



**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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**IN RE: HONORABLE LUCY LEAL  
JUSTICE OF THE PEACE, PRECINCT 4-4A  
LA PRYOR, ZAVALA COUNTY, TEXAS**

**CJC No. 17-0125-JP**

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**VOLUNTARY AGREEMENT TO RESIGN FROM  
JUDICIAL OFFICE IN LIEU OF DISCIPLINARY ACTION**

This Agreement is being entered into by the undersigned parties pursuant to Section 33.032(h) of the Texas Government Code.

**WHEREAS** at all times relevant hereto, the Honorable Lucy Leal was the Precinct 4-4A Justice of the Peace in La Pryor, Zavala County, Texas, and

**WHEREAS** on October 6, 2016, the Commission initiated a complaint against Judge Leal regarding allegations that her conduct led to the arrest and confinement of Gustavo Jimenez, III, and Joey Maldonado insofar as she allegedly:

- (1) signed two warrants for the arrest of Gustavo Jimenez, III, one for a charge of criminal trespass and the other for theft, without an affidavit of probable cause to support either charge; and
- (2) signed a warrant for the arrest of Joey Maldonado on a charge of terroristic threat of a public servant without an affidavit of probable cause to support the charge, and

**WHEREAS** on December 1, 2017, the Commission filed its Request for Order of Suspension of Judge Leal with the Texas Supreme Court as well as its Notice of Formal Proceedings. Both documents are attached hereto and incorporated by reference as if fully set forth at length, and

**WHEREAS** no Findings of Fact or Conclusions of Law have been made in connection with the above-referenced matters, and

**WHEREAS** no prior disciplinary action has been taken against Judge Leal, who denies the allegations in their entirety, and

WHEREAS the parties agree that the allegations of judicial misconduct, if found to be true, could result in further disciplinary action against Judge Leal, up to and including removal from office, and

WHEREAS the parties to this Agreement are desirous of resolving these matters without the time and expense of further disciplinary proceedings.

**IT IS THEREFORE AGREED** that Judge Leal, upon the signing of this Agreement, officially and formally resigns her judicial duties effective immediately, and is entering into this Agreement to resolve the above-referenced complaint in lieu of disciplinary action by the Commission, pursuant to Section 33.032(h) of the Texas Government Code. The Commission agrees that it shall pursue no further disciplinary proceedings against Judge Leal in connection with the above-referenced matters.

**IT IS FURTHER AGREED** that Judge Leal, by her execution of this voluntary agreement, does not admit guilt, fault, or liability regarding the matters contained in the complaint referenced above.

**IT IS FURTHER AGREED** that, upon the Commission's approval of this Agreement, Judge Leal shall be forever disqualified from judicial service in the State of Texas, including (a) sitting or serving as a judge, (b) standing for election or appointment to a judicial office, and/or (c) performing or exercising any judicial duties or functions of a judicial officer, including the performance of wedding ceremonies.


**IT IS FURTHER AGREED** that any violation of this Agreement by Judge Leal would constitute willful or persistent conduct that is clearly inconsistent with the proper performance of her duties or casts public discredit upon the judiciary or administration of justice in violation of Art. 5, §1-a(6)A of the Texas Constitution, and Section 33.001(b) of the Texas Government Code.

**IT IS FURTHER AGREED** that this agreement shall be made public as a voluntary agreement to resign from judicial office, pursuant to Section 33.032(h) of the Texas Government Code, and the Commission may enforce this Agreement through any legal process necessary, including injunctive relief; that Travis County, Texas, shall be the proper venue for any dispute between the parties or proceeding relating to this Agreement; and that Judge Leal, individually, shall bear the expense, cost, and any reasonable and necessary attorneys' fees in the event any dispute arising under this Agreement is decided against her by any court or tribunal.

**AGREED TO AND ACCEPTED** upon its execution by the parties.

  
HON. LUCY LEAL

Date: 01/31/2018

  
HON. DOUGLAS S. LANG, CHAIR  
STATE COMMISSION ON JUDICIAL  
CONDUCT

Date: February 13, 2018

VERIFICATION

State of Texas §  
County of Zavala §

BEFORE ME, the undersigned authority, on this day personally appeared LUCY LEAL, who by me being first duly sworn, on her oath deposed and said that the above "Voluntary Agreement to Resign from Judicial Office in Lieu of Disciplinary Action" is a true and correct recitation of the facts and accurately reflects her understanding of the terms and conditions of, and voluntary consent to enter into, such Agreement.

SWORN TO BEFORE ME, on this the 30<sup>th</sup> day of January, 2018.



  
NOTARY PUBLIC, IN AND FOR THE STATE  
OF TEXAS

**IN THE SUPREME COURT OF TEXAS**  
**Misc. Docket No. 17-\_\_\_\_\_**

**INQUIRY CONCERNING**  
**CJC No. 17-0125-JP**

**COMMISSION’S REQUEST FOR ORDER OF SUSPENSION OF JUDGE**

**TO THE HONORABLE SUPREME COURT OF TEXAS:**

The State Commission on Judicial Conduct (the “Commission”) files this Motion to Suspend, without pay, the Honorable Lucy Leal (“Judge Leal”), Justice of the Peace for Precinct 4-4A, La Pryor, Zavala County, Texas, and would show:

**I. Background**

The Commission’s mission statement, in its entirety, reads:

The mission of the State Commission on Judicial Conduct is to protect the public, promote public confidence in the integrity, independence, competence, and impartiality of the judiciary, and encourage judges to maintain high standards of conduct both on and off the bench.

The Commission accomplishes this mission through its investigation of allegations of judicial misconduct or incapacity. In cases where a judge is found to have engaged in misconduct or to be permanently incapacitated, the Texas Constitution authorizes the Commission to take appropriate disciplinary action, including issuing sanctions, censures, suspensions, or recommendations for removal from office.<sup>1</sup>

Consistent with its mission, the Commission brings this action along with Formal Proceedings instituted this day against Judge Leal. The Commission seeks

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<sup>1</sup> See <http://www.scjc.texas.gov/about/mission-statement.aspx>

Judge Leal's suspension until the Formal Proceedings against her are fully concluded. The Commission respectfully submits that the severity of Judge Leal's admitted misconduct compels her immediate suspension.

## **II. Authority**

Article 5, §1-a(6)A of the Texas Constitution provides, in pertinent part:

On the filing of a sworn complaint charging a person holding such office with willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful and persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or on the administration of justice, the Commission, after giving the person notice and an opportunity to appear and be heard before the Commission, may recommend to the Supreme Court the suspension of such person from office. The Supreme Court, after considering the record of such appearance and the recommendation of the Commission, may suspend the person from office with or without pay, pending final disposition of the charge.<sup>2</sup>

## **III. Factual and Procedural Background**

Since assuming the bench in January of 2011, and at all times relevant hereto, Judge Leal has been the Justice of the Peace for Precinct 4-4A, La Pryor, Zavala County, Texas.

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<sup>2</sup> Rule 15(b) of the Procedural Rules for the Removal or Retirement of Judges sets forth a procedure for the suspension of a judge using substantially the same language as that in the Texas Constitution.

## **A. The Commission Opens an Investigation**

On October 6, 2016, the Commission initiated an investigation into Judge Leal based on reports that she issued three arrests warrants without the requisite sworn complaint or affidavit of probable cause supporting the desired warrants. As a direct result, two individuals were unlawfully arrested and detained.

### **1. Unlawful Arrest of Gustavo Jimenez, III**

On May 6, 2015, Zavala County Precinct 1-1 A Justice of the Peace Dagoberto Correa<sup>3</sup> contacted local law enforcement to report that his pickup truck had been taken from his property. Judge Correa asserted that Gustavo Jimenez, III, improperly repossessed his truck. That day, Zavala County Deputy Sheriff Guadalupe Martinez met with Judge Correa regarding the issue and filed a report which concluded that the matter was purely civil. Deputy Martinez took no further action on the case. *See* Ex. J-1, pg. 3-5, and Ex. CJC-3, pg. 23.

On July 14, 2015, Judge Correa filed an unsworn complaint with Judge Leal that stated “criminal trespass” without further detail or information. *See* Ex. CJC-1, pg. 12. Two days later, based solely on Judge Correa’s “complaint,” Judge Leal issued two warrants for Jimenez’s arrest on charges of theft and criminal trespass. *See* Ex. CJC-1, pg. 10-11.

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<sup>3</sup> On June 7, 2017, Judge Correa was found dead in his residence. According to local law enforcement and the Bexar County Medical Examiner’s Office, he died from a self-inflicted gunshot wound to his chest.

On August 13, 2015, Jimenez was arrested by Zavala County Sheriff's Office deputies and booked into the county jail. He subsequently posted a Personal Recognizance bond and was released. *See Ex. CJC-1 pg. 1-9.*

## **2. Unlawful Arrest of Joey Maldonado**

On January 12, 2016, Judge Correa contacted local law enforcement regarding a telephone conversation with Joey Maldonado.<sup>4</sup> That day, Zavala County Deputy Sheriff Jesse Jimenez met with Judge Correa regarding his conversation with Maldonado and filed a report, which concluded that no criminal activity occurred. No further action was taken by Deputy Jimenez on the case. *See Ex. J-1 pg. 6-8, and Ex. CJC-3, pg. 24.*

The following day, Judge Correa met with Judge Leal and asked her to issue a warrant for Maldonado's arrest. Judge Correa did not file a sworn complaint or affidavit of probable cause, or indeed provide any documentation whatsoever (sworn or otherwise) to Judge Leal, in support of the request. Nevertheless, Judge Leal issued a warrant for the Maldonado's arrest that day. The arrest warrant signed by Judge Leal referenced "Terroristic threat/public servant" for which Maldonado had been "accused by the written complaint, under oath, of Dagoberto Correa." *See Ex. CJC-2, pg. 20.* Maldonado was arrested that day by the Zavala County Sheriff's

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<sup>4</sup> The conversation between Judge Correa and Maldonado was related to a prior conversation between Judge Correa and Maldonado's daughter about her alleged assault at a house party.

Office and booked into the county jail. He subsequently posted bond and was released after spending over seven hours in jail. *See* Ex. CJC-2, pg. 14-22.

### **B. Commission Staff Interviews Judge Leal**

On May 23, 2017, Commission Staff interviewed Judge Leal under oath<sup>5</sup> in Zavala County regarding the arrest warrants she issued for Jimenez and Maldonado. During the interview, Staff asked Judge Leal about the timing of her most recent conversation with Judge Correa. Judge Leal responded that she had spoken with Judge Correa the day before at a Commissioners Court meeting. Staff again inquired whether Judge Leal had spoken with Judge Correa on her way to the interview.<sup>6</sup> Judge Leal swore that she had not spoken with Judge Correa that day. *See* Ex. CJC-4, pg. 29.

Commission Staff asked Judge Leal what they would discover if they “dumped” her phone. At that point, Judge Leal admitted that she had talked to Judge Correa on her way to the interview, but provided little information regarding the substance of their conversation. Ex. CJC-4, pg. 39-42.

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<sup>5</sup> Judge Leal was placed under oath by the Commission’s Senior Investigator, Victor Hidalgo.

<sup>6</sup> Commission staff had been informed by local law enforcement that Judge Correa had called Judge Leal as she was driving to her office to participate in the interview.



### **C. Deputy Sheriff Guadalupe Martinez's Allegations**

On June 20, 2017, Zavala County Deputy Sheriff Guadalupe Martinez filed a sworn complaint with the Commission against Judge Leal, which states, in pertinent part:

On May 6, 2015, I met with Judge Dagoberto Correa at his residence in regards to his missing truck. Judge Correa stated that Gustavo Jimenez, III, illegally repossessed his truck. The registration showed that Mr. Jimenez was the lienholder of the truck.

After meeting with Judge Correa, I contacted an official with the Texas Department of Public Safety regarding this matter and we agreed that this was a civil issue. I filed my report, but did not pursue any additional investigation into this matter. I did not prepare an affidavit of probable cause for the arrest of Gustavo Jimenez, III, because I did not believe that any criminal conduct had been committed in this case.

Based upon the records of the Zavala County Sheriff's Office, no one from law enforcement ever prepared an affidavit of probable cause for the arrest of Gustavo Jimenez, III. Any arrest warrant in this matter was requested solely by Judge Correa. Justice of the Peace Lucy Leal never consulted with me regarding the alleged facts of this case prior to issuing an arrest warrant for Mr. Jimenez.

Ex. CJC-3, pg. 23.

### **D. Deputy Sheriff Jesse Jimenez's Allegations**

On June 22, 2017, Zavala County Deputy Sheriff Jesse Jimenez filed a sworn complaint against Judge Leal, which states, in pertinent part:

On January 12, 2016, I met with Judge Dagoberto Correa regarding a complaint that he filed against Joey Maldonado. Judge Correa alleged that Mr. Maldonado called his office and began using vulgar language. The judge indicated that he wanted to file charges for terroristic threat against Mr. Maldonado.

After meeting with Judge Correa, I filed my report, but did not pursue any additional investigation into this matter. I did not prepare an affidavit of probable cause for the arrest of Joey Maldonado because I did not believe that any criminal conduct had been committed in this case.

Based upon the records of the Zavala County Sheriff's Office, no one from law enforcement ever prepared an affidavit of probable cause for the arrest of Joey Maldonado. Any arrest warrant in this matter was requested solely by Judge Correa. Justice of the Peace Lucy Leal never consulted with me regarding the alleged facts of this case prior to issuing an arrest warrant for Mr. Maldonado.

Ex. CJC-3, pg. 24.

#### **E. The Commission's First Inquiry**

On May 2, 2017, the Commission sent its first Letter of Inquiry to Judge Leal concerning the allegations ("QJ-1"). The Letter of Inquiry included substantive questions about the Judge's decision to issue arrest warrants for Jimenez and Maldonado. In her response, Judge Leal stated:

Judge Dagoberto Correa came into my office to let me know about the incident and brought [sic] police reports and told me he wanted to file a formal complaint on both Gustavo Jimenez, III, and Joey Maldonado. After reading the reports and hearing his complaints, I felt there was probable cause to issue warrants.

Ex. J-1, pg. 1.

#### **F. The Commission's Second Inquiry**

On June 26, 2017, the Commission sent a Second Letter of Inquiry to Judge Leal ("QJ-2"), which inquired about her general practice of handling requests for the issuance of arrest warrants.

On July 16, 2017, Attorney Pablo V. Bustamante submitted a notice of appearance and provided a response to QJ-2 on behalf of Judge Leal. In her responses to QJ-2, Judge Leal stated:

It is not my practice to issue an arrest warrant without an accompanying affidavit of probable cause, but when a person comes in to complain, especially when the complaint is very real and valid, there may be a need to act, BUT it is still my practice to inform all complainants to report and complain to the police.

Ex. J-2, pg. 11 (emphasis in orig.).

Judge Leal further stated:

While I use police officer's investigative reports for arrest warrants, as stated above, there are instances when I will issue the warrants due to the facts of the matter affirmed to by the affiant, and which meet the criteria for issuance of such warrants. In this case, if you will note, the alleged investigations took place the day prior to the issuance of warrants. While, as the investigator states, no affidavits for probable cause were issued, this information was not provided to me at the time. By then, and based on the affiant, and thereafter any other information he provided to me, I issued these warrants. At this point in time, having looked at all the records, it is now my recollection I may not have used the police reports in these cases. I do prefer to use the police to investigate and further insure I have, and do, proceed as provided to me by law.

Ex. J-2, pg. 11.

On August 7, 2017, counsel for Judge Leal sent the Commission a letter stating that the "single act of alleged misconduct, especially when she did not take this action intentionally but perhaps misinformed" did not constitute sufficient grounds for her removal from the bench. *See* Ex. J-3, pg. 34.

The Commission met on August 9-10, 2017, to consider the evidence against Judge Leal. Rather than take any specific disciplinary action at its August meeting, the Commission instead invited Judge Leal to appear for a pre-suspension hearing in October of 2017, where the Commission would consider whether to recommend to the Supreme Court that Judge Leal be suspended from office pursuant to Rule 15(b) of the Procedural Rules for the Removal or Retirement of Judges.<sup>7</sup>

On August 23, 2017, the Commission sent Judge Leal's counsel a subpoena to appear on October 4, 2017, along with 56 pages of materials relevant to the investigation. *See* Ex. CJC-5.

On September 15, 2017, counsel for Judge Leal sent the Commission a letter<sup>8</sup> stating that “while she may have suffered an oversight, where it appears clear the system did not help her, but fail her, because there should have been checks and balances that provide cover to overcome obstacles, such as the reporting officers having made the contact reports directly to her for proper determination instead of just letting things happen...” Ex. J-4, pg. 36.

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<sup>7</sup> Adopted and Promulgated Pursuant to Article V, Section 1-a(11) of the Texas Constitution and available at [http://www.scjc.texas.gov/media/8115/procedure\\_rules.pdf](http://www.scjc.texas.gov/media/8115/procedure_rules.pdf).

<sup>8</sup> The letter was dated September 25, 2017.

### G. Judge Leal's Testimony Before the Commission

On October 4, 2017, Judge Leal appeared with counsel and testified before the Commission under oath. During her appearance, Judge Leal provided the following testimony:

Commission Counsel: Okay. And – and he [Judge Correa] didn't sign anything in front of you. The – he didn't sign a sworn complaint or affidavit of probable cause?

Judge Leal: No, sir, I...no sir.

Ex. CJC-6, pg. 126.

Commission Counsel: ...did you follow the proper procedure under the Code of Criminal Procedure and the U.S. Constitution when you decided to issue these arrest warrants for Mr. Jimenez?

Judge Leal: Maybe I did – I mean, there was something that I failed that general complaint from the officers. That should have been there and – and it was not there. But like I told [indiscernible] I was I- -- I went based on what was on the police report and what Judge Correa told me.

Ex. CJC-6, pg. 134.

Commission Counsel: [Regarding the warrant for the arrest of Joey Maldonado] was there a written complaint under oath of Dagoberto Correa?

...

Judge Leal: No, sir.

Ex. CJC-6, pg. 145.

During the hearing, Judge Leal engaged in the following exchange with Commissioner Wylie:

Commissioner Wylie: And is the protocol when an officer comes in with the warrant...would you just kinda walk me through what your protocol is? The officer's in front of you. What do you do? Can you walk me lockstep through what you do?

Judge Leal: [Indiscernible] present me with the police report and – and I read it and...and like I said, and they have – they –they have that general complaint.

Commissioner Wylie: Mm-hmm.

Judge Leal: And that's the one I did not have for these gentleman.

Commissioner Wylie: I'm not sure what a general complaint is.

Commissioner Wylie: Would you describe what that is?

Judge Leal: Yes ma'am. It's a -- where the police – they do their – their statement, you know, like they feel like it was probable cause.

Commissioner Wylie: Okay. So is that sworn to?

Judge Leal: Yes ma'am.

...

Commissioner Wylie: Okay. Why would this particular – these two particular cases be any different than your normal protocol?

Judge Leal: [Indiscernible] I just – I just don't know. I just... it [indiscernible] not even cross my mind to have that – that general complaint that I was telling you about.

Commissioner Wylie: The – sworn affidavit?

Judge Leal: Yes, ma'am.

Ex. CJC-6, pg. 163-164.

#### **IV. Institution of Formal Proceedings**

On December 1, 2017, the Commission filed a Notice of Formal Proceedings for the potential removal of Judge Leal from the bench for her multiple violations of the Code of Judicial Conduct and her willful or persistent conduct clearly inconsistent with the proper performance of her duties, and which cast public discredit on the judiciary and the administration of justice, in violation of Article V, § 1-a(6)A of the Texas Constitution.

#### **V. Suspension**

Pursuant to Article 5, §1-a(6)A of the Texas Constitution and Rule 15(b) of the Procedural Rules for the Removal or Retirement of Judges, a copy of Zavala County Sheriff Deputies Guadalupe Martinez and Jesse Jimenez's Sworn Complaints (Ex. CJC-3) were filed with the Commission, Judge Leal was provided notice (Ex. CJC-5) and an opportunity to appear and be heard before the Commission. (Ex. CJC-6) Based on the evidence before it, the Commission has concluded that Judge Leal engaged in willful violations of the Code of Judicial Conduct, as well as engaged in willful and persistent conduct clearly inconsistent with the proper performance of her duties that cast public discredit upon the judiciary and on the administration of justice in the State of Texas. The Commission respectfully submits that this Court, too, will reach the same conclusion based on the facts before it.

The undisputed evidence is that Judge Leal's actions caused the illegal arrest and detention of Gustavo Jimenez, III, and Joey Maldonado. Twice, Judge Leal bypassed the critical requirement that a request for an arrest warrant be supported by sworn testimony of some form. Her willingness to so blatantly abuse the power to arrest is simply inexcusable, and the Commission would likely be seeking her removal on this basis, alone.

However, any remaining doubt regarding Judge Leal's fitness for judicial office should be settled by her failure to tell the truth in her testimony given to the Commission during its investigation. During her May 23, 2017, interview with Commission staff, Judge Leal actively misrepresented material facts about her previous conversation with Judge Correa. (Ex. CJC-4) During Judge Leal's suspension hearing, she admitted as much:

Commissioner Russell: Didn't we just establish that they [Commission staff] caught you in a lie? And then you corrected your testimony?

Judge Leal: Yes, sir.

Ex. CJC-6, pg. 155.

Before the Commission, Judge Leal sought to place at least some of the blame for her decision to issue the subject arrest warrants at the feet of the Zavala County Sheriff's Office:

Commission Counsel: And Judge, reg- -- regarding all of this and your decision to issue the arrest warrant, are you placing any of the



responsibility on this on the law-enforcement officers that investigated either this case or the next case we're gonna talk about?

...

Judge Leal: Well...I felt like somebody from the sheriff's office could have contacted me they felt that it was not -- didn't sh- --that didn't show there it was probable cause. And I never did hear from anybody from the sheriff's department.

Ex. CJC-6, pg. 132-133.

Commission Counsel: Re -- regarding both of these instances, are --are you taking full responsibility for this? Or are you saying it was law enforcement? Or are you saying it was [Judge] Correa?

Judge Leal: Yes, I did take responsibility somewhere along the line, like I mentioned earlier, I feel like the sheriff's department, somebody from there, could have gone, you know, like...told me, you know, like, "Hey, you know there's something missing here," and...I mean, I just don't wanna blame 'em, for sure, but I feel like...somewhere along the line they failed me.

Ex. CJC-6, pg. 146.

Commissioner Naranjo followed up with Judge Leal's curious testimony that the Sheriff's office could have played any role in her decision to issue the subject arrest warrants, given that they were never consulted on the matter and had affirmatively concluded that neither individual committed a criminal act:

Commissioner Naranjo: So if I understand you correctly, Judge, you're blaming the -- in part the sheriff's department for your mistake.

Judge Leal: Well, not entirely. But I just feel like... the- -- you know...they could have [indiscernible] said, "I don't think there was actually probable cause."

Commissioner Naranjo: But isn't it up to you? Don't they rely on you? Didn't you fail them?

Judge Leal: Maybe.

Commissioner Naranjo: Why can't you just say yes? Why can't you just accept that it's your fault that s- -- that you signed – you signed the arrest warrant? That it's your fault. Why blame somebody else for your failure?

Judge Leal: [Indiscernible] I -- I know I should. I – I mean, I...I guess I will take the blame because I did sign it.

Ex. CJC-6, pg. 181-182.

Judge Leal's nature and frequency of misconduct is incompatible with continuing to serve as a judge. She not only issued three separate arrest warrants without probable cause, but she compounded her problems by providing false testimony to the Commission under oath about her conversation with Judge Correa. Even before the Commission, in the face of indefensible conduct, Judge Leal sought to blame the Sherriff's office, which played literally no role in seeking either individual's arrest.

Judge Leal's breach of the public's trust warrants her immediate suspension pending formal proceedings. Accordingly, the Commission recommends that the Texas Supreme Court order the immediate suspension of Judge Leal from her office as Justice of the Peace, Precinct 4-4A, La Pryor, Zavala County, Texas, without pay.

**Prayer**

WHEREFORE, premises considered, the Commission respectfully requests that, pursuant to Article 5, §1-a(6)A of the Texas Constitution and Rule 15(b) of the Procedural Rules for the Removal or Retirement of Judges, this Honorable Court issue an order suspending Judge Lucy Leal, without pay, from her office as Justice of the Peace, Precinct 4-4A, La Pryor, Zavala County, Texas, pending final disposition of the formal proceedings against her.

Respectfully submitted,

**State Commission on Judicial Conduct**  
P.O. Box 12265  
Austin Texas 78711  
(512) 463-5533  
FAX: (512) 463-0511

Eric L. Vinson  
Executive Director  
Texas State Bar No. 24003115

By: /Eric L. Vinson/  
Eric L. Vinson

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the "Commission's Request for Order of Suspension of a Judge" has been served upon Judge Lucy Leal, by and through her attorney of record, Mr. Pablo V. Bustamante, P.O. Box 461286, San Antonio, TX 78246, on this the **1st day of December, 2017**, via certified mail, return receipt requested.

*/Eric L. Vinson/*

Eric L. Vinson

STATE OF TEXAS  
COUNTY OF TRAVIS

Cynthia Lopez Clerk of the  
State Commission on Judicial Conduct, do  
hereby certify that the foregoing is a true and  
correct copy of the original now in my lawful  
custody and possession as it appears of record.

BEFORE THE STATE COMMISSION

Witness my official hand and seal of office on **ON JUDICIAL CONDUCT**  
this December 1, 2014.

CLERK OF THE  
STATE COMMISSION ON  
JUDICIAL CONDUCT

INQUIRY CONCERNING

JUDGE NO. 99

By Cynthia Lopez

### NOTICE OF FORMAL PROCEEDINGS

**TO THE HONORABLE LUCY LEAL, JUSTICE OF THE PEACE FOR PRECINCT 4-4A,  
LA PRYOR, ZAVALA COUNTY, TEXAS:**

Pursuant to TEXAS GOVERNMENT CODE Section 33.022 and RULE 10 OF THE TEXAS PROCEDURAL RULES FOR THE REMOVAL OR RETIREMENT OF JUDGES, this NOTICE is hereby given to the Honorable Lucy Leal, Justice of the Peace for Precinct 4-4A, La Pryor, Zavala County, Texas, that formal proceedings have been instituted against her by the State Commission on Judicial Conduct, based upon the following:

#### FACTUAL ALLEGATIONS

1. At all times relevant hereto, the Honorable Lucy Leal was a Justice of the Peace for Precinct 4-4A, in La Pryor, Zavala County, Texas.
2. Judge Leal was duly-elected as Justice of the Peace in November 2010 and was sworn in on January 1, 2011. She was re-elected to the bench in 2014.
3. On October 6, 2016, the State Commission on Judicial Conduct ("Commission") initiated an investigation into Judge Leal based on reports that she issued three arrests warrants without the requisite sworn complaint or affidavit of probable cause supporting the desired warrants. As a direct result, two individuals were unlawfully arrested and detained.
4. On May 6, 2015, Zavala County Precinct 1-1A Justice of the Peace Dagoberto Correa contacted local law enforcement to report that his pickup truck had been taken from his property. Judge Correa asserted that Gustavo Jimenez, III, improperly repossessed his truck. That day, Zavala County Deputy Sheriff Guadalupe Martinez met with Judge Correa regarding the issue and filed a report which concluded that the matter was purely civil. Deputy Martinez took no further action on the case. *See Ex. J-1, pg. 3-5 and Ex. CJC-3, pg. 23.*
5. On July 14, 2015, Judge Correa filed an unsworn complaint with Judge Leal that stated "criminal trespass" without further detail or information. *See Ex. CJC-1, pg. 12.* Two days later, based solely on Judge Correa's "complaint," Judge Leal issued two warrants for Jimenez's arrest on charges of theft and criminal trespass. *See Ex. CJC-1, pg. 10-11.*
6. On August 13, 2015, Jimenez was arrested by Zavala County Sheriff's Office deputies and booked into the county jail. He subsequently posted a Personal Recognizance bond and was released. *See Ex. CJC-1, pg. 1-9.*

7. On January 12, 2016, Judge Correa contacted local law enforcement regarding a telephone conversation with Joey Maldonado.<sup>1</sup> That day, Zavala County Deputy Sheriff Jesse Jimenez met with Judge Correa regarding his conversation with Maldonado and filed a report, which concluded that no criminal activity occurred. No further action was taken by Deputy Jimenez on the case. *See* Ex. J-1, pg. 6-8, and Ex. CJC-3, pg. 24.
8. The following day, Judge Correa met with Judge Leal and asked her to issue a warrant for Maldonado's arrest. Judge Correa did not file a sworn complaint or affidavit of probable cause, or indeed provide any documentation whatsoever (sworn or otherwise) to Judge Leal, in support of the request. The arrest warrant signed by Judge Leal referenced "Terroristic threat/public servant" for which Maldonado had been "accused by the written complaint, under oath, of Dagoberto Correa." *See* Ex. CJC-2, pg. 20. Maldonado was arrested that day by the Zavala County Sheriff's Office and booked into the county jail. He subsequently posted bond and was released after spending over seven hours in jail. *See* Ex. CJC-2, pg. 14-22.
9. On May 23, 2017, Commission Staff interviewed Judge Leal under oath<sup>2</sup> in Zavala County regarding the arrest warrants she issued for Jimenez and Maldonado. During the interview, Staff asked Judge Leal about the timing of her most recent conversation with Judge Correa. Judge Leal responded that she had spoken with Judge Correa the day before at a Commissioners Court meeting. Staff again inquired whether Judge Leal had spoken with Judge Correa on her way to the interview.<sup>3</sup> Judge Leal swore that she had not spoken with Judge Correa that day. *See* Ex. CJC-4, pg. 29.
10. Commission Staff asked Judge Leal what they would discover if they "dumped" her phone. At that point, Judge Leal admitted that she had talked to Judge Correa on her way to the interview, but provided little information regarding the substance of their conversation. *See* Ex. CJC-4, pg. 39-42.
11. On June 20, 2017, Zavala County Deputy Sheriff Guadalupe Martinez filed a sworn complaint with the Commission against Judge Leal, which states, in pertinent part:

On May 6, 2015, I met with Judge Dagoberto Correa at his residence in regards to his missing truck. Judge Correa stated that Gustavo Jimenez, III, illegally repossessed his truck. The registration showed that Mr. Jimenez was the lienholder of the truck.

After meeting with Judge Correa, I contacted an official with the Texas Department of Public Safety regarding this matter and we agreed that this was a civil issue. I filed my report, but did not pursue any additional investigation into this matter. I did not prepare an affidavit of probable cause for the arrest of Gustavo Jimenez, III, because I did not believe that any criminal conduct had been committed in this case.

Based upon the records of the Zavala County Sheriff's Office, no one from law enforcement ever prepared an affidavit of probable cause for the arrest of Gustavo Jimenez, III. Any arrest warrant in this matter was requested solely by Judge Correa. Justice of the

<sup>1</sup> The conversation between Judge Correa and Maldonado was related to a prior conversation with Joey Maldonado's daughter, who was allegedly assaulted at a house party in Zavala County.

<sup>2</sup> Judge Leal was placed under oath by the Commission's Senior Investigator, Victor Hidalgo.

<sup>3</sup> Commission staff had been informed by local law enforcement that Judge Correa had called Judge Leal as she was driving to her office to participate in the interview.

Peace Lucy Leal never consulted with me regarding the alleged facts of this case prior to issuing an arrest warrant for Mr. Jimenez.

Ex. CJC-3, pg. 23.

12. On June 22, 2017, Zavala County Deputy Sheriff Jesse Jimenez filed a sworn complaint with the Commission against Judge Leal, which states, in pertinent part:

On January 12, 2016, I met with Judge Dagoberto Correa regarding a complaint that he filed against Joey Maldonado. Judge Correa alleged that Mr. Maldonado called his office and began using vulgar language. The judge indicated that he wanted to file charges for terroristic threat against Mr. Maldonado.

After meeting with Judge Correa, I filed my report, but did not pursue any additional investigation into this matter. I did not prepare an affidavit of probable cause for the arrest of Joey Maldonado because I did not believe that any criminal conduct had been committed in this case.

Based upon the records of the Zavala County Sheriff's Office, no one from law enforcement ever prepared an affidavit of probable cause for the arrest of Joey Maldonado. Any arrest warrant in this matter was requested solely by Judge Correa. Justice of the Peace Lucy Leal never consulted with me regarding the alleged facts of this case prior to issuing an arrest warrant for Mr. Maldonado.

Ex. CJC-3, pg. 24.

13. On May 2, 2017, the Commission sent its First Letter of Inquiry to Judge Leal concerning the allegations ("QJ-1"). The Letter of Inquiry included substantive questions about the Judge's decision to issue arrest warrants for Jimenez and Maldonado.

14. In her response, Judge Leal stated:

Judge Dagoberto Correa came into my office to let me know about the incident and brought [sic] police reports and told me he wanted to file a formal complaint on both Gustavo Jimenez, III, and Joey Maldonado. After reading the reports and hearing his complaints, I felt there was probable cause to issue warrants.

Ex. J-1, pg. 1.

15. On June 26, 2017, the Commission sent a Second Letter of Inquiry to Judge Leal ("QJ-2"), which inquired about her general practice of handling requests for the issuance of arrest warrants.
16. On July 16, 2017, Attorney Pablo V. Bustamante submitted a notice of appearance and provided a response to QJ-2 on behalf of Judge Leal. In her responses to QJ-2, Judge Leal stated:

It is not my practice to issue an arrest warrant without an accompanying affidavit of probable cause, but when a person comes in to complain, especially when the complaint is very real and valid, there may be a need to act, BUT it is still my practice to inform all complainants to report and complain to the police.

Ex. J-2, pg. 11 (emphasis in orig.).

17. Judge Leal further stated:

While I use police officer's investigative reports for arrest warrants, as stated above, there are instances when I will issue the warrants due to the facts of the matter affirmed to by the affiant, and which meet the criteria for issuance of such warrants. In this case, if you will note, the alleged investigations took place the day prior to the issuance of warrants. While, as the investigator states, no affidavits for probable cause were issued, this information was not provided to me at the time. By then, and based on the affiant, and thereafter any other information he provided to me, I issued these warrants. At this point in time, having looked at all the records, it is now my recollection I may not have used the police reports in these cases. I do prefer to use the police to investigate and further insure I have, and do, proceed as provided to me by law.

Ex. J-2, pg. 11.

18. On August 7, 2017, counsel for Judge Leal sent the Commission a letter stating that the "single act of alleged misconduct, especially when she did not take this action intentionally but perhaps misinformed" did not constitute sufficient grounds for her removal from the bench. Ex. J-3, pg. 34.
19. The Commission met on August 9-10, 2017, to consider the evidence against Judge Leal. Rather than take any specific disciplinary action at its August meeting, the Commission instead invited Judge Leal to appear for a pre-suspension hearing in October of 2017, where the Commission would consider whether to recommend to the Supreme Court that Judge Leal be suspended from office pursuant to Rule 15(b) of the Procedural Rules for the Removal or Retirement of Judges.<sup>4</sup>
20. On August 23, 2017, the Commission sent Judge Leal's counsel a subpoena to appear on October 4, 2017, along with 56 pages of materials relevant to the investigation. *See* Ex. CJC-5.
21. On September 15, 2017, counsel for Judge Leal sent the Commission a letter<sup>5</sup> stating that "while she may have suffered an oversight, where it appears clear the system did not help her, but fail her, because there should have been checks and balances that provide cover to overcome obstacles, such as the reporting officers having made the contact reports directly to her for proper determination instead of just letting things happen..." Ex. J-4, pg. 36.
22. On October 4, 2017, Judge Leal appeared with counsel and testified before the Commission under oath. During her appearance, Judge Leal provided the following testimony:
- Commission Counsel: Okay. And – and he [Judge Correa] didn't sign anything in front of you. The – he didn't sign a sworn complaint or affidavit of probable cause?
- Judge Leal: No, sir, I...no sir.
- Ex. CJC-6, pg. 126.

<sup>4</sup> Adopted and Promulgated Pursuant to Article V, Section 1-a(11) of the Texas Constitution and available at [http://www.scjc.texas.gov/media/8115/procedure\\_rules.pdf](http://www.scjc.texas.gov/media/8115/procedure_rules.pdf)

<sup>5</sup> The letter was dated September 25, 2017



Commission Counsel: ... did you follow the proper procedure under the Code of Criminal Procedure and the U.S. Constitution when you decided to issue these arrest warrants for Mr. Jimenez?

Judge Leal: Maybe I did – I mean, there was something that I failed that general complaint from the officers. That should have been there and – and it was not there. But like I told [indiscernible] I was I- -- I went based on what was on the police report and what Judge Correa told me.

Ex. CJC-6, pg. 134.

Commission Counsel: [Regarding the warrant for the arrest of Joey Maldonado] Was there a written complaint under oath of Dagoberto Correa?

...

Judge Leal: No, sir.

Ex. CJC-6, pg. 145.

23. During the suspension hearing, Judge Leal engaged in the following exchange with Commissioner Wylie:

Commissioner Wylie: And is the protocol when an officer comes in with the warrant... would you just kinda walk me through what your protocol is? The officer's in front of you. What do you do? Can you walk me lockstep through what you do?

Judge Leal: [Indiscernible] present me with the police report and – and I read it and... and like I said, and they have – they –they have that general complaint.

Commissioner Wylie: Mm-hmm.

Judge Leal: And that's the one I did not have for these gentleman.

Commissioner Wylie: I'm not sure what a general complaint is.

Commissioner Wylie: Would you describe what that is?

Judge Leal: Yes ma'am. It's a -- where the police – they do their – their statement, you know, like they feel like it was probable cause.

Commissioner Wylie: Okay. So is that sworn to?

Judge Leal: Yes ma'am.

...

Commissioner Wylie: Okay. Why would this particular – these two particular cases be any different than your normal protocol?

Judge Leal: [Indiscernible] I just -- I just don't know. I just... it [indiscernible] not even cross my mind to have that – that general complaint that I was telling you about.

Commissioner Wylie: The – sworn affidavit?

Judge Leal: Yes, ma'am.

Ex. CJC-6, pg. 163-164.

24. During the suspension hearing, Commissioner Russell questioned Judge Leal about her false statement to Commission staff:

Commissioner Russell: Didn't we just establish that they [Commission staff] caught you in a lie? And then you corrected your testimony?

Judge Leal: Yes, sir.

Ex. CJC-6, pg. 155.

#### RELEVANT STANDARDS

1. Article V, Section 1-a(6)A of the Texas Constitution provides, in relevant part, that, "Any Justice or Judge of the courts established by the Constitution or created by the Legislature may be removed from office, disciplined, or censured for "incompetence in performing the duties of office, willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of duties or casts public discredit upon the judiciary or the administration of justice."
2. Section 33.001(b) of the Texas Government Code provides, in relevant part, that, for purposes of Section 1-a, Article V of the Texas Constitution, "willful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties," includes "wilful violation of a provision of the Texas penal statutes or the Code of Judicial Conduct" or "failure to cooperate with the commission."
3. Canon 2A of the Texas Code of Judicial Conduct provides that, "A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."
4. Canon 3B(2) of the Texas Code of Judicial Conduct provides, in relevant part, that "A judge should be faithful to the law and shall maintain professional competence in it."

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#### CHARGE I

Judge Leal's conduct, described above, which includes, without limitation issuing warrants for the arrest of Gustavo Jimenez, III, and Joey Maldonado without a sworn complaint or affidavit of probable cause:

- Constitutes a willful violation of the Code of Judicial Conduct, incompetence in the performance of her duties, and willful or persistent conduct that is clearly inconsistent with the proper performance of her duties and casts public discredit on the judiciary and the administration of justice, in violation of Article V, § 1-a(6)A of the Texas Constitution;
- Demonstrates a failure to comply with the law in violation of Canon 2A of the Texas Code of Judicial Conduct; and
- Demonstrates a lack of professional competence in the law in violation of Canon 3B(2) of the Texas Code of Judicial Conduct.

**CHARGE II**

Judge Leal's conduct, described above, which includes, without limitation not cooperating with the Commission investigation by failing to disclose information under oath about her previous conversation with Judge Dagoberto Correa:

- Constitutes a willful violation of the Code of Judicial Conduct, incompetence in the performance of her duties, and willful or persistent conduct that is clearly inconsistent with the proper performance of her duties and casts public discredit on the judiciary and the administration of justice, in violation of Article V, § 1-a(6)A of the Texas Constitution; and
- Demonstrates a failure to comply with the law in violation of Canon 2A of the Texas Code of Judicial Conduct.

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Judge Leal is hereby notified that she has the right to file a written answer to the foregoing charges within fifteen (15) days after service of this Notice of Formal Proceedings upon her. Judge Leal's verified answer should be delivered to the State Commission on Judicial Conduct, P.O. Box 12265, Austin, Texas, 78711.

Signed this 1st day of December, 2017.

**EXAMINER**

Respectfully submitted,

**State Commission on Judicial Conduct**

P.O. Box 12265

Austin Texas 78711

(512) 463-5533

FAX: (512) 463-0511

Eric Vinson

Executive Director

Texas State Bar No. 24003115

Royce Lemoine

Deputy Director

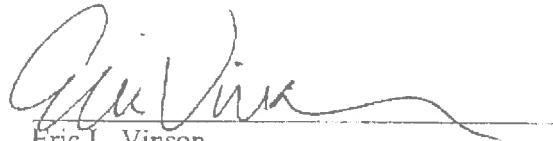
Texas State Bar No. 24026421

By: 

Eric L. Vinson

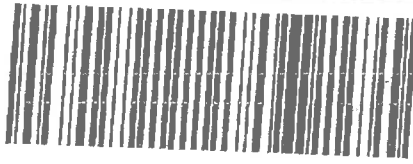
**CERTIFICATE OF SERVICE**

By agreement, service of this Notice of Formal Proceedings has been made by serving Judge Leal's attorney of record, Pablo V. Bustamante, by certified mail, return receipt requested on the 1st day of December, 2017.

  
Eric L. Vinson

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**CERTIFIED MAIL**



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