury trials because the cases scheduled for jury trials were criminal cases in which the State would be represented by her office. The press release did not specifically mention District Attorney Valdez or her office.

District Attorney Valdez was not contacted for comment in the press release. The release quoted Chief Judge McCabria and Sheriff Jay Armbrister. District Attorney Valdez did not see the press release until after it was reported by local media. District Attorney Valdez learned from Sheriff Armbrister that her office should have been involved in the decision to resume jury trials at the Douglas County Fairgrounds. It appeared that a security plan had not been developed by the court. Later Sheriff Armbrister unilaterally put a plan in place in time for the first jury trial.

8. District Attorney Valdez admits the allegations contained in paragraph 8 of the Formal Complaint.

9. District Attorney Valdez denies the allegations contained in paragraph 9 of the Formal Complaint. Chief Judge McCabria did not issue a second press release. Rather, on March 22, 2021, he made statements to local media regarding the March 18, 2021, press release. Importantly, on March 23, 2023, Chief Judge McCabria released email correspondence to local media that included the criminal history of the defendant scheduled to proceed to jury trial on April 5, 2021.

10. District Attorney Valdez is without sufficient information to admit or deny the allegations contained in paragraph 10 of the Formal Complaint and therefore denies the same. District Attorney Valdez admits that she sent a text message to Judge McCabria from her personal cell phone to his personal cell phone explaining her frustration with his press release and the information he shared with the media. At some point after District Attorney Valdez won the primary election in August 2020, Judge McCabria and District Attorney Valdez exchanged personal cell phone numbers. Through intermittent text messaging during her transition (from September through December 2020), the two would communicate about various work matters, but the communications, at times, were very informal. During one text exchange, Chief Judge McCabria described her becoming District Attorney as “exhilarating” to him.

Believing that she had an open text dialogue with the Chief Judge on an informal basis, she believed that she could informally “vent” her frustration over the decision-making process leading up to the announcement that jury trials would resume. She discreetly reached out to Judge McCabria to voice her frustrations.

Soon thereafter, District Attorney Valdez deleted Chief Judge McCabria’s personal cell phone number and text message thread from her personal phone. Thus, District Attorney Valdez remembers sending a text message to Chief Judge McCabria but cannot retrieve the text message from any electronic device.

Lastly, since taking office in January 2021, District Attorney Valdez has tried at least nine (9) jury trials in front of other judges of the judicial district. Chief Judge McCabria seems to know when District Attorney Valdez is conducting opening statements in a case or examining a witness because he enters the courtroom, sits at

the back of the courtroom, and watches her work. District Attorney Valdez expressed her observations of Judge McCabria's actions to both Mr. Seiden and the District Attorney's public information officer, who have observed the same. District Attorney Valdez is so uncomfortable with Judge McCabria that she avoids appearing in his courtroom unless it is necessary, like a scheduling conflict for the prosecutor assigned to his court.

11. District Attorney Valdez is without sufficient information to admit or deny the allegations contained in paragraph 11 of the Formal Complaint and therefore denies the same. District Attorney Valdez deleted Judge McCabria's contact information and his messages from her personal phone.

12. District Attorney Valdez admits the allegations contained in paragraph 12 of the Formal Complaint. The Formal Complaint fails to state that Judge McCabria released information to the local media that included case information and criminal history of the defendant scheduled to proceed to the first jury trial on April 5, 2021, at the Douglas County Fairgrounds. District Attorney Valdez sent the second press release over her concern that the Court's comments and release of information to the media were prejudicial to the defendant who was set for trial.

13. District Attorney Valdez denies the allegations contained in paragraph 13 of the Formal Complaint. In providing emails to the media, Judge McCabria disclosed specific information on the criminal history of a defendant scheduled for a jury trial on April 5, 2021. District Attorney Valdez believes that this could have been highly prejudicial to a defendant set for trial. She was concerned that the disseminated

information would be circulated to the potential jury pool for the first jury trial since the Covid-19 shutdown.

14. District Attorney Valdez admits the allegations contained in paragraph 14 of the Formal Complaint.

15. District Attorney Valdez admits the allegations contained in paragraph 15 of the Formal Complaint insofar as the Court set a pretrial hearing in the jury trial scheduled at the Douglas County Fairground on March 24, 2021. The State filed a motion for continuance based on security, health, and constitutional concerns. Judge Hanley denied the State's motion. The email referenced in this paragraph was in relation to security concerns voiced to the District Attorney's Office by members of the Sheriff's Office concerning trials for violent offenders at the Fairgrounds. District Attorney Valdez inadvertently left Ms. Downing, the defendant's counsel, off the correspondence. But neither Judge Hanley nor Judge McCabria added Ms. Downing to the email chain thereafter.

Ms. Downing raised the issue at the March 24, 2021 hearing. Ms. Downing learned about her client being a point of brief discussion at the March 5, 2021 meeting from the media report about Judge McCabria and District Attorney Valdez's disagreement about the jury trial plan at the Fairground. At the March 24, 2021 pretrial hearing, Judge Hanley stated that neither the specifics of the case, nor Ms. Downing's client, were discussed. Judge Hanley further expressed on the record there was no intent to conduct an ex-parte hearing and there was no prejudice to the defendant at that meeting. Notably, Judge McCabria responded to District Attorney Valdez's email

without adding Ms. Downing to the correspondence. The remaining allegations are denied.

16. District Attorney Valdez reincorporates her answer in paragraph 15 to the Formal Complaint and for further answer denies the allegations contained in paragraph 16 of the Formal Complaint insofar as District Attorney Valdez intended to use the criminal case with Ms. Downing's client as an example to express her safety concerns for Court Security at the Douglas County Fairgrounds. The remaining allegations are denied.

17. District Attorney Valdez denies the allegations contained in paragraph 17 of the Formal Complaint insofar that she called Chief Judge McCabria a liar at the March 24, 2021 hearing. District Attorney Valdez did express concerns that Judge McCabria may have violated the Code of Judicial Conduct through his disclosure to the local media of prejudicial information about a criminal defendant with a jury trial set to commence in less than one month. The remaining allegations are denied.

18. District Attorney Valdez denies the allegations contained in paragraph 18 of the Formal Complaint. However, there was at least one ex-employee who made disparaging comments about judges. Evelyn Kemple was assigned to Judge Stacey Donovan's division. "Donovan is an idiot," Ms. Kemple exclaimed on one occasion. "I need to train her just like I did [Judge Amy] Hanley." Within weeks of District Attorney Valdez's first day in office, Ms. Kemple had to apologize to Judge Donovan for the way she had treated Judge Donovan's Administrative Assistant. District Attorney Valdez subsequently scheduled a meeting with Judge Donovan and Ms. Kemple in an effort to get everyone on the same page.

19. District Attorney Valdez denies the allegations contained in paragraph 19 of the Formal Complaint. Ms. Kemple brought a toxicity to the office outweighed her value as an experienced prosecutor. Ms. Kemple's office was on the primary floor of the District Attorney's Office. She would frequently pace up and down the hallway, complaining aloud either to herself or anyone who would listen. This caused disruption for the employees who took pride in their work and was detrimental to morale.

20. District Attorney Valdez denies the allegations contained in paragraph 20 of the Formal Complaint. District Attorney Valdez provides three (3) specific examples that further negate the allegations contained in paragraph 20 of the Formal Complaint. These are examples of employees who disagreed with the core values of District Attorney Valdez and her administration and wanted simply to continue in the same roles they held under District Attorney Valdez's predecessor, even though the community rejected the old way of doing things and elected District Attorney Valdez to effect change.

Evelyn Kemple

On August 5, 2020, the day following the primary election in which District Attorney defeated Mr. Charles Branson, Evelyn Kemple contacted Mr. Seiden to express deep concern that District Attorney Valdez would terminate her employment upon assuming office. Mr. Seiden informed Ms. Kemple that he was only campaign treasurer and had not even spoken with District Attorney Valdez since before the results of the primary election came in. Ms. Kemple implored Mr. Seiden to vouch for her. Mr. Seiden knew Ms. Kemple to be eccentric and sanctimonious, but also highly competent. He recommended that District Attorney Valdez retain Ms. Kemple.

District Attorney Valdez met with Ms. Kemple on multiple occasions following the primary election, and before she took office in January 2021. Despite calls from constituents to rid the District Attorney's Office of Ms. Kemple, District Attorney Valdez chose to retain her. Despite philosophical differences, District Attorney Valdez believed Ms. Kemple was valuable to the office given her experience and ability to take complex matters to jury trial. Unfortunately, the toxicity that Ms. Kemple brought to the office outweighed her value as an experienced prosecutor.

Ms. Kemple's office was on the primary floor of the District Attorney's Office. She would frequently pace up and down the hallway, complaining aloud either to herself or anyone who would listen. This caused disruption for the employees who took pride in their work and was detrimental to morale. On some occasions, Ms. Kemple would complain about the division to which she was assigned. Ms. Kemple was regularly before Judge Stacey Donovan. "Donovan is an idiot," Ms. Kemple exclaimed on one occasion. "I need to train her just like I did [Judge Amy] Hanley."

Within weeks of District Attorney Valdez's first day in office, she had to apologize to Judge Donovan for the way Ms. Kemple had treated Judge Donovan's Administrative Assistant. District Attorney Valdez subsequently scheduled a meeting with Judge Donovan and Ms. Kemple in an effort to get everyone on the same page.

Ms. Kemple generally opposed alternative programming, which is a major initiative of District Attorney Valdez's administration. The Reentry Program is part of the Douglas County Sheriff's Office and operates out of the Douglas County Correctional Facility. Reentry staff are heavily engaged in alternative programming, as well as securing resources for those who are soon to be released from custody. On one

occasion soon before District Attorney Valdez took office, Ms. Kemple contacted the Director of Reentry, verbally assailing her for doing something Ms. Kemple disagreed with. This had the Director of Reentry in tears. Undersheriff Stacy Simmons emailed District Attorney Valdez and informed her that Ms. Kemple was not to contact the Correctional Facility again.

Ms. Kemple was equal opportunity when it came to treating people poorly. Despite being afforded a great deal of autonomy and latitude, Ms. Kemple was often openly critical of District Attorney Valdez's decisions and initiatives. At times, these remarks would come during all-office meetings. During one Zoom meeting, Ms. Kemple was being so disruptive that she nearly had to be placed on mute. Additionally, despite her maintaining the title and responsibilities of Chief Assistant District Attorney, she eschewed any sort of leadership or mentorship role within the office, claiming she was "too busy" and "didn't have time to train anyone." District Attorney Valdez wanted two attorneys at the table for each serious felony trial, and Ms. Kemple opposed this directive, demanding to be allowed to work alone. Notably, from January 11, 2021, until her voluntary departure from the District Attorney's Office, Ms. Kemple participated in zero jury trials.

She did however handle a number of very serious cases during that time period. Ms. Kemple was assigned to *State v. Cory Elkins* (Case No. 2007-CR-000776) sometime prior to January 11, 2021. Between June 2020 and May 2021, Ms. Kemple conceded a motion to correct illegal sentence, resulting in a significant and substantial reduction in sentence for a particularly violent serial sex offender. Ms. Kemple did not notify the victims of this concession, nor did she inform District Attorney Valdez that she

made this unilateral decision. The lack of victim notification and significant reduction in sentence deeply upset the victims, and a disciplinary complaint was filed against District Attorney Valdez and the Senior Assistant District Attorney who ultimately represented the State at the resentencing.

In late April 2021, Ms. Kemple tendered her resignation. However, her final day was indeterminate, as it depended upon when she could begin her new position at the Office of the Attorney General and when her health insurance with the AG's office would be available. District Attorney Valdez was accommodating of this request in light of Ms. Kemple's many years of service at the District Attorney's Office.

In an April 29, 2021, email, Mr. Kemple insisted that she keep two matters set for plea hearings even though she would no longer be available for sentencing. Her rationale was that she "worked with the victims' families." One matter was *State v. Johnathon West* (Case No. 2021-CR-000079). The defendant was originally charged with Murder in the Second Degree. Ms. Kemple engaged in plea negotiations, and the charge was amended to Voluntary Manslaughter. Ms. Kemple miscalculated the defendant's Criminal History Score. On the brink of sentencing, it was discovered that the defendant would actually serve less than 50% of the sentence Ms. Kemple intended. Despite Ms. Kemple's assertion that she had worked with the victim's family, she did not return to have this difficult discussion with them. Rather, District Attorney Valdez met with the victim's family and represented the State at sentencing.

In *State v. Tayler Livingston* (Case No. 2020-CR-000318), the defendant was charged with Involuntary Manslaughter. The defendant faced a standard sentence of 41 months in the Kansas Department of Corrections ("KDOC"). Ms. Kemple agreed to a

downward durational departure to 30 months in KDOC. The family of the victim was unhappy, but came to terms with the departure in the interest of closure. On her final day at the District Attorney's Office, Ms. Kemple inexplicably agreed to a further sentence downward departure to 28 months in prison. There were no notes in the file to reflect Ms. Kemple's rationale for the initial departure or the additional departure. The Victim/Witness Coordinator assigned to the case informed Mr. Seiden that when the family learned of this, they were very upset. Mr. Seiden assigned himself to the case and met with the family on multiple occasions. Mr. Seiden satisfied his legal requirement to follow the terms of the plea agreement entered into by Ms. Kemple. However, the family did not support the agreement and made their voices heard. So many mourners of the victim wished to be present for sentencing that the hearing had to be relocated to the Fairgrounds. The State was represented at sentencing by Mr. Seiden and District Attorney Valdez. Notably absent from the hearing: Ms. Kemple. From time to time, Ms. Kemple has contacted the District Attorney's Office to express her opinion as to how her former cases should be handled. However, she has never offered to speak with the families of the victims in the cases she mishandled.

Shortly after Ms. Kemple left, additional concerns about her conduct were raised by law enforcement. Specifically, a member of the Office of Professional Accountability of the Lawrence Police Department contacted Mr. Seiden. A case in which a disgraced former officer was set to testify remained set for trial. The commanding officer was concerned that this matter was moving forward. It was a low-level offense, and the former officer was a material witness. Moreover, the District Attorney's Office already determined this former officer to be *Giglio*-impaired to the extent that the office would

not proceed on cases in which he was a material witness. Mr. Seiden investigated and learned that Ms. Kemple simply did not follow the directive to bring all cases in which this former officer was a material witness to Mr. Seiden. As a result, Mr. Seiden moved to dismiss the case.

David Melton

On August 5, 2020, the day after District Attorney Valdez prevailed in the primary election, Mr. Melton contacted Mr. Seiden to express his interest in remaining with the District Attorney's Office. Mr. Melton made a strong case for why he would be a good fit in District Attorney Valdez's administration and how he could assist in effecting a smooth transition. Mr. Melton asked Mr. Seiden to relay that information to District Attorney Valdez. Mr. Melton referenced the many cases over the years in which he and Mr. Seiden worked as counterparts and stated his opinion that the two of them had gotten along and that Mr. Melton had been reasonable to deal with. Mr. Seiden agreed, remarking that Mr. Melton was an exceptional trial attorney and someone who was always willing to resolve cases. Mr. Seiden recommended that District Attorney Valdez retain Mr. Melton. He proved to be extremely helpful in the transition, as Charles Branson would not permit District Attorney Valdez or Mr. Seiden to enter the office and only allowed them limited access to minimal case and personnel information such that the information was not even useful. To be clear, during the transition Mr. Melton shared no information with District Attorney Valdez about the Covid-19 jury trial plan at the Fairground.

On March 10, 2021, Mr. Melton was to appear for a plea and sentencing hearing in *State v. Donzell Quinn* (Case No. 2020-CR-000470). Appearances were by Zoom, but

Mr. Melton was late. When reached, he logged on. However, Mr. Melton was unprepared and his appearance disheveled, which drew the court's ire. Specifically, he was unable to provide information regarding victim notification as well as input on modification of a no contact order. Sentencing had to be continued. The assigned Victim/Witness Coordinator contacted Mr. Melton via email on both March 3 and March 4, 2021, with information relevant to the proceedings.

Throughout the first two months District Attorney Valdez was in office, Mr. Melton was chronically late for work, often arriving at the office shortly before noon. Many days, he would work remotely. Often, Mr. Melton secured coverage for his court appearances. This caused District Attorney Valdez concern, not only for Mr. Melton's wellbeing but also for the day-to-day functions of the office. District Attorney Valdez suggested that Mr. Melton take some leave time to decompress. Mr. Melton informed District Attorney Valdez that he never wanted to try a case again. He explained that after years of working in this field, he was burned out. Mr. Melton referenced his negative experience as a prosecutor in Saline County, followed by his time in Leavenworth County, and then the stress of working under Mr. Branson. He provided several examples of being bullied by Mr. Branson, but also referred to him as "a brother."

District Attorney Valdez and Mr. Seiden assured Mr. Melton that they would find coverage for his cases and just wanted him to take some time to rebound from all of the stress and anxiety associated with the change in administrations, Covid-19, and just the work in general. In Mr. Melton's absence, it became clear that he had been unresponsive to emails and calls from defense counsel looking to resolve cases. District Attorney Valdez later learned that Mr. Melton was rarely in the office over the final two

months before she arrived, which was contrary to Mr. Melton's assertion that he was "the glue holding this place together." When Mr. Melton returned from his time away, he was indignant and flippant. He informed District Attorney Valdez that, "I'm not leaving right away, but I'm looking. When the right job comes up, I'm going to take it. I will let you know." District Attorney Valdez found herself in a precarious position. She wanted employees who shared her vision and wanted to be there. Those who initially begged for their jobs were now complaining and openly expressing their intent to leave. District Attorney Valdez felt compelled to tolerate Mr. Melton's poor attitude and work ethic, as she was in the process of instituting her own initiatives, policies and programming while ensuring that caseloads were adequately staffed. Mr. Melton eventually left to work for the Kansas Bureau of Investigation, but was only there briefly before finding his way back to the Leavenworth County Attorney's Office.

Alice Walker

On August 27, 2020, local attorney Tai Vokins contacted Mr. Seiden to request a meeting. Mr. Vokins and Mr. Seiden knew each other from middle and high school, and more recently officed in the same suite. By this time, Mr. Seiden had decided to wind down his law practice and go to work for District Attorney Valdez. Mr. Vokins was aware of this and said he wanted to put in a good word for someone. Mr. Seiden met with Mr. Vokins, at which point he informed Mr. Seiden that his wife (Krystal Vokins, who is counsel for the Kansas Board of Attorney Discipline) asked him to talk with Mr. Seiden in an effort to preserve her best friend's position in the District Attorney's Office. Ms. Vokins's best friend happened to be Ms. Walker. Mr. Vokins spoke at length about Ms. Walker's background, qualifications, and commitment to the work. Mr. Seiden was

aware of these things, as he practiced opposite Ms. Walker for years. Mr. Seiden recommended to District Attorney Valdez that she retain Ms. Walker. District Attorney Valdez spoke with Ms. Walker on multiple occasions and chose to retain her.

During the transition but prior to taking office, District Attorney Valdez maintained contact with Ms. Walker, and granted her request to apply for Leadership Lawrence, which according to Ms. Walker, Mr. Branson had been resistant to allowing her to do. Mr. Seiden also kept in contact with Ms. Walker, primarily discussing a new restorative justice program. Additionally, District Attorney Valdez and Mr. Seiden discussed institution of the new Special Victims Unit within the District Attorney's Office. Ms. Walker informed Mr. Seiden that although she was becoming burned out from handling so many of those very difficult, traumatic cases over the years, she was willing to assist if needed.

Once District Attorney Valdez took office, it became apparent that Ms. Walker was under quite a bit of stress. Mr. Melton confirmed this. One high-profile case in particular was taking a substantial amount of her time and energy, and the matter was highly contentious. Compounding all of the external factors was Ms. Walker's belief that Judge McCabria was treating her unfairly. Ms. Walker expressed to District Attorney Valdez that she believed Judge McCabria treated Mr. Melton better. Also problematic for Ms. Walker was Mr. Melton's unwillingness to engage in any substantive work on the case.

While Mr. Melton was away, Mr. Seiden covered most of his cases. One case was soon coming up for trial. In *State v. Shawn O'Brien* (Case No. 2020-CR-000116), the defendant faced multiple serious sex crimes charges involving five different victims.

The matter was set to proceed to jury trial on April 5, 2021, with Ms. Walker as lead counsel and Mr. Melton as her co-counsel. The assigned Victim/Witness Coordinator invited Mr. Seiden to a Zoom meeting with the victims. Ms. Walker suggested that Mr. Seiden should not attend, as it would be confusing for the victims to see an unfamiliar face. Mr. Seiden deferred to Ms. Walker and did not attend. Ultimately, the matter was continued to August 2021 for jury trial, as only one trial could go on April 5, 2021, and that was a matter being handled by District Attorney Valdez and Mr. Seiden in which the defendant was in custody.

On Ms. Walker's final day, she spoke briefly with Mr. Seiden. She informed him that she was feeling burned out after a decade of such high-impact cases and that the slower pace of the Office of the Disciplinary Administrator would better suit her lifestyle. Additionally, she would still be a prosecutor. She wished Mr. Seiden luck and said she appreciated the work he and District Attorney Valdez were doing.

District Attorney Valdez and Mr. Seiden took over the O'Brien case. Mr. Seiden was unpleasantly surprised with the lack of work product left behind by Ms. Walker and Mr. Melton. During meetings, at least one victim informed Mr. Seiden that she felt more comfortable with the new trial team, as the prior people "didn't seem to have a gameplan" whereas District Attorney Valdez and Mr. Seiden "actually had a strategy for trial." The victims further expressed that it appeared Ms. Walker just assumed the defendant would accept a plea offer and did not really prepare for trial.

Ultimately, the matter proceeded to trial with District Attorney Valdez and Mr. Seiden, and the defendant was convicted of all counts. However, it was clear that Mr.

Melton significantly undercharged the defendant as his conduct pertained to four of the victims.

As other attorneys began to assume responsibility for Ms. Walker's former caseload, a glaring omission came to light. In a felony domestic violence matter, Ms. Walker failed to make an appropriate *Giglio* disclosure. She and Mr. Melton were members of the initial *Giglio* Committee formed by District Attorney Valdez, making this even more concerning and disappointing. This information came to light the day before the defendant was to take a plea. Two younger attorneys conferred with Mr. Seiden, and he determined the case needed to be dismissed. The former officer involved had committed egregious misconduct and the District Attorney's Office was not proceeding on cases in which he was a material witness. Mr. Seiden on many occasions directed the other attorneys to bring such cases to him, and Ms. Walker was present for those meetings. Additionally, she was aware of the underlying conduct of that former officer.

21. District Attorney Valdez denies the allegations contained in paragraph 21 of the Formal Complaint. As of June 2021, three (3) of fourteen (14) attorneys remained with the District Attorney's Office from the prior administration. Most of the professional staff remained with the office. As a new administration with fresh priorities, it is fairly common for those from the prior administration to leave. District Attorney Valdez defeated a 16-year incumbent. Some of the attorneys had worked under the prior District Attorney for more than a decade. It is important to note that Judges McCabria and Simpson are former DA Branson prosecutors. Those that left the district attorney's office once District Attorney Valdez was elected decided it was better to find work elsewhere than to evolve to meet her priorities and mission. Since summer 2021,

District Attorney Valdez's office has been at or near capacity in terms of attorney staffing. Those loyal to the prior incumbent left the office, and District Attorney Valdez replaced them with qualified, willing attorneys.

22. District Attorney Valdez denies the allegations contained in paragraph 22 of the Formal Complaint.

23. District Attorney Valdez denies the allegation contained in paragraph 23 of the Formal Complaint. The basis for District Attorney Valdez's statements to Mr. Wurtz were articulated in the March 22 and 23, 2021 press releases, as well as her initial response to the complaint. District Attorney Valdez denies that she used the word "liar" in the interview with Mr. Wurtz. She states that when she asked Mr. Wurtz for the basis of the complaint, he emphatically stated, "Because you called a judge a liar." District Attorney Valdez further denies calling Chief Judge McCabria a liar. Mr. Wurtz asked her opinion of Chief Judge McCabria. Mindful of her requirement to comply with the disciplinary rules and answer questions posed by the investigator, District Attorney Valdez told the investigator that her opinion was that Chief Judge McCabria did not accurately represent the facts about the jury trial plan in the court's press release.

24. District Attorney Valdez admits the allegations contained in paragraph 24 of the Formal Complaint insofar as District Attorney Valdez has frequently pointed to a pattern of disparate treatment from Chief Judge McCabria when she is alongside similarly situated males. Specifically, Sheriff Armbrister was included in the court's March 18, 2021, press release whereas District Attorney Valdez did not learn of the press release prior to its publication. Furthermore, when District Attorney Valdez asked Judge McCabria to be included in a group email about the status of jury trials at the

Fairground, Judge McCabria twice denied her request. The remaining allegations are denied.

25. District Attorney Valdez admits the allegations contained in paragraph 25 of the Formal Complaint insofar that she asked Ms. Hughes to speak with former employee Alice Walker. She is without sufficient information to admit or deny the remaining allegations of paragraph 25 and therefore denies the same.

While employed by District Attorney Valdez for a short time, Ms. Walker was counsel on a very high-profile case before Chief Judge McCabria. Ms. Walker told District Attorney Valdez that she was glad Mr. Melton was on the case with her, as she believed Mr. Melton, as a male, received more favorable treatment from Chief Judge McCabria. Mr. Melton, along with Ms. Walker shared stories with District Attorney Valdez of how Chief Judge McCabria treated female attorneys differently. These examples included instances of Judge McCabria either objectifying or being dismissive to female attorneys. Mr. Melton and Ms. Walker know Chief Judge McCabria both as a judge and as a former colleague when Chief Judge McCabria worked as a prosecutor for former District Attorney Charles Branson.

District Attorney Valdez is unaware of the content of any conversations Ms. Walker had with the Office of the Disciplinary Administrator. It does not appear that Mr. Wurtz or others interviewed Ms. Walker. It does not appear that Ms. Walker, despite her role in this investigation, ever authored any reports. The remaining allegations are denied.

26. District Attorney Valdez denies the allegations contained in paragraph 26 of the Formal Complaint.

27. District Attorney Valdez denies the allegations contained in paragraphs 27, 28, and 29 of the Formal Complaint. The court is rarely accessible to a victim after granting an expungement over a victim's objection. District Attorney Valdez is accessible to victims and directly observes the impact of such rulings. District Attorney Valdez was relaying to the Court the byproduct of a recent ruling and the rationale for not requesting a hearing.

28. District Attorney Valdez denies the allegations contained in paragraphs 30, 31, 32, and 33 of the Formal Complaint. The expungement docket originally scheduled for June 20, 2022, had been moved to June 17, 2022, due to the County's observance of the Juneteenth holiday. Attorney Valdez stated in an email to Chief Judge McCabria that the new date conflicted with the Kansas County and District Attorneys Association's annual meeting/CLE, scheduled to be held in virtual format. As such, there would not be prosecutors available on the new date, June 17, 2022. District Attorney Valdez suggested either June 15, 2022, or June 21, 2022. Ultimately, Chief Judge McCabria declined to move the docket. District Attorney Valdez appeared on June 20, 2022, the docket moved quickly, and cordial emails were exchanged between District Attorney Valdez and Chief Judge McCabria.

29. District Attorney Valdez denies the allegations contained in paragraph 34 of the Formal Complaint. Chief Judge McCabria was speaking at the tail end of the Bench/Bar meeting, and District Attorney Valdez had to leave the meeting abruptly because she had to meet with a victim/survivor in a pending case. District Attorney Valdez whispered to Mr. Seiden that she needed to go and left quickly to meet with the victim.

30. District Attorney Valdez denies the allegations contained in paragraph 35 of the Formal Complaint.

31. District Attorney Valdez denies the allegations contained in paragraphs 36, 37 and 38 of the Formal Complaint. The District Attorney came to the difficult conclusion that it would be best not to attend the meeting, given Judge Simpson's status as a witness in the pending disciplinary proceedings involving District Attorney Valdez. These issues are particularly important given the programming that was to be discussed. The Assisted Outpatient Treatment program would have placed participating attorneys in the tenuous position of receiving a show cause order from Judge Simpson if an outside entity did not comply with his order. In order to proceed, District Attorney Valdez would need to discuss this matter with Judge Simpson.

However, District Attorney Valdez risked further disciplinary investigation if she were to discuss this matter with Judge Simpson while the disciplinary matter was pending. Deputy District Attorney Joshua Seiden cancelled the meeting with Judge Simpson on District Attorney Valdez's behalf due to her concerns, upon information and belief, that Judge Simpson contacted Gayle Larkin, the Disciplinary Administrator to complain.

32. District Attorney Valdez denies the allegations contained in paragraphs 39, 40, and 41. On the evening of May 10, 2023, Judge Glover emailed Mr. Seiden regarding a meeting to discuss traffic matters and requested to meet on the morning of May 11, 2023. On the morning of May 11, 2023, Mr. Seiden confirmed that a meeting on that morning would work. District Attorney Valdez, Director of Administration Kaidee Mehrer, and Mr. Seiden met with Judge Glover and Chief Judge McCabria.

Judge Glover indicated that close to 1,000 traffic cases qualified for driver's license suspensions. Many matters had been continued due to Covid-19, and a backlog occurred. It appeared that the court did not send notices of hearings to the recipients of the traffic citations. This appeared to be an issue between the district court and the Clerk's Office. Essentially, people who were not informed of new court dates may have had their driving privileges suspended because they missed court appearances to which they were unaware.

District Attorney Valdez agreed to have her office look into the issue, and potential remedies were discussed. District Attorney Valdez did not want to participate in a mass suspension of driver's licenses, nor did she wish to dismiss hundreds of cases without being informed of the underlying offenses and circumstances. The District Attorney's Office immediately conducted initial research to determine the offenses. This information was not readily available. Additionally, if a given citation was for an offense such as Driving While Suspended, the District Attorney's Office would want to inquire as to the reason for the suspension. The office had to delineate between cases of nonpayment of fines as opposed to an alcohol driving related suspension. The latter cases were not subject to procedural dismissal.

Due diligence was necessary. District Attorney Valdez wanted to ensure that her office was not approving dismissal of cases in instances where public safety was at risk. In the midst of the work of the District Attorney's Office, Judge McCabria was quoted in a Lawrence Journal-World article on May 11, 2023, regarding his disciplinary complaint against District Attorney Valdez. This caused a great deal of embarrassment and distress for District Attorney Valdez. Mr. Seiden met with Judge Glover to inform him that

the District Attorney's Office would suspend work on this project, as the quote from Judge McCabria created unnecessary discord. Mr. Seiden showed a printed copy of the article to Judge Glover, who said he had not read the story.

The meeting was cordial as Mr. Seiden and Judge Glover were good friends and professional colleagues for many years. Mr. Seiden was clear that while the District Attorney's Office would not expend additional resources on this project, the office would not do anything to delay the court's processing of these matters. Judge Glover said he would send a list of cases to be dismissed to the District Attorney's Office approximately a week in advance. This would give the District Attorney's Office an opportunity to inquire into those specific cases and determine whether to object to dismissal. In practice, the District Attorney's Office only receives these lists two to three days in advance. As a result, the District Attorney's Office stands silent during hearings at which Judge Glover orders mass dismissal.

WHEREFORE, in consideration of the above and foregoing, Respondent, Douglas County District Attorney Suzanne Valdez having fully answered prays the State plaintiff take nothing by its cause of action, for judgment in favor of the Respondent, and for such other and further relief as the court may deem just and equitable.

Respectfully Submitted:

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Respondent

I hereby certify that on the 5th day of September 2023, I electronically filed the foregoing with the Disciplinary Administrator's Office with an electronic copy to all parties of interest participating in the case including the following parties:

Kimberly Bonifas Special Counsel for the Disciplinary Administrator

Presiding Officer Stacy L. Ortega

Panel Member Gaye Tibbets

Panel Member Sylvia Penner

/s/ Stephen B. Angermayer
Stephen B. Angermayer #13798