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**Commission on
Judicial Performance**

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

**INQUIRY CONCERNING
JUDGE SALVADOR SARMIENTO,**

No. 191.

**NOTICE OF FORMAL
PROCEEDINGS**

To Salvador Sarmiento, a commissioner of the Orange County Superior Court from July 11, 1997 to August 6, 2003, and a judge of the Orange County Superior Court from August 7, 2003 to the present:

Preliminary investigation pursuant to Rules of the Commission on Judicial Performance, rules 109 and 111, having been made, the Commission on Judicial Performance has concluded that formal proceedings should be instituted to inquire into the charges specified against you herein. Commission member Honorable Frederick P. Horn was recused from this matter.

By the following allegations, you are charged with willful misconduct in office, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, and improper action within the meaning of article VI, section 18 of the California Constitution providing for removal, censure, or public or private admonishment of a judge or former judge, to wit:

On November 18, 2010, your wife received a traffic citation from the Santa Ana Police Department for violating Vehicle Code section 21950(a) (failing to yield to pedestrian in crosswalk). The ticket was filed with the court on December 21, 2010. A "courtesy notice," which lists the cost to pay the ticket (referred to as total bail) and describes the methods for making payment and other traffic procedures, was sent by the court on December 22, 2010. The total bail amount was \$234. The pay-or-appear-by date was January 19, 2011.

No action was taken on the ticket by the January 19 deadline. The matter was referred to the court's collection unit. On January 24, a delinquency notice was sent to your wife. It provided a 10-day grace period to either pay or appear, and stated that failure to do so would result in additional fees that may include a \$300 civil assessment and other fees.

No action was taken on the ticket within the grace period, and on Monday, February 7, 2011, a final notice was sent from the collection unit. The final notice stated that an additional \$300 civil assessment was now owed. (The assessment is sometimes referred to as a CIVA.) The notice stated that if your wife appeared within 10 days of the notice and showed good cause for failure to appear or pay the fine, the court may vacate the civil assessment. The notice also stated that if your wife did not pay in full or show good cause, the court may take certain other action.

A traffic ticket that is not delinquent may be set for trial by a traffic clerk upon payment of the total bail amount. After a CIVA is added, a clerk may set the ticket for trial only upon payment of the total bail amount plus the CIVA, and either the ticket recipient or an attorney for the recipient must appear at the clerk's window to request a trial date. Otherwise, a ticket in CIVA status may be set for trial only by a judicial officer, upon the appearance in court of either the ticket recipient or an attorney appearing on his or her behalf.

You have been assigned to department 50 of the Central Courthouse in Santa Ana since approximately February 2010. In February 2011, traffic matters

were being heard in the Central Courthouse in department 54, by Commissioner Carmen Luege. Commissioner Luege was hired by the court in June 2009.

You obtained a printout of the minutes for your wife's ticket. On the morning of Thursday, February 10, 2011, you approached Commissioner Luege in chambers about your wife's ticket, during a break in her traffic calendar. You initially greeted her in the hallway in back of the courtrooms, where chambers are located, then followed her into her chambers. You told her that your wife got a ticket, that it had been sitting on your desk but you forgot about it, and that now there was a civil assessment. You asked Commissioner Luege to vacate the CIVA.

The commissioner responded by telling you that she had to get back to court and would get back to you. You then took out a folded-up piece of paper and placed it on the commissioner's desk, without saying what it was. It was the minutes for your wife's ticket. The commissioner returned to her courtroom and you left her chambers.

In the afternoon, after your calendar was concluded, you gave the courtroom clerk assigned to your department that day a copy of the courtesy notice for your wife's ticket, and asked him to check the status of the ticket. The clerk accessed the ticket information, and told you that the last action taken was the addition of the CIVA. You responded that you were going to talk to "Carmen."

You then returned unannounced to the chambers of Commissioner Luege. You told her that you had checked and she had not done anything on the ticket. You asked whether you could "at least get a trial date." When the commissioner said that she was not sure that she could give you a trial date, you did not respond, but continued to stand in front of her desk. She then told you that she guessed it was okay to give you a trial date. She walked into the traffic courtroom with you. She instructed the clerk there to set a trial date for your wife's ticket. Trial was set for March 16, 2011. (Ultimately, your wife entered a guilty plea on March 16 and paid the total bail amount and the CIVA.)

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(1), 2B(2), and 3B(7).

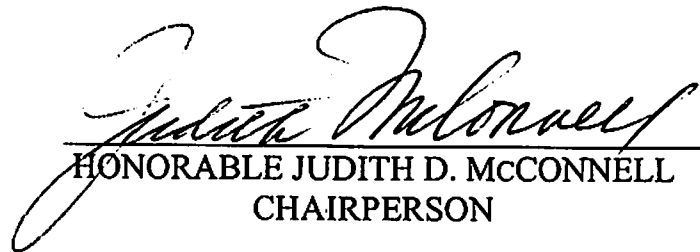
YOU ARE HEREBY GIVEN NOTICE, pursuant to Rules of the Commission on Judicial Performance, rule 118, that formal proceedings have been instituted and shall proceed in accordance with Rules of the Commission on Judicial Performance, rules 101-138.

Pursuant to Rules of the Commission on Judicial Performance, rules 104(c) and 119, you must file a written answer to the charges against you within twenty (20) days after service of this notice upon you. The answer shall be filed with the Commission on Judicial Performance, 455 Golden Gate Avenue, Suite 14400, San Francisco, California 94102-3660. The answer shall be verified and shall conform in style to the California Rules of Court, rule 8.204(b). The Notice of Formal Proceedings and answer shall constitute the pleadings. No further pleadings shall be filed and no motion or demurrer shall be filed against any of the pleadings.

This Notice of Formal Proceedings may be amended pursuant to Rules of the Commission on Judicial Performance, rule 128(a).

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

DATED: February 7, 2012


HONORABLE JUDITH D. MCCONNELL
CHAIRPERSON