STATE OF CALIFORNIA

BEFORE THE COMMISSION OF JUDICIAL PERFORMANCE

INQUIRY CONCERNING A JUDGE NO. 49	ANSWER

HARRY R. ROBERTS answers the Notice of Formal Proceedings as follows:

COUNT ONE

Denies each of said allegations and alleges: that at no time during the proceedings on June 9, 1978, in Harmon v. Mono General Hospital, Mono No. 6166, did the court accuse Ms. Walker's clients of "perjury"; that up until that point all declarations and papers were signed by Ms. Walker herself; that in its summation of the evidence, this court stated that the contradictions, inconsistencies, anomalies, etc. in the moving papers were such that the court found that the papers were entirely lacking in credibility (see findings to that effect); that at that point Ms. Walker appeared to lose control of herself, jumped up and down, hands on hips, feet spread apart, and repeatedly interrupted the court; that she was most rude and discourteous to the court although she had been given about an hour and a half to present her petition to file a late claim; that when she continued to interrupt the court with rudeness, the court admonished her to desist and to stop her interruptions and to desist her contemptuous remarks and conduct; that up until this admonition the court quietly listened to Ms. Walker's presentations and the court

conducted itself with propriety and dignity.

COUNT TWO

Denies each of said allegations and alleges: that shortly after this granting of the suppression motion in People v. Fish Mono No. 6416, Deputy District Attorney David L. Cross accosted the court in a somewhat angry tone, by yelling at the court halfway up the stairs in the courthouse to the effect that he had just filed a Notice of Intent to seek a Writ of Mandate; that this court turned around and replied that any such review would mean this trial, then set in about two weeks, would have to be continued and there were no jury trial dates left before the snow flew; Mr. Cross replied that was just too bad but he disagreed with the ruling of the court; that outside the courtroom I always call Mr. Cross by his first name and I may have referred to him as "old buddy," a term I sometimes use intending no offense. I am reasonably confident I did not refer to him as "buddy boy" which is a term I do not use and one which would not be appropriate, especially to a neighbor; that in the courtoom Mr. Cross is always addressed formally as "Mr. Cross"; I told Mr. Cross that because of the delay the court might well, as the named respondent, oppose the writ in the court's own right.

COUNT THREE

Denies each of said allegations and alleges: that shortly after it was learned there would be a writ review of the suppression order in People v. Fish, Mono No. 6414, I asked Mr. Ed Forstenzer to come into chambers when I next saw him in Bridgeport; I told him that the court was as much concerned about the delay to its trial calendar resulting in such a review as it was interested in the constitutuional question of the particularity of the premises description

in the search warrant; I told him the court was tentatively considering itself opposing the writ, a right or prerogative it enjoyed as the named respondent in the writ proceedings (see Elysium vs. Superior Court, 266 Cal App 2d 763; Calif. Civil Writs, C.E.B., p 195); I told him that the court could not be represented by the Attorney General and that court in these writ reviews had to rely on the real party in interest and that it did not have the time to appear in the writ proceedings and oppose this writ; I inquired whether he intended to uphold the suppression order and particularly whether he intended to make the 5 day preliminary opposition as provided in Rules on Appeal 56b, and Mr. Forstenzer assured me he intended to so oppose the writ; I told him the 5 day rule was short and I did not want to see that opportunity to be missed; we generally discussed the authorities upon which the opposition would be based; I told him that the court had not made a final decision whether to file its own opposition as the named respondent; sometime later I again inquired how he was coming along on the opposition and he assured me he was taking care of the matter which satisfied my interest and I thereupon abandoned any idea of the court itself exercising its prerogative of opposing the writ either "separately or jointly" with the real party in interest as provided in Rule 56b.

COUNT FOUR

Denies each of said allegations and alleges that the minutes and reporter's transcript in In re Jeremy C, Mono Juv. No. 337, will not support said charges, but on the contrary the same will show: (1) that the testimony of the mother and her witnesses was entirely lacking in credibility; (2) that the mother in said proceedings yelled at the court to the effect "you are a mean man," for which outburst she

was adjudged guilty of contempt of court and her punishment was remitted upon her apology to the court; (3) that the mother falsely accused her own baby sitter as responsible for the bruises on the child; (4) that when the mother was contacted by the Probation Officer for interview and a social report, she refused to cooperate and stated she didn't know where she would be at the time of the requested appointment; (5) when the mother was asked to return the child's clothes it took her a week to do so and then the clothes were absolutely filthy; (6) that counsel for the mother (Ms. Medina) improperly, by general objection without specification of grounds, attempted to prevent the court reading and considering the probation report, but the court extended to her unrestricted cross examination of the Probation Officer; (7) that on the last day of the proceedings, counsel (Ms. Medina) for the mother moved to withdraw as attorney of record on the claim and pretext that the mother had accused her of "receiving payoffs to lose the case" (see minutes of March 12, 1979); (8) that the minutes and transcript demonstrate firm and proper rulings by the court on all of said matters.

COUNT FIVE

Denies each of said allegations and alleges that Ms. Medina had withdrawn as attorney of record for almost a month before a Notice of Appeal was filed the mother in pro per, in In re Jeremy C, Mono Juv. No. 337. The court at no time reported Ms. Medina to the State Bar and never stated it intended to do so.

COUNT SIX

Denies each of said allegations and alleges that when Judge Summers and I have assisted one another in the two counties, it is not

uncommon to give the other some estimate of the time required to hear a matter; that neither of us has ever told the other how to rule or decide a given matter except on the facts and in accordance with the law; I do recall that on one occasion in substance I told Judge Summers in chambers that it was a shame to have him drive all the way to Bridgeport to hear this motion (Ms. Medina's) which should not take much time because it was lacking in merit. He denied her motion.

COUNT SEVEN

Denies each of said allegations and alleges: that Mr. Ed Forstenzer has personally appeared as public defender for all criminal defendants at the insistance of the Superior Court; Ms. Linda Anisman has never made any such appearances in the Superior Court and has never tried a criminal or civil case in that court; she has never been recognized as a "Deputy Public Defender" by said court; as Judge of the Superior Court I believe she does not have the experience to represent indigent defendants on serious criminal charges, an opinion based on my own observations to some extent and also upon the complaints I have received from members of the bar concerning her inadquacy in criminal cases. In People v. LaChuga, Mono No. 6683, when Ms. Anisman showed up without prior approval of the court for a trial of this defendant on a charge of assault with a deadly weapon, the court sent for Mr. Forstenzer who was in his office, and courteously explained to Ms. Anisman in the privacy of chambers why the court had done so. I remain presently of the same opinion and believe the court has a non-delegable duty to see that indigents are effectively represented by the Public Defender.

COUNT EIGHT

Deny each of said allegations except to admit that a fine of $500.00 was levied on April 21, 1981 for said misdemeanor, without

any terms of probation, and allege that a timely appeal was immediately filed to the Appellate Department of the Superior Court for Marin County, which appeal is now pending and has not been determined. Said appeal based upon the grounds that the lower court failed to instruct on the required specific intent to interfere under the recent case of People v. Patino, 95 Cal App 3rd 111, and the insufficiency of the evidence under People v. Wetzel, 11 Cal 3rd 104.

COUNT NINE

Deny each of said allegations and allege that at no time did I assert or attempt to assert any authority over the two officers giving field sobriety tests to my son, at no time did I advise or instruct my son not to cooperate with the tests and at no time did I verbally refer to my office as a judge, although I did at my son't request give my son one of my personal cards believing he wanted it for identification and believing he had left his wallet at home, an erroneous belief on my part as it turned out. Throughout the confrontation, I insisted on my right to observe the tests while I stood on the sidewalk and repeatedly refused the illegal order to get back in my son's car where I had been riding as a passenger.

Respectfully submitted,

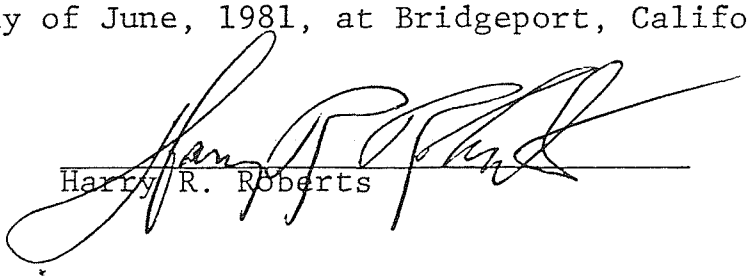
HARRY R. ROBERTS

VERIFICATION

I, Harry R. Roberts, am the respondent in the above entitled matter. I have read the foregoing answer and know the contents thereof. The same is true of my own knowledge except as to those matters which are therein stated on information and belief, and as to those matters, I believe it to be true.

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

EXECUTED this 25th day of June, 1981, at Bridgeport, California.



Harry R. Roberts

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING A JUDGE NO. 49	ANSWER

HARRY R. ROBERTS answers the First Amended Notice of Normal Proceedings as follows:

I

Respondent hereby incorporates the contents of the Answer heretofore submitted on or about June 25, 1981.

II

Respondent specifically denies the additional allegations included within the re-numbered Counts One, Four, Five and Eleven.

III

As an affirmative defense, Respondent asserts that the First Amended Notice of Formal Proceedings failed to comply with California Rules of Court 904(b) and 911 Sections thereby denying Respondent due process of law.

Respectfully submitted,

Justin A. Roberts

Justin A. Roberts