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5 Attorneys for Respondent  
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8 STATE OF CALIFORNIA  
9 BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

10  
11 INQUIRY CONCERNING A JUDGE ) ANSWER  
12 NO. 65 )  
13 )

14 Pursuant to Rule 906 of the California Rules of Court,  
15 Respondent answers the Notice of Formal Proceedings as follows:

16 1. Denies each and every charge of wilful misconduct  
17 in office, conduct prejudicial to the administration of justice  
18 that brings the judicial office into disrepute, and persistent  
19 failure or inability to perform his duties as a judge.

20 2. Denies the allegation in Count One, paragraph A,  
21 that "There have been submitted matters in your court which were  
22 ready for disposition but which remained undecided for excessive  
23 and unacceptable periods of time constituting inordinate delay,"  
24 and denies each and every remaining allegation in Count One,  
25 paragraph A, including the allegations contained in Attachment A  
26 to the Notice, except as hereinafter admitted.

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Count One

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A. Respondent generally and specifically denies each and every charge of wilful misconduct, and further denies committing any act or omission in the performance of judicial duties in "bad faith," intentionally, maliciously, or for a corrupt purpose, or any purpose other than the faithful performance of my duties. During my term as Presiding Judge from July 1, 1982 to June 30, 1983, I conscientiously and diligently sought "To manage [the] trial calendar efficiently and to maximize the use of its judicial resources..." and to "Organize its judicial resources to maximize the amount of judicial time for the trial of cases." Standards of Judicial Administration Section 11(a)(1).

To insure the prompt disposition of civil cases, the undersigned implemented policies and procedures so that "... Generally speaking, all cases should proceed to trial on the date set or, if necessary, within two court days thereafter...." The undersigned further implemented procedures so that "The number of cases set for trial on any court day should be based on the reasonable certainty that all cases, whether set for trial on a daily...basis, will proceed to trial on that day." Judicial Standards Section 9(a).

Furthermore, the undersigned "Adopt[ed] a firm policy regarding continuances, emphasizing that the dates assigned a trial setting or pretrial conference, a settlement conference and for trial must be regarded ...as definite court appointments. ... [and that] A continuance should be granted only upon an affirmative showing of good cause requiring the continuance..." Section 9(b).

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1           Respondent "...participate[d] in establishing, maintaining,  
2 and enforcing and [did] himself observe, high standards of conduct  
3 so that the integrity and independence of the judiciary may be  
4 preserved." Code of Judicial Conduct, Canon 1.

5           The undersigned at all times as "A judge ...[was] faithful  
6 to the law and maintain[ed] professional competence in it. [I did  
7 remain] ...unswayed by partisan interests, public clamor, or fear  
8 of criticism." Canon 3A(1). Furthermore, as "a judge [I was]...  
9 patient, dignified, and courteous to litigants, jurors, witnesses,  
10 lawyers, and others with whom [I] deal[t] in [my] official  
11 capacity...." Canon 3A(3), and "... accord[ed] to every person  
12 who [was] legally interested in a proceeding, or his lawyer, full  
13 right to be heard according to law...." Canon 3A(4).

14           The undersigned made conscientious, diligent good faith  
15 efforts to "...dispose promptly of the business of the court,"  
16 (Canon 3A(5)) and to "...diligently discharge [my] administrative  
17 responsibilities, maintain professional competence in judicial  
18 administration, and facilitate the performance of the administrative  
19 responsibilities of other judges and court officials." Canon 3B.

20           Respondent admits the dates of hearing and the dates of  
21 preparing and rendering decisions as set forth in Ex. A, but denies  
22 that any delay was caused by wilful misconduct, bad faith,  
23 intentional, malicious conduct of for a corrupt purpose. Respondent  
24 alleges that such delays occurred through inadvertence at a time  
25 when Respondent was otherwise faithfully, diligently, conscien-  
26 tiously, performing his duties as Presiding Judge which enabled  
27 the Fresno County Superior Court to achieve the lowest time from  
28 At Issue Memorandum to trial of any of the large Counties in the

1 State of California.

2 Respondent denies that case numbers 2,5,6,7,8,9,10, and  
3 11 in Attachment A to the Notice were delayed because these  
4 decisions were prepared in a timely manner within 90 days, were  
5 lengthy and very comprehensive, and the delay occurred in the  
6 typing by an overburdened secretarial staff.

7 B. Respondent admits that for the period of October 2, up to  
8 a few days before November 30, 1983, after certain cases described  
9 in Ex. A were brought to my attention, Respondent did not submit  
10 a signed salary declaration, or draw a salary until the decisions  
11 were prepared. Respondent further admits that in periods other  
12 than between October 2, 1983 to a few days before November 30,  
13 1983, he executed salary declarations pursuant to Government Code  
14 Section 68210, believing that Respondent was keeping current in  
15 the work. Except as admitted Respondent denies the allegations  
16 of Count One Paragraph B and specifically denies wilful misconduct,  
17 and further denies that any act or omission constituted bad faith,  
18 was intentional or malicious conduct or was for a corrupt purpose.

19 C. Respondent denies the allegations of Count One Paragraph  
20 C except Respondent admits that for the period October 2, 1983 to  
21 November 30, 1983, when certain cases described on Ex. A were  
22 brought to my attention, Respondent did not draw or receive a  
23 salary until the decisions were prepared. Respondent further  
24 admits he otherwise drew a salary as a Judge of the Superior Court  
25 for periods other than October 2, 1983 to November 30, 1983.  
26 Respondent specifically denies wilful misconduct, and further  
27 denies that any act or omission constituted bad faith, was intent-  
28 tional or malicious conduct or was for a corrupt purpose.

1 Respondent admits that the dates cases were heard and  
2 decisions prepared and filed as set forth in letters to Attorney  
3 General John Van de Kamp dated March 13, 1985, March 15, 1985,  
4 March 18, 1985, March 20, 1985, and April 2, 1985, and in letters  
5 from Respondent to the Commission on Judicial Performance dated  
6 May 17 and May 28, 1985, are correct.

7 Respondent admits that case No.16 of Ex. A was delayed  
8 but this occurred because no submission slip was prepared. Except  
9 as specifically admitted, Respondent denies Count One and  
10 Paragraphs A, B, and C thereof, and each and every allegation  
11 thereof.

12  
13 Count Two

14 Respondent incorporates the admissions and denials to  
15 Paragraphs A, B, and C of the Answer to Count One by reference.  
16 Except as admitted, Respondent denies Count Two, and each and  
17 every allegation thereof, and specifically denies conduct prejud-  
18 icial to the administration of justice which brings the judicial  
19 office into disrepute.

20  
21 Count Three

22 Respondent incorporates the admissions and denials  
23 contained in Paragraph A of Count One. Except as admitted,  
24 Respondent denies Count Three and each and every allegation  
25 thereof, and specifically denies persistent failure or inability  
26 to perform judicial duties.

27 For his defenses to the general and specific allegations  
28 contained in the Notice of Formal Proceedings, respectfully

1 alleges that he has performed his responsibilities to the best  
2 of his ability, has worked to expand the resources and capabilities  
3 of the court in which he sits to hear and determine cases, has  
4 worked to improve the administration of justice, has undertaken  
5 and discharged additional assignments, has carried out his duty  
6 under Penal Code section 1050 that "criminal cases shall be given  
7 precedence over, and set for trial and heard without regard to  
8 the pendency of, any civil matters or proceedings," and has acted  
9 in the good faith belief that his actions complied with and  
10 implemented the law. Respondent further alleges any action  
11 adverse to him in the circumstances would deny to him due process  
12 and equal protection of the laws under the Constitution of the  
13 United States and the Constitution of the State of California.

14           The Fresno County Superior Court did not implement  
15 Government Code Section 69892 allowing a secretary for each  
16 Superior Court Judge, and sought to comply with Judicial Standard  
17 Section 11(a)(2) with existing staff because we were seeking an  
18 additional department of the Superior Court, which ultimately was  
19 approved by the Board of Supervisors.

20           Respondent incorporates by reference, the contents of  
21 letters to Attorney General John Van de Kamp dated March 13, 1985,  
22 March 15, 1985, March 18, 1985, March 20, 1985, and April 2, 1985,  
23 and in letters from Respondent to the Commission on Judicial

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1 Performance dated May 17 and May 28, 1985, as an explanation and  
2 as constituting facts in mitigation.

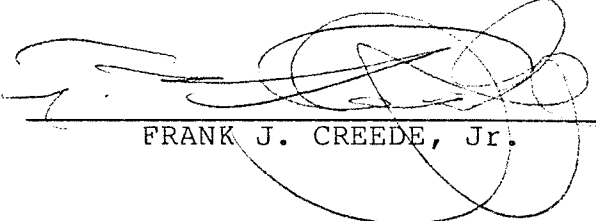
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4 VERIFICATION

5 The undersigned, Frank J. Creede, Jr., the Respondent,  
6 certifies and declares as follows:

7 That I have read the Answer to the above entitled  
8 matter and know the contents thereof and the contents are true  
9 of my own personal knowledge except as to matters alleged to be  
10 true based on information and belief and as to those matters  
11 that I believe them to be true.

12 I certify and declare under penalty of perjury that the  
13 foregoing is true and correct.

14  
15 June 28, 1985  
16 Fresno, California  
4522L

  
FRANK J. CREEDE, Jr.

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PROOF OF SERVICE BY HAND-DELIVERY

I declare that:

I am employed in the City and County of San Francisco,  
State of California. I am over the age of eighteen years and  
not a party to the within cause. My business address is  
514 Bryant Street, San Francisco, California 94107.

On July 2, 1985, I served the documents listed  
herein:

ANSWER

by personally hand-delivering true copies thereof to the  
following address:

Jack E. Frankel, Esq.  
Director- Chief Counsel  
Commission on Judicial Performance  
3052 State Building  
San Francisco, California 94102

I declare under penalty of perjury that the foregoing  
is true and correct and that this declaration was executed  
on July 2, 1985, at San Francisco, California.

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