STATE OF CALIFORNIA

BEFORE THE COMMISSION OF JUDICIAL PERFORMANCE

INQUIRY CONCERNING A JUDGE NO. 104

ANSWER TO FIRST AMENDED NOTICE OF FORMAL PROCEEDINGS

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TO THE COMMISSION ON JUDICIAL PERFORMANCE:

Judge G. Dennis Adams states: This is my response to the First Amended Notice of Formal Proceedings filed May 10, 1993. This response is intended to present the Commission with information which previously has been disclosed voluntarily to the Commission by me, along with information gathered by the Commission and further follow up information I have obtained.

I deny any wilful misconduct in office or conduct prejudicial to the administration of justice which may bring the judicial office into disrepute. At all times during my tenure in office, I have attempted to act in a manner which is consistent with the proper administration of justice and in a manner which is fair, non-prejudicial and responsible to all litigants and the people of the State of California. The following response is intended to provide specific and detailed factual information with respect to the allegations charged in the first amended notice.

GENERAL BACKGROUND INFORMATION

I believe a general background concerning the types of calendars I have handled would assist the Commission. Beginning in 1985, judges of the San Diego Superior Court studied the speed up of civil litigation in San Diego County. A program known as "Fast

Track" was instituted in January of 1987. The cases waiting for trial after an at-issue memo from 1985 to 1992 are as follows:

1985	1986	1987	1988	1989	1990	1991	1992
6827	7456	7065	8023	8797	7699	6070	5203

This 40% reduction in civil case backlog was accomplished while reducing the time to trial 75%. In San Diego County in 1985, it took 52 months to dispose of 50% of the civil cases. In 1991, it took 14.4 months. No other metropolitan county in California during the 144 years since statehood has shown such a major reduction on civil backlog or shortening of time to trial.

Prior to the institution of Fast Track, Judges Donald Smith, Michael Greer and I became involved in screening the large backlog of civil cases in San Diego County to determine which cases were ready for trial and which cases could be sent to non-binding arbitration or into special settlement conferences. As we studied the situation, it became apparent construction-defect cases had the potential for destroying Fast Track. These cases, because of their size and complexity, needed a judge for all purposes to manage them. See declaration of former Presiding Judge Michael I. Greer, (Exhibit 1).

Generally, in these cases, a homeowner's association sues a developer and the developer cross-complains against the subcontractors. Because the defects manifest themselves over years, there were normally multiple layers of insurance coverage continuing for multiple years for each defendant and cross defendant. Every one of these cases, if it involved more than a single family home, had the potential of three to six months of

trial. And there were cases within cases. It was common to find as many as fifty parties in one case.

After conferences among the judges, I volunteered to take all such cases, or at least, all I could handle. I had begun to retain some of these cases on settlement calendars as early as 1985. From 1987 to the present, I tried almost exclusively construction-defect cases which almost invariably contained a soil-subsidence issue. Sometimes my trial calendar permitted me to open up to the Presiding Department for trial and I was assigned cases for trial on that day. Construction-defect cases were not only assigned to me out of Department 1 (the master trial-call department) but were also assigned by different judges who had been assigned the construction-defect cases for all purposes. A very large case might originally come before me with only two parties. At the first meeting, I would set a trial date and refer the case out to a special master to manage and schedule discovery and hopefully settle the case. (See declaration of Michael Duckor, filed in the Court of Appeals in Net Enterprises vs. Superior Court, D016312, EC 4218 Exhibit 2). Often, a case would be assigned to me and I would have little or nothing to do with it until a week or two before trial and then get involved in settlement, primarily with the carriers. Often, the special masters achieved a settlement without me and simply appeared before me and placed the settlement on the record.

I managed this caseload as best I could by scheduling large numbers of settlement conferences around cases I tried. (See declaration of J. Edward Harris, Exhibit 3) That is, during an

ongoing trial, I would also schedule other cases in my courtroom and discuss settlements. Settlement conferences occurred before trial, during trial and after trial and often late into the night. My calendar just grew. By the end of 1989, I was assigned 180 of these cases. (See Declaration of the Complex Case Coordinator, Suzette LaSalle, Exhibit 4)

In addition, the Presiding Judges would call and assign cases to me for settlement. Other judges would call and ask me to hear special settlement conferences in cases they were handling. In addition, lawyers would call and ask for special settlement conferences. I made myself available as much as my busy schedule would permit.

The numbers of parties in these cases meant a normal-sized courtroom was too small. In addition, we had a space crisis in San Diego County. I sat in makeshift courts on vacant floors in county buildings. I took over the entire top floor of the El Cajon Civic Center and tried construction-defect cases there. On two occasions I took over vacant space in the El Cajon Regional Center. Finally, in the first half of 1992, the county rented the top floor of an office building in Mission Valley where I sat in a makeshift courtroom. We used 10,000 square feet in Mission Valley, 8,000 square feet in two locations in the El Cajon Regional Center and 6,000 square feet in the El Cajon City Hall. Parties and their lawyers would spread out and take over corners or side offices.

On a practical level, unless the cases settled, there was no way I could try them. But conversely, unless the lawyers believed at or near the trial date their case would actually go to

trial, the cases would not settle. I operate these calendars on a need to know basis. I would normally concentrate on the case being tried with a very limited awareness of what else was going on in the courtroom. But the fact that these conferences were going on in a "courtroom" where the judge could see the lawyers and parties during recesses or noon hours or after the trial adjourned in the afternoon caused cases to settle.

There was a time when the Superior Court thought keeping monetary statistics on settlements was of some value. Between January 1988 and September of 1991, we kept comparative statistics in the Superior Court of the gross monetary amounts of settlements of the judges involved in civil litigation These figures provide an overview of the size of the effort which was going on in my department. These statistics do not include settlements which were kept confidential. Also, these statistics do not include eight months during the four years where statistics were either not kept or lost. These statistics by month for my department were as follows:

January	1988:	$12,890,000
Feb.	1988:	541,000
Mar.	1988:	5,808,000
April	1988:	320,000
May	1988:	1,758,455
June	1988:	445,750
July	1988:	3,937,000
August	1988:	N/A
Sept.	1988;	N/A

Oct.	1988:	N/A
Nov.	1988:	N/A
Dec.	1988:	N/A
	Total 1988:	$25,710,205
Jan.	1989:	N/A
Feb.	1989:	52,000
Mar.	1989:	12,144,013
Apr.	1989:	5,361,300
May	1989:	3,851,300
June	1989:	4,936,250
July	1989:	1,792,900
Aug.	1989:	4,106,900
Sept.	1989:	7,525,009
Oct.	1989:	8,209,064
Nov.	1989:	8,208,064
Dec.	1989:	2,252,000
	Total 1989:	$50,431,286
Jan.	1990:	1,247,470
Feb.	1990:	1,226,000
Mar.	1990:	9,090,964
Apr.	1990:	5,050,000
May	1990:	19,889,700
June	1990:	2,797,786
July	1990:	7,473,023
Aug.	1990:	2,689,999
Sept.	1990;	1,952,329
Oct.	1990:	6,009,000

Nov.	1990:	8,344,081
Dec.	1990:	N/A
	Total 1990:	$63,295,882
Jan.	1991:	1,362,700
Feb.	1991:	4,883,800
Mar.	1991:	23,782,000
Apr.	1991:	6,597,001
May	1991:	5,645,000
July	1991:	3,692,000
Aug.	1991:	3,084,407
Sept.	1991:	3,697,774
Oct.	1991:	N/A
Nov.	1991:	N/A
Dec.	1991:	N/A
	Total 1991:	$61,920,451.

Total for 1988, 1989, 1990 and 1991: $201,357,821

These amounts exceed the gross amounts of all civil judges combined in the San Diego County Superior Court for the same period. The cases were complex and numerous and the numbers graphically demonstrate this point. Presiding Judges Michael Greer and Judith McConnell assigned construction-defect cases to me. Most of the construction cases in San Diego County ended up before me. (See Declaration of Former Presiding Judges, Michael Greer, Exhibit 1, and Judith McConnell, Exhibit 5)

The volume of paper filed in these cases was monumental. Case files twenty, thirty or forty volumes thick were common. The files were too bulky to be of any practical use. Seldom, if ever,

do I remember a construction-defect case where I had the case files on the bench. They were never reviewed for settlement conferences because of their bulk.

In my court, we used sign-in sheets so the court reporter and the clerk would know who appeared. I never had an occasion before this investigation to look at a sign-up sheet. I believe my practice is consistent with other judges' practices. See Declaration of Judge Judith McConnell (Exhibit 5).

Settlement conferences were always held off the record with informal discussions being conducted by me with the parties. It was my practice to separate the parties. Additionally, the practice was to attempt to reach an agreement between the developer and the homeowner's association before attempting to discuss it individually with the subcontractors. Most often, although not invariably, I became involved after the parties had either settled or decided on a settlement amount but could not get the insurance carriers to fund it. In such circumstances, I would routinely mediate carrier disputes.

Specifically, California Code of Civil Procedure Section 170.4(a)(6) provides that even "a disqualified judge may conduct settlement conferences," in that case. In these cases, it was not believed there was any basis for disqualification unless noted to the contrary.

The construction-defect bar consists of approximately 150 lawyers in San Diego County. Many of the senior partners were well known to me but the newer associates, who invariably ended up coming to many of the conferences, were not. It was uncommon to

track who the lawyers were and from which firm they appeared. (Please see declaration of San Diego Presiding Judge Arthur W. Jones, Exhibit 6)

It was routine, before I started to manage these calendars, to sever out the subcontractors. I resisted this procedure because I wanted to obtain global settlements. Routinely I would allow additional parties to be brought into the construction-defect litigation as their culpability was discovered. Parties would come in, settle out and be gone. Others would stay. The cases would normally grow with incredible speed as parties were added, then begin to decrease in size as some of the parties reached settlements. I normally did not know when a given party came into a case or how long the party had been there.

Cases moved and cases settled and those which did not were tried. Over the time described in this answer I did not call for backup from the Presiding Department except when I recused myself. I felt a responsibility to dispose of the business of the court. In the context of this case load, I attempted to manage and try these cases in a manner which was fair and impartial to all parties.

ANSWER TO COUNT ONE

I presided over a court trial entitled Security Pacific vs. Williams, No. 457728. I tried this case and took evidence from August 21, 1985, to October 31, 1985. Jury was waived. The matter was taken under submission and a final decision was rendered by me in early 1986. Notice of appeal was filed on February 25, 1986, and I lost jurisdiction over the case. One and one-half years

later, in July 1987, Mr. Frega and I began to develop a friendship. Mr. Frega was the attorney in the above matter. He helped me with a novel, *Bitter Triumph*, which I had been writing since 1982. In December 1987, I borrowed a computer from Mr. Frega to work on this book. A year later, in March of 1989, fully three years after any involvement with the Security Pacific case, when the matter was out of my jurisdiction, I had contact with James Williams concerning the purchase of a vehicle for my then estranged wife. A 1986 Mercedes 300E four-door automobile was purchased from Mr. Williams' dealership, Rancho Jeep-Eagle. The mileage on the car was approximately 60,000. I contacted Mr. Williams because I did not want to deal with used car salesmen who would try to hassle or negotiate a price. I simply indicated to Mr. Williams I would like to purchase a car for my wife and that I expected to pay fair value for it.

To my knowledge, the price paid for the vehicle was the fair market value price. I have previously supplied the commission with all of the documentation concerning the purchase of the vehicle including the conditional sales contract. I obtained a loan for the purchase of the vehicle. The total amount advanced through San Diego Trust & Savings Bank was $23,038.99 with a total price of the vehicle indicated of $22,532.15, all of which appeared to me to be a fair value for the vehicle.

Although I made no independent investigation concerning the value of the vehicle subsequent investigation, including documents received from the Commission, strongly indicates that the price was reasonable and in accord with fair market value. The DMV

expert contacted by the Commission opined that the price paid could well represent fair market value. In addition, documentation received from the Commission indicates that Mr. Williams' dealership purchased the vehicle for $20,000.00, expended $400.00 in servicing the vehicle, leaving a profit of $137.00. This profit is consistent with the average wholesale gross profit per used vehicle at Mr. Williams' dealership for March 1989, and calendar year 1989 respectively.

The documentation concerning the purchase of this vehicle has previously been submitted to the commission. In 1990, my ex-wife sold the car to a third person for $15,000.00, with a disclosure of transmission problems.

In March of 1990, my daughter needed a vehicle. I again made contact with Rancho Jeep-Eagle and inquired whether any vehicles were available for my daughter. I initially asked Mr. Williams if he had a used vehicle for between $5,000 and $5,500, plus the trade-in of a 1983 Oldsmobile Regency '98. Mr. Williams said that he would find something. Mr. Williams eventually called indicating that he had found a vehicle.

The vehicle was delivered to me and I drove it to my daughter's home. My daughter was happy with the vehicle and I then gave it to her as a surprise gift. I had arranged for a $5,000 loan from my father and the cashier's check for this amount was turned over to the dealership. I was told that this amount plus the Oldsmobile was all that was needed to pay off the Jeep. I was concerned that the Jeep was worth more than the $5,000 plus the value of the trade-in and I asked Mr. Frega, who was Mr. Williams'

attorney, to find out the balance. I was informed that there was a balance owing on the Jeep of $5,672.40 and this would be payment in full for the vehicle. I arranged for a loan in the approximate amount of $6,000 from my credit union in order to pay off the balance. (Exhibit 7)

I did not initially recall that the check had been made payable to Mr. Frega but upon making inquiries and arrangements to obtain a copy of the check to provide to the commission, I became aware of that fact. It was my intention and assumption that Mr. Frega would immediately deliver the check to the dealership. The check was written to Mr. Frega for that purpose. A copy of the check, the back of the check, and the bank statements showing that the check was cashed are attached. (Exhibit 8)

The Jeep was not in top condition and had approximately 30,000 miles on it at the time of purchase. I did not make an independent inquiry relative to the transaction. I only tried to determine exactly what was owed on the vehicle and then pay it. I did not negotiate or shop around to compare prices for the vehicle but assumed that I was paying a reasonable price for the vehicle. I only drove the Jeep at the time it was delivered to my daughter.

Again, I made no independent investigation regarding the value of the vehicle. The DMV expert contacted by the Commission in these proceedings again opined that the price was not inconsistent with fair market value. Dealership records reveal that Mr. Williams paid $13,000.00 for the vehicle and realized a profit of $102.00. This profit is consistent with the average wholesale gross profit per used vehicle during 1990 at the

dealership. Finally, the Commission is aware that I was informed by Mr. Williams that I had paid fair value at my insistence, and that I was informed that the dealership had made up the difference between the cash and total price out of the trade-in.

I paid $10,672.40 cash for the Jeep, plus the Oldsmobile trade-in. No one ever indicated to me that the trade-in was not sufficient to make up all balances owed on the Jeep. Attached are checks from my personal account reflecting payments to Richard E. Adams, my father, on the $5,000 loan. Note that the amounts originally were in the sum of $187.52. My original error in the amount of these checks was not discovered until seven months into the payments. The payments originally should have been $181.52. Note that the checks were later increased to $200.00 per month. This reflects the increased loan that was made to partially pay for collision repair on the Jeep. Also note credit union statements showing checks of $187.56 on July 31, 1990 and August 21, 1990. There were also payments to Mr. Richard Adams for the car loan on the Jeep. I have searched in an effort to find as many checks relating to this transaction as possible and attached Check Nos. 345, 361, 384, 389, 406, 418, 430, 439, 451, 487, 515, 524, 544, 563, 577, 587, 687, 612, 646, 659, 441, 450, 453, 489, 512, 513, 525, 641, 632, 633 and 686, which represent payments on the $5,000 loan to Mr. Richard Adams. (Exhibit 9)

Also attached are all credit union statements reflecting automatic deductions for payments on the $6,000 loan. These payments started at $211.00 per month. In December of 1990, this same loan was increased and the payments were raised to $265.00 per

month. Attached are the statements from my account during the period of 10/1/89 to 2/21/93. I did not get the original checks returned with my statement from the credit union. (Exhibit 10)

At the time of the transaction, I was unaware that the value of the Oldsmobile was only $800.00 which still seems to be an unreasonably low value for this vehicle. I was unaware until these proceedings that the Oldsmobile had been sold to a third party for $800.00. I was further unaware that Mr. Frega had written a check on June 4, 1990, I was unaware of the amount of the check and had absolutely no knowledge of the check in any way until informed of it in these proceedings.

To my knowledge, no pending matters involving the Security Pacific case ever returned to me with the minor exception of a dispute the parties had on the record on appeal. Mr. Frega did not appear. The appellate attorney was Richard Benes and the hearing was scheduled to be held on December 18, 1986. I refused to take any action on that date.

If, for any reason, the Security Pacific case would have returned to me after the appellate process, I would have recused myself as I did in every other contested matter which was handled by Mr. Frega's office and came before me. Also, I was not aware of any prohibition against contacting a prior litigant whose matter I had assumed was concluded.

When Lindsay Adams was involved in an automobile accident some time around the first part of November 1991, she was hospitalized. After it became apparent that she was not seriously hurt, I had the Jeep towed to Rancho Jeep-Eagle. There was no

insurance to cover the Jeep repair. Mr. Williams called and told me that the repairs would be in excess of $8,000. I decided to dispose of the Jeep for salvage at this point, in essence, junking it, and told Mr. Williams this fact. Mr. Williams stated that he would check into getting used parts from an auto dismantler to see if the Jeep could be repaired for less. Several weeks later, I was informed that the repair of the Jeep could be accomplished for $7,000. Based on the repair estimate of $7,000, I authorized that work to be done. In addition, I am enclosing a duplicate copy of Check No. 149 (Exhibit 11) written 12/3/91 for the repair of the Jeep made payable to Rancho Jeep-Eagle. I specifically made the decision when I was originally told that the repairs would be in excess of $8,000 that I would not bother to repair the Jeep since it was not cost-effective. I simply would have junked the vehicle and bought my daughter another car with the portion of the funds that were going to be used to repair this vehicle. I had no knowledge of any repair that exceeded $7,000 until the first week of March 1993. At that time, my daughter Ryann handed me a bill from Rancho Jeep-Eagle stating that $1,500 was due. My daughter was visiting for a weekend from Tucson.

The bill was with an envelope that had originally been addressed to me at 10101 Country View Road, La Mesa, California 92041. (Exhibit 11) I last lived at that address on April 1, 1989. That envelope was apparently forwarded to Tucson, the new address of my ex-wife and then given to me when my daughter visited me in March of 1993. I had the car repaired because it was represented that the repairs would be $7,000. Had I been informed

that the repairs would exceed $7,000, I would have proceeded with my original plan to junk the Jeep. Had I been presented with the bill at any time, including the present, I would have protested it and argued that it should not be paid based on information I was given and my authorization to repair the vehicle. At no time did I ever suspect or have any information which would have lead me to believe that there was any discount being given for any repairs or that any other person had been billed for those repairs.

The sources to cover the $7,000 repair are as follows: I borrowed $2,120.48 from the San Diego County Credit Union. This was the maximum amount that could be borrowed on the original loan. Additionally, Lindsay Adams borrowed an additional $2,000. Lindsay agreed to pay this back in installments. Also, the original loan to Richard Adams, my father, that had been made when I purchased the Jeep for my daughter, had then been paid down to $1,744.03. I borrowed an additional $2,700 from my father to pay for these repairs to the Jeep. Attached are copies of the San Diego Credit Union statements. (Exhibit 12) Note the deposits on the November 1, 1991 to November 30, 1991 statement for the date of November 15, 1991. This amount is in the sum of $2,120.48 which was the credit union loan. Please note the deposit on November 27, 1991 of $2,000. This was the $2,000 loan made by Lindsay.

Also note the loan ledger of Richard Adams showing the $2,700 loan which was the source of the $2,800 deposit on December 3, 1991. (Exhibit 13)

These loans were all paid back from my personal funds except for the loan which Lindsay made and paid off by monthly

payments. I made monthly payments on a credit union loan and the Richard Adams loans from the date of the purchase of the Jeep until February 14, 1992, when these loans were paid off. These loans were paid from my Fidelity Money Market Account. I had received funds by that time for my share of the division of community property from the dissolution proceeding and from the 1990 income tax refund. The check register for the Fidelity account shows the reimbursement of Richard E. Adams and the San Diego County Credit Union on February 14, 1992.

I was absolutely unaware that Mr. Frega had paid anything to the Williams Dealership with respect to the repairs of my daughter's vehicle.

The 1990 Christmas gift of the sweater from Mr. Williams was declared on my financial declaration form. I considered it a gift from a friend amounting to ordinary social hospitality.

ANSWER TO COUNT TWO

1. PATRICK FREGA.

The gifts that allegedly form the basis of Count Two consist of the cost of a dinner from Patrick Frega and the loan of a computer. The dinner was valued at $100.00. This dinner was disclosed in my 1988 financial declaration. After July of 1987, a personal relationship developed between me and Mr. Frega, particularly after we worked on my book, *Bitter Triumph*. Mr. Frega's military background enabled him to provide insight and detail about battle scenes. The loan of the computer was also detailed in financial disclosures from 1988, 1989 and 1990.

I was not aware that on June 4, 1990, Mr. Frega had paid

anything to Mr. Williams and was unaware of his payment until these proceedings when this was revealed to me. Obviously, I was unaware that Mr. Frega contributed anything to the purchase of the Jeep or that on December 9, 1991, Mr. Frega made any payment which was purportedly toward repairs performed on the Jeep. I have previously responded to these allegations in the Answer to Count One.

I have not heard a contested matter in a case handled by Mr. Frega since the Security Pacific case decided in early 1986. To my knowledge, I have never heard a contested matter on any issue involving the Frega office since the Security Pacific case. Anytime a construction-defect case handled by a Frega associate reached an impasse where contested issues had to be decided, I recused myself.

With respect to the cases you have referenced, I have the following responses:

A. Smith v. City of San Diego, Number 524205. The Plaintiff's lawyer was Mr. Glen Warren, an associate of Mr. Frega's. The case involved three children, two of whom were killed and the other severely wounded when an expended artillery round exploded as they played with it. The round was found in a canyon located on a Second World War artillery range. The City of San Diego, the Federal Government, and Christiana Community Builders, the developer, were defendants in the case. A first joint settlement conference was held in Magistrate McCue's office in May of 1987, before I had any personal friendship with Mr. Frega. Presiding Judge Don Smith appointed me settlement judge on this case. The trial judge assigned on the state side was Judge Mack

Lovett. I do not remember whether any type of disclosure was placed on the record but I heard these settlement conferences at a point in time when I was hearing nothing but settlement conferences. I would normally hear between ten and fifteen settlement conferences a day. I have a recollection that it was the defense attorneys who requested that I conduct repeated settlement conferences in an effort to resolve the case. No contested matters were ever heard in the case with respect to any members of the Frega firm. At one point in time the city settled and the motion for good faith was assigned to another Superior Court Judge. A second portion of the case was resolved in June of 1988 and again another motion for good faith settlement was referred to another Superior Court Judge for determination and order. Eventually, the case settled and all remaining parties stipulated the settlement was in good faith and pursuant to this uncontested stipulation, I signed an order finding the last settlement to be in good faith.

Attached are declarations from Dan Bacalski (Exhibit 14), attorney for Christiana Development (the developer), setting forth his understanding and knowledge of my Frega relationship. In addition, attached is the declaration of Eugene Gordon (Exhibit 15), the attorney representing the City of San Diego.

It is my belief the defendants continued to return to the court because of their desire to settle the matter rather than expose their clients to substantial verdicts. At all times, I conducted settlement discussions based upon a full and fair assessment of all of the facts in the case without regard to any

relationship whatsoever with Mr. Frega or any member of his firm. In addition, comments were made by those plaintiff attorneys that they felt my evaluation of the case was lower than was reasonable and, if anything, was contrary to the positions they took with respect to evaluation and disposition.

B. Levinson v. Parkview Company No. 3, Number 542916. A series of cases were assigned to me arising out of a development that was constructed by Parkview. These cases were generally referred to as the "Navajo litigation." The Navajo litigation came in three phases during a number of years. It is my recollection that a disclosure was made to the parties of my relationship with Mr. Frega in that matter. Dave Tiffany, an associate of Mr. Frega, was the plaintiff's attorney on a series of these Navajo cases including Levinson v. Parkview Company No. 3; Hursch v. Parkview Company No. 3 (564245); and Goldman v. Parkview Company No. 3 (597671). The primary defense attorney was Mr. Steven Rupp. I cannot recall specifically if a disclosure was made on the record or was made in an informal settlement setting or in matters preliminary to any hearing dealing with scheduling of dates, settlement meeting or potential disposition.

A number of settlement conferences were held over a long period of time and a series of settlements were reached. All counsel expressed an interest in continuing negotiations until final settlements.

Attached is the declaration of Steven V. Rupp (Exhibit 16), the attorney for the developer, in Levinson, Hurch, and Goldman cases. I believed that all of the litigants to the

proceeding were aware of what had been a friendly relationship with Mr. Frega.

C. Hursch v. Parkview Company No. 3, Number 564245. please see response to Levinson v. Parkview Company No. 3.

D. Aegea v. Harbor View, Number 587045. This matter involved a large condominium project. Justice Gerald Lewis was assigned as mediator in the case as was the normal practice. I recused myself on this case because of my personal relationship with Mr. Frega. See the minute order in this case. (Exhibit 17) The case was thereafter assigned to Judge Wayne Peterson as the trial judge.

The case returned to me for settlement. I believe there was a discussion among the parties to the effect that I would handle settlement negotiations if all of the parties consented.

Attached is a declaration of Jeffrey Shohet (Exhibit 18), an attorney for the developer defendants in this case, concerning his recollection of the disclosures which were made in the matter.

At all times, it was my intention not to hear any contested matter involved with the case, nor any trial of the case

because of my relationship with Mr. Frega. I believe such a disclosure was made to all of the parties.

E. Goldman v. Parkview Company No. 3, Number 597671. This was another complex construction-defect case arising out of the "Navajo" projects. Please see the response with respect to Levinson v. Parkview No. 3, applicable herein.

F. Oliver v. A.O. Reed, Number 604538. When the matter first came to me and I learned the plaintiffs were represented by the Frega firm, I attempted to contact the defense attorney, Dennis Hickman, but could only reach his partner, Merv Thompson. I told Mr. Thompson to make sure Mr. Hickman understood I had a personal relationship with Mr. Frega. When Mr. Hickman appeared at the settlement conference, I told him of my personal relationship with Mr. Frega. Attached hereto is the declaration of Dennis P. Hickman (Exhibit 19), as well as that of his partner, Merv L. Thompson (Exhibit 20). At no time did any relationship with Mr. Frega have anything to do with any recommendation, review or resolution of the case.

G. Rodkin v. Parkview Company No. 3, Number 608310. This matter again involved a major construction-defect claim with a large number of attorneys appearing in the case. I had no contact with the case with respect to any substantive disposition. Retired Judge Fio Lopardo was the special master assigned to mediate the case and he settled it without involvement on my part. I believe this was one of the first wave of Navajo litigation. Attached is the declaration of Jacqueline Stein (Exhibit 21) for

further detail with respect to this case. I conducted no contested hearings in this case nor did I conduct a settlement conference.

H. Giganti v. Parkview Company No. 3, Number 622601. It is my recollection that this was another matter involving the Parkview companies and the Navajo litigation to which we previously referred. Please refer to the statement of Rodkin v. Parkview Company and the declaration of Jacqueline Stein (Exhibit 21) which sets forth my limited involvement in this case. I recused myself in this case because of my personal relationship with Mr. Frega. A minute order of April 9, 1991 has been located (Exhibit 22) referencing the recusal in the above-captioned matter as well as Somo v. Parkview Company No. 3.

I. Somo v. Parkview Company No. 3, Number 623554. A minute order has been located with respect to the recusal (Exhibit 22). Please see my response to the request concerning Giganti v. Parkview Company No. 3, Number 622601, applicable herein.

2. AULT, MIDLAM & DEUPREY FIRM

As I previously advised the Commission, I contacted Tom Ault about representation on a matter in 1986. He was unable to assist me because of his vacation. Mr. Kevin Midlam, of the Ault firm, undertook that task. Thereafter, in Ault, Midlam and Deuprey cases, in addition to disclosures made by myself to parties, members of the firm were also bringing it to the attention of litigants. Often parties would be added late in construction-defect cases and only have occasion to appear in front of the special masters. I would not see them or know they were there. On

occasion, members of the Ault firm made appearances before me on matters when I did not know the attorney nor the fact the attorney was with the Ault firm. There are more than fifty attorneys in the Ault firm. In many of those cases, parties would appear before me on settlement or status matters and it would not be known who the attorneys were by way of firm affiliation. There were sign-in sheets but they were used for the court reporter's and clerk's purposes and were never seen by me. Because the files were so bulky, they normally never reached the bench nor did I look at them.

Whenever I knew the Ault firm was involved before me, every effort was made to advise all litigants of the past relationship. Further, I do not believe anyone knowing the facts of my involvement with a member of the Ault firm who is now a member of our bench, would objectively believe I should be disqualified. The following information is provided with respect to the individual cases:

A. Kempland v. Ashcraft, Number 477940. The above-captioned matter apparently involved a member of the Ault Midlam firm named Michael Grace. I have no memory whether a disclosure was made but I did not know Michael Grace to be a member of the Ault firm until this investigation. Please see the declaration of Dale Larabee. (Exhibit 23)

B. Ohio Casualty v. May, Number 580471. To my recollection, I was asked to confirm the special masters' orders and the eventual settlement. Please see the Declaration of Graham

Hollis. (Exhibit 24) Also see declaration of James C. King. (Exhibit 25)

C. Houshar v. Fire Insurance Exchange, Number 580545. This matter also involved two members of the Ault firm, Mr. Kevin Midlam and Mr. Robert Coffin. This was a case assigned to me off the master trial calendar. Disclosure of the relationship with the Ault firm was made to plaintiff's counsel on the first day of trial. This is the only case where my actual attorney, Kevin Midlam, appeared before me. Judge Midlam was appointed to the Superior Court on 2/29/88.

In this regard, please see the attached declaration of John Tower, plaintiff's attorney, relative to my disclosure. (Exhibit 26) Also see the declaration of Mr. Robert Coffin, Mr. Midlam's trial assistant, in this regard. (Exhibit 27)

D. Simms v. Mountain View, Number 586511. This was again a complex construction-defect case which was originally filed on June 12, 1987 and drifted through the system until assigned to me twenty-seven months later on November 13, 1989. At the time the matter was referred to me, I believe a disclosure was made by Mr. Ramirez, an Ault attorney, to other counsel. Michael Duckor was assigned as special master in the case. As the trial date approached, I was informed the matter had settled and settlement was put on the record. The record reflects fourteen lawyers were still involved in the case. I have no independent recollection of this case or involvement with any substantive issue. Please also see declaration of Patrick E. Catalano, attorney for plaintiff. (Exhibit 28)

E. Body v. Wimpey, Number 609298. This matter was assigned by Department 1 to me for trial on August 14, 1990. The case was trailed over until August 16, 1990 at 10:45 a.m., according to the docket entry in the case. (See declaration of defense attorney, Graham Hollis, relative to disclosure Exhibit 29.) I do not recall whether I made a specific disclosure of the relationship with the Ault firm. Justice Howard Weiner acted as settlement judge and settled the case. I did not hear any substantive matters with regard to this case. I have no independent recollection of this case.

F. North Rim Homeowners Association v. Douglas Allred Co., Number 611339. This case was filed on April 19, 1989 and drifted around the system until assigned to me on April 18, 1991. Trial began on January 27, 1992, seven years after my last personal contact with the Ault firm, and continued until March 29, 1992. Twenty-one law firms were involved, each representing a separate party. Often each firm would be represented by two or even three attorneys. It was the normal practice of attorneys from the Ault firm to make disclosure about my relationship with that firm. I do not recall whether the disclosure was specifically made in the case. It is my belief, however, that a disclosure was made and the parties were aware of the relationship. General discussions were held about settlement throughout the lengthy trial and it is my recollection a separate settlement was reached by the parties represented by Mr. Hollis.

Please see the attached declarations of Thomas Balestreri (Exhibit 30) as well as the declaration of Graham Hollis (Exhibit

31). This same disclosure with a number of the same parties was also made in a companion case entitled Canyon Rim Homeowner's Association vs. Douglas Allred. Please see declaration of Graham Hollis. (Exhibit 32)

Albright v. Motoring Specialist, Number 612231. The above-captioned case is one which is not recalled by me. The record reflects the case came to me in November 1990 and either settled that very day or shortly thereafter. To the extent there was any attorney involved from the Ault firm, I do not recall whether any disclosure was specifically made in that case about any relationship with the firm. Again, the Ault attorneys repeatedly made disclosures concerning the past relationship with the firm. Ken Medell was the Ault firm attorney. Until this investigation, I did not know he was an Ault firm attorney.

H. Oaks North Villas Condo Assn. v. Rancho Bernardo Development Co., Number 616269. This litigation was another complex construction-defect case. I do not recall if an Ault firm attorney was involved in the case during the early phases when I would have assigned it for mediation, settlement and potential disposition. At the point in time the case came to me for trial, I was not aware of any Ault firm attorneys involved. In this regard, please see the declaration of Linde Seldon (Exhibit 33) indicating the involvement of the Ault attorney ended prior to the time the matter came to me for any substantive disposition or handling.

I. Green v. Coopers, Number 625379. This was a soils slippage case which settled prior to trial. Please see the declaration of Robert Coffin relative to disclosure. (Exhibit 34)

J. Villas of Calavera Hills Homeowners Association v. Pacific Scene, Inc., Number 626803. This case involved another complex construction-defect case. I assigned it to a mediator and took no further action until the matter returned for a finding of good faith settlement. I immediately indicated the Ault firm represented me in 1985. A specific waiver is present both in the minutes of the court and in the reporters transcript. Attached hereto is a copy of the minute order (Exhibit 35), as well as the reporters transcript. (Exhibit 36) Please also see the declaration of Patrick Catalano, plaintiff's attorney, in the matter. (Exhibit 28) Also see declaration of Graham Hollis. (Exhibit 37)

3. DUCKOR SPRADLING FIRM.

I had no personal relationship with Michael Duckor until it developed as a result of his appointment as special master in construction-defect cases. Our personal relationship arose out of this professional contact. Mr. Duckor does not appear in front of me except in the context of a special master.

A. Woodburn v. Savage, Number 592028. This was a matter originally assigned to me for trial on June 25, 1990 according to the entry log for the case. The parties appeared for the trial assignment and I talked to them during a recess in the trial I was conducting. There was discussion as to when trial

might start. The lawyers indicated there was a potential resolution with respect to Mr. Robert Kenny's client. Thereafter, the parties indicated to me they had settled the case by themselves and they wanted to place it on the record. The record reflects this was accomplished the same morning.

I did not personally know Mr. Kenney at the time the case was assigned and did not know him to be a Duckor associate at the time of this case. I am not personally aware of any disclosure of the Duckor relationship in this case. Attached is a declaration (Exhibit 38) of Robert L. Kenny.

B. Pacific Racquet Club v. McKeller, Number 604986. This was a major construction-defect case assigned to me in June of 1989. I do not recall any substantive hearings concerning the matter. The parties did, however, appear before me for status conferences following what appears to be an appearance by all of the parties in April of 1990. Judge Fio Lopardo was assigned as special master. When the matter returned to me for trial, most of it had been settled by Judge Lopardo. I was asked to communicate the remaining defendants' positions to the insurance companies. I do not recall making any substantive decisions with respect to any litigated aspect of the case nor participating in any disputed hearing.

Attached please find the declaration of Scott L. Metzger (Exhibit 39), plaintiff's attorney in the matter who is a member of the Duckor firm. Also attached is the declaration of Bruce Lorber (Exhibit 40) representing the developer defendant.

C. McKay v. Inter Mac, Number 607530. The court record reflects the matter was assigned to me for trial on June 21, 1990. I did not personally know Laurie Orange, nor did I know she was an associate with the Duckor firm. The parties asked me to participate in settlement discussions. After briefly talking with opposing sides and sharing their demands and offers with each other, the case settled either the same day or the following day of the assignment. I do not recall Ms. Orange indicating at any time she was a member of the Duckor firm. Please see the declaration of Laurie Orange attached hereto. (Exhibit 41)

ANSWER TO COUNT THREE

During the latter part of 1987, after beginning to collaborate on my book with Mr. Frega, conversations would sometimes turn to the kinds of cases he was handling. There would be a brief description by Mr. Frega of the case and some of the legal principles involved.

As part of the conversation, I would discuss very generally some cases but never with the thought in mind I was providing any type of legal advice or assistance. We simply discussed interesting cases. These were private conversations.

Mr. George Manning and I had been friends since the mid 1970's. Mr. Manning left California in the early 1980's and returned in 1988 and went to work for Mr. Frega. During the time he worked for Mr. Frega, before the sun rose on many mornings, we worked out in Fisher's Gym in Spring Valley. During these times we

would talk about families, children, his professional career and some of the cases he was handling. In addition, sometimes we would meet at social events and he would again discuss some of these matters. He sought to share ideas about the cases and I would tell him from time to time whether I thought his ideas had merit.

At no time did I communicate with either Mr. Frega or Mr. Manning on a professional level. These were casual conversations while we were doing other things. At no time did I communicate any information concerning the merits of these cases to anyone other than these two attorneys in the conversations where these cases were discussed. None of the communications were meant to convey the court's professional opinion nor the opinion of any other judge hearing the matter. To my knowledge, no communication was ever made to any other judge about my discussions or thoughts concerning these matters.

As the Romero case approached trial, Mr. Manning became quite agitated and explained to me he did not feel competent to try the case. He felt Mr. Frega had given him a terrible case and he was going to quit. My personal friendship for Mr. Manning made me quite concerned because he was acting irrationally. At several social events, I tried to mediate the growing dispute between Mr. Frega and Mr. Manning, without success. Mr. Manning quit after Mr. Frega insisted he try the case.

Any conversations I had with Mr. Frega and Mr. Manning were nothing more than casual conversations on matters of mutual interest.

ANSWER TO COUNT FOUR

I specifically deny making any misrepresentations to the Commission.

When the Commission made inquiry in its letter of October 18, 1991 with respect to gifts, it was my natural assumption that the inquiry dealt with appearances after the gift. The letter of October 18, 1991 asks about "donors." They obviously could not be donors until after a gift was made. With this concept in mind, I answered your inquiry as I did in my letter of November 1, 1991. I responded with regard to each donor or firm with the same concept in mind.

Your letter of October 1991 asked me to describe any actions affecting a donor or whether I had recused myself. Again this would have had relevance only after a gift had been given. Upon subsequent inquiry from the Commission, I described each appearance by certain donors as best they could be recalled.

The Commission inquiry dated November 8, 1991 specified some donors referred to in the October 18, 1991 letter but not all. The inquiry specifically asked about appearances by some donors before they gave gifts and thereby became donors. No inquiry was made in this letter about appearances by Mr. Williams before his gift. The November 8, 1991 letter asking about pre-gift appearances is consistent with my impression that the October 18, 1991 letter was referring to post-gift appearances.

The reference to Mr. Frega last appearing in 1984 in my letter of November 13, 1991 was in error. The point of the answer was in specific response as to whether Mr. Frega had appeared

before the gift of 1987. The answer was in the affirmative but the date was wrong. This was inadvertent.

Mr. Williams had not appeared before me for approximately five years at the time he gave the gift of a sweater. With regards to Count Four, the statements made to the Commission relative to this gift were true.

B. My response to the Commission's letter dated December 10, 1991 did not disclose a "discount" given by Mr. Williams' dealership in November 1991 on the repairs to my daughter's Jeep Cherokee because I did not know of any "discount" nor did I feel that a discount had been given. My response to the letter likewise did not disclose a $1,500 payment by Mr. Frega because I was unaware of the existence of that payment or the reason for such a payment as has been discussed in the Answer to Count One.

C. In the letter to the Commission dated April 27, 1992, my attorney wrote, "A separate check was written by Judge Adams in the amount of $5,672.40 to the dealership . . ." This statement was not "false" in the sense of intending to be misleading or untrue. My attorney in good faith believed that the check had been written directly to the dealership and informed the Commission of this. At that time, we were attempting to obtain a copy of the check so that it could be provided to the Commission and when we received a copy of the check this confirmed that it had in fact been written to Mr. Frega for transmission to the dealership. Had we been able to obtain a copy of the check before we were obliged to respond, we would have been aware of the facts.

The statement in the letter was inadvertent and based on an honest failure of recollection.

D. With regard to the statement made to the Commission about Tom Ault, I again assumed that the Commission wanted specific information about Mr. Ault. I gave the Commission that information. On April 9, 1992, at the time of my interview, I responded to the question about the involvement of Ault attorneys. I told the Commission that Ault attorneys had appeared before me from time to time and that it was my understanding that disclosures about the relationship were customarily made. I indicated also at that time that usually those attorneys were not major players.

As indicated, it was my practice to make disclosure concerning Mr. Ault and Mr. Midlam's previous representation of me. It is my understanding Ault firm lawyers were instructed to make a disclosure to counsel concerning that fact as well. Please see declarations of Brian Rawers (Exhibit 42), Graham Hollis (Exhibits 24, 29, 31 and 32), and Robert Coffin (Exhibits 27 and 34).

The appearances of associates in the cases listed has been answered specifically in the answers to Counts One, Two and Three. I gave you the name of the case in which a partner who represented me appeared before me. To my knowledge there are no others. The appearances by associates was never thought to be a problem because I thought disclosures had been made and I did not consider appearances by associates to be a potential problem. (See discussion on page 37-8 of this answer and U.S. v. Murphy, 768 F.2d 1518 (7th Cir. 1985) The answers to Counts One, Two and Three are incorporated herein by reference.

E. As I previously advised the Commission, once a personal relationship developed with Mr. Frega, I would no longer hear his matters. When his associates would appear, a disclosure of our relationship would be made. See declarations of Steve Rupp (Exhibit 16). See declaration of Jeff Shohet (Exhibit 18), Dan Bacalski (Exhibit 14), Dennis Hickman (Exhibit 19), Merve Thompson (Exhibit 20), and Jacqueline Stein (Exhibit 21), and minute orders (Exhibits 17 and 22). If any Frega associate appeared without disclosure, it was contrary to my intentions.

The dates of the Security Pacific appearances were simply in error. The case was tried in 1985, not 1984. I forgot Mr. Frega had appeared in front of me along with many other lawyers in Ackerman v. Rogers and Wells case. When you made inquiry concerning that case, I reviewed ninety volumes of case files and learned Mr. Frega had made an appearance. This was prior to the development of any personal relationship. The answers to Counts One, Two and Three are incorporated by reference.

F. With regard to the reference to Mr. Duckor, he does not appear in front of me. At the time of the writing of the letter to the Commission, I had no recollection that his associates had appeared in three cases because of my limited involvement. See declarations of Scott Metzger (Exhibit 39), Lori Orange (Exhibit 41) and Robert Kenny (Exhibit 38). The answers to Counts One, Two and Three are incorporated by reference.

I have always understood a disclosure was required if it would further the interests of justice. A disclosure was required if a person aware of the facts might reasonably entertain a doubt

I would be impartial. A disclosure was not required if I believed there was no substantial doubt as to my capacity to be impartial.

I interpreted these ethical proscriptions in light of Canon 5B(1) which states, "a judge should hear all matters assigned to the judge except those in which he or she is disqualified." I have always tried to give the attorneys relevant information regarding the question of disqualification.

I felt a responsibility to conclude the court's business with fairness, impartiality and some reasonable dispatch. The easiest thing I could have done was to disqualify myself on these cases. On a practical level, the last thing I needed was another construction-defect case or settlement conference. I carried an extremely heavy case-load and was under constant pressure to settle cases. I did not believe a reasonable person would entertain any doubt that I would not be impartial because of these gifts.

Judge Rothman addresses similar issues in the California Judicial Conduct Handbook at page I-55. He states:

> Consider these common situations: an attorney in a pending case is a member of a service club with the judge, is an occasional golfing partner with the judge or was one of many lawyers who contributed to the judge's re-election campaign. These sorts of contacts with an attorney are not a clear ground for disqualification. But if a judge is not obliged to recuse, is the judge obliged to disclose the relationship?
>
> The rules of disqualification are not limited to precise grounds, but require recusal even when "impartiality

might reasonably be questioned," or where "a person aware of the facts might reasonably entertain a doubt that the judge would be impartial."

It is therefore essential that a judge, aware of certain facts, disclose them, even if the judge believes disqualification is not necessary. The parties might well give the judge information that could lead the judge to conclude the disqualification is necessary. In addition, where disqualification if not mandatory, the judge might wish to recuse voluntarily to avoid an appearance of impropriety, or to give the parties information from which they would consider a timely affidavit of prejudice under Code of Civil Procedure Section 170.6.

Neither Judge Rothman nor the canons suggest there is a duty of disclosure when another member of a friend's firm appears in my court. The Commission should be aware that written waivers involving clients and lawyers in complex cases involving multiple parties are not feasible. All a judge can do late in the case when the matter comes up is recuse himself. Invariably, some of the parties have been upset that late in the case and will not agree to such a waiver. Furthermore, it is rare in these large cases that some parties are not requesting a continuance or a severance as trial approaches. In San Diego County, recusals have become a favored means of getting these continuances.

You have questioned me about certain gifts. It was my understanding I needed to disclose these gifts which I did in my financial declarations. They were gifts of ordinary social

hospitality permitted under Canon 5C(4)(b). They were not given to curry favor. Mr. Williams will never appear before me again. Judge Rothman states on page II-24 of the Handbook:

> Is it proper for an attorney to buy lunch for a judge, or for a judge to attend a holiday dinner given by a law firm? Is it proper for a judge to accept free tickets to sporting events from lawyers who regularly appear in court?
>
> This is another of those issues that are subject to the individual examination of judges, and for which there is no clear answer. Certainly, the proximity of the free meal to the appearance of the attorney in court could raise concern for the appearance of impropriety.
>
> Although Canon 5C(4) prohibits gifts from persons whose interests are likely to come before the court, does a party's lawyer have an "interest" in the case within the meaning of this canon? Does the acceptance of such a favor convey the impression that the attorney is in a special position to influence the judge? A lawyer is expressly prohibited from directly or indirectly giving or lending "anything of value to a judge, official, or employee of a tribunal unless there is a personal relationship where gifts are customarily exchanged."

Neither Judge Rothman nor the canons suggest I am required to recuse myself from an entire law firm if I have a social relationship with one member of the firm.

Would a reasonable person entertain a doubt about whether I would be impartial when a member of the Ault firm appeared before me?

Judge Rothman writes in the California Judicial Conduct Handbook on page I-57:

> If a judge is represented by a law firm in the judge's official capacity because the county counsel has a conflict, is the judge disqualified from hearing cases involving that law firm? Does it matter if the firm represented the court as a whole rather than the judge? This is solely a question of whether impartiality might reasonably be questioned, and if there is the slightest doubt on the point, disclosure and discussion with the lawyers is a good means to air the issue. Thereafter, the judge may make a decision whether disqualification or a waiver is necessary.

I was last represented by the Ault firm in 1986. My lawyer, Kevin Midlam, has been on the bench since 1988. Although it is my understanding that there have been continuing disclosures, I'm not sure at the time they are necessary. Unless the rule is that I must disclose this relationship for life, I believe a reasonable time has elapsed.

California Code of Civil Procedure, Section 170.1, provides that a judge is disqualified if, within two years, he has served as a lawyer for a party, been associated with a lawyer for a party or has been associated in private practice with a lawyer in the proceedings before him. I was unaware of any provision which imposed a more stringent time frame when a lawyer or law firm had

represented the judge. The relationship between partners or an attorney and client would appear to be a more significant relationship than a friendship between a judge and an attorney involving the simple exchange of a gift or dinner.

> In today's legal culture, friendships among judges and lawyers are common. They are more than common; they are desirable. A judge need not cut himself off from the rest of the legal community. Social as well as official communications among judges and lawyers may improve the quality of legal decisions. Social interactions also make service on the bench, quite isolated as a rule, more tolerable to judges. Many well-qualified people would hesitate to become judges if they knew that wearing the robe meant either discharging one's friends or risking disqualification in substantial numbers of cases. Many courts therefore have held that a judge need not disqualify himself just because a friend -- even a close friend -- appears as a lawyer. U.S. v. Murphy, 768 F.2d 1518 (7th Cir. 1985).

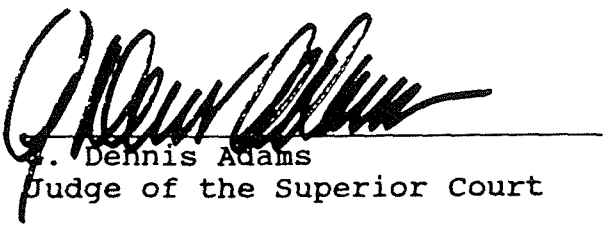
California Code of Civil Procedure Section 170 states: "A judge has a duty to decide any proceeding in which he or she is not disqualified." Recusal should not be done frivolously. As a result of the Commission's blanket investigation of the San Diego judiciary, recusals have become a way of judicial life in San Diego County. Recusal is the easiest course a judge can take because it makes the case go away and it reduces the judge's workload.

Judges need clearer rules. If the rule is no gifts are allowed, so be it. But no claim has been made that these gifts

resulted in any favoritism. The fact that it should permeate to an entire firm rather than the donor alone is an invitation to administrative chaos. I have talked to individual members of the California Judges Association Ethics Committee and have received informal opinions that it should not taint all the other members of the firm. In talking with members of my bench, it is clear none of us know what is required any more concerning disclosures and recusals. The judges are operating under a rule that when in doubt, recuse. The content of the November 1992 CJA educational seminar on ethics reflects this continuing uncertainty.

I respectfully submit that there has been no conduct prejudicial to the administration of justice which may bring my judicial office into disrepute. At all times, I have attempted to act in a manner which is consistent with the standards for the administration of justice and in a manner which is fair, non-prejudicial and responsible to all litigants and the people of the State of California.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 10, 1993 in San Diego, California.



J. Dennis Adams
Judge of the Superior Court

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