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COMMISSION ON
JUDICIAL PERFORMANCE

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING JUDGE ROBERT S. DRAPER, No. 212	NOTICE OF FORMAL PROCEEDINGS

To Robert S. Draper, a judge of the Los Angeles County Superior Court from 2012 to the present:

Preliminary investigation pursuant to Rules of the Commission on Judicial Performance, rules 109 and 111, having been made, the Commission on Judicial Performance has concluded that formal proceedings should be instituted to inquire into the charges specified against you herein.

By the following allegations, you are charged with willful misconduct in office, persistent failure or inability to perform your duties, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, and improper action, within the meaning of article VI, section 18 of the California Constitution, which provides for the removal, censure, public admonishment, or private admonishment of a judge or former judge.

COUNT ONE

On October 27, 2022, the commission sent you a preliminary investigation letter. You requested and were granted three extensions of your deadline for responding to the letter (totaling 92 days), such that your response was due no later than February 17, 2023. On January 31, 2023, your counsel at that time, Heather Rosing, advised commission staff (Anne Hunter) that the commission had "explicit permission" to directly communicate with you. Ms. Rosing also

informed Ms. Hunter that you would likely be submitting your response to the commission directly.

On February 23, 2023, six days after the February 17 deadline, you directly submitted a six-page declaration in response to the preliminary investigation letter, along with a court telephone directory, several newspaper articles about you, a copy of the gubernatorial order appointing you to the bench, and two guides or scripts for dependency court.

Your six-page declaration did not respond completely to the allegations set forth in the October 27, 2022 preliminary investigation letter. Specifically, although you acknowledged sending the emails identified in the October 27 letter and generally denied that sending the emails constituted judicial misconduct, you did not respond with specificity to the allegations set forth in sections 1 and 3 of the October 27 letter, and you did not respond at all to the allegations set forth in section 2 of the October 27 letter. Additionally, the telephone directory, newspaper articles, appointment order, and dependency materials that you submitted with your declaration were not responsive to the allegations set forth in the commission's October 27 letter.

In your declaration, you also acknowledged your awareness of your submission's shortcomings. For example, you stated that, under different circumstances, you "would have been happy to let this whole thing go . . . [f]ile a kind of summary response, cite a few emails to place things in context, and this would probably all be quickly 'zipped up,' closed without further need for response." You also asserted that you "could just attach a few emails" to show how any claim of your incapacity was "baseless" and "duplicitous." You declined to provide such context or materials, however, stating: "But I am not willing to do that, by which I mean I am not going to file at this point specific denials which will allow this whole thing to be swept under the rug." Instead, you asked Ms. Hunter to "advise the commission that I will also be filing a supplement tying

the specific paragraphs in the attached declaration to the specific claims in the [preliminary investigation letter]." You never provided such a "supplement."

On February 28, 2023, the commission sent you a supplemental preliminary investigation letter, apprising you of your failure to adequately respond to the October 27 letter and requesting that you to "address all allegations set forth in the October 27 preliminary investigation letter with specificity." The February 28 letter also asserted several additional allegations of misconduct, which were not directly related to the allegations raised in the October 27 letter. Your response to the February 28 letter was due no later than March 20, 2023.

The February 28, 2023 supplemental preliminary investigation letter was provided to you through your counsel at the time, Heather Rosing. On the same day, Ms. Rosing emailed you a copy of the February 28 letter and generally advised you of the additional allegations of misconduct, as well as the commission's allegations that you failed to adequately respond to the October 27, 2022 preliminary investigation letter. Ms. Rosing advised you that your submitted February 2023 declaration did not "address any of the allegations with specificity" and contained "no mention of the allegations set forth in section 2." Ms. Rosing also advised, "If you fail to respond to the initial allegations, as well as the new allegations, with specificity, it is highly likely that the commission will charge you on this basis and attempt to remove you on this basis alone." Ms. Rosing noted the response due date of March 20 and asked how you wished to proceed.

On March 2, 2023, Ms. Rosing informed the commission that, "effective immediately," she no longer represented you. Ms. Rosing also confirmed that you had received the commission's February 28 supplemental preliminary investigation letter and were aware of the March 20 deadline.

On March 20, 2023, you emailed Ms. Hunter to state that you would provide your response to the commission on the following day (March 21). On March 21, you and Ms. Hunter communicated by email about the steps necessary to request an extension of time to respond, and, on March 23, you emailed

Ms. Hunter to request a four-day extension (i.e., through March 24) to submit your response. Your extension request was granted, but you did not send a response on March 24. On Monday, March 27, 2023, you again emailed Ms. Hunter, apologizing for not timely submitting your response and stating that you would email your response to Ms. Hunter either that evening or the following morning (March 28). You did not submit a response on March 28.

On March 30, 2023, the commission sent you a letter, by certified mail and by email, noting that you had submitted neither an adequate response to the commission's October 27, 2022 letter, nor any response to the commission's February 28, 2023 letter. The March 30 letter stated:

> You are hereby directed to submit a response to the merits of both the October 27, 2022 preliminary investigation letter and the February 28, 2023 supplemental preliminary investigation letter, addressing, with particularity, all allegations set forth therein.

On May 23, 2023, the commission sent you a second supplemental preliminary investigation letter, alleging additional instances of misconduct. The May 23 letter also alleged that your failure to respond to the October 27, 2022 and February 28, 2023 preliminary investigation letters, as well as your failure to comply with the directive in the commission's March 30 letter, constituted "a failure to cooperate with the commission, in violation of section 68725 of the Government Code, canon 3D(4) of the Code of Judicial Ethics, and rule 104 of the Rules of the Commission on Judicial Performance." Your response to the May 23 letter was due no later than June 12, 2023.

On Monday, June 12, 2023, you sent an email to Ms. Hunter, copying 10 other superior court judges. Among other things, you referenced "the good members of the CJP who have been badly misled by Ms. Hunter," and you stated: "Also very sorry for any typos of which the CJP is so critical. But Ms. Hunter, and I hate to suggest it, you could try the Robing Room and get other charges. The problem with that of course would be that there would also be comments from

lawyers and parties who have appeared before me which are quite positive. You also told Ms. Hunter: "Don't call me, don't write. I will file a formal response to all of the allegations with the CJP on Friday June 16, 2023 and then go on summer vacation." You added: "Formally speaking, Ms. Hunter, don't write me anymore [*sic*] letters setting artificial deadlines. February [*sic*] 16, 2023, although to clear the underbrush I'll probably respond on some subjects independently between now and then with copies to everyone."

You had not requested that the commission extend the deadline for your response from June 12 to June 16, 2023. Between June 12 and June 16, 2023, you did not send further emails to commission staff or submit any responses to the commission's letters. You also did not email commission staff or submit a response on June 16, 2023.

On August 7, 2023, the commission sent you a third supplemental preliminary investigation letter, alleging additional instances of misconduct. The August 7 letter also alleged that you failed to respond to the May 23, 2023 preliminary investigation letter, "in violation of section 68725 of the Government Code, canon 3D(4) of the Code of Judicial Ethics, and rule 104 of the Rules of the Commission on Judicial Performance."

In a letter dated August 21, 2023, your new counsel, Andrew Waxler, acknowledged that you had received the commission's August 7 letter and requested an extension of 30 days (until September 27, 2023) for you to respond. The commission granted the requested extension.

On September 27, 2023, Mr. Waxler emailed Ms. Hunter a letter, "advis[ing]" the commission that you would "not be in a position to respond today" and requesting an additional 30 days to respond to the August 7 letter and prior preliminary investigation letters. The commission granted the requested extension, solely with respect to the August 7, 2023 preliminary investigation letter, and set a new due date of October 27, 2023. The commission denied your request "to the extent you are seeking relief from default relating to, and/or for a

retroactive extension of time to respond to, the preliminary investigation letters dated October 27, 2022, February 28, 2023, and May 23, 2023."

In an October 25, 2023 email to Ms. Hunter, Mr. Waxler noted the October 27 deadline for your response and stated, "We will not meet that deadline." There was no request for a third extension of time to respond. Instead, Mr. Waxler's email concluded, "We are hopeful we can provide you with a written response by Nov[ember] 4th."

On Monday, October 30, 2023, you directly emailed Ms. Hunter:

> My counsel is having a procedure today and I am just returning from the attached Covid leave. These minor kinds of excuses have never had much traction with you so I wanted to let you know that I am traveling to Cabo San Lucas in Mexico with my wife on Saturday and intend to make sure that a response is provided to you by next Monday, November 6, 2023[.] Judge Draper

On Monday, November 6, 2023, you directly emailed Ms. Hunter and stated: "[A]lthough I am on vacation I have arranged for a binder to be delivered to you by express mail or UPS responding to some of the charges you have leveled." You said that you would email Ms. Hunter, on the following morning (November 7), to "explain the package" she would be receiving.

Several hours later, you directly emailed Ms. Hunter, again, to say:

> The response, or I should say, partial response, will be delivered to you tomorrow by UPS or a similar delivery service. I am not sending it to anyone else, so if there is a leak, it will be clear that the leak was from you. I am on vacation and my assigned lawyer has not yet engaged for reasons you may know. When I return next Monday, I will begin the work of completing the submission and then continue my demand either for a public proceeding, open to all, or a conversation with an adult on how we can fix the problem of what the CJP has become.

On Tuesday, November 7, 2023, you directly submitted a three-ring binder to the commission. The submitted binder included a Table of Contents that

referenced 13 sections, but the binder only contained materials relating to sections 1-6. In an email to Ms. Hunter that day, you noted that the submitted binder "has a lot more sections" that "will be completed," once you had access to certain "records."

The Table of Contents in the submitted November 7 binder appeared as shown here:

TABLE OF CONTENTS

JUDGE ROBERT S. DRAPER NOVEMBER 2, 2023 SUBMISSION TO THE COMMISSION ON JUDICIAL PERFORMANCE

1. BIOGRAPHICAL DATA
2. EXCUSED ABSENCES—2.22-2023
3. SUPPORTING PICTURES
4. INVESTIGATIVE PROCEDURES OF THE COMMISSION ON JUDICIAL PERFORMANCE (as represented to working Judges
5. OCTOBER 27, 2022—FEBRUARY 27, 2023: "NOTICE OF THE "FIRST NOTICE OF PRELIMINARY IVESTIGATION;" RELATED DOCUMENTS;
6. FEBRUARY 28, 2023—THE "NOTICE OF SUPPLEMENTAL INVESTIGATION" AND "THE MAN FROM TENNESSEE;" RELATED DOCUMENTS
7. MY "PSYCHIATRIC SICKNESS"
8. WHAT I LEARNED AND "THE LETTERS"
9. FEBRARY 28, 2023 —MARCH 27, 2023—SABOTAGED BY THE PRESIDING JUDGE I HAD VOWED TO PROTECT AND ORDERED TO SUBMIT TO PYCHIATRIC TESTING—THE SECOND PART GREAT BUT ONLY BY HIGHLY RESPECTED DOCTORS SUBJECT TO HIPPA AND MY FAMILY'S FUNDAMENTAL RIGHT TO PRIVACY--NOT ANNE HUNTER; FIRST PART VERY DEMORALIZING WITH PHYSICAL INJURY THE LEAST OF MY INJURIES
10. MAY 23, 2023—"NOTICE OFTHE SECOND PRELIMINARY INVESTIGATION," *ODOM V. LOS ANGELES COMMUNITY COLLEGE DISTRICT., LASC CASE NO. 724401, YVETTE PENA AND GARBAGE TIME*
11. AUGUST 8, 2023—CAN RELYING SOLELY ON YVETTE PENA AND CONTINUING TO CLAIM AS TRUE FACTS MS. HUNTER KNOWS ARE NOT TRUE REALLY BE FAIRLY BECHARACTERIZED AS A "THIRD PRELIMNARY INVESTIGATION" OR IS IT YVETTE PENA DÉJÀ VU ALL OVER AGAIN, NEW PRRESIDING JUDGE, SAME ROTLE?
12. WHAT DO YOU WANT TO BE? THE "BLACK DOT"AS IN TREASURE ISLAND OR A TREASURE FOR THE STATE OF CALIFORNIA—PROTECT ING THE PEOPLE AND RESPECTING THE DEDICATED JUDGES (like me?) WHO WORK HARD EVERY DAY TO SERVE THEM?
13. WHERE TO FROM HERE?

In section 2 of the binder, a May 10, 2023 email from you to court employee Matt Garcia, copying other judges and court staff, detailed some of your efforts to respond to the commission: "I tore my rotator cuff when I fell on the morning of March 27, 2023—to be precise, at 2:30 a.m.—attempting to timely respond again to the CJP letter of October 27, 2022." Noting that you were coordinating with then-Supervising Judge Michelle Williams Court to continue several scheduled upcoming matters, you added, "This will also give me time to fully respond to the CJP letter, which actually is ridiculous, as well as some ridiculous concerns raised thereafter relating mainly to the Odom case, which the CJP has not itself raised."

Section 3 of the binder contained graphic personal photographs of you with severe bruising and/or injuries. One of the photographs was a picture of you from behind, without clothes.

Section 6 of the binder contained court documents and other materials, relating to a complaint about you that self-represented civil litigant Erik Cooper submitted to both the commission and the local court. Some of the allegations raised by Mr. Cooper had been included in the commission's February 28, 2023 supplemental preliminary investigation letter. The materials in section 6 did not include any statements, from you to the commission, acknowledging or directly responding to the allegations raised in the commission's February 28 letter. There was also no discussion or explanation about how those materials were specifically relevant or responsive to the February 28 letter.

At approximately 5:15 p.m. on November 7, Mr. Waxler emailed Ms. Hunter to report that he was no longer representing you. Shortly thereafter, you emailed Ms. Hunter the following:

> I just heard from my prior attorney, Andrew Waxler, that you have contacted him. Please be advised that he no longer represents me. I have fired him and will obtain a real lawyer when I return to Los Angeles from Mexico. In the meantime, please do not communicate with anyone who you think

> represents me because they don't. I will not be responding to any further emails until I return to Los Angeles and have an opportunity to complete my submission. And I will send that only to you if you state under penalty of perjury that you have provided the full submission to each member of the commission for their consideration in deciding whether or not to go forward with this proceeding. Otherwise I will proceed as appropriate.

The November 7, 2023 binder (containing sections 1-6 only) was your final submission to the commission. You never subsequently provided materials relating to sections 7-13 of the Table of Contents.

You failed, entirely, to respond to the commission's May 23 and August 7, 2023 supplemental preliminary investigation letters, and you failed to adequately respond to the commission's October 27, 2022 preliminary investigation letter. With respect to the February 28, 2023 supplemental preliminary investigation letter, your submission, received November 7, 2023, was inadequate and untimely.

In addition, you made statements to Ms. Hunter, and about Ms. Hunter, that—when considered individually and when considered as a whole—were inappropriate, disrespectful, and discourteous. For example, you accused Ms. Hunter of arbitrarily setting the dates on which your responses to the commission's letters were due; after you failed to timely submit a response, you told Ms. Hunter not to call you or write you; you accused Ms. Hunter of misleading the commission; you sarcastically suggested that Ms. Hunter and/or the commission would be uninterested in positive comments about your judicial conduct; you demanded that Ms. Hunter provide you with a statement "under penalty of perjury" about her handling of your submitted materials; and you accused Ms. Hunter of claiming, as true, facts that she knew to be untrue.

Your statements to, and about, Ms. Hunter also reflected retaliation, or created an appearance thereof, against a person known or suspected to have assisted in the commission's investigation of you.

Your conduct violated canons 1, 2, 2A, 3, 3A, 3B(4), 3C(1), 3C(2), 3D(4), 3D(5), 4, and 4A of the Code of Judicial Ethics, as well as section 68725 of the California Government Code and rule 104 of the Rules of the Commission on Judicial Performance. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

COUNT TWO

In 2022, you presided over a jury trial in *Odom v. Los Angeles Community College District, et al.* (No. BC724401), which resulted in a $10 million jury verdict for the plaintiff, Sabrena Odom. Dr. Odom, a professor at Southwest College (which is part of the Los Angeles Community College District (LACCD)), had alleged that defendant Dr. Howard Irvin, Vice President of Student Services at Southwest College, had sexually harassed her, and that defendant LACCD had failed to protect her from the harassment. Dr. Odom was represented at trial by Maryann Gallagher; LACCD and Dr. Irvin were represented by Richard Morton. After the jury verdict, the defendants retained new counsel, Janice Brown, to handle posttrial motions and the anticipated appeal.

On February 15, 2023, you presided over a hearing on the defendants' motions for a new trial and for partial judgment notwithstanding the verdict. At the end of the February 15 hearing, you denied the defendants' posttrial motions, and judgment was entered for the plaintiff on February 17. The defendants timely filed a notice of appeal.

Thereafter, you were scheduled to hear the defendants' motion to tax costs on March 10, the defendants' motion to stay enforcement of the judgment on March 13, and the plaintiff's motion for attorneys' fees and costs after trial on April 13. On March 3, however, based on your conduct at the February 15 hearing, the defendants filed a motion to disqualify you for cause and to void your rulings on their posttrial motions.

On March 13, 2023, you issued a "Recusal Order," and, on March 15, you issued a revised "Recusal Order with Errata." In these recusal orders (which were, in substance, virtually identical), you denied the defendants' request to vacate and void your rulings on the posttrial motions. You ruled that, on its face, the March 3 motion demonstrated no legal grounds for disqualification, but you also recused yourself from the case to "further the interest of justice." The hearings scheduled for March 10, March 13, and April 13 did not go forward.

On March 30, the defendants filed a petition for a writ of mandate, asking the Court of Appeal to direct the trial court to vacate your rulings on their posttrial motions and schedule a new hearing with a different judge. The writ petition also asked the appellate court to vacate your March 13 and 15 orders denying the defendants' March 3 disqualification motion.

After preliminary briefing, the Court of Appeal issued a July 10, 2023 order requesting letter briefs from the parties and the superior court on two questions: 1) "Did Judge Draper lack the power to strike the petitioners' disqualification motion or to decide the merits of the disqualification motion?" and 2) "If we agree that a different judge should rule on the disqualification motion, and the different judge orders disqualification, should that judge also decide whether the disqualification is retroactive to the date of the hearing on the posttrial motions?" The court and the parties filed their appellate letter briefs on July 17, 2023.

On August 2, 2023, the Court of Appeal issued an order that "commanded" the superior court, "immediately upon receipt of this writ," either to 1) vacate the March 13 and 15 recusal orders, issue "a new order referring the disqualification motion to a new judge," and, if the new judge found that you were disqualified, that judge "shall decide whether the disqualification is retroactive"; or 2) show cause, before the Court of Appeal, why the court has not taken those actions, and why a peremptory writ of mandate, requiring the court to do so, should not issue.

In response to the August 2 appellate order, Supervising Judge Michelle Williams Court scheduled a hearing for August 15, 2023 on the Alternative Writ

of Mandate and ordered the parties to file any briefs on the issues by August 10. Both parties filed briefs and supporting declarations and exhibits.

You presided over the August 15 *Odom* hearing. After the hearing, among other things, you vacated your March 13 and 15 recusal orders. The disqualification motion was subsequently referred by the court to Orange County Superior Court Judge Cheri Pham.

On October 16, 2023, Judge Pham issued an order disqualifying you from the *Odom* case. Noting that disqualification "occurs when the facts creating the disqualification arise," Judge Pham also determined that you were disqualified, "on February 15, 2023," at the time you made "irrelevant and inappropriate comments about race and gender." On that basis, Judge Pham ruled that your February 15 rulings on the posttrial motions in *Odom* were void.

On April 7, 2025, the Court of Appeal issued an opinion in the appeal taken from the February 17, 2023 entry of judgment for the plaintiff. The appellate court reversed the judgment, remanded the case for a new trial, and granted the defendants' costs on appeal. Among other things, the appellate court stated:

> This is an unusual case, due to the significant arbitrary and prejudicial evidentiary rulings of the judge presiding over the trial. After the judgment was entered, defendants filed [posttrial motions]. At the hearing on those motions, which were denied, the trial judge initiated extended, bizarre personal comments on racial matters with newly substituted defense counsel (the only Black woman in the courtroom), despite there being no racial issue of any kind in the case. Defendants filed a motion to disqualify the judge for cause and to void his rulings on the motions. After writ proceedings and referral to a neutral judge, the trial judge was disqualified and his rulings on the postjudgment motions were voided.
>
> On this appeal from the judgment, we need not decide whether the trial judge's prejudicially erroneous evidentiary rulings during the trial were motivated, in part, as defendants contend, by "persistent racial and gender bias." It seems clear the judge's rulings were motivated by personal opinions

> untethered to the rules of evidence. Whatever his motivations may have been, the judge admitted inflammatory evidence without consideration of the evidentiary rules, with undeniable prejudicial effect, thus preventing a fair trial. We accordingly reverse the judgment and order a new trial.
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> ***
>
> On a final note, while we do not know whether, as defendants contend, Judge Draper's "persistent racial and gender bias" motivated his rulings at trial, we cannot rule out that possibility in light of the extreme and bizarre comments he made at the posttrial motions hearing and his ensuing disqualification for cause. We need not decide whether bias was the reason for his arbitrary and capricious evidentiary rulings; the rulings were an abuse of discretion irrespective of his motivations. One thing we can say for sure is, the rulings were not motivated by a devotion to the law of evidence.

(*Odom v. Los Angeles Community College Dist., et al.* (April 7, 2025, B327997) review den. and opn. ordered depub. July 23, 2025, S290976.)

A. At the February 15, 2023 hearing, Ms. Brown appeared on behalf of the *Odom* defendants, along with Maribel Medina, General Counsel for LACCD. Neither Ms. Medina nor Ms. Brown had previously appeared, in person, before you. Ms. Gallagher and Viridiana Aceves appeared on behalf of the plaintiff.

During the February 15 hearing, you began discussing your personal views on African-American people, miscegenation, Black history, Black football players, the Civil Rights Act, and the Black Lives Matter movement. The *Odom* case did not involve any claims of racial discrimination, and race was not an issue in the case. Ms. Brown, who was appearing in person before you for the first time, is African-American, as are Dr. Odom and Dr. Irvin.

When Ms. Brown began to present her argument at the February 15 hearing, she referenced trial testimony that Dr. Odom "loved her job so much because she could help kids in the neighborhood that might have gone astray, get on the right track, get an education, make something of themselves." You

interrupted to ask whether Ms. Brown had seen "the video of Ms. Odom encouraging and dancing with all of those young black men who a lot of them were people society had just sort of thrown away." Ms. Brown confirmed that she had seen the video and began to resume her argument. Moments later, however, you made additional remarks.

COURT: And I use the term that my wife says is not politically acceptable. I think they are politically acceptable, because I use terms like coal black and light brown because I don't think those are bad terms.

Have you read the Robert Caro books about Lyndon Johnson?

MS. BROWN: I don't know if I have.

COURT: This is not part of my decision at all. I'm just telling you. The reason that the South was able to stop civil rights for so long was the Southern senators who were against miscegenation, they called it. You know what "miscegenation" is?

MS. BROWN: I'm fully aware of that, your Honor.

COURT: Of course you are. That's my point. Both of the - - when I went to Cal - - and I'm sorry if I'm boring you, but when I went to Cal, my wife and I, we had seven really good Black players all lined up at split end. And the idea of one of them playing quarterback would have been crazy. Doug Williams - -

MS. BROWN: I remember. I was at that game.

COURT: The Doug Williams game?

MS. BROWN: Uh-huh.

COURT: You're that old?

MS. BROWN: I'm that old. Just, you know, good skin.

COURT: Both of the quarterbacks, who were spectacular quarterbacks, were the product of miscegenation. And the South would have had a lot better football team if the Southern senators had not - -

MS. BROWN: Look, I am here. And you obviously see who I am.

COURT: I know who you are.

Later in the hearing, Ms. Brown pressed you about why you had mentioned Doug Williams. You and Ms. Brown had the following colloquy.

MS. BROWN: Why did you think Doug Williams was relevant to this case?

COURT: Well, actually, it wasn't. It was the two quarter - - the super - - quarterbacks in the super bowl.

MS. BROWN: Right.

COURT: And it has nothing to do with the case really. It has to do with what I feel society has come to, and it's a good thing.

MS. BROWN: And what has society come to that - - I mean, is there any relation to the case? I mean, you mentioned society has come to - - what - - having mixed Black men, I mean, the football players were mixed race?

COURT: Yeah.

MS. BROWN: I guess I'm curious why that is - - why that has some meaning for this case.

COURT: You know, it doesn't have meaning for this case except that we're all a part of the world. We're all a part of our United States. And I'm very proud of our country. I'm proud of how - - 75 percent of everybody were in favor of Black Lives Matter right after [George] Floyd was - - was done. Okay? Went back to the normal political but it's - - it doesn't have anything to do with our case. [¶] We have two plaintiffs [*sic*] who couldn't say there was a racial issue in this case because they were both very Black people. Beautiful people, successful people, people I'm proud of. That's - - that's - - so, no. To answer your first question is I can't do any better than that.

MS. BROWN: Okay. And so - -

COURT: It's not biased me one way or the other in this case.

Ms. Brown then asked you about the relevance of the remarks you had made about race and the South.

MS. BROWN: And you also mentioned the South. How did - - does the South, when you mention the South and how people were not accepting of Black people in the South, or mixed race people in the South, Black and White people, how does that - - does that have any impact on this case - -

COURT: Not the case.

MS. BROWN: - - or on your thinking about it?

COURT: No, same thing. He's - - I thought maybe you had read - - I think he's stuck on Freedy [*sic*], Kairos [*sic*], Lyndon Johnson, she told you - - it's supposed to be one more. And that was all about who - - who was it that got the Civil Rights movement through - - the Act through?

> Lyndon Johnson who had fought it for years. [¶] Kennedy could not have gotten that - - that through. The reason Lyndon Johnson could get it through was he knew how to not get it through. He knew how the Southern senators used to talk in all those years, and he - - by the way, my son-in-law is from Tennessee. I asked him, why do people in the South hate Lyndon Johnson? He was part - - he was one - - he was from Texas. That exact reason. He was our - - he was our guy, and he got it through. [¶] I'm just sharing a little history with you. When you get older, you like to share history. It had absolutely nothing to do with my decision. There was no racial issue in this case.

MS. BROWN: No. That's why I was asking the question.

Your comments at the February 15 hearing, when considered individually and when considered as a whole, reflected bias, prejudice, or harassment on the basis of race, national origin, and/or ethnicity, or created an appearance thereof.

Your conduct violated canons 1, 2, 2A, 3, 3B(4), and 3B(5) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

B. During the February 15, 2023 hearing in *Odom*, and during the *Odom* trial, you engaged in a pattern of conduct that reflected sexual harassment or bias, prejudice, or harassment on the basis of gender and/or sex, or created an appearance thereof.

For example, at the February 15 hearing, you used demeaning language when referring to adult women. Seemingly in reference to LACCD's obligation to its students, you said to Ms. Brown, "You think it might be something that a reasonable employer trying to protect the little girls there that are going to be under somebody's care . . . ."

You also made several remarks suggesting that LACCD needed to be punished for failing to protect "little girls" like your teenaged granddaughter, who had (according to you) recently been touring colleges, even though the issue in the case was whether LACCD had failed to protect Dr. Odom, a professor. Referring to LACCD student Rachel Gonzalez—an adult who testified at trial about Dr. Irvin and others harassing her and other female students—you said:

> So when there was testimony, not from Dr. Irvin, but from other people - - about this poor little girl, I saw her there. [¶] . . . [¶] Poor little - - Ms. Gonzalez. She looked like - - except that she was Hispanic, she could be my granddaughter.

In addition, you made other inappropriate comments that were gender-based, sex-based, or created an appearance thereof. For example, during the afternoon session of the February 15, 2023 hearing, while you were discussing a settlement that you had helped to negotiate between parties in an unrelated case, Ms. Brown looked at her watch. You asked her: "You got a date or something, Ms. Brown?" Ms. Brown responded: "No, no, no. I was just - - no."

At the end of the February 15 hearing, after you stated your ruling denying the two posttrial motions, the following exchange occurred.

> COURT: Okay. So I am - - [¶] Ms. Brown, I think I'm done. I think your next step is the Court of Appeal. I have no more jurisdiction in this case. If you want to come and see me tomorrow, I would love to see you.
>
> MS. BROWN: I'm not - - I'm not sure - - like, you denied the motion outright. I don't know - - what's the purpose for coming tomorrow?
>
> COURT: I want to talk to you. It's - - It's - - for human beings, about this case.
>
> MS. BROWN: Can we do it now?
>
> COURT: In chambers? Sure.

MS. BROWN: Yeah. I'd prefer to do that so I can go home as opposed to - -

You told the parties that you had one more unrelated matter to handle and asked them to return in about an hour to speak with you in chambers. A short time later, Ms. Brown, Ms. Medina, Ms. Gallagher, and Ms. Aceves met with you, in chambers, to discuss the case. During the in-chambers discussion, you relayed a story to them about male attorneys at a law firm sleeping with female secretaries and telling the secretaries, "You better be able to f*** better than you can type."

During the *Odom* trial, you also inappropriately commented on the appearance of a female witness or attorney. On October 18, 2022, during proceedings held outside the presence of the jury, you said, "I made some rulings earlier in the case about Me Too evidence and other possible witnesses. You know, that last line of inquiry of this young lady, which was quite attractive. And I mean that in a global way, not physically necessarily."

Your pattern of conduct in *Odom* violated canons 1, 2, 2A, 3, 3B(4), and 3B(5) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

C. During the February 15, 2023 hearing, at the end of the lunch break, Ms. Brown and Ms. Medina were seated at counsel table, waiting for the hearing to resume. You entered the courtroom through the public doors, approached Ms. Medina from behind and, without permission or warning, you touched, stroked, or held her hair. Believing that perhaps you had placed your hand on her chair, and her hair had gotten caught between the chair and your hand, Ms. Medina pulled away from your hand and moved her head toward Ms. Brown, but your hand remained on her hair. Your hand touched, stroked, or held Ms. Medina's hair for a few seconds.

Your interaction with Ms. Medina reflected sexual harassment or bias, prejudice, or harassment on the basis of gender and/or sex, or created an appearance thereof.

Your conduct violated canons 1, 2, 2A, 3, 3B(4), and 3B(5) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

D. At the February 15, 2023 hearing, and during the *Odom* trial, you made remarks that suggested you had become emotionally invested in the case and lost your impartiality. For example, during the February 15 hearing, you stated:

> You know, one of the things Ms. Odom said - - and I doubt anybody here remembers it other than me and her. She was sitting, standing, sitting here between questions, and she looked off in the distance and she said, "I feel so alone." She wasn't alone, but she said, "I felt so alone." So I - - that - - [¶] Ms. Brown, you ready to go?

You began crying when you made those remarks. When Ms. Brown noticed that you appeared to be crying, she asked, "Your honor, are you feeling emotional? Like, are you - - I mean, when you say you feel so alone, are you feeling that now?" The following colloquy ensued.

COURT: I don't feel alone. I said - -

MS. BROWN: Okay.

COURT: - - She said she felt alone.

MS. BROWN: No, but are you - -

COURT: No. I don't feel alone.

MS. BROWN: Okay.

COURT: I'm with friends.

MS. BROWN: Okay.

COURT: I'm with people I love, and I have the respect [*sic*]. And you're a new friend, but I'm with people I love. And I love what I do. And I take it very seriously, but no. I - - that touched me. Just like if you saw somebody that was run down by a railroad train, I wasn't run down by a railroad train, but yeah, I was emotional about that. Anyway.

You also made remarks suggesting that LACCD needed to be punished for failing to protect "little girls" like your teenaged granddaughter, who had recently been touring colleges, even though the issue in the *Odom* case was whether LACCD had failed to protect Dr. Odom, a professor. Your remarks included the following.

> You think it might be something that a reasonable employer trying to protect the little girls there that are going to be under somebody's care - - do you think that maybe when they get a complaint from - - let's say that he's doing the same thing. You don't think they can say, well, wait a minute - - my biggest problem - - and I want to tell you so you can straighten me out with this case. It's not Mr. Irvin, no. My biggest problem with the case is the people that are spending my money not settling this case and are putting the video depositions on and on as their main case. [¶] . . . Had the school district done anything to protect my children and your children and their children, I think this would have been different.
>
> ***
>
> My - - and I said during the trial, my oldest granddaughter, who actually is going to be 18 next Saturday - - which is the same day I'm going to be older than 18. She was born on my birthday. And we would - - she's considering community colleges. And I think they are a wonderful asset for people who need it the most. So I'm not doubting community college at all, but they have a responsibility to the kids.

***

There was one poor young woman that was kind of in the middle of it. I can't remember her name. I thought she was - - I really felt sorry for her. But the other district witnesses, they didn't care. They didn't care about anything except protocol - - and they didn't - - they didn't care. I can't tell you how much impact that had on me as a grandfather. If I'm the 13th juror, I shouldn't - - there's a lot of voir dire that you should have asked me about. Not because I'm biased, but because some things hit you. You have a daughter. You might. I don't know. Some things might hit you really hard if you actually saw them rather than read the record.

***

So when there was testimony, not from Dr. Irvin, but from other people - - about this poor little girl, I saw her there. [¶] . . . [¶] Poor little - - Ms. Gonzalez. She looked like - - except that she was Hispanic, she could be my granddaughter. And I told you today that she - - at that point in time, my granddaughter and my daughter were out roaming the state looking at colleges. [¶] And I'm just saying, you know, would I want my granddaughter to go to that school if that was happening by someone, not Dr. Irvin, but someone, can - - I said I wanted to tell you that during, truthfully. And, you know, you talk about 13th juror, if I would've - - If I would've been on the 12th, you would have been saying to me, well, do you have any kids like this age and what are they doing? Are they looking at colleges? What colleges? Oh, they're looking at [redacted] Community College. You probably would have kicked me off. That's the problem here, you know. By the time you get to the 13th juror, it's over. [¶] . . . Maybe you were better with the first 12. [¶] . . . Anyway, I'm not prejudice [*sic*]. I'm just telling you I'm a human being governed by my emotions and my life experience. [¶] . . . Emotions in the sense of, if that happened, that would be terrible. I don't want my child or anybody to be going to the school if that was the standard. And you know something, everybody wasn't talking about Dr. Irvin. I was talking about the community college. [¶] I was more appalled by almost every witness that the community college put forth. I don't know that - - I'm not

> saying they're bad people, but they just have no idea what they're supposed to be doing in terms of protecting our kids.

During the *Odom* trial, you made similar remarks. Specifically, at an October 18, 2022 proceeding in the case, you stated:

> Judges like jurors come with life experiences. And when Ms. Gonzalez I believe was talking, I have a - - a 17-year-old granddaughter who's now looking at colleges. And I've got to be honest with you, that has not affected anything I've done in the case. Hopefully, be fair. I will be the fair [*sic*]. I'm not making a decision in the case. [¶] If I had an 8- to 17-year-old granddaughter who's now looking at colleges and actually is on the road as the case was going on, and the question was asked, and then down the road, turned out that there was some molestation and the college had known about that, when they got the complaint and didn't do anything about it, I would be upset as a grandfather. Okay. [¶] So I'm not talking about expungement. I'm not talking about whether it happened in 19908 [*sic*] or not. I'm talking about if the college got a complaint from another girl and they just ignored this information because it had been expunged and then my daughter was - - granddaughter was molested, I think I would be fairly, fairly - - not unfairly - - fairly upset. [¶] Now I'm saying that only because I want to be honest with you. That is my life situation right now. I have four grandkids. One's back east. But actually her mother is going through the same situation.

At the February 15, 2023 hearing, you also repeatedly referenced the fact that LACCD had not settled the case and had, instead, proceeded to trial using taxpayer money—including your own money—to pay for the legal defense. (See, e.g., February 15, 2023 Transcript, 10:15-17 ["My biggest problem with the case is the people that are spending my money not settling this case"]; 13:16-21 ["[S]o here's the person that's never had any problems, might not benefit from counseling from a community college when it's my money defending the lawsuit, my money, your money, everybody's money. Maybe somebody should have taken him aside and said, this is not good"]; 18:2-6 ["I think this case should have

been settled. And it's just like funny money kind of. It's not the district's money. It's my money and your money, everybody's money, so take a shot. This case never should have been tried, in my view"]; 38:8-13 ["I say this to every public entity because you're using my money. You're using all of our money. And I think you need to get somebody that - - like Ms. Brown, I think. I don't know her, but I'm pretty sure they would give you some good advice on whether this case should be tried"].)

You made similar comments about LACCD in your March 2023 recusal orders, where you determined that "the Court is not disqualified," but also stated:

> The difference between insurance companies and major corporations, and LACC, however, solely referring to how LACC administrative personnel have acted in this case, seems to be that a major disaster like this case which would result in serious questions from either shareholders or senior managers in those organizations, in the case of LACC, do not, apparently because any ultimate loss will only be borne by people like me and everyone else in the courtroom, the taxpayers. And that, based solely on my experience with this case and the people involved for LACC in this case, does not seem to generate much productive thinking.

Your comments throughout the *Odom* case, when considered individually and when considered as a whole, reflected embroilment, bias, and/or prejudice, or created an appearance thereof.

Your conduct violated canons 2, 2A, 3, 3B(4), and 3B(5) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

E. On Friday, March 3, 2023, you telephoned Richard Morton, trial counsel for the defendants in *Odom* who, at the time of your call, was still counsel of record in the *Odom* case. The *Odom* case was still pending before you, and there were three filed and unresolved motions, with hearings on those motions

scheduled for the ensuing few weeks. On March 3, Ms. Brown also filed the defendants' motion to disqualify you from any further handling of the *Odom* case.

When you telephoned Mr. Morton on March 3, he did not answer your call. You left Mr. Morton a voicemail message, stating:

> Hi, this is Judge Draper, from the *Odom* case. Every once-in-a-while, the Commission on Judicial Performance asks for reviews by counsel who have appeared before the judges, and they've asked for a review in the *Odom* case - - a review in the sense of just getting the information. So, I wondered if you could send me whatever you'd like to say about the judge in the *Odom* case, one way or the other. Obviously, I'm not - - I've made all my decisions in the *Odom* case, so I'm not going to be changing anything. But if you could send that to me, I'd appreciate it. It is [redacted]@lacourt.org, and if you'd like to ask me or talk about why I'm doing this, (310) 948-[redacted] is my cell, and I hope you're doing well. Thanks.

On March 7, 2023, Mr. Morton filed a sworn declaration in support of the *Odom* defendants' March 3 disqualification motion. Mr. Morton's declaration discussed his involvement in the *Odom* case, disclosed your March 3 telephone call, and divulged the substance of your voicemail message.

At the time of your March 3, 2023 call to Mr. Morton, the commission had not contacted you about the *Odom* case or "asked for a review in the *Odom* case." Your representation to Mr. Morton was untrue, dishonest, and misleading.

In addition, your statement that "[e]very once-in-a-while, the Commission on Judicial Performance asks for reviews by counsel who have appeared before the judges" was inaccurate and misleading.

You also requested, outside the presence of all parties, that the *Odom* defendants' trial counsel provide you with a statement containing feedback about your conduct in the *Odom* case, while the *Odom* case was pending before you and before any appellate process was concluded. You initiated and solicited improper

ex parte communications, and you failed to promptly notify all other parties and provide them an opportunity to respond.

Your conduct violated canons 1, 2, 2A, 3, 3B(2), and 3B(7) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

F. In its July 17, 2023 letter brief, the superior court told the Court of Appeal that you lacked the power to strike, or otherwise rule on, the *Odom* defendants' March 3 disqualification motion. The court also conceded that you should have referred the March 3 motion to a neutral judge for adjudication.

On August 2, 2023, the Court of Appeal issued an alternative writ of mandate, ordering the superior court, "immediately upon receipt of this writ," to vacate your recusal orders and issue "a new order referring the disqualification motion to a new judge," or show cause why the court should not be ordered by the Court of Appeal to do so. In response to the alternative writ, on August 4, Supervising Judge Michelle Williams Court scheduled a hearing, for August 15, 2023, in the *Odom* case. The hearing was scheduled to be held in Judge Williams Court's own courtroom (Department 1).

You presided over the August 15, 2023 hearing in *Odom*. You did so, despite the fact that you had previously stated, in your March 2023 recusal orders, that your recusal from the matter would "further the interest of justice." You had made statements in your recusal orders reflecting embroilment and bias against LACCD, or creating an appearance thereof. For example, after stating your opinion that "someone running the show at LACC . . . must have been brain-dead to allow the case to continue," you later noted that you believed Ms. Medina was "the decisionmaker" at LACCD. (March 15, 2023 Recusal Order, pp. 6 & 7.) You also had included language in your recusal order suggesting that you would report Ms. Brown and Ms. Medina to the State Bar for alleging that you had

touched, stroked, or held Ms. Medina's hair. (*Id.* at p. 15 ["So the Court will refer this matter to the State Bar"].)

Notwithstanding your statements in the March 2023 recusal orders, at the August 15 hearing, you did not simply vacate your recusal orders and refer the defendants' 170.1 disqualification motion to a neutral judge for adjudication. You made extensive comments about a potential pending legal issue in the case—to wit: whether the superior court would still have jurisdiction to rule on a motion for a new trial, regardless of which judge ended up presiding over the case. You also criticized and attempted to disavow—both orally on the record and in the court minutes—the superior court's July 17, 2023 letter brief to the Court of Appeal regarding, among other things, whether you were disqualified at the time you ruled on LACCD's posttrial motions on February 15, 2023.

In addition, during the August 15, 2023 hearing, you stated that, based on the allegations in the 170.1 disqualification motion, you intended to report Ms. Brown and Ms. Medina to the State Bar for potential disciplinary action. You went on to speculate that Ms. Brown and Ms. Medina initiated the commission's investigation into your conduct in the *Odom* case.

> They have already brought it before the judicial commission or the Commission for [*sic*] Judicial Performance - - wrong name. [¶] . . . [¶] CJP. Someone has filed a petition. And the nice thing about the State Bar is it tells you who filed a petition. In the CJP they don't tell you who filed a petition, but someone has filed a petition saying I should be disqualified as a judge or removed as a judge . . . .

Considering your conduct at the February 15, 2023 hearing in *Odom*, as well as your statements in the March 2023 recusal orders, a person aware of the facts would have reasonably doubted your capacity to be fair and impartial at the time of the August 15, 2023 hearing. Accordingly, you were legally disqualified from presiding over the *Odom* case on August 15, 2023.

Your comments about reporting Ms. Brown and Ms. Medina to the State Bar, in conjunction with your other remarks about the pending disqualification motion and a commission complaint, reflected retaliation, or created an appearance thereof.

Your conduct violated canons 2, 2A, 3, 3B(1), 3B(2), 3B(7), 3C(2), 3D(5), and 3E(1) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

COUNT THREE

The allegations set forth in count two are incorporated by reference.

You interacted with court personnel and others, in an inappropriate manner, on the following occasions.

A. In approximately January and February 2023, on at least two occasions, you told then-Presiding Judge Jessner, "You look cute when you are mad," or "You're so cute when you're angry," or words to that effect.

On March 23, 2023, Judge Jessner, then-Assistant Presiding Judge Sergio Tapia II, and Supervising Judge Michelle Williams Court, along with Court Counsel Ivette Peña, met with you to counsel you about a pattern of concerning behavior and possible misconduct, and to place you on an indefinite leave of absence while the court investigated the allegations against you. During the March 23 meeting, when Judge Jessner confronted you about it being inappropriate for you to comment that she is "cute when [she is] mad," you responded, "But you *are* cute when you're angry," or words to that effect.

Your conduct violated canons 1, 2, 2A, 3B(4), 3C(1), and 3C(2) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

B. On or about March 27, 2023, a court administrator for the Stanley Mosk Courthouse, Lindsey McFarlane, visited you in your chambers because your staff had expressed concern for your well-being.

On May 10**,** 2023, you sent an email to court employee Matt Garcia, copying Judges Jessner, Tapia, and Williams Court, as well as three other court employees (Patricia Salcido, Sky Hahn, and Henry Stroud). In your May 10 email to Mr. Garcia, you wrote, regarding Ms. McFarlane's March 27, 2023 visit:

> And tell Lindsay [*sic*] that I still think she is cute, as I told her on the last day I saw her, when she came in after hours and asked for a commitment from me to go home rather than continue working since, while she didn't say so, I think she noticed that I was unsteady.

On May 30, 2023, at approximately 3 p.m., you visited Ms. McFarlane in her office, in Room 109 at the Stanley Mosk Courthouse, to ask about the status of a prior request you made for a larger screen or monitor to display exhibits in your courtroom. When Ms. McFarlane told you that, because you had been on leave, she had cancelled your request and did not have a larger screen or monitor for you, you said, "You're cute, but not as cute without that TV screen," or words to that effect. You told Ms. McFarlane that you had been out due to a torn rotator cuff, and you asked her to renew your request for a larger screen or monitor once you returned from leave.

Before your May 30, 2023 visit to Ms. McFarlane's office, Presiding Judge Jessner had already spoken with you and denied your request for a larger screen or monitor for your courtroom.

Your conduct violated canons 1, 2, 2A, 3B(4), 3C(1), and 3C(2) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

C. On November 30, 2022, you encountered then-Court Counsel Phu Nguyen in a hallway leading to the courthouse parking garage. After you and

Ms. Nguyen exchanged pleasantries, you patted Ms. Nguyen on the head several times. You then said that you had to go because you forgot your phone.

Your conduct violated canons 1, 2, 2A, 3B(4), 3C(1), and 3C(2) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

D. On Monday, June 12, 2023, you used your court email address to send an email to commission staff (Anne Hunter), copying Assistant Presiding Judge Tapia; Supervising Judge Williams Court; Judge Lance Ito (Ret.); and Judges Ronald Frank, Michael Levanas, Akemi Arakaki, Rupert Byrdsong, Randolph Hammock, Malcolm Mackey, and Mel Red Recana. You attached approximately 138 pages of materials to your group email.

Included among the emailed documents was a July 2017 statement of decision that you issued in a confidential juvenile dependency case in which one of the parents was a public figure. None of the recipients of your email were authorized to inspect the confidential records in that juvenile dependency case, pursuant to section 827 of the Welfare and Institutions Code.

The aforementioned 2017 statement of decision was confidential, contained a detailed discussion of child sexual abuse allegations against one of the parents, and included exhibits with multiple photographs of the two minors naked in a bathtub. You included those photographs in the attachments to your June 12 email.

You provided no reason or explanation, in your June 12, 2023 group email, for your decision to disclose and disseminate a confidential juvenile dependency court order or the related sensitive photographs of multiple minors. In June 2023, you were no longer assigned to handle any active dependency matters, and you had not presided over a dependency calendar since approximately 2018. Additionally, at the time of your June 12 email, none of the commission's letters or email communications had referenced the 2017 juvenile dependency case.

On June 14, 2023, following your distribution of the confidential and sensitive juvenile dependency materials, Presiding Judge Jessner ordered that your access to court email servers and all case management systems be terminated, effective immediately. She noted, however, that you could coordinate with Supervising Judge Williams Court "if you need to access the Court's records for any reason, including preparation of your response to the CJP's investigation."

Your conduct violated canons 1, 2, 2A, 3B(2), and 3B(11) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

E. On June 5, 2023, you used your court email address to send court employee Matt Garcia an email regarding your continued absence from the bench, your recent health problems and injuries, and your plans to return from leave. You attached, to your email, several graphic photographs of yourself and your injuries, including a photograph of you from behind without clothing.

On Monday, June 12, you used your court email address to send an email to commission staff (Anne Hunter), copying nine active judicial colleagues and one retired judge sitting on assignment. You attached, to the June 12 email, your June 5 email exchange with Mr. Garcia and the graphic photographs of yourself and your injuries, including the photograph of you from behind without clothing.

In a letter dated June 14, 2023, Presiding Judge Jessner ordered that your access to court email servers and all case management systems be terminated, effective immediately. She noted, however, that you could coordinate with Supervising Judge Williams Court "if you need to access the Court's records for any reason, including preparation of your response to the CJP's investigation."

With reference to your personal photographs, the presiding judge stated, "While I am concerned and empathetic to you about your medical condition, it is neither necessary nor appropriate for you to send personal photographs to members of the court through your court email address."

Your conduct violated canons 1, 2, 2A, and 3B(4) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

COUNT FOUR

You engaged in improper ex parte communications and other misconduct on the following occasions.

A. Sometime in early 2023, Dr. Jonathan Nissanoff, an orthopedic surgeon, performed surgery on your spouse at Providence Saint John's Health Center. At the time, Dr. Nissanoff was the defendant in two civil cases pending in the Los Angeles County Superior Court: *Lakeside Medical Organization, A Medical Group, Inc., et al. v. Jonathan Nissanoff, M.D., et al.* (No. 20STCV41811) and *Retana v. Nissanoff, M.D., et al.* (No. 20STCV42570). In addition, at the time, Dr. Nissanoff was an interested party in a third pending case: *Advanced Orthopedic Center, et al., v. California Physicians Service, et al.* (No. 20SMCV00776).

While Dr. Nissanoff was caring for your spouse in the hospital, you had "extensive discussions" with the doctor about the *Lakeside Medical Organization* case, in which one of the plaintiffs is Regal Medical Group. You also agreed to testify on the doctor's behalf as a percipient witness to his reasonable billing practices.

On Friday, May 12, 2023, during the annual Civil Bench Seminar at the Almansor Court Conference Center in Alhambra, you approached the table of Judge Lisa Sepe-Wiesenfeld and Judge Ronald Frank, during a break, and stated your understanding that Judges Sepe-Wiesenfeld and Frank both knew Dr. Nissanoff because they had presided over several cases in which he was a litigant. You informed the two judges that Dr. Nissanoff was involved in a pending court case, and you explained that you had developed a rapport with the doctor when he was treating your spouse. You conveyed that you thought highly

of Dr. Nissanoff's character and said you might provide character witness testimony in the doctor's pending case.

Before returning to your own table, you also asked Judges Sepe-Wiesenfeld and Frank if they would be willing to testify on behalf of Dr. Nissanoff in his pending case. Judges Sepe-Wiesenfeld and Frank expressed concern about the ethics of your request and attempted to dissuade you from pursuing your intended course of action.

Separately, you initiated a similar discussion about Dr. Nissanoff with Judge Michael Levanas. You were aware that Judge Levanas had presided over cases in which Dr. Nissanoff was a litigant. You told Judge Levanas that, after your spouse broke her hip, Dr. Nissanoff treated her and did a great job taking care of her. You also made comments to Judge Levanas conveying that Dr. Nissanoff was in some sort of trouble.

On Thursday, May 18, 2023, you sent Judges Sepe-Wiesenfeld and Frank an email, copying Judge Levanas, about Dr. Nissanoff and the pending fraud case against him. You wrote:

> When we talked at the judges' conference last week I mentioned that Jonathan is facing a fraud claim that is being made by Regal Medical Group. The complaint is attached. The case will be set for trial at a hearing on June 1. I met Jonathan when my wife [redacted] fell and fractured her wrist and hip while at the beach. She was admitted To [*sic*] St. John's Hospital on an emergency basis and Jonathan performed a 4 hour surgery the next day. I end [*sic*] up spending the week in the hospital room with my wife and got to know Jonathan because he visited her right after the surgery and every day until she was out of the hospital. During this time he mentioned this case and we have had extensive discussions of it since then. I have also talked to Mike Levanas and understand what Jonathan does for emergency admittees, whether they are insured or not. I intend to testify at the trial as to Jonathan's services and billing and he has asked me to ask you if you would also be willing to testify given that you are the people allegedly being fooled by him after he has fooled the small claims court

> judge. What Regal is trying to do is drive him out of the business of filing small claims cases and I feel very badly for him. I'm not in Department 78 for a lit [*sic*] for a little bit because I have a torn rotator cuff but my cell is 310-948-[redacted] if you would like to discuss this. Bob

Judge Frank promptly responded to your email as follows.

> Bob:
>
> I am troubled by the suggestion that a sitting judge such as myself might be called as a character witness for or against a litigant who has appeared before me. Please review Rothman sections 8:48 and 8:49 before you agree yourself to testify.
>
> RFF.

You replied to Judge Frank, "I will and then I would like to discuss with you."

Shortly thereafter, Judge Sepe-Wiesenfeld responded:

> Hi Robert my sentiments are the same as Ron. Thank you I would not be able to assist. (*Sic.*)

That evening, you emailed Judge Sepe-Wiesenfeld and Judge Frank again, copying Judge Levanas, and proposed "a conference call tomorrow or early next week." Two hours later, Judge Frank replied that he was unavailable the next day but would "be willing to try to talk you off of the ledge next week."

The next morning, you responded as follows.

> Love it! Mike knows that the ledge is where I live, but I am just a young and inexperienced Judge who spent the first 40 years of his professional career just doing good things without all these restrictions. Could we see if we can set up a call for the four of us Monday or Tuesday? I am taking the babe (my wife) to Santa Barbara for a couple of days Wednesday and Thursday. Monday or Tuesday, anytime anyplace.

Judge Levanas responded to your morning email, stating that, although there had been a death in his family and his nephew was getting married the following weekend, he would try to join a call. You immediately replied, acknowledging that

Judge Levanas had "a lot on [his] plate" and stating that you would try to arrange a call between the four judges on Monday or Tuesday. A short time later, you sent the group another email, proposing that you "join Lisa at the Santa Monica courthouse" on Monday or Tuesday, after which you and Judge Sepe-Wiesenfeld could meet "by video with Ron and then maybe lunch?"

On Sunday, May 21, 2023, Judge Sepe-Wiesenfeld responded to your proposal, stating that she was very busy and would only "be available for a brief call." That evening, you replied:

> Can we talk (you Ron and me) some time [*sic*] tomorrow? It is important to me because bad people shouldn't prosper because of good restrictions. More important long term than what we all get consumed with every day. Anytime, [*sic*]

Judge Frank responded that he would be willing to join in a call the next day, and, after some scheduling emails, Judge Frank provided his chambers number for you to call at noon the next day.

On Monday, May 22, you had a conference call with Judges Frank and Sepe-Wiesenfeld. During that call, you, again, asked the two judges to testify as character witnesses for Dr. Nissanoff in the pending fraud case against the doctor. Judges Frank and Sepe-Wiesenfeld told you that what you were proposing was not an appropriate course of action or a good idea.

Your conduct violated canons 2, 2A, 2B(1), 2B(2), 3B(7), 4, and 4A of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

B. In 2017 and 2018, you presided over three juvenile dependency cases, in which the three juveniles were siblings with the same biological mother and father:

- *In re S.N.*, Case No. CK97***A
- *In re A.N.*, Case No. CK97***B
- *In re C.N.*, Case No. CK97***C

After you stopped presiding over a dependency calendar in approximately 2018, the three dependency cases remained active for differing periods of time. In 2019, *In re S.N.* (No. CK97***A) concluded when the juvenile turned 18. The juvenile then transferred to a non-minor dependent courtroom for youth aged 18 and over. Jurisdiction terminated in that non-minor dependent case (No. 19CCJP05***) in August 2022. In 2021, *In re A.N.* (No. CK97***B) concluded when the juvenile turned 18. The juvenile transferred to a non-minor dependent courtroom for youth aged 18 and over. That case (No. 21CCJP00***) remained pending in May 2023.

In May 2023, *In re C.N.* (No. CK97***C) was still an active juvenile dependency case, pending before Judge Mary Kelly in Department 411. There were hearings in the case, in relevant part, in November and December 2022, and in January, March, and May 2023. The juveniles' father, [redacted] N., appeared at the November 2022, March 2023, and May 2023 proceedings.

In approximately December 2022, Mr. N. entered your courtroom and informed your judicial assistant, Patricia Salcido, that he was a friend of yours. You were in your chambers at the time. Ms. Salcido informed you that a man named [redacted] N., who had identified himself as your friend, was there to see you. You responded, "Yeah, bring him into chambers," or words to that effect.

After Mr. N. left that day, you reminded Ms. Salcido (who also had been your judicial assistant when you presided over a dependency calendar) that Mr. N. was the father in a dependency case that you had handled when you presided over a dependency calendar. You said that you may have terminated Mr. N.'s parental rights, and you explained to Ms. Salcido that you had run into Mr. N. on the street and invited him to visit you at the courthouse. You also told Ms. Salcido that you and Mr. N. had become friends and that you were helping him out.

In approximately February 2023, you informed Ms. Salcido that you were expecting Mr. N. and his pastor to visit you that day. Later, when Mr. N. and

another man entered your courtroom, Ms. Salcido recognized Mr. N. and brought the two men back to your chambers. A few weeks later, Mr. N. visited for a third time, bringing his adult daughter along with him, but you were not at the courthouse that day.

At one or both of your chambers meetings with Mr. N., you discussed one or more of the pending cases involving Mr. N.'s children, and/or you discussed reuniting Mr. N. with his family. At some point, you also told Ms. Salcido that you were helping Mr. N. reunite with his family. In addition, after one of his visits, Mr. N. told Ms. Salcido that he needed help reuniting his family.

On or about March 20, 2023, Court Administrators Lindsey McFarlane and Lucille Cortez interviewed Ms. Salcido about Mr. N.'s visits to your courtroom and chambers. The next day, on March 21, 2023, you stopped by Ms. McFarlane's office and told her: "About what Patty told you, that gentleman has been my friend for a long time. His kids were taken away, and they shouldn't have been, and I'm trying to help him with that. I was the one that ordered his kids to be taken. But I told Patty I will not do that anymore."

Your conduct violated canons 2, 2A, 2B(1), 3B(7), 3B(11), 4, and 4A of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

C. In approximately March 2023, you entered the courtroom in Department 94, while Commissioner Laura Cohen was presiding over a busy restraining order calendar. Although Commissioner Cohen was on the bench and presiding over a hearing, you walked to the front of the courtroom, passed through the gate into the well of the courtroom, and stood next to Commissioner Cohen's judicial assistant. Your actions created the appearance that you wanted to speak with the commissioner urgently.

Commissioner Cohen finished the proceeding that she was handling and then took a brief recess to speak with you. The commissioner left the bench and

came down into the well, at which point you informed her that you had just spoken with a litigant in one of her cases in the hallway outside her courtroom. You told Commissioner Cohen, "I was talking to someone in the hallway about one of your restraining order cases and you really need to listen to them; they need to be heard," or words to that effect. You then began telling the commissioner what the litigant told you they wanted to say.

Commissioner Cohen attempted to ascertain why you were in her courtroom talking about a particular litigant and case. She asked you, "Is this someone you know," and, "Is this a case that's in your courtroom?" The commissioner did not ask you the name of the litigant or the case about which you were talking.

Ultimately, Commissioner Cohen told you: "Thank you so much. I'll make sure everyone has the opportunity to be heard." She then resumed her calendar.

By interrupting Commissioner Cohen's morning calendar and providing her (or attempting to provide her) with ex parte information from a litigant with a case pending before her, you initiated and facilitated improper ex parte communications, undermined the independence of a fellow judicial officer, and made comments that might substantially interfere with a fair trial or hearing. You also used your "access" to Commissioner Cohen, as a judge, to benefit a litigant with whom you had spoken in the hallway, thereby creating an appearance of special access to both you and Commissioner Cohen.

Your conduct violated canons 2, 2A, 2B(1), 2B(2), 3B(7), 3B(9), 4, and 4A of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

COUNT FIVE

While acting in your judicial capacity, you made inappropriate comments in the following cases.

A. You presided over a June 10, 2022 hearing in *Blum Collins, LLP v. Acuity Consulting Services, et al.* (No. 22STCP00957). Self-represented defendant Erik Cooper, who also owned co-defendant company Acuity Consulting Services, appeared remotely by telephone from Tennessee, where he resided. After hearing argument from Mr. Cooper in opposition to your tentative ruling, you told Mr. Cooper that you once visited family in the Nashville, Tennessee area. You referenced a country song from the "Nashville" television show, in which female country singers refer to men as "liars and cheats." Thereafter, you said to Mr. Cooper (using this or similar language), "You, sir, are a liar and a cheat."

Your conduct violated canons 1, 2, 2A, 3B(4), and 3B(5) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

B. Beginning in approximately 2018, you presided over the civil case *Enrique Ricardo Vargas, et al. v. Nina R. Ringold, et al.* (No. BC661148). Attorney Patrick Santos represented the plaintiffs in the case.

On or about July 26, 2022, Mr. Santos filed a Disability Accommodation Request with the court, disclosing that he had been diagnosed with Amyotrophic Lateral Sclerosis (ALS), also known as Lou Gehrig's Disease, a degenerative neurological illness for which there is no cure. In his written request, Mr. Santos stated that, due to his condition, he had been unable to complete the necessary documents for the Final Status Conference (FSC). At that time, the FSC was scheduled for July 27, 2022. Mr. Santos requested that the court continue the FSC for one additional week.

At the scheduled July 27, 2022 conference in *Vargas*, you reviewed and granted a Disability Accommodation Request that had been submitted by the defendants. You also learned that Mr. Santos had filed a Disability Accommodation Request, on his own behalf, on July 26. On your own motion,

you continued the FSC in *Vargas* until August 1, 2022, "to allow the Court the opportunity to review the request filed on behalf of plaintiff's counsel."

On August 1, 2022, Mr. Santos appeared remotely (using Microsoft Teams) for the continued FSC in *Vargas*. Mr. Santos asked that the court *only* grant a one-week continuance for the parties to submit their trial binders, without changing the trial date. He explained that, because of his illness, he was having a hard time physically, and he noted that the defendants had already been granted several trial continuances. Mr. Santos stated (using this or similar language): "If you continue to do this, I'm going to die before I'm able to try this case. I want to try this case before I die." You responded to Mr. Santos (using this or similar language): "Well, Mr. Santos, are you still going to be dying next week?"

You told the parties that a one-week continuance "does not meet the court's schedule," and you rescheduled the *Vargas* trial for November 21, 2022. By continuing the trial, you also effectively granted, in part, Mr. Santos's request for additional time to submit completed trial binders.

In your August 1, 2022 written order on Mr. Santos's Disability Accommodation Request, you indicated that Mr. Santos's request did not meet the requirements of rule 100 of the Rules of Court; created an undue financial or administrative burden for the court; changed the basic nature of the court's service, program, or activity; and did not "meet the court's schedule."

Your question to Mr. Santos, in which you asked him whether he would "still" be dying "next week," was sarcastic, discourteous, and undignified. Your question caused Mr. Santos a great deal of emotional distress. As a result, prior to several subsequent court dates in *Vargas*, Mr. Santos told his wife, Niki Ghazian, that he remained too distraught to appear before you. For those court dates, Mr. Santos asked Ms. Ghazian, who is also an attorney, to "specially appear," in his stead, on behalf of the plaintiffs. Ms. Ghazian appeared on behalf of the *Vargas* plaintiffs on August 10, 24, and 29, 2022.

Your conduct violated canons 1, 2, 2A, and 3B(4) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

COUNT SIX

In approximately February 2023, after you returned to the bench from medical leave, a man entered your courtroom and approached Ms. Salcido. The man told Ms. Salcido that he was a friend of yours and that you were expecting him. Ms. Salcido informed you that a man who identified himself as your friend was in the courtroom and wanted to meet with you, and you instructed her to bring the man into chambers.

When Ms. Salcido and the man entered your chambers, you had your coat on and were preparing to leave for the day. You asked the man if he had a place to sleep that night. When the man replied that he did not have a place to stay, you asked Ms. Salcido to help the man find shelter for the night. Specifically, you instructed Ms. Salcido to call the Los Angeles Mission and tell them that "Judge Draper is sending someone over." You then left the courthouse. Ms. Salcido asked the man to wait in the courtroom gallery, and she printed out a map to a local mission. She gave the map and the telephone number for the mission to the man, and she escorted him out of the courtroom.

Several days later, when Ms. Salcido asked you about the incident, you explained that you had recently met the man on the street and that the man seemed like a good guy who needed some help. Ms. Salcido told you that bringing people who you do not know into the courthouse, especially into chambers, presented safety concerns. She informed you that such conduct was not a good idea because the courthouse, which handles only civil matters, does not have sufficient security. You responded by saying, "I have you to protect me," or "You are my security," or words to that effect.

The man returned to your courtroom several times, but, on each occasion, you either were not at the courthouse or were otherwise occupied. The man was eventually identified as Christian Bendey.

Your conduct violated canons 2A, 2B(1), 2B(2), and 4 of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

COUNT SEVEN

The allegations set forth in count one, count two, count three, count four, count five, and count six are incorporated by reference.

A. From approximately March 16, 2022 until approximately June 3, 2022, you were on a voluntary medical leave of absence from the bench. During your 2022 medical leave of absence, and in the months following your return to the bench, you failed to cooperate with your judicial colleagues and other court personnel in the administration of court business, and engaged in other judicial misconduct, as follows.

1. During and after your leave of absence, you sent numerous emails—to your presiding judge, assistant presiding judge, and supervising judge; to other judicial colleagues; and to court staff—that used an inappropriately personal, impertinent, abusive, or combative tone, and that included profanity, unfounded accusations of impropriety and malfeasance, or unnecessary comments regarding race. In addition, many of the emails were incoherent, contained typographical and grammatical errors, or contained overly personal details about your mental state and psychiatric treatment.

Examples of such emails include, but are not limited to, the following:

- On Friday, March 18, 2022, you emailed your judicial assistant, Patricia Salcido, copying your courtroom assistant, Sky SoYeon Hahn, and provided language to be included in a particular minute order. At the

bottom of the email, you directed your staff: "Email and serve as is, don't go crying on me again."

- Also on March 18, 2022, a few hours later, you forwarded, to then-Presiding Judge Eric Taylor and then-Assistant Presiding Judge Samantha Jessner, the above-referenced email to Ms. Salcido and Ms. Hahn. You told Judges Taylor and Jessner:

> You will get a message from Matt that makes no sense but I really need you both to call me jointly or one of you if you will at 310-459-[redacted] and say only: Is the plan working? Or have someone call and say you need to talk to me usually. I will explain And I will explain [*sic*]. I can also talk you [*sic*] over the weekend but you will help me if you do that.

- On Sunday, March 20, 2022, you emailed Judge Taylor, Judge Jessner, and Judge David Cowan (who, as then-Supervising Judge of the Civil Division, was your supervising judge). Your email appeared to reference your own March 18 email to Judges Taylor and Jessner (discussed, *ante*) and stated:

> The telephone conversation was actually "part of a plan," but part of a, [*sic*] plan I had created all on my own which, included having my wife [redacted] listening in (and I will tell you why we shouldn't prosecute her). I am going to talk to her, my JA, Patricia Salcido, and my CA, Sky Yeon [*sic*] Hahn, about what I am about to tell you. While I actually haven't seen Sky cry, she is gimping around with a motor scooter as a substitute at work for her right leg because she recently had operation [*sic*] on her foot. Friday she offered to drive out to my house to deliver some stuff I needed despite that. [redacted] , and Patty, she is the "don't go crying on me again" JA, have been crying a lot, Patty particularly after I authorized her to send an email to [redacted] about how I have been acting, she asked if she could call [redacted] instead, I agreed, and she told me they had spoken, now they're both very concerned, as is Sky. They are concerned, as I know you must be after our Friday conversation, that I am losing it.
>
> I am not, but to document that for you, I have to get my home scanner working, which I will. The actual March 18, 2022

> minute order we were discussing is on our electronic system. The case is Berton [*sic*] v. The City of Los Angeles [*sic*] (18STCV4681). I'll forward Jesse Choper's latest email to me, dated January 19, 2022. I have talked to Jesse and he is waiting for me to send him the other email, dated October 30, 2004, with the attached 1998 Supreme Court Review. One of the "files" Jesse says he was cleaning out in his January 19, 2022 email that he was cleaning out [*sic*], is that file. The note that reminded him of me when cleaned [*sic*] out his files in 2022 is his note to me of that date, referring to a conversation he and I had, I guess in class, in 1967, it reads (and I'm looking at it, and can send it to you as soon as I get my scanner working, maybe by phoning user support in the morning): "To Bob Draper, The 1st student to agree with this idea (in 1967). With affection and admiration, JC." I have talked to Jesse, who is retired and is 86, and he remembers what the "idea" was, all these years later. The funny thing is, so do I, because in a basic way, it relates to what I've tried to do as a Judge, which is related to the subjects we were discussing on Friday, including the will take the rear [*sic*]. I will be ready to talk in depth and explain by 10 o'clock a.m. tomorrow. There is actually no rush because the "plan" was *always* that neither you nor I could make any comments on the minute order, or the case, since it is still pending subject to appeal. And I actually think it is important that we never make a comment for reasons I will talk to you about. Let me know if there is a time that works.

- On Sunday, March 27, 2022, beginning at 5:23 p.m., you sent four emails to Judges Taylor and Jessner within 21 minutes, stating, among other things, that your doctors were "refusing" you the right to send any emails.

- In an April 21, 2022 email to Judges Taylor, Jessner, and Cowan, you referred to your voluntary medical leave of absence from the bench as "30 days I did not ask for but Eric implemented," implying that Judge Taylor had forced you to take time off.

- On April 26, 2022, you forwarded to Judges Taylor and Jessner, a private email exchange, between you and a person who appeared to be a health

care provider, regarding your prescribed psychiatric medications. You told Judges Taylor and Jessner that your psychiatrist was "poisoning" you, asked the judges to keep it a secret, and offered to send them your medication prescriptions.

> I know this is going to sound incredible but this is the last link. I have discovered that the psychiatrist supposedly helping me overcome my Parkinson's symptoms has instead been poisoning me with medicine designed in my case only to cause confusion. I have written proof which establishes this without any question. Remember your reaction to this email. I have fired him and am working with Doctor Petrossian who is a true expert. I'm working with my clerk on the cases I have between now and the end of two weeks and hope to be in by then if this new medicine does in fact create the antidote to what the psychiatrist has been giving me. Can you keep this a secret for a little? This is a true test of your faith in me. Tomorrow morning if you want to call me at home (310-459-[redacted]) I can read the drug prescriptions he gave me and the articles describing their effect. Ordinarily I could simply scan them and send them to you but for some reason my scanner isn't working.

A few hours later, Judge Taylor responded, stating that he would "get you coverage for another 30 days" to "help you resolve the issues you're describing in your email." Judge Taylor offered, "Let's work together to help you heal."

- On April 27, 2022, you sent an email to Judges Taylor and Jessner, responding to Judge Taylor's email response from the day before. You wrote: "I do not need 30 days and giving me 30 days would be a violation of your duty and my duty to properly dispose of cases assigned to us."

- Ten minutes later, at approximately 9:31 a.m. on April 27, you began a new email thread with Judges Taylor and Jessner, querying, in a confrontational and discourteous manner:

> [W]hat are you going to do after another 30 days to justify paying me for not doing my job? Don't you have an obligation to explain that to the Judicial Council? Unless I can convince you that WHAT YOU ARE PROPOSING a totally [*sic*] wrong approach and there is another, better, approach that preserves the resources of the court while ensuring the competence of the judicial officer presiding in Departmentv78 [*sic*] in disposing of the cases he is ethically required to accept and take responsibility for?

Less than two hours later, at approximately 11:16 a.m., you again wrote to Judges Taylor and Jessner, on the same thread: "Since no one seems interested in talking to me I want to take a shower and get dressed. I will notify you when I'm available at 310-948-[redacted] ."

Judge Taylor responded, almost immediately, explaining that he had meetings all day and stating that he would call you.

- At approximately 11:55 a.m., on the same day, you sent another email to Judges Taylor and Jessner, stating:

> I intend to engage counsel to represent me and in the event there is an order from the Presiding Judge determining that I am not capable or competent to exercise these duties, I formally request an open hearing with members of the public to attend. In the interim I intend to continue performing my duties in Department 78 as I have been elected to do. . . . If the above is not clear enough, please be advised that I formally reject any further "leave" beyond Friday because I do not believe I can ethically agree to such a leave.

Judge Taylor responded to you, at approximately 12:22 p.m., stating that the court's efforts had "simply been to provide you with support, not to order you away from your assignment." Judge Taylor noted that the tone of your email "seem[ed] quite different" and said he was "concern[ed]." He told you, "Your courtroom belongs to you, but I obviously have concerns

about your well-being given what you've written, and in the context of our past discussions and emails."

- On May 10, 2022, you emailed your judicial assistant, Ms. Salcido, and your courtroom assistant, Ms. Hahn, copying Judges Taylor, Jessner, and Cowan. You again stated that you had been "poisoned," acknowledged that you were giving instructions to your staff that contradicted their supervisor's directives, and told them that you loved them.

  > Yesterday, because someone had mistakenly characterized my physical absence as a "leave of absence" rather than what Judge Taylor actually is providing – coverage while I recover from the medicinal poisoning I have discussed with you – we were able to avert what would have been a real disaster only because you know me, have been my clerk since I started as a Judge at Edelman, and trust that I would never ask you to do anything wrong. But as I could tell from your voice when I called you at home last night, I know that left you feeling like you were "swinging in the wind" between what I was telling you and what your supervisor was telling you. By the time you get in I hope your supervisor will have received word from Judge Taylor or Judge Cowan that I am not on a "leave of absence," merely being provided coverage while I am on sick leave and that no minute order, particularly on 170.6 Petitions, is to be issued in Department 78 without my prior approval and authorization. If not, please have her call me immediately at 310-948-[redacted]. I love you both and appreciate your loyalty.

- Also on May 10, 2022, you sent an email to Judge Cowan, copying Judges Taylor and Jessner, and also copying Judge Douglas Stern, who was assigned to handle matters in your department during that time. You again stated that you had been medically "poisoned," and you agreed to take a leave of absence from the bench until May 27, but only if court administration allowed you to perform your judicial functions remotely during the leave of absence. You also demanded a hearing, for an

undisclosed purpose, upon your May 27 return, and you noted that the hearing need not be public.

- Later that same day, May 10, 2022, Supervising Judge Cowan emailed you, directing you to issue your decision on the defendant's demurrer in *Azarkman v. Azarkman* (No. 20STCV23643) because the next day would be the 90th day since the matter had been taken under submission. (You had heard oral argument on the demurrer on February 10, 2022.) You responded insolently to Judge Cowan's email, copying Ms. Salcido, with a profanity-laden email.

  > [*Azarkman*] had my immediate attention on 2/10/22 When [*sic*] I entered the full order after the parties "submitted" it and I ruled in full and set a case management orderwhich [*sic*] I will send you. I'm sorry but another example of how fucked up it is when someone tells me I'm not on leave of absence but then tells my clerk I am. Same fucked up situation in the issue raised by court counsel today at your request which will I will [*sic*] deal with tomorrow because now I have to go back to recovering from the poisoning no one seems to care about enough to ask.

  You went on to give the following directive:

  > NO ORDER ON ANY MATTER NOT BEING ACTIVELY AND CURRENTLY HEARD BY ANOTHER JUDICIAL OFFICER IN DEPARTMENT 78 ("ACTIVELY" BEING CURRENT HEARINGS INCLUDING BUT NOT LIMITED TO IDCs, MOTIONS, SETTLEMENT CONFERENCES AND ACTIVE TRIALS) MAY BE ISUED [*sic*] WITH RESPECT TO ANY MATER [*sic*] PENDING IN DEPARTMNT [*sic*] 78 WITHOUT PRIOR REVIEW AND APPROVAL BY JUDGE ROBERT S. DRAPER, PRESIDING JUDGE, DEPARTMENT 78.

- On May 12, 2022, Presiding Judge Taylor sent you an email in which he expressed concern for your well-being, in light of your recent emails,

"which included profanity and reflected confused musings." The presiding judge instructed, "For continuity of operations, to avoid confusion to litigants and court personnel, and to avoid exposure to liability and criticism, until your actual return (full-time) from your medical leave of absence, Judge Douglas Stern is exclusively in charge of Department 78," and he stated that "Department 78 staff shall take directives from [Judge Stern] only."

Judge Taylor instructed you: "[A]ny communications that you feel compelled to have with the court about pending cases must be addressed to Civil Supervising Judge Cowan." Judge Taylor noted that you had reported "being poisoned, feeling confusion, and other physical impairments" and requested a letter from your doctor "addressing any impaired cognitive function and/or adverse impact on your alertness and/or stamina." The presiding judge stated that he would "feel much more comfortable with some coherent medical assessment of your physical and mental ability to perform your judicial duties."

- On May 14, 2022, you emailed a sarcastic and discourteous response to Judge Taylor, copying Judge Cowan, in which you indecorously maligned Judge Cowan's handling of your department in your absence.

> To say this is insulting is such a soft way of characterizing what Judge Cowan has done to Department 78 that it is hard to say it in nice words. I do intend to make a full report on the "support" I have received in this ordeal so do not worry about HIPPA [*sic*]. For now, the doctor who has taken over my care for my Parkinson's treatment and recovery from the effects of the medications the prior Doctor subjected me to is Dr. Melita Petrossian, a specialist in this field. I will send you her contact card and notify her that you will be calling. I met with her on Friday and will authorize her to give to you a full report on my mental condition, physical condition and when she anticipates I can safely return. At present our plan

> is that I will check in with her in two weeks and in fact I've already substantially improved my physical condition, my mental condition never being at issue as you could confirm if you just read the opinions I've written during this time. In the meantime I will be happy to work through Doug Stern because he is professional and knows what he is doing. You need to remember, or know if David has not told you, that there is a drop dead date of June 21 for ruling on a motion for new trial in the Bertone case I tried in December and only I can stop that from expiring, which would be a serious tragedy since I intend to substantially reduce the $8 million award for emotional distress damages and believe I can do it in a way that will minimize the chance of appeal. I will have Doug set the hearing date and I anticipate being back substantially before that, either May 31 or at least the first week of June. I will coordinate with Doug tomorrow morning on the orders I would like him to enter which I assume he can do without your approval. I'm sorry to say that I'm very disappointed in you.

- On May 16, 2022, you emailed Judge Taylor and offered to provide proof that you "ha[d] not been malingering," in reference to your statements about having been "poisoned and impaired."

- On July 6, 2022, you emailed Judges Taylor and Jessner and requested help tracing the telephone number that your psychiatrist had used, writing:

> Could someone help me? What I have discovered as a result of the poisoning is that a Psychiatrist or person posing as a psychiatrist was Prescribing and having my wife administer psychotropic drugs totally inappropriate for any "symptoms" I had that might have killed me if I kept taking them a little longer. I need some help on a reverse trace of a telephone number the psychiatrist used.

You then complained about your inability to safely exit the courthouse parking lot the previous weekend and remarked: "I get a lot of bureaucratic talk about who's in charge and who is responsible or not but I don't hear anything about dead judges."

- On September 13, 2022, you sent an email to Judges Taylor and Cowan, copying 27 other judges of the Los Angeles County Superior Court. Your September 13 email was a response to Judge Taylor's July 25, 2022 reply to a July 20 email, from you, suggesting that the civil division was "[off] track." Your original July 20 email had been entitled "Implementation of the Trial Court Reduction Delay Act," but in your September 13 response, you changed the subject to:

  > A PERSON F NO COLOR LIKE ME AND COURAGE (formerly "Iplementation fhe rial Court Reduction Delay Act"). (*Sic.*)

  You then made remarks about Judges Taylor and Cowan that constituted intemperate public criticism. Specifically, you gratuitously suggested that, by querying whether you ever would have sent your July 20 email to certain respected previous presiding judges, Judge Taylor's July 25 email implied that you would only treat Judge Taylor as you had because Judge Taylor is a person of color. You also accused Judge Taylor of staging a "campaign event" for Judge Cowan's candidacy for assistant presiding judge. In addition, you accused Judge Cowan, who sought to become the assistant presiding judge, of malfeasance associated with a high-profile case, calling Judge Cowan's conduct in that case "ignorant and disgraceful" and "hardly 'courageous.' " You also remarked, discourteously and using profanity, that a "shit storm" would "erupt" if the press learned that Judge Cowan was a candidate to lead the Los Angeles County Superior Court.

  In your September 13 email, you also stated that, "among friends," the Health Insurance Portability and Accountability Act (HIPAA) "is for sissies."

Your conduct violated canons 1, 2, 2A, 3B(4), 3C(1), and 3C(2) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a

disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

2. In April 2022, during your voluntary medical leave of absence from the bench, the defendants in *Bijan Ben Niakan v. Ases Electrical Group, Inc., et al.* (No. 21STCV02475) filed a Code of Civil Procedure section 170.6 peremptory challenge against you. In an April 25, 2022 minute order, Judge Douglas Stern, who was presiding in your department during your leave, accepted the 170.6 peremptory challenge.

On May 9, 2022, while you were still on a medical leave of absence, you vacated Judge Stern's April 25 order and returned the matter to your department. Before you did so, you consulted with Supervising Judge Cowan, who advised you that he did not believe it was permissible to vacate the order of another judicial officer. Judge Cowan advised you to consult with court counsel before vacating Judge Stern's order, but you did not do so.

Your conduct violated canons 2, 2A, 3B(1), 3B(2), 3C(2), and 3E(1) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

3. In April and May 2022, during your voluntary medical leave of absence from the bench, you gave directives to court staff that were inconsistent with the directives of their supervisor and Judge Stern, who was presiding in Department 78 during your absence. Specifically, you improperly instructed your judicial assistant, Ms. Salcido, not to schedule a hearing on a litigant's motion for a new trial in *Bertone v. County of Los Angeles* (No. 18STCV04681), despite Ms. Salcido being required to do so. In addition, in a May 10, 2022 email, you instructed Ms. Salcido and your courtroom assistant, Ms. Hahn, that "no minute order, particularly on 170.6 Petitions, is to be issued in Department 78 without my prior approval and authorization." In the same email, you acknowledged to Ms. Salcido: "[A]s I could tell from your voice when I called you at home last

night, I know [my directives] left you feeling like you were 'swinging in the wind' between what I was telling you and what your supervisor was telling you."

Your conduct violated canons 2, 2A, 3C(1), and 3C(2) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

B. From approximately March 23, 2023 until approximately June 5, 2023, you were placed on an involuntary leave of absence from the bench. During your 2023 involuntary leave of absence, and in the months following your return to the bench, you failed to cooperate with your judicial colleagues and other court personnel in the administration of court business and engaged in other judicial misconduct.

On March 23, 2023, Presiding Judge Jessner, Assistant Presiding Judge Tapia, and Supervising Judge Williams Court, along with Court Counsel Ivette Peña, met with you to counsel you about a pattern of concerning behavior and possible misconduct. Judge Jessner expressed concern about your ability to continue to perform your duties and responsibilities as a judge, and she placed you on an indefinite leave of absence, effective immediately and until further notice. You were not placed on an involuntary leave of absence due to a shoulder or "rotator cuff" injury.

During the March 23 meeting, Judge Jessner explicitly directed you not to take any action on any cases in your department, not to access or enter your chambers, not to contact court staff, and not to perform work on any cases, until further notice. The presiding judge told you that Judge Williams Court would arrange for coverage of your courtroom during your leave and that your staff had been directed to communicate only with the jurist(s) assigned to cover your courtroom.

Judge Jessner also informed you, at the March 23 meeting, that your access to the court's computer systems—including the nonpublic case management

system and your court email—would be suspended while you were on leave. She noted, however, that Judge Williams Court would assist you if you needed access to the court's computer systems during that time.

After the March 23, 2023 meeting, and contrary to the presiding judge's directives, you reported to the courthouse**,** accessed your chambers, contacted court staff, and communicated with court staff and research attorneys about pending cases, multiple times. In the months following the March 23 meeting, you also accessed and utilized the court's computer systems, including your court email account, on multiple occasions. In addition, although Judge Jessner placed you on an involuntary leave of absence until further notice, you communicated to court administration that you intended to return to work on June 5, 2023, because your doctor (who had been treating you for a shoulder or "rotator cuff" injury) had cleared you to return.

On or about June 1, 2023, Presiding Judge Jessner provided you with a letter, summarizing the findings of the court's investigation into your conduct. The June 1 letter also explained that you would be reassigned from an independent calendar courtroom at the Stanley Mosk Courthouse to a "chambers work only" assignment at the Santa Monica Courthouse. Judge Jessner indicated your new assigned chambers would be ready for you to resume your duties on June 5, 2023.

Your conduct violated canons 2, 2A, 3C(1), and 3C(2) of the Code of Judicial Ethics. In the alternative, your conduct constitutes evidence of a disability that seriously interferes with the performance of your duties and is, or is likely to become, permanent.

YOU ARE HEREBY GIVEN NOTICE, pursuant to rule 118 of the Rules of the Commission on Judicial Performance, that formal proceedings have been instituted and shall proceed in accordance with rules 101-138 of the Rules of the Commission on Judicial Performance.

Pursuant to rules 104(c) and 119 of the Rules of the Commission on Judicial Performance, you must file a written answer to the charges against you

within twenty (20) days after service of this notice upon you. The answer shall be filed with the Commission on Judicial Performance, 455 Golden Gate Avenue, Suite 14400, San Francisco, California 94102-3660. The answer shall be verified and shall conform in style to rule 8.204(b) of the California Rules of Court. The Notice of Formal Proceedings and answer shall constitute the pleadings. No further pleadings shall be filed, and no motion or demurrer shall be filed against any of the pleadings.

This Notice of Formal Proceedings may be amended pursuant to rule 128(a) of the Rules of the Commission on Judicial Performance.

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE.

Dated: January 6, 2026

Honorable Lisa B. Lench
Chairperson

FILED

January 14 2026

COMMISSION ON JUDICIAL PERFORMANCE

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING JUDGE ROBERT S. DRAPER, No. 212	ACKNOWLEDGMENT OF SERVICE OF NOTICE OF FORMAL PROCEEDINGS

I, Paige Adamczyk, on behalf of my client, Judge Robert S. Draper, hereby waive personal service of the Notice of Formal Proceedings in Inquiry No. 212 and accept service by mail. I acknowledge receipt of a copy of the Notice of Formal Proceedings by mail and agree that Judge Robert S. Draper has been properly served pursuant to rule 118(c) of the Rules of the Commission on Judicial Performance.

Dated: 1/14/26

Paige L. Adamczyk
Attorney for Judge Robert S. Draper
Respondent