

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING  
JUDGE WILLIAM R. DANSER,

No. 172.

NOTICE OF FORMAL  
PROCEEDINGS

To William R. Danser, a judge of the Santa Clara County Municipal Court from March 28, 1995 to July 30, 1998, and of the Santa Clara County Superior Court from July 30, 1998 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, to wit:

## COUNT ONE

From March 1997 to December 2002, as set forth below, you engaged in a pattern of misconduct in the handling of traffic matters on behalf of your friends and acquaintances, players and employees of local professional sports teams and other acquaintances of Randy Bishop (hereafter “Detective Bishop”), court staff, and others. Detective Bishop was an officer with the Los Gatos/Monte Sereno Police Department (hereafter “LGPD”) from approximately December 1994 until August 2003. Detective Bishop also worked for the San Jose Sharks professional hockey team as a law enforcement liaison from approximately 1999 until July 2003. You have been personally acquainted with Detective Bishop since approximately 1996.

Your actions in these matters were an improper use of your judicial office, were not the result of any regular administrative or adjudicative procedure, and were for a purpose other than the faithful discharge of your judicial duties. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(1), 2B(2), 3B(7), 3B(8), 3E(1), and 3E(2):

A. On December 14, 1996, Anthony Granato received a citation (No. DR 67776) for driving 84 miles per hour in a 65-mile-per-hour zone in violation of Vehicle Code section 22349(a), and for driving without a valid license in violation of Vehicle Code section 12500(a). At the time, Mr. Granato resided in Los Gatos and played for the San Jose Sharks. You were personally acquainted with Mr. Granato through your and your sons’ involvement in Los Gatos youth sports.

Mr. Granato signed a promise to appear at the South County Facility of the Santa Clara County Municipal Court on February 28, 1997. After Mr. Granato failed to appear or make payment, he was charged with a misdemeanor violation of Vehicle Code section 40508(a) (failure to appear). The court sent a notice to Mr. Granato indicating a bail amount of \$648.

In approximately March 1997, you apparently engaged in an ex parte communication about the case with Mr. Granato or someone acting on his behalf.

Subsequently, on or about March 12, 1997, on behalf of Mr. Granato, you telephoned Commissioner Gregory Saldivar and had an ex parte conversation with him about the case. At the time, you were assigned to a civil calendar at the Santa Clara Facility of the Municipal Court, while Commissioner Saldivar handled traffic matters at the South County Facility. You informed Commissioner Saldivar of the three charges against Mr. Granato, and told him that Mr. Granato wanted to plead guilty to the speeding violation and wanted the two misdemeanors dismissed. Although Mr. Granato played professional hockey in San Jose, you told Commissioner Saldivar that Mr. Granato was a Wisconsin resident and not a California resident. Commissioner Saldivar told you that he would put the matter on calendar and take care of it.

On March 13, 1997, Commissioner Saldivar informed you that he had placed the *Granato* case on calendar and asked you if anyone was going to be present in his courtroom on the matter. You replied in the negative. When Commissioner Saldivar inquired into whether the matter was to be handled in absentia, you replied in the affirmative.

Ultimately, Commissioner Saldivar was uncomfortable handling the case in absentia. On March 18, 1997, an attorney appeared before Commissioner Saldivar and, on behalf of Mr. Granato, entered a plea of guilty to Vehicle Code section 22349(a). Commissioner Saldivar ordered Mr. Granato to pay \$64 and dismissed the two misdemeanor charges.

B. On February 7, 2000, Paul Stephen Pavicich received a citation (No. LV76092) for violation of Vehicle Code section 21455 (metering light violation). Mr. Pavicich was a personal friend of yours whom you had known for several years. Mr. Pavicich was also a former professional baseball player. While you were president of the Los Gatos Little League, Mr. Pavicich helped put on baseball camps for the Little League and provided instruction for Little League players, including your sons.

Shortly after Mr. Pavicich received the ticket and while the case (No. H02277427) was pending, you had an ex parte communication with Mr. Pavicich about his case. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department on March 8, 2000, at your request. On March 23, 2000, you dismissed the case without a court appearance by Mr. Pavicich. Although the minute order indicates that an attorney appeared for Mr. Pavicich, the attorney had not spoken to Mr. Pavicich about the ticket and was not authorized to make the appearance. When Mr. Pavicich later told you that he had not received a notice in the mail about the ticket, you told him that the ticket had been taken care of.

C. On April 4, 2000, Todd Peter Mayo received a citation (No. A278421) for driving at an unsafe speed (50 miles per hour in a 35-mile-per-hour zone), in violation of Vehicle Code section 22350. Mr. Mayo was a former professional baseball player and a personal friend of yours. While you were president of the Los Gatos Little League, Mr. Mayo was the director of clinics for the Little League and held baseball clinics for Little League players.

Shortly after Mr. Mayo received the ticket and while the case (No. H02309805) was pending, you had an ex parte communication with Mr. Mayo about his case. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department at your request. On May 23, 2000, you dismissed the case without a court appearance by Mr. Mayo. Although the minute order indicates that an attorney appeared for Mr. Mayo, the attorney had not spoken to Mr. Mayo about the ticket and was not authorized to make the appearance.

D. On September 26, 2000, Robert Walter Davis received a citation (No. J2562242) for failure to stop, in violation of Vehicle Code section 22450(a). Mr. Davis worked at the San Jose Arena and was an acquaintance of Detective Bishop. While the case (No. H02390733) was pending, you had one or more ex parte communications about the case with Mr. Davis, Detective Bishop, and/or someone

else acting on Mr. Davis's behalf. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department at your request. On January 18, 2001, you dismissed the case without a court appearance by Mr. Davis or an attorney.

E. On August 18, 2000, Joseph Clayton Will received a citation (No. J2556059) for driving 37 miles per hour in a 25-mile-per-hour zone, in violation of Vehicle Code section 22350. Mr. Will signed a promise to appear at the traffic court in San Jose on or before September 29, 2000. When Mr. Will failed to appear or make payment, he was charged with a misdemeanor violation of Vehicle Code section 40508(a). On December 23, 2000, the court sent a notice to Mr. Will, indicating a bail amount of \$320.

Mr. Will was assistant to the general manager of the San Jose Sharks and an acquaintance of Detective Bishop. While the case (No. H02372587) was pending, you had one or more ex parte communications about the case with Mr. Will, Detective Bishop, and/or someone else acting on Mr. Will's behalf. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department at your request. On February 6, 2001, you dismissed the case without a court appearance by Mr. Will or an attorney.

F. On December 29, 2000, Evgeni Nabokov (a.k.a. "Yevgeni Nabokov" and "Yevgeniy Nabokov") received a citation (No. R478520) for violations of Vehicle Code sections 12951(a) (no driver's license in possession) and 21750 (unsafe passing on the left). Mr. Nabokov was a goalie for the San Jose Sharks and an acquaintance of Detective Bishop. While the case (No. H02430433) was pending, you apparently engaged in one or more ex parte communications about the case with Mr. Nabokov, Detective Bishop and/or someone else acting on Mr. Nabokov's behalf. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your

department at your request. On March 12, 2001, you dismissed the case without a court appearance by Mr. Nabokov or an attorney.

G. On January 15, 2001, Rhonda Louise Sulpizio received a citation (No. 77784PD) for violations of Vehicle Code sections 4000(a) (expired registration) and 16028(a) (no proof of insurance). Ms. Sulpizio signed a promise to appear at the traffic court in San Jose on March 7, 2001. On May 12, 2001, after Ms. Sulpizio failed to appear or make payment, she was charged with a misdemeanor violation of Vehicle Code section 40508(a).

Ms. Sulpizio was the girlfriend (now wife) of Jeff Friesen, a personal friend of Detective Bishop. Mr. Friesen played for the San Jose Sharks at the time the ticket was issued. While the case (No. H02437463) was pending, you apparently engaged in one or more ex parte communications about the case with Ms. Sulpizio, Detective Bishop, and/or someone else acting on Ms. Sulpizio's behalf. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department at your request. On May 24, 2001, you dismissed the case without a court appearance by Ms. Sulpizio or an attorney.

H. On September 18, 2001, Debra Susan Mayo received a citation (No. J2657572) for driving at a speed of 40 miles per hour in a 25-mile-per-hour zone, in violation of Vehicle Code section 22350. Ms. Mayo was a friend of yours and the wife of Todd Mayo, who is referenced in part C, above.

While the case (No. H02549547) was pending, you had an ex parte communication about the case with Todd Mayo. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department on October 24, 2001, at your request. On October 25, 2001, you dismissed the case without a court appearance by Ms. Mayo or an attorney.

I. On January 20, 2000, Gregory John Jamison received a citation (No. R469578) for driving 46 miles per hour in a 25-mile-per-hour zone, in violation of

Vehicle Code section 22350. Mr. Jamison signed a promise to appear at the traffic court in San Jose on or before March 10, 2000. When Mr. Jamison failed to appear or make payment after being given a 60-day extension, he was charged with a misdemeanor violation of Vehicle Code section 40508(a). (Case No. H02268862.)

On January 20, 2001, Mr. Jamison received a citation (No. 75804PD) for violation of Vehicle Code section 26708(a) (tinted windows). Mr. Jamison signed a promise to appear at the traffic court in San Jose on March 7, 2001. On May 19, 2001, after Mr. Jamison failed to appear or make payment, he was charged with a misdemeanor violation of Vehicle Code section 40508(a). (Case No. H02440597.)

Subsequently, Mr. Jamison received from the Department of Motor Vehicles a letter dated June 28, 2001, indicating that, due to his failures to appear in the above two cases, his driving privilege would be suspended effective July 28, 2001.

On August 5, 2001, an LGPD officer left a citation (No. D155734) on a vehicle registered to Mr. Jamison. The citation was for violations of Vehicle Code sections 5200 (failure to display front license plate) and 26708.5 (tinted windows not complying with DOJ standards). (Case No. H02526634.)

In 2001, Mr. Jamison was president and chief executive officer of the San Jose Sharks, and was an employer of Randy Bishop. Between June 29, 2001 and October 24, 2001, inclusive, you had one or more ex parte communications with Mr. Jamison, Detective Bishop, and/or someone else acting on Mr. Jamison's behalf, about Mr. Jamison's license suspension and/or one or more of Mr. Jamison's tickets. Although none of the tickets would have come before you in the ordinary course of judicial business, the file in case number H02526634 was transferred to your department on October 24, 2001, at your request. On October 25, 2001, you dismissed the case without a court appearance by Mr. Jamison or an attorney.

On November 7, 2001, at your request, the files in case numbers H02268862 and H02440597 were transferred to your department. That day, you dismissed all the charges in case number H02268862, and the Vehicle Code section 26708(a) charge in case number H02440597. On January 2, 2002, you ordered that the November 7, 2001 minutes in case number H02440597 be “corrected” to reflect that the Vehicle Code section 40508(a) charge was also dismissed. The dismissals were made without a court appearance by Mr. Jamison or an attorney.

J. On August 1, 2001, Shelby Jack Holcomb received a citation (No. 60676QB) for violations of Vehicle Code sections 4000(a) (expired registration) and 21703 (following too close). At the time, you knew Mr. Holcomb as a personal trainer at the Fitness Clinic in Los Gatos, where he provided personal training to you and your three sons.

While the case (No. H02532608) was pending, you had at least two ex parte communications about the case with Mr. Holcomb. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department at your request. On October 31, 2001, you dismissed the case without a court appearance by Mr. Holcomb or an attorney.

K. On October 18, 2001, at 1:37 p.m., Kenneth John Holback received a citation (No. J2653772) for driving 58 miles per hour in a 25-mile-per-hour zone, in violation of Vehicle Code section 22350. On the same day, at 6:18 p.m., Mr. Holback received a citation (No. J2654932) for driving 47 miles per hour in a 25-mile-per-hour zone. At the time, Detective Bishop was a friend of Mr. Holback’s brother.

While the cases (Nos. H02561509 and H02561510) were pending, you apparently had one or more ex parte communications about the cases with Mr. Holback, Randy Bishop, and/or someone else acting on Mr. Holback’s behalf. Although the cases would not have come before you in the ordinary course of judicial business, the case files were transferred to your department at your



request. On November 9, 2001, you dismissed the tickets without a court appearance by Mr. Holback or an attorney.

L. On October 3, 2001, Michael Ensley received a citation (No. J2659743) for driving 55 miles per hour in a 35-mile-per-hour zone, in violation of Vehicle Code section 22350. While the case (No. H02556633) was pending, Mr. Ensley was told that if he made a contribution to the Los Gatos Little League, the citation would be dismissed or otherwise taken care of. Subsequently, on or about November 6, 2001, Mr. Ensley wrote a check in the amount of \$200, payable to the Los Gatos Little League, and gave it to a representative of the Little League. At the time, you were president of the Los Gatos Little League.

On or before December 4, 2001, you apparently had one or more ex parte communications about the case with Mr. Ensley and/or one or more persons acting on behalf of Mr. Ensley and/or the Los Gatos Little League. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department at your request. On December 4, 2001, you dismissed the case without a court appearance by Mr. Ensley or an attorney.

M. On June 12, 2001, Stephanie Ann Lynott received a citation (No. D155986) for not wearing a seat belt, in violation of Vehicle Code section 27315(d)(1). Ms. Lynott signed a promise to appear at the traffic court in San Jose on August 15, 2001. On October 13, 2001, after Ms. Lynott had failed to appear or make payment, she was charged with a misdemeanor violation of Vehicle Code section 40508(a).

You knew Ms. Lynott because she was a teacher at St. Mary's School in Los Gatos, where she had taught your three sons. While the case (No. H02504338) was pending, you had one or more ex parte communications about the case with Ms. Lynott and/or someone acting on her behalf. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department at your request. On December 4,

2001, you dismissed the charges without a court appearance by Ms. Lynott or an attorney.

N. On January 7, 2002, Peter D. Stemkowski received a citation (No. 29237QM) for driving 37 miles per hour in a 25-mile-per-hour school zone, in violation of Vehicle Code section 22350. Mr. Stemkowski was a broadcaster for the San Jose Sharks and an acquaintance of Detective Bishop. While the case (No. H02601466) was pending, you had one or more ex parte communications about the case with Mr. Stemkowski, Detective Bishop, and/or someone else acting on Mr. Stemkowski's behalf. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department at your request. On April 15, 2002, you dismissed the case without a court appearance by Mr. Stemkowski or an attorney.

O. On February 14, 2002, Cataldo ("Aldo") Maresca received a citation (No. 18600QM) for driving 62 miles per hour in a 45-mile-per-hour zone, in violation of Vehicle Code section 22350. Mr. Maresca, an acquaintance of Detective Bishop, was the owner of Aldo's restaurant, where you have eaten and where San Jose Sharks players have had pre-game meals. While the case (No. H02610270) was pending, you had one or more ex parte communications about the case with Mr. Maresca, Detective Bishop, and/or someone else acting on Mr. Maresca's behalf. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department at your request. On April 15, 2002, you dismissed the case without a court appearance by Mr. Maresca or an attorney.

P. On April 4, 2002, Evgeni Nabokov, referenced in part F, above, received a citation (No. 38189QU) for driving 80 miles per hour in a 65-mile-per-hour zone, in violation of Vehicle Code section 22349(a). While the case (No. H02639734) was pending, you had one or more ex parte communications about the case with Mr. Nabokov, Detective Bishop, and/or someone else acting on Mr. Nabokov's behalf. Although the case would not have come before you in the

ordinary course of judicial business, the case file was transferred to your department on June 12, 2002, at your request. On June 14, 2002, you dismissed the case without a court appearance by Mr. Nabokov or an attorney.

Q. On May 9, 2002, Phyllis A. Cruse received a citation (No. J2676747) for violation of Vehicle Code section 22349(a) (driving in excess of 65 mph). While the case (No. H02644830) was pending, you had one or more ex parte communications about the case with Ms. Cruse's husband, Scott Cruse. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department on June 12, 2002, at your request. On June 14, 2002, you dismissed the case without a court appearance by Ms. Cruse or an attorney. At the time you dismissed the case, you knew Ms. Cruse and were a personal friend of Scott Cruse.

R. On March 7, 2002, Philip Tramontana Ortiz received a citation (No. R53118C) for violations of Vehicle Code sections 5204(a) (expired registration tabs) and 24600(b) (broken taillight). Both charges were infractions. Mr. Ortiz signed a promise to appear at the traffic court in San Jose on or before May 6, 2002. On June 1, 2002, after Mr. Ortiz failed to appear or make payment, he was charged with a misdemeanor violation of Vehicle Code section 40508(a).

On March 14, 2002, Mr. Ortiz received a second citation (No. R509276) for a broken taillight in violation of Vehicle Code section 24600(b). The court appearance date was June 20, 2002. On June 22, 2002, after Mr. Ortiz failed to appear or make payment, he was charged with a second misdemeanor violation of Vehicle Code section 40508(a).

While the cases (Nos. H02620122 and H02624692) were pending, you had one or more ex parte communications with Mr. Ortiz about the cases. At the time, you knew Mr. Ortiz through his involvement at St. Mary's Parish of Los Gatos and as a junior high school basketball coach. Although the cases would not have come before you in the ordinary course of judicial business, the case files were transferred to your department at your request. You dismissed the infraction in the

second case on August 9, 2002, and the infractions in the first case on August 29, 2002, without any court appearance by Mr. Ortiz or an attorney.

S. On June 16, 2002, Tadd Eugene Whitmire received a citation (No. B146228) for violations of Vehicle Code sections 4454(a) (no proof of registration), 16028(a) (no proof of insurance), and 24600(b) (left taillight out). Mr. Whitmire was a friend of Victoria Enos, a courtroom clerk who formerly worked in your courtroom and who was present when the ticket was issued. Less than an hour after the ticket was issued, Ms. Enos told your courtroom clerk, Kathi Bringuel, about the ticket. Subsequently, you had an ex parte communication about the case (No. F00636352) with Ms. Bringuel, who told you that Tadd Whitmire was a friend of a friend of hers who had received a traffic ticket. You granted Ms. Bringuel's request that you hear the matter. Although the case would not have come before you in the ordinary course of judicial business, Ms. Bringuel arranged for the case file to be transferred to your department at your request. On August 14, 2002, you dismissed the ticket.

T. On July 23, 2002, Erasmo Chavez Galvan received a citation (No. 08232RD) for making a U-turn from the wrong lane in violation of Vehicle Code section 21460.5(c). While the case (No. H02682511) was pending, you had one or more ex parte communications about the case with your court reporter, Gina Galvan-Colin, whom you knew was Erasmo Galvan's daughter. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department on September 11, 2002, at your request. On September 16, 2002, you dismissed the case without a court appearance by Mr. Galvan or an attorney.

U. On September 18, 2001, Mark Christopher Smith received a citation (No. D157047) for violation of Vehicle Code section 24603(b) (left stop lamp out). Mr. Smith signed a promise to appear at the traffic court in San Jose on November 14, 2001. On December 8, 2001, after Mr. Smith failed to appear or

make payment, he was charged with a misdemeanor violation of Vehicle Code section 40508(a).

Mr. Smith was a player for the San Jose Sharks and an acquaintance of Detective Bishop. While the case (No. H02547923) was pending, you had one or more ex parte communications about the case with Mr. Smith, Detective Bishop, and/or someone else acting on Mr. Smith's behalf. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department on September 17, 2002, at your request. That day, you dismissed the case without a court appearance by Mr. Smith or an attorney.

V. On June 25, 2002, Dwayne DeRosario received a citation (No. J2715411) for driving 44 miles per hour in a 30-mile-per-hour zone, in violation of Vehicle Code section 22350. Mr. DeRosario signed a promise to appear at the traffic court in San Jose on August 20, 2002. On September 14, 2002, after Mr. DeRosario failed to appear or make payment, he was charged with a misdemeanor violation of Vehicle Code section 40508(a).

Mr. DeRosario was an acquaintance of Detective Bishop and a player for the San Jose Earthquakes professional soccer team, which was operated by the same entity that ran the San Jose Sharks. While the case (No. H02667505) was pending, you had one or more ex parte communications about the case with Mr. DeRosario, Detective Bishop, and/or someone else acting on Mr. DeRosario's behalf. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department on October 16, 2002, at your request. On October 18, 2002, you dismissed the charges without a court appearance by Mr. DeRosario or an attorney.

W. On June 13, 2002, Rebecca Mary Linton received a citation (No. J2715718) for violation of Vehicle Code section 21655.5(b) (driving in a car pool lane without passengers). Ms. Linton signed a promise to appear at the traffic court in San Jose on August 8, 2002. On September 7, 2002, after Ms. Linton had failed to appear or make payment, she was charged with a misdemeanor violation

of Vehicle Code section 40508(a). Subsequently, she received a letter from the court that bail had been increased to \$504.

Ms. Linton was the girlfriend of the San Jose Earthquakes' equipment manager, who knew Detective Bishop. While the case (No. H02660231) was pending, you had one or more ex parte communications about the case with Ms. Linton, Detective Bishop, and/or someone else acting on Ms. Linton's behalf. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department on October 16, 2002, at your request. On December 16, 2002, you dismissed the charges without a court appearance by Ms. Linton or an attorney.

X. On May 23, 2002, Bruce Edward Morgan received a citation (No. J2712640) for violation of Vehicle Code section 22101(d) (illegal left turn). Mr. Morgan signed a promise to appear at the traffic court in San Jose on July 18, 2002. On August 24, 2002, after Mr. Morgan failed to appear or make payment, he was charged with a misdemeanor violation of Vehicle Code section 40508(a).

Mr. Morgan was the San Jose Earthquakes' head athletic trainer and an acquaintance of Detective Bishop. While the case (No. H02651498) was pending, you had one or more ex parte communications about the case with Mr. Morgan, Detective Bishop, and/or someone else acting on Mr. Morgan's behalf. Although the case would not have come before you in the ordinary course of judicial business, the case file was transferred to your department at your request. On December 16, 2002, you dismissed the charges without a court appearance by Mr. Morgan or an attorney.

## **COUNT TWO**

On January 27, 2002, Paul Dellanini was arrested by the Gilroy Police Department for driving under the influence of alcohol. On March 14, 2002, Mr. Dellanini was charged in case number FF298817 with violations of Vehicle Code sections 23152(a) and 23152(b). Since the alleged offense took place in Gilroy,

the proper venue for the case was the South County Facility of the Santa Clara County Superior Court. Since you were assigned to criminal law and motion and preliminary hearing calendars at the Hall of Justice in San Jose at the time, the case would not have come before you in the ordinary course of judicial business.

Mr. Dellanini was the son of a court employee at the South County Facility, and the brother of Patricia Corona, an employee of the Santa Clara County Superior Court in San Jose. Ms. Corona was a personal acquaintance of your courtroom clerk, Kathi Bringuel. Subsequent to Mr. Dellanini's arrest, Ms. Corona spoke to Ms. Bringuel and told her about the arrest.

You then had an ex parte communication with Ms. Bringuel about the case. Ms. Bringuel told you that her acquaintance "Patricia," who worked for the court, had a brother who had been arrested for driving under the influence and wanted to plead guilty. Ms. Bringuel also told you that the defendant's mother worked at the court's South County Facility and did not want the case heard in South County. You agreed to handle the case.

At your request, Ms. Bringuel placed a telephone call to the calendar clerk at the South County Facility and asked that the case be transferred to your department. Subsequently, on March 15, 2002, the case was transferred to your department. On March 26, 2002, when you were handling a motions calendar, Mr. Dellanini appeared before you without counsel. You did not disclose the fact that you had had an ex parte conversation with Ms. Bringuel about the case. You accepted a plea of guilty to a violation of Vehicle Code section 23152(b). You dismissed the Vehicle Code section 23152(a) charge, suspended imposition of sentence, placed Mr. Dellanini on three years court probation, and ordered that Mr. Dellanini complete the first offender alcohol program, that his license be restricted for a period of 90 days, and that he pay \$1,251. No jail time was imposed.

Your actions in causing the case to be transferred to your courtroom were an improper use of your judicial office. Your decision to transfer the case was not the result of any judicial determination that there was a legal or other proper basis

for the transfer, and was for a purpose other than the faithful discharge of your judicial duties. The sentence was more lenient than what most judges in Santa Clara County would have imposed. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(1), 2B(2), 3B(7), 3B(8), 3E(1), and 3E(2).

### **COUNT THREE**

On August 2, 2002, Anna-Marie Keane was arrested by the Los Altos Police Department for driving under the influence of alcohol. According to a preliminary alcohol screening test, Ms. Keane's blood alcohol level was .223%. According to two breath tests given almost two hours after the stop, Ms. Keane's blood alcohol levels were .18% and .19%, respectively.

On September 23, 2002, Ms. Keane was charged in case number BB259113 with violations of Vehicle Code sections 23152(a) and 23152(b). Since the alleged offense took place in Los Altos, the proper venue for the case was the Palo Alto Facility of the Santa Clara County Superior Court. Since you were assigned to criminal law and motion and preliminary hearing calendars at the Hall of Justice in San Jose at the time, the case would not have come before you in the ordinary course of judicial business.

On September 24, 2002, Ms. Keane was arraigned before Judge Rodney Southard in department 84 of the Santa Clara County Superior Court in Palo Alto. Ms. Keane's attorney entered a plea of not guilty on her behalf and the matter was continued for a pretrial conference on October 10, 2002, in department 84.

Ms. Keane, an acquaintance of Detective Bishop, was a supporter of the Los Gatos Police Officers' Association and played in its annual golf tournament that was run by Detective Bishop. Ms. Keane, who was afraid of going to jail, contacted Detective Bishop and asked for his advice on the matter. On or before October 9, 2002, you had one or more ex parte communications about Ms. Keane's case with Detective Bishop. Subsequently, on October 9, 2002, you telephoned Elisa Randolph, Judge Southard's courtroom clerk, and directed her to



transfer the case to your courtroom (department 42) for a pretrial conference to take place on October 15, 2002. On October 18, 2002, in response to your request, the case was transferred to your department for a pretrial conference to take place on October 29, 2002.

In court, on October 29, 2002, you called the *Keane* case. Detective Bishop was present in the audience. You did not disclose the fact that you had had any ex parte communications about the case with Detective Bishop. Since no notice of the transfer or of the October 29 pretrial conference had been provided to the district attorney, no deputy district attorney who might have had knowledge of the case was present, and the district attorney's file was still in Palo Alto.

Deputy District Attorney Tracy Gilliam was present in your courtroom for a motion in another case. When DDA Gilliam interrupted you and asked who the DA was on the case, you misleadingly replied: "This came from Palo Alto. They wanted to have it here for some reason, I said we'd do it." You also told Ms. Gilliam that it was a "typical driving under the influence case" and that it was the defendant's first offense. In fact, Ms. Keane had a prior alcohol-related conviction for reckless driving.

You accepted a plea of nolo contendere to a violation of Vehicle Code section 23152(b). You dismissed the Vehicle Code section 23152(a) charge, suspended imposition of sentence, placed Ms. Keane on three years court probation, and ordered that Ms. Keane complete the first offender alcohol program, that her license be restricted for a period of 90 days, and that she pay \$1,251 on or before November 30, 2002. No jail time was imposed.

Your actions in causing the case to be transferred to your courtroom were an improper use of your judicial office to benefit Detective Bishop's acquaintance. Your decision to transfer the case was not the result of any judicial determination that there was a legal or other proper basis for the transfer, and was for a purpose other than the faithful discharge of your judicial duties. The sentence constituted lenient treatment and was more favorable to the defendant than any sentence Judge

Southard likely would have imposed. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(1), 2B(2), 3B(7), 3B(8), 3E(1), and 3E(2).

#### **COUNT FOUR**

On June 12, 2001, while you were filling in for Judge Joseph Huber on a misdemeanor calendar, you called the case of *People v. Gilbert Ordaz* (No. CC110895). Mr. Ordaz had been charged with violations of Vehicle Code sections 23152(a) (driving under the influence of alcohol), 23152(b) (driving with blood alcohol level of .08 % or higher), and 20002(a) (hit and run). The alleged offenses took place on Big Basin Way and Saratoga/Los Gatos Road, about two miles from your residence. You told the defendant, who was appearing without an attorney, that because the offense occurred near where you and your children lived, the sentence would be 90 days in jail and you would remand him if he declined to plead guilty. The defendant pleaded guilty, and you sentenced him to 90 days in jail.

Basing, or appearing to base, a judicial decision on the proximity of the crime to your residence demonstrated bias, unfairness, and a lack of impartiality. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(5), 3B(8), and 3E(1).

#### **COUNT FIVE**

From November 2002 to January 2003, as set forth below, you engaged in judicial misconduct in your attempts to dismiss three citations issued to one of your minor children:

A. On November 22, 2002, LGPD Officer Todd Fleming issued a citation to one of your minor children for violations of Vehicle Code sections 12814.6(a) (transporting a passenger under 20 years old while carrying a provisional license) and 22450(a) (failure to stop at stop sign). After you learned of the citation, you

telephoned Detective Bishop at his home, complained about the ticket, and threatened to file a formal complaint against Officer Fleming.

You also telephoned LGPD Captain Duino Giordano, whom you personally knew. You asked Captain Giordano why Officer Fleming had not given your child a break due to your position and your relationship with the LGPD, and asked or suggested that the ticket be dismissed. Captain Giordano looked up the ticket, called you back, and told you that the LGPD had no authority to dismiss the ticket. You again expressed your unhappiness with the ticket, particularly in light of the fact that you previously had made yourself available for the LGPD, and told Captain Giordano that you would no longer be available as often as the LGPD needed you.

Your conversations with Detective Bishop and Captain Giordano were an improper use of your judicial office to seek the dismissal of your child's traffic ticket. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(1), and 2B(2).

B. On November 12 and December 12, 2002, the LGPD issued parking citations (Nos. LG005021579 and LG004038425) to a vehicle that was registered to you and your wife, and that was being driven on those dates by the same minor who is referenced in part A, above. Each citation alleged a violation of Los Gatos Municipal Code 15.40.080 (parking without proper permit). The citations would not have come before you in the ordinary course of judicial business. Because the citations involved your vehicle and your child, you would have been disqualified from hearing the matters if they had come before you.

The citations were not timely paid, and there was no timely request that the LGPD conduct an initial review of either citation pursuant to Vehicle Code section 40215(a). On January 7, 2003, you telephoned the LGPD, spoke to police records specialist Keara Wormley, and told her that you were going to order the tickets dismissed. Even though you had not spoken to either of the police officers who had issued the tickets, and at least one of the tickets was issued to your child for

parking in a faculty space without a permit, you told Ms. Wormley that the tickets had been issued erroneously.

On January 9, 2003, you sent a letter to the LGPD, ordering that the two parking citations be dismissed. The letter was written on your official court stationery.

Your directions for the dismissals of the two tickets were not the result of any regular administrative or adjudicative procedure and were for a purpose other than the faithful discharge of your judicial duties. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(1), 2B(2), 2B(4), and 3E(1).

C. On or about January 22, 2003, after LGPD Chief of Police Scott R. Seaman sent you a letter refusing to dismiss the parking tickets referenced in part B, above, you placed a telephone call to Captain Giordano in which you expressed anger at Chief Seaman's letter and reiterated that you would no longer make yourself available to the LGPD. On the following day, you faxed Captain Giordano a letter in which you apologized for this telephone call and admitted that it was "totally inappropriate." However, your fax also stated that "perhaps my interaction with your officers and other employees at the police department should be on a more professional level and I will stop my informal contact with them." Your fax asked Captain Giordano to advise LGPD personnel of this change.

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

D. On January 23, 2003, you sent a letter to Chief Seaman on your official court stationery. In your letter, you referred to the parking citations referenced in part B, above, and falsely stated that "there was no violation and the citations should not have been issued." You also made the misleading statement that your child "has a permit from the high school that allows him to park[,]" when in fact his permit did not allow him to park in a faculty space. You also made the sarcastic statement that "It is nice to know that the police department has the resources to pursue such important matters." You also made the derogatory

statement that “I now understand why the kids at the high school complain about Los Gatos police officers.”

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

E. On January 24, 2003, you placed a telephone call to Chief Seaman and spoke to his secretary, Nancy McVay. When Ms. McVay told you that Chief Seaman was unavailable and offered to take a message, you raised your voice and spoke to her in a very angry tone. You told Ms. McVay that she could give Chief Seaman the following message: “Don’t send your officers to my house; don’t contact me; as far as I’m concerned, business between us is done!” You also made a disparaging remark about the Los Gatos Police Department.

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

### **COUNT SIX**

From July 1996 to April 2003, as set forth below, you engaged in a pattern of improper judicial demeanor, threats, harassment, retaliation, banishment, and related misconduct directed at attorneys, court staff and others:

A. On July 8, 1996, you were assigned to department 3 in the South County Facility of the Santa Clara County Municipal Court. On that date, two or three female high school students observed the proceedings in your courtroom as part of a school assignment. After court had finished, and while the students were having the bailiff sign documents showing proof of their attendance, you inquired whether the students wanted to see the jail. After you received a negative reply, you stated that not everyone who visits the jail has to be strip searched, and that you had to approve it, or words to that effect. You made these statements on the bench in open court and in the presence of Kim Kowalk and Jo Ann Baeten, courtroom clerks assigned to department 3 at the time. Ms. Kowalk and Ms. Baeten later reported this incident to supervisors in the clerk’s office.

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

B. It later came to your attention that the incident described in paragraph A had been reported to the clerks' supervisors. Subsequently, in or about July 1996, Ms. Baeten came to your courtroom to assist another clerk while you were on the bench. You stopped the proceedings, told Ms. Baeten that you wanted to talk to her, and then accompanied her to a private hallway outside the courtroom, where you told her that you did not want her in your courtroom and asked her to leave.

Later that day, Kim Kowalk entered your courtroom to assist another clerk while you were on the bench. You again stopped the proceedings and, in open court and with a loud voice, ordered Ms. Kowalk to leave your courtroom. You did not allow Ms. Kowalk or Ms. Baeten to return to your courtroom for a period of time.

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

C. On or about June 27, 2001, you placed a telephone call to the courtroom of Judge Ray Cunningham while Judge Cunningham was on the bench. Your former courtroom clerk, Julie Razo, who was working as a back-up clerk for Judge Cunningham, answered the telephone, spoke to you briefly, and then caused the phone to be handed to Judge Cunningham. After you spoke briefly to Judge Cunningham, Judge Cunningham laid the phone down on his desk, and one of his clerks hung up the phone.

The following day, you went to Judge Cunningham's courtroom and angrily told Ms. Razo that if she ever hung up the phone on you again, you were going to "slap" her. You were subsequently admonished by Presiding Judge Richard Turrone about your statement to Ms. Razo. Despite that admonishment, you never apologized to Ms. Razo or retracted your threat.

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

D. On January 24, 2002, Deputy District Attorney Deborah Medved proceeded with the preliminary hearing in *People v. Leonides*, number CC133511, even though the defendant was willing to waive his right to a preliminary hearing. Following the hearing, you directed Ms. Medved to stand in front of the bench, where you yelled at her for several minutes, accused her of wasting your time, and asked her what she thought she “got out of this.” While addressing Ms. Medved, you leaned toward her, put your hands on the bench, and were visibly angry.

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

E. Subsequent to the *Leonides* hearing described in paragraph D, you asked Judge Jerome Nadler that he not assign DDA Medved’s cases to your department. At the time, Judge Nadler was the assistant supervising judge responsible for assigning preliminary hearings to different departments each day. As a result, DDA Medved’s cases were not assigned to your department for over four months.

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

F. During the latter half of 2002, a person essential to a preliminary hearing which was assigned to you was involved in another preliminary hearing assigned to Judge Linda Condrón’s department. When Judge Condrón refused to accept transfer of the case assigned to you, refused to delay her preliminary hearing and release the individual to go to your courtroom, and/or sent to your courtroom the preliminary hearing assigned to her, you began speaking loudly about Judge Condrón, saying words to the effect of “I’m fed up,” “Who does she think she is?,” “she can’t do this,” “I don’t work for her,” and “she’s not my boss.” You made these statements while on the bench, in open court and in the presence of court staff and others.

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

G. On November 1, 2002, Deputy District Attorney Tracy Gilliam went to your courtroom and, during a break, asked your court reporter for a transcript of the October 29, 2002 hearing in *People v. Keane* (No. BB259113), discussed in count three, above. While on the bench and wearing your judicial robe, you asked Ms. Gilliam if the transcript was for “that DUI.” When Ms. Gilliam replied that it was, you said words to the effect of “Denied, you can’t have it.” When Ms. Gilliam asked why not, you told her to tell you why she wanted it. When Ms. Gilliam replied that Assistant District Attorney Karyn Sinunu had asked her to get the transcript, you continued to deny Ms. Gilliam’s request. When Ms. Gilliam said that she would have Ms. Sinunu call you, you said that you would not take Ms. Sinunu’s call. You also stated that there was no reason you could not request that a case be transferred to your department, and asked Ms. Gilliam to show you where in the law it says that a district attorney must be notified or be present.

You became angrier as your conversation with Ms. Gilliam proceeded. You told Ms. Gilliam words to the effect that you did not care about “your damn cases, you can keep your damn cases,” and that “if you want to take me from the bench, go ahead, I can do something else.” You also said words to the effect of “I am so hot about this, screw your office, and you can tell Karyn Sinunu I said screw her.” When Ms. Gilliam asked that you please not “take this out on Marilyn” Mascirelli, a deputy district attorney who was present on November 1, 2002, and had a case on your calendar that day, you responded with words to the effect of “Marilyn can take her damn cases out of my court, too.”

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

H. In April 2003, Deputy District Attorney Lane Liroff was the prosecutor in the case of *People v. Van Hang Heang and Pov Touch*, number 210566, before Judge Aldon Danner. For security reasons, Mr. Liroff was escorted to and from the Hall of Justice in San Jose each day by investigators from the district attorney’s office. On the afternoon of April 24, 2003, district attorney



investigators Todd Almason and Michelle Avila arrived at the Hall of Justice to pick up Mr. Liroff. As they waited for Mr. Liroff, you were seated at a picnic table located between the old and new courthouses. You asked Mr. Almason if he was Lane Liroff's "chauffeur" that day. When Mr. Almason replied yes, you responded with words to the effect of, "What's the matter, is Lane afraid of getting shot?" You also stated words to the effect of, "Who's Lane afraid might shoot him?" and "If someone shot Lane, they would be doing the community a favor." At the time you made these statements, you had a long-standing animosity toward Mr. Liroff.

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

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 104(c) and 119, you must file a written answer to the charges against you within twenty (20) days after service of this notice upon you. The answer shall be filed with the Commission on Judicial Performance, 455 Golden Gate Avenue, Suite 14400, San Francisco, California 94102-3660. The answer shall be verified and shall conform in style to the California Rules of Court, rule 14(b). The Notice of Formal Proceedings and answer shall constitute the pleadings. No further pleadings shall be filed and no motion or demurrer shall be filed against any of the pleadings.

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This 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: January 16, 2004

/s/  
VANCE W. RAYE  
VICE-CHAIRPERSON