STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING JUDGE DEANN M. SALCIDO

INQUIRY NO. 189

RESPONSE OF JUDGE DEANN M. SALCIDO TO NOTICE OF FORMAL PROCEEDINGS

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COUNT ONE

A. ALLEGATION	RESPONSE
On January 26, 2009, you had the husband of your courtroom bailiff videotape you on the bench presiding over a variety of matters for approximately one hour.	Deny that I was presiding over a variety of matters. The recording took place during the Domestic Violence Review calendar, so all of the matters were of the same variety. Admit the remaining portions of the allegation.
You did so to promote yourself for a role in a potential television entertainment program featuring a judge.	Admit.
You provided the January 26 tape to an entertainment lawyer, who showed it to a production coordinator for existing television shows featuring judges (hereinafter "the producer").	Admit.
No request was made pursuant to California Rules of Court, rule 1.150, to record any portion of any proceedings heard in your	Admit that no request was made pursuant to California Rules of Court, rule 1.150. Because the recording was not for the media as

courtroom that day, nor would an order granting such a request have been properly issued as the filming was for your personal purposes.	defined in rule 1.150, I did not believe that the media request was required.
You did not provide advance notice of the filming to the litigants or counsel whose cases you heard during filming on January 26, 2009.	Admit.

B. ALLEGATION	RESPONSE
You were thereafter informed by the entertainment attorney that the producer would be interested in filming you conducting proceedings in the courtroom.	Admit.
On May 1, 2009, you allowed the producer to film proceedings in your courtroom for the entire day.	Admit.
The purpose of the filming was to promote yourself for a role in a potential television entertainment program featuring a judge.	Admit.

No request was made pursuant to California Rules of Court, rule 1.150, to record any portion of any proceeding heard in your courtroom that day, nor would an order granting such a request have been properly issued as the filming was for your personal purposes.	Admit that no request was made pursuant to California Rules of Court, rule 1.150. Because the recording was not for the media as defined in rule 1.150, I did not believe that the media request was required.
Some of the litigants and attorneys who cases you heard on May 1, 2009 were not provided with advance notice of the filming.	Admit, though I did not learn of this until much later. Originally, the filming was to take place during the afternoon calendar only. Therefore, I notified the public defender that was assigned to the calendar that filming was going to take place. It was not until the day before the filming that I learned the producer would be filming the entire day. Therefore, I directed my bailiff to provide notice to the attorneys and parties as they arrived during the morning calendar. At the time that the filming was taking place, I believed that all of the litigants and attorneys had been

	notified of the filming and had been given the opportunity to have the camera turned off during their matter. Only after receiving the preliminary investigation letter from the Commission did I learn that some of the litigants and attorneys might not have been advised.

C. ALLEGATION	RESPONSE
In an email message dated March 5, 2009, sent by you to the entertainment lawyer, you suggested that filming in your courtroom be scheduled for April 24.	Admit.
You told him that you "have been setting my more interesting defendants and those with substance abuse issues for Friday April 24th."	Admit.
On March 9, 2009, following his suggestion that filming occur on May 1, you sent an email message in which you told him that "I will line up my most interesting cases for the	Admit.

afternoon of [Friday] May 1st."

Your statements give the appearance that you were scheduling cases based on their possible appeal in a videotape to be used to promote yourself for a television program.	Deny. When discussing the scheduling of the filming, I explained to Mr. Binder that the most interesting cases were heard on my Friday afternoon Domestic Violence Review Calendar. Based on the desire to film those cases, we decided to film on a Friday. Anyone viewing these private e-mails should have had the entire background of my conversations with Mr. Binder and would have certainly known that I was not scheduling cases based on their possible appeal in a videotape to be used to promote myself for a television program. Further, I was not specifically setting matters to coincide the filming. None of the cases were continued from April 24th to May 1st unless the defendant made a request for such a continuance.
It also creates an appearance of	Deny. When discussing the

impropriety to represent that you would manipulate your calendar for non-judicial purposes.

scheduling of the filming, I explained to Mr. Binder that the most interesting cases were heard on my Friday afternoon Domestic Violence Review Calendar. Based on the desire to film those cases, we decided to film on a Friday. Anyone viewing these private e-mails should have had the entire background of my conversations with Mr. Binder and would have certainly known that I was not manipulating my calendar for non-judicial purposes. Further, I was not specifically setting matters to coincide the filming. None of the cases were continued from April 24th to May 1st unless the defendant made a request for such a continuance.

Your conduct in count one violated canons 1 (a judge shall uphold the integrity of the judiciary), 2 (a judge shall avoid impropriety and the appearance of impropriety), 2A (a judge shall respect and comply with

Deny.

the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary), 2B(2) (improper use of the prestige of judicial office) and 3A (a judge's duties shall take precedence over all other activities).

COUNT TWO

A. ALLEGATION	RESPONSE
On May 1, 2009, while proceedings in your courtroom were being filmed, you made numerous improper remarks and engaged in improper conduct, exemplified by the following:	Admit that I should not have made the remarks set forth in allegations A(3), A(6), and A(14). Deny that the remaining remarks were improper.
1.	
Around 10:43 a.m., you asked defendant Faustino Valdez, who was entering a change of plea to a charge involving marijuana, "You were born in 1980?"	Admit.

After he responded "yes," you remarked, "You look older than me. That's what smoking will do to you."	Admit.

2.

Around 10:53 a.m., defendant Juan Molina pled guilty to engaging in lewd conduct in public.	Admit.
You asked counsel for information about the case and were informed that the defendant had urinated in public and then turned around, exposing himself.	Admit.
After noting the number of days the defendant spent in custody, you joked, "Wow. Seventy-two days in custody giving new meaning to the term zip it."	Admit.

After ordering the defendant to stay away from a certain location, you joked, "Because I think they'll recognize you in more ways than one."	Admit.
You later joked, "again, new meaning to the term zip it."	Admit.

3.

Around 11:07 a.m., after placing Rudolf Rodriguez on probation, you made the following remark: "What that means is don't come before the court on another case … 'cause you will definitely be screwed and we don't offer Vaseline for that."	Admit. I previously expressed remorse for making the Vaseline statement to Mr. Rodriguez.
You used the term "screwed" on other instances on May 1.	Admit.

Around 10:22 a.m., after defense counsel stated that defendant John Hedley had not been given written proof of attendance at AA meetings, you stated, "Then he would be screwed."	Admit.
Around 2:48 p.m., you remarked to defendant Shell, who had not appeared in court as ordered, "you basically screwed yourself by not coming in."	Admit.
You also used the word "screwed" in the Jason Chavez matter, as set forth below as count two A(9).	Admit.

4.

Around 11:13 a.m., after being informed that Deputy Public Defender Longman wanted a chambers conference in *Sparks*, you stated, "Sidebar please," then asked, "Did I roll my eyes at the camera?" and laughed.	Admit. The statement about rolling my eyes at the camera was made off of the record and directed at court staff in a low voice to prevent the gallery from hearing my comment.

5.

Defendant Dustin Coombs appeared before you to request early termination of probation so that he could enlist in the military.	Admit.
His stepfather appeared with him.	Admit.
When you asked defendant Coombs why he had needed a reassignment for public service work, he explained that his mother had lost her home and that he had moved to North Carolina with her.	Admit.
Around 11:24 a.m., you remarked, "I'm supposed to put my national defense in your hands, but you can't come up here without your stepdad and you're [¶] … [¶] tied to the hip with your mom? And I'm supposed to put my national security in your hands."	Admit. That these comments were made, however, I do not believe that there was any lengthy pause in my comments warranting the ellipses included in the allegation.

6.

Around 2:34 p.m., while presiding over the *Dupre* family law matter in which an order modifying child visitation had been requested, you remarked to the parents, "I don't mean any disrespect to either of you, but thankfully I don't live with either one of you. So I don't know where the daughter has been."	Admit. I previously expressed remorse for using the word thankfully when making my remarks to the parents in the *Dupre* matter.

7.

Around 2:44 p.m., after defendant Stephen Stoflitt admitted a probation violation and requested reinstatement in a domestic violence program, you told him that you could sentence him to 60 days in jail instead.	Admit.
When he said that he would prefer to do the program, you warned him twice that if he returned with another excuse you would slam him "like a tidal wave."	Admit.

You asked him if he understood that he was "going double or nothing" and whether he was "a gambling man."	Admit that I made comments of this nature; however, I said "going to do double or nothing" rather than "going double or nothing."
When the defendant replied that he was not a gambling man, you said, "Well, you're gambling, you're gambling right now."	Admit.

When the defendant said that he was "trying to show that I can do what I'm supposed to," you had the audience read aloud a slogan posted in the courtroom, "Do or do not, there is no try."	Admit. My Domestic Violence Review calendar is one of the "Collaborative Court" calendars that I handled during the relevant time period. The Collaborative Court seek to include the involvement of numerous resources including counselors and other members of the community. Thought they are held in the court, the Collaborative Courts are akin to group meetings where the participants can learn from the experience of others. The goal of the Collaborative Courts is to effect change in the lives of the participants and to decrease the rate of recidivism. Due to the nature of the calendar, I would routinely seek involvement from those in attendance in order to take advantage of what I call teachable moments.

Before reinstating the defendant into the program, you said, "I will put you in jail and we're doing double or nothing now. [¶] … [¶] You're prepared to double down? [¶] … [¶] Sixty days now or 120 minimum later. You want to take 120 later?"	Admit.

8.

Around 3:21 p.m., defendant Daniel Lopez appeared before you in custody and admitted a probation violation.	Admit.
You gave him the option of an immediate 60-day jail sentence or reenrolling in a program, but facing a longer jail sentence if he failed to complete that program.	Admit.

After the defendant said that he wanted to reenroll in the program and his counsel requested a moment to confer with his client, you remarked to the courtroom audience, "You guys know he doesn't want to do that don't you? Yeah. Does he need to call the lifeline? Try to tell him. Let's make a deal. I think he needs to call the lifeline. Yeah. Want to poll the audience? What should he do? Take the deal, take the deal, take the deal. The audience says, of course, the audience isn't going into custody. Really easy for you to tell him to take the deal because you're going to go home tonight and sleep on your pillows."	Admit. This was another instance where I was seeking audience involvement for a teachable moment.
You and the courtroom audience repeatedly laughed at your comments.	Admit.

Counsel then informed you that defendant Lopez was not choosing the custody option because he was the only person available to take care of his 75-year-old mother, who was in poor health.	Admit.
You remarked, "Then God help her."	Admit.
You later said to the defendant, when you appeared to think he had called you "sir," "did you say sir?" [¶] … [¶] I was like, I know I shaved this morning," to laughter from the audience.	Admit. Due to the desire to effect lasting change in the lives of the participants, I have found that using humor helps the participants feel more comfortable. From my experience, the participants internalize my messages and are more likely to make lasting change when they are comfortable in the courtroom.

9.

Around 3:29 p.m., you were informed that defendant Jason Chavez, who had appeared before you earlier in the day, had tested positive for marijuana.	Admit.
You remarked to the courtroom, "He's not too clean?" to which the audience responded with a loud "woo."	Admit.
You said "THC," and the audience again said "woo."	Admit.
You then asked the audience, "Can I get a woo, woo, woo?"	Admit.
The audience responded as you requested, and you and others in the courtroom laughed.	Admit.
You remarked, "See why my sons are screwed? I can just look at someone and I can tell."	Admit.

As you recalled the matter you remarked, in reference to the defendant and quoting him, "'It's been years, Your Honor.' Wow!"	Admit that I made the "It's been years, Your Honor" comment, but I do not believe that I made the "Wow!" comment. Further, a review of the recording leaves doubt in my mind as to whether I said "Wow" or whether it was someone else in the courtroom. From what I could hear, the "Wow" statement was someone's under the breath type of expression.
You then told the defendant that it was your job to judge credibility, and remarked, "Did you take me for a fool?"	Admit.
After the defendant responded, "No, Your Honor," you asked, "Did you think I don't know what I'm doing?"	Admit.

After the defendant said he was going to try to do what is right, you said to audience, "Here's that word again, it's pretty famous," and over the defendant's attempts to explain, you had the courtroom audience repeat the slogan "Do or do not, there is no try."	Admit.
When you called the next case, you said, in apparent reference to this case, "If I had a dollar for everybody who told me they were clean I wouldn't need to work anymore."	Admit.

10.

Around 3:37 p.m., you remarked to defendant Gregory Armstrong, who had failed to appear in court the day before, "Do you want tissue now or later because you're going into custody right now."	Admit.

Before remanding him, you stated, "Did you think by coming in the next day, they wouldn't let you see me? You thought by coming in the next day, oh, I won't see Judge Salcido, they'll send me next door. How do you like me now? Things don't work that way."	Admit.

11.

Around 3:45 p.m., defendant Ana Earls appeared before you and admitted to having an alcohol and drug abuse problem. You asked her what type of alcohol and she said it was vodka.	Admit.
You then asked, "Any type of vodka?"	Admit.
After she said "Any type," you said, "Blame it on the a-a-a-a-alcohol," to laughter from the court audience.	Admit.

12.

Around 3:51 p.m., a defendant appeared who had mental health issues.	Admit.
After ascertaining that he had been hearing voices, you asked, "Okay. And we talked, right? You're going to tell me if they say 'hurt the judge, hurt the judge.'"	Admit.

13.

Around 4:03 p.m., you asked defendant Jay Anderson, "Do you smoke a little chronic every now and then?"	Admit, though these statements were made around 4:06 p.m.
The audience laughed.	Admit.

After adding as a term of his probation that he not consume alcohol and that he be subject to random testing, you said, "So that means if you come here and you test at your DV classes and they find that you had some Budweisers, not only will I put you in jail because it was Budweiser instead of Heineken, you will be in jail because it's a violation of your probation."	Admit.

14.

Around 4:05 p.m., you commented that defendant Tyrone McCoy was smiling, and then remarked to him that "they might like your smile in jail," to which the audience responded with a loud "oooo" and then laughter.	Admit. I have previously expressed remorse for making these comments to McCoy.

15.

Around 4:10 p.m., defendant Jemeelah Coleman appeared before you unrepresented; she apparently had failed to comply with a condition of probation.	Admit.
You advised her that you would allow her to serve 24 hours in custody, instead of the customary 48 hours, for the violation of probation.	Admit.
You advised her that she had a right to be counseled by an attorney before admitting the violation and being sentenced, and informed her that she would have to come back on Monday if she wanted to speak with an attorney.	Admit.
At one point you told her, "But I might not be so gracious on Monday."	Admit.

After further discussion, the defendant said that she wanted to "do the 24 hours."	Admit.
When the defendant paused after you said that this meant she would waiver her right to speak with an attorney, you asked, "You want to ask the lifeline? You need a lifeline?"	Admit.
The audience laughed at your remarks.	Admit.

16.

Around 4:27 p.m., defendant Ladonte Wilson appeared without proof of volunteer work, and blamed his mother for not following through.	Admit.
You asked if his mother was at court, and Wilson said she was at work.	Admit.

You responded, "I'm surprised, she hasn't cut the cord obviously. Cut the cord, Mom. Cut the cord, Mom."	Admit that I made comments of this nature though I did not say mom twice. Rather, my statement was "Cut the cord, Mom. Cut the cord."
After Wilson was remanded, you concluded proceedings by stating, "I suggest you don't call your mama."	Admit.

17.

Around 4:29 p.m., defendant Leo Clemens appeared and responded to your earlier request (3:57 p.m.) that he identify a "tool" that he had learned to use to control his anger.	Admit.
He had previously been unable to do so.	Admit.
You said, "Hallelujah, amen, praise the Lord, thank you very much," and the audience applauded.	Admit.
You then said to the audience, "can I get a wood, woo?", and the audience responded as asked.	Admit.

B. ALLEGATION	RESPONSE
On numerous occasions between April 2009 and April 2010, you engaged in improper conduct and made improper remarks regarding litigants, court staff, attorneys and others, as exemplified by the following:	Admit that I should not have made the remarks set forth in allegations B(2), B(3), B(9) and B(16). Deny that the remaining remarks were improper.
1.	
On April 21, 2009, around 3:09 p.m., in-custody defendant John Love appeared before you and entered a guilty plea to battery.	Admit.
During the sentencing discussion that followed, you passed the case because of Love's attitude.	Admit that the case was passed based, in part, on Love's attitude. Deny that it was passed solely based upon Love's attitude. The deputy that brought him to my department had notified me that Love had been belligerent toward her earlier that day while in transit.

When you recalled the case about 20 minutes later, you asked a woman sitting in the audience if she was with Love, and she said that she was.	Admit.
You told her that she had to leave the courtroom, saying, "You'll have to wait outside because he's agitated … he's not behaving well."	Admit that I made comments of this nature. My actual comment was "You need to wait you outside because he's agitated."
After taking a guilty plea from Love again, you elicited during sentencing that he was from St. Louis and said, "I like your accent, it's working for me."	Admit that I made comments of this nature. My actual comment was "I like the accent, it's working for me." This is an illustration of another technique that I have implemented in the Collaborate Courts of rebuilding the relationship between the participant and the court. Because I routinely use a tough love approach with the participants, it is important for me to look for opportunities such as this to rebuild the relationship so that the participant is motivated to change.

2.

On June 9, 2009, around 10:27 a.m., you raised concerns regarding an August 7, 2008 order entered by Judge Peter Gallagher in a criminal case involving defendant Sean Strange.	Admit.
After checking the court file, you commented, "Ah, Judge Gallagher, aka assistant public defender."	Admit. I previously expressed remorse to the Commission for making remarks that were critical of my colleagues. This nickname was given to Judge Gallagher by some of the District Attorneys appearing before him.

You later commented, "Is that ridiculous that Judge Gallagher did that. I mean it's a sex offender case. Yeah, whatever, you know. A DV statute says it's mandatory but, you know, we're the judge, we can do what we want. Quote. Justice be damned."	Admit that this comment was made between proceedings to my clerk or bailiff. This was not a comment made to the audience in the courtroom. I made this comment to my staff because I was shocked and appalled that Judge Gallagher had not applied the mandatory provisions related to modification of formal probation for this sex offender case.

3.

On June 9, 2009, around noon, defendant Andrew Davis entered a guilty plea to a charge of violating Penal Code section 148.	Admit.

You asked the defense counsel to describe the facts of the case before imposing sentence; after he did so, you said, in reference to Deputy District Attorney Richard Huffman, who was not present, "and you couldn't get a 415 out of Mr. Huffman? [¶] … [¶] Did you tell him he was going into the military? [¶] … [¶] Mr. Huffman, if you're going into the military, he practically drives you there." (Defendant Davis was not going into the military.)	Admit. I have already expressed remorse for making these comments from the bench. Prior to making this comment, I had spoken with Mr. Huffman's supervisor because I had seen a pattern where Mr. Huffman would give preferential treatment to defendants who expressed a desire to enter into the military.

4.

On June 9, 2009, around 3:28 p.m., the defense attorney in *Nicolazzo* argued that there was no dating relationship for purposes of the domestic violence statutes.	Admit.

In summarizing the cases the attorney had cited, you said that certain authorities would "tell me that booty calls are exempt from domestic violence statutes," and continued to use the phrase "booty call."	Admit that the phrase was said, but I was questioning whether the authorities would tell me that booty calls are exempt from domestic violence statutes, I was not affirmatively stating that the authorities so held.
You later remarked, "Yeah well, he got a taste of it though right? [¶] … [¶] That's what I'm saying, they don't stalk unless they get a taste of it."	Admit that I made comments of this nature. My actual comments were "That's what I'm saying. If he's stalking her, he got a taste of it. . . . They don't stalk unless they've had something."

5.

On June 30, 2009, around 3:11 p.m., attorney Alan Spears appeared regarding his pregnant client Justine Means, who was in Maine.	Admit.

Attorney Spears, who was seeking a continuance, said that his client felt unable to travel because of the pregnancy, and gave you a physician's letter that noted her due date.	Admit.
You stated that pregnant people traveled all the time, and noted that the physician's letter did not say that the defendant was at high risk or subject to bed rest.	Admit.
After the prosecutor said that she did not object to a continuance, you said that you would grant it.	Admit.

As you explained that you were granting the continuance for discovery reasons, not because Means was pregnant, you ripped up the physician's letter, and either threw the pieces in the trash yourself or handed the pieces to your clerk to put in the trash.

Admit that the physician's letter was thrown into the trash. I have no recollection of ripping it up and I have not been able to obtain any information that has refreshed my recollection. The reason that I refused to allow the continuance based upon the doctor's note was because I did not want to set a precedent where a defendant could obtain a continuance without showing evidence regarding actual medical necessity. In this case, the doctor's note said nothing about an inability to appear at the hearing.

6.

On July 6, 2009, around 2:08 p.m., when defendant Steve Moore appeared in court wearing an Oakland Raiders jersey, you remarked, "You did not come in here with that shirt," and asked, "Which door do you want to go out with, that's the Charger door [the public exit], that's the Raider door [the door for defendants going into custody]?"	Admit that I made comments of this nature. My actual comment was "Which doors you want to walk out with."
You then said, "Chargers door? Raiders door? Chargers door? Raiders door?", and repeatedly asked the defendant which door he wanted to go through when he left.	Admit.
You remarked, "365 days of the year I'm a Chargers fan. Hello, we don't take a break."	Admit.

You asked a woman present in the courtroom who was connected with the case, "Would you say he's smart, coming here in a Raiders shirt? No? What does that say about you, Dena, and the kind of men you pick?"	Admit that I made those comments to the mother of Moore's children who was also the victim of Moore's domestic violence abuse.
7.	
On July 6, 2009, around 2:38 p.m., while reviewing a request for modification of the terms of a protective order in the *Houmi* case, you remarked, "I can't do this because it's not consistent with the statute. [¶] … [¶] I mean I can send it up to Judge Deddeh since he's the one who doesn't want to follow the statute."	Admit.
8.	
On July 8, 2009, around 2:08 p.m., defendant Dawn Elliott appeared on an adjudicated driving under the influence case.	Admit.

You questioned her as to whether she had brought proof of attendance at AA meetings.	Admit.
When she began to explain, you remarked, "I really feel like I need some popcorn to listen to this."	Admit.
You later stated that if she failed to bring proof of the AA meetings to the next court appearance, "you will go to jail," and also said, "then you're going to jail."	Admit that I made comments of this nature. My actual comment was "then you're going to go to jail."

9.

On July 8, 2009, you made several remarks disparaging DPD Longman, some of which also created the appearance of discouraging the exercise of the right to counsel.	Deny that I disparaged DPD Longman. I did make comments that were critical of him, but I do not believe they rise to the level of disparagement. Deny that my comments gave the appearance of discouraging the exercise of the right to counsel. The parties appearing on this afternoon calendar had usually been waiting all day long to have their matters called and to have the opportunity to speak with a public defender. I was merely informing them that if they were pleased with the offer being made by the prosecution, they were not required to speak with the public defender. As evidenced, many of the defendants had no desire to wait any longer once they learned of the details of the potential offers from the prosecution.

Around 2:12 p.m. on July 8, 2009, defendant Marilyn Hanbury appeared before you, without counsel.	Admit.
Her father was present in court.	Admit.
After the defendant appeared to look to her father for guidance before responding to a question from you, you remarked, "Proud moment there Dad, huh," in a joking manner.	Admit.
You then asked the defendant if she wanted to wait for the "luxurious opportunity" to speak to an attorney that day or whether she wished to continue the case so she would not have to wait all day.	Admit.
You passed the *Hanbury* case until 2:21 p.m., at which time you were told that the defendant had gone to talk to an attorney.	Admit.

You remarked to the defendant's father, "You're going to be stuck here for two more hours, Dad. He's named Mr. Longman for a reason."	Admit. I previously expressed remorse for making these comments about Mr. Longman on the record.
You also said, "All she had to do was say 'not guilty' and you can come back and be real quick. But now you got Mr. Longman, also known as Mr. Federal Case."	Admit. I previously expressed remorse for making these comments about Mr. Longman on the record. This was a nickname that others used for Mr. Longman.
You and others in the courtroom laughed after these remarks about DPD Longman.	Admit.
Next, around 2:22 p.m., you told defendant Uriel Rivera that there was an infraction offer on his case.	Admit.
You said that if he wanted to consult "the public defender, Mr. Longman, it might take you a few hours, you see how long it takes for him to get to you"; you also told Rivera he could enter a not guilty plea and return on another date.	Admit.

Around 2:25 p.m., you remarked to defendant Rodney Rouse that if he wanted to resolve the matter that day he had "to wait for Mr. Longman and he's the slowest public defender we have in the courthouse."	Admit.
When the defendant said that he wanted to resolve it that day, you said, "Oh Lordy. FYI, if he takes too long, I get grumpy."	Admit.
After you conveyed the offer to defendant Rouse, he said that he would "take it right now."	Admit.
You commented shortly thereafter, "Then you don't need to wait for Mr. Longman, who takes years off your life."	Admit.
You and others in the courtroom laughed after these remarks about DPD Longman.	Admit.

Similarly, on July 28, 2009, near the end of the court day, during a discussion in open court not connected to a particular case, you repeatedly referred to DPD Longman as "Mr. Federal Case" and complained that you never get out of court early when he is in your department.	Admit.
And, on May 1, 2009, while waiting for DPD Longman, the bailiff jokingly asked if you wanted her to Taser him; after responding in a joking manner that you did not want her to Taser him, you asked either the bailiff or someone else present in the courtroom, "Do you want to Taser him?"	Admit.

10.

On July 28, 2009, at about 10:06 a.m., during a case discussion with a privately retained attorney, you remarked regarding football player Shawne Merriman, "Although I do have it on a reliable source he likes to play with Ecstasy pills."	Admit.
You further remarked, "A friend of mine personally observed it, it was at his house."	Admit.

11.

On October 26, 2009, around 9:38 a.m., you called the Paul Cody matter.	Admit.
Cody claimed that the East County Court was not allowing him to complete his program.	Admit.
You stated that "East County Court is being immature. Being sore losers."	Admit.

There was laughter in the court.	Admit.
You then stated that "You don't want to give them your money anyway. [¶] … [¶] Okay. Sorry, sir. You know we can't force people to be mature."	Admit.

12.

On October 26, 2009, around 9:48 a.m., defendant Raul Castaneda had difficulty answering your inquiry as to whether he had discussed the case with his attorney.	Admit.
You became impatient and stated, "I need some aromatherapy spray right now."	Deny that I became impatient. Admit that I made the referenced comment.
You sprayed a substance from a bottle and said, "There is my stress relief spray"; you then sighed heavily and laughed.	Admit.

During your subsequent questioning of Castaneda, after he said that he had not talked to anyone that day about his case, you stated, in reference to his attorney, "What do you think she was, your secretary?"	Admit.

13.

On October 27, 2009, around 8:36 a.m., before calling the calendar, you stated to the audience, "You guys have no sense of humor. Did they steal it when you came through the electronic metal detectors? Yeah. Get back your sense of humor, you're allowed to have one in court, even though they try to suck life out of you here around the courthouse. God, you guys are dead, you guys are like, dead, oh my God, I need a warm up, I need a warm up comedian before I come out. Yes, sir. Are you ready? Are you volunteering? All right. See, okay, we'll get the fun back in the courthouse. Fun, courthouse, they don't have to be separate."	Admit that I made comments of this nature. My actual comment was "You guys have no sense of humor. Did we steal it when you came through the electronic metal detectors or something? Yeah. Get back your sense of humor. You're allowed to have one in court, even though they try to suck the life out of you here in the courthouse. God. You guys are dead. You guys are, like, dead. I'm like, God, I need a warm up, I need a warm up comedian before I come out. Okay. Yes, sir. Are you ready? You're volunteering? All right. See? Okay. We're getting the fun back in the courthouse. Fun, courthouses, they don't have to be separate." This is

	another example of my attempt to make those in attendance more comfortable being in court so that they would become more receptive to the information they would receive.
14.	
On October 27, 2009, around 8:59 a.m., you called the case of Amelia Bryant.	Admit that I called the case of Emilia Bryant.

When Bryant said that she was attempting to get a job in a restaurant, you stated, "And this is a restaurant to be a waitress where you actually get to wear clothes?"

Admit. Bryant had a history of failing to comply with the terms of her probation for over two years by the time I first saw her on October 13, 2009. On the 13th, she was facing 120 days of custody for failing to comply with a prior judge's orders. At that hearing, I learned that Bryant worked as a waitress at Cheetah's Night Club, but that she was looking for a new job. I ordered her to look for a new job and provide me with a status update on October 27, 2009. In making these comments, I was trying to ensure that Bryant was removing herself from situations that might interfere with her ability to comply with the terms of her probation.

After correcting the spelling and grammar of her resume in front of the courtroom audience, you told her that she could "take my suggestions or you can leave it," but added, "You can see where my effort has gotten me. So maybe you might want to take it."	Admit that I made comments of this nature. My actual comment was "So maybe you might want to take my suggestions." I was trying to help Bryant change her life because she had expressed a desire to do so. In offering to help her revise her resume, I told her that I "would do it for my sons, I'm going to do it for you." Bryant later came back to the court to let me know that she had been successful in changing her life and that she had enrolled in a nursing program. At the same hearing where Bryant told me she was in the nursing program, Bryant's mother thanked me for giving her daughter back to her.
When you asked defendant Bryant what she had been doing and she started to answer "School and --," you interrupted, "No, you've been hanging out with dogs and wondering why you get fleas."	Admit.

You commented several times that the shoes she was wearing were "hoochie shoes."	Admit.

15.

In approximately December 2009 or January 2010, you made a remark in court disparaging private defense counsel.	Deny that I disparaged private defense counsel. I do recall the incident referred to, but I did not disparage the private attorney.
In the morning, a private defense attorney asked to have a case added to the morning calendar.	Admit.
You told him to have the case put on that afternoon's calendar.	Admit.
After he left, you said to the audience words to the effect of "I don't know why people hire private attorneys; they don't know what they're doing."	Deny.

16.

In approximately early 2010, you made remarks in court disparaging the general clerical staff as follows. On a number of occasions, you referred to the business office staff as "cucumbers." For example, on one occasion around March or April 2010, when it was suggested that a case be postponed to the afternoon, you said words to the effect that "no, because the cucumbers might lose the file."

Admit that I referred to clerical staff in early 2010 as vegetables. I have already apologized to the Commission for making those negative comments in public. I have not publicly made those types of statements since April 20, 2010, when I spoke with my presiding judge about the matter. These types of statements were usually made during breaks between matters and exchanged among my clerk, my bailiff, and myself. Admit that I referred to the business office staff as cucumbers. I do not recall making the statement about losing the file, but I do not deny that I might have made a similar statement.

On another occasion around March or April 2010, after referring to the clerical staff as "cucumbers," you then added that "they aren't even potatoes because potatoes have eyes."	Admit.
On more than one occasion around March or April 2010, you have made the "potatoes" comment to the courtroom audience and have added that "they aren't corn because corn has ears."	Admit.
On January 7, 2010, around 10:32 a.m., after a defendant appearing on a warranty referred to information he had received from a clerk, you stated, "Sir, most of those clerks, I wouldn't trust a guinea pig to. Let alone my freedom."	Admit.

On May 20, 2010, around 2:30 p.m., during a discussion about a paperwork mix-up in a certain case, you sarcastically said, "however, I was going to say another word, the brilliant people in the back office decided not to file your paperwork in the court's file … ."	Admit. I previously expressed remorse for the sarcastic use of the phrase "brilliant people." In making these comments, I was providing a defendant with information as to why a January request for an arrest warrant had not been addressed in a hearing held one month later. Apparently, the business office did not put the request for the warrant in the file until tow months after it was received.
You later commented "Yi, yi, yi, yi, yi. This is what I have to work with, all right, every day."	Admit that I made comments of this nature. My actual comment was "Aye, aye, aye, aye, aye."

17.

On February 22, 2010, around 10:11 a.m., you engaged in banter with the courtroom audience regarding Tiger Woods, during which you stated, "I'm sure he's nice. Ask all the hookers in the nation, he's very nice to them."	Admit. I will occasionally stay on the bench and discuss current events or other random topics between cases. I believe that this type of interaction increases confidence in the judiciary as it illustrates that the judiciary is part of the community.

18.

On February 22, 2010, court operations supervisor Beverly Harris had assigned a backup clerk to your department who had to leave at 3:30 p.m.	Admit.
While waiting for a replacement clerk, you made disparaging comments about Harris in open court, some of which referred to an email she had previously sent to your clerk.	Deny that I made disparaging comments about Harris. Admit that I referred to an e-mail Harris had sent previously about courtroom clerks being fired and to a comment Harris made to my clerk that "it could always be worse."
Your remarks included, "the supervisor decided to send us a clerk that had to leave at 3:30," "That was what they taught them at Management 101 seminars that they attend," and "How to get the most of your employees. Let them know they could get fired."	Admit that I made comments of this nature. My actual comments were "That was what they taught them at the Management 101 seminars that they go to." and "Let them know they could be fired." I was merely being sarcastic and trying to ease an uncomfortable position where we did not have the necessary staff to continue.

When Harris arrived in your courtroom you asked her, "did you know we finish at 5:00?"	Admit.

19.

On February 24, 2010, the defendant in *People v. Henson* appeared before you without counsel for arraignment on an alleged probation violation.	Admit.

After asking defendant Henson about his relationship with the subject of a protective order issued in the case, you made the following comments:	Admit that I made comments of this nature. My actual comments are noted below:
Court: Are you guys together or not together?	
Defendant: Nope. We haven't been together for like over a year now. But she's the whole reason I have to keep coming back to court.	". . . reason why I have to . . . "
Court: She is, or the fact that you broke the law?	
Defendant: No, she is. She's –	
Court: Oh, you didn't break the law? You're an innocent man on probation?	
Defendant: -- All's I've been doing is trying to influence –	
Court: You're an innocent man on probation?	
Defendant: Yes.	

Court: Is that what you're trying to tell me, you're an innocent man? I've got my first innocent man on probation. You're completely innocent, you're on probation? Defendant: Have, have you went over the case? Court: Oh my gosh, you're innocent.	"I've met my first . . . . He's completely innocent, he's on probation."

20.

Between October 2009 and March 2010, when a defendant appearing before you in department 3 accidentally called you "sir," you pushed yourself away from the bench while seated in your chair and stated, "Do these look like the clothes of a sir?"	Admit that I made comments similar to these, though I do not recall this specific incident. Many of the defendants appear in my courtroom are terrified. Therefore, I look for opportunities to ease the tension so that they can focus on what I am saying. Thus, when a defendant calls me "sir," I find that joking about it, rather than correcting them in a stern manner, has a much better effect on the defendant who has misspoken and on the entire audience.

You then raised your leg above the bench, holding your leg by the ankle, and stated, "Do these look like the boots of a sir?"	Admit that I made comments similar to these, though I do not recall this specific incident.

21.

On April 27, 2010, around 9:58 a.m., the defendant in case number C267890 appeared before you without counsel, seeking to modify a term of his probation to allow him to travel out of state.	Admit.
After explaining to him that he was required to "formally notice" a motion to modify the terms of probation, you reappointed the public defender and continued the matter to May 4.	Admit.
After the defendant left the courtroom, you handled four other matters, and the recording was stopped at approximately 10:13 a.m.	Admit.

Shortly thereafter, before the recording was restarted, you stated to the audience of approximately 30 people, from the bench, words to the effect of: "Do you remember that guy on formal probation?"	I do not recall the exact words that I used, but do admit that I did provide some explanation as to why I was not willing to allow the defendant to modify his probation without following the proper procedures.

After someone in the audience said "yes," you said words to the effect of: "You know why I wouldn't modify his probation without going through required procedures?" then said words to the effect that "Because he's a sex offender."

I do not recall the exact words that I used, but do admit that I did provide some explanation as to why I was not willing to allow the defendant to modify his probation without following the proper procedures. The defendant in that case was a registered sex offender who had previously been in the possession of pornographic materials depicting very young children performing sex acts on adults. The photos included in the case file were extremely disturbing. I believe that this was a good opportunity to restore the public's confidence in the judiciary in light of the then recent news concerning John Gardner—a registered sex offender who was not properly monitored while on parole—and what many claimed to be the mishandling of Gardner's case by the San Diego Superior Court. My comments were intended to

illustrate to the audience that the judiciary was keeping a close eye on sex offenders, and taking steps to keep the community safe.

Your conduct in count two demonstrates a pattern of misconduct and violated canons 1 (a judge shall uphold the integrity of the judiciary), 2 (a judge shall avoid impropriety and the appearance of impropriety), 2A (a judge shall promote public confidence in the integrity and impartiality of the judiciary), 3B(3) (a judge shall require order and decorum in proceedings), and 3B(4) (a judge shall be patient, dignified, and courteous).	Deny.

COUNT THREE

ALLEGATION	RESPONSE
On January 7, 2010, around 10:03 a.m., defendant Chadira Gipson appeared before you in case number C287545 for a change of plea.	Admit.

As set forth below, you took Gipson into custody for direct contempt without affording her due process or complying with the legal requirements for direct contempt, and without sentencing her;

Admit that I had the bailiff put Gipson into the portion of the courtroom that is designated for in-custody defendants. At the time that I did this, I believed that it was appropriate for Gipson to be placed there while I took time to decide whether I was going to commence contempt proceedings. I now know that I while I can require a defendant to remain in the courtroom while I am making the determination of whether or not to commence direct contempt proceedings, I can not place the defendant in the area of the courtroom designated for in-custody defendants. I previously expressed remorse to the Commission for erring in this matter.

You also directed comments to the courtroom audience that failed to uphold a high standard of conduct:

Court: Oh Chadira Gipson.

Counsel: Good morning, Your Honor, Michael Kern appearing on behalf of Ms. Gipson. She's present in court for the court out of custody for change of plea to a 415(2) as a misdemeanor.

[¶] … [¶]

Court: So, the *Chadira Gipson* matter. All right. And it's going to be an added – what count five?

Counsel: I think that's correct, Your Honor.

Court: A 415(2)?

Counsel: Yes.

[¶] … [¶]

Court: All right. So, Ms. Gipson, is that how I pronounce your last name?

Defendant: Yes.

Deny that I directed comments to the courtroom audience that failed to uphold a high standard of conduct. Admit that I made comments of this nature. My actual comments are noted below:

"Who's present for the court before the court"

Court: Why don't you have her speak next to the microphone. Ms. Gipson, have you had a chance to talk about the facts of this case with your court-appointed attorney?

Defendant: Yes.

Court: Did you get all of your legal questions answered?

Defendant: Yes.

Court: I can't hear you. You need to speak up or use the microphone.

Defendant: Yes.

Court: Thank you. Were the consequences of pleading guilty explained to you?

Defendant: Yes.

Court: Oh, no, no, no, no. Counsel?

Counsel: Yes.

Court: You know how I am with the defendants who don't show the proper respect to the judge. I don't deal well with eye-rolling attitudes. And I am about to sentence her. So maybe you want to take her outside and let her know whose courtroom this is.

Counsel: Sure. We've discussed the case, Your Honor, I just need to –

Court: I just directed you to take her outside –

Counsel: Sure.

Court: And let her know whose house she's in.

Counsel: Thank you.

Court: Mm-hmm. I'm about to sentence her.

Defendant: For what? "So what?"

Court: Excuse me, go grab her. Yeah, go grab her for direct contempt of court.

Bailiff: Come back in.

Court: I don't play in here. I don't know who you think you're playing with.

Bailiff: (Unintelligible) take a seat.

"Come back in, take a seat"

Court: Put her in, in the tank.

Bailiff: Okay. Come on over here actually.

Court: She's in direct contempt of court.

Bailiff: Come on over here.

Court: For saying "so what" when I said I was about to sentence her.

Defendant: I didn't say it, I said "do what."

Court: Be quiet. Anybody else feel like they're lucky today? [Laughter] I guarantee you we're not in Las Vegas people.

You then called a few other matters.

Admit.

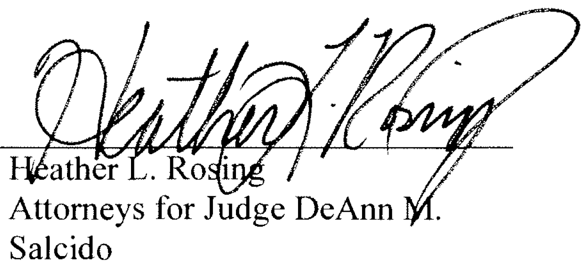
Around 10:12 a.m., outside the presence of the defendant, you told defense counsel, "I'm not trying to punish you, counsel, but I'm not ready to deal with her yet."	Admit.
Defense counsel asked if you would release defendant Gipson and allow her to return to court for a contempt hearing, and you agreed to do so.	Admit.
However, when counsel then asked if you would recall the case, you said, "Not right now."	Admit.
You then called two other matters.	Admit.
At 10:22 a.m., you asked defense counsel if he needed "to go somewhere else because I'm not intending to call her case for a while. [¶] … [¶] I think she needs some time to reflect. [¶] … [¶] She has a lot of reflection to do. So, um, do you have to go to any other courtrooms?"	Admit.

When defense counsel responded that he did not, you said, "All right. Well, unfortunately, she don't know how to act."	Admit.
Shortly thereafter, you told court staff that you were recusing yourself and the case was sent to department 11, where Gipson entered her change of plea.	Admit.
The contempt proceeding was not pursued.	Admit that I did not have the authority to place her in custody prior to holding contempt proceedings. I misunderstood the rules surrounding contempt proceedings. Deny that my conduct demonstrated embroilment. The entire reason that I was waiting to hold the contempt proceedings was so that I could take a break and ensure that I was not acting impulsively in charging Gipson with contempt.

Your conduct constituted an abuse of authority and demonstrated embroilment. It violated canons 1 (a judge shall uphold the integrity of the judiciary), 2 (a judge shall avoid impropriety and the appearance of impropriety), 2A (a judge shall promote public confidence in the integrity and impartiality of the judiciary), 3B(2) (a judge shall be faithful to the law), 3B(4) (a judge shall be patient, dignified, and courteous) and 3B(7) (a judge shall accord to every person who has a legal interest in a proceeding the right to be heard).	Deny.

KLINEDINST PC

Dated: October 7, 2010 By:



Heather L. Rosing
Attorneys for Judge DeAnn M. Salcido

VERIFICATION

I, DeAnn Salcido, hereby declare as follows:

I have read the foregoing *Response of Judge DeAnn Salcido to Notice of Formal Proceedings*, and know the contents thereof. I am informed and believe that the matters stated therein are true and on that ground certify and declare under penalty of perjury under the laws of the State of California that the same are true and correct.

Executed on this 7 th day of October, 2010, at San Diego, California.

Judge DeAnn M. Salcido

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING JUDGE DeANN M. SALCIDO, NO. 189

PROOF OF SERVICE

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Klinedinst PC
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San Diego, California 92101
619-239-8131/FAX 619-238-8707

I declare that:

I am and was at the time of service of the papers herein, over the age of eighteen (18) years and am not a party to the action. I am employed in the County of San Diego, California and my business address is 501 West Broadway, Suite 600, San Diego, California 92101.

On October 7, 2010, I caused to be served the following document(s):

- **RESPONSE OF DEANN M. SALCIDO TO NOTICE OF FORMAL PROCEEDING**

[ ] **VIA FACSIMILE TRANSMISSION:** (Code Civ. Proc. §§ 1013(e) and (f)): From fax number (619) 238-8707 to the fax numbers listed below and/or on the attached service list. The facsimile machine I used complied with Rule 2008 and no error was reported by the machine.

[X] **VIA ELECTRONIC FILING SERVICE**: Complying with Code of Civil Procedure section 1010.6, my electronic business address is traymond@klinedinstlaw.com and I caused such document(s) to be electronically served on those parties listed below.

[X] **VIA MAIL:** By placing a copy thereof for delivery in a separate envelope addressed to each addressee, respectively, as follows:

[X] BY FIRST-CLASS MAIL (Code of Civ. Proc. §§ 1013 and 1013(a))

[ ] BY OVERNIGHT DELIVERY (Code Civ. Proc. §§ 1013(c) and (d))

[ ] BY CERTIFIED RETURN RECEIPT MAIL (Code of Civ. Proc. §§ 1013 and 1013(a))

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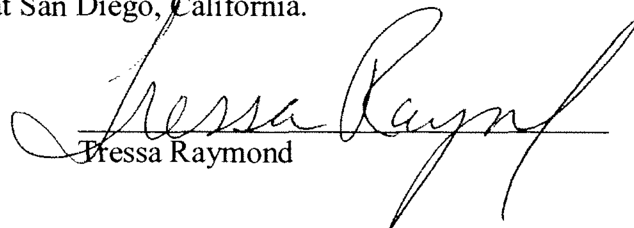
I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid at San Diego, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

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

Executed on October 7, 2010, at San Diego, California.



Tressa Raymond