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FOR RELEASE
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JUDICIAL PERFORMANCE COMMISSION ISSUES PUBLIC ADMONISHMENT OF JUDGE ROBERT C. COATES

The Commission on Judicial Performance has publicly admonished Judge Robert C. Coates of the San Diego County Superior Court. The admonishment is attached.

The commission is composed of six public members, three judges and two lawyers. One of the public member positions is currently vacant. The Chairperson is the Honorable Daniel M. Hanlon of the Court of Appeal, First Appellate District in San Francisco.

PUBLIC ADMONISHMENT OF JUDGE ROBERT C. COATES

The Commission on Judicial Performance has ordered Judge Robert C. Coates publicly admonished pursuant to Article VI, section 18(d) of the California Constitution and Commission Rule 115, as set forth in the following statement of facts and reasons found by the commission:

STATEMENT OF FACTS AND REASONS

I. During the years 1993-1998, Judge Coates engaged in a pattern of abuse of the prestige of judicial office and misuse of court resources in connection with personal matters, as follows:

A. Lending the prestige of judicial office to advance the judge's private interests

Judge Coates sent numerous documents that were, or appeared to have been, designed to lend the prestige of judicial office to advance the judge's personal interests. Examples of these documents include, but are not limited to, the following:

- A letter dated December 16, 1993, to a Wells Fargo Bank vice-president regarding a "special request" to "secure [the judge's] line of credit." The letter references an account number and requests that the bank convert the status of an existing line of credit from "unsecured" to "secured" in connection with the refinancing of the judge's home. The letter was prepared on official court letterhead and the designation "Judge of the Municipal Court" was printed beneath the signature line.
- A letter dated April 1, 1994, to the San Diego City Treasurer complaining about a parking ticket Judge Coates had received. The letter was prepared on official court letterhead and the designation "Judge" was printed beneath the signature line.
- A letter dated July 17, 1995, to the service manager of a local automobile dealership complaining about an undelivered brush guard Judge Coates had ordered for his 1995 Ford Explorer. The letter was not prepared on official court letterhead; however, the court's address and telephone number were printed at the top of the letter and the designation "Judge" was printed beneath the signature line.
- A letter dated October 23, 1995, to the "Arm Loan Coordinator" of a mortgage company protesting an increase in the judge's loan interest rate. The letter references a loan number. The letter was not prepared on official court letterhead; however, the court's address and telephone number were printed at the top of the letter and the designation "Judge" was printed beneath the signature line.
- A letter dated December 6, 1995, to Judy Lind at the San Diego Book Awards Association, attaching an entry form entering the judge's book, *A Street is Not a Home*, in the awards competition. The letter was prepared on official court letterhead and the designation "Judge of the Municipal Court" was printed beneath the signature line.

All of the foregoing correspondence involved the personal interests of Judge Coates. The judge's use of official court letterhead, the court's address and telephone number, and/or his judicial title fostered an appearance that the judge was using the prestige of his office to advance his private interests. Accordingly, the foregoing conduct was inconsistent with canon 2B(2),

which states that a judge "shall not lend the prestige of judicial office to advance the pecuniary or personal interests of the judge or others," and canon 2B(4), which states that a judge "shall not use the judicial title in any written communication intended to advance the personal or pecuniary interest of the judge." Judge Coates' conduct also was inconsistent with canon 2A, which states that a judge "shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

B. Misuse of court resources to prepare personal documents

The documents described above not only were or appeared to have been designed to use the prestige of judicial office, but also were prepared at the judge's direction by court secretaries during court hours and using court resources. In addition to those documents, Judge Coates also used court secretaries and other court resources to prepare and in many instances send numerous other documents which, although apparently not designed to lend the prestige of judicial office, involved the judge's personal business or interests entirely unrelated to the judge's judicial duties. These included, for example, letters to a radio network criticizing or commending its reporters; personal lists; poems; a letter to a local high school concerning its varsity/alumni baseball game; and letters to President Clinton concerning matters such as the federal job economy and the state of the United States Park Service.

The commission found that Judge Coates' extensive use of court secretaries and other court resources to generate personal correspondence and documents, which exceeded 100 in number, was inconsistent with canon 2A, which requires that a judge "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." (See *In re Judge D. Ronald Hyde, Inquiry #138* (1996), commission decision and order of public censure (judge censured, in part, for using court staff and resources in connection with personal business).)

II. Between 1997-1999, Judge Coates engaged in a pattern of conduct toward court staff and persons appearing before him that was inconsistent with canon 3B(4), which requires a judge to be patient, dignified, and courteous with persons with whom the judge deals in an official capacity. This conduct is exemplified by the following:

A. On March 9, 1998, Judge Coates telephoned a court administrative analyst to ascertain why information which the judge had asked to have forwarded to a state assemblyman had not been sent. The analyst explained that the information had not been forwarded because he understood that this was not to be done until after there had been a meeting concerning the matter with the presiding judge and the chair of the court's legislation committee. Judge Coates yelled at the analyst for not forwarding the information and made statements to the effect of:

> "Goddamnit. You were supposed to get that legislation introduced. I gave you a direct order. I'm a judge."
>
> "Judge [name omitted] and I are going to campaign against you, to bring you down to size. You disregarded the order of a judge. How dare you."

"You haven't done a goddamned thing for this court and cannot analyze legislation. I'm going to get this in your personnel file."

"[I am] a committee member and a judge and you've just destroyed my credibility and the court's credibility. Let me tell you what another judge said to me about you. You are a piece of shit."

B. In August 1997, Judge Coates presided over jury selection proceedings in *People* v. *Lamar Alexander*, case number M727742. During voir dire on August 20, 1997, a prospective juror, who was a school teacher, advised the judge that she might be unable to serve as a juror due to the anticipated length of the trial. The following colloquy then occurred:

THE COURT: You should have said that in the other department. They were supposed to have asked you that.
PROSPECTIVE JUROR: They did not.
THE COURT: All right. So what's the problem?
PROSPECTIVE JUROR: A commitment that I can't break and school's starting.
THE COURT: So are you - - What does school - - You're a teacher?
PROSPECTIVE JUROR: Yes.
THE COURT: All right. Well, ma'am, that is something that they certainly should have asked you over there. And that, with great respect, is something you should have raised with them over there. I mean, we've extended, we've lavished expense on you now here. And now after we've gone through all this then, you tell us that there might be a problem.
[Pause]
THE COURT: Do we really want you teaching our children?
[Audible laughter]
THE COURT: If you're not planning ahead like that when?

In addition to violating canon 3B(4), Judge Coates' conduct was also inconsistent with canon 2A, which requires a judge to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

C. In November 1998, Judge Coates presided over the jury trial of *People* v. *Daniel Paul Nelson*, case number T184286, which involved a charge of driving under the influence of alcohol. On November 10, 1998, an expert witness testified for the defense. During direct examination by defense counsel Michael Fremont concerning his qualifications as a forensic expert, witness John Woodward stated that he was a "Department of Health licensed clinical laboratory scientist with a specialty in the field of clinical and forensic toxicology" or words to that effect. Shortly thereafter, Judge Coates interrupted defense counsel's direct examination and questioned the witness about his statement - which the judge was mistaken about - of having a "specialty in the field of alcohol toxicology." As the following colloquy from the November 10, 1998 proceeding shows, Judge Coates continued to question the witness about this issue over the objections of defense counsel and stated that the witness had lied to the jury:

THE COURT: Mr. Woodward, you said a moment ago that you have a -- the quote was: specialty in the field of alcohol toxicology. From what agency is that specialty issued?
THE WITNESS: There is no specialty license; it's encompassed in my general license.
THE COURT: So you made that up?
THE WITNESS: I didn't make it up.
MR. FREMONT: Your Honor, I have to object to the court's inquiry.
THE COURT: Well, in the law, Mr. Woodward. An attorney can, by dint of ten years experience and following certain patterns of knowledge and that sort of thing, obtain the legal right to use the word specialty entitled family law, workers compensation, other areas; and that's issued by the State of California. And it would be unlawful for any attorney to use that word, specialty, without that certification from the State of California. Do you have such a certification from any government agency?
MR. FREMONT: Your Honor, it is irrelevant. I have to object; he is not an attorney and he is an expert witness and he's qualified as an expert witness.
THE COURT: I'm just asking the question about an answer that you got from him. So I'll overrule your objection. Please answer the question.
THE WITNESS: There is no specialty license from any agency and they're not attorneys and --
THE COURT: So why do you use the word specialty?
THE WITNESS: Because that is what I have specialized in and by virtue of being a specialist, that's how I gained membership to the California Association of Toxicologists. I had to submit the fact that I have limited my practice to clinical and forensic toxicology and then the Board votes on whether or not the experience and education that I have had over the last 54 years qualifies me as a, for membership into the California Association of Toxicologists. And my license specifically says the field of toxicology.
THE COURT: That's right. And then within that field you claim that you have a specialty in alcohol. Right?
THE WITNESS: No.
THE COURT: That's what you said. Specialty in the field of alcohol toxicology.
THE WITNESS: No, I didn't say alcohol. I said --
THE COURT: I'm quoting you: specialty in the field of alcohol toxicology. That was the phrase that came out of your mouth a moment ago.
THE WITNESS: I beg to differ; I did not -- I always say --
THE COURT: You say you didn't say that?
MR. FREMONT: Your Honor, I have to object. It's --
THE WITNESS: Yes. I do not --
THE COURT: Overruled.
MR. FREMONT: The bench is badgering this witness and I'm objecting; I'm asking for --
THE COURT: The witness is lying to this jury.
MR. FREMONT: I object. That's a comment on the evidence. I'm asking for a mistrial immediately.

THE WITNESS: I am not lying.
THE COURT: Let's recess for a moment, ladies and gentlemen. We'll call this a 15-minute recess.

After the defendant was convicted, he moved for a new trial based on Judge Coates' remarks as noted. On or about December 22, 1998, at the hearing on the motion, Judge Coates conceded that his conduct had been improper, granted the motion, and recused himself from the case.

It is not improper for a judge to question a witness. In this instance, however, based upon a misunderstanding, and without seeking clarification of the witness' prior testimony by having testimony read back or a tape-recording replayed, the judge engaged in accusatory questioning of the witness and, in fact, accused him of lying in front of the jury. In addition to violating canon 3B(4), Judge Coates' conduct was also inconsistent with canon 2A, which requires a judge to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

D. In November 1997, court staff removed a water fountain from the fourth floor of the courthouse in connection with the move of the human resources department. The water fountain was located in a hallway behind Judge Coates' courtroom. Judge Coates telephoned a deputy court administrator concerning the removal of the water fountain. During the ensuing conversation, the judge cursed at the deputy court administrator and berated him for removing the water fountain. Among other remarks, the judge made a statement to the effect of, "I don't give a goddamn who you are. You don't move the goddamn water fountain."

E**.** On Tuesday, January 19, 1999, Judge Coates telephoned the presiding judge's clerk and advised that he had a medical appointment scheduled for Thursday morning, January 21, 1999. However, on that Thursday morning, the presiding judge assigned a trial to Judge Coates after a clerk mistakenly advised that Judge Coates' courtroom was "open." The attorneys, parties, and witnesses involved in the trial proceeded to Judge Coates' courtroom where they awaited the return of Judge Coates, who was absent because of his medical appointment.

On Thursday afternoon, January 21, Judge Coates telephoned the presiding judge's judicial secretary about that morning's apparent scheduling "mix-up." During the discussion, Judge Coates became angry and demanded to know how the incident occurred. The judge accused the secretary of not doing her job properly. The secretary responded that she was sorry, but denied that the incident had been her fault. Judge Coates did not further inquire into the matter to determine whether or not the secretary was at fault. Instead, he made a statement to the effect that he was a superior court judge and was "ordering" the secretary to take procedural steps to make sure her "mistake" was not repeated.

III. In May 1997, Judge Coates presided over the jury trial of *People* v. *Esquivel*, case number T171767, which involved misdemeanor hit and run charges. On May 21, 1997, during deliberation, the jury sent a note to the court requesting to be furnished with copies of transcripts of all witness testimony. Without notifying the parties' attorneys of the jury's request, Judge Coates entered the jury room and denied the request. Judge Coates did not notify the attorneys

because he had a "pressing appointment" and believed the parties would agree with his decision. The judge's remarks to the jury were not transcribed or tape-recorded.

Judge Coates' ex parte communication with the jury concerning the request for transcripts of witness testimony was contrary to canon 3B(7), which generally prohibits ex parte communications. Judge Coates' conduct as described above was also inconsistent with canon 2A, which provides that a judge "shall respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." In *Gonzalez* v. *Commission on Judicial Performance* (1983) 33 Cal.3d 359, the Supreme Court found that Judge Gonzalez's visits to the jury room during deliberations constituted willful misconduct. (See also, *People* v. *Hogan* (1982) 31 Cal.3d 815, 848 (the trial court should not answer questions from the jury without first communicating with counsel); *People* v. *Thompson* (1990) 50 Cal.3d 134, 173 (it is improper for a judge to enter the jury room without counsel and communicate with jurors).)

Commission members Justice Daniel M. Hanlon, Ms. Lara Bergthold, Mr. Mike Farrell, Mr. Michael A. Kahn, Mr. Patrick M. Kelly, Mrs. Crystal Lui, Judge Rise Jones Pichon, Ms. Ramona Ripston, and Ms. Julie Sommars voted to impose a public admonishment. Judge Madeleine I. Flier voted against public admonishment. Judge Flier agreed in principle that a public admonishment was warranted, but favored a lesser sanction regarding certain incidents involving court staff.