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COMMISSION ON
JUDICIAL PERFORMANCE

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING
JUDGE GREGORY J. KREIS,

No. 209

FIRST AMENDED NOTICE OF
FORMAL PROCEEDINGS

To Gregory J. Kreis, a judge of the Humboldt County Superior Court
from June 2017 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, 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 providing
for removal, censure, or public or private admonishment of a judge or
former judge.

COUNT ONE

A. On May 25, 2019, you along with your wife and others,
including children, were present at the “Fifth Annual Antlers Campout”

("event") at the Antlers RV Park and Campground in Lakehead-Lakeshore in Shasta County. The event was organized by Quincy Brownfield, the wife of then-Assistant Public Defender (APD) Luke Brownfield, and was attended by several employees of the public defender's office, including APD Brownfield, Deputy Public Defender (DPD) Rory Kalin, and DPD Casey Russo.

Prior to boarding a pontoon boat at the event, you inhaled from a vaporizer pen containing cannabis oil. You ridiculed DPD Kalin's clothing, telling him that he was "dressed like an old man," or words to that effect. Additionally, while a group of people, including you, DPD Kalin, his wife Stefanie Kalin, and APD Brownfield (DPD Kalin's supervisor) was walking to the boat dock, you told APD Brownfield, referring to DPD Kalin, "I cannot believe you have not fired this guy yet," or words to that effect. You later asked APD Brownfield, "Why haven't you fired this guy?" or words to that effect.

After you boarded the pontoon boat, you drank alcohol, appeared to be intoxicated and, on multiple occasions, called DPD Kalin "Jewboy." You also told DPD Kalin that he looked Jewish, called him "Jewboy" to his face, in front of his wife, and laughed or smiled each time you made the remark. In addition, and in DPD Kalin's presence, you said to Stefanie Kalin, "I don't even know why you're married to this Jewboy," or words to that effect.

During the ride on the pontoon boat, Stefanie Kalin was speaking with Quincy Brownfield at some point. Ms. Brownfield was wearing a bathing suit and was holding her youngest child, Reeve. You walked over to Ms. Brownfield; got close to her; pantomimed something similar to a lap dance on her; moved your body and moaned or made other noises that suggested you were having sex with Ms. Brownfield; and indicated to Ms. Kalin that Ms. Brownfield enjoyed what you were doing.

On the pontoon boat, you were aware that DPD Kalin was not dressed in swim apparel, but was wearing a long sleeve shirt, full length pants, and shoes. While DPD Kalin was at the stern of the boat, you ran up to DPD Kalin and shoved him into the water. Afterwards, you did not assist or attempt to assist DPD Kalin out of the water and back onto the boat.

While you were aboard a ski boat at the event, you were shirtless in view of others, including children, and wore for an extended period of time what resembled, or was intended to resemble, the top half of a woman's two-piece yellow bikini. Your attire also gave the appearance that you were taunting or mocking Stefanie Kalin, who wore a yellow bikini top at the event.

In the evening during a barbecue, you asked Stefanie Kalin in an elevated voice, "Where's your girlfriend?" referring to DPD Kalin, who was absent from the barbecue, as the "girlfriend."

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 4A.

B. In approximately 2016, in Joanne Carter's presence, you used the slur, "Jewboy," on at least one occasion. Your statement constituted conduct prejudicial to the administration of justice that brings the judicial office into disrepute within the meaning of California Constitution, article VI, section 18, subdivision (d).

COUNT TWO

On May 28, 2019, DPD Rory Kalin appeared before you in the following cases:

- (a) *People v. Chantrell Andre Arndt*, No. CR1901782A;
- (b) *People v. Shannon Renee Cobillas-Graham*,
Nos. CR1900696 and CR1901192;
- (c) *People v. Shalise Eileen Diaz*, No. CR1902159;

- (d) *People v. Shawn Gordon Hopper, Jr.*, No. CR1901193B;
- (e) *People v. Jaime Lyn Hostler*, No. CR1901524B;
- (f) *People v. Nicole Charmaine Nixon*, No. CR1801796B;
- (g) *People v. Jacqueline Christine Remington*, No. CR1900697;
- (h) *People v. Carmen Selina Rose*, No. CR1803556A;
- (i) *People v. Amber Rose Souza*, No. CR1901191; and
- (j) *People v. Shinese Shanell Washington*, No. CR1805566B.

You did not make any disclosure in any of those cases regarding the events of May 25, 2019, or your socializing with DPD Kalin. You also failed to disclose the fact that DPD Kalin's supervisor was Luke Brownfield, who was a close personal friend of yours.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(5), 3B(8), and 3E.

COUNT THREE

You were assigned to the court's family law calendar between approximately 2017 and the end of 2021. Since approximately 2019, you have had an intimate relationship with the court's family law facilitator, Tanya Ellis. During the fall of 2019, you, Ms. Ellis, and other court employees gathered after work at the AA Bar & Grill in Eureka, around the time that the court's new case management system was installed. During most of the gathering, the attendees were seated at two tables that had been pushed together. During part of the gathering, you and Ms. Ellis were seated next to each other, and Ms. Ellis was observed by court staff for a lengthy period of time with her hand on your thigh.

By the fall of 2020, you had learned that courtroom clerk Lois Casacca had told other court staff about her suspicions that you were having an affair with Tanya Ellis. In approximately November 2020, you met with Court Executive Officer (CEO) Kim Bartleson and told her that you had heard that Ms. Casacca was spreading a rumor that you were

having a relationship with Ms. Ellis. In approximately November 2020, you complained to then-Presiding Judge Joyce Hinrichs that Ms. Casacca was spreading false rumors about you and Ms. Ellis, and asked Judge Hinrichs what was going to be done about it. You told Judge Hinrichs, or left her with the impression, that there was no romantic or sexual relationship between you and Ms. Ellis. On or about June 7, 2021, following investigations of your accusations, the court terminated Ms. Casacca. During or prior to the investigations, you never told Presiding Judge Hinrichs, CEO Kim Bartleson, or any person involved in the investigations that you were, in fact, having a sexual or romantic relationship with Tanya Ellis.

By making false or misleading statements to Presiding Judge Hinrichs and CEO Bartleson, and not correcting them, you violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(1), 2B(2), 3C(1), and 3C(2).

COUNT FOUR

On or about August 15, 2022, Meagan O’Connell, Supervising Attorney at the Humboldt County Conflict Counsel’s office, appeared before you on behalf of several defendants on your 3:31 p.m. truancy calendar. When Ms. O’Connell told you that she was going to file a motion to disqualify you pursuant to Code of Civil Procedure section 170.6, you said something like, “Counsel, before you do that, you should look at professional rule of conduct 5.1.” Your statement would reasonably be interpreted as a threat to report Ms. O’Connell to the State Bar in retaliation for her filing a motion to disqualify you, and was an attempt to dissuade Ms. O’Connell from filing such a motion, or gave the appearance that you were attempting to dissuade Ms. O’Connell from filing a motion to disqualify you.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(4), 3B(5), and 3B(8).

COUNT FIVE

Following Kevin Robinson's retirement as Humboldt County Public Defender, you were the interim public defender between approximately December 2016 and February 2017. Although you applied to become the public defender and were one of the finalists for that position, the Humboldt County Board of Supervisors instead hired David Marcus to become the public defender in February 2017.

On March 10, 2017, Patrik Griego, a partner at Janssen Malloy LLP in Eureka, filed a Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and Attorney's Fees in *Does 1 Through 10 v. County of Humboldt, et al.*, No. CV170183. Among other things, the petition sought an order restraining the respondents from continuing Mr. Marcus's appointment on the ground that his hiring violated Government Code section 27701. You collaborated with Mr. Griego in the handling of the case. On or about March 17, 2017, you signed a declaration that was filed in support of Petitioners' Motion to Permit Service of Business Record Subpoena Prior to 20 Day Hold. The declaration set forth the reasons why you believed that Mr. Marcus was not qualified to serve as the public defender. The lawsuit remained pending until on or about November 29, 2017.

Attorney David Nims was a colleague of Patrik Griego at Janssen Malloy LLP between approximately October 2015 and August 2022. You have been friends with Mr. Nims since approximately 2011, when Mr. Nims interned for the Humboldt County Public Defender's Office. Mr. Nims has socialized with you many times, primarily since 2015, including at your home. Mr. Nims attended some of the Memorial Day weekend campouts at Lake Shasta held between approximately 2015 and 2018, some of which you also attended. Mr. Nims was invited to the 2019 campout, but responded, in a group chat, "I have been fired from Memorial

Day.” Your then-wife, Brenda Elvine, replied, “Nope. Not true. You got PROMOTED for Memorial Day silly!!” You responded, “Agreed. Promotion,” followed by a smiley face emoji. You added, “I order ur family to go,” followed by another smiley face emoji.

On March 6, 2020, Rory Kalin filed a Complaint for Damages against you in the Humboldt County Superior Court. (*Rory Kalin v. Gregory J. Elvine-Kreis, et al.*, No. CV2000357.) In approximately April 2020, you retained Mr. Griego to represent you in the lawsuit, which has been consolidated with *Rory Kalin v. Humboldt County Public Defender’s Office, et al.*, No. CV2000902.

You have handled several cases in which David Nims represented parties, including the following cases, without fully disclosing on the record information that was reasonably relevant to the question of disqualification under Code of Civil Procedure section 170.1.

A. On August 4, 2017, and February 9, 2018, you presided over hearings in *Sullivan v. O’Donnell*, No. DR160101, without disclosing (1) your friendship or social relationship with the defendant’s attorney, David Nims, or (2) the fact that, in 2017, you collaborated with Patrik Griego, a partner in the law firm where Mr. Nims worked, in case number CV170183.

B. On November 30, 2017, and May 3, 2018, you presided over review hearings in *Matter of Jack & Patricia Arthur Living Trust*, No. PR160301, without disclosing (1) your friendship or social relationship with objector Candice Arthur’s attorney, David Nims, or (2) the fact that, in 2017, you collaborated with Patrik Griego, a partner in the law firm where Mr. Nims worked, in case number CV170183.

C. On April 27, 2018, David Nims appeared before you on behalf of the petitioner in *Epino v. Dobbins*, No. CV170379. The case was on calendar for a hearing on the respondent’s motion for attorney’s fees and

costs. You disclosed that you had worked with Mr. Nims in the past and had had social interaction with him, but failed to disclose that you were a close friend of Mr. Nims or that you had collaborated in a lawsuit with Patrik Griego, a partner in the law firm where Mr. Nims worked, in case number CV170183. At the end of the hearing, you denied the motion.

D. In *Santsche v. Hopkins*, No. CV180293, David Nims represented Kimberly Santsche, a civil harassment restraining order (CHRO) petitioner, in her request for a CHRO against respondent Jermaine Hopkins. You presided over a hearing on the CHRO request on October 15, 2018, at which Mr. Nims and both parties appeared. After Mr. Nims advised you that he had been served with a cross-complaint, you disclosed that you had worked with Mr. Nims in the past, but that nothing in the past relationship would hinder you in making a fair decision. You did not disclose your friendship or social relationship with Mr. Nims or the fact that, in 2017, you had collaborated in a lawsuit with Patrik Griego, a partner in the law firm where Mr. Nims worked, in case number CV170183. The respondent stated that he would be filing a motion to disqualify you. You ordered Mr. Hopkins to file and serve his motion to disqualify you by October 19, 2018, and continued the matter. The motion to disqualify was later denied.

E. David Nims represented L.B., a minor who was charged with murder. (*In the Matter of L.B.*, No. JV190***) On September 3, 2019, the People filed a motion for a transfer hearing pursuant to Welfare and Institutions Code section 707. The motion was assigned to your department. You denied the motion on November 20, 2019. On September 10, October 4 and 22, and November 8, 12, 13, 19, and 20, 2019, Mr. Nims appeared before you on behalf of the minor at hearings in the case. On November 8, 2019, you belatedly disclosed that Mr. Nims's partner, Patrik Griego, had briefly represented you in a civil case and had billed you for representation in that case. You did not disclose your

friendship or social relationship with Mr. Nims, the name or nature of the civil case in which Mr. Griego had represented you, the period of time during which he represented you, or the fact that, in 2017, you had collaborated with Mr. Griego in the handling of case number CV170183.

F. On April 6, 2020, in *Hancock v. O'Brien*, No. FL2000279, David Nims filed on behalf of the petitioner a Request for Domestic Violence Restraining Order (DVRO). On that date, you granted a temporary restraining order; issued a 100-yard stay-away order; ordered that the respondent immediately pay a towing charge of \$500, plus fees, and that the petitioner could record the respondent's communications that violated your order; and set a hearing to take place on May 19, 2020. The protected persons listed in the order were the petitioner and her two daughters. You directed that the order expire on May 19, 2020.

On May 5, 2020, Mr. Nims filed on behalf of the petitioner an Amendment to Request for Domestic Violence Restraining Order re: Personal Property. The Amendment requested that the court order the respondent to return to the petitioner a television that she had purchased from Costco in February 2019.

On May 19, 2020, you presided over a hearing at which you granted the Request for Domestic Violence Restraining Order for three years and ordered the respondent to return the television. Mr. Nims appeared for the petitioner via video conference. You directed Mr. Nims to prepare the Restraining Order After Hearing, which you signed on or about May 21, 2020.

You never disclosed (1) your friendship or social relationship with David Nims, or (2) the fact that Mr. Nims's law partner, Patrik Griego, was representing you. Due to Mr. Griego's representation of you in *Kalin v. Elvine-Kreis, et al.*, No. CV2000357, you had a duty to recuse yourself from the case.

G. On or about April 9, 2021, you signed an order appointing David Nims to represent the minor in *In the Matter of J.R.*, No. JV2000***. The order granted Mr. Nims access to records regarding the minor. On or about April 15, 2021, you signed an order shortening time for a hearing on the district attorney's motion to join J.R. and S.R. and their cases (Nos. JV2000*** and JV2000***) for the contested jurisdictional hearing that had been set for May 4, 2021.

On April 26, 2021, you presided over a hearing in the two cases. You did not disclose your friendship or social relationship with Mr. Nims, or the fact that Mr. Nims's law partner, Patrik Griego, represented you. Deputy District Attorney (DDA) Jessica Watson told you that it had been brought to her attention that Mr. Nims or his law firm represented you. Instead of recusing yourself, as you were required to do, you stated that your normal practice was to "not hear any contested issues with ... that firm[,]” but that you would disqualify yourself if the matter was contested, and could recuse yourself if one of the parties was not comfortable with your handling the case. You did not recuse yourself until DDA Watson said that her office was not comfortable with you handling the case.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), 3B(8), and 3E. Your appointment of David Nims in *In the Matter of J.R.*, No. JV2000***, also violated the Code of Judicial Ethics, canon 3C(5).

COUNT SIX

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

A. You presided over the following cases in which Patrik Griego appeared, and the hearings that took place on the following dates, without disclosing on the record that you had collaborated with Mr. Griego in case number CV170183 or were friends with David Nims, who worked for Janssen Malloy LLP, where Mr. Griego was a partner.

1. *Rhodes v. St. Joseph Hospital*, No. DR170489, December 1, 2017;
2. *People v. Shaha*, No. CR1704575, January 4, 2018; and
3. *People v. Lacount*, Nos. CR1602664, CR1703402, CR1701173, CR1600513, CR1805459, CR1804724, CR1602071B, CR1700366, CR1800116, CR1901534, and CR1902911, December 20, 2019.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), 3B(8), and 3E.

B. Patrik Griego represented the respondent in *David Rodrigues v. Jackie Howard*, No. FL190773, a DVRO proceeding. On October 21, 2019, Mr. Griego and the parties appeared before you at a hearing on the petitioner's DVRO request. The petitioner was unrepresented. After you disqualified yourself pursuant to Code of Civil Procedure section 170.1, Mr. Griego stated: "The temporary restraining order [TRO] keeps my client from her home with all her personal belongings. We are objecting to that at least in the interim so she can get her things out of the house." You then asked Ms. Howard, "Do you have a third party that can go get this for you?" After Ms. Howard told you that she was talking about furniture, like a bedroom set, that was bought before the parties' marriage, you asked petitioner Rodrigues whether he would agree that Ms. Howard could have the bedroom set and some furniture. After Mr. Rodrigues responded that he did not know about the living room set, you advised Ms. Howard to make a list of everything she wanted to obtain and give it to her attorney (Griego), and stated that you would sign a modification to the TRO, if it were drafted, to provide an exception for the transfer of property.

By trying to facilitate the transfer of property in a case from which you were disqualified, and offering to sign an order modifying the TRO, you violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), and 3B(8).

COUNT SEVEN

A. You had a close personal relationship with attorney Joanne Carter between approximately 2010 and 2017. You worked with Ms. Carter when she was a deputy public defender in Humboldt County between 2010 and 2017, and you supervised her in approximately 2016 and 2017. Between approximately 2010 and 2017, you often socialized with Ms. Carter outside the workplace and attended parties held at her home. Even though you were not related to Ms. Carter, you sometimes referred to Ms. Carter as your second wife or your wife's sister.

Between approximately 2018 and 2020, you presided over the following cases in which Joanne Carter appeared, and the hearings that took place on the following dates, without disclosing your past relationship with her:

1. *Matter of H. Minors*, No. PR120081, May 1 and 8, June 14, July 12, and August 16, 2018, and October 22, 2019;
2. *K.A. v. T.L.*, No. FL160***, May 8 and 29, August 30, and October 23, 2018; February 26, March 7, April 2 and 18, July 18, August 13 and 16, November 7 and 21, and December 5 and 13, 2019; and March 12, 2020.
3. *Murietta v. Grimes*, No. FL180264, May 9 and 31, 2018;
4. *Gauthier v. Teasley*, No. FL180323, June 6, August 7 and 14, and September 6, 2018;
5. *Pugel v. Pugel*, No. FL180113, August 14, 2018, and February 7 and March 7, 2019;
6. *Eichin v. Eichin*, No. FL090359, August 22 and 23, 2018;
7. *Zetter v. Zetter*, No. FL180661, September 24, 2018;
8. *Zetter v. Zetter*, No. FL180700, September 24, October 18, and December 18, 2018;

9. *Span v. Span*, No. FL170513, October 9 and 18, and November 1, 2018;
10. *Adams v. Holm*, Nos. FL180863, and *Holm v. Adams*, No. FL180841, December 10 and 11, 2018, and January 8, 2019;
11. *Silva v. Silva*, No. FL120485, December 13, 2018, and January 10, February 21, March 14, May 9 and 23, June 20, July 9, August 13 and 26, and October 15, 2019;
12. *McCullough v. McCullough*, No. FL100260, January 29 and February 4 and 6, 2019;
13. *Ross v. Schroer*, No. FL160319, February 14, March 28, May 23, June 18, July 16, and August 13 and 29, 2019;
14. *Matter of E.W.*, No. PR050116, February 20, 2019, and February 20, 2020;
15. *Drefke v. Drefke*, No. FL140211, February 21, March 14, April 30, and May 2 and 16, 2019;
16. *Escareno v. Escareno*, No. FL150703, March 18 and 26, 2019, April 15 and 30, June 4, 11, and 13, July 9 and 18, August 13 and 16, October 17, and November 19, 2019, and January 7, 2020;
17. *Reynoza v. Reynoza*, No. FL120084, April 16 and May 7, 2019, and June 8, 2020; and
18. *Ellis v. Morrow*, No. FL190175, April 18 and 19, May 2 and 30, October 15, November 14, and December 4, 2019, and January 13 and 30, February 28, and May 28, 2020.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), 3B(8), and 3E.

B. On or about May 22, 2017, Governor Edmund G. Brown, Jr., appointed you to a judgeship in the Humboldt County Superior Court. You became a superior court judge on or about June 2, 2017. In your July 7, 2023, response to an allegation in the April 19, 2023, preliminary

investigation letter, you stated through counsel: “When the Judge took the bench, he placed Ms. Carter on the disqualification list until 2018 [*sic*], approximately two years after his appointment. Following that two-year lapse, and given the lack of any ongoing relationship, Judge Kreis did not consider a disclosure of prior friendship to be necessary.” Your response gave the false impression that you disqualified yourself from, and did not hear, any cases in which Ms. Carter appeared during the first two years after your appointment to the bench.

Your conduct violated Government Code section 68725; Rules of Commission on Judicial Performance, rule 104(a); and the Code of Judicial Ethics, canons 1, 2, 2A, and 3D(4).

COUNT EIGHT

Since approximately 2010, you have been close friends with DPD Casey Russo and have socialized with him on numerous occasions. DPD Russo represented the defendants in the following matters over which you presided. You did not, in any of these matters, make any disclosure of your close friendship or contacts with DPD Russo.

A. The preliminary examination in *People v. Matthews*, No. CR1803214, that took place on October 4, 2018;

B. The preliminary examination in *People v. Leen*, No. CR1803854, that took place on March 25-27, 2019, and the previous hearing that took place on March 22, 2019; and

C. The trial in *People v. Kobak*, No. CR1703639, that took place between approximately January 14, 2020, and February 4, 2020.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), 3B(8), and 3E.

COUNT NINE

You have known court clerk Kimberly Stutte since at least 2017. Ms. Stutte was a family law clerk in Humboldt County from approximately

2015 to 2021, and you worked with her on a regular basis between 2017 and at least 2020. In 2017, Ms. Stutte and her husband, Jay Stutte, were appointed as conservators of their daughter. On November 9, 2017, May 10, 2018, and August 20, 2020, you presided over hearings in the conservatorship case (*Matter of Stutte*, No. PR170089), even though you were disqualified from the case due to your relationship with Kimberlyn Stutte.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), 3B(8), and 3E.

COUNT TEN

On July 7, 2021, you presided over the juvenile delinquency calendar. The first case that you called was *In re J.O.*, No. JV2100***. Although you were disqualified from hearing the case due to your close personal friendship with the minor's attorney, Luke Brownfield, you did not immediately disqualify yourself. Instead, you disclosed that you and Mr. Brownfield were "friends from years back" and were "both involved in a frivolous lawsuit." You asked the parties, "Does anyone have any objection to me hearing this matter or any matters today for the public defender based on that?" When DDA Jessica Watson told you that she had "an objection to you hearing the cases today," you asked DDA Watson to set forth the grounds for her objection. When DDA Watson stated that she was "afraid that there's an appearance of impartiality [*sic*]" due to the fact that you had a close friendship with the minor's attorney and were named as codefendants in the same lawsuit, you still did not recuse yourself. Instead, you stated:

All right. I'm going to get back to you on that.
[¶] I agree with that and that's why I would
recuse myself, but I'm not sure I understand the
logic between when there's no contest
stipulation. [*Sic.*] That doesn't make sense and

that does not bode well for judicial economy, so I'm going to take a recess for about five minutes and then I'll be back.

After a recess, you stated that, since none of the matters on calendar were contested hearings, you would not recuse yourself, but would give the district attorney's office the opportunity to file statements of disqualification against you pursuant to Code of Civil Procedure section 170.1. DDA Watson elected instead to orally move to disqualify you pursuant to Code of Civil Procedure section 170.6.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), 3B(8), and 3E.

COUNT ELEVEN

Between approximately 2017 and at least 2021, during the period of time in which you presided over the family law calendar, you provided legal advice to your friend, Quincy Brownfield, about legal issues that arose at the school where she was employed, such as what to do if a person has a guardianship or the right to make decisions about a child's education, or if a parent against whom a temporary restraining order has been issued wants to pick up their child from school.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 4G.

COUNT TWELVE

A. In approximately January 2018, Gemma Erickson, who recently had been diagnosed with breast cancer, began visiting the Breast & GYN Health Project (BGHP) in Arcata. Between at least February 2018 and July 2019, Ms. Erickson attended semimonthly meetings of BGHP's Young Women's Support Group ("support group"), which were facilitated by your then-wife, Brenda Elvine, who became a friend of Ms. Erickson.

On or about the evening of December 12, 2018, Ms. Erickson attended a gathering of the support group and their children at your home. You were present during part of the gathering, made a fire for the group, said hello to the attendees, and met Ms. Erickson.

On or about December 13, 2018, Gemma Erickson filed a petition for dissolution in *Gemma Erickson v. Ben Erickson*, No. FL180904. You presided over the case between approximately March 11, 2019, and June 23, 2021. When the parties first appeared before you for a case management conference on March 11, 2019, you said, “And Gemma, you look very familiar.” You added, “So without saying, my wife works ... at a place that Ms. Erickson has been going to. And I believe you were at my house a couple times.” You also stated that there was nothing that would impact your ability to be fair at that point.

On March 22, 2019, Ms. Erickson filed a Request for Order that included a request that she be given sole legal and physical custody of the couple’s four-year old daughter and be allowed to relocate with the daughter to England. Ms. Erickson placed her medical condition into great focus and it was a principal reason why she asked for permission to relocate.

On or about May 5, 2019, Ms. Erickson attended another gathering of the support group and their children at your home. You were present during part of the gathering and said hello to the attendees, including Ms. Erickson. At the court appearance on May 6, 2019, you stated: “And for a disclosure, there was a -- it got disclosed before. There is a relationship, a work relationship, between my wife and Ms. Erickson. And yesterday she had something at our home, and I saw Ms. Erickson for about two minutes and said, ‘Hello,’ as I left the house. [¶] If these -- if you -- specifically, if you feel that, at some point, you’re uncomfortable with -- with that, then just let the Court know, -- and we can address it. All right?”

You failed to disclose that your wife provided assistance to Gemma Erickson in connection with her medical condition or that they were friends. You did not disqualify yourself from the case until on or about June 23, 2021.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), 3B(8), and 3E.

B. On November 27, 2019, in *Erickson v. Erickson, supra*, Mr. Erickson filed a motion to disqualify you, in which he alleged that you had failed to explicitly state the exact nature of the relationship that existed between your wife and Ms. Erickson on March 11 and May 6, 2019.

Attached to the motion were excerpts from transcripts of both hearings.

In your verified answer, you stated, under penalty of perjury:

I fully informed Mr. Erickson and his attorney at the first appearance, as well as later appearances, that Petitioner [Gemma Erickson] is provided services at my wife's place of business (a breast cancer support non-profit) and that I had met her once before.

In fact, you never disclosed that Ms. Erickson was provided services at your wife's place of business or that your wife worked at a breast cancer support nonprofit organization.

You also claimed in your verified answer that the two times that Ms. Erickson was at your home, she was with a group of your wife's clients. You falsely claimed that you only saw Ms. Erickson on one occasion for a brief moment as you left and that you did not believe that you were home at all when Ms. Erickson made her other visit.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), and 3B(5).

C. On September 3, 2019, you ordered that Gemma Erickson be awarded sole legal and physical custody of the Ericksons' four-year old

daughter and that Ms. Erickson be permitted to move with the daughter to England. On October 24, 2019, Mr. Erickson filed a notice of appeal from your ruling. On December 19, 2019, Mr. Erickson filed in the superior court a proposed settled statement in support of his appeal. On February 5, 2020, you ordered Mr. Erickson to prepare a settled statement incorporating several modifications, including the following: “The court disclosed that Petitioner was a client of the Judge’s wife and the professional relationship to Respondent while represented by counsel and when representing himself, with no objection.” You made this order knowing your statement to be false, or with a reckless disregard for the truth. In fact, you had not disclosed to Mr. Erickson that Ms. Erickson was a client of your wife or the nature of their professional relationship.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), and 3B(8).

COUNT THIRTEEN

You engaged in the following misconduct when you presided over *S.R. v. V.R.*, No. FL090***.

A. On January 24, 2018, respondent (the “mother”) filed a Request for Order (RFO) seeking sole custody of the couple’s daughter (the “minor”) and a temporary emergency order. The noticed date for the hearing was February 15, 2018. On January 30, 2018, while the January 24 RFO was pending, the mother filed a request for a temporary emergency order (“Temporary Emergency RFO”), in which she alleged that the father had kept the minor out of school for seven school days and was continuing to hold her out of school. The Temporary Emergency RFO, which had a noticed hearing date of February 1, 2018, sought to have the court order petitioner (the “father”) to deliver the minor to court. In the Temporary Emergency RFO, which was filed on Judicial Council Form FL-300, none of the boxes indicating that child custody or visitation would be in issue at

the requested hearing were checked. There was no indication in the Temporary Emergency RFO that it was anything other than an effort to have the minor produced in court so that the mother's custody time could be honored and the minor could return to school.

At the February 1, 2018, hearing, after argument, you asked the minor's attorney, Christina Allbright, to ask the minor if she would like to talk to you alone in chambers. You then spoke with the minor in chambers, outside the presence of the parties, Ms. Allbright, the mother's attorney, and a court reporter. (The father was unrepresented.) The meeting took place without the consent of all of the parties. After you returned to the bench, you told the father, "You violated orders. Took the minor out of school. You, basically, do what you want." You also stated that the language the minor used during the ex parte conference was not characteristic of the way children the minor's age normally speak, and that "she's clearly, for lack of a better term, being brainwashed by father." You ordered that the mother receive "temporary, sole legal and physical custody" of the minor and allowed the father no visitation, subject to a narrow exception providing that the minor shall have one telephone conversation of five to ten minutes per week with the father and that the calls be on speaker phone in front of a third party.

On February 8, 2018, the mother applied for a DVRO. The DVRO application made no request for a ruling on child custody or visitation matters. On February 8, 2018, you issued a TRO set to expire on February 15, 2018. On or about February 13, 2018, you signed Findings and Orders After Hearing (FOAH), which pertained to the February 1, 2018, hearing and awarded legal and physical custody of the minor to the mother.

At the February 15, 2018, hearing, you declined to rule on the January 24 RFO (the only document seeking a change in custody), even

though it had been noticed for hearing on February 15. Instead, you dismissed that request for relief, and stated that the issue of custody had already been “dealt with” at the February 1 hearing. After the father told you that he had a witness who was present to testify, you stated that the matter was submitted, and you made the TRO permanent for three years. You also barred all contact by the father with the minor, thereby nullifying the limited phone contact clause in the FOAH you signed on or about February 13, 2018. After the father told you that he had testimony to give for his case, you told him that the matter was over, without letting him call any witnesses and without making a finding of good cause to refuse to receive live testimony.

On September 30, 2019, the Court of Appeal reversed your February 15, 2018, order. The court stated that you violated due process to the extent that you resolved the custody issue raised by the mother’s January 24 RFO by deciding that the issue had already been resolved on February 1. The court stated:

[U]ntil the February 1 hearing commenced, father had no notice that the issue of custody was going to be adjudicated *that day* rather than on February 15. Thus, when he arrived on the noticed date for hearing on the January 24 RFO—February 15—the ruling on mother’s custody request was a fait accompli. Father indicated he wished to put on a case in opposition, but the court told him the “1/24 request for order is dropped,” declined to entertain further evidence or argument on it, and announced “[t]his matter is over.”

(*S.R. v. V.R.*, 2019 Cal.App.Unpub. LEXIS 6592, at p. 11.)

By (1) awarding the mother sole custody of the minor without notice to the father that custody was at issue during the February 1, 2018, hearing, (2) initiating and considering an unreported ex parte communication with the minor, without the consent of all the parties, and (3) preventing the

father from testifying or calling witnesses on February 15, 2018, you disregarded the father's fundamental rights and violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), 3B(7), and 3B(8).

B. In June 2018, the father submitted a statement of disqualification against you pursuant to Code of Civil Procedure sections 170.1 and 170.3. On or about June 15, 2018, you signed a Verified Answer to Challenge for Cause Pursuant to California Code of Civil Procedure § 170.1, in which you falsely declared that you had given the father "every opportunity to provide testimony and evidence in this matter...." You also falsely declared that you had "made sure" that the father "has felt that he has presented any and all evidence prior to making a [sic] decision, by orally stating, 'is there any other evidence that you would like to present that you have not already submitted,' to insure [sic] that he had a full and fair opportunity to present evidence."

In fact, on February 15, 2018, the date scheduled for the hearing on the January 24 request for change in custody, you did not allow the father an opportunity to be heard on the issue of custody. Instead, you dismissed the January 24 RFO that requested the change in custody on the ground that it had been "dealt with." When the father stated that he wanted to testify, you asked, "On what matter?," and then cut him off and stated, "This matter is over."

By making false or misleading statements in your verified answer to the father's statement of disqualification, you violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, and 3B(2).

C. On September 6, 2018, during a hearing in *S.R. v. V.R.*, *supra*, you ordered the father not to file any more requests to change custody or visitation until all the previous requests had been decided.

Your conduct constituted an abuse of authority and violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), 3B(7), and 3B(8).

D. On March 26, 2019, you ordered that, beginning on March 31, 2019, the minor's paternal grandmother ("P.S.") would have supervised visitation with the minor on one Sunday per month for up to four hours. Several weeks later, the mother's attorney, Douglas Kaber, was in your courtroom on a different matter that was heard at the end of your calendar. The *S.R. v. V.R.* case was not on your calendar that day, and neither the father, P.S., nor their attorneys were present. After the calendar was over, you asked Mr. Kaber whether he thought that your joining the grandmother in the case was the right decision and how that was going, referring to the minor's visit(s) with P.S.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(7), and 3B(8).

COUNT FOURTEEN

You engaged in the following misconduct when you presided over *K.G. v. C.S.*, No. FL070***.

A. At a hearing that took place on June 27, 2019, minor's counsel (Jhette Diamond) told you that Child Welfare Services ("CWS") had told the parties that it would be closing, without any action, an investigation it was conducting, but that the minor did not want to see the respondent (the "father"). After discussion of a therapist that the minor and the father could see together, you ordered that an appointment be made for the father to meet with the minor's counselor, Melissa Sandeen, during the week of July 8, so the father and the minor could talk about what had happened. During the hearing, after an exchange with the father, you told him:

So before you dig any deeper, reflect on yourself. All you can do is your own behavior. Take some responsibility for that and then [*sic*] reaction and the impact it had on your daughter. *And all I'm hearing you say, is if it wasn't for mom, if it wasn't for my daughter, right, everything would be perfect. Right? I'm*

*perfect. I'm coach. I mean, that's -- I know.
That's what I'm hearing. So just go with what's
happening here.*

The italicized comments were made in a tone that was meant to ridicule the father.

Your conduct reflected prejudice and violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(4), 3B(5), and 3B(8).

B. You presided over the next hearing in *K.G. v. C.S.*, *supra*, which took place on July 29, 2019. At the hearing, attorney Diamond told you that Ms. Sandeen had agreed to work with the minor for a few sessions, but was not comfortable with setting up joint sessions for the minor and her father against the minor's wishes. Ms. Diamond also reported that Ms. Sandeen had faxed her a letter "thoroughly outlining issues that she wants to address with [the minor] and her willingness to facilitate very short incremental therapeutic [*sic*] to begin even though [the minor] continues to express adamant opposition to seeing her father."

The father, who was in pro per at the time, objected to the introduction of Ms. Sandeen's letter as evidence on the ground that Ms. Sandeen and the petitioner (the "mother") had a personal relationship. When the father later argued that it seemed pretty clear from the letter that Ms. Sandeen was "making some pretty strong suggestions," you said, "You can't refer to a letter that you are refusing to come in front of me." You, however, permitted Ms. Diamond to state that Ms. Sandeen's letter gave a "very good outline as to what she wants to do in order to facilitate those visits" between the minor and the father. Although you had not read the letter, you ordered the father to "follow the steps in the letter to have intermittent contact or whatever that is" and to "follow what the counselor is saying." When the father then asked you if he could express something that he had just read in the letter, you replied:

No. You just told me you don't want me to see the letter. You don't get to pick and choose out of the letter. Right? You are the one objecting to the letter, so you don't get to keep referring to the letter. So follow what the counselor says. Follow the Court orders and, hopefully, when we come back we can make progress.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(4), 3B(5), 3B(7), and 3B(8).

C. In or about late August 2019, attorney Jhette Diamond submitted a report to the court that was placed under seal. On August 27, 2019, the father filed a responsive declaration. You presided over the next hearing in the case on August 29, 2019. Before reading the father's declaration or hearing argument, you stated at that hearing: "We can come back so I have a chance to read it [the father's declaration] and see what it is. But at this point, I'm following your [Jhette Diamond's] recommendation." You told Ms. Diamond that you did not see a reason not to at least temporarily adopt her recommendations.

You later stated: "We are not having a hearing right now. I'm going to make temporary orders that all legal [and] physical custody go to mother. You stay away – [the father] stay away from the school at least 200 yards. You don't go to the school. You don't contact the school." You added: "All decisions will be made by the mother. You [the father] are going to go to counseling. Your counselor is going to talk to your daughter's counselor. They're going to figure out a path forward." You stated: "These are temporary orders. We can set this for a hearing in six months and see where we are." You made the orders while admitting that you had not finished reading the father's declaration.

You then set a six-month hearing for two hours to take place on March 2, 2020, and a four-month review hearing to take place on January 6, 2020.

On or about September 24, 2019, you signed Findings and Order after Hearing, prepared by the mother's attorney, that included the above orders and an additional order (not made at the hearing) that barred the father from requesting visitation for a period of six months from August 29, 2019. Your order stated that, during that six-month period, "visitation for Respondent may only resume by agreement of minor's counselor."

Your conduct constituted an abuse of your authority and a disregard of the father's fundamental rights, and violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), 3B(7), and 3B(8).

D. At the outset of the hearing that took place on August 4, 2020, you stated that you had received that morning a letter from the child's therapist, Melissa Sandeen. The letter had been forwarded to you by minor's counsel, Jhette Diamond. After you asked Mr. Schrock whether his client had seen the letter, the following exchange took place:

MR. SCHROCK: What I saw was an unsigned letter from Ms. Sandeen and I was a little concerned about that. Is there an actual signed version of that letter floating around somewhere?

MS. DIAMOND: Your Honor, Jhette Diamond. I do not have a signed copy. Ms. Sandeen was working remotely from her computer and that was the best she could do for me. She sent it to me on Sunday afternoon. I'm happy to submit a copy to her via DocuSign so she can get that electronically signed.

THE COURT: I think for the file we can have that, but I'm certainly going to take an officer of the court's word that document's from her, so I'm not worried about that, but I am concerned about the content of the letter. So Mr. Schrock.

MR. SCHROCK: Your Honor, we are going to object to -- I know that the Court might

disagree with us, but we have some concerns about whether Ms. Diamond is faithfully relaying information to --

THE COURT: Mr. Schrock.
Mr. Schrock.

MR. SCHROCK: Sure.

THE COURT: If you impugn another attorney in my court, I will report you to the Bar. Do you understand me? You did this last time. I will not tolerate it in my courtroom. I will tolerate -- I will not tolerate you saying Ms. Diamond -- Mr. Schrock, don't. Do not do it again. If you think she's doing something unethical, you go to the State Bar. You don't just sit in court in front of all these people and impugn character. Do you understand me?

MR. SCHROCK: Your Honor, if I stick to the facts, I think I'm within my rights.

THE COURT: No, you are not. Not in my courtroom you are not because every time your client is unhappy it's someone else's fault. The question was: Did your client see the letter? That should concern you and your client. Not whether it is signed. And you are basically -- you are basically saying Ms. Diamond, you know, we are worried that Ms. Diamond is undermining. The only person undermining this case is your client. So with that, there will be only supervised visits based on the child's therapist.

MR. SCHROCK: That's an un -- your Honor, that's not a declaration. That's hearsay. So I object.

THE COURT: Then writ it.

You then told Mr. Schrock:

You can work for your client, but please tread lightly and take a breath before you take a position that your client thinks you need to take.

In this case, you have impugned the character of the attorneys, your client has impugned the character of the Judge by referencing his race in an irrelevant manner. So I don't know if it's this client that you are so embroiled in that you have lost your sight of your job and your duty to the Court, but I will not tolerate it. There is enough misinformation out there that I don't need you to every time you get a piece of information in this case it is someone else's fault.

Your reference to the father impugning your character by referencing "race in an irrelevant manner" reflects that you had taken umbrage to statements in the father's verified motion to disqualify you pursuant to Code of Civil Procedure section 170.1, filed on April 7, 2020, that implied that you harbored racial bias, including the following: "Father is African American. The child's mother and the judge are white. The judge has been accused by a lawyer in a complaint of assaulting the lawyer and calling him a 'Jew boy.'" "

You then stated:

So I am going to take in the best interest of this child this letter and an officer of the court, Ms. Diamond, who has submitted this letter and said to this Court this is from the therapist and I am going to change the orders that is just going to be supervised until we come back in a week. [*Sic.*] And in a week we can talk about it. And have a heart-to-heart with your client and have a heart-to-heart with yourself because I will not tolerate this any longer.

When Mr. Schrock asked you what, specifically, you were accusing him of doing, you replied, "Next case, please."

You lost your temper and made a ruling – requiring all visits to be supervised – out of pique, without hearing arguments, and based on an unsigned letter ostensibly from the minor's therapist. You raised your

voice during the above exchanges, while Mr. Schrock remained calm and respectful. You abused your authority when you threatened to report Mr. Schrock to the State Bar without a valid basis for doing so. Your reference to an allegation made against you in a motion to disqualify you reflected embroilment and, at a minimum, made it appear that you were retaliating against the father. Many of your statements also reflected prejudice.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(4), 3B(5), 3B(7), and 3B(8).

E. You presided over another hearing in the case on October 29, 2020. After you made your orders and directed minor's counsel to prepare the Findings and Order After Hearing, but before you set the date for the next hearing, you stated, "Madam clerk is going to wake up and give us a date here at some point." Your statement falsely suggested that your clerk was sleeping during the court proceedings or was slow in doing her duties.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3C(1).

F. On December 16, 2020, the father's attorney, Edward Schrock, filed a Hearing Statement and Proposed Permanent Orders. At the outset of the next day's hearing, you announced: "Mr. Schrock wins today for the latest filed document. So I'll be handing out the prize for that at the end of the day."

Your comment was sarcastic and gratuitous, and violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5).

G. Later in the hearing on December 17, 2020, you asked if the parties wanted to let you make a permanent order, without a hearing, but taking the parties' filings into account. Mr. Schrock replied that, unless the parties were able to come up with a stipulation, he thought that they needed to reconvene the hearing and address a new allegation that the mother had

assaulted the minor. You responded that the new allegation was not before the court because it was not in any moving papers. You added:

So if you want to file another RFO and come back and keep doing this dance, I kind of feel like they should get remarried because they seem to like to spend so much time together in court. Maybe it will be a better idea to just have them move back in together so they can have face-to-face arguments about how much they hate each other.

The parties had never been married to each other.

Your comments were sarcastic and gratuitous, and violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

COUNT FIFTEEN

A. On or about the evening of November 9, 2018, you and your wife visited the home of David and Megan Nims in Eureka. When you arrived, David and Megan Nims were present, along with Katelyn Woods (Megan's sister) and Ryan Woods (Katelyn's husband). You had previously met Katelyn and Ryan Woods, but did not know them well. You drank alcohol immediately prior to and during the gathering. As you were leaving, you hugged Mr. Woods, grabbed and/or slapped his buttocks, and said words to the effect of "everyone's going to get one," "your wife's going to get one, too," or (to Ms. Woods), "I'm going to do it to you." You also told Ms. Woods, "It's what we do here," or words to that effect. After Ms. Woods firmly told you not to touch her in that way, you told her that you were going to do it anyway, and then hugged her and grabbed or slapped her buttock(s) without her consent.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 4A.

B. During a party that took place at the home of your friend, Joanne Carter, in approximately 2015, you went into Ms. Carter's bedroom while

she was sleeping, pulled down your pants, and had your penis out and near her face as you tried to awaken her.

Your conduct constituted conduct prejudicial to the administration of justice that brings the judicial office into disrepute within the meaning of California Constitution, article VI, section 18, subdivision (d).

COUNT SIXTEEN

On or about October 6, 2019, several women and one child gathered at your home to go on a tour of historic homes in Eureka. After you made alcoholic drinks for yourself and some of the adults in the group, you entered your vehicle, with an open container of an alcoholic drink, and drove the group to various houses on the tour. You permitted your passengers to carry into the vehicle open containers containing alcohol, and to drink from them while you were driving. While you drove, you had a cup containing an alcoholic drink in one of your hands and steered with your other hand.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 4A.

COUNT SEVENTEEN

You made inappropriate comments in the courtroom on the following occasions.

A. On or about November 22, 2017, you presided over a “trial call” proceeding at which you sent various criminal cases to other departments for trial. Present in the courtroom were approximately 35 to 40 people, including defendants, victims, and victims’ families, who were waiting to see where cases would be assigned. During the proceeding, when you stated that you were going to send a particular case to a specific courtroom for trial, then-DPD Luke Brownfield asked you how you knew to send the case to that particular courtroom. You replied, “If I told you, I’d have to kill you,” or words to that effect. You then added that, instead, you would

have DDA Roger Rees “do it” or “rough you up,” or words to that effect. When you made the comment, you knew that Mr. Rees owned a firearm.

Even though you made the comments in jest, your comments were undignified and violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

B. In approximately 2018 or 2019, in open court but before court proceedings began, you told some of the attorneys who were present that you wished that attorney Edward Schrock would disappear.

Your comment violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5).

C. On or about April 2, 2021, when DPD Adrian Kamada appeared during a Zoom appearance after you had tried and failed to get his attention, you joked, “Are you back from the AA yet?” or words to that effect. “AA” was a reference to the AA Bar & Grill, which is located near the courthouse. Your reference to the “AA” was intended to falsely imply that DPD Kamada was late to the court session because he had been drinking alcohol during working hours.

Your comment violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5).

COUNT EIGHTEEN

Between approximately 2013 and 2017, before you became a judge, you frequently used cocaine. On one occasion, in approximately October 2015, you drove two attorneys to a house in Humboldt Hill for the purpose of purchasing cocaine. On the return trip, you used cocaine while driving.

Your conduct constituted conduct prejudicial to the administration of justice that brings the judicial office into disrepute within the meaning of California Constitution, article VI, section 18, subdivision (d).

COUNT NINETEEN

On or about May 16, 2017, while you were an attorney, you appeared in Department 5 on behalf of the defendant in *People v. Bonnie Lee Hall*, No. CR1505306. During the hearing, DDA Carolyn Schaffer told Judge Christopher Wilson that the defendant had apparently rejected the People's offer to settle the case with a plea to a misdemeanor. You told the judge that you were not the defendant's attorney and asked that the misdemeanor offer be left open until the next court date. After the defendant told the judge that she had not spoken to her attorney about the offer and that she did not realize that the offer was still available, DDA Schaffer acknowledged that there may have been "communication issues" between the defendant and her attorney, and asked that the "conflict counsel's office be directed to contact the defendant and have a serious discussion with her about this and advise [Schaffer] whether she wants to take it or not." When you attempted to withdraw the defendant's time waiver, DDA Schaffer stated that she thought that the defendant had to provide five days' notice to the People before she could withdraw her time waiver. You then stated, sarcastically: "Well, let's put this on for five days, and then I will say the same thing. And then she [Schaffer] can -- can give more advice to the Court to advise my client about how we should practice. She seems to know everything." After Judge Wilson told you, "Stop[.]" DDA Schaffer stated that the People would withdraw their offer in five days. Later, when DDA Schaffer was walking out of the courtroom and was out of earshot, you called her a "bitch" or a "pretentious bitch."

Your conduct constituted conduct prejudicial to the administration of justice that brings the judicial office into disrepute within the meaning of California Constitution, article VI, section 18, subdivision (d).

COUNT TWENTY

A. On or about January 23, 2024, you participated in an online judicial candidate forum or judicial debate (“debate”). During the debate, the moderator asked you, “Have you ever been investigated by a state entity such as the California [State] Bar and, if so, why?” You responded:

So, this is [an] interesting question. This was asked on -- by Dave Brose, one of April’s supporters online. And because I have ethical duties, I actually reached out -- And pursuant to -- and I’ll just read it -- California State Bar Rule 2302 and Rule 102(a) of the Rules of Commission on Judicial Performance, any matter before those bodies is confidential, not properly the subject of inquiry, regardless of whether an investigation is or is not pending.

There are, I know, both State Bar and, through the judicial commission, investigations ongoing you never know about. So, because of that and my ethical duty, similarly to -- I can’t talk about current cases that are pending. I’m not able to -- to talk about it. But I can say I’ve never been disciplined.

In fact, you were disciplined by the Commission on Judicial Performance on or about December 14, 2018. Your statement that you had “never been disciplined” was false or misleading, and was made knowingly or with a reckless disregard for the truth. A link to the Zoom video, which included your false statement (“But I can say I’ve never been disciplined”), remained on your reelection website home page until after the March 5, 2024, election.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 5, 5B(1), and 5B(2).

B. You were visible to those watching the January 23, 2024, debate online, and you were also visible in video recordings of the debate that were publicly available online after the debate concluded. While

participating in the debate, you were in your chambers at the Humboldt County Superior Court courthouse. A campaign sign, positioned behind you, read: “Re-Elect Judge Greg Kreis.” The campaign sign was visible when you spoke during the debate.

You also participated in filming one or more video(s) in your chambers at the Humboldt County Superior Court courthouse. The video(s) filmed in your chambers were created and used for the purpose of supporting your reelection campaign. Those videos were publicly available on your reelection campaign website, on both your homepage and your media page. Some videos were also publicly available in other online locations (e.g., Instagram).

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(2), and 5.

COUNT TWENTY-ONE

On or about July 20, 2022, you presided over a hearing in *Erica Schuster v. Ryan Weinert*, No. FL2101022. During the hearing, when discussing whether a trial in the matter would take place as scheduled on August 16, 2022, Mr. Weinert argued that two pending contempt charges against Ms. Schuster would necessarily require a continuance of the trial to a future date, in order to allow the contempt charges to be resolved before trial. You cautioned Mr. Weinert that the trial would not necessarily be continued to a future date because the judge deciding the contempt charges could opt to dismiss them in the interest of justice. You added:

Because when I see this much litigation between parties, first thing I think is they must really like each other enough to be in court all the time and maybe they should get back together.

Your comments were sarcastic and gratuitous, and violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

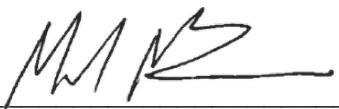
YOU ARE HEREBY GIVEN NOTICE, pursuant to Rules of the Commission on Judicial Performance, rule 118, that formal proceedings have been instituted and shall proceed in accordance with Rules of the Commission on Judicial Performance, rules 101-138.

Pursuant to Rules of the Commission on Judicial Performance, rules 119 and 128(a), and in accordance with the Order Granting Examiners' Request to Amend Notice of Formal Proceedings, filed April 2, 2024, you must file a written answer to this First Amended Notice of Formal Proceedings no later than Friday, April 12, 2024. 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 the California Rules of Court, rule 8.204(b). The First Amended 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 First Amended Notice of Formal Proceedings may be amended pursuant to Rules of the Commission on Judicial Performance, rule 128(a).

BY ORDER OF THE COMMISSION ON JUDICIAL
PERFORMANCE

Dated: April 2, 2024



Dr. Michael A. Moodian,
Chairperson

PROOF OF SERVICE

I, the undersigned, am a citizen of the United States, over the age of 18 years, and not a party to or interested in the within action. My business address is 455 Golden Gate Avenue, Suite 14400, San Francisco, California 94102.

I declare as follows:

On April 3, 2024, I served the attached:

FIRST AMENDED NOTICE OF FORMAL PROCEEDINGS

on all interested parties in this matter, by delivering a true copy as follows:

- (BY PERSONAL DELIVERY)** I placed the original or a true copy thereof enclosed in a sealed envelope and delivered such envelope by hand to the office of the addressee.
- (BY ELECTRONIC SERVICE)** Pursuant to rule 119.5 of the Rules of the Commission on Judicial Performance, I caused the document(s) to be sent to the electronic service addresses listed.

Emma Bradford, Esq.
Legal Advisor to Commissioners
Commission on Judicial Performance
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James A. Murphy, Esq.
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Christopher R. Ulrich, Esq.
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CUlrich@mpbf.com

(BY U.S. MAIL) I placed the original or a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid. I am readily familiar with our office's practice for collection and processing of correspondence for mailing with the United States Postal Service, that this mailing will be deposited with the United States Postal Service on this date in the ordinary course of business and that I sealed and placed each envelope for collection and mailing on this date following ordinary business practices.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed by me on April 3, 2024, at San Francisco, California.

N. Benavidez

Nicole M. Benavidez