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COMMISSION ON
JUDICIAL PERFORMANCE

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING
JUDGE JEFFREY G. BENNETT,

No. 206

NOTICE OF FORMAL PROCEEDINGS

To Jeffrey G. Bennett, a judge of the Ventura County Superior Court
from January 2009 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.

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.

COUNT ONE

On or about March 11, 2015, you were presiding in the master calendar department. An African-American defendant appeared before you who had an outstanding warrant on a felony. In determining whether to remand the defendant into custody, you asked the defendant a series of questions and the defendant provided what you believed to be evasive answers. You then asked the defendant to stop “shucking and jiving.”

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5).

COUNT TWO

On May 17, 2016, you presided over the matter of *People v. Gilbert Regalado*, No. 2015027976. On that date, the People were represented by Deputy District Attorney (DDA) Marc Leventhal, and the defendant was represented by defense counsel Victor Salas. You met in chambers with the attorneys to discuss settlement. Salas entered chambers first and you shook his hand. Leventhal then greeted you and held out his hand. You looked at Leventhal’s hand and stated, “I’m not sure I want to shake your hand,” or words to that effect, but you did shake his hand. Leventhal asked you if something was the matter. You replied with a statement to the effect of, “Do you know how much trouble you have caused me? Do you know how much money I have had to pay lawyers because of you?” You then spoke about the matter of *People v. Thomas Campi*, No. 2014032929, in which Leventhal had previously appeared before you, for about five minutes. You stated that someone had complained about you to the Commission on Judicial Performance, leading to a disciplinary hearing. You stated you spent more than \$10,000 on lawyers and had to obtain personal references and testimonials to “clear [your] name,” or words to that effect.

Your comments and conduct toward DDA Leventhal created, at a minimum, the appearance of retaliation based on the belief that Leventhal had complained to the commission about the *Campi* matter, or had assisted or cooperated with an investigation that the commission had performed. You falsely stated that your name had been “clear[ed]” in the 2015 commission matter, and falsely stated that you had to pay lawyers \$10,000 in connection with your defense in that matter.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), 3B(5), and 3D(5).

COUNT THREE

You engaged in undignified, discourteous, and offensive sexualized (or otherwise crude) conduct in the workplace, as follows.

A. You have repeatedly stated, while in chambers and in the presence of DDA Elisabeth Main, that you are the “only one in the courthouse with the balls to make a ruling,” or words to that effect. The last time you made such a statement in DDA Main’s presence was in 2018.

B. On January 17, 2018, while seated on the bench and wearing your judicial robe, you engaged in conversation with others in the courtroom about recent mud slides in the area. Present in the courtroom were your judicial assistant, a bailiff, and several attorneys. You told a personal story about living in a guest house in Montecito and being responsible for washing the homeowner’s Rolls Royce automobile. You stated that you had driven the vehicle to a coffee shop. You made a statement to the effect of, “They’re good cars, those Rolls Royces. They’re sturdy cars, built like a tank.” You further made statements to the effect of, “Chicks really dug that car,” and, “It had a big back seat, if you know what I mean.” When you made the last statement, you pointed at the bailiff and you and the bailiff gestured “finger guns” at each other.

C. In 2016, while in chambers with DDA Michael Kern and a male defense attorney, you told a personal story about a dental hygienist who worked in your dentist's office. You told the attorneys that they should go to this dentist's office because of the dental hygienist, who you said was "a smoking hot 10," or words to that effect. You stated that you would let the hygienist "do whatever she wanted" to you, or words to that effect. Later, in the same conversation, you stated that you had installed a telescope on the roof of your home or an out building. You stated that you would not spend so much time with your telescope if you had "a 20-year-old smoking hot blonde wife," or words to that effect.

D. In 2014, DDA Amber Lee and Deputy Public Defender (DPD) Heather Tomka appeared before you for a hearing on a motion to suppress evidence. After the hearing concluded, you had your clerk ask the attorneys to return to your courtroom. While standing in the hallway, you told the attorneys that you had "the balls" to admit when you got something wrong. You made a statement to the effect of, "I have the biggest balls in the courthouse. I'm probably the only judge who has the balls to admit when I've made the wrong decision." The last time you mentioned your "balls," you gestured with your hand over your genital area.

E. On January 24, 2014, you presided over the matter of *People v. Jesus Rangel*, No. 2013023726. The people were represented by DDA Amber Lee, and the defendant was represented by DPD Justine Avtjoglou. While in chambers with the attorneys, you discussed your preferred method of receiving a flu shot. You said that you go with the other judges to get a flu shot at the employee health center. You then said, "The difference between me and them is I like to take my shot in the ass," or words to that effect. You laughed and then made a statement to the effect of, "I mean it, man. You should see their faces. They start to roll up their sleeves, and I

just drop 'trou' and take my shot in the ass." You then stood up and repeated the statement while pretending to unfasten your belt.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

COUNT FOUR

You improperly commented about the filing of peremptory challenges, as follows.

A. On May 14, 2018, the matter of *People v. Dustin Beverford*, No. 2015038470, was before you for sentencing. The People were represented by DDA Amber Lee, and the defendant was represented by DPD Dusty Kawai. During the hearing, you heard argument from counsel concerning sentencing in case No. 2015038470, and in a separate case involving the defendant, ending in 7071, that had been tried before Commissioner Sabo. You determined to sentence the defendant in case No. 2015038470, and to send the other case back to Commissioner Sabo. The transcript reflects the following colloquy:

THE COURT: Another thing I can do is I can just sentence him on the case that I have and I can send this other case back to the judge who did the trial and you can argue about it there. I can do that and that's exactly what I am going to do.

MS. LEE: Fair enough.

THE COURT: You can argue about it there. I think that's -- this all got fouled up, by the way, for purposes of [the] record because people are filing papers against judges all over the place, judges are recused. You know, it's a difficult problem for the same reasons that the courthouse is, quite frankly, a mess often around here because people have personal agendas.

Your comments referred to, or at a minimum, gave the appearance of referring to, peremptory challenges filed by the People. The People filed peremptory challenges against you in *People v. Dustin Beverford*, No. 2017042581, on April 16, 2018; *People v. Santos*, No. 2018003742, on May 7, 2018; and *People v. McGuire*, No. 2018004884, on May 11, 2018.

B. On a date between approximately November 2017 and April 2018, you were in chambers with DDA Brandon Ross and a defense attorney. You made a statement to DDA Ross to the effect of, “Why are you guys papering me?” or “I know who’s papering me and I know why.” You stated that a female prosecutor, who had moved to Orange County, told you that the Ventura County District Attorney’s Office had a policy regarding filing peremptory challenges against you.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, and 2A.

COUNT FIVE

In the summer or fall of 2018, DDA Elisabeth Main appeared in your courtroom to handle a case involving possession of controlled substances in the jail. You previously recused from cases involving the jail because of a family member who works there. DDA Main spoke to the bailiff and was told the case would be sent back to department 13 (master calendar). Main told the bailiff she was hoping that that would be done while there were still courtrooms available. When the case was called, Main stated that the bailiff had said the case would probably be sent back to department 13. You stated in open court and in the bailiff’s presence, “He doesn’t know what the hell he’s talking about,” or words to that effect.

Your conduct violated the Code of Judicial Ethics, canons, 1, 2, 2A, and 3B(4).

COUNT SIX

You engaged in a pattern of conduct that was undignified, discourteous, and offensive, and that conveyed, at a minimum, the appearance of bias against prosecutors, as follows.

A. On September 20, 2018, you met in chambers with DDA Amber Lee and defense counsel Anzac Jacobs regarding an expungement motion in case No. 2012020853. During the chambers discussion, you stated that you were transferring to the civil division and needed a change because you had “done 20 murder trials,” having just completed one with “special circs,” and a bunch of “big sex cases.” You then stated, “Honestly, I’m tired of being called names, mostly by my former office,” or words to that effect. You stated that you were being called “untrue names,” despite being a “fair and honest guy,” or words to that effect. You stated that you had eight more years to go before you could retire, and that you considered running for district attorney (DA) because you have “a shit-ton of money,” or words to that effect. You stated that you may still consider running for DA if the civil assignment does not work out, but that you could not stay in a criminal department when people were calling you names.

B. You presided over the first trial in *People v. Joseph William Allawos*, No. 2017027912, a misdemeanor elder abuse case. On June 6, 2018, during deliberations, the jury submitted a note to the court. DDA Brandon Yeaton appeared for the trial prosecutor, who was unavailable at the time. Deputy Public Defender (DPD) Cerise Fritsch made a comment on the record about “rotating DA’s.” You responded, “Reaching way down the bench, huh?” After the jury was subsequently seated, you stated on the record, “There’s a new DA here. Apparently, the other ones were too busy.”

C. On May 17, 2018, in *People v. Carlos Lozano*, No. 2018016122, you met in chambers with DDA Joann Roth and defense attorney David

Lehr. You told a personal story about being in a vehicle accident and hurting your shoulder. You made a comment about sitting on a toilet, and stated that you wished you had three hands, one to hold a cup of coffee, one to hold a donut or newspaper, and one to “wipe [your] ass,” or words to that effect. When Roth made an audible response, you looked at her, apologized for “cussing,” and then turned back to Lehr and continued your story.

D. On April 5, 2018, you presided over the jury trial in *People v. Anthony Ross*, No. 2017019548. The People were represented by DDA Brandon Ross, and the defendant was represented by DPD Monique Magar. In the jury’s presence, DDA Ross requested a recess. You called the attorneys to the bench, and told them you do not like to waste time. You gestured toward the jury, and, in a voice loud enough for the jury to hear, made a statement to the effect of, “I care about them. You know why I care about them? Because they’re voters. I don’t care about you. I care about them because they’re voters, and I don’t care about you, and you can quote me on that.”

E. On March 2, 2018, in *People v. Antonio Herrera*, No. 2016004078, you presided over a hearing on the People’s motion for a continuance, and on the People’s motion to conduct a conditional examination of a material witness, which had both been filed on January 18, 2018. The People were represented by DDA Jillian Ewan, and the defendant was represented by DPD Jennifer Rosenthal. During the hearing, you ordered DDA David Barnes to appear and questioned him about a declaration he had submitted. Following Barnes’s testimony, the following colloquy occurred:

THE COURT: So essentially, the People’s position is that the motion for a conditional exam was timely filed. Uh, it’s just that a function of the court process, uh, it looks like

both sides were unable to litigate that request, that's what it looks like.

MS. EWAN: Yes, Your Honor.

THE COURT: Yeah. That would have been a better way for you to state it.

MS. EWAN: I'll note that for the future, Your Honor.

THE COURT: You can note it for right now.

F. On February 7, 2018, in *People v. Antonio Viveros*, No. 2017031420, you presided over a hearing on the People's motion for continuance due to the unavailability of a law enforcement officer. The People were represented by DDA Hayley Moyer, and the defendant was represented by DPD Cerise Fritsch. During the hearing, DDA Moyer stated that a prior motion to advance had been denied by Judge Ayers, and that, at the time that motion was heard, the officer was available. The following colloquy then ensued:

THE COURT: So, it's Judge Ayers is what you're saying.

MS. MOYER: I'm, I'm -- I don't know why Judge Ayers --

THE COURT: Is that what you're saying?

MS. MOYER: I'm not saying it's her fault.

THE COURT: What are you saying then?

Later in the hearing, in discussing the People's motion, the following colloquy ensued:

THE COURT: So, in between the 22nd and the 26th, is when the People discovered, they're telling me in this declaration signed by Ms. Hayley Moyer as an officer of the Court, that they figured out that the cop wasn't going to be

here, and that he was an essential witness. And that seems to be the problem to me.

MS. MOYER: That's correct, Your Honor.

THE COURT: And, I don't need a cheering section okay? So, if I need something from you, I'll ask you, all right.

MS. MOYER: Of course.

G. On February 1, 2018, you presided over a hearing in *People v. Jesus Lopez Cruz*, No. 2017025833. The People were represented by DDA Heather Sweatman, and the defendant was represented by DPD Cerise Fritsch. During the hearing, DDA Sweatman stated that the parties had been unable to resolve the case because the defense wanted a charge that did not include moral turpitude, which was not supported by the facts of the case. You asked Sweatman if the facts stated in her trial brief were true, which led to the following colloquy:

MS. SWEATMAN: Those are true. If I –

THE COURT: Uh-huh.

MS. SWEATMAN: -- may provide a little further detail.

THE COURT: No, it's not necessary. I get it.

MS. SWEATMAN: Well, your honor, if I may, the defendant --

THE COURT: Uh, no – [Unintelligible] – you may not. I'm not finished talking yet. You interrupt me again, we're gonna have a problem. Do you understand that?

Later in the hearing, you told DDA Sweatman that she did not have enough evidence to “get past the [Penal Code section] 1118 motion.” Sweatman responded that if that was the case, she would ask that the

defense brief the issue and allow the People to respond in writing. You stated to Sweatman:

THE COURT: ... I'm just being honest with you, I'm not trying to give you a hard time. I don't mind wasting the public's time on something like this, but I don't think it's the right thing to do if you can't prove it. It seems to me like you need to have the person here to prove those facts. But if you don't think you do, I mean, I'm not gonna dismiss the case. You can do what you want. You can embarrass the district attorney, if you like. That's fine.

H. In October 2017, you presided over the matter of *People v. Julia Parker and Emilia Borcena*, No. 2016010310. The People were represented by Deputy Attorney General (DAG) Melissa Zubi, defendant Parker was represented by defense attorney Donald Marks, and defendant Borcena was represented by defense attorney Arthur Khachatourians. During a chambers conference with Zubi and defense counsel, you made several comments about how bad the Attorney General was at prosecuting cases. You stated that you had just finished an environmental case with the Attorney General, and "that was an important case, and they messed that one up, too," or words to that effect.

During the chambers conference, you discussed with counsel motions in limine the defense said it wanted to bring. You made preliminary rulings that excluded most of the prosecution's evidence. DAG Zubi noted that she had no case if most of her evidence was excluded. You stated in response, "You can tell [Attorney General Xavier] Becerra that's what he gets for going against my president," or words to that effect. You also stated to Zubi, "It's my job to give the government a bad time," or words to that effect.

I. On August 9, 2017, you presided over a hearing on a motion to suppress evidence (Penal Code section 1538.5) in *People v. Nicolas Macias-Hernandez*, No. 2016031450. The People were represented by DDA Brandon Yeaton, and the defendant was represented by DPD Julie Taylor. On August 9, you granted the motion. On August 10, 2017, you called the attorneys back to your courtroom and told them that you had changed your mind and had determined to deny the motion. After you excused the attorneys, you asked DDA Yeaton to approach the bench on an unrelated matter, in which he needed your signature for an order of forfeiture. You signed the order and then began telling Yeaton about your time as a police officer, Chief DDA, and judge. While speaking of supervisors in the DA's office, you made a statement to the effect of, "Tell [DDA Brent] Nibecker he's an idiot. I've told him to his face, I don't care."

J. On December 9, 2016, you presided over a hearing in *People v. Dennis King*, No. 2016030427. The People were represented by DDA Elisabeth Main, and the defendant was represented by DPD Damon Jenkins. The pending case, No. 2016030427, had previously been consolidated with another case involving the same defendant, No. 2016028553, which had been deconsolidated and tried separately. During the hearing, DDA Main requested the release of medical records she had subpoenaed while the cases were consolidated, but which were now contained in the file for case No. 2016028553. You told Main there were no records associated with the subpoena in the file for case No. 2016030427. You called a recess until later that afternoon, and, at Main's request, said you would have the file in case No. 2016028553 brought up at that time. Later that day, Main submitted a subpoena duces tecum to you for the medical records in case No. 2016028553. After you granted a defense motion to quash the subpoena, Main requested that the

pending case be sent back to department 13. The following colloquy occurred:

THE COURT: Well, they sent it here for trial. That's the problem. So it's here for trial. I don't make those decisions anymore. You're here for trial.

MS. MAIN: So for the People's information, where physically will those records that the Court has right now be kept so that the People can make the proper request?

THE COURT: Yeah. We have the records in case ending 553. They're here and they're still sealed. As I said before, there's probably 200 pages in here. I haven't opened them. I can open them and look at them, I suppose. [¶] Is that what you want me to do?

MS. MAIN: If the Court is able to respond to the subpoena that [the] People just served. It was my understanding 553 was going to be on calendar here at 1:30.

THE COURT: Well, hang on. [¶] You handed me a subpoena. Who's it to; to the Court?

MS. MAIN: To the Court, which is in possession of the records, and we're asking that --

THE COURT: I'm not going to respond to a subpoena. Do you know why? Because I don't have to. It's a court record.

You leaned into the microphone and spoke in a raised voice when you stated, "Because I don't have to."

Following the above exchange, you reviewed the subpoenaed documents contained in the file for case No. 2016028553, and released one page to Main, which you said was relevant and not subject to the motion to quash. When Main subsequently asked for clarification regarding your

ruling, you walked off the bench while she was addressing the court. The transcript reflects the following colloquy:

MS. MAIN: If the Court would bear with me. I'm a bit confused. [¶] Is case ending 553 before the Court today?

THE COURT: No.

MS. MAIN: Were those records -- but is the Court saying those records were part of case ending 553?

THE COURT: They're from the documents that you subpoenaed.

MS. MAIN: Yes. Which motion to quash did the Court grant?

THE COURT: The only one that's filed.

MS. MAIN: In 427?

THE COURT: Anything else?

MS. MAIN: Yes, your Honor. I'm just trying to understand it.

THE COURT: Good luck. See you Monday morning for jury trial, 8:30.

MS. MAIN: Your Honor, it's my understanding --

THE COURT: We're off the record.

MS. MAIN: Your Honor, I thought that the Court --

(Proceedings concluded for day.)

K. On November 28, 2016, you presided over the preliminary hearing in *People v. Jeffrey Dupont*, No. 2016006770. The People were represented by DDA Amber Lee, and the defendant was represented by DPD Cynthia Ellington. The defendant was charged with kidnapping

(Penal Code section 207(a)), criminal threats (Penal Code section 422), dissuading a witness by force or threat (Penal Code section 136.1(c)(1)), infliction of corporal injury (Penal Code section 273.5(a)), and false imprisonment (Penal Code section 236). During the hearing, while a victim of domestic violence was testifying, you referred to her as a “meth head.”

The transcript reflects the following colloquy:

Q. Okay. Well, isn't it true that you had methamphetamine in that compartment?

MS. LEE: Objection; relevance.

THE COURT: Why would that be relevant?
Sustained.

MS. ELLINGTON: Your Honor, it's relevant because my ambition is to show that she was high during this entire time, that she has access to methamphetamine, and that she had it in her glove box and she had been using it. She has a pipe in her purse, and that goes to her credibility, her reliability and her ability to --

THE COURT: Well, I've allowed you to ask all those related questions. You know, sounds like she was using meth and she's a meth head. Whether there's some methamphetamine in the glove box really isn't relevant. It wasn't opened. Sustained.

L. In October 2016, you presided over the matter of *People v. Scott Miller*, No. 2016005977, which involved misdemeanor charges of elder abuse and battery. The People were represented by DAG Melissa Zubi and DAG Stephen Tokarz, and the defendant was represented by defense attorney Eric Luce. During a chambers conference with the attorneys, before any evidence was heard, you stated that you only did important cases – felonies and murders – and that you did not think the case should have been prosecuted.

While discussing the *Miller* case in chambers with counsel, you brought up a recent Ventura County case in which a mental patient had stabbed another person multiple times. (The defendant in *Miller* worked at a psychiatric ward and was charged with assaulting a resident.) You told the prosecutors to keep that case in mind if they wanted to go forward on the *Miller* case. Later, during jury selection, you again made reference to the recent Ventura County case, without instructing the jurors to disregard the information you provided, or otherwise how to consider the information.

M. In the summer of 2016, you presided over a hearing on a motion to suppress evidence in which the People were represented by DDA Taylor Carr. At the conclusion of the hearing, you asked Carr to approach the bench and had an ex parte conversation with her. You stated to Carr, "You don't have to act like a scared little girl in my courtroom," or words to that effect. Carr responded that she was not scared of you, and disagreed that judicial notice had been required in the hearing. You then made a statement to Carr to the effect of, "You're acting like a scared little girl out there. You don't have to act like that."

N. On January 20, 2015, you presided over the matter of *People v. Richard Evors*, No. 2014035733, in which the defendant was charged with disturbing the peace, in violation of Penal Code section 415(2). The People were represented by DDA Marine Dermadzhyan, and the defendant was represented by defense attorney Jarrod Wilfert. During a chambers conference with counsel, Wilfert requested an infraction disposition. You asked DDA Dermadzhyan for her position on the matter. Dermadzhyan objected to an infraction disposition because the case had been referred to the DA's office as a criminal threats offense (Penal Code section 422), and the People wanted a stay-away order for the victim. You stated that Dermadzhyan's position was a "chicken shit position to have," or words to

that effect. You further stated that you had received emails regarding this “infamous 415,” and that things like this would not be tolerated when you became the judge in department 13, the master calendar department.

O. On March 17, 2014, you presided over *People v. Joshua Chase*, No. 2013014492, a misdemeanor hit-and-run case that was assigned to you for trial. The People were represented by DDA Melissa Bohl, and the defendant was represented by DPD Anita Candelaria. You met with the attorneys in chambers prior to trial. During the chambers conference, you referred to the case as a “Mickey Mouse” case, or words to that effect. You pointed at DDA Bohl and stated, “I should make you pay for this,” or words to that effect.

P. On January 27 or 28, 2014, you presided over a probation violation hearing in *People v. Nella Olsen*, No. 2011028522. The People were represented at the hearing by a female DDA. During a recess, you asked to speak with DDA Amber Lee and DPD Heather Tomka, who were sitting in the courtroom and not involved in the *Olsen* hearing. While standing in a hallway, you told Lee and Tomka that the DDA handling the *Olsen* hearing was “dumb as shit,” and you said that you wished Lee was conducting the hearing.

Q. On January 13 through 16, 2014, you presided over the jury trial of *People v. Sergio Ortiz*, No. 2012040964. The People were represented by DDA Melissa Bohl, and the defendant was represented by DPD Michele Castillo. On January 16 or 17, 2014, after the trial had concluded, you had your clerk ask DDA Bohl to return to the courtroom in order to share feedback regarding her performance during the trial. You met with Bohl in chambers for 20 to 30 minutes. You asked Bohl where she was from, and Bohl responded that she was from Temecula. You then made a statement to the effect of, “So your parents are farmers and you grew up with a silver spoon in your mouth?” Bohl responded that her parents were not farmers.

R. On October 17, 2011, while presiding over a misdemeanor hit-and-run case, you met in chambers with DDA Andrew Sullivant and DPD Randy Tucker to discuss a possible resolution. DPD Tucker asked for a case disposition of credit for time served, restitution, fines, and no probation. You asked DDA Sullivant if he was “going to make a big stink about that,” or words to that effect. Sullivant stated that he was not going to make a “big stink,” but would object to that disposition. In response, you became angry, raised your voice, and used profanity, including the words “fucking” and “shit.” You stated that you had been waiting for an opportunity to address the issue of prosecutors “playing games like this,” or words to that effect. You admonished Sullivant about prosecutors “agreeing to deals in chambers, then objecting on the record,” or words to that effect. You criticized other judges in the courthouse for “playing along with the prosecutors’ games,” or words to that effect. You said you were “sick” of being “bad mouthed” by attorneys in the district attorney’s office, both in the newspapers and otherwise, or words to that effect. You told Sullivant that, if he was going to object on the record, then you were “going to bring up a panel and put on a jury trial,” or words to that effect. You stated that there appeared to be pressure in the district attorney’s office to push cases to trial that should not be going to trial. You stated that you got to where you are by “not going along with the program.” You stated that you knew all of the policies in the district attorney’s office, and you asked Sullivant if he knew how you knew about the policies. You then stated, in a raised voice, “Because I wrote the fucking book,” or words to that effect, and you pointed your index finger at Sullivant.

S. On January 19, 2010, you presided over the trial in *People v. Ruben Cortez*, No. 2009037770. The People were represented by DDA Jessica Giguere, and the defendant was represented by DPD Josephine Banuelos. During the redirect examination of an officer, DDA Giguere

asked for the legal basis for an objection made by defense counsel, which you had sustained, in order to rephrase a question. You called the attorneys to the bench for a sidebar. At the bench, you made a statement to Giguere, in a voice loud enough for the jury to hear, to the effect of, "Are you questioning my authority? Counselor, this is misconduct and I could hold you in contempt. Have you read my court rules? Have you read the rules of court? You know what you need to do? You need to go home tonight and you need to study the rules of court. I know you are new but the next hearing I have is going to be about you. Your questions are not relevant. Move on."

On the morning of January 21, 2010, DDA Giguere was about 15 minutes late in arriving at court for the *Cortez* trial. Later that morning, prior to closing arguments, you thanked the jurors for being on time and said, "The prosecution has no excuse for being late," or words to that effect.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), 3B(5), 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: 11 February 2020



Nanci E. Nishimura, Esq.
Chairperson

FILED

MAR 02 2020

**COMMISSION ON
JUDICIAL PERFORMANCE**

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE


INQUIRY CONCERNING
JUDGE JEFFREY G. BENNETT,

No. 206

ACKNOWLEDGMENT OF
SERVICE OF NOTICE OF
FORMAL PROCEEDINGS

I, Heather L. Rosing, on behalf of my client, Judge Jeffrey G. Bennett, hereby waive personal service of the Notice of Formal Proceedings in Inquiry No. 206 and agree to accept service by mail. I acknowledge receipt of a copy of the Notice of Formal Proceedings by mail and, therefore, that Judge Jeffrey G. Bennett has been properly served pursuant to Rules of the Commission on Judicial Performance, rule 118(c).

Dated: 2/25/2020



Heather L. Rosing
Attorney for Judge Jeffrey G. Bennett
Respondent