

FILED

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Commission on
Judicial Performance

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Attorneys for Respondent,
Judge Kelly MacEachern

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING
JUDGE KELLY MacEACHERN,

NO. 184

ANSWER OF
JUDGE KELLY MacEACHERN

COMES NOW, Respondent, Judge Kelly MacEachern, and answering the Notice of Formal Proceedings in the above-entitled inquiry, admits, denies and alleges as follows:

COUNT ONE

Admits attending the Continuing Judicial Studies Program in San Diego, held Monday through Friday, July 31 through August 4, 2006.

Alleges that respondent had her clerk, Felicia Bicknell, apply for her on-line.

Admits receiving a confirmatory e-mail sent on June 16, 2006, that the Continuing Judicial Studies Program (CJSP) application had been received by the California Judicial Education and Research (CJER).

Admits receiving on June 21, 2006, an e-mail regarding the status of respondent's application for the Summer 2006 Continuing Judicial Studies Program.

Admits she was denied entry into the Excellence in Judging class because it is designed for experienced judicial officers with approximately eight years or more on the bench.

Admits she was accepted into the Statement of Decision course for Wednesday, August 2; 1:30 - 4:45 p.m.

Admits that the overnights that allowed for the course was 1 night.

Admits that July 11, 2006, she attempted to enroll in a CJSP evidence course that would be held Monday through Friday of the seminar (July 31 through August 4, 2006).

Admits she was told by Susan Gordon, AOC's Education Coordinator, that the evidence course was full, and she would be put on a waiting list.

Admits that on July 28, 2006, the Friday before the Monday on which the CJSP was to begin, she again contacted Susan Gordon and asked whether there was an opening in the evidence course. She was told there was not.

Admits that when she appeared at the CJSP registration table the next morning, July 31, Ms. Gordon again told her the evidence course was full.

Admits that she stayed at The Dana on Mission Bay Hotel in San Diego through Thursday night, August 3, 2006. Respondent denies she stayed at the Hyatt Regency Islandia Hotel at any time during the five days from July 30 through August 3, 2007.

Admits that based on her enrollment in the Statements of Decision course on Wednesday, CJER was billed directly by The Dana on Mission Bay for her hotel stay on Tuesday night, August 1, 2006.

Admits that she paid The Dana on Mission Bay for Sunday, Monday, Wednesday and Thursday nights with her personal credit card.

Admits that she submitted a travel reimbursement claim to Rick Valadez, the Orange County Superior Court's travel coordinator, requesting that the court reimburse her hotel expenses for three nights (Sunday, Monday, and Wednesday).

Admits that on August 15, 2006, she received an e-mail from Rick Valadez, stating that he spoke with Susan Gordon; that Ms. Gordon informed him that her class schedule was for a computer class in the AM and a Statements of Decision in the PM,

Wednesday, August 2; and since this was the only class she attended, CJER only covered one night (August 1, Tuesday).

Admits that she replied the following day, August 16, 2006, to Mr. Valadez, that "When I got to the CJSP . . . there was a mix-up with my registration. So I just sat in on the judicial excellence class on Monday"; she was allowed "to attend a Tuesday a.m. computer class, and the Wednesday afternoon S.O.D. (Statements of Decision) class, and I sat in on the Thursday a.m. D.V. (domestic violence) class. I attended no classes on Friday."

Admits and alleges that she had registered for a half-day Introduction to Microsoft Word and Windows course held on Tuesday morning, only after she had arrived at the CJSP, and therefore CJER was not billed directly by The Dana on Mission Bay for her hotel stay on Monday night. The CJSP records indicated that she had attended the Tuesday computer class, and CJER agreed to reimburse respondent for the hotel on Monday night.

Admits and alleges that Mr. Valadez submitted an amended Superior Court Judicial Officer Travel/Training Request on respondent's behalf to Orange County Superior Court Presiding Judge Nancy Stock, requesting reimbursement to respondent of \$220 for two nights at the Hyatt: Sunday, July 31, 2006, and Wednesday, August 3, 2006.

Respondent specifically denies her e-mail of August 16, 2006, where she stated, "When I got to the CJSP it turned out there was a mix up with my registration," was false and misleading.

Respondent specifically denies that her e-mail of August 16, 2006, to Rick Valadez, where she stated that, "I just sat in on the judicial excellence class on Monday," was false and misleading.

Respondent specifically denies that her e-mail of August 16, 2006, where she stated that, "I sat in on the Thursday a.m. D.V. [domestic violence] class," was false and misleading.

Respondent admits that on September 8, 2006, Presiding Judge Nancy Stock called her into the judge's chambers in the presence of Judge Thierry Colaw, and confronted her with the results of the court's investigation into respondent's expense reimbursement claim.

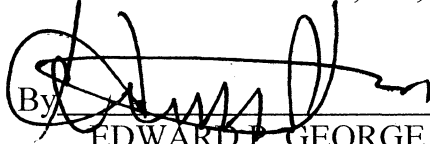
Respondent specifically denies that during the course of her interview with Judge Stock that she admitted that [she] had not sat in on either the Excellence in Judging or the Domestic Violence courses and that [my] e-mail to Valadez of August 16, 2006, was misleading.

Respondent admits that on September 8, 2006, she withdrew her claim for \$220 in reimbursement.

Respondent specifically denies that her alleged false and misleading assertions in her August 16, 2006 e-mail to support her request to be reimbursed \$220 for hotel expenses, were in violation of the Code of Judicial Ethics, canons 1, 2, 2A and 2B; and further specifically denies that such alleged conduct was willful misconduct in office, persistent failure or inability to perform her duties, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or improper action within the meaning of article VI, section 18(d), of the California Constitution.

Respectfully submitted,

EDWARD P. GEORGE, JR., INC.

By 
EDWARD P. GEORGE, JR.
Attorneys for Respondent,
Judge Kelly MacEachern

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I, KELLY MacEACHERN, declare that:

I am the respondent judge in the above-entitled proceeding. I have read the foregoing Answer of Judge Kelly MacEachern, 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 September 10, 2007, at Newport Beach, California.


KELLY MacEACHERN
Judge No. 184

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 Kelly MacEachern to the Notice of Formal Proceedings** was served for filing with the Commission on Judicial Performance on September 11, 2007, by placing the original Answer in a sealed Federal Express envelope addressed to

Janice D. Brickley
Acting 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 September 12, 2007.

A copy of the Answer of Judge Kelly MacEachern to the Notice of Formal Proceedings was served on Jack Coyle, 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 September 11, 2007, addressed as follows:

Jack Coyle, 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 September 11, 2007, at Long Beach, California.



KAY L. MARCUM