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Attorneys for Respondent,
Judge John D. Harris

FILED
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Commission on
Judicial Performance

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING JUDGE JOHN D. HARRIS, NO. 173	ANSWER OF JUDGE JOHN D. HARRIS

COMES NOW, Respondent, Judge John D. Harris, and answering the Notice of Formal Proceedings in the above-entitled inquiry, admits, denies and alleges as follows:

COUNT ONE

A. Admits and alleges that in June and July 2000, respondent presided over the felony sexual assault trial of *People v. Tellez*, case number BA199915.

Defendant, Jesus Tellez, was charged with one count of Penal Code section 288.5 [continuous sexual abuse] on his now 16-year-old niece when she was between age 6 to age 12 years old.

This was the first jury trial of a sexual abuse case that respondent had handled in his then 27-year judicial career.

After the victim had concluded her testimony, respondent asked the defense attorney and the district attorney to approach the bench and inquired whether there was any objection to respondent speaking with the victim to commend her for the courage of her testimony. She was crying and visibly shaken by having to testify against her uncle, with her aunt staring at her throughout her testimony. Counsel for defendant objected, and respondent immediately dropped the matter.

At the sentencing hearing on July 28, 2000, the victim was present in court to give the victim's impact statement, tearfully telling of the results of testifying at the trial against her uncle. The victim stated she will never be able to speak to her aunts again. She will never be able to see her cousins. The victim asked why her relatives went out of their way to lie at the trial and how could they do this to her. Respondent sentenced defendant Tellez to the high term of 16 years in state prison.

After sentencing was concluded and the case over, respondent invited the victim and the prosecuting attorney into chambers, to commend her for her courage in testifying in open court. The deputy district attorney declined to accompany the victim into chambers. Respondent's chambers door remained open at all times during this meeting. Respondent does not believe he was ever alone with the victim. Respondent's court clerk and bailiff were present during portions of the meeting.

Respondent told the victim that she was very brave to testify against her uncle; that she had done the right thing; the fact that the jury deliberated only for one hour and fifteen minutes showed that the jury believed her; her testimony was articulate and believable. Respondent's recollection is that the meeting lasted 10 to 15 minutes.

The victim stated that what hurt the most was that by testifying against her uncle, she had lost the love of her grandparents and her four aunts and uncles, and their families. Respondent, in an attempt to console the victim, said "I can be part of your family." "I can be your grandfather."

Respondent gave her his business card, and said "if I can ever do anything to help you, or if you need a letter of recommendation to help get into college, please let me know."

Respondent has never seen or heard from the victim since her appearance in chambers following the sentencing of defendant Tellez on July 28. 2000.

The judgment of conviction was affirmed on appeal. The sentence of 16 years in state prison was set aside on appeal. On remand, a different judge imposed the same 16-year sentence that respondent had imposed.

Respondent concedes that meeting with a victim on one side of the case after sentencing of the defendant, and conclusion of all proceedings, could present an appearance of impropriety. Respondent further concedes that although trial proceedings had been completed and the defendant had been sentenced, respondent now realizes that as a general rule, an action is pending "from the time of its commencement until its formal determination on appeal, or until the time for appeal has passed . . .." [C.C.P. § 1049.] Respondent specifically denies that he had any bias in favor of victims and/or the prosecution, or against the defendant.

Respondent specifically denies his alleged conduct violated the Code of Judicial Ethics, canons 1, 2A and 3B(7), was willful misconduct in office, was conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or was improper conduct within the meaning of the California Constitution, Article VI, section 18(d).

B. Admits and alleges that in August and September, 2000, respondent presided over the felony sexual assault and attempted murder trial of *People v. Lopez*, case number BA196885. Defendant Lopez was charged in a 14-count information with one count of Penal Code section 459 (residential burglary of an inhabited dwelling); six counts of Penal Code section 288a(c) (forcible oral copulation); five counts of Penal

Code section 261(a)2 (forcible rape); and two counts of Penal Code section 664/187 (attempted murder of two Los Angeles police officers). The victim was a Century City entertainment attorney.

This was respondent's first jury trial of a rape case that he handled in his judicial career.

The jury returned verdicts of guilty on each of the 14 alleged counts, including special enhancements.

Prior to sentencing on September 7, 2000, the adult victim made a tearful and very moving impact statement about how the incident had affected her life.

Respondent imposed a sentence of two consecutive terms of life imprisonment, plus a total of an additional 155 years in prison on the 14-counts and additional enhancements as prescribed by law. The district attorney had requested two consecutive life terms plus 323 years in state prison.

After sentencing on September 7, 2000, and when the case had concluded, respondent asked the district attorney if he could speak with the victim with the district attorney present, to offer emotional support. Respondent was deeply moved by the victim's tragic story. Respondent hoped by talking to the victim and offering support and understanding, the courtroom experience would be less traumatic for her.

The deputy district attorney accompanied the victim into respondent's chambers. Respondent praised the victim for her bravery and courage in testifying at trial, and giving her victim impact statement. Respondent told the victim that if there was anything he could do to help her in the future, she should call respondent. Respondent gave her his business card with the courtroom telephone number. This was in the presence of the deputy district attorney.

The victim explained to respondent that her parents were no longer speaking to her, blaming her for the rape. She tearfully stated that she had no social life and no friends and her life was totally ruined.

The victim mentioned that she was half Jewish. Respondent told her that he was Jewish. Respondent invited her to come to the family house for dinner on a Friday night and meet respondent's wife, Marjorie.

Several weeks later, the victim telephoned respondent at court. The victim stated she would like to take respondent up on his offer to come over to respondent's house for dinner. Respondent had previously told his wife, Marjorie, about having invited the victim to come over to their house for dinner. Marjorie had been ill and did not feel up to entertaining anyone at this time. With the knowledge and approval of respondent's wife, respondent suggested that instead of dining at their home, they could meet at a mutually convenient place. Respondent suggested lunch. The victim stated she was an entertainment lawyer with a Century City law firm and did not have time to eat lunch. Respondent and the victim agreed to meet for dinner at a time and place suggested by the victim.

To acknowledge the agreement, respondent casually said, "It's a date." Respondent used the word "date" in the same way as one would use "appointment," "meeting," "commitment," "plan," or "agreement." Respondent did not have any intention of dating the victim, or developing any future social attachments with her.

Respondent's offer to meet with the victim was completely innocent, well intentioned, and compassionate. Respondent wanted to reach out and offer the victim something positive from her painful negative experience. The victim later called and cancelled the dinner.

Respondent has not seen the victim since the date of sentencing, September 7, 2000, after the case was over, when the victim and the deputy district attorney came into respondent's chambers.

Respondent specifically denies that he was biased in favor of the victim and/or the prosecution, or against the defendant.

Respondent concedes that meeting with a victim on one side of the case after the sentencing of defendant and conclusion of all proceedings, and inviting future social contacts could present an appearance of impropriety. Respondent further concedes that, although the trial proceedings had been completed and defendant sentenced, respondent now realizes that as a general rule an action is pending "from the time of its commencement until its final determination on appeal, or until the time for appeal has passed . . ." [Code Civ.Proc. § 1049.]

Respondent specifically denies that his alleged conduct intentionally violated the Code of Judicial Ethics, canons 1, 2A and 3B(7), was willful misconduct in office, was conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or was improper conduct within the meaning of the California Constitution, Article VI, section 18(d).

COUNT TWO

A. Respondent admits and alleges that Deputy Public Defender Obe Ozobu was assigned to respondent's court as one of his calendar deputies. Shortly after respondent arrived in Division 45, respondent suggested to the city attorneys and public defenders regularly assigned to his court that they all should have lunch together. Deputy public defender Ozobu was included in the invitation, but no lunch was ever planned by the attorneys.

Prior to Christmas 2002, Ms. Ozobu was in respondent's chambers. On respondent's desk was a Los Angeles Times display ad for windbreaker jackets on sale at Macy's. Respondent showed her the ad, and asked if she had ever been to Macy's. She stated Macy's is her favorite store and she goes to Macy's all the time to go shopping at lunch time. Ms. Ozobu stated that the DASH bus picks you up across from the courthouse and lets you off two blocks from Macy's. Respondent asked Ms. Ozobu if she would like to accompany respondent while he looked at jackets, and suggested that they could have lunch at the Pantry Cafe at 9th and Figueroa, either before or after shopping. Ms. Ozobu said she would love to go, but had to work on a case. Ms. Ozobu told respondent where he could catch the DASH bus and where to get off. Respondent took the bus by himself to Macy's, looked at jackets, and ate lunch at the Pantry. Except for later informing Ms. Ozobu that her directions for taking the bus were perfect, respondent had no further personal contact with Ms. Ozobu on the subject of shopping or lunch.

B. Respondent admits and alleges that on January 28, 2003, he was assigned to the Central Arraignment Courthouse to work temporarily in Division 82, to replace a commissioner who was ill. Respondent had not worked at the arraignment court since 1980 when he was assigned there for two years as a Municipal Court Commissioner. Respondent was greeted in the hallway by Ms. Bettina Rodriguez, who introduced herself as the Division Chief of the clerk's office, in charge of the arraignment courts.

Ms. Rodriguez said she remembered respondent from over 23 years ago when respondent was a Commissioner, and she was a new clerk. She is now married and has a different last name.

Ms. Rodriguez apologized for the way she was dressed, explaining that she had just returned from a lunchtime workout and was wearing exercise clothes. Respondent said, "You don't need to apologize to me for the way you are dressed, you look okay the

way you are; this is your courthouse. I'm just a guest here." Respondent remarked that it was nice to see her again after 23 years, and was happy she had advanced to being a Division Chief. Ms. Rodriguez walked respondent to his chambers and asked if there was anything she could do to assist respondent. Respondent thanked her for her courtesy. Respondent denies walking behind Ms. Rodriguez and looking at any part of her anatomy, including her buttocks, or making any comment about any part of Ms. Rodriguez's body.

Respondent specifically denies inappropriately touching Ms. Rodriguez.

When respondent had finished with his court calendar cases around 4:30 p.m., Ms. Rodriguez came back into his chambers, this time dressed in her professional clothing. Ms. Rodriguez thanked respondent for the excellent job he did in filling in at the last minute. Ms. Rodriguez again apologized for having greeted him in her workout clothing. Respondent stated that she shouldn't worry about it. Respondent stated, "you looked all right then, and you look even better now."

Respondent has never had any contact with Ms. Rodriguez since the date of January 28, 2003.

C. Respondent admits and alleges that the case of *People v. Frances Sao*, case number 2CR10835, concerned a man charged with five counts of annoying and molesting 17-year-old and 19-year-old girls, lewdly touching the girls' intimate parts, lewdly exposing his private parts, and lewd conduct.

Respondent alleges that he conducted over an hour of extensive voir dire questioning of the jury panel. During the subsequent voir dire by a deputy city attorney, it was asked of the women jurors, "Has any man made a pass at you that made you angry?" There was no response from the jury. The deputy city attorney then asked the male jurors, "Has there been a woman who made a pass at you and [sic] react in anger?"

Respondent humorously injected, "Did some woman make a pass at you and get you angry? I've been waiting for that to happen to myself."

This remark was made in jest. No harm was intended by respondent's remark. No harm resulted from it. The jury laughed. Respondent's humorous comment broke the tension created by the lengthy voir dire on a sexual subject.

D. Respondent admits and alleges that on March 3, 2003, he was assigned a three-day jury trial in *People v. del Corral*, case number 3CR00003, involving a 45-year-old man cited for two counts of operating a taxicab without a Los Angeles City vehicle permit, and driving a vehicle for hire without a driver's permit.

In chambers, where it has been respondent's practice to invite counsel before a jury trial to see if the case could be settled, respondent indicated he would accept a plea to one count, dismiss the remaining count, impose $150 fine, and give the defendant time to pay it. The city attorney was agreeable to this disposition. Deputy Public Defender Glendy Ruiz insisted that her client wanted to go to jury trial. Respondent asked Ms. Ruiz to talk to her client, tell him the indicated sentence, and see if he was interested in changing his plea.

Deputy Public Defender Ruiz returned and said that the client still wanted to go to trial. Respondent humorously suggested that it appeared the only reason the defendant wanted to go to trial was so that he could sit next to Ms. Ruiz for the next three days.

Respondent alleges that the remark was made in jest and humor only, and no sexual indication was implied.

The case proceeded to jury trial for the next three days. After three hours of deliberation, the jury returned guilty verdicts against the defendant on each count. The defendant was sentenced to exactly the same sentence that was indicated before the trial.

E. Respondent admits and alleges that, on occasion, respondent has tried to inject humor to lighten the mood and ease the sometimes stressful situations that arise

in respondent's courtroom. Respondent's attempts at humor are not calculated to hurt, humiliate or embarrass any person.

Respondent admits that on one occasion, a defendant who was in custody, having been previously convicted of prostitution, returned to the courtroom to show proof of having been tested for AIDS. After the defendant had been returned to the lockup, respondent was looking through the file and learned that the defendant had been treated for some kind of pelvic disorder. Respondent humorously commented to the court staff, "Caveat emptor." A few of the court personnel laughed, and nothing further was said to anyone.

Respondent admits that on another occasion, after a prostitute with horrible looking teeth had left the courtroom, he quietly remarked to the court staff in a humorous manner that she would look much better if she could get her teeth fixed.

F. Respondent admits and alleges that in March 2003, he presided over the jury trial of *People v. Armando Alvarez*, case number 3CR04253. The case involved a man accused of soliciting an undercover police officer to engage in prostitution.

Respondent alleges that one of the members of the jury panel was a Mrs. Robin Feuer, the 29-year-old daughter of a former deputy city attorney friend, who respondent has known since 1971. After the deputy city attorney exercised four peremptory challenges and the deputy public defender exercise three peremptory challenges, while at sidebar and out of the presence of the jury, respondent thanked both attorneys for leaving Mrs. Feuer on the case because respondent thought she would be a fair juror and she was also nice to look at.

Respondent's remark was not intended to be sexist or chauvinistic, but was gratuitous, and only said privately to the city attorney and the public defender at sidebar.

Juror Feuer served as the foreperson of the jury.

G. Respondent admits and alleges that on April 10, 2003, after concluding one of Deputy Alternate Public Defender Jean Costanza's cases, respondent asked Ms. Costanza to approach the bench. Respondent complimented Ms. Costanza on the good job she did for her clients. Respondent told her he was impressed with her work.

Ms. Costanza replied that she had gone to law school late in life, after her children had grown up. Ms. Costanza said she had a previous career in teaching. She told respondent about her husband and grown children.

Respondent told her about his daughter, who had recently graduated from Harvard Law School and was married and living in Rome, Italy, where she was a legal research assistant for the Italian Constitutional Supreme Court.

After several minutes of friendly conversation, respondent stated to Ms. Costanza that he needed to proceed with the rest of his morning calendar. He told Ms. Costanza that he enjoyed talking to her and asked that if she would like to continue their conversation at some other time, respondent would be happy to have lunch with her. Ms. Costanza stated she would enjoy that very much but she was going to be in trial in the near future. Respondent did not pursue this matter further, and does not recall further contacts with Ms. Costanza since April 10, 2003.

H. Respondent admits and alleges that during the last nine months, while assigned to the South Gate Courthouse, respondent continued, on a daily basis, to speak in a friendly and informal manner with court personnel, including court administrators, courtroom clerks, office clerks, court interpreters, bailiffs, deputy sheriffs, security personnel, police officers and attorneys.

Respondent has said a friendly "hello" to people he encountered in the court hallways and parking lot, whether or not respondent knew them.

When respondent normally enters the courthouse, it is with his own key to his private entrance to his chambers, without going through the security or a weapons screening.

On Thursday, October 21, 2003, respondent returned from lunch and used the public entrance, where there were several persons conducting weapons screening. There has been a large turnover of personnel conducting weapons screening. Respondent does not recall any contact or conversation he had with security personnel on that day.

Respondent does not know if he had ever spoken to any of the security personnel, or had any contact with them at all, before or after October 21, 2003.

While respondent has no specific recollection, whatever exchange respondent may have had on October 21, 2003, would have been in a friendly, humorous manner, with smiles and laughter. Any remarks respondent may have stated about searching him were made humorously. There was absolutely no intent to make inappropriate or sexually suggestive comments. Respondent did not intend, by any humorous remark he may have made, to embarrass or cause anyone to feel uncomfortable.

Respondent specifically denies that his alleged conduct intentionally violated the Code of Judicial Ethics, canons 1, 2A, 3B(4) and 3B(5), was willful misconduct in office, was conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or was improper conduct within the meaning of the California Constitution, Article VI, section 18(d).

COUNT THREE

Respondent admits and alleges that every morning at 9:00 a.m. in Division 45, at the Los Angeles Criminal Courts Building, when respondent takes the bench, his courtroom was crowded with between 15 and 25 private attorneys, city attorneys, public defenders, alternate public defenders and bar panel attorneys. The attorneys mill around

in front of the bench while the court is in session, talking and negotiating settlements, and talking to witnesses.

Respondent finds it necessary to conduct court business in this judicially chaotic atmosphere, because many of the attorneys do not have adequate facilities or the time or opportunity to discuss cases anywhere else, but in respondent's courtroom, while court is in session.

When the case of *People v. Castillo*, case number 2CR02465, was called on October 28, 2002, respondent had never before seen the deputy city attorney assigned to the case, Ms. Chadd Kim. There was no business card in the file by which respondent could identify her as either a prosecutor or defense attorney.

Ms. Kim spoke in a very soft voice. Respondent had great difficulty hearing her, amid the customary noise and congestion of the court.

When respondent learned Ms. Kim was a deputy city attorney and asked her something about the case, she referred to the complaint, which respondent could not find in the court file. When Ms. Kim offered to approach the bench to locate the complaint, respondent, in order to save time, in an underhand manner, tossed the file towards her. The file came apart and it landed on the floor in front of her. Respondent did not intend to be discourteous or abrupt or impatient with Ms. Kim. Respondent was frustrated in not being able to locate the complaint in the court file.

Respondent specifically denies that he continued to be abrupt and impatient with Ms. Kim during the remainder of this appearance on October 28, 2002.

In *People v. Charles Bolden*, case number 2CR13235, on February 5, 2003, Ms. Kim again appeared before respondent. Ms. Kim appeared on behalf of another attorney from the City Attorney's Office. Ms. Kim indicated there would be a disposition of the *Bolden* matter, with the forfeiture of a large amount of seized cigarettes.

Respondent humorously asked Ms. Kim if she was going to smoke them herself. Respondent did not seriously suggest that she even smoked cigarettes, and did not intend to offend her by what was meant to be a humorous remark.

Respondent alleges that the next time he saw Ms. Kim was on February 20, 2003, when he called the matter of *People v. Bautista*, case number 2CR02345. Respondent does not recall what the specific charge was. Ms. Kim indicated she would be filing a peremptory challenge. Respondent asked Ms. Kim whether respondent was prejudiced against the defendant, or the prosecution, or against the prosecuting attorney. When Ms. Kim advised respondent that he had handled similar charges involving Revenue and Tax Code violations (the sale of cigarettes without a tax stamp), respondent immediately and without further inquiry transferred the case to another court for reassignment to another judge.

In respondent's many years on the bench, he has received very few 170.6 peremptory challenges. While initially frustrated by the attitude of Ms. Kim in responding to respondent's inquiry, as soon as Ms. Kim explained the basis for the challenge, respondent realized she had every right to go to a different judge. Respondent immediately withdrew from the case and transferred the matter to another courtroom.

Shortly after the *Bautista* matter, *supra*, was transferred, when another case was called, respondent jokingly asked a different deputy city attorney if she also wanted to file another affidavit of prejudice against respondent. The court staff laughed. Respondent humorously commented that he tries to be selective when he throws things, referring to the October 28, 2002 incident with Ms. Kim, where he tossed the court file towards her and it landed on the floor.

Respondent fully recognizes and respects the importance of attorneys being able to file affidavits of prejudice against any judge, without fear of reprisal. Respondent never refused to accept the filing of such an affidavit, and has never conducted a hearing

to determine the appropriateness of such action. Respondent alleges that his conduct was not intended to be disrespectful to any attorney who appeared before him.

Respondent specifically denies that his alleged conduct was impatient, undignified, or discourteous, and that his reaction to the filing of the peremptory challenge was improper.

Respondent specifically denies that his alleged conduct intentionally violated the Code of Judicial Ethics, canons 1, 2A, and 3B(4), was willful misconduct in office, was conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or was improper conduct within the meaning of the California Constitution, Article VI, section 18(d).

COUNT FOUR

Respondent admits and alleges that Deputy City Attorney Matthew Schonbrun was one of respondent's calendar deputies for the entire time respondent was in Division 45. Deputy City Attorney Schonbrun prosecuted three jury trials in his court. Mr. Schonbrun attended the five luncheons with other city attorneys and defense counsel on December 13, December 30, February 6, March 12, and April 9, between 2002 and 2003.

Respondent alleges that Mr. Schonbrun frequently came into his chambers, where respondent's door was never closed. Respondent and Mr. Schonbrun talked about his trials, current events, baseball, his social life. Mr. Schonbrun complained that he was having trouble meeting "nice Jewish girls."

Over the next several months, respondent subsequently gave Mr. Schonbrun the names and phone numbers of three different women for him to contact.

Mr. Schonbrun subsequently complained that, after coffee dates, he was not interested in the women. Respondent showed him the business card of another woman with an I.D. photo. Mr. Schonbrun complained that he did not like blondes.

Respondent did not provide additional names or phone numbers of other women.

Respondent did not think that it was improper or that it would be misconduct for him to give Mr. Schonbrun the names of women for him to contact, or that respondent was required to disqualify himself in cases in which Mr. Schonbrun appeared as a calendar deputy. Respondent never personally contacted any of the women. He did not arrange any meeting between Mr. Schonbrun and any of the women. Respondent did not know where or when the meetings took place, and did not attend such meetings. Respondent did not follow up on any of these meetings or determine if they actually took place. All respondent became aware of is that Mr. Schonbrun subsequently complained that he was not interested in any of these women, and asked respondent for further names. Respondent did not give Mr. Schonbrun any further names.

Respondent knew very little about Mr. Schonbrun's personal life or if he discussed his social life with his colleagues. Respondent feels it would be highly improper and extremely embarrassing to Mr. Schonbrun for respondent to publicly announce in open court that respondent had given him the names and phone numbers of women to meet.

Respondent's personal conversations with Mr. Schonbrun were not secret. Respondent and Mr. Schonbrun spoke in chambers, in open court, or at the clerk's desk. Respondent spoke to Mr. Schonbrun during the lunches they shared with other members of the court staff. All of the court staff talked about baseball, movies and vacations. Pending cases were never discussed. These occasional contacts with Mr. Schonbrun did not cause respondent to favor him or the City Attorney's Office. Respondent treated Mr. Schonbrun in the same impartial and professional way as he treated all other attorneys.

Respondent's occasional contact with Mr. Schonbrun did not compromise respondent's integrity, impartiality, or fairness. These occasional contacts did not impair respondent's ability to treat all attorneys equally. Respondent never developed such a

close personal relationship with Mr. Schonbrun which would create the appearance of impropriety.

In the three jury trials that Mr. Schonbrun prosecuted in respondent's courtroom, there were guilty verdicts in two cases and a not guilty verdict in one. Mr. Schonbrun prosecuted two court trials where both sides waived a jury trial. In a spousal battery case, respondent found the defendant not guilty. In another case involving sidewalk sales of cigarettes, respondent found the defendant guilty.

During respondent's 30 years on the bench, respondent has always been very careful to disclose matters where he thought there might be a possibility of the appearance of impropriety. Respondent publicly disclosed in open court if an attorney had made a campaign contribution to his 1984 and 1998 election campaigns.

Respondent publicly disclosed where he knew an attorney appearing before him was a member of a bar association which had endorsed respondent or made a contribution to campaign. Respondent disclosed if any attorney, party or witness was a personal friend or social acquaintance. Respondent regularly disclosed to attorneys if respondent had other trials with opposing attorneys, and offers to disqualify himself if the party or attorney would feel more comfortable appearing before another judge.

Respondent believes his casual contacts with Mr. Schonbrun were benign and the failure to publicly disclose or disqualify himself from handling his numerous cases did not constitute willful misconduct.

Respondent specifically denies that his alleged conduct intentionally violated the Code of Judicial Ethics, canons 1, 2A, and 3E, was willful misconduct in office, was conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or was improper conduct within the meaning of the California Constitution, Article VI, section 18(d).

COUNT FIVE

Respondent admits and alleges that in December, 2002, he had a conversation with Assistant Supervising Judge C. H. Rehm, Jr., when he advised respondent that it was not a good idea to meet in chambers with young female attorneys without both sides being present, and that respondent should not invite young female attorneys out to lunch because they might misinterpret respondent's innocent and friendly behavior.

Respondent stated he appreciated Judge Rehm's advice and that he had carefully followed his [Judge Rehm's] suggestions.

At no time did respondent ever attempt to mislead the Commission or display a lack of candor. Respondent's statement in his October 3, 2003 response, referred to the fact that respondent received no communication, counseling, criticism, or reprimand for any conduct or complaint since the December 24, 2002 meeting with Assistant Supervising Judge Rehm.

Respondent understood that the basis of the Commission's letter of August 19, 2003, referred to events after the December 2002 Rehm meeting. Respondent understood the Commission's letter to refer to subsequent events which allegedly took place from the January 28, 2003 alleged incident with Ms. Rodriguez; the April 10, 2003 alleged conversation with Ms. Costanza; the March 3, 2003 remarks to Ms. Ruiz in connection with the *del Corral* case; a March 2003 remark to the jury in the *Sao* trial; the March, 2003 comment to the attorneys during voir dire in the *Alvarez* trial; certain humorous remarks made in court during the months of February and March, 2003; and contact in February, 2003 with Ms. Kim.

Respondent was completely honest and accurate in stating that no supervising judge, as well as any assistant supervising judge, court administrators, presiding or assistant presiding judge had ever spoken to him, counseled, reprimanded, criticized, warned, admonished, or had any contact with respondent in regard to any of respondent's

alleged conduct or behavior as to events during the year 2003, when [the great majority of] these specific incidents were alleged to have occurred.

In respondent's written response, respondent did not refer to the December 24, 2002 meeting with Judge Rehm because respondent did not think it referred to any of the specific complaints now being alleged to have occurred in the first four months of 2003. In the December 24, 2002 meeting, Judge Rehm failed to specifically refer to the December conversation with Ms. Ozobu regarding shopping at Macy's.

In the meeting with Judge Dukes and his staff on April 24, 2003, respondent spoke in great detail about my meeting with Judge Rehm. Respondent assured Judge Dukes that he had carefully complied with Judge Rehm's advice and that he never again met in chambers with young female attorneys, without the other side also being present, and did not invite young female attorneys out to lunch.

Judge Dukes did not specifically refer to the incident involving Ms. Rodriguez, other than to state that an unidentified court employee, at an unidentified date and place, had complained that respondent made a comment about her body.

Respondent wants to clearly emphasize that he had no intention to mislead or misrepresent any fact or statement to the Commission. Respondent has tried to be completely honest and candid in all of his detailed responses to the Commission. Respondent's omission to refer to the December 24, 2002 conversation with Judge Rehm was not a lack of candor. Respondent would not intentionally fail to disclose to the Commission any fact about a meeting which respondent had fully discussed before Judge Dukes and his colleagues, at which time court counsel, Mrs. Pena, was carefully recording everything that respondent was saying.

Respondent did not think to refer to the December 24, 2002 meeting because during the period from January through April, 2003, when several complaints were apparently occurring, no supervisor spoke to respondent, counseled respondent, or

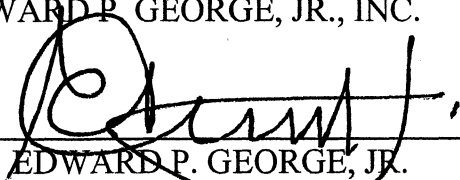
advised respondent that people were observing, documenting, and making complaints about respondent's conduct, comments and behavior.

Even respondent's friend, Judge Rehm, who respondent had the pleasure of introducing at his Municipal Court enrobing ceremony and with whom he had gone to lunch, did not warn respondent during the December 24, 2002 meeting that any of respondent's behavior was creating a hostile work environment, or was so serious as to result in a complaint to the Commission on Judicial Performance for inappropriate social advances toward female employees. No person, including respondent's supervisor, or Judge Rehm, ever spoke to respondent after December 24, 2002, about any subsequent complaints concerning respondent's behavior or courtroom conduct.

Respondent specifically denies that his alleged conduct intentionally violated the Code of Judicial Ethics, canons 1 and 2A, was willful misconduct in office, was conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or was improper conduct within the meaning of the California Constitution, Article VI, section 18(d).

Respectfully submitted,

EDWARD P. GEORGE, JR.
TIMOTHY L. O'REILLY
EDWARD P. GEORGE, JR., INC.



By________________________
EDWARD P. GEORGE, JR.
Attorneys for Respondent,
Judge John D. Harris

VERIFICATION

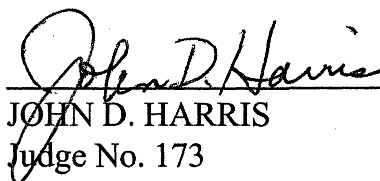
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I, JOHN D. HARRIS, declare that:

I am the respondent judge in the above-entitled proceeding. I have read the foregoing Answer of Judge John D. Harris, and all facts alleged in the above document, not otherwise supported by citations to the record, exhibits, or other documents, are true of my own personal knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 2, 2004, at Long Beach, California.



JOHN D. HARRIS
Judge No. 173

PROOF OF SERVICE

State of California, County of Los Angeles:

I, Kay L. Marcum, declare that: I am and was at all times herein mentioned, a citizen of the United States; employed in the county aforesaid; over the age of 18 years; and not a party to the within action or proceeding. My business address is 5000 East Spring Street, Suite 430, Long Beach, California 90815.

The original **Answer of Judge John D. Harris to the Notice of Formal Proceedings** was served for filing with the Commission on Judicial Performance on March 3, 2004, by placing the original Answer in a sealed Federal Express envelope addressed to

Jay Linderman
Legal Advisor to Commissioners
Commission on Judicial Performance
455 Golden Gate Avenue, Suite 14400
San Francisco, CA 94102

Said envelope was deposited with Federal Express in Long Beach, California, on said date for delivery to the Commission on March 4, 2004.

A copy of the Answer of Judge John D. Harris to the Notice of Formal Proceedings was served on Andrew Blum, Trial Counsel, Commission on Judicial Performance, by placing a true copy thereof, in a sealed Federal Express envelope, and causing said envelope to be deposited with Federal Express in Long Beach, California, on March 3, 2004, addressed as follows:

Andrew Blum, Esq.
Office of Trial Counsel
Commission on Judicial Performance
455 Golden Gate Avenue, Suite 14400
San Francisco, CA 94102

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on March 3, 2004, at Long Beach, California.

KAY L. MARCUM