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October 15, 2025

The Honorable Robert A. Ballard, Jr.
Civil Presiding Judge of the Superior Court
Somerset County Courthouse
20 North Bridge Street, Floor 4
Somerville NJ 08875

Re: Morrisette v. Town of Phillipsburg Town Council, WRN-L-000378-24
Supplemental Letter Brief Concerning Motion to Disqualify Counsel
for Peron Construction, Inc.

Dear Judge Ballard:

As you know, this firm represents the plaintiffs. Please accept this
supplemental letter brief in further support of our motion to disqualify the law firm
of Bob Smith & Associates from representing intervenor defendant Peron
Construction, Inc.

I write to bring to Your Honor's attention and the attention of the parties an
opinion I recently discovered while working on an unrelated matter. In Goldfarb v.
Solimine, 460 N.J. Super. 22 (App. Div. 2019), the court addressed an instance of
impermissible "judge shopping." The facts might seem distinguishable, in the
sense that our case is truly unprecedented, but there is no disputing that our case

presents a different but no less unacceptable form of “judge shopping,” in that a party is trying to intimidate the judge, or have the case assigned to another judge, or both. The other lesson is that the appellate court fashioned a remedy fitted to the facts in the case.

In Goldfarb, a former law clerk of the trial judge contacted the judge by text to inquire if she was available to preside over the trial, noting that a senior associate at the defense firm would actually try the case. The judge understood that the attorney liked to appear before her. The judge then contacted the presiding judge and asked for the case, which was done. There is no indication that the presiding judge knew of the request by the judge’s former law clerk. The trial judge apparently had no contact with the case before trial. The judge disclosed the contacts to the parties before trial began, denying the plaintiff’s motion to recuse herself. The excerpts quoted in the opinion suggest that she was unrepentant. 460 N.J. Super. at 28. The case proceeded to trial, with the trial judge ruling mid-trial barring plaintiff’s damages expert. The jury found liability in favor of the plaintiff and awarded a damages figure that was apparently less than the plaintiff’s damages expert favored.¹

On appeal, canvassing the law of judicial conflicts, the court reversed in

¹ By the time of the appellate court’s decision, both the trial judge and the presiding judge, both unnamed, had retired. 460 N.J. Super. at 28, n.1.

part and held that the judge should have recused herself. But the court was careful in addressing the issue of the remedy, focusing on the parties responsible for the predicament.

When a trial judge's actual or apparent impartiality "might reasonably be questioned," . . . and the trial judge fails to step aside, the reviewing court must fashion a remedy "to restore public confidence in the integrity and impartiality of the proceedings, to resolve the dispute in particular, and to promote generally the administration of justice."

[Goldfarb, 460 N.J. Super. at 34, citing DeNike v. Cupo, 196 N.J. 502, 591 (2008).]

The court allowed the verdict on liability to stand, but remanded for a new trial on damages, finding that the plaintiff's damages expert should have been allowed to testify.

In Goldfarb, the parties at fault were the defense firm and the judge, who engaged in and abetted judge shopping. In our case, as we have repeatedly said, the judge is blameless, as are the plaintiffs. The party that created this predicament is intervenor-defendant Peron Construction LLC. The remedy this court must fashion following the guidance of Goldfarb is to remove the Bob Smith law firm.

We apologize for the lateness of this letter.

Respectfully submitted,

/s/ Peter Dickson

Peter Dickson

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